

**WARRANT FOR
SPECIAL TOWN MEETING
April 11, 2023**

County of Dukes County, ss:

To either of the Constables in the Town of Edgartown in the
County of Dukes County, GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and Town affairs, to meet in the Old Whaling Church (Methodist Church) on Main Street in said Edgartown on Tuesday, the eleventh day of April, Two Thousand Twenty Three at seven o'clock in the evening, then and there to act on the Articles in this Warrant:

ARTICLE 1. To see if the Town will vote to appropriate from Free Cash, the sum of \$24,000.00 to purchase or lease two new copier machines for the first and second floor of the Town Hall, and further, to authorize the Information Technology Manager and Select Board to dispose of old copier machines in the best interest of the Town.

Submitted by the Select Board

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 2. To see if the Town will vote to appropriate from Free Cash, the sum of \$15,539.00 to be added to the Town's Fiscal Year 2023 Insurance Account as a result of audited worker's compensation costs and carrier deductibles.

Submitted by the Select Board

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 3. To see if the Town will vote to appropriate from Free Cash, the sum of \$67,107.00 to be added to the Sick and Vacation Buyback Account to cover benefits owed to several employees who have, or will retire or resign during the current Fiscal Year.

Submitted by the Select Board

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 4. To see if the Town will vote to appropriate from Free Cash the sum of \$20,000.00 to be added to the Town's Fiscal Year 2023 Legal Account.

Submitted by the Select Board

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 5. To see if the Town will vote to appropriate from Free Cash the sum of \$40,000.00 to be added to the Town Hall Capital Maintenance and Repair Account.

Submitted by the Select Board

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 6. To see if the Town will vote to appropriate from Free Cash the sum of \$15,949.96 to offset deficits caused by expenditures deemed ineligible, in the fund established for Coronavirus relief reimbursements from state and federal agencies.

Submitted by the Town Accountant

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 7. To see if the Town will vote to transfer the balance of Fund #8005, presently held for Low/Moderate Income Housing, in the amount of \$76,401.28 plus any

accumulated interest, to the Edgartown Affordable Housing Trust Fund to be used for the purposes of Low and Moderate Income Housing, or take any other action related thereto
Submitted by the Town Accountant

Submitted by the Affordable Housing Trust

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 8. To see if the Town will vote to appropriate from Free Cash the sum of \$8,760.00 to make repairs on the fire suppression system at the Police Department building.

Submitted by the Police Chief

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 9. To see if the Town will vote to appropriate from Free Cash, the sum of \$22,000.00, for the Fiscal Year 2023 maintenance and care of Cannonball Park and the Town Hall Park.

Submitted by the Parks Commission

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 10. To see if the Town will vote to adopt the following bylaw:

DEPARTMENTAL REVOLVING FUNDS

1. Purpose. This by-law establishes and authorizes revolving funds for use by town, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½.

2. Expenditure Limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:

A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

B. No liability shall be incurred in excess of the available balance of the fund.

C. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Board of Selectmen.

3. Interest. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

4. Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Town Accountant shall include a statement on the collections credited to the fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds:

FUND	REVENUE SOURCE	AUTHORITY TO SPEND FUNDS	USE OF FUNDS	FISCAL YEAR
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Beach Management Fund	Norton Point Pass Fees	Parks Department	To pay for Salaries and Expenses of the Department related to the managements of the Town's beaches.	Fiscal Year 2024 and subsequent years
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Submitted by the Parks Commission

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 11. To see if the Town will appropriate from Free Cash, for expenditure in Fiscal Year 2023, the sum of \$110,000.00 for the management and operation of Norton Point Beach in Edgartown.

Submitted by the Parks Commission

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 12. To see if the Town will vote to amend the Personnel By-Law Section 25.0 Edgartown Classification and Salary Plan as Follows effective April 11, 2023.

Add the position of Beach and Recreation Director Grade E

Submitted by Personnel Board

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 13. To see if the Town will vote to appropriate from Free Cash, the sum of \$40,000.00 to purchase and equip new Utility Terrain (UTV) and All Terrain (ATV) vehicles for the Town's managed beaches.

Submitted by the Parks Commission

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

ARTICLE 14. To see if the Town will amend the Edgartown Zoning Bylaw, Article VII "Floodplain Zone", by striking the entire text of the Article, and replacing it with the following:

7.1 Purpose

The purpose for the Floodplain Overlay District is to:

- A. Ensure public safety through reducing the threats to life and personal injury
- B. Eliminate new hazards to emergency response officials
- C. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- D. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- E. Eliminate costs associated with the response and cleanup of flooding conditions
- F. Reduce damage to public and private property resulting from flooding waters

7.2 Establishment of the District

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Edgartown designated as Zone A, AE, AH, AO, A99, V, or VE on the Town's Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated July 20, 2016. These maps indicate the 1%-chance regulatory floodplain.

The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated July 20, 2016. The effective FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspections Office, and Conservation Commission.

7.3 Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

7.4 Disclaimer of liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

7.5 Severability section

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

7.6 Designation of Community Floodplain Administrator

The Town of Edgartown hereby designates the position of Building Inspector / Commissioner to be the official floodplain administrator for the Town.

7.7 Requirement to submit new technical data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor
Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation
251 Causeway Street
Boston, MA 02114

7.8 Variances to building code floodplain standards

Variances to the flood-resistant standards as found in the MA State Building Code may only be issued by the MA State Building Code Appeals Board.

Upon learning that an applicant intends to file for a variance from the State Building Code Appeals Board, the Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

7.9 Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws, when issued by the Zoning Board of Appeals, must meet the requirements set out by State law, and may only be granted if:

- A. good and sufficient cause and exceptional non-financial hardship exist; **and**
- B. the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; **and**
- C. the variance is the minimum action necessary to afford relief.

7.10 Permits are required for all proposed development in the Floodplain Overlay District

The Town of Edgartown requires a Permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains. Additionally any required federal permits must be obtained prior to the issuance of a development permit in the Floodplain District as follows:

- A. Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- B. Prohibit man-made alteration of sand dunes and salt marshes within Zone VE which would increase potential flood damage.
- C. Provide that all new construction within Zone VE be located landward of the reach of mean high tide.
- D. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- E. The Building Inspector shall deliver one copy of the development plan, in paper or electronic format, to the Conservation Commission, Planning Board, Board of Health, Highway Department, Building Inspector, Board of Appeals and Fire Department for comments which will be considered prior to issuing any applicable permits.
- F. The Town's permit review process requires the applicant to obtain and submit documentation of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district.
- G. The Building Inspector shall review all proposed development within the flood district to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including but not limited to Section 404 of the Federal Water Pollution and Control Act Amendments of 1972, U.S.C. 1334, and
- H. The most recent Elevation Certificate from the Federal Emergency Management Agency must be used to document elevations for all new construction and substantial improvements in the Special Flood Hazard Area.
- I. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- J. For new construction and substantial improvements in the AO Zones, all floodplain permits granted under this section shall require that residential structures shall have the lowest floor elevated above the crown of the nearest street to or above the depth number specified on Edgartown's Flood Insurance Rate Map.
- K. All floodplain permits granted under this section shall be subject to the following provisions:
 - 1. All new and replacement utility and water facilities shall be located and constructed to minimize or eliminate flood damage.
 - 2. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On-site waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding.
 - 3. Approval for any Alteration of a Land Form may be approved by the Building Commissioner with the consent of the Conservation Commission. No Alteration of a Land Form shall be permitted where there may be the liability of altering the drainage or run-off to the detriment of other landholders or the Town.

11. Permitted and Prohibited uses

- A. ALLOWED USES. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and comply with other requirements:
 - 1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc. provided appurtenant structures meet requirements (a) in section 7.10 and (b) as laid out by the Federal Emergency Management Agency
 - 2. Forestry and nursery uses.
 - 3. Outdoor recreational uses, including fishing, boating, play areas, etc.
 - 4. Conservation of water, plants, wildlife.
 - 5. Wildlife management areas, foot, bicycle, and/or horse paths.
 - 6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
 - 7. Buildings lawfully existing prior to the adoption of these provisions.
- B. PROHIBITED USES. The installation of Underground Storage Systems for the storage of petroleum products (including but not limited to oil, gasoline, kerosene, and any hazardous materials) shall be prohibited in the Special Flood Hazard Area (Zones A, AE, AH, AO, and VE on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency for the Town of Edgartown).

"Storage system" shall mean storage tank and all supply lines between storage tank and burner.

"Underground" shall mean under the surface of the earth or under pavement, including cement floors of cellars or basements. Storage systems may be located in basements or cellars provided they are on or above the paved floor of the cellar or basement and the cellar or basement existed prior to July 2, 1980, when the Town of Edgartown adopted its first FIRM and floodplain regulations

7.12 Base flood elevation data for subdivision proposals

- A. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- B. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that
 1. Such proposals minimize flood damage.
 2. Public utilities and facilities are located & constructed so as to minimize flood damage.
 3. Adequate drainage is provided.

7.13 Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

7.14 Watercourse alterations or relocations in riverine areas

In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

- A. Adjacent Communities, especially upstream and downstream
- B. NFIP State Coordinator

Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114

- C. NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

7.15. Recreational vehicles

In A, AH, AO, AE Zones, VE, and V Zones, all recreational vehicles on a site must be fully licensed and highway ready at all times.

7.16 Local Enforcement

- A. Administrative Official. It shall be the duty of the Building Inspector or their designee to administer and enforce the provisions of this bylaw. If the Building Inspector receives in writing a request for enforcement and declines to act, or if a person alleges a violation in writing to that office who declines to act, the Building Inspector shall notify in writing the party requesting action of his refusal to act and the reasons therefor within 14 days of receipt of such request.
- B. Violations. The Building Inspector shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity, or

extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

- C. Prosecution of violation. If the notice of violation and order is not complied with promptly, the Select Board shall authorize and/or institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Any person, firm or corporation violating any of the provisions of this bylaw shall for each violation, upon conviction thereof, pay a fine of not more than \$500. Each day that a violation is permitted to exist after notice to remove the same shall constitute a separate offense.

7.21 Definitions

The following definitions shall apply to this section:

ALTERATION OF A LAND FORM means any man-made change in the existing character of the land including filling, grading, paving, dredging, mining, excavation, or drilling operation other than routine excavation, well-drilling, backfilling, grading and paving incidental to the construction of a residence or other structure for which a building permit has been issued.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1) By an approved state program as determined by the Secretary of the Interior or

- 2) Directly by the Secretary of the Interior in states without approved programs.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

RECREATIONAL VEHICLE means a vehicle which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - see **FLOODWAY**.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, AO, AH, V, VO, or VE.

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

VARIANCE means a grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

...or take any other action relative thereto."

2/3 VOTE REQUIRED

Submitted by the Planning Board

**NEITHER RECOMMENDED NOR NOT RECOMMENDED BY THE
FINANCIAL ADVISORY COMMITTEE**

ARTICLE 15. To see if the Town will vote to appropriate from Free Cash the sum of \$2,384.29 to pay the following Fiscal Year 2022 unpaid bills:

R.M Packer Co Heating Fuel	\$1,634.01	Select Board
R.M Packer Co Heating Fuel	\$750.28	Shellfish Department

9/10 VOTE REQUIRED

RECOMMENDED BY THE FINANCIAL ADVISORY COMMITTEE

And you are directed to serve this Warrant by publishing an attested copy thereof in one newspaper having general circulation in said Edgartown, fourteen days, at least, before the time of holding said meeting or by posting it in six or more conspicuous places in Town at least fourteen days before the time of said meeting.

HEREOF FAIL NOT, and make due return of the Warrant with your doings thereon to the Town Clerk at the time and place of meeting as aforesaid.

Given under our hands this 13th day of March in the year of our Lord Two Thousand Twenty Three.

Margaret E. Serpa, Chairman

Arthur Smadbeck

Michael J. Donaroma

SELECT BOARD
Town of Edgartown