



# Town of Barnstable Town Council

James H. Crocker Jr. Hearing Room  
367 Main Street, 2<sup>nd</sup> floor,  
Hyannis, MA 02601  
Office 508.862.4738 • Fax 508.862.4770  
E-mail: [council@town.barnstable.ma.us](mailto:council@town.barnstable.ma.us)

## TOWN COUNCIL MEETING AGENDA January 20, 2022 7:00 PM

### Councillors:

Matthew Levesque  
President  
Precinct 10

Paula Schnepf  
Vice President  
Precinct 12

Gordon Starr  
Precinct 1

Eric R. Steinhilber  
Precinct 2

Paul Hebert  
Precinct 3

Nikolas Atsalis  
Precinct 4

David W. Bogan  
Precinct 5

Paul C. Neary  
Precinct 6

Jessica Rapp Grassetti  
Precinct 7

Jeffrey Mendes  
Precinct 8

Tracy Shaughnessy  
Precinct 9

Kristine Clark  
Precinct 11

Jennifer L. Cullum  
Precinct 13

Administrator:  
Cynthia A. Lovell  
[Cynthia.Lovell@town.barnstable.ma.us](mailto:Cynthia.Lovell@town.barnstable.ma.us)

Administrative  
Assistant:  
Kelly Crahan  
[Kelly.Crahan@town.barnstable.ma.us](mailto:Kelly.Crahan@town.barnstable.ma.us)

The January 20, 2022 Town Council Meeting of the Barnstable Town Council shall be conducted remotely and shall be physically closed to the public. Alternative public access shall be provided as set forth below.

1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 live stream: <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Remote Participation: Real-time public comment may be addressed to the Barnstable Town Council utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://zoom.us/j/96855810337> Meeting ID: 968 5581 0337  
US Toll-free 888 475 4499

3. Written Comments may be submitted to:

[https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town\\_Council/Agenda-Comment.asp](https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp)

### PUBLIC SESSION

#### 1. ROLL CALL

#### 2. PLEDGE OF ALLEGIANCE

#### 3. MOMENT OF SILENCE

#### 4. PUBLIC COMMENT

#### 5. COUNCIL RESPONSE TO PUBLIC COMMENT

#### 6. TOWN MANAGER COMMUNICATIONS

- Update on the Comprehensive Wastewater Management Plan  
Daniel W. Santos, P.E., Director of Public Works

#### 7. ACT ON MINUTES (Including Executive Session)

#### 8. COMMUNICATIONS- from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

#### 9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

#### 10. ADJOURNMENT

NEXT REGULAR MEETING: February 03, 2022

ITEM NO.	INDEX TITLE	PAGE
<b>A. OLD BUSINESS</b>		
2022-066	Appropriation Order in the amount of <b>\$214,240</b> for the purpose of funding the Hyannis Youth and Community Center Enterprise Fund Fiscal Year 2022 Operating Expense Budget <b>(Public Hearing) (Roll Call Majority Full Council)</b> .....	3-4
<b>B. NEW BUSINESS</b>		
2022-072	Appropriation request of <b>\$156,849</b> for the Barnstable Police Department Fiscal Year 2022 Operating Expense Budget for the purpose of funding the costs associated with the hiring of ten current patrol officer vacancies <b>(Refer to Public Hearing 02/03/2022)</b> .....	5-7
2022-073	Amending Chapter 240 Zoning, Article III, § 240-34 to comply with National Flood Insurance Program (NFIP) requirements <b>(Refer to Planning Board)</b> .....	8-14
2022-074	Appropriation Order in the amount of <b>\$10,000</b> for the purpose of acquiring an easement over real property located at 195 Phinney’s Lane, Barnstable (Centerville) shown on Assessor’s Map 209 as Parcel 020 to be associated with the construction of new sewer infrastructure <b>(Refer to Public Hearing 02/03/2022)</b> .....	15-16

Approve Minutes: January 06, 2022

**Please Note:** The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed 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 as 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, it may be continued to a future meeting, and with proper notice.

**A. OLD BUSINESS (Public Hearing) (Roll Call Majority Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-066**  
**INTRO: 01/06/2022, 01/20/2022**

**2022-066 APPROPRIATION ORDER IN THE AMOUNT OF \$214,240 FOR THE HYANNIS YOUTH AND COMMUNITY CENTER ENTERPRISE FUND FISCAL YEAR 2022 OPERATING EXPENSE BUDGET**

**ORDERED:** That the amount of **\$214,240** be appropriated for the purpose of funding the Hyannis Youth and Community Center’s Fiscal Year 2022 Operating Expense Budget and that to fund the appropriation, that \$214,240 be provided from the Hyannis Youth and Community Center Enterprise Fund Surplus.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>01/06/2022</u>	<u>Refer to Public Hearing 01/20/2022</u>
_____	_____

- \_\_\_\_\_ Read Item
- \_\_\_\_\_ Motion to Open Public Hearing
- \_\_\_\_\_ Rationale
- \_\_\_\_\_ Public Hearing
- \_\_\_\_\_ Close Public Hearing
- \_\_\_\_\_ Council Discussion
- \_\_\_\_\_ Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-066  
INTRO: 01/06/2022, 01/20/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director of Public Works  
**DATE:** January 06, 2022  
**SUBJECT:** Appropriation Order in the amount of **\$214,240** for the purpose of funding the Hyannis Youth and Community Center Enterprise Fund's Fiscal Year 2022 Operating Expense Budget

**BACKGROUND:** In Fiscal Year 2021 the facility was operating in a limited capacity due to the public health emergency. This resulted in a significant reduction in utility costs incurred in Fiscal Year 2021. As it was unknown when the emergency would subside, the Fiscal Year 2022 budget for utility expenses was reduced to reflect an amount that assumed the continued limited use of the facility. Subsequently, the facility has reopened to the public and 2 sheets of ice are expected to remain operational through the end of the fiscal year. This will result in utility consumption levels similar to those which occurred prior to the pandemic. Additionally, the natural gas contract expired and was renewed at a cost increase due to market conditions. An additional sum of \$50,565 is projected to be needed for natural gas and \$163,675 for electricity for the remainder of the fiscal year.

**ANALYSIS:** The budget and actual expenses for utilities at the facility for the past few years was as follows:

### BudgetActual

Fiscal Year 2021	\$506,774	\$315,921	– full pandemic year
Fiscal Year 2020	\$541,658	\$436,606	
Fiscal Year 2019	\$540,580	\$505,876	
Fiscal Year 2018	\$525,775	\$489,327	

The budget for Fiscal Year 2022 was reduced to \$310,000 based on the actual amount expended in fiscal year 2021. To date a total of \$241,626 has been incurred. The additional ask of \$214,240 will result in a total revised budget for utilities of \$524,240 which reflects a return to normal consumption levels and the increase in the natural gas contract.

**FISCAL IMPACT:** Funding for this appropriation will be provided from the Enterprise Fund's surplus which was last certified at \$663,490 as of July 1, 2021.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends approval of this Appropriation Order.

**STAFF SUPPORT:** Daniel W. Santos, P.E., Director of Public Works

**B. NEW BUSINESS (Refer to a Public Hearing 02/03/2022)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-072  
INTRO: 01/20/2022**

**2022-072 APPROPRIATION REQUEST OF \$156,849 FOR THE BARNSTABLE POLICE DEPARTMENT FISCAL YEAR 2022 OPERATING EXPENSE BUDGET FOR THE PURPOSE OF FUNDING THE COSTS ASSOCIATED WITH THE HIRING OF TEN PATROL OFFICERS TO FILL CURRENTLY VACANT POSITIONS**

**ORDERED:** That the amount of **\$156,849** be added to the Fiscal Year 2022 Police Department General Fund Operating Expense Budget for the purpose of funding the initial expenses related to hiring, training, uniform, ammunition and equipment purchases for 8 new police recruits and 2 transfer officers, and to fund this appropriation, that the amount of \$156,849 be provided from the General Fund Reserve.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Move

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-072  
INTRO: 01/20/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Matthew K. Sonnabend, Chief of Police  
**DATE:** January 20, 2022  
**SUBJECT:** Appropriation request of **\$156,849** for the Barnstable Police Department Fiscal Year 2022 Operating Expense Budget for the purpose of funding the costs associated with the hiring of ten current patrol officer vacancies

**BACKGROUND:** The department has 10 patrol officer vacancies they will fill at this time. The department will be enrolling 6 police officer recruits in the Cape Cod Municipal Police Academy starting on February 21, 2022 and 2 are enrolled in the Plymouth Academy starting on April 4, 2022. The department will also be hiring 2 transfer officers from other civil service police departments in late January. At the time of the preparation and finalization of the Fiscal Year 2022 Budget, the Police Department did not have confirmation on the number of retirements to take place nor the availability of police academy seats. The costs associated with the hiring and securing of 8 academy seats and the final arrangements for the transfer of 2 officers require a supplemental appropriation to the Police Department's Fiscal Year 2022 Budget.

**ANALYSIS:** This appropriation is comprised of several parts: 1) pre-employment requirements including medical exams and psychological assessments; 2) academy tuition; 3) ammunition 4) equipment including radio and firearm; and 5) uniform.

### **Recruit Costs (8)**

Training	\$33,120
Equipment	\$54,556
Uniform	\$24,111
Ammunition	\$11,268
	<hr/>
	\$123,055

### **Transfer Costs (2)**

Equipment	\$12,825
Uniform	\$4,788
Ammunition	\$1,681
	<hr/>
	\$19,294

### **Preliminary Hiring Costs (10)**

Psychological Assessments	\$6,000
Physicals	\$8,500
	<hr/>
	\$14,500

**Total Supplemental Budget Request** \$156,849

The items listed above will need to be funded in Fiscal Year 2022 in order to complete the hiring components required by both the Plymouth Academy and the Cape Cod Municipal Police Academy (Medical & Psychological) and enough ordering time for the remaining equipment and uniforms.

**FISCAL IMPACT:** This is a one-time budget impact to cover the costs associated with this hiring group and these funds will not become part of the Police Department's base operating budget. Funding for this appropriation request will be provided from the General Fund Reserve. The current balance in the reserve is \$24,387,535.

**TOWN MANAGER RECOMMENDATION:** Mark S. Eells, Town Manager, recommends approval of this supplemental appropriation request.

**STAFF ASSISTANCE:** Matthew K. Sonnabend, Chief of Police; Anne Spillane, Director of Finance & Support Services

**B. NEW BUSINESS (Refer to the Planning Board)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-073  
INTRO: 01/20/2022**

**2022-073 AMENDING CHAPTER 240 ZONING, ARTICLE III, § 240-34 TO COMPLY WITH NATIONAL FLOOD INSURANCE PROGRAM (NFIP) REQUIREMENTS**

**ORDERED:** That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article III, § 240-34 Floodplain District be amended by deleting § 240-34 in its entirety and inserting the following new § 240-34 in its place:

“§ 240-34. Floodplain District.

A Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Barnstable designated as Zone A, AE, AO, AH, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) dated July 16, 2014 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations (one-hundred-year flood) shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building Commissioner, and Conservation Commission.

The purpose of the Floodplain Overlay District is to:

1. Ensure public safety through reducing the threats to life and personal injury
2. Eliminate new hazards to emergency response officials
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
4. 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
5. Eliminate costs associated with the response and cleanup of flooding conditions
6. Reduce damage to public and private property resulting from flooding waters

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

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

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

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

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

Permits are required for all proposed construction or other development in the floodplain overlay district, including new construction, alteration of existing structures, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities, drilling or other development that might increase flooding or adversely impact flood risks to other properties (any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations).

- A. Any new construction or substantial improvement to be under taken within the floodplain overlay district shall be in accordance with Massachusetts State Building Code 780 CMR and 310 CMR- Department of Environmental Protection. The Building Commissioner shall review all proposed development within the floodplain overlay district upon confirmation from the property owner or his/her representative that all necessary permits have been received and certified from those governmental agencies from which approval is required by local, federal and state law, in order to carry out the proposed development in the floodplain overlay district including but not limited to Sec. 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. § 1334. The Building Commissioner shall obtain and maintain records of elevation and floodproofing levels for new construction or substantial improvement within the floodplain overlay district.
- B. All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is lesser, shall include within such proposals technical data, provided by the proponent, to determine base flood elevation data for each developable parcel shown on the design plans.
- C. All subdivision and development proposals, including utility and drainage systems, in the floodplain overlay district, shall be reviewed to assure that they are located and designed to be consistent with the following:
  - a) Such proposals minimize flood damage.
  - b) Public utilities and facilities are located and constructed so as to minimize flood damage.
  - c) Adequate drainage is provided.
- D. 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.
- E. Regulations pertaining to mapped floodways as defined in US Code of Federal Regulations, Title 44, Part 59.1 have been removed from this ordinance because the Town of Barnstable does not have any mapped floodways and is a coastal community where floodways do not apply.
- F. In a riverine situation, the Conservation Administrator or designee shall notify the following of any alteration or relocation of a watercourse: (a) Adjacent Communities, especially upstream and downstream, (b) bordering States, if affected, (c) the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, 8<sup>th</sup> floor, Boston, MA 02114-

- G. Within Zones AO and AH on the FEMA Flood Insurance Rate Maps, adequate drainage paths must be provided around structures on slopes to guide floodwaters around and away from proposed structures.
- H. No land within areas designated as V (Velocity) Zones on the FEMA Flood Insurance Rate Maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. All new construction and substantial improvement within the V Zones shall be in full compliance with the State Building Code and shall be certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
- I. The following shall be prohibited within flood areas designated as V Zones:
  - 1. Use of fill.
  - 2. Mobile homes.

- J. If the State issues variances to the flood-resistant standards as found in the state building code, Barnstable will use the following text for local adoption:

Barnstable 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.

Barnstable 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 for \$100 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.

- K. A variance from this floodplain ordinance, related to community compliance with the National Flood Insurance Program (NFIP), must meet the requirements set out by State law and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief. This does not apply to the building code.
- L. In A, AO, AH, AE Zones, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- M. 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.  
The following definitions apply to the interpretation of this chapter:

### **DEVELOPMENT**

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. [US Code of Federal Regulations, Title 44, Part 59]

### **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. [Base Code, Chapter 2, Section 202]

### **FUNCTIONALLY DEPENDENT USE**

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. [US Code of Federal Regulations, Title 44, Part 59]  
Also [Referenced Standard ASCE 24-14]

### **HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

### **HISTORIC STRUCTURE**

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.

[US Code of Federal Regulations, Title 44, Part 59]

### **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. [Referenced Standard ASCE 24-14]

### **RECREATIONAL VEHICLE**

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.  
[US Code of Federal Regulations, Title 44, Part 59]

### **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, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

### **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. [Base Code, Chapter 2, Section 202]

### **STRUCTURE**

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. [US Code of Federal Regulations, Title 44, Part 59]

### **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. [As amended by MA in 9th Edition BC]

### **VARIANCE**

A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

### **VIOLATION**

The failure of a structure or other development to be fully compliant with the community's flood plain 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. [US Code of Federal Regulations, Title 44, Part 59]

### **ZONE A**

Area of special flood hazard without water surface elevations determined.

### **ZONE AE**

Area of special flood hazard with water surface elevations determined.

**ZONE AH**

Areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

**ZONE AO**

Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

**ZONE A99**

Area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

**ZONE X**

Areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

**ZONE V**

Area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

**ZONE VE**

(For new and revised maps) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area).”

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Move

# BARNSTABLE TOWN COUNCIL

**ITEM# 2022-073**  
**INTRO: 01/20/2022**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** January 20, 2022  
**SUBJECT:** Amending Chapter 240 Zoning, Article III, § 240-34 to comply with National Flood Insurance Program (NFIP) requirements

**RATIONALE:** In 1968, Congress passed the National Flood Insurance Act, which established a program that provides flood insurance to property owners, renters and businesses and works with communities required to adopt and enforce floodplain management regulations that help mitigate flooding effects. The Town of Barnstable officially became a National Flood Insurance Program (NFIP) community in 1976. As of September 30, 2021, there were 910 NFIP policies in force in the Town of Barnstable, with a total coverage of \$282,017,100.

All NFIP communities are required to locally adopt and enforce NFIP requirements as defined within Title 44 of the Code of Federal Regulations (CFR). The rules are defined by Congress and the Federal Emergency Management Agency (FEMA) administers the program. The state incorporates federally-mandated floodplain protection provisions into their regulations, including the Building Code, Environmental Code, Wetlands Regulations, and Drinking Water Regulations. Each NFIP community must also have local regulations that describe and direct development within the floodplains, and these local regulations must include NFIP provisions that are not already incorporated in state law. The Town of Barnstable's rules are established within the Zoning Ordinance, Chapter 240, Section 34, the Floodplain District.

In 2020, a Massachusetts State Model Floodplain Bylaw was established to inform NFIP communities of required modifications to local ordinances in order to comply with new NFIP requirements. If the State or FEMA conducts a monitoring visit or interview, a community needs to have updated their ordinance accordingly or the community must be prepared to provide a date by which such amendments will be adopted. For these reasons, it is recommended that Towns prioritize the adoption of the 2020 Model bylaws.

The Model Floodplain Bylaw includes twenty (20) required provisions, as well as optional definitions. In summary, the applicable amendments to the Town's existing Floodplain ordinance include adding and repealing language as necessary to incorporate the required regulations, as well as the addition of several definitions. This effort was achieved through close coordination with the Barnstable County Floodplain Specialist & Community Rating System (CRS) Coordinator to ensure that all applicable modifications have been made in order to comply with the updated NFIP requirements.

**FISCAL IMPACT:** There is no significant fiscal impact of the proposed zoning amendment.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

**STAFF SUPPORT:** Elizabeth Jenkins, Director of Planning & Development; Kate Maldonado, Assistant Director of Planning & Development, Brian Florence, Building Commissioner

**B. NEW BUSINESS (Refer to a Public Hearing 02/03/2022)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-074  
INTRO: 01/20/2022**

**2022-074 APPROPRIATION ORDER IN THE AMOUNT OF \$10,000 FOR THE PURPOSE OF ACQUIRING AN EASEMENT OVER REAL PROPERTY LOCATED AT 195 PHINNEY’S LANE, BARNSTABLE (CENTERVILLE) SHOWN ON ASSESSOR’S MAP 209 AS PARCEL 020 TO BE ASSOCIATED WITH THE CONSTRUCTION OF NEW SEWER INFRASTRUCTURE**

**ORDERED:** That the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under chapter 79 of the General Laws of Massachusetts, or otherwise acquire for sewer, infrastructure, and related purposes, an easement over a parcel of land located at 195 Phinney’s Lane, Barnstable (Centerville) Massachusetts, shown on Town of Barnstable Assessors' Map 209, Parcel 020 and described in a deed recorded with Barnstable County Registry of Deeds in Book 33594, Page 345, and that the sum of **\$10,000** be appropriated for the purpose of funding this acquisition, and to fund the appropriation that \$10,000 be provided from the available resources in the Town’s Sewer Construction and Private Way Maintenance and Improvement Special Revenue Fund; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Move

# BARNSTABLE TOWN COUNCIL

**ITEM# 2022-074**  
**INTRO: 01/20/2022**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**DATE:** January 6, 2022  
**SUBJECT:** Appropriation Order in the amount of **\$10,000** for the purpose of acquiring an easement over real property located at 195 Phinney's Lane, Barnstable (Centerville) shown on Assessor's Map 209 as Parcel 020 to be associated with the construction of new sewer infrastructure

**BACKGROUND:** The Town is proceeding with plans to install sewers and related infrastructure in Centerville. The Town previously acquired a parcel of land located at 1256 Route 28 on which the Town is in the process of constructing a critical sewer pumping station. Final engineering suggests that the most efficient route to connect the pumping station to the sewer to be installed on the south side of Route 28 is to route the sewer line through an easement over a portion of 195 Phinney's Lane, Centerville which directly abuts 1256 Route 28.

Direct negotiations with the property owner produced an oral Agreement for Damages in Eminent Domain Taking in the amount \$5,000.00 as per a recent appraisal. A comprehensive agreement will be executed by both the Owner and the Town in advance of a second reading and Council vote. It is anticipated that an Order of Taking will be recorded in late February 2022 whereupon title would transfer to the Town.

The total anticipated cost for this land acquisition, including associated expenses, will not exceed \$10,000.

This route will greatly reduce construction impacts on Route 28 and will save the town several hundred thousand dollars in engineering and construction costs when compared to design of an alternate route. The timely completion of this acquisition will also qualify this work for State SRF funding in accordance with very pressing timelines imposed by the state. Utilizing the eminent domain procedure will assure clear title to the property.

**FISCAL IMPACT:** Funding for the land acquisition will be provided from the available resources within the Sewer Construction and Private Way Maintenance and Improvement Fund which has a current available balance of \$17.4 million.

**STAFF ASSISTANCE:** Charles S. McLaughlin, Senior Town Attorney; Daniel W. Santos, Director of Public Works; David Anthony, Director of Property & Risk Management