



Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601
508.862.4738 • 508.862.4770

E-mail: council@town.barnstable.ma.us
www.town.barnstable.ma.us



Councilors:

Dr. Debra S. Dagwan
President
Precinct 8

Jessica Rapp Grassetti
Vice President
Precinct 7

Ann B. Canedy
Precinct 1

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Precinct 2

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Jennifer L. Cullum
Precinct 13

Administrator to the
Town Council:
Barbara A. Ford

Administrative
Assistant:
Cynthia A. Lovell

MEETING AGENDA TOWN HALL HEARING ROOM January 17, 2013 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Annual Joint Workshop with the School Committee**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES (Includes Executive Session)**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
 - **Calendar of meetings—February and April updates**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT REGULAR MEETING: February 7, 2013

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2013-001	Amending the Zoning Ordinances, c. 240, §240-35 (F) (Continued public hearing) Roll-call, 2/3)	3 - 4
2013-031	Amending Code of Barnstable General Ordinances by inserting “Chapter 160, Problem Properties” (Continued public hearing) (Roll-call)	5 - 7
2013-032	Amending Code of Barnstable General Ordinances by inserting, “Chapter 54, Building and Property Maintenance” (Public hearing) (Roll-call)	8 - 11
2013-033	Amending Code of Barnstable General Ordinances Chapter 59, Comprehensive Occupancy (Continued public hearing) (Roll-call)	12 - 13
2013-034	Amending Code of Barnstable General Ordinances Chapter 170, Rental Properties (Continued public hearing) (Roll-call)	14 - 16
2013-035	Amending Code of Barnstable General Ordinances Chapter 133, Noise (Continued public hearing) (Roll-call)	17 – 19
2013-043	Amending the General Ordinances, Article I, §1-3, Chapter 170, Rental Registration (Continued public hearing) (Roll-call)	20 - 22
2013-064	Amending the General Code, Chapter 76, Schedule of Fees (Public hearing) (Roll-call)	23 – 24

B. NEW BUSINESS

2013-066	Appropriation and loan \$633,000 for private road repairs (Refer to public hearing 02/07/13)	25 - 26
2013-067	Authorizing the contract length for golf carts at the Olde Barnstable County Fairgrounds Golf Course (May be acted upon)	27 - 28
2013-068	Approving a conservation restriction from the Barnstable Housing Authority to the Barnstable Land Trust, Inc. on 151 Oak St, West Barnstable (May be acted upon)	29 – 30
2013-069	Amending the Administrative Code by adding §242-44.2 Problem Property Appeals Committee (First reading)	31 - 32

Approve Minutes- January 3, 2013 No executive session minutes for release.

Please Note: The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda.

Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice.

Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

A. OLD BUSINESS (Continued public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-001

INTRO: 07/12/12, 10/04/12, 10/18/12, 11/15/12, 01/03/13, 01/17/13

2013-001 AMENDING C.240, ART III, §240-35.f (2) OF THE ZONING ORDINANCE

ORDERED:

That Chapter 240, Article III of the Zoning Ordinance is hereby amended as follows:

Amend Section 240-35 titled Groundwater Protection Overlay Districts by adding new subsection (v) to paragraph F, subsection (2) Prohibited Uses as follows:

(v) Storage of commercial fertilizers, as defined in MGL c 128 section 64, unless such storage is within a structure designed and engineered to prevent escape or transport of commercial fertilizers to the groundwater under any circumstances.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
<u>10/04/12</u>	<u>Hearing opened and continued to 10/18/12</u>
<u>10/18/12</u>	<u>Hearing postponed to 11/15/12</u>
<u>11/15/12</u>	<u>Hearing opened and continued to 01/03/13</u>
<u>01/03/13</u>	<u>Hearing opened and continued to 01/17/13</u>

- Referred to Planning Board at 07/12/12 Town Council Meeting
- Planning Board, held its public hearing—recommends adoption.
- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Amendments
- Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-001

INTRO: 07/12/2012, 10/04/12, 10/18/12, 11/15/12, 01/03/13, 01/17/13

SUMMARY

TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Director
DATE: September 18, 2012
SUBJECT: Groundwater Protection Overlay District Prohibited Uses Amendment

BACKGROUND: This amendment to the Zoning Ordinance is requested by the Hyannis Water Board to bring the Barnstable Ordinance into alignment with state regulations.

DEP regulation 310 CMR 22.21(2) (b) 3 Wellhead Protection Zoning and Non-zoning Controls requires this prohibition to be submitted to DEP by the water system operator.

The Hyannis Water Board has requested this amendment.

At their meeting on September 14, 2012, the Planning Board voted to recommend this amendment to Town Council for adoption.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-031

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

2013-031 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING “CHAPTER 160. PROBLEM PROPERTIES”

ORDERED: That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter.

“ Chapter 160. Problem Properties.”

§160-1 Purpose and Intent.

The purpose and intent of this chapter is to define a coherent method of addressing the adverse effects on the health, safety, welfare, and quality of life of residents arising from properties where illegal activity occurs on a regular basis. Some persons that own or control such properties allow their properties to be used for illegal activity, with the result that these properties have become chronic problem properties in the neighborhood. Chronic problem properties within the town of Barnstable cause a financial burden by the numerous calls for service to the properties because of the illegal activities that repeatedly occur or exist on such properties. The current provisions of the ordinances relating to noise and disturbing the peace do not provide an adequate tool for abating such chronic problem properties. The Town through its public safety, code enforcement and regulatory agencies is in a unique position to gather data on such properties and to establish an active plan tailored to address the particularized problems and costs posed by specific properties.

§160-2 Cost of Police Officers Assigned to Problem Properties.

A. Authority for Police Response.

Where police department personnel, while on duty in service to the department, are dispatched or caused to respond to an incident at a property involving a criminal offense, whether a misdemeanor or felony under Massachusetts state law, including but not limited to battery, assault, harassment, trespass, illegal possession of a firearm, discharge of a firearm, disturbing the peace, underage drinking or criminal damage to property, at a particular property or location, the Chief of Police is hereby authorized and empowered to assign to such property or location a member or members of the department to staff such police response as the Chief of Police deems appropriate to protect the health, safety, and welfare of the inhabitants of the town of Barnstable.

B. Requirements for Police Response.

Such assignment of a police response shall only occur after the following procedure has been satisfied:

(1) Upon being dispatched or caused to respond to an incident at a property involving a criminal offense, police department personnel shall investigate the validity of the complaint against the occupants at the particular property or location.

2013-031 (Continued)

(2) Upon finding a valid complaint, police shall make a record of the incident. A "valid complaint", "incident" or "criminal offense" as used in this ordinance shall not include a complaint, incident or offense where an occupant of the premises is the victim of the crime.

(3) The police department shall make a record of the number of such incidents at a particular property or location and keep such record within the department's control.

(4) After two (2) such incidents in a twelve-month period relating to the occupancy of a dwelling, or to a particular property or location, the Chief of Police may mail a copy of this ordinance and copies of the all-calls report relating to said police responses to the property owner by certified mail.

(5) After the third incident, whether misdemeanor or felony, in a twelve-month period relating to the tenants or occupants of a dwelling or at a particular property or location, the Chief of Police, at his discretion, shall notify, in writing, the property owner of his decision to assign police response as follows:

a. If the property owner resides within the town of Barnstable, such notification should be hand delivered to the property owner's residence or usual place of business that is on record at the assessor's office and by mailing the notification to such address by regular and certified mail - return receipt requested; or

b. If the property owner does not reside within the town of Barnstable, by mailing the notification to such address by regular and certified mail - return receipt requested.

c. The Chief of Police's notification must inform the property owner of where and to whom he must address his letter of appeal, specified under §160-2 D.

(6) Upon dispatch or delivery of the notification, the property or location shall be officially identified as a chronic problem property and the property owner shall be subject to the penalties addressed in Section (c). The Chief of Police may commence assigning police response seven (7) days after hand delivery of the notification and ten (10) days after mailing the notification to the property owner. Factors that should be considered by the Chief of Police include the following:

a. the nature, scope, and seriousness of the incident(s);

b. whether incident(s) resulted in an arrest;

c. history of criminal activity taking place at the property;

d. property owners and tenants/occupants willingness to cooperate with police.

(7) The Chief of Police or his designee shall keep an accurate record of the cost of police response to a particular property or location, including an accurate record of the number of officers who are part of the determined response; and the Chief of Police shall forward such record to the Collector.

(8.) Coordination of police response is subject to the rules and regulations of the department.

C. Penalties.

(1) The Collector is hereby authorized and empowered to bill the property owner for the costs the Town incurred for its police response in addition to any incidental costs during the period of police response to the particular property or location. The property owner is responsible for payment of the bill in full within thirty (30) days of receiving the bill. All amounts collected by the Collector shall be deposited into the general fund of the Town.

(2) Any unpaid bill for police response, including interest and/or collection costs, shall be added to the real estate tax on the property and collected as part of that tax. Failure to pay real estate taxes will render the property owner delinquent and the Collector shall commence foreclosure proceedings

D. Property Owner's Rights.

The property owner may request, in writing, a hearing before the Town Manager or her designee within seven (7) days of receipt of notification to appeal any penalties set forth in Section C. The Town Manager may from time to time appoint a three person panel containing one (1) Barnstable member of the Cape Cod Board of Realtors, one (1) member of a civic association and one (1) at large member to hear appeals and advise the Town Manager on disposition. A decision on the appeal must be in writing. If the Town Manager or his/her designee finds in favor of the property owner, the cost of the penalty shall be abated.

E. Eviction.

In the event the property owner has commenced the process of eviction against the tenant(s) responsible for the incidents at the property, then the application of this ordinance shall be stayed until the eviction process is concluded. The Chief of Police may continue police response at the particular property or location, at his discretion, at all times after the eviction proceeding has been completed; provided, however, that such costs shall not be assessed to the property owner.

F. Charges to Constitute Municipal Lien Pursuant to MGL c. 40 s. 58.

All charges to recover costs imposed in this ordinance shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58.

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-031

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti
DATE: October 9, 2012
SUBJECT: Amending Code of Barnstable General Ordinances, "Adding Chapter 160. Problem Properties"

RATIONALE: Proposed ordinance Chapter 160 is modeled on an ordinance in the City of Boston. The purpose and intent of the ordinance is to address the adverse effects on the health, safety, welfare and quality of life of residents arising from properties where illegal activity occurs on a regular basis. Some properties have become chronic problem properties and have contributed to the deterioration of the quality of life and safety in various neighborhoods in Barnstable. In addition, chronic properties have become a severe strain on municipal services and taxpayer dollars. To this end, the proposed ordinance would hold responsible the owners of the problem properties for excessive and the verified illegal activity conducted on the premises.

Current ordinances and provisions do not provide adequate tools to deal with the problem, in that they do not limit the amount of police calls to a particular address. This ordinance addresses the issue of chronic properties in the following manner:

After two (2) valid and confirmed criminal offenses are incurred in a twelve (12) month period to the same street address, the Chief of Police will warn the property owner/landlord that these offenses have occurred at said address. After the third incident, the Chief of Police may elect to bill the landlord/property owner for the cost of the police response needed to secure the neighborhood. There is a process to appeal this decision to the Town Manager or his designee.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-032

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

2013-032 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES BY INSERTING, “CHAPTER 54. BUILDING AND PROPERTY MAINTENANCE”

ORDERED: That Part I, General Ordinances, of the Code of the Town of Barnstable be amended by inserting the following chapter 54.

“Chapter 54”

BUILDING AND PROPERTY MAINTENANCE

§54-1. Purpose and intent.

The purpose and intent of this ordinance is to eliminate nuisances in the town. Nuisances, such as deteriorated structures, vacant buildings, overgrowth of vegetation, trash, debris and stagnant pools of water cause and contribute to blight within neighborhoods and commercial areas; adversely affect the value of adjacent and surrounding property; and impair the health, safety and general welfare of the inhabitants of the town. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

§54-2. Building, structure and premises maintenance.

Each owner and occupant shall comply with this ordinance by keeping land, premises, buildings and structures in a safe, sanitary and non-hazardous manner so as to prevent deterioration and ensure that the property itself may be preserved safely so that hazards to public health and safety are avoided. For purposes of sections 54-2 to 54-4, “occupant” means the person or persons other than an owner or owners having exclusive possession of land, premises, buildings and structures, or parts thereof, and the obligation to maintain the same.

§54-3. Building and structure maintenance standards.

- A. All means of egress, devices, safeguards and equipment shall be kept in good working order
- B. All exterior components of every building and structure including but not limited to walls, roofs, chimneys, cornices, gutters, downspouts, drains, porches, canopies, awnings, steps, landings, fire escapes, exterior stairs, windows, shutters, and doors, shall be kept in sound condition and good repair, with proper weather protection and waterproofing, and be maintained substantially free of deterioration, including but not limited to loose or missing shingles or siding, crumbling brick, stone and mortar, and peeling, scaling or deteriorated paint.
- C. Vacant buildings and structures shall be maintained in compliance with this ordinance and be kept secure from use or occupation by unauthorized persons.
- D. Overhanging structures, including canopies, awnings, exterior stairways, fire escapes, and other overhanging extensions shall be maintained in sound condition and good repair, be securely anchored, and be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.
- E. All buildings and structures damaged by fire, explosion, weather or other cause shall be repaired and returned to their former condition or in compliance with this ordinance, or be razed within six (6) months unless granted an extension by the Building Commissioner.

§54-4. Maintenance of land, premises and landscape elements.

A. Each owner and occupant shall keep premises and land, including but not limited to steps, walks, driveways, fences, retaining walls and vegetation, in good condition. "Occupant" for purposes of this section has the same meaning as in section 54-2.

B. All paved driveways and walks shall be maintained substantially free from broken or uneven condition.

C. All steps, fences, retaining walls and landscape features shall be firmly anchored and maintained in good structural repair. Elements subject to deterioration shall be composed of decay resistant materials or protected from substantial decay by application of a protective coating material.

D. All premises shall be maintained substantially free from overgrowth of vegetation which constitutes a suitable habitat for vermin, otherwise poses a hazard to the health and safety of any person in the vicinity of the premises, or is so overgrown as to have a clear adverse affect on the value of surrounding properties.

E. Indoor items such as furniture, appliances, plumbing fixtures and bedding shall be kept within enclosed structures after fifteen (15) days. All other personal property shall be kept within enclosed structures or screened from public view after six (6) months. Functional outdoor items such as fixtures, landscape elements, outdoor furniture, outdoor appliances, children's play structures, firewood, compost materials, operable vehicles, trailers, boats and inventory shall not be subject to the requirements of this subsection.

F. Water shall not be permitted to continuously stagnate outside of any building or structure for more than ten (10) days except under natural conditions. Nothing in this subsection shall operate as a waiver or exception to any other law, rule or regulation for the storage or handling of water.

§54-5. Storage and Removal of Rubbish, Garbage and Refuse.

A. Owner's responsibilities. The owner of any building, structure or premises shall be responsible for receptacles with tight-fitting lids to be used for the proper storage of rubbish, garbage and other refuse. Said receptacles shall be located in such manner that no objectionable odors enter any other building, structure or premises and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

B. Occupant's responsibilities. The occupants of any building, structure or premises shall be responsible for the proper storage of rubbish, garbage and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage and other refuse, which is stored outside a building or structure is properly covered. Said occupant(s) shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and ultimate disposal of rubbish, garbage and other refuse at a permitted transfer station or facility.

C. For purposes of subsections (A) and (B): "owner" shall mean any person(s) who alone or severally with others has legal title to buildings, structures, vacant land or to land with buildings or structures thereon, or to any dwelling or rooming unit, mortgagee in possession, or agent, trustee or person appointed by a court; and "occupant" shall mean any person(s) who alone or severally with others rents or leases premises, or resides overnight other than as a guest.

D. Premises covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.

§54-6. Enforcement

A. The Board of Health, the Police Chief, and the Building Commissioner, or their designees, are hereby designated as the enforcing authorities for this ordinance. If any enforcing authority determines that a violation of the standards contained in this ordinance exists, he or she shall notify the owner or occupant to

remove or abate the nuisance by a date certain as determined by the enforcing authority not more than ten (10) days after service of notice of the violation(s): provided, however, that if the enforcing authority determines that the violation is such that the public health and safety will be jeopardized by that delay, the enforcing person may order the abatement or removal of the nuisance in a shorter time as public health and safety may in her or his judgment require. The order shall be in writing and may be served personally on the owner, occupant or his authorized agent by any person authorized by the enforcing authority. If the violation is not removed or abated after notice, the enforcing authority may commence enforcement action through non-criminal, criminal or civil proceedings and no action shall preclude any other enforcement action or actions.

B. In addition to any penalties or enforcement action(s) hereunder, after final determination of three (3) or more violations within a twelve-month period an enforcing authority may notify a violator in writing that the enforcing authority may elect to bill the violator for the costs incurred by the Town for response to each subsequent violation not abated or ordered without abatement as provided herein. Such bill(s) shall be due and payable in full by the violator within thirty (30) days of submission and if unpaid thereafter shall be subject to a municipal charges lien as provided in G. L. c. 40 §58.

§54-7. Applicability and Severability.

A. The provisions of this ordinance are in addition to and not in lieu of any other ordinance, rule or regulation of the Town of Barnstable and any board, commission or officer. Compliance with this ordinance shall not thereby constitute compliance with any other ordinance, rule or regulation, and violation of this ordinance does not thereby preclude violation of any other ordinance, rule or regulation.

B. If any provision of this ordinance is declared invalid, it shall not thereby invalidate any other provision.

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-032

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, C.54

RATIONALE: Throughout the Town of Barnstable, many blighted and/or abandoned homes not presently addressed by the town. The intent of this ordinance is to eliminate deteriorated structures, vacant buildings, overgrowth of vegetation, trash and debris within neighborhoods and commercial areas, where buildings may be abandoned.

This amendment outlines basic property management and repair standards and guidelines for structural and landscape management, trash removal, and land maintenance standards.

At present, these unchecked blighted/abandoned properties impair the health, safety and general welfare of the neighborhood in which they are located. It is intended that this amendment address these issues of abandoned/blighted properties and improve the standard of public safety and general welfare in the neighborhoods in which they are located.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-033

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

2013-033 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 59, COMPREHENSIVE OCCUPANCY

ORDERED: That Chapter 59 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By striking the number “22” from the definition of “occupant” in section 59-2 and substituting therefore the number “18,” said section 59-2 to read as follows.

“OCCUPANT — Any person who has attained the age of 18 who has resided in a residential dwelling for any length of time.”

SECTION 2. By striking the words “under the age of” and the number “22” from section 59-4 and substituting therefore the words “grandchildren and foster children of an owner or occupant,” said section 59-4 to read as follows.

“Children, grandchildren and foster children of an owner or occupant shall be exempt from these provisions.”

SECTION 3. By striking subsection 59-3(B), which reads as follows.

“The maximum number of motor vehicles that are permitted to be parked overnight, other than in a building, at any residential dwelling shall be equal to two motor vehicles for the first bedroom in a residential dwelling and one motor vehicle per bedroom thereafter.”

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grasseti

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-033

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, Chapter 59

RATIONALE: Existing Town Ordinance, Chapter 59 defines the legal age of an occupant and addresses the number of vehicles allowed on a property. Under the current Ordinance, the legal age of an occupant is defined as 22 years of age. By law, however, an 18 year old may enter into a lease agreement. This discrepancy allows the potential for an overcrowding situation in residences.

The proposed change to the General Ordinances, Chapter 59 amends the definition of the legal occupant to “any person who has attained the age of 18 and who resides in a residential dwelling for any length of time.”

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-034

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

2013-034 AMENDING CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 170, RENTAL PROPERTIES

ORDERED: That Chapter 170 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By striking the following sections 170-11 entitled “storage and removal of rubbish, garbage, and other refuse” and 170-12 entitled “inspections” and re-numbering the remaining sections accordingly.

“§170-11. Storage and removal of rubbish, garbage, and other refuse.

A. Owner’s responsibilities. The owner of any dwelling shall be responsible for providing receptacles with tight-fitting lids to be utilized for the proper storage of rubbish, garbage, and other refuse. Said receptacles shall be located in such a manner that no objectionable odor enters any dwelling and so as to provide maximum screening from the street. The owner of any dwelling that contains three or more units, and the owner of any dwelling which contains one or two units which is rented or leased for a period of six months or less, shall be responsible for the final collection and disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.

B. Occupant's responsibilities. The occupant(s) of any dwelling shall be responsible for the proper storage of rubbish, garbage, and other refuse within receptacles with tight-fitting covers. Said occupant(s) shall also ensure that all tight-fitting covers are kept so that all rubbish, garbage, and other refuse which is stored outside the dwelling unit is properly covered. Said occupant shall be responsible for the proper use and cleaning of the receptacles and keeping the premises free of rubbish, garbage, and other refuse. Unless a written lease agreement specifies otherwise, the occupant(s) of any dwelling which contains one or two units and which is rented or leased for any period greater than six months shall be responsible for the collection and for the ultimate disposal of rubbish, garbage, and other refuse at a permitted transfer station or disposal facility.”

§170-12. Inspections.

Dwelling units covered by this section shall be subject to reasonable inspections by Town inspectional staff. All interior inspections shall be done in the company of the owner, occupant or the representative of either.”

SECTION 2. By adding the following sentence to subsection 170-12(A) of section 170-12 as re-numbered entitled “violations and penalties” after the first sentence; “Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of \$300.00”; and by adding the following at the end of the second sentence in subsection 170-12(B) as re-numbered; “or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period” ; said subsection 170-12 to read as follows.

“§170-12. Violations and penalties.

A. Any person who violates any provision of this chapter shall be subject to a fine not to exceed \$300. Any owner of a rental property found to have two (2) documented violations within any twelve month period shall pay a fine of \$300.00. Each day of continued violation may be deemed to be a separate offense.

B. This chapter may be enforced under the provisions of MGL c. 40, §21D. The fine for any violation under the provisions of MGL c. 40, §21D shall be \$100 or \$300.00 for any owner of a rental property found to have two (2) documented violations within any twelve month period. Each day of continued violation may be deemed to be a separate offense.”

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>

- ___ Read Item
- ___ Motion to open public hearing
- ___ Rationale read
- ___ Public input
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-034

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote, and Jessica Rapp Grassetti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, C.170

RATIONALE: The Code of Barnstable General Ordinances, Chapter 170 concerns rental properties in the town. This amendment provides for a maximum fine of \$300 after two (2) valid violations within a twelve (12) month period, making it consistent with other graduated fines.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-035

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

2013-035 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES CHAPTER 133, NOISE

ORDERED: That Chapter 133 of the Code of the Town of Barnstable, General Ordinances, be amended as follows.

SECTION 1. By revising §133-1 as follows:

By adding the words "or owning" between the words "of" and "premises" in the Title and by adding the words "or owning" between the words "of" and "any" in the first line of the first sentence of the paragraph.

So, as amended, §133-1 shall now read:

"§133-1. Responsibility for noise violations by person in charge of or owning premises.

It shall be unlawful for any person or persons occupying, having charge of or owning any building, dwelling, structure, premises, shelter, boat or conveyance or any part thereof in the Town, to cause or suffer to allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical or electronic sound making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of 150 feet from the building, dwelling, structure, premises, shelter, boat or conveyance in which or from which it is produced. The fact that the noise is plainly audible at a distance of 150 feet from the building, dwelling, structure, premises, shelter, boat or conveyance from which it originates shall constitute prima facie evidence of a violation of this chapter."

SECTION 2: By revising §133-4 as follows:

By adding the words "and owner's responsibility for repeated violations by renters" after the word "renters" in the title; and by adding the following after the first sentence in the paragraph: "The owner of any building, dwelling, structure, premises, shelter, boat or conveyance which is let, rented or leased shall be notified in writing of each violation of this chapter committed by his tenants, lessees and sublessees After notice of two such violations within a twelve month period, for each subsequent violation, the owner shall be deemed to have suffered to allow noise in violation of §133-1. "

So as amended, §133-4 shall now read:

"§133-4. Notice of noise restrictions to be provided to renters and owner's responsibility for repeated violations by renters.

The owner of any building, dwelling, structure, premises, shelter, boat or conveyance, which is let, rented or leased, shall provide any and all tenants, lessees and sublessees with a copy of this chapter. The owner of any building, dwelling, structure, premises, shelter, boat or conveyance, which is let, rented or leased, shall be notified in writing of each violation of this chapter committed by his tenants, lessees and sublessees. After notice of two such violations within a twelve month period, for each subsequent violation, the owner shall be deemed to have suffered to allow noise in violation of §133-1. "

SECTION 3: By revising §133-5 as follows:

By adding the following after the first sentence: "After final determination of three (3) or more violations within a twelve-month period, an enforcing authority may notify a violator in writing that it elects to bill the violator for the costs incurred by the Town for response to each subsequent violation. The person so notified shall have the right to appeal this notification by requesting, in writing, a hearing before the Town Manager or her designee within seven (7) days of receipt of said notification. The Town Manager may from time to time appoint a three person panel containing one (1) Barnstable member of the Cape Cod Board of Realtors, one (1) member of a civic association and one (1) at large member to hear appeals and advise the Town Manager on disposition. A decision on the appeal must be in writing. If the Town Manager or her designee finds in favor of the appealing party, the cost of the penalty shall be abated. All unabated charges shall be due and payable in full by the violator within thirty (30) days of submission. All unpaid charges for violations of this chapter by an owner shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58."

So, as amended, §133-5 shall now read:

"§133-5. Violations and penalties

Any person violating the provisions of this chapter shall be punished by a fine not to exceed \$200 for each offense. After final determination of three (3) or more violations within a twelve-month period, an enforcing authority may notify a violator in writing that it elects to bill the violator for the costs incurred by the Town for response to each subsequent violation. The person so notified shall have the right to appeal by requesting, in writing, a hearing before the Town Manager or her designee within seven (7) days of receipt of said notification. The Town Manager may from time to time appoint a three person panel containing one (1) Barnstable member of the Cape Cod Board of Realtors, one (1) member of a civic association and one (1) at large member to hear appeals and advise the Town Manager on disposition. A decision on the appeal must be in writing. All unabated charges shall be due and payable in full by the violator within thirty (30) days of submission. All unpaid charges for violations of this Chapter by an owner shall constitute a municipal lien on the property so charged in accordance with Massachusetts General Laws chapter 40 section 58."

SPONSOR: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti

DATE	ACTION TAKEN
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-035

INTRO: 10/18/12, 11/15/12, 12/06/12, 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum with Councilors James Cote and Jessica Rapp Grassetti
DATE: October 9, 2012
SUBJECT: Amending the Code of Barnstable General Ordinances, Chapter 133 §133-1

RATIONALE: Chapter 133 is the current Noise Ordinance in the Town of Barnstable. At present, it defines a noise violation as noise that emanates more than 150 feet from its source. The ordinance currently states that: "[i]t shall be unlawful for any person or persons occupying or having charge of any building, dwelling, structure, premises, shelter, boat or conveyance or any part thereof in the Town, to cause or suffer to allow any unnecessary, loud, excessive or unusual noise..." The amendment clarifies the owner's responsibility for noise violations on leased premises and requires that the owner be notified in writing of each noise violation committed by his tenants. After notice of two such violations within a twelve month period, for each subsequent violation, the owner shall be deemed "to have suffered to allow noise" in violation of the ordinance.

After final determination of three (3) or more violations within a twelve-month (12) period, the Town may notify a violator in writing that it elects to bill the individual previously found in violation of the ordinance for the costs incurred by the Town for response to each subsequent violation. There is a process to appeal this decision to the Town Manager or his designee.

The intent of the ordinance is to curtail the waste of municipal resources and taxpayer dollars, as well as to encourage responsible renting and peaceful neighborhood living conditions.

A. OLD BUSINESS (Continued public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-043

INTRO: 11/15/12, 12/06/12, 01/17/13

**2013-043 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES
ARTICLE 1, §1-3, CHAPTER 170 RENTAL REGISTRATION**

ORDERED: That the schedule of fines in Article I, Section 1-3 of the General Ordinances is hereby amended by striking out the line related to Chapter 170 and inserting in place thereof the following.

<u>CODE, CH/SECTION</u>	<u>SUBJECT</u>	<u>FINE</u>
Art. I, §1-3, Ch. 170	Rental Registration	
	Any violation	\$100
	Rental Registration	
	Two documented violations by owner in a twelve-month period	\$300

SPONSOR: Councilor Jennifer Cullum

<u>DATE</u>	<u>ACTION TAKEN</u>
<u>11/15/12</u>	<u>Referred to pub. hearing 12/6/12</u>
<u>12/6/12</u>	<u>Public hearing cont'd to 01/17/13</u>

- Read Item
- Motion to open public hearing
- Rationale read
- Public input
- Close public hearing
- Council discussion
- Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-043

INTRO: 11/15/12, 12/06/12, 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Jennifer Cullum
DATE: November 6, 2102
SUBJECT: Amending the General Ordinances, Article 1, §1-3, Chapter 170, Rental Registration

BACKGROUND: Amending Chapter 170, Rental Registration, relates to the passage of 2013-034 - Chapter 170, Rental Properties. This amendment will conform to the maximum allowable fine of \$300 as referenced.

A. OLD BUSINESS (Public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-064
INTRO: 01/03/13, 01/17/13**

2013-064 AMENDING THE GENERAL CODE, CHAPTER 76,-SCHEDULE OF FEES

ORDERED, that Chapter 76 of the General Code of the Town of Barnstable is hereby amended by deleting three Chapter 76 sections, and replacing them with the following amended sections.

Chapter 76 of the General Code:

76-3 Weights and Measures annual fees (MGL C.98§56)

76-4 Licensing

§ 76-3. Weights and Measures annual fees (MGL C. 98, § 56).

DESCRIPTION	FEE PER DEVICE			
	<u>2008</u>	<u>2013</u>	<u>2008</u>	<u>2013</u>
	1 - 3	1 - 3	4 or more	4 or more
Scale with capacity over 10,000 lbs.	\$250.00	\$275.00	\$225.00	\$250.00
Scale with capacity 5,000-10,000 lbs.	\$135.00	\$145.00	\$110.00	\$120.00
Scale with capacity 100-5,000 lbs.	\$ 80.00	\$ 90.00	\$70.00	\$80.00
Scale with capacity less than 100 lbs.	\$ 50.00	\$ 60.00	\$45.00	\$55.00
Weights (each)	\$ 8.00	\$10.00	\$6.00	\$8.00
Liquid measures	\$ 30.00	\$40.00	\$30.00	\$40.00
Liquid measure meters	-----	-----	-----	-----
Lubricant meters	\$ 50.00	\$60.00	\$45.00	\$55.00
Motor fuel meters	\$ 50.00	\$60.00	\$45.00	\$55.00
Vehicle tank meters	\$110.00	\$120.00	\$100.00	\$110.00
Vehicle tank meter gravity	\$175.00	\$185.00	\$150.00	\$160.00
Bulk storage tank meter	\$175.00	\$185.00	\$150.00	\$160.00
Mechanical pumps, each stop	\$ 10.00	\$15.00	\$10.00	\$15.00
Taxi meters (semi-annually)	\$ 55.00	\$60.00	\$50.00	\$55.00
Commercial odometer – hubodometer	\$ 55.00	\$60.00	\$50.00	\$65.00
Leather measure	\$175.00	\$185.00	\$150.00	\$160.00
Dry measure, one bushel or less	\$ 85.00	\$95.00	\$85.00	\$95.00
Dry measure, more than one bushel	\$120.00	\$130.00	\$120.00	\$130.00
Counting Device	\$25.00	\$35.00	\$25.00	\$35.00
All other measuring devices	\$125.00	\$135.00	\$125.00	\$135.00
Rope, wire or chain measuring devices	\$ 25.00	\$35.00	\$20.00	\$30.00
Reinspection fee (after official rejection)	\$ 95.00	\$100.00	\$95.00	\$100.00
Reverse Vending Machines				
Bottle and Can redemption Inspection				
Disposable Test Material Supplied by Inspector	\$25.00	\$35.00	\$20.00	\$30.00
Disposable Test Material supplied by Store	\$15.00	\$20.00	\$10.00	\$15.00
Automatic Electronic Check-Out Systems				
3 or less cash registers (per inspection)	\$85.00	\$95.00	N/A	
4-11 cash registers (per inspection)	\$170.00	\$180.00	N/A	
12 or more cash registers (per inspection)	\$280.00	\$300.00	N/A	

BARNSTABLE TOWN COUNCIL

ITEM# 2013-064
INTRO: 01/03/13, 01/17/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Thomas F. Geiler, Director Regulatory Services Department
DATE: November 9, 2012
SUBJECT: Fee Schedule Change

BACKGROUND: Chapter 76 of the General Code of the Town of Barnstable contains the schedule of fees established by the Town Council. The fees contained therein are primarily fees for licenses or permits associated with commercial or business activities. The council has maintained a policy of 100% cost of service recovery rate for several years.

ANALYSIS: Changes in laws and regulations as well as changes in technology affect the procedures, policies governing the licensing and inspection process. This revision is an attempt to bring the fees closer to achieving the council goal of 100% cost recovery. In some cases, this is not possible. Some permits carry state imposed maximums that prevent the town from achieving 100% cost recovery. This proposal identifies fees that no longer reflect 100% cost recovery and adjusts the fees to remove discrepancies. The average annual percentage increase is 2.8%.

FISCAL IMPACT: It is anticipated that adoption of this amended fee schedule would have a positive impact on the town's financial position. Failure to adopt the amended schedule will result in reduced revenue in FY 12. Reduced revenue will require the town reduce expenditures to balance the budget. Reduced revenues will almost certainly result in reduced services. Reduced services may result in additional lost revenue from fees associated with the reduced services. Our goal is to continue to increase our efficiency and effectiveness. We cannot do that without appropriate resources. Fees for service are an important resource. See current fee/proposed fee comparison chart attached –

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this order.

STAFF ASSISTANCE: Thomas F. Geiler, Director Regulatory Services
Tracey Smith, Administrative Assistant, Consumer Affairs Division
Richard Scali, Consumer Affairs Supervisor

<u>DATE</u>	<u>ACTION TAKEN</u>
01/03/13	<u>Referred to public hearing on Jan 17, 2013</u>
<input type="checkbox"/>	Read Item
<input type="checkbox"/>	Rationale
<input type="checkbox"/>	Motion to open public hearing
<input type="checkbox"/>	Public input
<input type="checkbox"/>	Motion to close public hearing
<input type="checkbox"/>	Council discussion
<input type="checkbox"/>	Vote

B. NEW BUSINESS (Refer to public hearing 02/07/13)

BARNSTABLE TOWN COUNCIL

ITEM# 2013-066

INTRO: 01/17/13

2013-066 APPROPRIATION & LOAN ORDER--\$633,000 FOR PRIVATE ROAD REPAIRS

ORDERED: That the sum of \$633,000.00 be raised and appropriated for the purpose of making temporary repairs to Point Hill Road, Holway Drive, Burning Tree Lane and Hilliard's Hayway in West Barnstable, within the Town of Barnstable, and that to meet this Appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$633,000.00, and the Town Manager is authorized to contract for and expend the appropriation made available for this purpose and that betterments be assessed, and the Town Manager is further authorized to accept any grants and/or gifts in relation thereto.

SPONSOR: Councilor June Daley

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-066

INTRO: 01/17/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Roger D. Parsons, P.E., Town Engineer
DATE: December 21, 2012
SUBJECT: Appropriation & loan order, pursuant to temporary repair to private roads program

BACKGROUND: The successful passage of Chapter 174 of the Acts of 1994 by the State Legislature of Home Rule legislation authorized the Town to borrow an amount not to exceed \$10 million for repairs to private roads. The Town Council has instituted a Temporary Roads Program, which was reviewed by the Roads Committee and submitted to and approved by the Department of Public Works Commission in December of 2005. Under this Program the abutters to roads being repaired can be charged betterment assessments for 100% of the actual costs of repairs which they can elect to pay in one lump sum or over a period of 20 years (with interest). None of these roads will be taken by the Town of Barnstable and will remain private roads. Since the inception of the program, \$3,807,900 has been borrowed with betterments assessed to all property owners. There are now four private roads in which a majority of the property abutters have expressed an interest in having repairs made – Point Hill Road, Holway Drive, Burning Tree Lane and Hilliard’s Hayway in West Barnstable.

The proposed work is to:

- Reclaim (grind up) existing asphalt surface on Point Hill Road from Sandy Neck Road - entire road, Burning Tree Lane - entire road, Hilliard’s Hayway – entire road, Holway Drive – entire road.
- Regrade roads to match proposed drains as necessary.
- Adjust existing catch basins
- Clean existing catch basins
- Install three (3) new catch basins, two (2) new leaching pits and three (3) leaching galleys with associated piping on Burning Tree Lane
- Repave all roadways with four (4”) inches pavement, 2 1/2” binder coarse and 1½” surface coarse.
- Repair with loam and seed all disturbed lawn areas, trim overhanging trees and shrubs interfering with work
- Install nineteen a total of (19) new leaching galleys and associated piping

The cost of improvements: \$633,000 spread between 36 abutters, not to exceed \$17,583 per parcel. The order as written would assess a 5% interest rate to be charged on the betterments unless otherwise voted by the Town Council.

FISCAL IMPACT: There is no cost to the Town, as all costs will be covered by betterments assessed on the abutters.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends that the Town Council approve the action proposed by this order.

BOARD AND COMMISSION ACTION: The Public Works Commission supports this Order

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-067
INTRO: 01/17/13**

2013-067 AUTHORIZING THE CONTRACT LENGTH FOR GOLF CARTS AT THE OLDE BARNSTABLE COUNTY FAIRGROUNDS GOLF COURSE

ORDERED: that the Town Council hereby supports entering into a contract term of five years under the MGLA 30B, Uniform Procurement Act, Section 12, paragraph (b), which would allow the Olde Barnstable Fairgrounds Golf Course to enter into a 66 New Course Carts lease and maintenance contract commencing April 1, 2013. A contract term in excess of three years requires Town Council majority approval.

SPONSOR: Thomas K. Lynch, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council discussion
- _____ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-067
INTRO: 01/17/13

SUMMARY

TO: Town Council
FROM: Thomas K. Lynch, Town Manager
THROUGH: Lynne M. Poyant, Community Services Director
DATE: January 7, 2013
SUBJECT: Length of contract for Golf Carts at Olde Barnstable Fairgrounds Golf Course

BACKGROUND: The Town of Barnstable's current contract for golf carts for Olde Barnstable Fairgrounds Golf Course with Country Club Enterprise expires March 31, 2013. It has been the practice of the Town to lease for a five-year term to maximize cart revenues at both Town golf courses. The procurement office issued an advertised Request for Proposal for both a three-year and a five-year lease term with the lowest responsive, responsible bidder, Country Club Enterprises, LLC (Club Car), pricing for leasing 66 new model 2013 golf carts and all inclusive maintenance agreement; like new utility vehicles (2012 and 2013 models); two local service technicians; and later model special fleet vehicles as follows:

	<u>Carts/year</u>	<u>Service/year</u>	<u>Lease term</u>	<u>Total Cost</u>
3 year lease term:	\$66,023.52	\$4,050	X 3 years =	\$208,870.56
5 year lease term:	\$51,859.50	\$4,050	X 5 years =	\$275,987.90

ANALYSIS: The cost savings to the Town for the cart lease over a five-year term versus a three-year term is \$14,425.94 per year and a total savings for five years of \$72,129.70. The experience from both of our Town courses and the industry in general has been that five years is the useful life of carts without refurbishment, with minimal down time, and maximizing cart revenues.

FISCAL IMPACT: The Olde Barnstable Fairgrounds Golf Course operation is an Enterprise Fund. A five year contract has a substantial impact on revenue as indicated by the \$14,425.94 cost savings per year over a three year term.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of a five-year lease contract for the golf carts and maintenance plan contract as allowed with a majority vote by the Town Council under MGLA 30B, Uniform Procurement Act, Section 12, Paragraph (b).

STAFF ASSISTANCE: Lynne M. Poyant, Community Services Director
Bruce McIntyre, Director of Golf Operations
Johanna Boucher, Purchasing Agent

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-068
INTRO: 01/17/13**

**2013-068 APPROVING A CONSERVATION RESTRICTION FROM BARNSTABLE HOUSING AUTHORITY
TO THE BARNSTABLE LAND TRUST, INC. ON 151 OAK STREET, WEST BARNSTABLE**

RESOLVED, that the Town Council approve a perpetual Conservation Restriction from the Barnstable Housing Authority (grantor) to the Barnstable Land Trust, Inc. (grantee), over a 4.82-acre parcel of land at 151 Oak Street in West Barnstable, Town of Barnstable Assessor’s Map 173, Parcel 014-001, for conservation purposes.

SPONSOR: Councilors Janice L. Barton and June M. Daley upon approval from the Legal Department

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council discussion
- _____ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-068
INTRO: 01/17/13

SUMMARY

TO: Town Council
FROM: Jaci Barton, Executive Director, Barnstable Land Trust, Inc.
THROUGH: Councilors Janice L. Barton and June M. Daley
DATE: January 9, 2013
SUBJECT Conservation Restriction to Barnstable Land Trust, Inc. from Barnstable Housing Authority over an approximately 4.82-acre parcel of land at 151 Oak Street in West Barnstable

SUMMARY: This item has been placed on the agenda for the Council's approval of a perpetual conservation restriction (CR) to be granted to the Barnstable Land Trust, Inc. by Barnstable Housing Authority over a 4.82-acre parcel of land at 151 Oak Street in West Barnstable, Town of Barnstable. The land is shown on Barnstable Assessor's Map 173, Parcel 014-001.

BACKGROUND: On January 21, 2010, the Barnstable Housing Authority (BHA) was granted Comprehensive Permit No. 2009-069 by the Town of Barnstable Zoning Board of Appeals for the development of "Stage Coach Residences", an affordable housing development of 12 rental units in three buildings, to be accessed from Stage Coach Road. The Permit is recorded in the Barnstable Registry of Deeds in Deed Book 25560 Page 96. The buildings will be clustered on the southern 2.1 acres of the property. Permit Condition #5 requires that the remainder of the site, the 4.82 acres, be dedicated to open space/natural resource protection and that a conservation restriction to that effect be executed prior to the issuance of any building permit.

At the request of BHA, the Barnstable Land Trust has agreed to hold the perpetual conservation restriction on those 4.82 acres, which are comprised of upland and freshwater wetlands. This land is located substantially within a state-designated Priority Habitat for Rare Species as well as within the Cape Cod Commission's Significant Natural Resource Area.

ANALYSIS: This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which "encouraged...grants of conservation restrictions" which yielded "benefits to the Town," and furthers the Town of Barnstable's 2010 Update to its Open Space Plan.

Specifically, the Conservation Restriction has the following public benefits and will:

- increase the amount of protected open space in town;
- preserve important wildlife habitat;
- preserve the scenic quality and character of this undisturbed area

FISCAL IMPACT: None. The property owner, Barnstable Housing Authority, is a tax-exempt entity.

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2013-069
INTRO: 01/17/13**

**2013-069 AMEND THE ADMINISTRATIVE CODE BY ADDING SECTION 241-44.2
PROBLEM PROPERTY APPEALS COMMITTEE**

ORDERED, That:

Section 1: That Chapter 241 of the Town's Code be amended by adding the following new section creating a Problem Properties Appeals Committee

"§ 241-44.2 Problem Properties Appeals Committee."

A. Term of office. There shall be a Problem Properties Appeals Committee consisting of three unpaid members and up to three (3) alternate members. Members shall serve for three-year terms, so arranged that an equal number expire each year.

B. Authorities and responsibilities.

- (1) The Problem Properties Appeals Committee decides on individual cases brought by persons seeking relief from a decision of the Chief of Police to officially identify a property as a chronic problem property under §160-2B(6) and to assess the property owner penalties under §160-2C.
- (2) The committee will formulate its decision in conformance with Chapter 160, Chronic Problem Properties. The decision of the three member panel shall be determined by majority vote of the Committee. If the Committee finds, that the property is not a chronic problem property, the designation shall be removed and any penalties assessed shall be rescinded. If the Committee finds that the property is a chronic problem property, it may: 1) uphold the penalty in its entirety or 2) reduce the penalty or (3) abate any portion thereof that has already been paid.
- (3) The Town Council may from time to time designate the Committee as the Committee to hear appeals for other ordinances involving problem properties.

C. Interrelationships.

- (1) **Town Council:** The Problem Property Appeals Committee interacts with the Town Council in matters relating to the implementation of its functions under the provision of this section.
- (2) **Town Manager:** The Problem Property Appeals Committee interacts with the Town Manager in matters relating to the implementation of its functions under the provision of this section."

Section 2: That Section 241, Attachment 1 of the Code is hereby amended by adding the Problem Properties Appeals Committee to the list of multiple member bodies so designated.

SPONSOR: Councilor Janet Joakim

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2013-069

INTRO: 01/17/13

SUMMARY

TO: Town Council
FROM: Councilor Janet Joakim
DATE: January 14, 2013

BACKGROUND: This item responds to the discussion at the January 10, 2013 Town Council workshop on the “problem property” ordinance, providing a method to appeal a determination by the Chief of Police.

FISCAL IMPACT: There is no direct fiscal impact.