

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

July 17, 2025

6:00 pm

### Councillors:

Craig Tamash  
President  
Precinct 4

Kris Clark  
Vice President  
Precinct 11

Gordon Starr  
Precinct 1

Dr. Kristin Terkelsen  
Precinct 2

Betty Ludtke  
Precinct 3

John Crow  
Precinct 5

Paul C. Neary  
Precinct 6

Seth Burdick  
Precinct 7

Jeffrey Mendes  
Precinct 8

Charles Bloom  
Precinct 9

Matthew P. Levesque  
Precinct 10

Paula Schnepf  
Precinct 12

Felicia Penn  
Precinct 13

The July 17, 2025 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2<sup>nd</sup> Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel live stream on the Town of Barnstable's website:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to:

<https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town Council/Agenda-Comment.asp>

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/88951735589> Meeting ID: 889 5173 5589  
US Toll-free • 888 475 4499

## 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 (Pre-Recorded and available on Video on Demand on the Town website)

### 7. MINUTES

#### • ACT ON PUBLIC SESSION MINUTES: June 26, 2025

### 8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements (will be taken up after the Orders of the Day)

## EXECUTIVE SESSIONS

The Town Council will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a)(3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect on the litigating position of the Town and Town Council. Specifically, the Town Council will discuss the lawsuit filed against the Town in July 2024 by the Conservation Law Foundation regarding claims under the Federal Clean Water Act.

The Town Council will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a)(2) to conduct a strategy session in preparation for negotiations with non-union personnel, specifically Mark Ells, the Town Manager.

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

## **PUBLIC SESSION**

The Council will vote on whether to notify the Town Manager of its intent to renew his employment contract with the Town.

### **9. ORDERS OF THE DAY**

- A. Old Business**
- B. New Business**

### **10. ADJOURNMENT**

**NEXT REGULAR MEETING: August 21, 2025**

ITEM NO.	INDEX TITLE	PAGE
<b>A.</b>	<b>OLD BUSINESS</b>	
2025-062	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by repealing the Zoning Overlay District known as the “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Zoning Overlay District” and creating a new Overlay District known as the “Cannabis Overlay District” and expanding the existing Medical Marijuana Overlay District, in the form as submitted by petition of ten registered voters <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	6-13
2025-075	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to add three properties to the Multifamily Affordable Housing Residential District to allow for By-Right Affordable Housing in addition to Special Permit Affordable Housing, and to add parking requirements, roof mounted solar system requirements, principal permitted uses, and other Multifamily Affordable Housing requirements. <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	14-19
2025-143	Order approving amendments to the Town Council Rules <b>(May be acted upon) (Majority Vote)</b> ....	20-66
2025-193	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 184 Sewers and Water by adding a new Article V establishing a Land Use Control for Flow Neutral Wastewater Management <b>(Public Hearing) (Roll Call Majority Vote)</b> .....	67-70
2025-194	Appropriation and Loan Order in the amount of <b>\$11,500,000</b> for the purpose of funding the Straightway Water Treatment Facility Project <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	71-72
2025-195	Authorizing the Town Manager to execute a Development Agreement by and among the Town of Barnstable, Shoestring Properties, LLC, located at 110 and 115 School Street, Main Street Times, LLC, located at 319 and 331 Main Street, and 259 North Street LLC, located at 310 Barnstable Road, Hyannis <b>(Public Hearing) (Majority Vote)</b> .....	73-82
2025-196	Appointments to a Board/Committee/Commission: <b>Council on Aging:</b> Christine Beer from an associate position to a full member position to a term expiring 06/30/2028, Stephanie Parish, as a regular member to a term expiring 06/30/2028; <b>Comprehensive Financial Advisory Committee:</b> Frank Ward, as a regular member to a term expiring 06/30/2027; <b>Historical Commission:</b> Barbara Cuggino DeBiase as the Historical Commission Representative member to the Community Preservation Committee to a term expiring 06/30/2028 <b>(May be acted upon) (Majority Vote)</b> ....	83
2025-197	Reappointments to a Board/Committee/Commission: <b>Airport Commission:</b> Bradley Bailey, as a regular member term expiring 06/30/2028; Mark Guiod, as a regular member, to a term expiring 06/30/2028; <b>Board of Health:</b> Donald Guadagnoli, MD, as a regular member to a term expiring 06/30/2028; Steven Waller, MD, as a regular member to a term expiring 06/30/2028; <b>Community Preservation Committee:</b> Steven Robichaud, as a Planning Board representative member, to a term expiring 06/30/2028; Farley Lewis, as a regular member to a term expiring 06/30/2028; <b>Comprehensive Financial Advisory Board:</b> Lillian Woo, as a regular member to a term expiring 06/30/2028; Christopher Lauzon, as a regular member to a term expiring 06/30/2028; <b>Disability Commission:</b> Patricia Ericson-Taylor, as a regular member to a term expiring 06/30/2028; <b>Golf Committee:</b> Mark Bushway, as a regular member to a term expiring 06/30/2028; Susanne Conley, as a regular member to a term expiring 06/30/2028; Geoffrey Converse, as a regular member to a	

term expiring 06/30/2028; William Sylva, as a regular member to a term expiring 06/30/2028; **Historical Commission:** Jack Kay, as a regular member to a term expiring 06/30/2028; **Housing Committee:** Eileen Elias, as an alternate member to a term expiring 06/30/2028; Chris Beach, as a regular member to a term expiring 06/30/2028; **Infrastructure and Energy Committee:** Jane Ward, as a regular member to a term expiring 06/30/2028; Barry Sheingold, as a regular member to a term expiring 06/30/2028; **John F. Kennedy Memorial Trust Fund Committee:** William Murphy, as a Recreation Commission representative member to a term expiring 06/30/2028; Wendy Northcross, as a regular member to a term expiring 06/30/2028; **Licensing Authority:** John Flores, as a regular member to a term expiring 06/30/2028; Jessica Sylver, as an associate member to a term expiring 06/30/2028; **Sandy Neck Board:** William Monroe, as a member at large, to a term expiring 06/30/2028; William Carey, as a member at large to a term expiring 06/30/2028; **Shellfish Committee:** William Cherepon, as a member at large to a term expiring 06/30/2028; Gloriann Hurwitz, as a member holding a family permit to a term expiring 06/30/2028; **Waterways Committee:** Jacob Angelo, as a regular member to a term expiring 06/30/2028; Todd Walantis, as a regular member to a term expiring 06/30/2028; **Zoning Board of Appeals:** Larry Hurwitz, as an associate member to a term expiring 06/30/2028; Paul Pinard, as a regular member to a term expiring 06/30/2028 **(May be acted upon) (Majority Vote)** .....84

2025-198	Appropriation and Transfer Order in the amount of <b>\$2,500,000</b> in Community Preservation Act Funds to increase the number and availability of community housing units in the Town of Barnstable <b>(Public Hearing) (Roll Call Majority Vote Full Council)</b> .....	85-86
2025-201	Order waiving fees for construction work by the Barnstable Fire District for a new Fire Station located at 1841 Phinney's Lane, Barnstable <b>(Public Hearing) (Roll Call Majority Vote)</b> .....	87-90
2025-202	Resolve approving and adopting the Town of Barnstable 2025 Local Comprehensive Plan dated June 9, 2025 <b>(Public Hearing) (Majority Vote)</b> .....	91-93

## **B. NEW BUSINESS**

2026-001	Authorization to expend a Fiscal Year 2026 grant in the amount of <b>\$7,500</b> from the Massachusetts Department of Environmental Protection to be used towards the purchase of one electric Chevy Equinox <b>(May be acted upon) (Majority Vote)</b> .....	94-95
2026-002	Order authorizing the grant of an easement for electric facilities on town-owned land at 382 Falmouth Road in Hyannis <b>(First Reading) (Refer to Second Reading 09/04/2025)</b> .....	96-98
2026-003	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article III Section 24.1.5(c) Table 2, to modify the required parking for residential or artist live/work (per du), modify the calculation for minimum parking spaces, and establish minimum dimensional standards for parking spaces <b>(First Reading) (Refer to Planning Board)</b> .....	99-110
2026-004	Order waiving fees for construction work by the Cotuit Fire District for the expansion and renovation of the Fire Station at 64 and 56 High Street, Cotuit <b>(Refer to Public Hearing 08/21/2025)</b> .....	111-114
2026-005	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article III District Regulations, to modify building height requirements in the Downtown Main Street District and Downtown Village District <b>(First Reading) (Refer to Planning Board)</b> .....	115-124
2026-006	Amending the code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to repeal the Downtown Village District and amend the zoning map to replace the Downtown Village District with the downtown neighborhood zoning district <b>(First Reading) (Refer to Planning Board)</b> .....	125-149

<b>2026-007</b>	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to amend the area in the Downtown Main Street District where ground floor commercial space is required <b>(First Reading) (Refer to Planning Board)</b> .....	150-155
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**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 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 2/3 Vote Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-062**

**INTRO: 12/12/2024, 4/17/2025, 05/15/2025, 07/17/2025**

**2025-062 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING OVERLAY DISTRICT KNOWN AS THE “REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES ZONING OVERLAY DISTRICT” AND CREATING A NEW OVERLAY DISTRICT KNOWN AS THE “CANNABIS OVERLAY DISTRICT” AND EXPANDING THE EXISTING MEDICAL MARIJUANA OVERLAY DISTRICT, IN THE FORM AS SUBMITTED BY PETITION OF TEN REGISTERED VOTERS**

**ORDERED:** That the Town Council does hereby approve the amendments to the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, as set forth in Attachment 1 of the petition submitted to the Town Council on December 2, 2024, by ten registered voters in accordance with MG.L. c. 40A, § 5 and attached hereto.

**SPONSOR:** Mark S. Ells, Town Manager, upon the petition of ten (10) registered voters

DATE	ACTION TAKEN
<u>12/12/2024</u>	<u>Refer to Planning Board</u>
<u>04/17/2025</u>	<u>Open and continue to 5/15/2025</u>
<u>05/15/2025</u>	<u>Open and continue to 07/17/2025</u>

☐ Read Item  
☐ Rationale  
☐ Public Hearing  
☐ Close Public Hearing  
☐ Council Discussion  
☐ Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2025-062

INTRO: 12/12/2024, 4/17/2025, 05/15/2025, 07/17/2025

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** James S. Kupfer, Director of Planning and Development  
**DATE:** April 17, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part 1 General Ordinances, Chapter 240 Zoning by repealing the zoning overlay district known as the “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Zoning Overlay District” and creating a new overlay district known as “Cannabis Overlay District” and expanding the existing Medical Marijuana Overlay District, in the form as submitted by petition of ten registered voters.

**BACKGROUND:** On December 2, 2024, a resident of the Town submitted a proposed amendment to the Town’s zoning ordinance addressed to the Town Council, along with the signatures of at least ten registered voters of the Town. Section 5 of M.G.L. c. 40A, the state Zoning Act, provides that “[a]doption or change of zoning ordinances or by-laws may be initiated by the submission to the city council ... of a proposed zoning ordinance ... by ten registered voters in a city ... .” Section 5 further provides that the City Council “shall within fourteen days of receipt of such zoning ordinance amendment ... submit it to the planning board for review.”

On December 2, 2024, the Town Clerk certified that the petition was signed by ten certified registered voters of the Town. In accordance with G.L. c. 40A, section 5, the Town Council on December 12, 2024, voted to refer the proposal to the Planning Board.

This proposal seeks to establish a new zoning overlay district where recreational marijuana retail would be permitted by special permit. This district would include the existing Medical Marijuana Overlay District, the existing Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, and the B Business District. Furthermore, the proposal seeks to expand the existing medical marijuana overlay district to be consistent with the new overlay district.

Under the Town’s current zoning, medical marijuana establishments are permitted by special permit in the Medical Marijuana Overlay District. Recreational marijuana establishments are prohibited.

Further in accordance with G.L. c. 40A, section 5, the Planning Board reviewed the petition at their meeting on February 10, 2025, and voted 4-0 to not recommend its adoption.

**FISCAL IMPACT:** Under state law, Marijuana Establishments (ME) and Medical Marijuana Treatment Centers (MTC) are required to execute Host Community Agreements (HCAs) with the municipalities in which they plan to operate. The town may elect to incorporate a community impact fee into the terms of the HCA. A municipality that elects to incorporate a community impact fee may collect a figure that represents no more than 3% of the annual gross sales of the ME or MTC. Such impact fees must be reasonably related to the actual operations of an ME/MTC. In addition, the State Department of Revenue empowers a municipality to impose an additional tax, referred to as the local tax option, of 3% on retail transactions for Marijuana or Marijuana Products. The amount of revenue that could be generated is unknown at this time.

**STAFF ASSISTANCE:** James S. Kupfer, Director of Planning and Development; Kate Connolly, Assistant Town Attorney

# The Commonwealth of Massachusetts

DATE and TIME this paper received  
by Registrars.

## PETITION

### TOWN OF BARNSTABLE

#### SUBJECT OR SUBJECTS REQUESTED

(To be filled in by petitioner(s). If space is insufficient, attach additional page of description to each petition form before signatures are gathered.)

PETITION FOR AN ORDINANCE CHANGE AND ZONING PROPOSAL TO ESTABLISH A CANNABIS DISTRICT OVERLAY AND EXPAND THE EXISTING MEDICAL MARIJUANA DISTRICT

To the Honorable Members of the Barnstable Town Council:

We, the undersigned residents of the Town of Barnstable, hereby submit this petition for a zoning map amendment and text amendment to regulate and manage the placement of marijuana establishments within our town. We respectfully request that the Town Council consider the following proposal:

#### 1. Establish a Cannabis Overlay District

We propose that the Town of Barnstable adopt a Cannabis Overlay District regulating the siting of adult-use and medical marijuana establishments. This district will overlay the following areas:

- The existing Medical Marijuana Overlay District;
- The existing Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District; and
- The B Business District.

The Cannabis Overlay District will permit the controlled and responsible placement of marijuana cultivators, research facilities, testing laboratories, marijuana product manufacturers, and retail marijuana establishments. The overlay will ensure that these businesses operate in locations that are appropriate and away from sensitive uses such as schools and residential areas, while maintaining access to key commercial areas.

#### 2. Expand the Existing Medical Marijuana Overlay District

In conjunction with the establishment of the Cannabis Overlay District, we propose the expansion of the areas in which Medical Marijuana establishment can be located to include the same areas designated within the Cannabis Overlay District. This expansion will allow for a unified approach to the siting of medical and adult-use marijuana establishments within Barnstable.

By expanding the Medical Marijuana Overlay District, the Town will benefit from a streamlined zoning framework that encompasses both medical and adult-use marijuana establishments, ensuring consistent regulation and enforcement across all cannabis-related businesses.

SIGNER  
INFORMATION

#### INSTRUCTIONS TO SIGNERS

For your signature to be valid, you must be a registered voter in the town and your signature should be written substantially as registered. Do NOT sign more than one petition for the same subject.

If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

If you have NOT moved since January 1 of this year, you need complete only columns I and II.

If you HAVE moved since January 1 of this year, you must complete columns I, II and III.

#### SIGNER'S STATEMENT

We, the undersigned, are qualified voters of the Town of Barnstable, and in accordance with the provisions of law, request a special town meeting for the purposes above.



AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING OVERLAY DISTRICT KNOWN AS THE "REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES OVERLAY DISTRICT" AND CREATING A NEW OVERLAY DISTRICT KNOWN AS THE "CANNABIS OVERLAY DISTRICT" AND EXPANDING THE EXISTING MEDICAL MARIJUANA OVERLAY DISTRICT

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

#### SECTION 1

By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to repeal the "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District" and "Medical Marijuana Overlay District" and create a "Cannabis Overlay District" as shown on maps dated October 1, 2024, prepared by the Town of Barnstable Geographical Information System Unit, and entitled: proposed amendment to the town zoning map.

#### SECTION 2

A. By amending Article II, Section 240-5, Establishment of districts, by deleting: "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District" under the heading "Overlay Districts" and inserting: "COD Cannabis Overlay District."

#### SECTION 3.

By amending Article XVI Amendment; Definition; Moratorium to add:

**CRAFT MARIJUANA COOPERATIVE** — A marijuana cultivator composed of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to marijuana establishments, but not to consumers.

**INDEPENDENT TESTING LABORATORY** — A laboratory that is licensed by the Cannabis Control Commission and is:

(a) Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;

(b) Independent financially from any medical marijuana treatment center (RMD), marijuana establishment or licensee for which it conducts a test; and

(c) Qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

**MARIJUANA COURIER** — An entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that

allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

**MARIJUANA CULTIVATOR** — An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A craft marijuana cooperative is a type of marijuana cultivator.

**MARIJUANA ESTABLISHMENT (ME)** — A marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, independent testing laboratory, marijuana research facility, marijuana transporter, marijuana courier, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

**MARIJUANA MICROBUSINESS** — A co-located marijuana establishment that can be either a Tier 1 marijuana cultivator or product manufacturer or both, in compliance with the operating procedures for each license. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

**MARIJUANA PRODUCT MANUFACTURER** — An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other marijuana establishments, but not to consumers.

**MARIJUANA RESEARCH FACILITY** — An entity licensed to engage in research projects by the Cannabis Control Commission.

**MARIJUANA RETAILER** — An entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment. An entity licensed to purchase and transport cannabis or marijuana products from marijuana establishments and to sell or otherwise transfer this product to marijuana establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a marijuana establishment.

**MARIJUANA TRANSPORTER** — An entity, not otherwise licensed by the Cannabis Control Commission, which is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers. Marijuana transporters may be an existing licensee transporter or third-party transporter.

#### SECTION 4.

By amending Article III District regulations to repeal Section 240-31 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District and replace it with:

##### § 240-31 Cannabis Overlay District.

A. District established. A Cannabis Overlay District is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.

Use. Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, Marijuana Establishments shall be allowed within the Cannabis Overlay District upon the granting of a special permit, subject to the requirements set forth in this section. Within the Cannabis Overlay District, and only within the Cannabis Overlay District, Marijuana Establishments may be permitted, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the following standards and conditions.

#### C. Purposes.

- (1) To provide for the placement of marijuana establishments in appropriate places and under strict conditions in accordance with MGL c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, and the Cannabis Control Commission regulations promulgated thereunder, 935 CMR 500.000.
- (2) To minimize the adverse effects of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of marijuana establishments.

#### D. Applicability.

- (1) No ME shall be established except in compliance with the provisions of this section.
- (2) Pursuant to MGL c. 94G, §3(a)(2), the number of Marijuana Retailers shall be limited to fewer than 20 percent of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of Chapter 138.
- (3) Nothing in this bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

#### E. General requirements for marijuana establishments.

- (1) A ME shall be contained within a building or structure, except open-air marijuana cultivators which may be allowed in accordance with § 164-13, Schedule of use regulations. Marijuana plants, products, and paraphernalia shall not be clearly visible to a person from the exterior of a ME.
- (2) No ME shall be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the ME is or will be located.
- (3) The hours of operation of a Marijuana Retailer shall not exceed the Alcoholic Beverages Control Commission (ABCC) maximum hours of operation for liquor licenses.
- (4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a ME.
- (5) A ME shall provide the Zoning Board of Appeals with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated

with the establishment. The applicant shall also provide a statement from the Barnstable Police Department verifying completion of background checks by the Cannabis Control Commission.

(6) Special permits shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

(7) Special permits shall be valid for a period of three (3) years from the date of the decision. A special permit shall be renewed for successive three-year periods provided that a written request for renewal is made to the Board of Appeals not less than three (3) months prior to the expiration of the then-existing three-year period. Publication of notice of said request shall be made in the same manner as would be required for an original application for a special permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then-existing permit, a written objection to the renewal, stating reasons, is received by the Board of Appeals. In the event of such an objection, a hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original permit application. The special permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the special permit renewal, including the outcome of any appeal under MGL c. 40A, § 17. In granting the renewal, the Board of Appeals may impose additional conditions, including, without limiting the foregoing, time limits to correct violations and hours of operation, upon which a specific lapse of time without correction or compliance shall result in a denial of the renewal.

F. Special permit requirements.

(1) A ME shall only be allowed by special permit from the Zoning Board of Appeals in accordance with M.G.L. c. 40A, § 9, and §240-125 herein, subject to the following statements, regulations, requirements, conditions and limitations.

(2) A special permit application for a ME shall include the following:

- a. The name and address of each owner of the ME;
- b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the marijuana establishment;
- c. Evidence of the applicant's right to use the site of the ME for the ME use, such as a deed, or lease;
- d. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of each such entity until the disclosure contains the names and addresses of individuals;
- e. Proposed security measures for the ME, including lighting, fencing, gates and alarms, surveillance cameras, etc., to ensure safety and security from theft or fire. Such measures shall be sent by the applicant to the Police and Fire Chiefs for review and comment.

G. Mandatory findings.

(1) The Zoning Board of Appeals shall not issue a special permit for a ME unless it finds that:

- a. The facility is designed to address any environmental, visual, noise, odor, traffic or economic impacts on abutters and other "parties in interest," as defined in M.G.L. c. 40A, § 11;
- b. The facility demonstrates that it has met all the permitting requirements; and
- c. The applicant has satisfied all of the general and special permit requirements of this section and § 164-44.

H. Severability.

The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.

**B. NEW BUSINESS (First Reading) (Refer to Planning Board)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-075**

**INTRO: 02/06/2025, 07/17/2025**

**2025-075 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I  
GENERAL ORDINANCES, CHAPTER 240 ZONING TO ADD THREE  
PROPERTIES TO THE MULTIFAMILY AFFORDABLE HOUSING  
RESIDENTIAL DISTRICT TO ALLOW FOR BY-RIGHT AFFORDABLE  
HOUSING IN ADDITION TO SPECIAL PERMIT AFFORDABLE HOUSING,  
AND TO ADD PARKING REQUIREMENTS, ROOF MOUNTED SOLAR  
SYSTEM REQUIREMENTS, PRINCIPAL PERMITTED USES, AND OTHER  
MULTIFAMILY AFFORDABLE HOUSING REQUIREMENTS**

**ORDERED:** That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning be amended as follows:

**SECTION 1:**

By amending the Zoning Map of Barnstable, Mass. dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add the following properties to the Multi-Family Affordable Housing Residential District, as shown on the map dated January 9, 2025, prepared by the Town of Barnstable Geographical Information System Unit, and entitled “Proposed Amendment to the Multifamily Affordable Housing Residential District”: 825 Falmouth Road, as shown on Assessors’ Map 271, Parcel 097; 767 Falmouth Road, as shown on Assessors’ Map 271, Parcel 096; and 577 Falmouth Road, as shown on Assessors’ Map 271, Parcel 043.

**SECTION 2:**

By amending Article III, Section 240-16.1 MAH Residential District, Subsection A. Purpose, by inserting after the word “authorize” the following words: “by right and”.

**SECTION 3:**

By further amending said Section 240-16.1 by renumbering Subsections B through I as Subsections C through J, and by inserting the following new Subsection B after Subsection A:

“B. Location. The MAH Residential District is identified on a map entitled “Proposed Amendment to the Multifamily Affordable Housing Residential District” dated January 9, 2025, as shown on the Zoning Map of Barnstable.

Map and Parcel Information for the properties within the MAH Residential District is:

- 850 Falmouth Road – Assessors Map 250, Parcel 036; Assessors Map 250, Parcel 160
- 577 Falmouth Road – Assessors Map 271, Parcel 043
- 825 Falmouth Road – Assessors Map 271, Parcel 097
- 767 Falmouth Road – Assessors Map 271, Parcel 097

**SECTION 4**

By further amending said Section 240-16.1, renumbered Subsection C. Principal Permitted Uses, by adding a new subsection (2) after subsection (1) as follows:

(2) Duplex residential dwellings.

**SECTION 5**

By further amending said Section 240-16.1, renumbered Subsection E. Bulk Regulations, as follows:

- A. By amending the Minimum Lot Area from 87,120 square feet to 43,560 square feet;
- B. By amending the Minimum Yard Setbacks as follows: by amending the Front Yard Setback from 60 feet to 15 feet, by amending the Side Yard Setback from 30 feet to 10 feet and by amending the Rear Yard Setback from 30 feet to 10 feet.

## SECTION 6

By further amending said Section 240-16.1 by deleting renumbered Subsection F, Density Requirements, in its entirety and inserting the following new subsection F. in its place:

“Density Requirements. The total number of residential units allowable as permitted uses within a Multifamily Affordable Housing Development (MAHD) shall not exceed 20 per acre of upland. Multiple principal buildings/structures are permitted per lot.”

## SECTION 7

By further amending said Section 240-16.1 by renumbering the previously renumbered Subsections G through J as new Subsections I through L and by inserting new Subsections “G. Parking” and “H. Solar” after renumbered Subsection F as follows:

“G. Parking. 1.5 parking spaces are required per residential dwelling unit. Parking dimensions shall be a minimum of 9’ by 18’. Drive aisle between parking spaces shall be a minimum of 22’.

H. Solar. Each residential structure shall be required to install roof mounted solar system(s) equal to at least 6 watts per square foot of conditioned space. Exceptions shall be granted if natural vegetative shading makes all or part of a roof mounted solar system nonviable. The total installed solar may be reduced if it can be shown that the mandated size would exceed the annual energy needs of the structure. The size may be reduced by 25% if a battery system of 5 kilowatt-hour (kWh) or larger is installed. Exception shall be if natural vegetative shading makes all or part of a roof mounted solar system nonviable.”

## SECTION 8

By further amending said Section 240-16.1 by deleting renumbered Subsection I., Affordable units, in its entirety and inserting the following new Subsection I. in its place:

“I. Affordable units. 100% of the dwelling units shall be affordable units as defined further below and subject to the following conditions:

**(1) Affordable units for Principal Permitted Uses.**

- a. Affordable units to be developed as principal permitted uses shall not be subject to Chapter 9 Article I, Inclusionary Affordable Housing Requirements.
- b. An individual or household with total annual income that does not exceed the following percentages of the area median income for the Town of Barnstable, as determined annually by the United States Department of Housing and Urban Development:
  - i. 10% of the units shall be affordable to individuals who qualify as no greater than 70% of the Area Median Income.
  - ii. 90% of the units shall be affordable to individuals who qualify between 70% and 100% of the Area Median Income.
- c. All affordable units shall remain affordable for a minimum of 15 years through a use restriction which shall assure this condition. The use restriction shall be structured to survive any and all foreclosures.
- d. The continuing enforcement of the use restriction through subsequent resale of the affordable units shall be the subject of a monitoring agreement.

- e. No occupancy permit shall be requested until the affordable dwelling units have been approved by the subsidizing agency and evidence of such has been submitted to the Town Attorney.

(2) Affordable units for Multifamily affordable housing developments

- (a) An individual or household with total annual income that does not exceed the following percentages of the area median income for the Town of Barnstable, as determined annually by the United States Department of Housing and Urban Development:
  - (i) For the purchaser of a condominium unit: 50%.
  - (ii) For the tenant in a rental unit: 50%.
- b) All affordable units shall remain affordable, as defined herein, in perpetuity. A use restriction shall ensure this condition. The use restriction shall be structured to survive any and all foreclosures.
  - i. The continuing enforcement of the use restriction through subsequent resale of the affordable units shall be the subject of a monitoring agreement.
  - ii. The use restriction and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP), and guidelines promulgated thereunder. The use restriction and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.
  - iii. The affordable unit shall conform to all Executive Office of Housing and Livable Communities (EOHLC) standards that must be met to qualify these units for inclusion in the EOHLC Subsidized Housing Inventory (SHI).
  - iv. A right of first refusal upon the transfer of such affordable units shall be granted to the Town or its designee for a period of not less than 120 days after notice thereof.
  - v. Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units. It is the intent of this section that the affordable units shall be eligible for inclusion in the EOHLC Subsidized Housing Inventory as LIP units.
  - vi. Reserved.
  - vii. In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result of this computation shall be the number of affordable units required to be built within the MAHD. Affordable units shall only be located within any development permitted under this provision. This standard is not subject to variance.
- c) No occupancy permit shall be requested until the affordable dwelling units have been approved by the EOHLC as eligible for the EOHLC Subsidized Housing Inventory under the Local Initiative Program (LIP) Guidelines.”

## SECTION 9

By further amending said Section 240-16.1, renumbered Subsection L. Definitions, as follows:



- A. By deleting the words “AFFORDABLE UNIT” and inserting “AFFORDABLE UNIT FOR MULTIFAMILY AFFORDABLE HOUSING DEVELOPMENTS” in their place.
- B. By deleting the definition of “QUALIFIED AFFORDABLE HOUSING UNIT PURCHASES OR TENANT” and inserting the following new definition in its place:

“Duplex residential dwellings - A detached residential building containing two dwelling units.”

- C. By adding the following new definition at the end of said Subsection:  
 “USE RESTRICTION FOR PERMITTED USES

A use restriction is a deed restriction or other legally binding instrument in a form consistent with the requirements of the subsidizing agency. A use restriction shall contain terms and conditions for the resale of a homeownership unit, including definition of the maximum permissible resale price, and for the subsequent rental of a rental unit, including definition of the maximum permissible rent. A use restriction shall require that tenants of rental units and owners of homeownership units shall occupy the units as their principal residences.”

- D. By deleting the words “USE RESTRICTION” and inserting “USE RESTRICTION FOR MULTIFAMILY AFFORDABLE HOUSING DEVELOPMENTS” in their place.

**SPONSOR:** Councilor Betty Ludtke, Precinct 3

DATE	ACTION TAKEN
<u>02/06/2025</u>	<u>Refer to Planning Board</u>

_____	_____
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___	Read Item
___	Motion to Open Public Hearing
___	Rationale
___	Public Hearing
___	Close Public Hearing
___	Council Discussion
___	Vote

# BARNSTABLE TOWN COUNCIL

## SUMMARY

**ITEM# 2025-075**

**INTRO: 02/06/2025, 07/17/2025**

**TO:** Town Council  
**FROM:** James Kupfer, Director, Planning & Development Department  
**DATE:** February 06, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to add three properties to the Multifamily Affordable Housing Residential District to allow for By-Right Affordable Housing in addition to Special Permit Affordable Housing, and to add parking requirements, roof mounted solar system requirements, principal permitted uses, and other Multifamily Affordable Housing Requirements

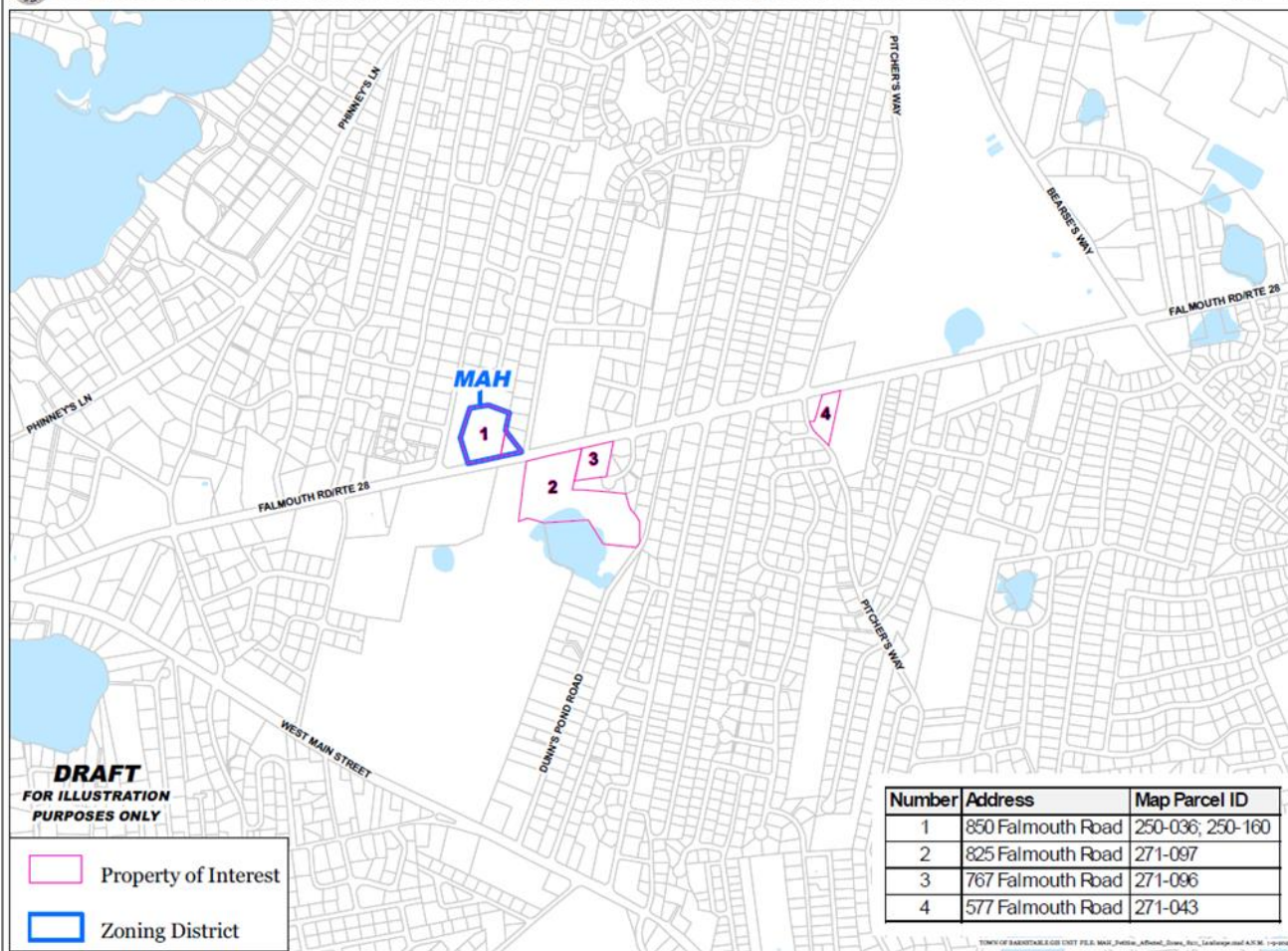
**BACKGROUND:** This item proposes to amend the Town of Barnstable's Zoning Ordinance, Section 240-16.1 Multifamily Affordable Housing Residential District as well as Section 240-6 the Zoning Map of Barnstable, MA dated September 1, 1998, as previously amended. This amendment seeks to expand the district through the inclusion of three additional properties along Falmouth Road as well as allowing for a residential duplex by-right use, the creation of certain site standards for by-right uses, and the modification of the affordable housing requirements.

Zoning amendments are processed in accordance with Massachusetts General Law (MGL) Chapter 40A, Section 5. Adoption or change of zoning ordinances may be initiated by the submission to the Town Council of a proposed zoning ordinance by different parties, including the Town Council itself.

**ANALYSIS:** The expansion of the Multifamily Affordable Housing (MAH) Residential District is sought to expand the existing district that includes 850 Falmouth Road, identified as both Assessors Map 250, Parcel 036 and Assessors Map 250, Parcel 60 to include three additional properties; 825 Falmouth Road Assessors Map 271, Parcel 097, 767 Falmouth Road Assessors Map, 271 Parcel 096, and 577 Falmouth Road Assessors Map 271 Parcel 043 for a total of three properties in the District. Currently each of these three new properties reside within the Residence – B District (RB). The RB District allows single-family residential dwellings by-right only. RB District requires one acre of lot area for each single-family residential dwelling. The expansion of the MAH District would grant new development standards to the existing district as well as these three additional parcels including but not limited to increased density, allowing for 20 residential dwelling units per acre of upland in multiple principal structures. The amendment would also require certain parking standards, a roof mounted solar mandate, and an increase in the requirement of affordable units, all as defined in the amended ordinance.

**FISCAL IMPACT:** Adopting this change could result in the development of these properties and increase the town's tax base.

**STAFF SUPPORT:** James Kupfer, Director, Planning & Development Department; Kathleen Connolly, Assistant Town Attorney



**A. OLD BUSINESS (May be acted upon) (Majority Vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-143**

**INTRO: 03/06/2025, 03/20/2025, 04/03/2025, 05/15/2025, 07/17/2025**

**2025-143 ORDER APPROVING AMENDMENTS TO THE TOWN COUNCIL RULES**

**ORDERED:** That the Town Council does hereby amend the Town Council Rules, as most recently amended on October 3, 2019, by striking the Rules in their entirety and inserting the Town Council Rules of Procedure, dated February 10, 2025, attached hereto, in place thereof.

**SPONSORS:** Councilors Kris Clark, Craig Tamash, Seth Burdick, Betty Ludtke and Kristin Terkelsen, as Chair and members, respectively, of the Town Council Ad Hoc Committee to Review Town Council Rules and the Town Code

DATE	ACTION TAKEN
<u>03/06/2025</u>	<u>Referred to a Second Reading on 3/20/2025</u>
<u>03/20/2025</u>	<u>Continue to 04/03/2025</u>
<u>04/03/2025</u>	<u>Continue to 05/15/2025</u>
<u>05/15/2025</u>	<u>Continue to 07/17/2025</u>

\_\_\_\_ Read Item  
\_\_\_\_ Rationale  
\_\_\_\_ Council Discussion  
\_\_\_\_ Vote

## BARNSTABLE TOWN COUNCIL

ITEM# 2025-143

INTRO: 03/06/2025, 03/20/2025, 04/03/2025, 05/15/2025, 07/17/2025

### SUMMARY

**TO:** Town Council  
**FROM:** Kris Clark, Chair, Ad Hoc Committee to Review Town Council Rules and Town Code  
**DATE:** March 06, 2025  
**SUBJECT:** Order Approving Amendments to the Town Council Rules

**BACKGROUND:** The Ad Hoc Committee to Review Town Council Rules and Town Code has been meeting regularly since June 4, 2024 and is recommending for Town Council approval a number of changes to the current version of the Town Council Rules. In addition to substantive changes, certain sections and headings have been reorganized and renamed for clarity. While not an exhaustive list of every proposed change, the following is a summary of the key substantive changes that are being proposed:

- At the beginning of the Rules (now referred to as the Town Council Rules of Procedure), there is a new Subsection A, which sets forth a “Councilor Code of Conduct” and a new Subsection B, which addresses the use of Town phones and Town emails for the conduct of Town business by Councilors.
- While the Rules explicitly acknowledge that all meetings of the Town Council and Town Council committees are subject to the state Open Meeting Law (OML), the portion of the existing Rules which repeated verbatim the executive session provisions of the OML has been removed.
- A new rule (Rule 5C) has been added to address attendance and remote participation in Town Council meetings. The recently adopted Town Council Policy on Remote Participation is referenced in Rule 5C and will be included as an attachment to but not an integral part of the Rules, which will allow that policy to be amended separately without requiring an amendment to the Rules. Rule 5C addresses how technical problems will be handled if they affect the ability of a Councilor to participate remotely in a meeting.
- Rule 5E – “Agenda Setting” incorporates, as a goal, the current practice of posting the agenda for a Thursday Town Council meeting by the preceding Friday.
- Rule 5F – “Consent Agenda” is a newly added rule.
- The Rule addressing Public Comment (Rule 5H) has been revised to include a statement to be made by the presiding officer at the beginning of the public comment portion of the meeting.
- Rule 6D – “Order of Motions” was revised to include information on each motion.
- Under the current Rule on Reconsideration, a Councilor who voted with the prevailing side may make a motion for reconsideration at the meeting at which the vote was taken or may give notice at that meeting that a motion for reconsideration will be made at the next regular meeting. If no such notice was given, the Rule would need to be suspended to allow a motion for reconsideration at the next meeting. As revised, the Rule on Reconsideration (Rule 6G) allows a Councilor to give notice at the next meeting that he or she plans to make a motion for reconsideration at the following meeting without any need for suspending the Rules.
- Rule 8A – “Votes” was rewritten to include a discussion of recusals.

- Rule 11A – “Committee Guidelines and Parameters” retains the rule that the Council President and Vice President shall not serve as chair or vice-chair of any committee but permits a Councilor who is already serving as chair or vice-chair of an Ad-Hoc Committee to continue in that role if subsequently elected President or Vice-President of the Council. Similarly, Rule 11A retains the rule that the President shall be an ex-officio member of all committees of the Council, while explicitly clarifying that the President shall be a non-voting member but provides that the President may continue to be a voting member of any Ad-Hoc Committee on which he or she serves if such service pre-dates his or her election as President. These changes are intended to prevent any disruption to the work of such committees, since these committees are time-limited in nature.
- Rule 11B – “Ad-Hoc Committees” sets forth the process for ad-hoc committees and retains the current rule which provides that the Town Council President designates the members of such committees that are established by vote of the Council. Rule 11B provides that such committees shall include Councilors and may include registered voters. The Rule provides that the chair of any such committee shall be selected by vote of the committee, but notes that the Council vote creating the committee may impose additional requirements for the selection of a chair (e.g., the Council may wish to require that a chair of a particular committee be a Councilor). In recognition of the staff resources needed to assist ad-hoc committees, Rule 11B limits the number of ad-hoc committees that may exist and meet during any given period to no more than 2 but allows the Council to override this rule to create up to 2 additional committees.
- Rule 12 – “Liaisons to Boards, Committees and Commissions of the Town” sets forth the role of Council liaisons.
- Rule 17 – “Suspension of Rules” was amended to require a 2/3 vote of the Councilors present and voting to suspend a Town Council rule (currently, suspending the rules may be done by majority vote), and clarifies that the Council may suspend a provision of a Town ordinance by the same process that would be required to amend such ordinance.

Finally, it should be noted that, although discussed by the committee, no change was recommended to the provision of the existing Rules which states that, in matters of parliamentary procedure not explicitly addressed elsewhere, particular emphasis shall be given to Mason’s Manual of Legislative Procedure (see Rule 6A “Parliamentary Guidelines”). The Council may wish to discuss whether Robert’s Rules of Order should replace Mason’s as its primary reference guide.

To assist you in your review, attached is the current version of the Town Council Rules, a clean version of the proposed Rules of Procedure (Updated 02/10/2025), and a redlined version showing the changes made from the current version to the proposed version.

**FISCAL IMPACT:**None

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney; Allison Cogliano, Assistant Town Attorney

## **TOWN COUNCIL RULES OF PROCEDURE (Updated 02/10/2025)**

These Town Council Rules of Procedure (“Rules” or “Town Council Rules”) are adopted pursuant to Section 2.6(c) of the Town of Barnstable Home Rule Charter (“Charter” or “Town Charter”). Amending or repealing these Rules shall require two readings and a majority vote of the full Council.

### **A. COUNCILOR CODE OF CONDUCT**

Councilors shall conduct themselves in a professional and peaceable manner during Town Council meetings. Discourse shall be marked by civility, openness and respect, even in the face of disagreement. Councilors shall not make comments that are personal in nature and shall not use insulting, threatening or abusive language. Councilors should conduct themselves in a manner that respects the orderly procedure of the meeting to assure the business of the Town is attended to as expeditiously as the deliberative process allows. To that end, discussion and debate shall focus on the agenda item being discussed or voted on until a decision is made or the discussion is postponed to a later time. Councilors shall not engage in private conversations during Council meetings, including texting or emailing each other during a meeting. Cell phones shall be silenced during Council meetings.

Councilors shall strive for openness and transparency in the performance of their duties. Councilors shall comply with the state Conflict of Interest Law, M.G.L. c. 268A, and comply with and complete the conflict of interest law education and training requirements. Councilors shall comply with the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and shall certify, as required, receipt of copies of the Open Meeting Law, the regulations and the Open Meeting Law Guide prepared by the Attorney General’s Office.

### **B. USE OF TOWN PHONES AND EMAIL**

Upon election, all Town Councilors shall be assigned a Town cellphone and provided with a Town email account, and Councilors shall use the Town cellphone and Town email to conduct Town business to facilitate compliance with the state public records law. No Town resources shall be used for political purposes.

### **C. TOWN COUNCIL RULES**

#### **RULE 1 ELECTION OF COUNCIL OFFICERS**

The first Town Council meeting in December shall be an organizational meeting. At that time, Councilors shall nominate a President and a Vice President, election of which shall take place at the next regular meeting. At the meeting at which the election takes place, time shall be allotted for speeches by each candidate, limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each Councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

#### **RULE 2 ROLE OF COUNCIL PRESIDENT**

Except as set forth in Rule 11A, the President shall serve as a non-voting ex-officio member of all standing and ad-hoc committees of the Council. The President and Vice President shall designate Councilors to serve as liaisons between the Council and Town boards, committees and commissions. (See Rule 11D.) The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes and may designate other Councilors to serve in this ceremonial capacity.

### **RULE 3 PRESIDING OFFICER**

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a Councilor to serve as presiding officer in rotating precinct order.

### **RULE 4 DUTIES OF THE PRESIDING OFFICER (OR “CHAIR”)**

The presiding officer shall take the chair at the hour at which the Council is to meet and call the meeting to order.

The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: “Shall the decision of the chair stand as the judgment of the Council?” The vote shall be a roll call, and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the presiding officer, without further debate upon the question, shall require a roll call vote.

The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto.

The presiding officer may state facts, ask questions (without commenting or giving an opinion) and give opinions upon questions of order without leaving the chair. The presiding officer also may explain his or her vote. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding officer in rotating precinct order.

### **RULE 5 MEETINGS OF THE COUNCIL**

#### **RULE 5A TIME AND PLACE OF MEETINGS; MEETING REQUIREMENTS**

The time and place of regular meetings shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once a month. The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings (see Chapter 220 of the Town Code).

No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5B – Regular Meeting Schedule, and Chapter 220 of the Town Code.)

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice will include the meeting agenda, including all agenda items and supporting documents, which will be delivered to the Town Clerk and to each Councilor at least forty-eight (48) hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday. The meeting notice for a special meeting of the Town Council shall be posted in accordance with the requirements of the Open Meeting Law.

Open Meeting Law: All meetings of the Town Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: The Council may enter Executive Session only after the Council has first convened in Public Session, provided that notice of the Executive Session has been appropriately posted in



accordance with the Open Meeting Law. The presiding officer shall make the motion to go into Executive Session, citing the reason for going into Executive Session and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a reason permitted under the Open Meeting Law.

## **RULE 5B REGULAR MEETING SCHEDULE**

The Barnstable Town Council shall meet on two Thursdays each month, with every effort made to schedule those meetings on the first and third Thursdays, except in the months of July and August when only one meeting will be held on the third Thursday. Meetings shall conclude at 11:00 P.M., except that the subject at hand may be finished if it was ongoing at 11:00 P.M. Thereafter, the meeting may continue after 11:00 P.M. with a two-thirds vote of the Councilors present and voting. If a regular meeting date falls on a solemn or legal holiday, the President shall make every effort to reschedule such meeting to another Thursday but may choose another day if necessary and warranted by the circumstances. In addition, regular meetings may be rescheduled by the President if necessary and warranted by the circumstances, including, for example, lack of quorum on the scheduled meeting date. Every effort shall be made to reschedule any such meeting to another Thursday, but another date may be chosen if necessary and warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

## **RULE 5C ATTENDANCE; REMOTE PARTICIPATION**

Except in emergencies, Councilors shall notify the Council President and the Council Administrator in advance if they will be absent from a Town Council meeting. At the beginning of the meeting, the presiding officer shall announce the names of any absent Councilors. Councilors shall make every effort to notify the Council President and Council Administrator if they anticipate that they will arrive late to a Council meeting. The presiding officer shall note the arrival of any Councilor who joins the meeting late. Any Councilor who is leaving the meeting early shall announce their departure, and the presiding officer shall note the Councilor's departure for the record.

To the extent permitted by state law, Councilors may participate remotely in Town Council meetings in accordance with the Town Council Policy on Remote Participation then in effect, subject to any amendment or revocation of that policy as may occur; provided that any such amendment or revocation shall not require an amendment of these Rules. (A copy of the Town Council Policy on Remote Participation approved by the Council at its February 15, 2024 meeting (Item No. 2024-162) shall be attached to these Rules for informational purposes as Attachment A, but such Policy shall not be deemed to be an integral part of these Rules, and such attachment shall be removed, updated or replaced, as appropriate.)

If technical problems interrupt or prevent remote participation, the presiding officer will wait up to five (5) minutes to allow for the connection or reconnection prior to beginning or resuming the meeting. After waiting five minutes, the meeting shall continue even if the technical problems have not been resolved, but, at the discretion of the presiding officer, the meeting may be delayed for an additional reasonable period to allow for a further attempt to try to resolve the problems or the meeting may resume. In such case, the presiding officer may choose to skip certain agenda items while an attempt is made to resolve the problems. If the Councilor is disconnected, the fact and time shall be noted in the minutes. If the Councilor reconnects, the fact and time shall be noted in the minutes.

## **RULE 5D INTRODUCTION OF COUNCIL BUSINESS**

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the Town Charter. Every measure or non-measure appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURE: A “measure” is any matter coming before the Council that is inherently legislative in nature, including, but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council), and eminent domain authorizations.

Measures require 2 readings.

NON-MEASURE: A “non-Measure” shall include any matter to come before the Council which is not specified to be a “measure” under the Charter, such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, but not limited to, appointments, resolutions, proclamations, tax classification votes, contract approvals that are not measures and petitions to the General Court.

#### **RULE 5E AGENDA SETTING**

The Council President, after consultation with the sponsoring Councilor and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council President shall set deadlines for the submission of agenda items by other Councilors, by the Town Manager, and by Town staff through the Town Manager, with the goal of posting the agenda for a Thursday meeting by the preceding Friday. The Council agenda, including the Town Manager’s Report, complete with documentation, shall be delivered to the Town Councilors and posted in accordance with the Open Meeting Law no later than 48 hours prior to the regular meeting of the Council.

#### **RULE 5F CONSENT AGENDA**

A Consent Agenda may be used to approve a grouping of agenda items with one vote and no discussion; provided that upon objection by any Councilor to the inclusion of one or more items in any particular Consent Agenda, the item or items shall be removed from the Consent Agenda for separate deliberation and vote by the Town Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

#### **RULE 5G ORDER OF BUSINESS**

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows; provided that matters may be taken out of order at the meeting at the discretion of the presiding officer:

1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Report (which may be pre-recorded)

7. Act on Public Session Minutes
8. Communications from Elected Officials, Boards, Committees and Commissions, and Staff, Correspondence and Announcements
9. Orders of the Day
  - A. Old Business
  - B. New Business
10. Adjournment

## **RULE 5H PUBLIC COMMENT**

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public who wishes to participate in public comment shall be recognized by the presiding officer and shall be asked to state his/her name and, if a resident of Barnstable, asked to state the village in which they reside (if not a resident of Barnstable, they shall be asked to state their town of residence) for the record. Generally, public comment will be limited to three minutes for each individual speaking, but additional time may be granted at the discretion of the presiding officer. All remarks and questions shall be addressed to the Council as a whole, through the presiding officer, and not to any individual member. No member of the public may speak at a Council meeting without first being recognized by the presiding officer. The purpose of the public comment period is for the Council to hear comments from the public, and not for the public to engage in discussions or debate with the Council or with any member of the audience. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (see Open Meeting Law). At the beginning of public comment, a statement shall be read by the presiding officer or his or her designee substantially in the form set forth below:

I wish to remind everyone that no member of the public may speak without first being recognized by the Council President (or presiding officer). The public will have an opportunity to speak during the public comment portion of the meeting and during any public hearing on an agenda item.

You are free to express your thoughts, opinions and criticisms during public comment. However, your comments must be directed to the Council as a body, through the President of the Council (or presiding officer). You may not speak directly to any individual Councilor. You also should not be addressing your comments to anyone else in this room – not to Town staff and not to another member of the audience. Public comment is to be directed to the Council.

We also ask that the members of the public refrain from making audible comments during the meeting unless they have been recognized to speak by the Council President (or presiding officer). The Council President (or presiding officer) will request silence in the chamber if anyone ignores this rule.

## **RULE 6 PROCEDURAL MATTERS**

### **RULE 6A PARLIAMENTARY GUIDELINES**

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity and efficiency, in that order. In determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative Procedure, but resort may also be had for

guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

## **RULE 6B QUORUM**

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member Council is nine (9).

## **RULE 6C ORDER OF SPEAKING; LENGTH OF SPEAKING**

Councilors shall not speak without being recognized by the presiding officer except to call the previous question or to doubt the presence of a quorum. When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than once until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

## **RULE 6D ORDER OF MOTIONS**

(Note: See Rule 8A regarding quantum of votes.)

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess (not debatable)
3. To lay on the table (not debatable)
4. For previous question (not debatable)
5. To limit or extend limits of debate (not debatable)
6. To postpone to certain date (debatable, but just the motion, not the main question) (may be amended but only as to the date)
7. To refer (to committee) (debatable; may be amended only as to the committee)
8. To amend (motion to amend a debatable question is debatable; motion to amend a question that is not debatable is not itself debatable)
9. To postpone indefinitely (motion is debatable and opens the main question to debate; has the effect of rejecting the main motion)
10. Leave to withdraw (not debatable; may be made at any time before voting has commenced; request for leave to withdraw, presiding officer asks if any objection, if none, motion is withdrawn; if there is an objection, then motion for leave to withdraw and vote on that motion)

## **RULE 6E PREVIOUS QUESTION**

The previous question shall be put as follows: “I call the previous question” or “I move the question.” All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote of the Councilors present and voting. If the motion to move the question passes, the Council shall immediately take a vote on the main question.

#### **RULE 6F REFERRAL TO COMMITTEE**

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad-hoc committee or standing committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a standing committee, commission or board of the Town with appropriate jurisdiction for advice sought by the Town Council upon motion and a majority vote of the Council.

#### **RULE 6G RECONSIDERATION**

At any meeting at which a vote has been taken, it shall be in order for any Councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the Council. In addition, any Councilor who has voted with the prevailing side may make a motion for reconsideration at the next regular meeting of the Council following the vote; provided, that if such motion for reconsideration was not noticed on that next regular meeting’s agenda, then any such Councilor shall give notice that a motion for reconsideration shall take place at the following regular meeting of the Council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote

#### **RULE 7 MATTERS REDUCED TO WRITING**

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

#### **RULE 8 VOTING**

##### **RULE 8A VOTES**

Except as otherwise provided by the General Laws of the Commonwealth, the Town Charter, Town ordinance (or these Town Council Rules, which are established pursuant to Section 2-6(c) of the Town Charter), any action taken by the Town Council requiring a vote shall be by a majority of the Councilors present and voting.

No vote shall take place unless a quorum of the Council is present (abstentions count toward the quorum but are not considered votes; recusals do not count towards the quorum).

Councilors who need to recuse themselves should announce that they are recusing themselves and leave the room during the discussion and until the vote has been taken. If participating remotely, Councilors who need to recuse should announce their recusal, turn off their cameras and mute themselves during the discussion and until the vote has been taken.

##### **RULE 8B ROLL CALL**

As required by the Town Charter, all final votes of the Town Council on ordinances, appropriation orders and loan authorizations shall be taken by roll call vote and shall be duly recorded by the Clerk of the Council. On other matters requiring a vote, a roll call may be requested by any Councilor. The order of the roll call voting shall be alphabetical and rotated after each vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the presiding officer, without further debate upon the question, shall require a roll call vote. All votes taken in Executive Session shall be roll call votes. All votes taken in meetings in which any Councilor is participating remotely shall be roll call votes.

When the question is put to a vote, every Councilor present shall vote yes, no, abstain, or pass. If a Councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the results of the roll call vote, any Councilor, at their request, may have his/her name called again to record him/her differently.

## **RULE 9 REJECTED MEASURES**

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present and voting, or as otherwise provided by the Charter.

## **RULE 10 RECORD-KEEPING**

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk of the Council at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Barnstable Home Rule Charter, by ordinance, or other Council vote. The Council Administrator shall prepare the meeting agenda and give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public in accordance with the Open Meeting Law. Communications staff shall make best efforts to record on video all Public Sessions of Council meetings and post said video recordings on the Town website. The Town Council Administrator shall be the clerk of Town Council committee meetings.

## **RULE 11 COMMITTEES OF THE COUNCIL**

### **RULE 11A COMMITTEE GUIDELINES AND PARAMETERS**

After the organization of the Council, the President, subject to approval by the Council, may appoint members to standing committees of the Town Council. Appointments of Councilors to the Appointments Standing Committee shall be made in accordance with Section 37-3 of the Town Code. All Standing and Ad-Hoc Committees of the Council shall be advisory to the Town Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrator, who will notify the Council President and post as required with the Town Clerk. The President and Vice President of the Council shall not serve as a chair or vice-chair of any committee of the Council, except that a Councilor already serving as chair or vice-chair of an Ad-Hoc Committee may continue in that role if subsequently elected as President or Vice-President of the Council. The President shall be a non-voting ex-officio member of all committees of the Council, except that the President may continue to be a voting member of any Ad-Hoc Committee on which he or she serves if such service pre-dates his or her election as President. Meetings of committees may be called by the chair or upon the written request of two members of the committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk by the Council Administrator, within 30 days following each meeting. Committees have the right and

obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, the Town Charter, the General Laws of the Commonwealth, or as otherwise voted by the Town Council. All new standing committees, boards and commissions of the Town Council will be evaluated at the end of the first year, at which time a decision will be made by the Town Council whether to continue, disband, or change the entity.

#### **RULE 11B AD-HOC COMMITTEES**

The President of the Town Council may designate the members of ad-hoc committees that are established by vote of the Council, the members of which shall include Councilors and may include registered voters in the Town of Barnstable, as is deemed necessary. The chair of any such ad-hoc committee shall be selected by vote of the committee, except that the Council vote creating the committee may impose additional requirements. At the discretion of the committee, a vice chair may be selected by vote of the committee. Ad-hoc committees shall be comprised of an odd number of members. The period of existence for an ad-hoc committee, as specified by the Town Council vote creating the committee, shall commence from the date of the first meeting of the committee. The Town Council shall limit the number of ad-hoc committees in existence and meeting during any given period to no more than two (2); provided, however, that the Town Council by majority vote of its members may override this rule and allow for the creation of up to two (2) additional ad-hoc committees.

The chair shall organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. The Town Council Administrator shall record the minutes. Ad-hoc Committees shall have access to the Council Administrator under the direction of the Council President. Ad-hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.

#### **RULE 11C STANDING COMMITTEES**

Standing committees shall select a chair who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes.

#### **RULE 12 LIAISONS TO BOARDS, COMMITTEES AND COMMISSIONS OF THE TOWN**

In accordance with Section 241-8 of the Town Administrative Code, the President and Vice President shall designate each Councilor as the Council liaison to one or more of the multiple-member bodies of the Town. As set forth in said Section 241-8, each Council liaison shall meet with the chair of the board, committee or commission to which they serve as liaison to discuss and define an appropriate reporting relationship.

Council liaisons shall not participate in the deliberations or votes, nor shall they participate in or attend any executive session, of such board, committee or commission. Liaisons shall sit where the public are seated. Liaisons who wish to express a personal opinion shall do so during the public comment portion of the meeting in the same manner as other members of the public and shall state that they are speaking in their personal capacity. When recognized by the Chair, liaisons may ask questions and make comments during discussion and shall identify themselves as liaisons prior to the first instance of speaking, unless speaking in their personal capacity during public comment. Liaisons shall not commit the Council to a course of action and are not to speak on behalf of the Council.

Liaisons shall receive meeting postings, agendas, reports, and minutes from the other body. Liaisons shall attend or watch the meetings of the other body, as they deem appropriate, and should be familiar with the materials provided as above and maintain contact with the other body's Chair.

### **RULE 13 APPOINTMENTS - (Nominations by the Appointments Committee)**

Appointments require 2 readings. Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented to the Council as a first read.

### **RULE 14 VACANCY IN OFFICE OF PRESIDENT OR VICE PRESIDENT**

In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, either because the Vice President can no longer serve or because the Vice President has assumed the powers and duties of the President, as set forth in the preceding sentence, the Council shall elect a new Vice President from among its members. The election of a new Vice President shall occur as soon as practicable but with the goal of ensuring that no office of the Council shall remain vacant for more than two regular meetings. The nomination and election process shall conform with the process set forth in Rule 1 above.

### **RULE 15 INQUIRIES AND INVESTIGATIONS**

In accordance with and as set forth in Section 2-10 of the Town Charter, the Town Council may conduct inquiries or investigations.

#### **INQUIRIES:**

An inquiry may be called for by a majority vote of those present at a regular Council meeting. An inquiry shall be made through the Town Manager if it concerns areas under the Town Manager's authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of authority, the Council may require such persons as described in Section 2-10 of the Charter to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council, or the Council may call for further information so that its questions may be answered.

#### **INVESTIGATIONS:**

If the Manager or other person(s) requested to make a report shall fail to do so, or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board or commission or their members, or if the Council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of a majority of the full Council, establish a three-person committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the



committee's work, subject to review at the request of the committee. If the committee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council.

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its committee shall be held in accordance with the Open Meeting Law.

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.

8. The proceedings of all public sessions of the committee meetings shall be recorded on video and provided to the full Council along with a copy of committee findings.

9. The committee will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The Council, by an affirmative vote of a majority of the full Council, will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Town Charter, Town ordinances, collective bargaining agreements and personnel rules and regulations.

## **RULE 16 AGENDA ITEMS**

The following agenda items may be acted upon at a first reading:

Proclamations; Individual and Group Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable, including amendments to or repeal of the Town Council Rules of Procedure; Loan Authorizations; Supplemental Appropriations; and any other measures.

No debate shall take place at the first reading of any item requiring a second reading.

Certain items require public hearings, including, but not limited to, budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances.

## **RULE 17 SUSPENSION OF RULES**

Upon a motion and an affirmative vote of two-thirds of the Councilors present and voting, any rule set forth in these Rules may be suspended in relation to a particular agenda item or for the duration of the Council meeting at which such vote is taken, provided that any requirement imposed by the Town Charter or the General Laws may not be suspended. The Council may suspend a provision of a Town ordinance by the same process that would be required to amend said ordinance.

## **ATTACHMENT A**

[Attach Town Council Policy on Remote Participation then in effect]

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## **TOWN COUNCIL RULES (Updated 10/3/19)**

### **RULE 1 COUNCIL OFFICERS**

The first Town Council meeting in December shall be an organizational meeting. At that time, the Council shall nominate a President and a Vice President, election of which shall take place on or before the next regular meeting. Time should be allotted for nomination speeches which would be limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

### **RULE 2 ROLE OF COUNCIL PRESIDENT**

The President shall serve as ex-officio member of all Council Committees. The President may also be designated by the Council to be its representative to all boards and commissions. The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council. The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes, and may designate other councilors to serve in this ceremonial capacity. (In accordance with Rule 11B)

### **RULE 3 PRESIDING OFFICER**

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a presiding chair in rotating precinct order. In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings.

### **RULE 4 DUTIES OF THE PRESIDING OFFICER**

The presiding officer shall take the chair at the hour at which the Council is to meet, and call the members to order. The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the chair, without further debate upon the question, shall require a roll call vote. No decision shall be declared unless a quorum of the Council shall have voted. The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto. The presiding officer may state facts and give

opinions upon questions of order without leaving the chair. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding chair in rotating precinct order.

## **RULE 5 MEETINGS**

The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings.

### **RULE 5A MEETING DEFINITIONS**

Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. (See Rule 5B) Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any five or more members, by written notice. [ online code reads 220-2 Special meetings.

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice shall include agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each Councilor at least 48 hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.

Said notice will include relevant agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each councilor's residence at least forty-eight hours in advance of the time set. Executive session may be entered only after the council has first convened in open session for which notice has been appropriately posted. The presiding officer cites the reason for going into executive session and calls for a roll call vote of the Council. The vote of each member is entered into the minutes, with a majority necessary to initiate an executive session.

#### **Purposes Warranting Executive Session:**

1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights.

(a) To be present at such executive session during discussions or considerations which involving that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) To speak in his own behalf.

2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) To be present at such executive session during discussions or considerations involving that individual.

(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.

(c) To speak in his own behalf. 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

4. To discuss the deployment of security personnel or devices.

5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

6. To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

7. To comply with the provisions of any general or special law or federal grant-in-aid requirements.

8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.

9. To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:

9(a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.

(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 39 Section 23B.)



## **RULE 5B MEETING SCHEDULE**

The Barnstable Town Council shall meet on the first and third Thursdays of each month except in the months of July and August when meetings will be held on the third Thursday only. Meetings shall conclude at 11:00 P.M. The subject at hand could be finished if it was ongoing at 11:00 P.M. and the meeting could continue with a 2/3's vote of the council after 11 P.M. If a regular meeting date falls on a solemn or legal holiday, the president shall reschedule such meeting to the Thursday of the following week. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

## **RULE 5C INTRODUCTION OF COUNCIL BUSINESS**

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the home rule charter. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

**MEASURES:** All matters to come before the Council that are inherently legislative in nature, including ordinances, charter amendments, appropriations, loan orders, lease approvals and eminent domain authorizations.

**NON-MEASURES:** Non-Measures shall include all matters to come before the council which are not specified to be measures such as any matter which is executive, administrative or ministerial, or quasi-judicial, including, without limitation, appointments, resolutions, proclamations, tax classification votes, contract approvals, and petitions to the General Court.

## **RULE 5D FILING DEADLINES FOR REGULAR MEETINGS**

Any of the above items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to the Administrative Assistant no later than 10:00 am, seven days, exclusive of Saturday and Sunday preceding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadline. The Council President in consultation with the sponsoring councilor, Council Administrative Assistant and Town Manager shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council agenda, including the Town Manager's Communication, complete with documentation shall be delivered to the Town Councilors no later than 48 hours prior to the regular meeting of the Council.

## **RULE 5E ORDER OF BUSINESS**

At every regular meeting of the Town Council, the order of business shall be as follows:

1. Roll Call
2. Pledge of Allegiance

- 
3. Moment of Silence
  4. Public Comment
  5. Council Response to Public Comment
  6. Town Manager Communications
  7. Act on Minutes(Includes Executive Sessions)
  8. Communication from Elected Officials, Boards and Commissions and Staff, Correspondence, Announcements and Committee Reports
  9. Orders of the Day
    - A. Old Business
    - B. New Business
  10. Adjournment

(Adopted by Town Council Item 2006-010, 08/18/05)

(Adopted by Town Council 2007-067, 02/01/07)

(Adopted by the Town Council 2015-027, 11/06/14)

#### **RULE 5F PUBLIC COMMENT**

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public desiring to address the Council may reserve a place on the agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting. Each person on the public comment docket shall be recognized by the chair, and shall state his/her name and address for the record. Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part, public comment will be limited to three minutes for each individual speaking. All remarks and questions shall be addressed to the Council as a whole through the chair and not to any member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the Council without permission of the presiding officer. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (in accordance with MGL CH. 39, S. 23C).

#### **RULE 6 PARLIAMENTARY GUIDELINES**

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order.



Indetermining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

#### **RULE 6A QUORUM**

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member council shall be eight (9).

#### **RULE 6B ORDER OF SPEAKING; LENGTH OF SPEAKING**

When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than twice until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

#### **RULE 6C ORDER OF MOTIONS**

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess
3. To lay on the table
4. For previous question
5. To limit or extend limits of debate
6. To postpone to certain date
7. To refer
8. To amend
9. To postpone indefinitely
10. Leave to withdraw

#### **RULE 6D PREVIOUS QUESTION**

The previous question shall be put as follows: "I call the previous question." All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote.

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**RULE 6E REFERRAL TO COMMITTEE**

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad hoc committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a committee, commission or board for advice sought by Town Council.

**RULE 6F RECONSIDERATION**

At any meeting which vote has been taken, it shall be in order for any councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote.

**RULE 7 MATTERS REDUCED TO WRITING**

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

**RULE 8 VOTES**

All action taken by the Town Council requiring a vote will be by a majority unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council.

**RULE 8A ROLL CALL**

All final votes of the Town Council on ordinances, appropriation orders, or loan authorizations shall be taken by roll call vote, and shall be duly recorded by the town clerk. On other matters requiring a vote, a roll call may be requested by any councilor. The order of the roll call voting shall be alphabetical, and rotated after each vote.

Every councilor present when the question is put shall vote yes, no, abstention, or pass. If a councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the roll call vote, any councilor may have his/her name called again to record him/her differently."

**RULE 9 REJECTED MEASURES**

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present, or as otherwise provided by the charter.

## **RULE 10 RECORD KEEPING**

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Barnstable Home Rule Charter, by ordinance, or other council vote. The Council Administrative Assistant shall give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public. Said Administrative Assistant shall also audio tape record all meetings and file said tapes with the Clerk of the Council. Said assistant shall coordinate with the Town Manager and/or any other committee currently in charge of the videotaping, to make sure that all meetings of the Town Council are videotaped. The Council Administrative Assistant shall be the clerk of workshops held by the Town Council. A transcription of a regular meeting, public hearing or debate, or any portion thereof may be requested through the Council Administrative Assistant, who shall arrange for the preparation of requested transcripts from tape recordings of meetings, hearings or debates.

## **RULES 11 COUNCIL COMMITTEES**

After the organization of the Council, the President, subject to approval by the full Council, may appoint members to standing committees.

### **RULE 11A AD-HOC COMMITTEES**

The President of the Town Council may designate such ad-hoc committees comprised of councilors or registered voters in the Town of Barnstable, as is deemed necessary.

### **RULE 11B COMMITTEE PARAMETERS AND GUIDELINES**

All Committees shall be advisory to the Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrative Assistant, who will notify the Council President and post as required with the Town Clerk. Standing committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any standing committee. Ad hoc committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any ad hoc committee. Ad Hoc Committees shall have access to the Council's Administrative Assistant under the direction of the Council officers. Ad Hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort. The President shall be an ex-officio member of all committees. Meetings of committees may be called by the chairperson or upon the written request of two members of the



committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk and the Council Administrative Assistant, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, Barnstable Home Rule charter, MGL, or otherwise voted by the Town Council. All new committees, boards and commissions, will be evaluated at the end of the first year; at which time a decision will be made by the Town Council to continue, disband, or change the entity.

**RULE 12 APPOINTMENTS - (Nominations by the appointments committee)**

Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented.

**RULE 13 COUNCIL VACANCY**

A vacancy on the Council and or vacancy of an office on the Council shall be filled in accordance with Town Charter Section 2-5, and Council Rule 3.

**RULE 14 INQUIRIES AND INVESTIGATIONS**

Section 2-10 of the Charter gives the Town Council the authority to conduct inquiries or investigations: Section 2-10 - Inquiries and Investigations: The Town Council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The Town Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made; to any person it shall require to appear before it under this section. The Town Council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.

**INQUIRIES:**

An inquiry may be called for by a majority vote of those present at a regular council meeting. An inquiry shall be made through the Town Manager, if it concerns areas under his authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of authority, the Council may require such persons as mentioned in Section 2-10 to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council or the Council may call for further information so that its questions may be answered.

## INVESTIGATIONS:

If the Manager or other person(s) requested to make a report shall fail to do so; or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board, or commission or its members; or if the council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of the full council, establish a three-person Committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the subcommittee's work, subject to review at the request of the subcommittee. If the subcommittee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. 14 of 15 Amended TC Rules 11/06/14 cap

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its subcommittee shall be held in accordance with the Open Meeting Law, MGL C. 39, S. 23B.

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.

8. The proceedings of the meetings shall be recorded and transcribed verbatim and provided to the full Council along with a copy of subcommittee findings. Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.

9. The subcommittee will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The full Council will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Charter, collective bargaining agreements and personnel rules and regulations.

#### **RULE 15     AGENDA ITEMS**

The following agenda items may be acted upon at a first reading:

Proclamations; Free Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable; Group Petitions; Loan Authorizations; Supplemental Appropriations; and other measures.

No debate shall take place at the first reading of any item requiring a second reading

## **TOWN COUNCIL RULES OF PROCEDURE (Updated 02/10/3/192025)**

These Town Council Rules of Procedure (“Rules” or “Town Council Rules”) are adopted pursuant to Section 2.6(c) of the Town of Barnstable Home Rule Charter (“Charter” or “Town Charter”). Amending or repealing these Rules shall require two readings and a majority vote of the full Council.

### **A. COUNCILOR CODE OF CONDUCT**

Councilors shall conduct themselves in a professional and peaceable manner during Town Council meetings. Discourse shall be marked by civility, openness and respect, even in the face of disagreement. Councilors shall not make comments that are personal in nature and shall not use insulting, threatening or abusive language. Councilors should conduct themselves in a manner that respects the orderly procedure of the meeting to assure the business of the Town is attended to as expeditiously as the deliberative process allows. To that end, discussion and debate shall focus on the agenda item being discussed or voted on until a decision is made or the discussion is postponed to a later time. Councilors shall not engage in private conversations during Council meetings, including texting or emailing each other during a meeting. Cell phones shall be silenced during Council meetings.

Councilors shall strive for openness and transparency in the performance of their duties. Councilors shall comply with the state Conflict of Interest Law, M.G.L. c. 268A, and comply with and complete the conflict of interest law education and training requirements. Councilors shall comply with the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and shall certify, as required, receipt of copies of the Open Meeting Law, the regulations and the Open Meeting Law Guide prepared by the Attorney General’s Office.

### **B. USE OF TOWN PHONES AND EMAIL**

Upon election, all Town Councilors shall be assigned a Town cellphone and provided with a Town email account, and Councilors shall use the Town cellphone and Town email to conduct Town business to facilitate compliance with the state public records law. No Town resources shall be used for political purposes.

### **C. TOWN COUNCIL RULES**

#### **RULE 1 ELECTION OF COUNCIL OFFICERS**

The first Town Council meeting in December shall be an organizational meeting. At that time, ~~the Council~~Councilors shall nominate a President and a Vice President, election of which shall



take place ~~on or before~~ at the next regular meeting. ~~Time should~~ At the meeting at which the election takes place, time shall be allotted for ~~nomination~~ speeches ~~which would be by each candidate~~, limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each ~~councilor~~ Councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

## **RULE 2      ROLE OF COUNCIL PRESIDENT**

~~The~~ Except as set forth in Rule 11A, the President shall serve as a non-voting ex-officio member of all standing and ad-hoc committees of the Council ~~Committees~~. The President ~~may also be designated by~~ and Vice President shall designate Councilors to serve as liaisons between the Council ~~to be its representative to all~~ and Town boards, committees and commissions. ~~The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council. (See Rule 11D.)~~ The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes, and may designate other ~~councilors~~ Councilors to serve in this ceremonial capacity. ~~(In accordance with Rule 11B)~~

## **RULE 3      PRESIDING OFFICER**

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a presiding chair in rotating precinct order. ~~In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings.~~

Councilor to serve as presiding officer in rotating precinct order.

## **RULE 4      DUTIES OF THE PRESIDING OFFICER (OR "CHAIR")**

The presiding officer shall take the chair at the hour at which the Council is to meet, and call the ~~members~~ meeting to order.

The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "'Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call, and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the ~~chair~~ presiding officer, without further debate upon the question, shall require a roll call vote. ~~No decision shall be declared unless a quorum of the Council shall have voted.~~



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The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto.

The presiding officer may state facts, ask questions (without commenting or giving an opinion) and give opinions upon questions of order without leaving the chair. The presiding officer also may explain his or her vote. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding ~~chair~~officer in rotating precinct order.

## **RULE 5- MEETINGS OF THE COUNCIL**

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### **RULE 5A TIME AND PLACE OF MEETINGS; MEETING REQUIREMENTS**

The time and place of regular meetings shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once a month. The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings- (see Chapter 220 of the Town Code).

### **RULE 5A — MEETING DEFINITIONS**

~~Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. (See Rule 5B) Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any five or more members, by written notice. [online code reads 220-2Special meetings.~~

No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5B – Regular Meeting Schedule, and Chapter 220 of the Town Code.)

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice ~~shall~~will include the meeting agenda, including all agenda items and ~~pertinent~~supporting documents ~~pertaining to those items,~~ which will be delivered to the Town Clerk and to each Councilor at least forty-eight (48) hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday. The meeting notice for a special meeting of the Town Council shall be posted in accordance with the requirements of the Open Meeting Law.

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~~Said notice will include relevant agenda items and pertinent documents pertaining to those items which will be delivered to~~ Open Meeting Law: All meetings of the Town Clerk Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and to each councilor's residence at least forty-eight hours in advance of the time set. Executive session the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: The Council may be enteredenter Executive Session only after the councilCouncil has first convened in open session for which noticePublic Session, provided that

notice of the Executive Session has been appropriately posted in accordance with the Open Meeting Law. The presiding officer shall make the motion to go into Executive Session, citing the reason for going into executive session and calls for Executive Session and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote of the Council. The vote of each member is entered into the minutes, with, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a majority necessary to initiate an executive session, reason permitted under the Open Meeting Law.

**Purposes Warranting Executive Session:**

~~1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations which involving that individual.~~

~~(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.~~

~~(c) To speak in his own behalf.~~

~~2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty eight hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations involving that individual.~~

~~(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.~~

~~(c) To speak in his own behalf. 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for~~

~~negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.~~

~~4. To discuss the deployment of security personnel or devices.~~

~~5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.~~

~~6. To consider the purpose, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.~~

~~7. To comply with the provisions of any general or special law or federal grant in aid requirements.~~

~~8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.~~

~~9. To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:~~

~~9(a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and~~

~~(b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.~~

~~(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 39 Section 23B.)~~

## **RULE 5B REGULAR MEETING SCHEDULE**

The Barnstable Town Council shall meet on two Thursdays each month, with every effort made to schedule those meetings on the first and third Thursdays of each month, except in the months of July and August when meetings only one meeting will be held on the third Thursday ~~only~~. Meetings shall conclude at 11:00 P.M. ~~The, except that the~~ subject at hand ~~could may~~ be finished if it was ongoing at 11:00 P.M. ~~and Thereafter,~~ the meeting ~~could may~~ continue after 11:00 P.M. with a 2/3<sup>rd</sup> two-thirds vote of the ~~council after 11 P.M.~~ Councilors present and voting. If a regular meeting date falls on a solemn or legal holiday, the ~~president shall reschedule such meeting to the Thursday of the following week.~~ President shall make every effort to reschedule such meeting to another Thursday but may choose another day if necessary and warranted by the circumstances. In addition, regular meetings may be rescheduled by the President if necessary and warranted by the circumstances, including, for example, lack of quorum on the scheduled meeting date. Every effort shall be made to reschedule any such meeting to another Thursday, but another date may be chosen if necessary and warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

## **RULE 5C ATTENDANCE; REMOTE PARTICIPATION**

Except in emergencies, Councilors shall notify the Council President and the Council Administrator in advance if they will be absent from a Town Council meeting. At the beginning of the meeting, the presiding officer shall announce the names of any absent Councilors. Councilors shall make every effort to notify the Council President and Council Administrator if they anticipate that they will arrive late to a Council meeting. The presiding officer shall note the arrival of any Councilor who joins the meeting late. Any Councilor who is leaving the meeting early shall announce their departure, and the presiding officer shall note the Councilor's departure for the record.

To the extent permitted by state law, Councilors may participate remotely in Town Council meetings in accordance with the Town Council Policy on Remote Participation then in effect, subject to any amendment or revocation of that policy as may occur; provided that any such amendment or revocation shall not require an amendment of these Rules. (A copy of the Town Council Policy on Remote Participation approved by the Council at its February 15, 2024 meeting (Item No. 2024-162) shall be attached to these Rules for informational purposes as Attachment A, but such Policy shall not be deemed to be an integral part of these Rules, and such attachment shall be removed, updated or replaced, as appropriate.)

If technical problems interrupt or prevent remote participation, the presiding officer will wait up to five (5) minutes to allow for the connection or reconnection prior to beginning or resuming the meeting. After waiting five minutes, the meeting shall continue even if the technical problems have not been resolved, but, at the discretion of the presiding officer, the meeting may be delayed for an additional reasonable period to allow for a further attempt to try to resolve the problems or the meeting may resume. In such case, the presiding officer may choose to skip



certain agenda items while an attempt is made to resolve the problems. If the Councilor is disconnected, the fact and time shall be noted in the minutes. If the Councilor reconnects, the fact and time shall be noted in the minutes.

#### **RULE 5D INTRODUCTION OF COUNCIL BUSINESS**

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the ~~home rule charter~~ Town Charter. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

~~MEASURES: All matters to come~~ MEASURE: A "measure" is any matter coming before the Council that ~~are~~ is inherently legislative in nature, including but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council), and eminent domain authorizations.

~~NON MEASURES: Non-Measures~~ require 2 readings.

~~NON-MEASURE:~~ A "non-Measure" shall include any matter to come before the ~~council~~ Council which ~~are~~ is not specified to be ~~measures~~ a "measure" under the Charter, such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, without limitation but not limited to, appointments, resolutions, proclamations, tax classification votes, contract approvals, that are not measures and petitions to the General Court.

#### **RULE 5D FILING DEADLINES FOR REGULAR MEETINGS**

~~Any of the above items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to the Administrative Assistant no later than 10:00 am, seven days, exclusive of Saturday and Sunday preceeding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadline. The Council President in~~ RULE 5E AGENDA SETTING

~~The Council President, after consultation with the sponsoring councilor, Council Administrative Assistant~~ Councilor and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council President shall set deadlines for the submission of agenda items by other Councilors, by the Town Manager, and by Town staff through the Town Manager, with the goal of posting the agenda for a Thursday meeting by the preceding Friday. The Council agenda, including the Town ~~Manager's~~ Communication Manager's Report, complete with documentation, shall be delivered to the Town Councilors and posted in accordance with the Open Meeting Law no later than 48 hours prior to the regular meeting of the Council.

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## **RULE 5E5F CONSENT AGENDA**

A Consent Agenda may be used to approve a grouping of agenda items with one vote and no discussion; provided that upon objection by any Councilor to the inclusion of one or more items in any particular Consent Agenda, the item or items shall be removed from the Consent Agenda for separate deliberation and vote by the Town Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

## **RULE 5G ORDER OF BUSINESS**

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows: provided that matters may be taken out of order at the meeting at the discretion of the presiding officer:

- 1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager ~~Communications~~ Report (which may be pre-recorded)
7. Act on Public Session Minutes~~(Includes Executive Sessions)~~
8. ~~Communication~~Communications from Elected Officials, Boards, Committees and Commissions, and Staff, Correspondence, and Announcements ~~and Committee Reports~~
9. Orders of the Day
  - A. Old Business
  - B. New Business
10. Adjournment

~~(Adopted by Town Council Item 2006-010, 08/18/05)~~

~~(Adopted by Town Council 2007-067, 02/01/07)~~

~~(Adopted by the Town Council 2015-027, 11/06/14)~~

## **RULE 5F5H PUBLIC COMMENT**

-At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public ~~desiring who wishes~~ to ~~address the Council may reserve a place on the~~

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~~agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting. Each person on the participate in public comment docket shall be recognized by the chair, presiding officer and shall be asked to state his/her name and address, if a resident of Barnstable, asked to state the village in which they reside (if not a resident of Barnstable, they shall be asked to state their town of residence) for the record. Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part Generally, public comment will be limited to three minutes for each individual speaking, but additional time may be granted at the discretion of the presiding officer. All remarks and questions shall be addressed to the Council as a whole, through the chair, presiding officer, and not to any individual member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the public may speak at a Council meeting without permission first being recognized by the presiding officer. The purpose of the presiding officer public comment period is for the Council to hear comments from the public, and not for the public to engage in discussions or debate with the Council or with any member of the audience. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (in accordance with MGL CH. 39, S. 23C)-see Open Meeting Law). At the beginning of public comment, a statement shall be read by the presiding officer or his or her designee substantially in the form set forth below:~~

I wish to remind everyone that no member of the public may speak without first being recognized by the Council President (or presiding officer). The public will have an opportunity to speak during the public comment portion of the meeting and during any public hearing on an agenda item.

You are free to express your thoughts, opinions and criticisms during public comment. However, your comments must be directed to the Council as a body, through the President of the Council (or presiding officer). You may not speak directly to any individual Councilor. You also should not be addressing your comments to anyone else in this room – not to Town staff and not to another member of the audience. Public comment is to be directed to the Council.

We also ask that the members of the public refrain from making audible comments during the meeting unless they have been recognized to speak by the Council President (or presiding officer). The Council President (or presiding officer) will request silence in the chamber if anyone ignores this rule.

## **RULE 6      PROCEDURAL MATTERS**

### **RULE 6A      PARLIAMENTARY GUIDELINES**

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order.

~~Indetermining~~In determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on ~~Mason's~~Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

#### **RULE ~~6A6B~~ QUORUM**

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member ~~council shall be eight~~Council is nine (9).

#### **RULE ~~6B6C~~ ORDER OF SPEAKING; LENGTH OF SPEAKING**

Councilors shall not speak without being recognized by the presiding officer except to call the previous question or to doubt the presence of a quorum. When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than ~~twice~~once until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

#### **RULE ~~6C6D~~ ORDER OF MOTIONS**

(Note: See Rule 8A regarding quantum of votes.)

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess (not debatable)
3. To lay on the table (not debatable)
4. For previous question (not debatable)
5. To limit or extend limits of debate (not debatable)
6. To postpone to certain date (debatable, but just the motion, not the main question) (may be amended but only as to the date)
7. To refer (to committee) (debatable; may be amended only as to the committee)
- ~~8. To amend~~
8. To amend (motion to amend a debatable question is debatable; motion to amend a question that is not debatable is not itself debatable)



9. To postpone indefinitely (motion is debatable and opens the main question to debate; has the effect of rejecting the main motion)

~~10. Leave to withdraw~~

10. Leave to withdraw (not debatable; may be made at any time before voting has commenced; request for leave to withdraw, presiding officer asks if any objection, if none, motion is withdrawn; if there is an objection, then motion for leave to withdraw and vote on that motion)

**RULE ~~6D~~6E PREVIOUS QUESTION**

The previous question shall be put as follows: "I call the previous question—" or "I move the question." All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote of the Councilors present and voting. If the motion to move the question passes, the Council shall immediately take a vote on the main question.

**RULE ~~6E~~6F REFERRAL TO COMMITTEE**

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad-hoc committee or standing committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a standing committee, commission or board of the Town with appropriate jurisdiction for advice sought by ~~Town~~the Town Council upon motion and a majority vote of the Council.

**RULE ~~6F~~6G RECONSIDERATION**

At any meeting at which a vote has been taken, it shall be in order for any ~~councilor~~Councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the ~~council~~Council. In addition, any Councilor who has voted with the prevailing side may make a motion for reconsideration at the next regular meeting of the Council following the vote; provided, that if such motion for reconsideration was not noticed on that next regular meeting's agenda, then any such Councilor shall give notice that a motion for reconsideration shall take place at the following regular meeting of the Council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote.

## RULE 7 MATTERS REDUCED TO WRITING

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

## RULE 8 VOTING

### RULE 8A VOTES

~~All~~ Except as otherwise provided by the General Laws of the Commonwealth, the Town Charter, Town ordinance (or these Town Council Rules, which are established pursuant to Section 2-6(c) of the Town Charter), any action taken by the Town Council requiring a vote ~~will~~ shall be by a majority of the Councilors present and voting.

No vote shall take place unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council. a quorum of the Council is present (abstentions count toward the quorum but are not considered votes; recusals do not count towards the quorum).

Councilors who need to recuse themselves should announce that they are recusing themselves and leave the room during the discussion and until the vote has been taken. If participating remotely, Councilors who need to recuse should announce their recusal, turn off their cameras and mute themselves during the discussion and until the vote has been taken.

### RULE ~~8A~~8B ROLL CALL

~~All~~ As required by the Town Charter, all final votes of the Town Council on ordinances, appropriation orders, ~~or and~~ loan authorizations shall be taken by roll call vote, and shall be duly recorded by the ~~town clerk~~ Clerk of the Council. On other matters requiring a vote, a roll call may be requested by any ~~councilor~~ Councilor. The order of the roll call voting shall be alphabetical, and rotated after each vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the presiding officer, without further debate upon the question, shall require a roll call vote. All votes taken in Executive Session shall be roll call votes. All votes taken in meetings in which any Councilor is participating remotely shall be roll call votes.

~~Every councilor present when~~

When the question is put to a vote, every Councilor present shall vote yes, no, ~~abstention~~ abstain, or pass. If a ~~councilor~~ Councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the results of the roll call vote, any ~~councilor~~ Councilor, at their request, may have his/her name called again to record him/her differently.

## RULE 9 REJECTED MEASURES

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When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present and voting, or as otherwise provided by the ~~charter~~Charter.

## **RULE 10     ~~RECORD-~~KEEPING**

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk of the Council at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Bamstable Home Rule Charter, by ordinance, or other ~~council~~Council vote. The Council ~~Administrative Assistant~~Administrator shall prepare the meeting agenda and give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public. ~~Said Administrative Assistant shall also audio tape record all meetings and file said tapes with the Clerk of the Council. Said assistant shall coordinate with the Town Manager and/or any other committee currently in charge of the videotaping, to make sure that all meetings of the Town Council are videotaped. The Council Administrative Assistant shall be the clerk of workshops held by the Town Council. A transcription of a regular meeting, public hearing or debate, or any portion thereof may be requested through the Council Administrative Assistant, who shall arrange for the preparation of requested transcripts from tape recordings of meetings, hearings or debates in accordance with the Open Meeting Law. Communications staff shall make best efforts to record on video all Public Sessions of Council meetings and post said video recordings on the Town website. The Town Council Administrator shall be the clerk of Town Council committee meetings.~~

## **~~RULE~~RULE 11—COUNCIL- COMMITTEES OF THE COUNCIL**

### **RULE 11A     COMMITTEE GUIDELINES AND PARAMETERS**

After the organization of the Council, the President, subject to approval by the ~~full~~ Council, may appoint members to standing committees.

### **~~RULE 11A—AD-HOC COMMITTEES~~**

~~The President of the Town Council may designate such ad-hoc committees comprised~~ Appointments of councilors or registered voters ~~Councilors to the Appointments Standing Committee shall be made in accordance with Section 37-3 of the Town of Bamstable, as is deemed necessary.~~

### **~~RULE 11B—COMMITTEE PARAMETERS AND GUIDELINES~~**

Code. All Standing and Ad-Hoc Committees of the Council shall be advisory to the Town Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council ~~Administrative Assistant~~Administrator, who will notify the Council President and post as required with the Town Clerk. ~~Standing committees~~

~~shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson chair or vice-chair of any standing committee. Ad hoc committees shall select a chairperson who will organize of the committee and be responsible for the conduct Council, except that a Councilor already serving as chair or vice-chair of the committee and shall be the spokesperson for the committee in matters with the Council. A clerk shall be appointed from the committee to record the minutes. The an Ad-Hoc Committee may continue in that role if subsequently elected as President and/or Vice-President of the Council shall not serve as a chairperson of any ad hoc committee. Ad Hoc Committees shall have access to the Council's Administrative Assistant under the direction of the Council officers. Ad Hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.~~

The President shall be ~~an~~ non-voting ex-officio member of all committees ~~of the Council~~ except that the President may continue to be a voting member of any Ad-Hoc Committee on which he or she serves if such service pre-dates his or her election as President. Meetings of committees may be called by the ~~chairperson chair~~ or upon the written request of two members of the committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk ~~and by the Council Administrative Assistant Administrator~~, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, ~~Barnstable Home Rule charter, MGL the Town Charter, the General Laws of the Commonwealth, or as~~ otherwise voted by the Town Council. All new standing committees, boards and commissions ~~of the Town Council~~ will be evaluated at the end of the first year, at which time a decision will be made by the Town Council whether to continue, disband, or change the entity.

#### RULE 11B AD-HOC COMMITTEES

The President of the Town Council may designate the members of ad-hoc committees that are established by vote of the Council, the members of which shall include Councilors and may include registered voters in the Town of Barnstable, as is deemed necessary. The chair of any such ad-hoc committee shall be selected by vote of the committee, except that the Council vote creating the committee may impose additional requirements. At the discretion of the committee, a vice-chair may be selected by vote of the committee. Ad-hoc committees shall be comprised of an odd number of members. The period of existence for an ad-hoc committee, as specified by the Town Council vote creating the committee, shall commence from the date of the first



meeting of the committee. The Town Council shall limit the number of ad-hoc committees in existence and meeting during any given period to no more than two (2); provided, however, that the Town Council by majority vote of its members may override this rule and allow for the creation of up to two (2) additional ad-hoc committees.

The chair shall organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. The Town Council Administrator shall record the minutes. Ad-hoc Committees shall have access to the Council Administrator under the direction of the Council President. Ad-hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.

#### **RULE 11C STANDING COMMITTEES**

Standing committees shall select a chair who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes.

#### **RULE 12 LIAISONS TO BOARDS, COMMITTEES AND COMMISSIONS OF THE TOWN**

In accordance with Section 241-8 of the Town Administrative Code, the President and Vice President shall designate each Councilor as the Council liaison to one or more of the multiple-member bodies of the Town. As set forth in said Section 241-8, each Council liaison shall meet with the chair of the board, committee or commission to which they serve as liaison to discuss and define an appropriate reporting relationship.

Council liaisons shall not participate in the deliberations or votes, nor shall they participate in or attend any executive session, of such board, committee or commission. Liaisons shall sit where the public are seated. Liaisons who wish to express a personal opinion shall do so during the public comment portion of the meeting in the same manner as other members of the public and shall state that they are speaking in their personal capacity. When recognized by the Chair, liaisons may ask questions and make comments during discussion and shall identify themselves as liaisons prior to the first instance of speaking, unless speaking in their personal capacity during public comment. Liaisons shall not commit the Council to a course of action and are not to speak on behalf of the Council.

Liaisons shall receive meeting postings, agendas, reports, and minutes from the other body. Liaisons shall attend or watch the meetings of the other body, as they deem appropriate, and should be familiar with the materials provided as above and maintain contact with the other body's Chair.

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**RULE 13**      **APPOINTMENTS** - (Nominations by the ~~appointments committee~~ Appointments Committee)

Appointments require 2 readings. Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented to the Council as a first read.

**RULE 14**      **VACANCY IN OFFICE OF PRESIDENT OR VICE PRESIDENT**

In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. ~~RULE 13 COUNCIL VACANCY~~

~~A vacancy on the Council and or vacancy of an office on the Council shall be filled in accordance with Town Charter Section 2-5, and Council Rule 3.~~

~~**RULE 14** If a vacancy occurs in the office of Vice President, either because the Vice President can no longer serve or because the Vice President has assumed the powers and duties of the President, as set forth in the preceding sentence, the Council shall elect a new Vice President from among its members. The election of a new Vice President shall occur as soon as practicable but with the goal of ensuring that no office of the Council shall remain vacant for more than two regular meetings. The nomination and election process shall conform with the process set forth in Rule 1 above.~~

**RULE 15**      **INQUIRIES AND INVESTIGATIONS**

~~Section 2-10 of the Charter gives the Town Council the authority to conduct inquiries or investigations: Section 2-10 – Inquiries and Investigations: The Town Council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The Town Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made; to any person it shall require to appear before it under this section. The Town Council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.~~

In accordance with and as set forth in Section 2-10 of the Town Charter, the Town Council may conduct inquiries or investigations.

**INQUIRIES:**

An inquiry may be called for by a majority vote of those present at a regular ~~council~~ Council meeting. An inquiry shall be made through the Town Manager; if it concerns areas under ~~his~~ the Town Manager's authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of

authority, the Council may require such persons as ~~mentioned~~described in Section 2-10 of the Charter to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council, or the Council may call for further information so that its questions may be answered.

## INVESTIGATIONS:

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If the Manager or other person(s) requested to make a report shall fail to do so, or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board or commission or ~~its~~their members, or if the ~~council~~Council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of a majority of the full council~~Council~~, establish a three-person ~~Committee~~committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the ~~subcommittee's~~committee's work, subject to review at the request of the ~~subcommittee~~committee. If the ~~subcommittee~~committee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. ~~14 of 15 Amended TC Rules 11/06/14 cap~~

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its ~~subcommittee~~committee shall be held in accordance with the Open Meeting Law, ~~MGL C. 39, S. 23B~~.

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.



8. The proceedings of all public sessions of the committee meetings shall be recorded ~~and transcribed verbatim on video~~ and provided to the full Council along with a copy of ~~subcommitteecommittee~~ findings. ~~Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.~~

9. The ~~subcommitteecommittee~~ will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The Council, by an affirmative vote of a majority of the full Council, will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Town Charter, Town ordinances, collective bargaining agreements and personnel rules and regulations.

#### RULE 1516 AGENDA ITEMS

The following agenda items may be acted upon at a first reading:

Proclamations; ~~Free~~Individual and Group Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

~~-~~Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable; ~~Group Petitions, including amendments to or repeal of the Town Council Rules of Procedure;~~ Loan Authorizations; Supplemental Appropriations; and any other measures.

No debate shall take place at the first reading of any item requiring a second reading.

Certain items require public hearings, including, but not limited to, budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances.

#### RULE 17 SUSPENSION OF RULES

Upon a motion and an affirmative vote of two-thirds of the Councilors present and voting, any rule set forth in these Rules may be suspended in relation to a particular agenda item or for the duration of the Council meeting at which such vote is taken, provided that any requirement imposed by the Town Charter or the General Laws may not be suspended. The Council may suspend a provision of a Town ordinance by the same process that would be required to amend said ordinance.

**ATTACHMENT A**

[Attach Town Council Policy on Remote Participation then in effect]

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-193**

**INTRO: 06/26/2025, 07/17/2025**

**2025-193 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I  
GENERAL ORDINANCES, CHAPTER 184 SEWERS AND WATER BY  
ADDING A NEW ARTICLE V ESTABLISHING A LAND USE CONTROL  
FOR FLOW NEUTRAL WASTEWATER MANAGEMENT**

**ORDERED:** That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 184 Sewers and Water is hereby amended by adding after Article IV a new Article V as follows:

**“Article V Land Use Control for Flow Neutral Wastewater Management**

**§ 184-15 Purpose.**

The purpose of this Article V is to establish a Flow Neutral Land Use Control, as provided in 310 CMR 44.07(3), and to ensure that the overall wastewater flow in the Sewer Service Area (SSA), as defined herein, will be “flow neutral” for purposes of M.G.L. c. 29C, § 6, and 310 CMR 44.07. The Town plans to implement sewer expansion within the SSA over three phases spanning a 30-year period, and wastewater flow projections for those phases have been defined within a comprehensive and deliberate study of the existing and projected wastewater needs of the Town, as reflected in the Comprehensive Wastewater Management Plan (CWMP), as defined herein. The Town intends under this Article V that growth based on the availability of sewer service and wastewater flows in the SSA shall be managed to the levels projected in the CWMP.

**§ 184-16 Applicability.**

Article V shall apply to all property located within the SSA which is, or shall in the future be, connected to a public sewer system.

**§ 184-17 Definitions.**

For purposes of this Article V, the following words shall be considered to have the following meanings:

**COMPREHENSIVE WASTEWATER MANAGEMENT PLAN (CWMP)**

The Town’s November 2020 final Comprehensive Wastewater Management Plan (EEA File No. 16148), which was found to adequately and properly comply with MEPA by the Secretary of Energy and Environmental Affairs in a Certificate dated December 30, 2020, as it may be amended from time to time in accordance with MEPA and any other applicable law, and approved by the state Department of Environmental Protection.

**MASSACHUSETTS ENVIRONMENTAL POLICY ACT (MEPA)**

The Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61- 62L, and the regulations promulgated thereunder at 301 CMR 11.00, as amended.

## PERSON

An individual, group of individuals, partnership, association whether incorporated or unincorporated, firm, company, trust, estate, corporation, business organization, agency, authority, department, or political subdivision of the Commonwealth of Massachusetts, public or quasi-public corporation or body, or any other legal entity or its legal representative, or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

## SEWER SERVICE AREA (SSA)

The Sewer Service Area, which shall be comprised of the geographic areas in the Town that are presently sewered or proposed for sewer expansion, as identified within the CWMP.

### § 184-18 Wastewater Flow Management; Regulations.

- A. The CWMP addresses the multiple wastewater needs of the Town within a single SSA. No property outside of the SSA may be connected to public sewer until authorized under the CWMP. The total average daily wastewater flows within the SSA connected or to be connected to public sewer systems shall not exceed the figure of 4,573,550 gallons per day or such other figure as identified in the CWMP. This figure will be adjusted if additional flow is authorized or a modification to the SSA is made through (1) the approved CWMP, (2) an approved Notice of Project Change to the CWMP, or (3) approval from the state Department of Environmental Protection. No person shall be issued a permit or other approval for a sewer connection under Article I of this Chapter 184 if the anticipated wastewater flow to be generated under that permit or approval shall cause an exceedance in the total wastewater figure identified in this Section 184-18.
- B. The Town, through its Department of Public Works and any other departments as the Town Manager may require, shall periodically review new or projected growth in the SSA to confirm projections and compliance with the CWMP and determine whether any amendments to the CWMP are appropriate.
- C. The Town Manager may promulgate rules and regulations to effectuate the purposes of this Article V after conducting at least one public hearing to receive comments on any such proposed rules and regulations or revisions thereto. Failure to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Article V."

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

## BARNSTABLE TOWN COUNCIL

**ITEM# 2025-193**

**INTRO: 06/26/2025, 07/17/2025**

### SUMMARY

**TO:** Town Council  
**FROM:** Jim Kupfer, Director of Planning and Development  
**THROUGH:** Mark S. Ells, Town Manager  
**DATE:** June 26, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 184 Sewers and Water by adding a new Article V establishing a Land Use Control for Flow Neutral Wastewater Management

**BACKGROUND:** The objective of this amendment to the Town Code, as discussed in more detail below, is to allow the Town to be eligible for a loan of financial assistance from the State Revolving Fund(SRF) with a more favorable interest rate equal to zero percent for eligible sewer projects.

The Town continues to implement its 30-year Comprehensive Wastewater Management Plan. The plan is focused on traditional sewerage solutions and is designed to address multiple goals and needs of the community, specifically nutrient removal, pond protection, drinking water protection, economic development and other related concerns regarding wastewater management. The costs of these efforts are funded primarily through the Town's capital plan and other established sources, including in particular SRF's Financial Assistance Program. SRF provides financing options to communities across the Commonwealth to improve water infrastructure, ensure compliance with federal and state water quality standards, support safe drinking water, implement watershed and stormwater management, address climate resiliency, and administer the community septic loan program. These financing options include low-interest loans, which the Town is accessing already for new infrastructure and replacement/upgrades to existing infrastructure. SRF generally structures the debt service on loans or other financial assistance for an eligible project to provide the equivalent of a loan made at an interest rate equal to 2 percent. As a Housing Choice Community, the Town is presently eligible for a loan made at an interest rate equal, at most, to 1.5 percent.

In addition to such low interest loans, SRF also may provide loans and financial assistance at the equivalent of a zero-percent interest rate for a water pollution abatement project undertaken by a municipality to remediate or prevent nutrient enrichment of a surface water body or a source of water supply to comply with effluent limitations established under a National Pollutant Discharge Elimination System (NPDES) permit issued to the Town by the federal Environmental Protection Agency (EPA) or co-issued by the EPA and the state Department of Environmental Protection (MassDEP), or to comply with an EPA-approved Total Maximum Daily Load (TMDL). A TMDL is the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant. However, in order to be eligible to secure an interest rate equivalent to zero percent, state law requires that the municipality have in place a "Flow Neutral Land Use Control." The goal of this land use control, as stated in 310 CMR 44.07(3), is "to demonstrate that overall wastewater flow in the sewerage watershed will not increase as a result of the project for which a zero rate of interest is sought."

The proposed ordinance would amend Chapter 184 of the Town Code to add a new Article V that would establish the above-referenced land use control. Doing so would allow the Town to be eligible for a loan from SRF with the more favorable interest rate equal to zero percent for eligible sewer projects. The proposed ordinance was

reviewed by MassDEP, and they provided several minor comments that were incorporated into the version that is being proposed.

**FINANCIAL IMPACT:** The Town currently has \$270,512,264 of projects listed on the 2023, 2024 and 2025 Intended Use Plans (IUP). None of these projects have proceeded to permanent financing to date with the State's revolving loan fund (SRF). The Town's current borrowing rate through the SRF is 1.5% for a 20-year loan. A 30-year loan would likely incur a higher interest rate of 1.7%. The total interest cost at 1.7% on the \$270 million is estimated to be \$77 million over the life of the loans.

If the Town passes this ordinance, it may be eligible for a 0% financing rate on a 20-year loan through the SRF for all these projects. For a 30-year loan the Town will likely incur an interest rate of 0.2%. The total interest cost at 0.2% on \$270 million is estimated to be \$8.5 million over the life of the loans resulting in a savings of \$68.5 million over the life of the loans.

State officials at the SRF have stated that if an approved flow-neutral policy is in place before permanent financing takes place the Town would qualify for the reduced interest rate. The next permanent financing to take place is anticipated to be November 2025.

The Town has another \$217 million in project costs listed in the FY 2027 to FY 2030 Capital Improvement Plan that may also become eligible for the lower interest rate through the SRF if the projects are listed on future IUP's. The estimated interest savings on this amount of financing is \$55 million if all projects were eligible to be financed through the SRF.

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

**STAFF SUPPORT:** Jim Kuper, Director of Planning and Development; Griffin Beaudoin, Town Engineer; Thomas J. LaRosa, First Assistant Town Attorney.

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-194**  
**INTRO: 06/26/2025, 07/17/2025**

**2025-194 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$11,500,000 FOR THE PURPOSE OF FUNDING THE STRAIGHTWAY WATER TREATMENT FACILITY PROJECT**

**ORDERED:** That the sum of **\$11,500,000** be appropriated for the purpose of funding the Straightway Water Treatment Facility Project, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$763,379** be provided from the 3M Company PFAS Settlement Account, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$10,736,621** under and pursuant to M.G.L. c. 44, §§7 or 8, M.G.L. c. 29C, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; that the Town is authorized to borrow all or any portion of this appropriation from the Massachusetts Clean Water Trust (the “Trust”) and that the Town Manager or the Treasurer is authorized to sign any financing agreements or project regulatory agreements relating to such borrowing from the Trust; 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
<u>06/26/2025</u>	<u>Refer to Public Hearing 07/17/2025</u>

\_\_\_\_\_

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2025-194

INTRO: 06/26/2025, 07/17/2025

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director of Public Works  
**DATE:** June 26, 2025  
**SUBJECT:** Appropriation and Loan Order in the amount of **\$11,500,000** for the purpose of funding the Straightway Water Treatment Facility Project

**BACKGROUND:** The Hyannis Water System plans to start construction of the new Straightway Water Treatment Facility this fall, which will replace the existing Straightway and Hyannisport water treatment plants upon its completion. The project will involve the demolition and reconstruction of the Simmons Pond and Hyannis-Port well buildings at 132 Smith Street; construction of a winterization building to house the four existing Granular Activated Carbon (GAC) filter units, upgrades to the existing booster pump station, and construction of the new 4.03 MGD Straightway Water Treatment Facility building which will include five Greensand filtration units, three Ultraviolet Advanced Oxidation Process (UV-AOP) units, and an additional eight GAC filtration units at 228 Straightway. Bids were opened for the project on May 23, 2025. The apparent low bidder's total bid price is \$38,490,000, bringing the total project to \$45.84 million (including: construction contingency, construction inspection and administration, utility fees, permit fees, and police details).

**ANALYSIS:** The Town previously appropriated \$36.5 million for the design and construction of the new Straightway Water Treatment Facility based on its 2023 evaluation study and cost estimate. The 2023 study determined that a single plant approach was more cost effective than two separate plants built over time. Due to increases in construction costs, the anticipated total cost has grown to \$45.84 million. Additional funds will be required to meet SRF's local funding requirements prior to awarding the construction contract.

**FINANCIAL IMPACT:** Completion of construction will result in an estimated \$960,000 increase in operating expenses for the Water Supply Division beginning in Fiscal Year 2028 and is included in current rate projections. The project is listed on the 2025 Drinking Water State Revolving Fund Intended Use Plan and is eligible for \$45,114,487 in financing from the Trust, potentially at 0% interest. The loan through the Trust will be paid back by the Water Enterprise Fund and the estimated loan payments have been included in the rate projection model. Prior appropriations for the construction of this project include \$1,000,000 for the water treatment plant design (Town Council Order 2022-093) and \$35,500,000 for construction (Town Council Order 2024-102). \$763,379 in PFAS settlement funds received from the 3M Company will be used to reduce the borrowing included in this request.

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

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



**A. OLD BUSINESS (Public Hearing) (Majority Vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-195**

**INTRO: 06/26/2025, 07/17/2025**

**2025-195 AUTHORIZING THE TOWN MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT BY AND AMONG THE TOWN OF BARNSTABLE, SHOESTRING PROPERTIES, LLC, LOCATED AT 110 AND 115 SCHOOL STREET, MAIN STREET TIMES, LLC, LOCATED AT 319 AND 331 MAIN STREET, AND 259 NORTH STREET LLC, LOCATED AT 310 BARNSTABLE ROAD, HYANNIS**

**ORDERED:** That the Town Council hereby authorizes the Town Manager pursuant to Section 9-6 of Chapter 9 and Chapter 168 of the Town Code of the Town of Barnstable (the “Code”), to enter into and execute a Development Agreement by and among the Town of Barnstable and three Applicants:

1. Shoestring Properties, LLC for the properties located at 110 & 115 School Street, Hyannis, MA 02601 (“Dockside”), as shown on Town of Barnstable Assessors Map 326, Parcels 121 and 125, and more particularly described in Book 10473, Page 204, and Book 642, Page 74.
2. Main Street Times LLC for properties located at 319 and 331 Main Street, Hyannis, MA 02601 (“Cape Cod Times”), as shown on the Town of Barnstable Assessors Map 327, Parcels 102 and 106 and more particularly described in Book 32746, Page 290.
3. 259 North Street LLC for property located at 310 Barnstable Road, Hyannis, MA 02601 (“310 Barnstable”), as shown on the Town of Barnstable Assessors Map 310, Parcel 143 and more particularly described in Barnstable County Land Registration Office of the Land Court Registry Certificate #137681, as shown on Land Court Plan 16462-A Lot C, 16462-E Lot 2.

Collectively the three properties are referred to as the “Applicants’ Properties.”

This Development Agreement grants the requested relief concerning the Applicants’ requirements to dedicate a total of ten (10) residential housing units, in perpetuity, to the Town of Barnstable’s Inclusionary Affordable Housing Inventory, as required for the development of the Applicants’ Properties under Chapter 9, Article 1, of the Code and as part of their project permitting. The Town Council further authorizes the Town Manager, on behalf of the Town, to acquire, for no monetary consideration, from 259 North Street LLC a perpetual Affordable Housing Restriction, pursuant to G.L. c. 184, sections 31-32 and meeting the requirements for the Deed Restriction, as defined in the Development Agreement. It is hereby further ordered that the Town Manager is authorized to accept, negotiate, execute, receive, deliver and record any written instruments necessary to effectuate this Order.

**DEVELOPMENT AGREEMENT**  
**BY AND AMONG**  
**THE TOWN OF BARNSTABLE**

**AND**

SHOESTRING PROPERTIES, LLC  
MAIN STREET TIMES, LLC  
259 NORTH STREET, LLC

This Development Agreement ("Agreement") is entered into by and among the applicants, **Shoestring Properties, LLC, Main Street Times LLC** , and **259 North Street LLC** (collectively the "Developers" or "Applicants") and the **Town of Barnstable** (the "Town"), a Massachusetts municipal corporation with a mailing address of 367 Main Street, Hyannis, MA 02601, on this \_\_\_\_ day of \_\_\_\_\_, 2025, pursuant to Chapter 9, "Affordable Housing," of the Code of the Town of Barnstable ("Chapter 9") and Chapter 168 of the Code of the Town of Barnstable ("Chapter 168"). The Applicants are Massachusetts limited liability companies and share the mailing address of 297 North Street, Hyannis, MA 02601.

WITNESSETH:

WHEREAS, pursuant to Section 9-6 of Chapter 9 and Chapter 168 of the Town Code, the Town of Barnstable is authorized to enter this Agreement with the Developers.

WHEREAS, pursuant to Section 9-6 of Chapter 9 and Chapter 168 of the Town Code, the Town of Barnstable may enter into Development Agreements with qualified applicants in areas shown on the Regulatory Agreements District Map. Chapter 9 authorizes the Town to enter into Development Agreements "in accordance with Section 14 of the Cape Cod Commission Act ... which provides for the development of affordable housing in the Town and establishes the permitted uses, densities, location and other characteristics of the development." The subject properties are located within the area delineated for regulatory agreements.

WHEREAS, the Town of Barnstable has issued and approved building permits for the Developers' Properties at Shoestring Properties, LLC Project at 110 and 115 School Street, Hyannis, MA 02601 ("Dockside"); Main Street Times LLC Project at 319 and 331 Main Street, Hyannis, MA 02601 ("Cape Cod Times"); and 259 North Street LLC Project at 310 Barnstable Road, Hyannis, MA 02601 ("Barnstable Road") as described herein. Each Developer's project is referred to herein, as applicable, a "Property"; and the Developers' projects collectively referred to as the "Properties." The Properties are defined more specifically in "Exhibit A" attached hereto and incorporated herein.

WHEREAS, each such approval and building permit was subject to the Developers each designating a number of one-bedroom and two-bedroom units to the Town of Barnstable Inclusionary Affordable ("Inclusionary Affordable") rental or ownership inventory with Deed Restrictions in perpetuity as required by Chapter 9.

WHEREAS, there are ten (10) total units required to be so designated as Inclusionary Affordable Units by the Developers broken down as follows:

- Dockside at 110 and 115 School Street(5): (3) 1BR Units; (2) 2BR Units
- Cape Cod Times at 319 and 331 Main Street2 (2): (1) 1BR Unit; (1) 2BR Unit
- Barnstable Road at 310 Barnstable Road(3):(2) 1BR Units; (1) 2BR Unit

WHEREAS, the Dockside is currently at the early stages of development with expected occupancy in 2026.

WHEREAS, the Cape Cod Times currently has designated two (2) as Inclusionary Affordable Units;

WHEREAS, 310 Barnstable Road has been fully renovated and repurposed to residential housing and is ready for occupancy with three (3) Inclusionary Affordable Units to be designated.

WHEREAS, the Developers propose to redirect and dedicate the Inclusionary Affordable Units from Cape Cod Times and Dockside (a total of 7 units) to 310 Barnstable Road.

WHEREAS, the designation of the Inclusionary Affordable Units comply with Chapter 9 of the Town Code and by redirecting and dedicating seven (7) of the Inclusionary Affordable Units to 310 Barnstable Road, the Developers will fulfill their obligations to the Town under the Developers' project permitting and Chapter 9.

WHEREAS, the Town and Developers desire to enter into a Development Agreement and this Agreement reflects their respective understandings and agreements with regard to the proposed redirection and designation of seven of the Inclusionary Affordable units to 310 Barnstable Road.

WHEREAS, the Developers commit to designation of ten (10) Inclusionary Affordable units in accordance with this Agreement and shall provide that 70% of the units be designated for town residents.

WHEREAS, the Developers have agreed that of the two two-bedroom units to be relocated from Dockside to 310 Barnstable, the Developers will upgrade the units to three-bedroom units, which are in very high demand;

WHEREAS, the Developers have represented that the Developers' projects, individually or collectively, will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Agreement is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the Growth Improvement Zone (GIZ) and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this Redevelopment may proceed.

WHEREAS, the redirecting and designation of seven of the Inclusionary Affordable Units to 310 Barnstable Road and the Town's release of the Inclusionary Affordable Units at Dockside and Cape Cod Times was reviewed and approved by the Barnstable Housing Committee on January 23, 2025, at which time the Committee voted 3:0 to recommend favorable action.

WHEREAS, the Agreement has undergone a public hearing, which was opened and closed on February 24, 2025, and received an affirmative 4:0 majority vote from the Planning Board on February 24, 2025; and,

WHEREAS, the Agreement has undergone a public hearing which opened on \_\_\_\_\_ and closed on \_\_\_\_\_ before the Barnstable Town Council and received a \_\_\_\_\_ vote on \_\_\_\_\_, 2025;

**NOW, THEREFORE**, for and in consideration of the rights and privileges set forth in this Agreement and in accordance with its terms, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developers, for themselves and their successors and assigns, hereby grant and jointly and severally agree that the Properties shall be subject to the following rights and restrictions which are hereby imposed for the benefit of, and enforceable by the Town.

1. Definitions.

In this "Agreement", in addition to the terms defined above, the following words and phrases shall have the following meanings:

**Area** means the Metropolitan Statistical Area which includes the Town.

**Deed Restriction** shall have the meaning set forth in Section 2(e) below.

**Eligible Tenant** means an individual or household earning no more than 100% of the Barnstable area median income (AMI), as most recently published by HUD. If HUD discontinues publication of median income statistics, then the Monitoring Agent shall designate another measure of eligible income.

**HUD** means the United States Department of Housing and Urban Development.

**Monitoring Agent** means the Town or any successor or designee appointed by the Town.

**Inclusionary Affordable Unit** means a dwelling unit that by deed restriction is and will remain(a) available for sale and sold at a selling price that will result in an annual shelter cost of not more than 30% of the annual household income of a qualified affordable housing unit purchaser or (b) available for rental and rented at an annual rent that will result in an annual shelter cost of not more than 30% of the annual household income of a qualified affordable housing unit tenant, not including any unit rented to a tenant receiving rental assistance under 42 U.S.C. section 1437f or any similar rental assistance program

**Term** means in perpetuity.

## 2. Affordability

The Developers agree to construct the project in accordance with plans and specifications approved by the Town and shall comply with the following requirements:

- a. On or within ninety (90) days from the effective date of this Agreement, the Developers will redirect and designate the two inclusionary units (1-BR Unit and 2-BR unit) at Cape Cod Times to 310 Barnstable Road and will encumber the two units with a Deed Restriction as Inclusionary Affordable units in lieu of the two current units at Cape Cod Times.
- b. On or within ninety (90) days from the effective date of this Agreement, the Developers will redirect and designate the five (5) Affordable Inclusionary units (3-1BR units and 2-2 BR) at the Dockside project to 310 Barnstable Road and will upgrade the two two-bedroom units to two three-bedroom units, all of which will be encumbered with a Deed Restriction as Inclusionary Affordable units.
- c. The Developers will then have a total of ten (10) Inclusionary Affordable Units at 310 Barnstable Road immediately available for use and occupancy, rather than waiting several years for the Dockside at 110 and 115 School Street five (5) units to be built and occupied. The seven inclusionary units at 310 Barnstable Road will be immediately available for rent in lieu of the five units at the Dockside and the two units at Cape Cod Times at 319 and 331 Main Street. Of the 10 Units, 70% will be dedicated to Town residents.
- d. The Developers will be responsible for all costs associated with redesignation of the seven (7) Inclusionary Affordable units from Cape Cod Times and Dockside to 310 Barnstable Road, including the payment of all recording fees to record the Deed Restrictions and discharging the current deed restrictions on the Cape Cod Times and Dockside.
- e. "Deed Restriction" in this Agreement shall mean a perpetual Affordable Housing Restriction, which shall run with the land comprising the applicable 259 North Street LLC's property at 310 Barnstable Road, as described in Exhibit A, to be granted by the property owner, 259 North Street LLC, and accepted in writing by the Town pursuant to G.L. c. 184, §§ 31-32, and addressing, at a minimum, the requirements for the (10) Inclusionary Affordable Units and Sections 9-7 and 9-8 of Chapter 9 and Chapter 168 of the Town Code. The Parties understand and acknowledge that the Deed Restriction will require approval by

the state Executive Office of Housing and Living Communities (EOHLC). If EOHLC withholds approval or fails to act on the Deed Restriction required under this Agreement, then the Town may rescind the Agreement and the Developers' obligations for Inclusionary Housing Units, including the location of the units, will be as existing prior to execution of the Agreement.

Prior to finalizing and executing the Deed Restriction, the Developers, at their sole cost, shall cause a licensed attorney in good standing in the Commonwealth to undertake a title examination and certify title to the 310 Barnstable Road properties, as described in Exhibit A, in writing to the Town of Barnstable. The title examination and certification shall be performed to specifications acceptable to the Town and shall include a detailed narrative of title.

Prior to recording the executed Deed Restriction, the Developers shall cause any lien, mortgage, easement, or other encumbrance or interest of record affecting the 310 Barnstable Road property, as described in Exhibit A, to be fully subordinated, with no conditions and subject to the consent of the Town, to the Deed Restriction. The Developers shall cause said subordination instruments to be recorded prior to recording the Deed Restriction. The Deed Restriction, subordination instruments and any other necessary documents shall be recorded at the expense of the Developers.

- f. The Developers agree not to apply for Certificates of Occupancy for the Properties until all conditions of this Agreement have been met, including finalizing and recording the Deed Restriction.
- g. This Agreement is transferable to a person or entity other than the Developers (hereafter, the "Transferees") with prior written notice to the Town Manager and contingent upon the Developers demonstrating in writing their compliance with all the requirements of this Agreement and subject to the written consent of the Town Manager. However, no such notice to the Town shall be effective unless it includes a written acknowledgment by the Transferees that they have read this Agreement, and any amendments thereto, and they agree to be bound by the terms and conditions set forth herein, in which event after such assignment the transferor shall be relieved of liability from and after the date of transfer. Upon receipt of such written notice of transfer, and subject to a determination by the Town Manager that that the Developers are in compliance with all the then-applicable requirements of the Agreement, the Transferees and the Town Manager shall execute a minor amendment to this Agreement acknowledging: the Transferees are a signatory to this Agreement, the Transferees agree to be bound by the terms and conditions set forth herein and any subsequent amendments hereto, and that the Transferees assume all obligations under the Agreement. No Planning Board or Town Council approval is required for such a minor amendment acknowledging such a transfer in ownership.
- h. This Agreement may not be used to prevent the Town of Barnstable or other governmental agency from requiring qualified applicants to comply with the laws, rules and regulations and policies enacted after the date of this Agreement, if the Town of Barnstable or governmental agency determines that the imposition of and compliance with the newly effective laws and regulations are essential to ensure the public health, safety or welfare of the residents of all or part of the Town.

3. Non-discrimination.

The Developers shall not discriminate on the basis of race, creed, religion, color, sex, age, handicap, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Developers shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Properties.

4. Inspection.

The Developers agree to comply and to cause the Properties to comply with the Agreement application as approved by the Barnstable Housing Committee at its meeting of January 23, 2025 and by the Planning

Board at its meeting of February 24, 2025, and all other applicable laws, rules and regulations. The Town shall have access during normal business hours to all books and records of the Developers and the Properties upon reasonable prior written notice to the Developer in order to monitor the Developers' compliance with the terms of this Agreement but without any unreasonable interference with the operations at the Properties.

5. Recording.

Upon execution, the Developers shall immediately cause this Agreement and any amendments hereto to be recorded with the Barnstable County Registry of Deeds, or, if the Properties consist in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the County where the Properties are located (collectively hereinafter the "Registry of Deeds"), and the Developers shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developers shall as soon as possible transmit to the Town evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

6. Representations.

The Developers hereby represent and warrant as follows:

(a) The Developers (i) have the power and authority to own their properties and assets and to carry on its business as now being conducted, and (ii) have the full legal right, power and authority to execute, deliver and fully perform their obligations under this Agreement.

(b) The execution and performance of their obligations under this Agreement by the Developers

(i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body to which the Project or Properties are subject, and

(ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developers are parties or by which they or the Project or Properties are bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developers will, at the time of execution and delivery of this Agreement, have good and marketable title to the Properties free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project or Properties, or other permitted encumbrances, including mortgages referred to in paragraph 12, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developers, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect their financial condition.

7. Transfer Restrictions.

Subject to demonstrating compliance in writing and the consent of the Town Manager as set forth in Section 2(g) above and prior to any approved transfer of ownership of the Project or Properties, the Developers agree to secure from the Transferee a written agreement stating that Transferee will assume in full the Developers' obligations and duties under this Agreement and provide a copy of said executed written agreement to the Town thirty (30) days prior to any such transfer.

8. Amendment.

Any Developer that is party to this Agreement may petition the Town of Barnstable to amend or rescind this Agreement pursuant to the terms of Chapter 168-10 of the Town Code.

9. Notices.

All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice.

IN WITNESS WHEREOF, the Parties, each duly authorized, have hereunto caused this Agreement to be executed as a sealed instrument on the day and year first above written.

Applicants:

**Town of Barnstable**

**Shoestring Properties, LLC**

By:

By its sole manager:

**Holly Management and Supply Corporation**

\_\_\_\_\_  
**Stuart A. Bornstein,**  
**President and Treasurer**

\_\_\_\_\_  
**Mark S. Ells, Town Manager**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Main Street Times LLC**

By:

\_\_\_\_\_  
**Aaron B. Bornstein, Manager**

Date: \_\_\_\_\_

**259 North Street LLC**

By its sole manager:

**Holly Management and Supply Corporation**

\_\_\_\_\_  
**Stuart A. Bornstein**

Date: \_\_\_\_\_



**EXHIBIT A**  
**PROPERTY DESCRIPTION**

Property address: 110 and 115 School Street, Hyannis, MA 02601(Dockside); Assessors Map 326, Parcels 121 and 125

The land together with the buildings thereon situated in the Town of Barnstable (Hyannis), Barnstable County Massachusetts described as follows:

**Parcel I** – being the same premises shown on a plan of land entitled “Plan of Land in Hyannis – Barnstable, Mass. belonging to Lewis Bay Lodge, Inc., Scale: 1” = 50’ dated December 20, 1961, John C. O’Toole, Surveyor” and recorded with said Deeds in Plan Book 167, Page 41 to which reference may be made for a more detailed description.

Together with all littoral rights appurtenant thereto and together with all rights over the streets and ways as shown on said plan in common with all others lawfully entitled to use the same for all purposed for which streets or ways are commonly used in the Town of Barnstable, Massachusetts.

**Parcel II** – being the land located in Barnstable (Hyannis) containing by calculation 24,819 square feet of land, more or less and being delineated as PARCEL A on a plan entitled “Land in Hyannis, Massachusetts owned by Lewis Bay Motel, Restaurant & Marine, Inc.” dated January 24, 1992 by Bouley Brother, Inc., Registered Land Surveyors, Worcester, MA” and recorded in Plan Book 485, Page 93.

Subject to and together with all rights, reservations, easement and restrictions of record insofar as the same are in force and applicable.

**For title see Deed recorded in Book 10473, Page 204.**

Property address: 331 Main Street, Hyannis, MA 02601 (Cape Cod Times); Assessors Map 327, Parcels 102 and 106

**Parcel One** – That certain parcel of land situated in the Town of Barnstable (Hyannis), Barnstable County, Massachusetts described as follows:

Beginning at the Northeast corner of the granted premises at a concrete bound in the Southerly line of Main Street and at the Northwest corner of a right of way hereinafter mentioned; and thence running South 15°09’East in the Westerly sideline of said hereinafter mentioned right of way through a concrete bound two hundred eight (280) feet, more or less to land of Claretta M. Stuart; and thence running South 60°52’10”West eight-four and 90/100 (84.90) feet, more or less by land of said Stuart to a stone bound and land of Hyannis Women’s Club; and thence running North 16°24’20”West by land of Hyannis Women’s Club, Georgie A. Kenney and Inter Cities Realty Corporation, two hundred sixty-nine and 40/100 (269.40) feet, more or less to a drill hole in a concrete bound at Main Street; and thence running North 73°44’East by said Main Street ninety and 36/100 (90.36) feet, more or less to a concrete bound at the point of beginning.

Together with a right of way in common with others entitled thereto over a twenty-five (25) foot right of way extending Southerly from Main Street to the Northerly line of land of said Claretta M. Stuart adjoining the Easterly line of the above-described premises. Said right of way is to be used only in any manner reasonably required for travel to and from Main Street in connection with the use of the premises.

**Parcel Two** - That certain parcel of land situated in the Town of Barnstable (Hyannis), Barnstable County, Massachusetts containing an area of 35,400 square feet, more or less and being shown on plan entitled “Plan of Land – Hyannis – Barnstable, Mass. as surveyed for Claretta Stuart, Scale: 1” = 40’ dated December 1956, Whitney & Bassetts, Architects & Engineers, Hyannis, Mass.,” which plan is recorded in Plan Book 132, Page 35.

Excepting from the above land is that certain parcel of land being shown as Parcel A on plan recorded in Plan Book 215, Page 147 and more particularly described in a Deed from Ottaway Newspapers-Radio, Inc. to the Town of Barnstable dated October 26, 1967, and recorded in Book 1385, Page 439.

Together with rights of access as reserved in Deed recorded in Book 1385, Page 439.

**Parcel Three** - That certain parcel of land situated in the Town of Barnstable (Hyannis), Barnstable County, Massachusetts bounded and described as follows:

On the West about eighty-eight and 5/10 (88.5) feet by Ocean Street; and On the North about ninety-five and 13/100 (95.13) feet by land now or formerly of the Investor's Security Trust; and On the East about eight-four and 38/100 (84.38) feet by land formerly of Hugh R. Ferguson; and on the South about ninety-nine and 5/10 (99.5) feet by land of the Hyannis Women's Club.

**Parcel Four** - That certain parcel of land situated in the Town of Barnstable (Hyannis), Barnstable County, Massachusetts shown on a land of "Hyannis Women's Club" on a plan entitled "Plan of Land in Hyannis, Barnstable, Mass. for E. Anthony & Sons, Inc." Scale: 1' = 40' and dated December 1962, David H. Greene, Surveyor, Hyannis, Mass. and recorded in Plan Book 242, Page 157.

**For title see Deed recorded in Book 32746, Page 290.**

Property address: 319 Main Street, Hyannis, MA 02601 (Cape Cod Times)

The land together with any buildings thereon located at 331 Main Street Hyannis, Barnstable County, Massachusetts situated at the corner of Main Street and Ocean Street in Hyannis, Barnstable County, Massachusetts being shown as LOTS A and B1 on a plan entitled "Subdivision of Land of Inter Cities Realty Corporation in Hyannis, Barnstable, Mass.," dated March 1935, prepared by Sumner Shein, CE and recorded in Plan Book 50, Page 111, to which reference may be made for a more detailed description. See also plan recorded in Plan Book 597, Page 70.

Excepting from the above-referenced parcel the Southwesterly corner thereof shown on plan recorded in Plan Book 53, Page 47 and bounded and described on Exhibit B of deed recorded in Book 32746, Page 290.

Subject to and with the benefit of all rights, reservations, easements and restrictions of record insofar as the same are in force and applicable.

**For title see Deed recorded at Book 32746, Page 290.**

Property address: 310 Barnstable Road, Hyannis, MA 02601 (Barnstable Road); Assessors Map 310, Parcel 143

The land situated in the Town of Barnstable (Hyannis), Barnstable County, Massachusetts being shown as **LOT C** on Land Court Plan No. 16462-A; and **LOT 1** on Land Court Plan No. 16462-E.

Subject to and with the benefit of all rights, reservations, easements and restrictions of record insofar as the same are in force and applicable.

**For title see Deed registered as Document No. 643,051 filed with Certificate of Title No. 137681.**

## BARNSTABLE TOWN COUNCIL

**ITEM# 2025-195**  
**INTRO: 06/26/2025, 07/17/2025**

### SUMMARY

**TO:** Town Council  
**FROM:** Jim Kupfer, AICP, Planning & Development Director  
**THROUGH:** Mark Ells, Town Manager  
**DATE:** July 17, 2025  
**SUBJECT:** Authorizing the Town Manager to execute a Development Agreement by and among the Town of Barnstable, Shoestring Properties, LLC, located at 110 and 115 School Street, Main Street Times, LLC, located at 319 and 331 Main Street, and 259 North Street LLC, located at 310 Barnstable Road, Hyannis

**BACKGROUND:** Pursuant to Section 9-6 of Chapter 9 of the Town Code, the Town may enter into Development Agreements for Inclusionary Affordable Housing Requirements under Chapter 9, Article 1, of the Town Code in areas delineated on the Regulatory Agreements District Map. Applicants may apply to enter into a Development Agreement pursuant to and following the process for Regulatory Agreements under Chapter 168 of the Town Code. The subject properties are located within the area delineated for such agreements. Pursuant to Section 168-5 of Chapter 168, no such agreement may be executed by the Town Manager without there first being an affirmative, majority vote by the Planning Board and the Town Council recommending the execution of the regulatory agreement.

Shoestring Properties LLC, Main Street Times LLC, and 259 North Street LLC seek to enter into a Regulatory Agreement with the Town of Barnstable to deed-restrict seven affordable units located at 310 Barnstable Road, in lieu of the five affordable units required at the Dockside development (110 & 115 School Street) and two affordable units required at the Cape Cod Times building (319 & 331 Main Street).

On December 2, 2024, Shoestring Properties, LLC, Main Street Times LLC, and 259 North Street LLC submitted an application to the Planning Board for a Development Agreement pursuant to Chapters 9 and 168 of the Town Code.

The Planning Board held a duly-posted and noticed public hearing on the proposal on February 24, 2025. At the conclusion of the hearing, the Planning Board unanimously voted to recommend Town Council to execute the Development Agreement consistent with the final agreement reviewed by the Board.

**FINANCIAL IMPACT:** Approval of the proposed Development Agreement will have no significant fiscal impact.

**STAFF ASSISTANCE:** Jim Kupfer, AICP, Planning & Development Director

**A. OLD BUSINESS (May be acted upon) (Majority Vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-196**

**INTRO: 06/26/2025, 07/17/2025**

**2025-196 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Council on Aging:** Christine Beer from an associate position to a full member position to a term expiring 06/30/2028, Stephanie Parish, as a regular member to a term expiring 06/30/2028; **Comprehensive Financial Advisory Committee:** Frank Ward, as a regular member to a term expiring 06/30/2027; **Historical Commission:** Barbara Cuggino DeBiase as the Historical Commission Representative member to the Community Preservation Committee to a term expiring 06/30/2028.

**SPONSOR:** Appointments Committee Members: Councilor Kristin Terkelsen, (Chair); Councilor Jeffrey Mendes; Councilor John Crow; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
<u>06/26/2025</u>	<u>Referred to Second Reading 07/17/2025</u>

\_\_\_\_\_

\_\_\_\_ Read Item  
\_\_\_\_ Rationale  
\_\_\_\_ Council Discussion  
\_\_\_\_ Vote

**A. OLD BUSINESS (May be acted upon) (Majority Vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-197**  
**INTRO: 06/26/2025, 07/17/2025**

**2025-197 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission:** Bradley Bailey, as a regular member term expiring 06/30/2028; Mark Guidod, as a regular member, to a term expiring 06/30/2028; **Board of Health:** Donald Guadagnoli, MD, as a regular member to a term expiring 06/30/2028; Steven Waller, MD, as a regular member to a term expiring 06/30/2028; **Community Preservation Committee:** Steven Robichaud, as a Planning Board representative member, to a term expiring 06/30/2028; Farley Lewis, as a regular member to a term expiring 06/30/2028; **Comprehensive Financial Advisory Board:** Lillian Woo, as a regular member to a term expiring 06/30/2028; Christopher Lauzon, as a regular member to a term expiring 06/30/2028; **Disability Commission:** Patricia Ericson-Taylor, as a regular member to a term expiring 06/30/2028; **Golf Committee:** Mark Bushway, as a regular member to a term expiring 06/30/2028; Susanne Conley, as a regular member to a term expiring 06/30/2028; Geoffrey Converse, as a regular member to a term expiring 06/30/2028; William Sylva, as a regular member to a term expiring 06/30/2028; **Historical Commission:** Jack Kay, as a regular member to a term expiring 06/30/2028; **Housing Committee:** Eileen Elias, as an alternate member to a term expiring 06/30/2028; Chris Beach, as a regular member to a term expiring 06/30/2028; **Infrastructure and Energy Committee:** Jane Ward, as a regular member to a term expiring 06/30/2028; Barry Sheingold, as a regular member to a term expiring 06/30/2028; **John F. Kennedy Memorial Trust Fund Committee:** William Murphy, as a Recreation Commission Representative member to a term expiring 06/30/2028; Wendy Northcross, as a regular member to a term expiring 06/30/2028; **Licensing Authority:** John Flores, as a regular member to a term expiring 06/30/2028; Jessica Sylver, as an associate member to a term expiring 06/30/2028; **Recreation Commission:** James O'Leary, as a regular member to a term expiring 06/30/2028; **Sandy Neck Board:** William Monroe, as a member at large, to a term expiring 06/30/2028; William Carey, as a member at large to a term expiring 06/30/2028; **Shellfish Committee:** William Cherepon, as a member at large to a term expiring 06/30/2028; Gloriann Hurwitz, as a member holding a family permit to a term expiring 06/30/2028; **Waterways Committee:** Jacob Angelo, as a regular member to a term expiring 06/30/2028; Todd Walantis, as a regular member to a term expiring 06/30/2028; **Zoning Board of Appeals:** Larry Hurwitz, as an associate member to a term expiring 06/30/2028; Paul Pinard, as a regular member to a term expiring 06/30/2028.

**SPONSOR:** Appointments Committee Members: Councilor Kristin Terkelsen, (Chair); Councilor Jeffrey Mendes; Councilor John Crow; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
<u>06/26/2025</u>	<u>Referred to Second Reading 07/17/2025</u>

\_\_\_\_\_

\_\_\_\_ Read Item  
\_\_\_\_ Rationale  
\_\_\_\_ Council Discussion  
\_\_\_\_ Vote

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-198**  
**INTRO: 06/26/2025, 07/17/2025**

**2025-198 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$2,500,000 IN COMMUNITY PRESERVATION ACT FUNDS FOR THE PURPOSE OF INCREASING THE NUMBER AND AVAILABILITY OF COMMUNITY HOUSING UNITS IN THE TOWN OF BARNSTABLE**

**ORDERED:** That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of **\$2,500,000** be appropriated and transferred from the funds set aside for Community Housing Funds within the Community Preservation Fund and secondly from the Community Preservation Undesignated Fund for the purpose of the Affordable Housing/Growth & Development Trust Fund, and that the Affordable Housing/Growth & Development Trust Fund Board is authorized to contract for and expend the total appropriation of Two Million Five Hundred Thousand Dollars (**\$2,500,000**) to increase the number and availability of community housing units within the Town of Barnstable by both funding and initiating projects and programs for that purpose, subject to the oversight by the Community Preservation Committee.

**SPONSOR:** Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
<u>06/26/2025</u>	<u>Refer to Public Hearing 07/17/2025</u>

\_\_\_\_\_

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2025-198

INTRO: 06/26/2025,07/17/2025

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lindsey Counsell, Chair, Community Preservation Committee  
**DATE:** June 26, 2025  
**SUBJECT:** Appropriation and Transfer Order in the amount of **\$2,500,000** in Community Preservation Act Funds to increase the number and availability of community housing units in the Town of Barnstable

**BACKGROUND:** At the June 2, 2025, Community Preservation Committee (CPC) meeting, the seven Committee members present voted unanimously to recommend to the Town Council, through the Town Manager, the Affordable Housing Growth & Development Trust Board's (Trust) request for \$795,821 in Community Preservation Community Housing and \$1,704,179 in Community Preservation Undesignated Funds. This amount represents an additional \$2.5 million in Community Preservation Act (CPA) Funds to be transferred to and administered by the Trust to continue to utilize the Trust's unique statutory flexibility to create, acquire, preserve, and support community housing.

Following positive recommendations from the CPC in 2020, 2021, and October 2023, the Town Council voted unanimously to appropriate a total of \$2.5 million each year for the purpose of increasing the number and availability of affordable community housing units within the Town of Barnstable. Since the CPA funds became available, the Trust has expended \$1,402,266 and committed \$5,145,000 to address the Town's community housing needs with additional projects under consideration. There currently remains an uncommitted balance of \$952,734 in CPA sourced funds and \$53,977 in other Trust funds. In response to the heightened and ongoing housing affordability crisis, the Trust is seeking additional funds to continue incentives for construction, preservation, and production of community housing, as well as expanding efforts to support and supplement aid to prevent homelessness and bring stability to households facing housing insecurity.

**FISCAL IMPACT:** This appropriation has no impact on the General Fund since the entire amount is appropriated and transferred from the Community Preservation Fund. \$795,821 of this request will be provided from the set-aside in the Community Preservation Fund for Community Housing, and \$1,704,179 will be provided from the Community Preservation Fund's undesignated reserve, which has a current available balance of \$10,488,734.

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

**STAFF ASSISTANCE:** Mark A. Milne, Director of Finance

**VOLUNTEER STAFF ASSISTANCE:** Lindsey Counsell, Chair, Community Preservation



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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-201**

**INTRO: 06/26/2025, 07/17/2025**

**2025-201 ORDER WAIVING FEES FOR CONSTRUCTION WORK BY THE  
BARNSTABLE FIRE DISTRICT FOR A NEW FIRE STATION AT 1841  
PHINNEY'S LANE**

**ORDERED:** Notwithstanding the provisions of any ordinance of the Town regarding schedules of fees, the construction project for the construction of a new Fire Station at 1841 Phinney's Lane in Barnstable by the Barnstable Fire District (the "Project") shall hereby be exempt from payment of such fees; provided that if the Town is required to hire outside inspectors with special expertise to inspect any aspect of the Project, the Barnstable Fire District will pay those costs; and provided further, that this Order shall not become effective until a Memorandum of Agreement between the Town of Barnstable and the Barnstable Fire District substantially in the form attached hereto is executed and filed with the Barnstable Town Clerk in which the Barnstable Fire District agrees to pay any such costs for outside inspectors.

**SPONSOR:** Councilor Gordon Starr, Precinct 1

DATE	ACTION TAKEN
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<u>06/26/2025</u>	<u>Refer to Public Hearing 07/17/2025</u>
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_____	Read Item
_____	Rationale
_____	Public Hearing
_____	Close Public Hearing
_____	Council Discussion
_____	Vote

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the Town of Barnstable (“Town”) and the Barnstable Fire District (“District”). This Agreement relates to Town Council Item 2025-XXX, a copy of which is attached hereto and incorporated by reference herein.

WHEREAS, the Town Council, in approving Town Council Item 2025-XXX, voted to waive, *inter alia*, any building inspectional services fees for inspections conducted in-house and which did not require any special expertise not available within the Town’s Inspectional Services Department; and

WHEREAS, the Town Council, in approving Item 2025-XXX, required the execution of a Memorandum of Agreement between the Town and the District in which the District agrees to pay any costs incurred by the Town for the hiring of outside inspectors with special expertise;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the District agree as follows:

1. Upon the determination of the Building Commissioner that an outside inspector with special expertise is required to be hired for the Project at the District’s expense, s/he shall serve a notice upon the District by hand delivery or by certified mail, return receipt requested, stating that s/he intends to hire an outside inspector with special expertise at the District’s expense, the reason that said outside inspector needs to be hired and the estimated fee for the services of that outside inspector. The notice shall state that the District has seven (7) business days of receipt to file any objection to the hiring of the outside inspector at its expense. A copy of said notice shall be sent to the Town Manager by the Building Commissioner.
2. In the event that the District objects to the hiring of an outside inspector and/or the estimated costs, the District shall file its objection with the Director of Inspectional Services within the time specified in paragraph 1 above. A representative from the District and the Director of Inspectional Services or his or her designee shall meet to try to resolve the objections. A written determination of the results of that meeting shall be served in hand to the District or sent by the Director of Inspectional Services to the District by certified mail, return receipt requested, with a copy to the Town Manager.
3. The District may appeal in writing the determination by the Director of Inspectional Services to the Barnstable Town Manager within seven (7) business days of its receipt of the determination. Said appeal may be delivered in hand or sent by certified mail, return receipt requested. The decision of the Town Manager regarding the District’s appeal shall be final with no further rights of appeal.
4. If no objection is filed by the District within seven business days after receiving notice of the Town’s intention to hire an outside inspector at its expense, or if an objection is withdrawn and/or resolved, or if the Town Manager approves the hiring of an outside inspector following an appeal filed by the District, the Building Commissioner shall be authorized to hire the outside inspector at the District’s expense and the District shall be invoiced for the services of said outside inspector and shall pay for the services of said outside inspector within thirty (30) days of receipt of said invoice.

5. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when either hand delivered or delivered by certified mail, return receipt to the parties hereto to the addresses set forth below:

Barnstable Fire District  
[address]  
Barnstable, MA 02630

Town Manager  
Town of Barnstable  
367 Main Street  
Hyannis, MA 02601

Director of Inspectional Services  
200 Main Street  
Hyannis, MA 02601

This Memorandum of Agreement is entered into by the duly authorized signatories set forth below of the District and the Town, respectively, as of the date first set forth above:

**BARNSTABLE FIRE DISTRICTTOWN OF BARNSTABLE**

By its Board of Fire Commissioners: By its Town Manager:

BY: \_\_\_\_\_ BY: \_\_\_\_\_  
[name], Chair Mark S. Ells, Town Manager

BY: \_\_\_\_\_  
[name], Vice Chair

BY: \_\_\_\_\_  
[name], Commissioner

BY: \_\_\_\_\_  
[name], Commissioner

BY: \_\_\_\_\_  
[name], Commissioner

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-201**

**INTRO: 06/26/2025, 07/17/2025**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Councilor Gordon Starr  
**DATE:** June 26, 2025  
**SUBJECT:** Order waiving fees for construction work by the Barnstable Fire District for a new Fire Station located at 1841 Phinney's Lane, Barnstable

**BACKGROUND:** The Barnstable Fire District has requested that the Town of Barnstable waive any fees associated with the construction of a new Fire Station located at 1841 Phinney's Lane in Barnstable, which the Fire District estimates will be \$275,400, based on the current construction cost estimate of \$30,000,000. According to the Fire District, this project is vital to maintaining and enhancing the Fire District's emergency response capabilities as the town continues to grow.

The Town Council has previously voted to waive such fees. In October 2016, the Town Council voted to approve Item # 2017-014 for a waiver of fees for construction work on the new Hyannis Fire District Fire Station located at 95 High School Road in Hyannis, and in December 2022, the Town Council voted to approve Item # 2023-066 for a waiver of fees for construction work on the Barnstable Fire District's new Water Treatment Plant off Breeds Hill Road.

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

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney

**A. OLD BUSINESS (Public Hearing) (Majority Vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-202**  
**INTRO: 06/26/2025, 07/17/2025**

**2025-202 RESOLVE APPROVING AND ADOPTING THE TOWN OF BARNSTABLE  
2025 LOCAL COMPREHENSIVE PLAN DATED JUNE 9, 2025**

**WHEREAS**, in accordance with the Cape Cod Commission Act (Chapter 716 of the Acts of 1989, as amended) and the Local Comprehensive Plan Regulations promulgated thereunder, the Town of Barnstable 2025 Local Comprehensive Plan contains a comprehensive existing conditions report, community vision statement, topic and location specific goals and actions and implementation strategies to achieve the Plan's goals over the next 10 or so years in the Town of Barnstable; and

**WHEREAS**, the Town of Barnstable 2025 Local Comprehensive Plan was presented in draft form to the Town Planning Board at a duly noticed public meeting held on June 9, 2025; and

**WHEREAS**, at its June 9, 2025 meeting, the Planning Board unanimously voted to recommend approval of the Local Comprehensive Plan to the Town Council;

**NOW, THEREFORE, BE IT RESOLVED:** That the Town Council hereby approves and adopts the Town of Barnstable 2025 Local Comprehensive Plan dated June 9, 2025, in the form as provided to the Town Council and presented at this meeting, and directs and authorizes the Town Clerk to submit the Local Comprehensive Plan to the Cape Cod Commission for certification that it is in compliance with the regional policy plan prepared by the Cape Cod Commission.

**SPONSOR:** Mark S. Ells, Town Manager, upon recommendation of the Local Comprehensive Planning Committee

DATE	ACTION TAKEN
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<u>06/26/2025</u>	<u>Refer to Public Hearing 07/17/2025</u>
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_____	_____
_____	Read Item
_____	Rationale
_____	Public Hearing
_____	Close Public Hearing
_____	Council Discussion
_____	Vote

## BARNSTABLE TOWN COUNCIL

**ITEM# 2025-202**  
**INTRO: 06/26/2025, 07/17/2025**

### SUMMARY

**TO:** Town Council  
**FROM:** Jim Kupfer, Director of Planning and Development  
**THROUGH:** Mark S. Ells, Town Manager  
**DATE:** June 26, 2025  
**SUBJECT:** Resolve approving and adopting the Town of Barnstable 2025 Local Comprehensive Plan dated June 9, 2025

**BACKGROUND:** A Local Comprehensive Plan (LCP) defines a long-term vision and growth policy that guides the future of a Town, for an established duration, generally over the course of 10 to 20 years, that anticipates and guides development, land use, infrastructure, and resource protection ultimately defining a targeted action plan for future work and resource allocation with respect to the community's vision, values and expectations. The 2025 Barnstable Local Comprehensive Plan (LCP) serves as a guide and resource for elected officials, board members, and residents when considering future decisions including policies related to development, infrastructure, the economy, and resource protection.

The Local Comprehensive Plan process was steered by the Local Comprehensive Planning Committee (LCPC). The LCPC was made up of volunteer residents of the community that were appointed by the Town Manager and ratified by Town Council to better facilitate and communicate the planning process, to assure the long-term land use plan reflected the community's needs and to support a robust inclusive engagement of the greater community for this important planning effort. This three-year effort involved a collaborative public process to identify a vision, define key issues, and develop actionable steps to guide decision making over the next 10 years.

The Local Comprehensive Plan was completed in two phases. Phase I commenced with coordination and amassing Existing Conditions with narrative and data for the current status of the Town through detailed data analysis and interviews with stakeholders and town departments. The community Vision Statement was developed through community engagement and in reflection of existing conditions. Phase II built upon the foundation of information coordinated under the initial phase to focus on specific topic issues and needs for Land Use, Housing, Natural Resources, Infrastructure, Facilities, Economic Development and Culture, Heritage and Design. Building upon the Town's Current Land Use Map, Future Land Use Maps were developed. The Regulatory Areas Map identifies future land use types geographically across Town and the Study Areas Map identifies four areas for further land use study. Ultimately, the Targeted Action Plan was developed with topic and location specific land use goal and actions to be achieved over the next 10 years. The Plan Implementation defines a process for which the goals and actions defined within the Plan can be coordinated by the Town Council in collaboration with Town Boards, Committees, Commissions, Town Departments, and other Town organizations.

The Local Comprehensive Plan was presented to the Town of Barnstable Planning Board at a duly noticed public meeting held on June 9, 2025, at which the Planning Board unanimously voted to recommend approval of the Local Comprehensive Plan to the Barnstable Town Council.

Although this item is a resolve that could be approved with one reading, we are providing more process than what is required by adding a second reading and a public hearing to provide additional notice to the public as well as to give the public an opportunity to provide comments to the Council.

If approved by the Barnstable Town Council, the plan will be forwarded to the Cape Cod Commission by the Town Clerk for review and certification that it is consistent with the Commission's regional policy plan. The Cape Cod Commission will review the Town's plan for approval to confirm that it satisfies the requirements detailed in the Cape Cod Commission's Local Comprehensive Plan Regulations as authorized under Sections 4 and 9 of the Cape Cod Commission Act (Act), Chapter 716 of the Acts of 1989, as amended.

**FINANCIAL IMPACT:** There is no fiscal impact of this resolution.

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

**STAFF SUPPORT:** Jim Kupfer, Director of Planning and Development; Kyle Pedicini, Assistant Director of Planning & Development; Kate Maldonado, Senior Planner of Planning & Development



**B. NEW BUSINESS (May be acted upon) (Majority Vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-001**  
**INTRO: 07/17/2025**

**2026-001 AUTHORIZATION TO EXPEND A FISCAL YEAR 2026 GRANT IN THE AMOUNT OF \$7,500 FROM THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION TO BE USED TOWARDS THE PURCHASE OF ONE ELECTRIC CHEVY EQUINOX**

**RESOLVED:** That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2026 Massachusetts Department of Environmental Protection grant in the amount of **\$7,500** to be used towards the purchase of one electric Chevy Equinox for the use of Barnstable Government Access Television.

**SPONSOR:** Councilor Gordon Starr, Precinct 1

DATE	ACTION TAKEN
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_____	_____
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_____	Read Item
_____	Rationale
_____	Council Discussion
_____	Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2026-001**  
**INTRO: 07/17/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark Ells, Town Manager  
**THROUGH:** David Anthony, Director of Asset Management  
**DATE:** July 17, 2025  
**SUBJECT:** Authorization to expend a Fiscal Year 2026 grant in the amount of **\$7,500** from the Massachusetts Department of Environmental Protection to be used towards the purchase of one electric Chevy Equinox

**BACKGROUND:** Through the work of Sean Hogan, Environmental and Sustainability Manager for the Town of Barnstable, the Massachusetts Department of Environmental Protection (MassDEP) is pleased to announce that the Town of Barnstable (Grantee) has been awarded a grant of \$7,500 towards the purchase of one Chevy Equinox.

**RATIONALE:** The Massachusetts Electric Vehicle Incentive Program (MassEVIP) Fleets program is funded through the Climate Protection and Mitigation Expendable Trust (CMT). The CMT was established in 2018 in concert with MassDEP regulation 310 CMR 7.74 (Reducing CO<sub>2</sub> Emissions from Electricity Generating Facilities) and 310 CMR 7.75 (Clean Energy Standard). Funds are generated for the CMT through the auction of CO<sub>2</sub> allowances under 310 CMR 7.74 and the submittal of alternative compliance payments (ACP) under 310 CMR 7.75. MassDEP administers the auction and collects the ACP payments. CMT funds support programs or projects that reduce greenhouse gas emissions to mitigate the impacts of climate change, to support adaptation to the impacts of climate change, and for the administration of the program. This Agreement is for the purpose of reducing NO<sub>x</sub> and greenhouse gas emissions in Massachusetts, and to electrify the Massachusetts transportation network.

Meeting state climate goals will require aggressive electrification of the transport sector with a goal of 900,000 EVs on the road by 2030 in the state of MA. To meet this goal municipalities must begin transitioning their fleets to electric vehicles. The purchase of this EV will act as a first step in the conversion of our light duty vehicles.

**FISCAL IMPACT:** EVs are lauded for their lower maintenance costs but often have a higher initial acquisition cost. This grant offsets that higher initial cost and allows the Town to potentially replace a combustion vehicle of similar sedan type. Funding for the balance of the vehicle is provided from the PEG Enterprise Fund Operating Budget.

This is a reimbursement grant, so the money would be received once we can document the acquisition of the vehicle.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends acceptance of this grant.

**STAFF ASSISTANCE:** David Anthony, Director of Asset Management; Sean Hogan Environmental and Sustainability Manager; Sarah Beal-Fletcher, Barnstable Government Access Station Manager

**B. NEW BUSINESS (First Reading) (Refer to Second Reading  
09/04/2025)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-002  
INTRO: 07/17/2025**

**2026-002 ORDER AUTHORIZING THE GRANT OF AN EASEMENT FOR ELECTRIC  
FACILITIES ON TOWN-OWNED LAND AT 382 FALMOUTH ROAD IN  
HYANNIS**

**ORDERED:** That the Town Council hereby authorizes the Town Manager, on behalf of the Town, as part of a negotiated transaction and for nominal monetary consideration, to grant a perpetual easement to NSTAR Electric Company, doing business as Eversource Energy, or one of its related entities for the installation and operation of an underground line for the distribution of electricity, related lines for control, relay and communication purposes, and associated at-grade appurtenances, including manholes, to serve the Town-owned land located at 382 Falmouth Road in Hyannis, shown as Assessor Parcel 293-001, and described in an order of taking recorded at the Barnstable County Registry of Deeds in Book 511, Page 242. The easement area consists of 5,700± square feet located on the Town-owned land and is shown as “15’ Wide Utility Easement” on a plan captioned “Electric Easement Exhibit Plan” “382 Falmouth Road - Hyannis Village – Barnstable, MA”, prepared by the Town of Barnstable, Department of Public Works, dated July 1, 2025, and attached hereto. The Town Manager is authorized to negotiate, accept, sign, deliver and record any documents, and may make minor modifications to the easement area and the plan as necessary to effectuate this Order and complete this transaction.

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

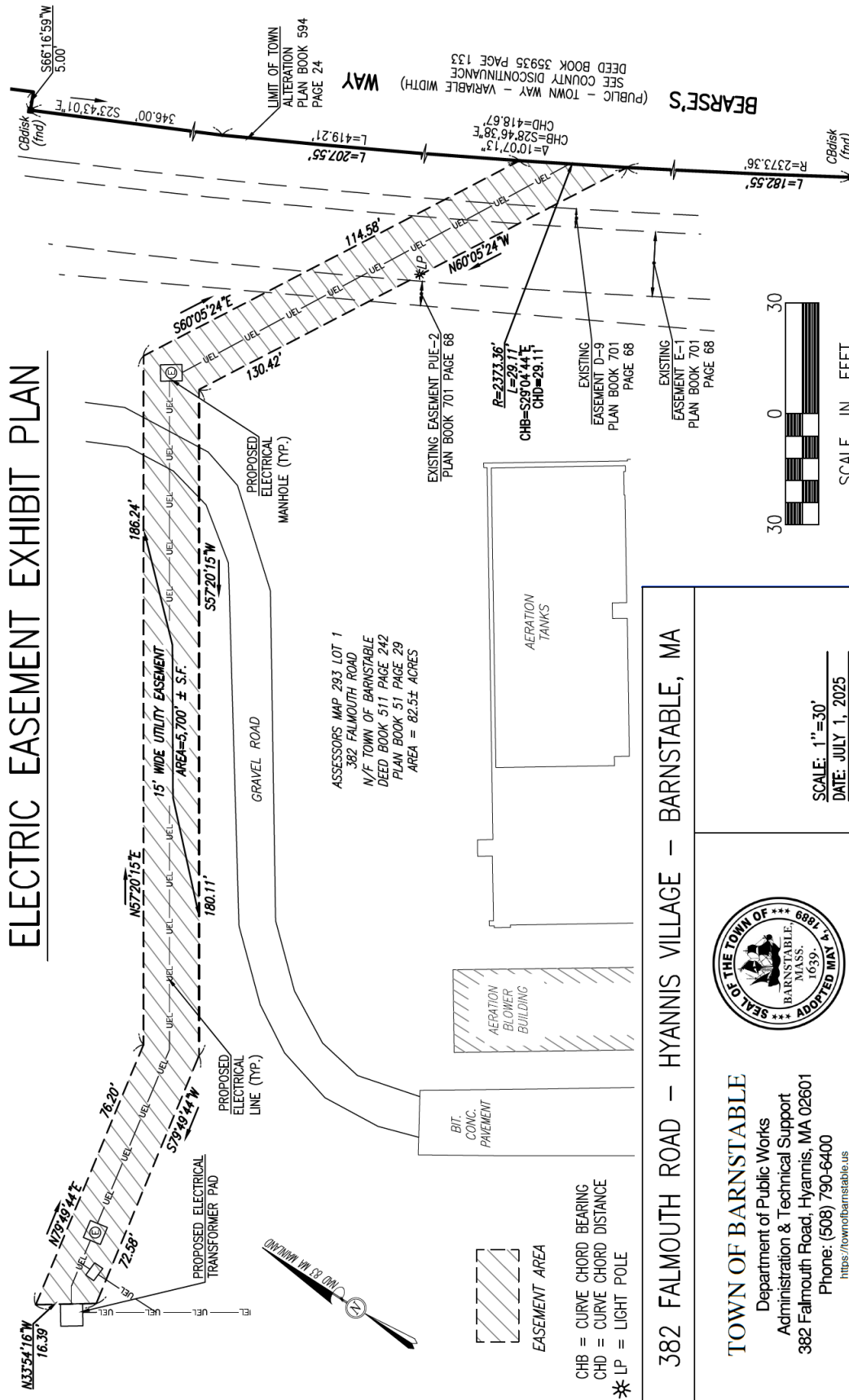
DATE	ACTION TAKEN
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_____	Read Item
_____	Rationale
_____	Council Discussion
_____	Vote

# ELECTRIC EASEMENT EXHIBIT PLAN

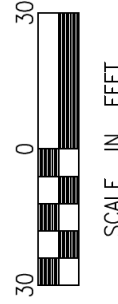


382 FALMOUTH ROAD — HYANNIS VILLAGE — BARNSTABLE, MA



**TOWN OF BARNSTABLE**  
 Department of Public Works  
 Administration & Technical Support  
 382 Falmouth Road, Hyannis, MA 02601  
 Phone: (508) 790-6400  
<https://townofbarnstable.us>

SCALE: 1" = 30'  
 DATE: JULY 1, 2025



# BARNSTABLE TOWN COUNCIL

**ITEM# 2026-002**  
**INTRO: 07/17/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Thomas J. LaRosa, First Assistant Town Attorney  
**THROUGH:** Mark S. Ells, Town Manager  
**DATE:** July 17, 2025  
**SUBJECT:** Order authorizing the grant of an easement for electric facilities on town-owned land at 382 Falmouth Road in Hyannis

**BACKGROUND:** As part of the improvements planned at the Water Pollution Control Facility, the Town's Department of Public Works ("DPW") requires the installation of a new underground electric service. Prior to installing an electric service, NSTAR Electric Company, doing business as Eversource Energy, requires that their customer grant an easement to NSTAR Electric Company, which would provide them with the right to install and maintain their electric service on the customer's property. The authorization requested from the Town Council would allow the Town to grant such an easement to NSTAR Electric Company or one of their related entities.

The easement area consists of 5,700± square feet and is shown as "15' Wide Utility Easement" on the attached plan captioned "Electric Easement Exhibit Plan" "382 Falmouth Road - Hyannis Village – Barnstable, MA", prepared by the Town of Barnstable, Department of Public Works, and dated July 1, 2025. The Council's vote would authorize the Town Manager to make minor changes to the plan and easement area, which could be needed based on the final requirements of Eversource.

After the easement is finalized, the DPW would coordinate with Eversource on the installation of the underground electric service.

**ANALYSIS:** The grant of the easement to NSTAR Electric Company or one its related entities will allow for the installation of a new electric service at the Water Pollution Control Facility located at 382 Falmouth Road in Hyannis. The electric service is required as part of the DPW's planned improvements at the facility.

**FINANCIAL IMPACT:** The Town would receive nominal monetary consideration (\$1.00) for granting the easement.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends approval.

**STAFF ASSISTANCE:** Thomas J. LaRosa, First Assistant Town Attorney; Griffin Beaudoin, P.E., Town Engineer; Shane Brenner, Town Surveyor

**B. NEW BUSINESS (First Reading) (Refer to Planning Board)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-003  
INTRO: 07/17/2025**

**2026-003 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I  
GENERAL ORDINANCES, CHAPTER 240 ZONING, ARTICLE III DISTRICT  
REGULATIONS, SECTION 240-24.1.5 STANDARDS FOR ALL DISTRICTS TO  
MODIFY THE REQUIRED PARKING FOR RESIDENTIAL OR ARTIST  
LIVE/WORK AND ESTABLISH A PARKING SPACE DIMENSIONAL  
STANDARD**

**ORDERED:** That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning, Article III District Regulations, Section 240-24.1.5, Standards for all Districts, Subsection (C) Parking Standards, be amended as follows:

**SECTION 1**

By amending subsection (2)(a) by inserting after the words “on-site shared parking” the following: “, but excluding accessible parking spaces required by the Massachusetts Architectural Access Board regulations at 521 CMR 23.00”

**SECTION 2**

By further amending said subsection (2)(a) by adding the following new subsection (ii):

(ii) Parking space dimensions shall be a minimum of 9 feet by 18 feet and the drive aisle between spaces shall be a minimum of 20 feet.

**SECTION 3**

By amending subsection (2)(b) by inserting after the words “Table 2” the following: “and the parking standards found in subsection (C)(2)(a)(ii)”.

**SECTION 4**

By amending Table 2 Minimum Required Accessory Parking Spaces by striking from the Use Category of “Residential or artist live/work (per DU)” the number “1” where it appears each time under the headings: DMS, DV, DN, HH and TC, and inserting the number “1.5” in place thereof.

**SPONSOR:** Craig A. Tamash, Town Council President, Precinct 4

DATE	ACTION TAKEN
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___	Read Item
___	Motion to Open Public Hearing
___	Rationale
___	Public Hearing
___	Close Public Hearing
___	Council Discussion
___	Vote

# BARNSTABLE TOWN COUNCIL

## SUMMARY

**ITEM# 2026-003**  
**INTRO: 07/17/2025**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** James Kupfer, Director, Planning & Development Department  
**DATE:** July 17, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article III Section 24.1.5(c) Table 2, to modify the required parking for residential or artist live/work (per du), modify the calculation for minimum parking spaces, and establish minimum dimensional standards for parking spaces.

**BACKGROUND:** The proposed zoning amendments follow discussions by the Town Council Ad-Hoc Subcommittee regarding necessary updates to Chapter 240 Zoning Ordinance. The Committee has recommended that Town Council consider the proposed amendment to Chapter 240 §24.1.5.C Table 2 Minimum Required Accessory Parking Spaces to increase the minimum required parking for “Residential or artist live/work (per DU)” from one space per unit in all districts to a parking ratio greater than one space per unit but less than two spaces per unit.

The Committee further recommended that when calculating required parking spaces that the mandated handicap parking spaces not be included in this count (which would make those spaces additional requirements). And finally the committee recommended establishing minimum parking dimension standards of 9’ x 18’ per space and a minimum of a 20’ drive aisle between spaces.

Zoning amendments are processed in accordance with Massachusetts General Law (MGL) Chapter 40A, Section 5. Adoption or change of zoning ordinances may be initiated by the submission to the Town Council of a proposed zoning ordinance by different parties, including the Town Council itself.

**ANALYSIS:** The proposed changes will increase the total parking required per residential dwelling unit as well as provide specific parking dimensional requirements.

**FISCAL IMPACT:** There is no significant fiscal impact associated with this item.

**STAFF SUPPORT:** James Kupfer, Director, Planning & Development Department



## § 240-24.1.5. Standards for all Districts.

### A. Building standards.

1. Frontage types.
  - (a) Buildings must have at least one frontage type except if otherwise specified. Buildings on corner lots must have two frontage types, one for each frontage.
  - (b) Frontage types are permitted as specified by Table 11.<sup>1</sup>
  - (c) Multiple frontage types may exist for buildings that have more than one principal entrance.
2. Buildings must have at least one principal entrance located on the facade.
  - (a) Multistory buildings with ground floor commercial space(s) must have one principal entrance for each commercial space in addition to any principal entrance(s) necessary for any upper stories.
3. Buildings may not exceed the maximum number of stories as specified for each district.
  - (a) Each individual story of a building must comply with the minimum and maximum story height specified for each district.
  - (b) Story height is measured vertically from the surface of the finished floor to the surface of the finished floor above. When there is no floor above, story height is measured from the surface of the finished floor to the top of the structural beam or joists above or the top of the wall plate, whichever is more.
  - (c) The ground story is always counted as one story, except that a single ground story over 18 feet in height is counted as two stories.
  - (d) Each upper story is counted as one additional story, except that any upper story over 16 feet is counted as two stories.
  - (e) Basements are not counted as one story unless the finished floor of the ground story is five feet or more above the average ground level of the lot.
  - (f) Habitable space located directly under a pitched roof is counted as a 0.5 story.
    - (i) The roof rafters of a half story must intersect the wall plate or top of wall frame of the exterior walls at a height no more than two feet above the finished floor of the half story.
  - (g) Non-habitable attic space located under a pitched roof is not counted a half story. (h) Pitched roofs with a slope greater than 12:12 require a special permit.
4. Buildings may not exceed the maximum building height specified for each district, as applicable.

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1. Editor's Note: See § 240-24.1.13, Tables.

- (a) Building height is measured as the vertical distance from the average finished ground level to the top of the structural beam or joists of the uppermost story.
  - 5. Non-habitable architectural features including, but not limited to, mechanical and stairwell penthouses; vents or exhausts; solar panels or skylights; belfries, chimneys, cupolas, parapets, spires, and steeples are not included in any building height or story calculations and are permitted on roofs.
  - 6. Building components are permitted as specified by Table 12.<sup>2</sup>
  - 7. Facades must have fenestration as specified for each district, as applicable.
    - (a) Fenestration is calculated as a percentage of the area of a facade.
    - (b) For buildings with ground story commercial spaces, ground story fenestration is measured between two feet and 12 feet above the finished floor of the ground story.
    - (c) For all other buildings and all other building stories, fenestration is measured independently for each story, corresponding with the top of a finished floor to the top of the finished floor above.
  - 8. Fenestration enclosed with glass may be included in the calculation if it meets the following criteria:
    - (a) For ground story fenestration, glazing must have a minimum 60% Visible Light Transmittance (VLT) and no more than 15% Visible Light Reflectance (VLR) as indicated by the manufacturer.
    - (b) For upper story fenestration, glazing must have a minimum of 40% VLT and no more than 15% VLR as indicated by the manufacturer.
- B. Use provisions.
- 1. General.
    - (a) The use of real property is permitted as specified by Table 1.
      - (i) Table 1 is organized by broad use categories and specific uses that may be regulated differently than other uses from the same category.
      - (ii) Use categories are intended to include uses with similar functional, product, or physical characteristics; the type and amount of activity; the manner of tenancy; the conduct of customers; how goods or services are sold or delivered; and the likely impacts on surrounding properties.
      - (iii) Where Table 1 identifies a category followed by "except as follows" any use that meets the definition of that use category is permitted by right, while the specific uses identified in the list under that category are either not permitted, are permitted with limitations, or require a special permit despite belonging to the same use category.

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2. Editor's Note: See § 240-24.1.13, Tables.

- (iv) Where Table 1 identifies a category followed by "as specified below" the specific uses listed under the category are the only land uses permitted from that use category.
- (b) The Building Commissioner shall classify the actual use of land or structures using the defined use categories specified on Table 1. Also see § 240-24.1.4, Definitions.
  - (i) Real property may have one or more principal use(s).
  - (ii) Once classified into a use category, the use of land or structures in the same manner cannot also be classified into another use category.
  - (iii) The use of land or structures in a manner that is inconsistent with a permitted use category or specific use type specified on Table 1 is prohibited.
  - (iv) Unless classified as a specific use that is not permitted in a zoning district, an existing nonconforming use may be changed to another nonconforming use that is from the same use category as the existing nonconforming use by special permit.
  - (v) A nonconforming use may not change to a different nonconforming use that is from a different use category than the existing nonconforming use.
- (c) Accessory uses are permitted as set forth in Article V of the Barnstable Zoning Ordinance.

<b>Table 1.</b>							
<b>Use Category Specific Use</b>	<b>DMS</b>	<b>DV</b>	<b>DN</b>	<b>DH</b>	<b>HH</b>	<b>TC</b>	<b>HC</b>
Commercial services (except as follows)	P	P	N	P	P	P	P
Automobile maintenance and repair	N	N	N	N	N	N	N
Boat storage and repair	N	N	N	N	P	N	N
Contractor services	N	N	N	N	N	N	N
Funeral services	N	N	N	N	N	N	N
Marina	N	N	N	N	P	N	N
Commercial parking	N	N	N	N	N	P	SP
Public transportation maintenance	N	N	N	N	N	SP	N
Recreational facility	SP	SP	N	SP	SP	SP	SP
Self-storage facility	N	N	N	N	N	N	SP
Veterinary services	SP	SP	N	N	N	N	P
Cultural services (as specified below)	—	—	—	—	—	—	—
Arts and culture establishments	P	P	N	N	P	P	P
Fraternal and social organizations	P	P	N	N	P	P	P
Performing arts and theaters	P	P	N	N	P	P	P
Artist live/work	P	P	P	N	P	P	N

<b>Table 1.</b>							
<b>Use Category Specific Use</b>	<b>DMS</b>	<b>DV</b>	<b>DN</b>	<b>DH</b>	<b>HH</b>	<b>TC</b>	<b>HC</b>
Food and beverage services (except as follows)	L	L	N	SP	L	L	SP
Brewery/distillery	L	N	N	N	N	N	N
Hospital	N	N	N	P	N	N	N
Office (except as follows)	P	P	L	P	P	P	P
Health care clinic	P	P	L	P	P	N	P
Research and development	P	P	N	P	P	N	P
Residential (as specified below)	—	—	—	—	—	—	—
Multiunit dwelling	L	L	L	N	L	L	N
Two-unit dwelling	P	P	L	N	N	N	N
Single unit dwelling	N	P	P	N	N	N	N
Retail sales (except as follows)	L	L	N	SP	L	L	SP
Boat sales	N	N	N	N	SP	N	N
Gasoline sales	N	N	N	N	N	N	N
Motor vehicle sales	N	N	N	N	N	N	N
Visitor accommodations (as specified below)	—	—	—	—	—	—	—
Hotel/motel	P	N	N	N	P	N	P
Bed-and-breakfast	N	P	P	N	P	N	N

P Permitted by right

SP Special permit

N Not permitted

L Permitted with limitations (see district)

## C. Parking standards.

### 1. Applicability.

- (a) Parking is required based on the intended use of floor area within a building at construction permitting and not for the subsequent establishment, change, or expansion of any permitted use; or the renovation of any existing principal building.

### 2. General.

- (a) Accessory parking must be provided as specified by Table 2 and is calculated as the sum of all required spaces, including any adjustment specified for on-site shared parking, [but excluding accessible parking spaces required by the Massachusetts Architectural Access Board regulations at 521 CMR 23.00.](#)

- (i) Commercial parking uses are exempt from Table 2.
  - (ii) Parking space dimensions shall be a minimum of 9 feet by 18 feet and the drive aisle between spaces shall be a minimum of 20 feet.
- (b) Relief from the parking requirements of Table 2 and the parking standards found in subsection (C)(2)(a)(ii) requires a special permit.
- (c) In its discretion to approve or deny a special permit authorizing relief from the minimum parking requirements of Table 2, the Planning Board shall consider conditioning the special permit upon one or more of the following:
- (i) Elimination or reduction of existing curb cuts and driveway aprons.
  - (ii) Establishment of a shared driveway or cross-access connection between abutting parking lots with a binding easement and joint maintenance agreement defining the responsibilities of abutting property owners sharing access.
3. Location.
- (a) Accessory parking spaces must be located on the same lot as the building they support and may be provided within a principal building or outbuilding or as surface parking.
  - (b) Motor vehicle parking of any type is prohibited within the frontage area of a lot and any required landscape buffer.
  - (i) Real property in the Highway Commercial (HC) district or in the Downtown Hospital (DH) district is exempt.

<b>Table 2.</b> <b>Minimum Required Accessory Parking Spaces</b>								
Use Category	DMS	DV	DN	DH	HH	TC	HC	On Site Shared Parking Adjustment <sup>1</sup>
Commercial services (per 1,000 square feet)	0	4	N/A	4	4	4	4	Reduce by 50% the required spaces for commercial services where mixed with residential uses on the same lot
Cultural services (per 1,000 square feet)	0	4	4	4	N/A	4	4	Reduce by 20% the required spaces for cultural services where mixed with residential uses on the same lot
Food and beverage services (per 1,000 square feet)	0	4	N/A	4	4	4	4	—
Hospital (per 3 beds)	N/A	N/A	N/A	1	N/A	N/A	N/A	—
Office (per 1,000 square feet)	3	3	3	3	3	3	3	Reduce by 50% the required spaces for office where mixed with residential uses on the same lot
Residential or artist live/work (per DU)	1.5	1.5	1.5	N/A	1.5	1.5	N/A	—

<b>Table 2.</b> <b>Minimum Required Accessory Parking Spaces</b>								
<b>Use Category</b>	<b>DMS</b>	<b>DV</b>	<b>DN</b>	<b>DH</b>	<b>HH</b>	<b>TC</b>	<b>HC</b>	<b>On Site Shared Parking Adjustment<sup>1</sup></b>
Retail sales (per 1,000 square feet)	0	4	N/A	4	4	4	4	Reduce by 20% the required spaces for retail sales where mixed with residential uses on the same lot
Visitor accommodations (per room)	1.25	1.25	1.25	N/A	1.25	N/A	1.25	—

**D. Site standards.**

**1. Forecourts.**

- (a) Driveways and passenger drop-offs are permitted in forecourts by special permit.
  - (i) Real property in the Downtown Hospital (DH) district is exempt.
- (b) Garage entrances, parking spaces, loading and service areas, exhaust vents, mechanical equipment, and refuse or recycling storage are not permitted in forecourts.

**2. Landscaping.**

- (a) Lot area uncovered by structures or impermeable surfaces must be landscaped.
- (b) New canopy trees must be at least 14 feet in height or three inches in caliper when planted.
- (c) New understory trees must be at least 10 feet in height or 1.5 inches in caliper when planted.
- (d) New evergreen trees must be at least six feet in height when planted.
- (e) Vegetation must be low-water-use and low-maintenance plant species that are indigenous to Cape Cod. Plant species should be capable of withstanding seasonably wet conditions and provide habitat value for wildlife.
- (f) Landscaped areas must be maintained, irrigated, and fertilized. Vegetation should be organically maintained to every extent practicable.
- (g) Vegetation may not obscure any driveways, vehicular entrances, or roadway intersections.
- (h) Mulch may not be placed in a manner that will wash into catch basins or drainage pipes.
- (i) All site plan and special permit applications for development or modifications that meet or exceed the thresholds established in § 240-24.1.3B2(b)(i) must submit a landscape plan(s) signed and stamped by a MA registered landscape architect.
- (j) The Building Commissioner shall not issue a certificate of occupancy until the

landscaping has been installed in accordance with the approved plans unless the property owner posts security to the Town of Barnstable for 150% of the estimated cost of installation of the landscaping.

- (k) All development and/or modifications that meet or exceed the thresholds established in § 240-24.1.3B2(b)(i) shall provide financial security for 150% of the estimated cost of plant installation for the duration of three years after planting has been installed and must be provided prior to issuance of any certificate of occupancy in a form acceptable to the Town Attorney's Office. The cost estimate shall be prepared by a qualified professional and submitted to the Director of Planning and Development for approval. Upon completion of planting, the applicant must request an inspection. The three-year maintenance period commences upon approved inspection. Partial release of the security may be authorized after approved inspection, not to exceed 50%. The full security shall be returned to the applicant or their successors after three years upon final inspection by the Director of Planning & Development. The Town reserves the right upon noncompliance with this section to pursue all available legal and equitable remedies to compel compliance.
  - (l) Any fractional value required for plant materials is rounded up to the next whole number.
3. Stormwater management.
- (a) Rain gardens should be used to the maximum extent practicable. Rain gardens are defined as landscaped areas designed to absorb and filter stormwater runoff from impervious surfaces.
4. Signs.
- (a) All development shall comply with the applicable signage requirements contained in Article VII, Sign Regulations, at §§ 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance. Internally illuminated signs are prohibited in the Downtown Hyannis Zoning Districts.
5. Outdoor lighting.
- (a) All outdoor lighting must be directed only on site.
    - (i) The trespass of light at any lot line may not exceed 0.1 footcandle, except that the trespass of light at any lot line abutting a lot in Downtown Neighborhood (DN) district may not exceed 0.05 footcandle.
    - (ii) At driveways, lighting may be up to 0.5 footcandle at the front lot line.
    - (iii) Outdoor lighting may not cause glare that impacts motorists, pedestrians, or neighboring premises.
  - (b) Light fixtures must have a total cutoff of all light at less than 90° and a beam cutoff of less than 75°. Attached building or wall pack lighting should be screened by the building's architectural features or contain a 45° cutoff shield.

- (c) Electrical service for lighting on posts or poles must be located underground.

6. Fences.

- (a) Fences greater than four feet in height in the frontage area and seven feet in height in all other locations at any point along their length require a special permit except that where fencing that is higher than seven feet is needed to screen mechanical equipment, the Building Commissioner may allow a greater height as determined through the site plan review process.
- (b) Fences may be no more than 50% open.
- (c) Fence posts and supporting rails must face inward toward the property being fenced and the finished face must be oriented towards the abutting lot.

7. Vehicular access.

- (a) Driveways, vehicular entrances to parking lots or structures and curb cuts must comply with the minimum or maximum width specified for each district.
- (b) Drive-throughs require a special permit and are only permitted for the following uses:
  - (i) Banks (a specific use of the commercial service use category).
  - (ii) Pharmacies (a specific use of the retail sales use category).
- (c) All new curb cuts require a special permit.
- (d) The interior width of a curb cut (between the curb stones or flares) may be no wider than the driveway, vehicular entrance, or loading facility it serves, unless a greater width is determined to be appropriate by the Building Commissioner during the Site Plan Review process based upon unique operational requirements of the proposed use.
- (e) A driveway apron may be installed within a sidewalk of an improved way, but the grade, cross slope, and clear width of the pedestrian walkway must be maintained between the driveway apron and the abutting driveway.
- (f) The appearance of the pedestrian walkway (i.e., scoring pattern or paving material) must indicate that, although a vehicle may cross to enter a property, the area traversed by a vehicle remains part of the sidewalk.

8. Utilities.

- (a) All mechanical equipment must be screened from view from adjacent lots and public rights-of-way and integrated into or compatible with the architectural design of the building.

E. Surface parking lot design standards.

1. Applicability.



- (a) This section is applicable to the construction of any new surface parking lot and the expansion or modification of an existing surface parking lot containing 21 or more parking spaces that increases the number of parking spaces by five or more.

2. General.

- (a) To reduce traffic congestion and increase convenience for customers, employees, and residents, development is encouraged to provide direct vehicular connections between abutting parking lots so that motor vehicles can move between properties without re-entering the public street.
- (b) To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to provide access to rear parking lots via driveways that are shared between abutting properties or multiple properties on the same block face.

3. Surface parking lot landscaping.

- (a) One three-inch minimum caliper low-water-use, low-maintenance tree must be provided for every five parking spaces and must be located within 10 feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least 50 square feet of permeable area. Existing trees located in the interior of parking lots are credited toward this requirement.
- (b) A front landscaped buffer at least 10 feet wide must be provided between any parking lot and any lot line abutting an improved way and must include the following features over the span of 50 linear feet:
  - (i) One canopy tree.
  - (ii) One understory or evergreen tree.
  - (iii) Five medium shrubs and five small shrubs or a fence or wall a maximum of four feet in height.
- (c) A side/rear landscaped buffer at least six feet wide must be provided between any side or rear lot line and any parking lot with five or more parking spaces, excluding any vehicular connections to abutting parking lots and must include the following features over the span of 50 linear feet:
  - (i) Two understory or evergreen trees.
  - (ii) Three large shrubs and five small shrubs or a fence or wall at least six feet in height.
- (d) A landscaped buffer at least 10 feet wide must be provided between any building and any parking lot with 10 or more parking spaces, excluding building entrances, service and loading areas, and utility locations, and must include the following features over the span of 50 linear feet:
  - (i) Two understory or evergreen trees.

(ii) Four medium  
shrubs. (iii) Six small  
shrubs.

- (e) At least 10% of any parking lot with 10 or more parking spaces must be landscaped. Lot area required as a landscape buffer is excluded from the calculation of the parking lot area.
- (f) Landscape islands abutting a single row of parking spaces must be at least six feet in width and the same length as the parking spaces. Each island must include one three-inch minimum caliper, low-water-use, low-maintenance tree.
- (g) Landscape islands abutting a double row of parking spaces must be at least eight feet in width and the same length as the parking spaces. Each island must include two three-inch minimum caliper, low-water-use, low-maintenance trees.

**B. NEW BUSINESS (Refer to Public Hearing August 21, 2025)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-004  
INTRO: 07/17/2025**

**2026-004 ORDER WAIVING FEES FOR CONSTRUCTION WORK BY THE COTUIT FIRE DISTRICT FOR THE EXPANSION AND RENOVATION OF THE FIRE STATION AT 64 AND 56 HIGH STREET, COTUIT**

**ORDERED:** Notwithstanding the provisions of any ordinance of the Town regarding schedules of fees, the construction project for the expansion and renovation of the Fire Station at 64 and 56 High Street in Cotuit by the Cotuit Fire District (the “Project”) shall hereby be exempt from payment of such fees; provided that if the Town is required to hire outside inspectors with special expertise to inspect any aspect of the Project, the Cotuit Fire District will pay those costs; and provided further, that this Order shall not become effective until a Memorandum of Agreement between the Town of Barnstable and the Cotuit Fire District substantially in the form attached hereto is executed and filed with the Barnstable Town Clerk in which the Cotuit Fire District agrees to pay any such costs for outside inspectors.

**SPONSOR:** Councilor Seth Burdick, Precinct 7

DATE	ACTION TAKEN
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_____	_____
_____	_____

_____	Read Item
_____	Rationale
_____	Public Hearing
_____	Close Public Hearing
_____	Council Discussion
_____	Vote

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the Town of Barnstable (“Town”) and the Cotuit Fire District (“District”). This Agreement relates to Town Council Item 2026-XXX, a copy of which is attached hereto and incorporated by reference herein.

WHEREAS, the Town Council, in approving Town Council Item 2026-XXX, voted to waive, *inter alia*, any building inspectional services fees for inspections conducted in-house and which did not require any special expertise not available within the Town’s Inspectional Services Department; and

WHEREAS, the Town Council, in approving Item 2026-XXX, required the execution of a Memorandum of Agreement between the Town and the District in which the District agrees to pay any costs incurred by the Town for the hiring of outside inspectors with special expertise;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the District agree as follows:

1. Upon the determination of the Building Commissioner that an outside inspector with special expertise is required to be hired for the Project at the District’s expense, s/he shall serve a notice upon the District by hand delivery or by certified mail, return receipt requested, stating that s/he intends to hire an outside inspector with special expertise at the District’s expense, the reason that said outside inspector needs to be hired and the estimated fee for the services of that outside inspector. The notice shall state that the District has seven (7) business days of receipt to file any objection to the hiring of the outside inspector at its expense. A copy of said notice shall be sent to the Town Manager by the Building Commissioner.
2. In the event that the District objects to the hiring of an outside inspector and/or the estimated costs, the District shall file its objection with the Director of Inspectional Services within the time specified in paragraph 1 above. A representative from the District and the Director of Inspectional Services or his or her designee shall meet to try to resolve the objections. A written determination of the results of that meeting shall be served in hand to the District or sent by the Director of Inspectional Services to the District by certified mail, return receipt requested, with a copy to the Town Manager.
3. The District may appeal in writing the determination by the Director of Inspectional Services to the Barnstable Town Manager within seven (7) business days of its receipt of the determination. Said appeal may be delivered in hand or sent by certified mail, return receipt requested. The decision of the Town Manager regarding the District’s appeal shall be final with no further rights of appeal.
4. If no objection is filed by the District within seven business days after receiving notice of the Town’s intention to hire an outside inspector at its expense, or if an objection is withdrawn and/or resolved, or if the Town Manager approves the hiring of an outside inspector following an appeal filed by the District, the Building Commissioner shall be authorized to hire the outside inspector at the District’s expense and the District shall be invoiced for the services of said outside inspector and shall pay for the services of said outside inspector within thirty (30) days of receipt of said invoice.

5. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when either hand delivered or delivered by certified mail, return receipt to the parties hereto to the addresses set forth below:

Cotuit Fire District  
[address]  
Cotuit, MA 02630

Town Manager  
Town of Barnstable  
367 Main Street  
Hyannis, MA 02601

Director of Inspectional Services  
200 Main Street  
Hyannis, MA 02601

This Memorandum of Agreement is entered into by the duly authorized signatories set forth below of the District and the Town, respectively, as of the date first set forth above:

**COTUIT FIRE DISTRICTTOWN OF BARNSTABLE**

By its Board of Fire Commissioners:                      By its Town Manager:

BY: \_\_\_\_\_ BY: \_\_\_\_\_  
[name], Chair                      Mark S. Ells, Town Manager

BY: \_\_\_\_\_  
[name], Vice Chair

BY: \_\_\_\_\_  
[name], Commissioner

BY: \_\_\_\_\_  
[name], Commissioner

BY: \_\_\_\_\_  
[name], Commissioner

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-004**  
**INTRO: 07/17/2025**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Councilor Seth Burdick  
**DATE:** July 17, 2025  
**SUBJECT:** Order waiving fees for construction work by the Cotuit Fire District for the expansion and renovation of the Fire Station located at 64 and 56 High Street, Cotuit

**BACKGROUND:** The Cotuit Fire District has requested that the Town of Barnstable waive any fees associated with the expansion and renovation of the Fire Station located at 64 and 56 High Street in Cotuit, which the Fire District estimates will be \$122,000. According to the Fire District, this project is a critical piece of public safety infrastructure that will significantly enhance emergency response capabilities by enabling personnel to respond more quickly and effectively to emergencies, ultimately saving lives and protecting property.

The Town Council has previously voted to waive such fees. In October 2016, the Town Council voted to approve Item # 2017-014 for a waiver of fees for construction work on the new Hyannis Fire District Fire Station located at 95 High School Road in Hyannis, and in December 2022, the Town Council voted to approve Item # 2023-066 for a waiver of fees for construction work on the Barnstable Fire District's new Water Treatment Plant off Breeds Hill Road. In addition, Item # 2025-201, which proposes a waiver of fees for construction work by the Barnstable Fire District for a new Fire Station located at 1841 Phinney's Lane, Barnstable, is on the July 17, 2025 agenda.

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

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney

**B. NEW BUSINESS (First Reading) (Refer to Planning Board)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2026-005  
INTRO: 07/17/2025**

**2026-005 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I  
GENERAL ORDINANCES, CHAPTER 240 ZONING, ARTICLE III  
DISTRICT REGULATIONS, TO MODIFY BUILDING HEIGHT  
REQUIREMENTS IN THE DOWNTOWN MAIN STREET DISTRICT AND  
DOWNTOWN VILLAGE DISTRICT**

**ORDERED:** That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning, Article III District Regulations, be amended as follows:

**SECTION 1**

By amending Section 240-24-1.6 Downtown Main Street District (DMS) by deleting in subsection A.1 the word “four” and inserting the words “three and one half” in its place.

**SECTION 2**

By further amending Section 240-24.1.6 by deleting subsection C.6 in its entirety and renumbering subsections C.7, C.8 and C.9 as new subsections C.6, C.7 and C.8.

**SECTION 3**

By further amending Section 240-24.1.6 by deleting in Table 3, under the heading “Building Form” the words “or 4” where they appear after “F - Number of Stories”.

**SECTION 4**

By further amending Section 240-24.1.6 by deleting in Table 3 footnote 1 in its entirety.

**SECTION 5**

By amending Section 240-24.1.7 Downtown Village District (DV) by deleting in subsection A.1 the word “four” and inserting the words “three and one half” in its place.

**SECTION 6**

By further amending Section 240-24.1.7 by deleting subsection C.4 in its entirety and renumbering subsection C.5 as new subsection C.4.

**SECTION 7**

By further amending Section 240-24.1.7 by deleting in Table 4, under the heading “Building Form” the words “or 4” where they appear after “F – Number of Stories”.

## SECTION 8

By further amending Section 240-24.1.7 by deleting in Table 4 footnote 1 in its entirety.

**SPONSOR:** Craig A. Tamash, Town Council President, Precinct 4

DATE	ACTION TAKEN
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_____	_____
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_____	_____
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_____	Read Item
_____	Rationale
_____	Public Hearing
_____	Close Public Hearing
_____	Council Discussion
_____	Vote



# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-005**  
**INTRO:07/17/2025**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** James Kupfer, Director, Planning & Development Department  
**DATE:** June 30, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to revise building height regulations within the Downtown Main Street District and Downtown Village District.

**BACKGROUND:** These proposed zoning amendments follow discussions by the Town Council Ad-Hoc Subcommittee regarding necessary updates to Chapter 240 Zoning Ordinance. The Committee has recommended revising height restrictions in the Downtown Main Street District and Downtown Village District to better align with surrounding neighborhoods and prevent a "canyon effect" along Main Street. The amendments eliminate the fourth-story step-back requirement while lowering the overall maximum building height.

Zoning amendments are processed in accordance with Massachusetts General Law (MGL) Chapter 40A, Section 5. Adoption or change of zoning ordinances may be initiated by the submission to the Town Council of a proposed zoning ordinance by different parties, including the Town Council itself.

**ANALYSIS:** The proposed changes will reduce maximum allowable building heights within the Downtown Main Street District and Downtown Village District to ensure development remains compatible with existing structures and neighborhood character. The amendment may encourage a more varied and nuanced approach to building height regulations based on location and surrounding properties.

**FISCAL IMPACT:** There is no significant fiscal impact associated with this item.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, supports this item.

**STAFF SUPPORT:** James Kupfer, Director, Planning & Development Department

## § 240-24.1.6. Downtown Main Street District (DMS).

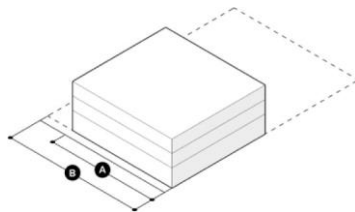
### A. Intent.

1. The Downtown Main Street District is intended to promote the continuation of a walkable, pedestrian-oriented downtown environment with continuous active streetscape. Development is characterized by mid-rise (two-to ~~three and one half~~four-story) mixed-use buildings, continuous street walls and variety of materials with parking visually minimized. Land uses are mixed residential and active commercial, including retail, restaurant, office, hospitality, cultural and institutional.

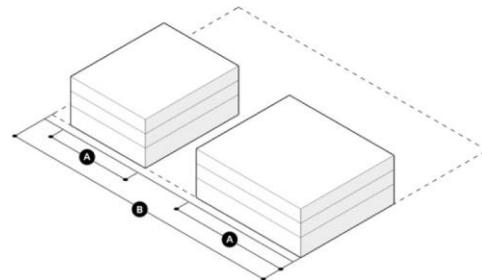
### B. Lot standards.

1. Newly platted lots must be dimensioned as specified by Table 3.
2. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the facade buildout by Table 3.
  - (a) Facade buildout is calculated by dividing the total width of all facades by the lot width and may be cumulatively calculated by multiple buildings.
  - (b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and facade buildout.
  - (c) The SPGA may provide relief from the facade buildout requirements; the Board must find the issuance of the special permit is consistent with the design and infrastructure plan.

### Facade Build Out



$$\text{Single Building per Lot} = A \div B$$



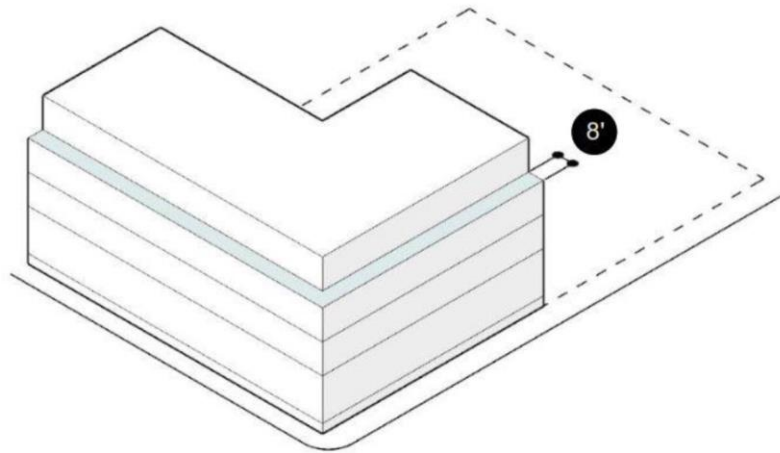
$$\text{Multiple Buildings per Lot} = (A + A) \div B$$

### C. Building standards.

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 3.
  - (a) Additional principal buildings are exempt from the required maximum front setback.
3. Principal building facade(s) must be built parallel to any primary front lot line, at or

between the minimum and maximum front setbacks.

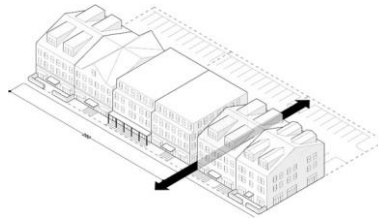
4. Any building contributing toward the frontage buildout for any lot fronting Main Street between Ocean Street and Sea Street must provide ground story commercial space that is at least 20 feet in depth for 100% of the total width of the building, excluding lobby entrances and other means of egress associated with the use of upper stories.
5. Awnings, canopies, signs, balconies, and nonhabitable architectural features of a building may project over the public sidewalk but must provide at least eight feet of clearance and a license from the Town Manager in accordance with Barnstable General Ordinances, Part 1, Chapter 121, § 121-6J is required.
- ~~6. The fourth story of any building must be recessed ("stepped back") from the facade of the stories below at least eight feet.~~



- ~~7.6.~~ Mechanical and stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.
- ~~8.7.~~ Facades may not have any blank wall areas without fenestration or architectural surface relief greater than 20 feet measured both vertically and horizontally for all stories of a building for any facade.
- ~~9.8.~~ Loading and service areas may not be visible from any public sidewalk of Main Street.

D. Design guidelines.

1. The development of any new principal building should include a pedestrian passage connecting the sidewalk at the front of the property to any parking areas to the rear of the building, to every extent practicable, where no such pedestrian passage exists within 200 linear feet of the building's principal entrance.



2. When provided, pedestrian passages may be designed as an open-air passage between buildings, a covered atrium providing continuous protection from the elements, or as an up to two-story passage through a building.

E. Use provisions.

1. Limitations.

- (a) Occupation of a single commercial space greater than 5,000 square feet by any food and beverage service or retail sales use requires a special permit.
- (b) The maximum number of dwelling units permitted for any multiunit dwelling residential use is determined by the permitted dimensions of the building and the actual motor vehicle parking spaces provided on a lot as required by Table 2.

F. Site standards.

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than 24 feet.

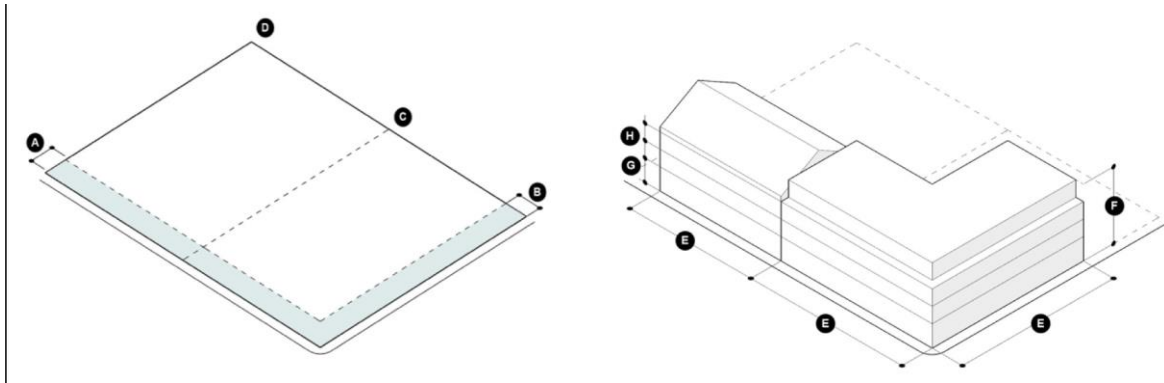
G. Landscape standards.

1. A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one canopy tree to be planted every 30 feet of frontage of the property.
2. A side or rear landscaped area at least six feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of 50 linear feet:
  - (a) Two understory or evergreen trees.
  - (b) Three medium shrubs and three small shrubs or a fence or wall at least six feet in height.

H. Parking standards.

1. For development on any through lot fronting Main Street, parking access must be provided from the non-Main-Street frontage.

**Table 3. DMS Dimensional Standards**



**Lot**

Lot width	30 feet minimum
Lot coverage	100% maximum
Facade buildout (minimum)	—
Primary frontage	80% minimum
Secondary frontage	40% minimum

**Setbacks - Principal Buildings**

A - Primary front setback	0 foot minimum 15 feet maximum
B - Secondary front setback	0 foot minimum 15 feet maximum
C - Side setback	0 foot minimum
D - Rear setback	0 foot minimum

**Building Form**

E - Building width	180 feet maximum
F - Number of stories	3.5 <del>or 4</del> maximum <sup>1</sup>
G - Ground story height	—
Commercial	14 feet minimum
Residential	10 feet minimum
H - Upper story height	10 feet minimum

**Building Features**

Ground story fenestration	—
Primary frontage	60% minimum
Secondary frontage	15% minimum
Upper story fenestration	15% minimum
Blank wall	20 feet maximum
Commercial space depth	20 feet minimum

<sup>1</sup> ~~See § 240-24.1.6C6 (fourth story step-back).~~

## § 240-24.1.7. Downtown Village District (DV).

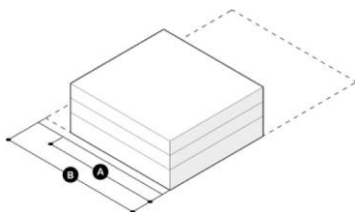
### A. Intent.

1. The Downtown Village District is intended to promote mixed land uses that support the downtown core and reestablish or preserve traditional neighborhood forms and pedestrian orientation. Development is characterized by mid-rise (two- to ~~three and one half~~ ~~four-story~~) single-use buildings and detached and semi-detached residential buildings.

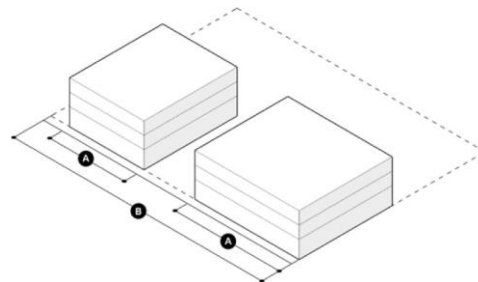
### B. Lot standards.

1. Newly platted lots must be dimensioned as specified by Table 4.
2. Lot coverage may not exceed the maximum specified by Table 4.
3. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the facade buildout on Table 4.
  - (a) Facade buildout is calculated by dividing the total width of all facades at or forward of the maximum front setback by the lot width and may be cumulatively calculated by multiple buildings.
  - (b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and facade buildout.
  - (c) The SPGA may provide relief from the facade buildout requirements; the Board must find the issuance of the special permit is consistent with the design and infrastructure plan.

### Facade Build Out



Single Building per Lot =  $A \div B$



Multiple Buildings per Lot =  $(A + A) \div B$

### C. Building standards.

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 4.
  - (a) Additional principal buildings are exempt from the required maximum front setback

3. Principal building facade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.

~~4. The fourth story of any building must be recessed (stepped back) from the facade of the stories below at least eight feet.~~

5-4. Mechanical and stairwell penthouses and building systems equipment must be set back from any exterior wall a distance that is equal to their height.

D. Mechanical and stairwell penthouses and building systems equipment must be set back from any exterior wall a distance that is equal to their height.

E. Use provisions.

1. Limitations.

(a) Occupation of a single commercial space greater than 5,000 square feet by any food and beverage service or retail sales use requires a special permit.

(b) The maximum number of dwelling units permitted for any multiunit dwelling residential use is determined by the permitted dimensions of the building and the actual motor vehicle parking spaces provided on a lot as required by Table 2.<sup>1</sup>

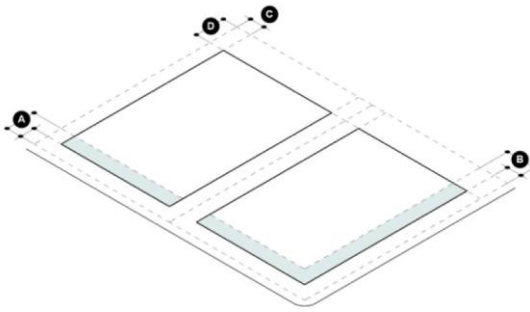
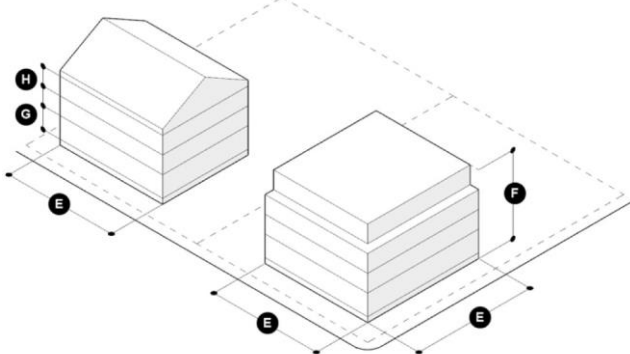
F. Site standards.

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than 24 feet.

G. Landscape standards.

1. A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one canopy tree to be planted every 30 feet of frontage of the property.

**Table 4. DV Dimensional Standards**

	
<b>Lot</b>	<b>Building Form</b>

1. Editor's Note: See § 240-24.1.5, Standards for all Districts.

**Table 4. DV Dimensional Standards**

Lot width	30 feet minimum	E - Building width	120 feet maximum
Lot coverage	80% maximum	F - Number of stories	3.5 maximum <sup>1</sup>
Facade buildout (minimum)	—	G - Ground story height	—
Primary frontage	80% minimum	Commercial	14 feet minimum
		Residential	10 feet minimum
<b>Setbacks - Principal Buildings</b>		Upper story height	10 feet minimum
A - Primary front setback	0 foot minimum 15 feet maximum	<b>Building Features</b>	
B - Secondary front setback	0 foot minimum 15 feet maximum	Ground story fenestration	—
C - Side setback	0 foot minimum	Primary frontage	15% minimum
D - Rear setback	0 foot minimum	Secondary frontage	15% minimum
		Upper story fenestration	15% minimum
		Blank wall	20 feet maximum
		Commercial space depth	20 feet minimum

<sup>1</sup> ~~See § 240-24.1.7C4 (fourth story step-back)~~



**B. NEW BUSINESS (First Reading) (Refer to Planning Board)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-006**  
**INTRO: 07/17/2025**

**2026-006 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I  
GENERAL ORDINANCES, CHAPTER 240 ZONING TO REPEAL THE  
DOWNTOWN VILLAGE DISTRICT AND AMEND THE ZONING MAP TO  
REPLACE THE DOWNTOWN VILLAGE DISTRICT WITH THE  
DOWNTOWN NEIGHBORHOOD ZONING DISTRICT**

**ORDERED:** That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning be amended as follows:

**SECTION 1**

By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to repeal the “Downtown Village District” and replace it with the “Downtown Neighborhood District”, as shown on the draft map dated 4-1-25, prepared by the Town of Barnstable Geographical Information System Unit, and entitled “Downtown Hyannis Zoning Districts”.

**SECTION 2**

By amending Article II, Section 240-5, Establishment of districts, by deleting the “DV Downtown Village” district where it appears under the heading “Downtown Hyannis Zoning District”.

**SECTION 3**

By amending Article III, Section 240-24.1.5 by deleting in subsection B, Table 1, the “DV” column in its entirety.

**SECTION 4**

By further amending Section 240-24.1.5. by deleting in subsection C, Table 2, the “DV” column in its entirety.

**SECTION 5**

By amending Article III by deleting Section 240-24.1.7 Downtown Village District (DV) in its entirety and inserting “Section 240-24.1.7 Reserved” in its place.

**SECTION 6**

By amending Article III, Section 240-24.1.13 Tables by deleting the “DV” column in its entirety.

**SPONSOR:** Craig A. Tamash, Town Council President, Precinct 4

DATE

ACTION TAKEN

_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2026-006**  
**INTRO: 07/17/2025**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** James Kupfer, Director, Planning & Development Department  
**DATE:** June 30, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to delete the Downtown Village District and to amend the zoning map to expand the Downtown Neighborhood Zoning District in all locations Downtown Village District exists and to delete the Downtown Village District

**BACKGROUND:** These proposed zoning amendments follow discussions by the Town Council Ad-Hoc Subcommittee regarding necessary updates to Chapter 240 Zoning Ordinance. The Committee has recommended revising the outer extents of the Downtown Hyannis Zoning Districts to limit density, heights, lot coverage and increase setbacks. The subcommittee determined that Downtown Neighborhood District better aligns with surrounding neighborhoods. The amendments eliminate the Downtown Village District and expand the Downtown Neighborhood District.

Zoning amendments are processed in accordance with Massachusetts General Law (MGL) Chapter 40A, Section 5. Adoption or change of zoning ordinances may be initiated by the submission to the Town Council of a proposed zoning ordinance by different parties, including the Town Council itself.

**ANALYSIS:** The proposed changes will reduce maximum allowable building heights, limit overall density, limit lot coverage and increase setbacks to seek more compatible development with existing structures and neighborhood character. The proposed amended zoning district boundaries may be necessary to reflect appropriate height and density transitions.

**FISCAL IMPACT:** There is no significant fiscal impact associated with this item.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, supports this item.

**STAFF SUPPORT:** James Kupfer, Director, Planning & Development Department

**§ 240-5. Establishment of districts. [Amended 7-15-1999; 10-26-2000; 2-1-2001;11-18-2004 by Order No. 2004-113; 1-20-2005 by Order No. 2005-038; 1-20-2005 by Order No. 2005-039; 7-14-2005 by Order No. 2005-100; 5-10-2007 by Order No. 2007-101; 2-28-2008 by Order No. 2008-077; 2-28-2008 by Order No. 2008-090; 4-3-2008 by Order No. 2008-091; 6-17-2010 by Order No. 2010-122; 10-7-2010 by Order No. 2010-159; 9-8-2011 by Order No. 2011-138; 2-6-2014 by Order No. 2014-050; 4-27-2017 by Order No. 2017-100; 10-21-2021 by Order No. 2022-007; 2-2-2023 by Order No. 2022-1442-2-2023 by Order No. 2022-146]**

In order to carry out the purpose of this chapter, the following districts are hereby established:

### **Residential Districts**

RB	Residence B District
RC	Residence C District
RC-1	Residence C-1 District
RC-2	Residence C-2 District
RC-2C	Residence 2-C (Pond Village District)
RD	Residence D District
RD-1	Residence D-1 District
RF	Residence F District
RF-1	Residence F-1 District
RF-2	Residence F-2 District
RG	Residence G District
RAH	Residence AH District
MAH	Multi-Family Affordable Housing MAH District

### **Office Districts**

HO	Highway Office District
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### **Commercial Districts**

B	Business District
BA	Business A District
MB-A1	Marine Business A1 District
MB-A2	Marine Business A2 District
MB-B	Marine Business B District
VB-A	Village Business A District
HB	Highway Business District

### **Commercial Districts**

UB	Urban Business District
S&D	Service and Distribution District
SD-1	Service and Distribution District
MMV	Marston Mills Village District
WBVBD	West Barnstable Village Business District

### **Downtown Hyannis Zoning District DMS**

DMS	Downtown Main Street
<del>DV</del>	<del>Downtown Village</del>
DN	Downtown Neighborhood
HH	Hyannis Harbor
TC	Transportation Center
HC	Highway Commercial
DH	Downtown Hospital

### **Industrial Districts**

IND LIMITED	Industrial Limited District
IND	Industrial District

### **Overlay Districts**

GP	Groundwater Protection Overlay District
AP	Aquifer Protection Overlay District
WP	Well Protection Overlay District
	Shopping Center Redevelopment Overlay District
	Adult Use Overlay District
RPOD	Resource Protection Overlay District
DOD	Dock and Pier Overlay District
	Medical Services Overlay District
	Mixed-Use Subzone of the Medical Services Overlay District
FG-5	Former Grade 5 School Planned Unit Development Overlay District
SCCRC	Senior Continuing Care Overlay District
	Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District

**Town of Barnstable, MA**

**§ 240-5**

**Overlay Districts**

Medical Marijuana Overlay District

Registered Recreational Marijuana Cultivators, Research Facilities, and  
Testing Laboratories Overlay District

## **§ 240-24.1.5. Standards for all Districts.**

### **A. Building standards.**

#### **1. Frontage types.**

- (a) Buildings must have at least one frontage type except if otherwise specified. Buildings on corner lots must have two frontage types, one for each frontage.
- (b) Frontage types are permitted as specified by Table 11.<sup>1</sup>
- (c) Multiple frontage types may exist for buildings that have more than one principal entrance.

#### **2. Buildings must have at least one principal entrance located on the facade.**

- (a) Multistory buildings with ground floor commercial space(s) must have one principal entrance for each commercial space in addition to any principal entrance(s) necessary for any upper stories.

#### **3. Buildings may not exceed the maximum number of stories as specified for each district.**

- (a) Each individual story of a building must comply with the minimum and maximum story height specified for each district.
- (b) Story height is measured vertically from the surface of the finished floor to the surface of the finished floor above. When there is no floor above, story height is measured from the surface of the finished floor to the top of the structural beam or joists above or the top of the wall plate, whichever is more.
- (c) The ground story is always counted as one story, except that a single ground story over 18 feet in height is counted as two stories.
- (d) Each upper story is counted as one additional story, except that any upper story over 16 feet is counted as two stories.
- (e) Basements are not counted as one story unless the finished floor of the ground story is five feet or more above the average ground level of the lot.
- (f) Habitable space located directly under a pitched roof is counted as a 0.5 story.
  - (i) The roof rafters of a half story must intersect the wall plate or top of wall frame of the exterior walls at a height no more than two feet above the finished floor of the half story.
- (g) Nonhabitable attic space located under a pitched roof is not counted a half story.
- (h) Pitched roofs with a slope greater than 12:12 require a special permit.

#### **4. Buildings may not exceed the maximum building height specified for each district, as applicable.**

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1. Editor's Note: See § 240-24.1.13, Tables.

- (a) Building height is measured as the vertical distance from the average finished ground level to the top of the structural beam or joists of the uppermost story.
- 5. Non-habitable architectural features including, but not limited to, mechanical and stairwell penthouses; vents or exhausts; solar panels or skylights; belfries, chimneys, cupolas, parapets, spires, and steeples are not included in any building height or story calculations and are permitted on roofs.
- 6. Building components are permitted as specified by Table 12.<sup>2</sup>
- 7. Facades must have fenestration as specified for each district, as applicable.
  - (a) Fenestration is calculated as a percentage of the area of a facade.
  - (b) For buildings with ground story commercial spaces, ground story fenestration is measured between two feet and 12 feet above the finished floor of the ground story.
  - (c) For all other buildings and all other building stories, fenestration is measured independently for each story, corresponding with the top of a finished floor to the top of the finished floor above.
- 8. Fenestration enclosed with glass may be included in the calculation if it meets the following criteria:
  - (a) For ground story fenestration, glazing must have a minimum 60% Visible Light Transmittance (VLT) and no more than 15% Visible Light Reflectance (VLR) as indicated by the manufacturer.
  - (b) For upper story fenestration, glazing must have a minimum of 40% VLT and no more than 15% VLR as indicated by the manufacturer.
- B. Use provisions.
  - 1. General.
    - (a) The use of real property is permitted as specified by Table 1.
      - (i) Table 1 is organized by broad use categories and specific uses that may be regulated differently than other uses from the same category.
      - (ii) Use categories are intended to include uses with similar functional, product, or physical characteristics; the type and amount of activity; the manner of tenancy; the conduct of customers; how goods or services are sold or delivered; and the likely impacts on surrounding properties.
      - (iii) Where Table 1 identifies a category followed by "except as follows" any use that meets the definition of that use category is permitted by right, while the specific uses identified in the list under that category are either not permitted, are permitted with limitations, or require a special permit despite belonging to the same use category.

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2. Editor's Note: See § 240-24.1.13, Tables.



- (iv) Where Table 1 identifies a category followed by "as specified below" the specific uses listed under the category are the only land uses permitted from that use category.
- (b) The Building Commissioner shall classify the actual use of land or structures using the defined use categories specified on Table 1. Also see § 240-24.1.4, Definitions.
  - (i) Real property may have one or more principal use(s).
  - (ii) Once classified into a use category, the use of land or structures in the same manner cannot also be classified into another use category.
  - (iii) The use of land or structures in a manner that is inconsistent with a permitted use category or specific use type specified on Table 1 is prohibited.
  - (iv) Unless classified as a specific use that is not permitted in a zoning district, an existing nonconforming use may be changed to another nonconforming use that is from the same use category as the existing nonconforming use by special permit.
  - (v) A nonconforming use may not change to a different nonconforming use that is from a different use category than the existing nonconforming use.
- (c) Accessory uses are permitted as set forth in Article V of the Barnstable Zoning Ordinance.

Table 1.							
Use Category Specific Use	DMS	<del>DV</del>	DN	DH	HH	TC	HC
Commercial services (except as follows)	P	<del>P</del>	N	P	P	P	P
Automobile maintenance and repair	N	<del>N</del>	N	N	N	N	N
Boat storage and repair	N	<del>N</del>	N	N	P	N	N
Contractor services	N	<del>N</del>	N	N	N	N	N
Funeral services	N	<del>N</del>	N	N	N	N	N
Marina	N	<del>N</del>	N	N	P	N	N
Commercial parking	N	<del>N</del>	N	N	N	P	SP
Public transportation maintenance	N	<del>N</del>	N	N	N	SP	N
Recreational facility	SP	<del>SP</del>	N	SP	SP	SP	SP
Self-storage facility	N	<del>N</del>	N	N	N	N	SP
Veterinary services	SP	<del>SP</del>	N	N	N	N	P
Cultural services (as specified below)	—	<del>—</del>	—	—	—	—	—
Arts and culture establishments	P	<del>P</del>	N	N	P	P	P
Fraternal and social organizations	P	<del>P</del>	N	N	P	P	P
Performing arts and theaters	P	<del>P</del>	N	N	P	P	P
Artist live/work	P	<del>P</del>	P	N	P	P	N

**Table 1.**

Use Category Specific Use	DMS	<del>DV</del>	DN	DH	HH	TC	HC
Food and beverage services (except as follows)	L	<del>L</del>	N	SP	L	L	SP
Brewery/distillery	L	<del>N</del>	N	N	N	N	N
Hospital	N	<del>N</del>	N	P	N	N	N
Office (except as follows)	P	<del>P</del>	L	P	P	P	P
Health care clinic	P	<del>P</del>	L	P	P	N	P
Research and development	P	<del>P</del>	N	P	P	N	P
Residential (as specified below)	—	<del>—</del>	—	—	—	—	—
Multiunit dwelling	L	<del>L</del>	L	N	L	L	N
Two-unit dwelling	P	<del>P</del>	L	N	N	N	N
Single unit dwelling	N	<del>P</del>	P	N	N	N	N
Retail sales (except as follows)	L	<del>L</del>	N	SP	L	L	SP
Boat sales	N	<del>N</del>	N	N	SP	N	N
Gasoline sales	N	<del>N</del>	N	N	N	N	N
Motor vehicle sales	N	<del>N</del>	N	N	N	N	N
Visitor accommodations (as specified below)	—	<del>—</del>	—	—	—	—	—
Hotel/motel	P	<del>N</del>	N	N	P	N	P
Bed-and-breakfast	N	<del>P</del>	P	N	P	N	N

P Permitted by right

SP Special permit

N Not permitted

L Permitted with limitations (see district)

## C. Parking standards.

### 1. Applicability.

- (a) Parking is required based on the intended use of floor area within a building at construction permitting and not for the subsequent establishment, change, or expansion of any permitted use; or the renovation of any existing principal building.

### 2. General.

- (a) Accessory parking must be provided as specified by Table 2 and is calculated as the sum of all required spaces, including any adjustment specified for on-site shared parking.

- (i) Commercial parking uses are exempt from Table 2.
- (b) Relief from the parking requirements of Table 2 requires a special permit.
- (c) In its discretion to approve or deny a special permit authorizing relief from the minimum parking requirements of Table 2, the Planning Board shall consider conditioning the special permit upon one or more of the following:
  - (i) Elimination or reduction of existing curb cuts and driveway aprons.
  - (ii) Establishment of a shared driveway or cross-access connection between abutting parking lots with a binding easement and joint maintenance agreement defining the responsibilities of abutting property owners sharing access.

### 3. Location.

- (a) Accessory parking spaces must be located on the same lot as the building they support and may be provided within a principal building or outbuilding or as surface parking.
- (b) Motor vehicle parking of any type is prohibited within the frontage area of a lot and any required landscape buffer.
  - (i) Real property in the Highway Commercial (HC) district or in the Downtown Hospital (DH) district is exempt.

**Table 2.  
Minimum Required Accessory Parking Spaces**

Use Category	DMS	DV	DN	DH	HH	TC	HC	On Site Shared Parking Adjustment <sup>1</sup>
Commercial services (per 1,000 square feet)	0	4	N/A	4	4	4	4	Reduce by 50% the required spaces for commercial services where mixed with residential uses on the same lot
Cultural services (per 1,000 square feet)	0	4	4	4	N/A	4	4	Reduce by 20% the required spaces for cultural services where mixed with residential uses on the same lot
Food and beverage services (per 1,000 square feet)	0	4	N/A	4	4	4	4	—
Hospital (per 3 beds)	N/A	N/A	N/A	1	N/A	N/A	N/A	—
Office (per 1,000 square feet)	3	3	3	3	3	3	3	Reduce by 50% the required spaces for office where mixed with residential uses on the same lot
Residential or artist live/work (per DU)	1	1	1	N/A	1	1	N/A	—

<p><b>Table 2.</b> <b>Minimum Required Accessory Parking Spaces</b></p>								
<b>Use Category</b>	<b>DMS</b>	<b><del>DV</del></b>	<b>DN</b>	<b>DH</b>	<b>HH</b>	<b>TC</b>	<b>HC</b>	<b>On Site Shared Parking Adjustment<sup>1</sup></b>
Retail sales (per 1,000 square feet)	0	4	N/A	4	4	4	4	Reduce by 20% the required spaces for retail sales where mixed with residential uses on the same lot
Visitor accommodations (per room)	1.25	<del>1.25</del>	1.25	N/A	1.25	N/A	1.25	—

#### D. Site standards.

##### 1. Forecourts.

- (a) Driveways and passenger drop-offs are permitted in forecourts by special permit.
  - (i) Real property in the Downtown Hospital (DH) district is exempt.
- (b) Garage entrances, parking spaces, loading and service areas, exhaust vents, mechanical equipment, and refuse or recycling storage are not permitted in forecourts.

##### 2. Landscaping.

- (a) Lot area uncovered by structures or impermeable surfaces must be landscaped.
- (b) New canopy trees must be at least 14 feet in height or three inches in caliper when planted.
- (c) New understory trees must be at least 10 feet in height or 1.5 inches in caliper when planted.
- (d) New evergreen trees must be at least six feet in height when planted.
- (e) Vegetation must be low-water-use and low-maintenance plant species that are indigenous to Cape Cod. Plant species should be capable of withstanding seasonably wet conditions and provide habitat value for wildlife.
- (f) Landscaped areas must be maintained, irrigated, and fertilized. Vegetation should be organically maintained to every extent practicable.
- (g) Vegetation may not obscure any driveways, vehicular entrances, or roadway intersections.
- (h) Mulch may not be placed in a manner that will wash into catch basins or drainage pipes.
- (i) All site plan and special permit applications for development or modifications that meet or exceed the thresholds established in § 240-24.1.3B2(b)(i) must submit a landscape plan(s) signed and stamped by a MA registered landscape architect.
- (j) The Building Commissioner shall not issue a certificate of occupancy until the

landscaping has been installed in accordance with the approved plans unless the property owner posts security to the Town of Barnstable for 150% of the estimated cost of installation of the landscaping.

- (k) All development and/or modifications that meet or exceed the thresholds established in § 240-24.1.3B2(b)(i) shall provide financial security for 150% of the estimated cost of plant installation for the duration of three years after planting has been installed and must be provided prior to issuance of any certificate of occupancy in a form acceptable to the Town Attorney's Office. The cost estimate shall be prepared by a qualified professional and submitted to the Director of Planning and Development for approval. Upon completion of planting, the applicant must request an inspection. The three-year maintenance period commences upon approved inspection. Partial release of the security may be authorized after approved inspection, not to exceed 50%. The full security shall be returned to the applicant or their successors after three years upon final inspection by the Director of Planning & Development. The Town reserves the right upon noncompliance with this section to pursue all available legal and equitable remedies to compel compliance. (l) Any fractional value required for plant materials is rounded up to the next whole number.

3. Stormwater management.

- (a) Rain gardens should be used to the maximum extent practicable. Rain gardens are defined as landscaped areas designed to absorb and filter stormwater runoff from impervious surfaces.

4. Signs.

- (a) All development shall comply with the applicable signage requirements contained in Article VII, Sign Regulations, at §§ 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance. Internally illuminated signs are prohibited in the Downtown Hyannis Zoning Districts.

5. Outdoor lighting.

- (a) All outdoor lighting must be directed only on site.
  - (i) The trespass of light at any lot line may not exceed 0.1 footcandle, except that the trespass of light at any lot line abutting a lot in Downtown Neighborhood (DN) district may not exceed 0.05 footcandle.
  - (ii) At driveways, lighting may be up to 0.5 footcandle at the front lot line.
  - (iii) Outdoor lighting may not cause glare that impacts motorists, pedestrians, or neighboring premises.
- (b) Light fixtures must have a total cutoff of all light at less than 90° and a beam cutoff of less than 75°. Attached building or wall pack lighting should be screened by the building's architectural features or contain a 45° cutoff shield.

- (c) Electrical service for lighting on posts or poles must be located underground.
- 6. Fences.
  - (a) Fences greater than four feet in height in the frontage area and seven feet in height in all other locations at any point along their length require a special permit except that where fencing that is higher than seven feet is needed to screen mechanical equipment, the Building Commissioner may allow a greater height as determined through the site plan review process.
  - (b) Fences may be no more than 50% open.
  - (c) Fence posts and supporting rails must face inward toward the property being fenced and the finished face must be oriented towards the abutting lot.
- 7. Vehicular access.
  - (a) Driveways, vehicular entrances to parking lots or structures and curb cuts must comply with the minimum or maximum width specified for each district.
  - (b) Drive-throughs require a special permit and are only permitted for the following uses:
    - (i) Banks (a specific use of the commercial service use category).
    - (ii) Pharmacies (a specific use of the retail sales use category).
  - (c) All new curb cuts require a special permit.
  - (d) The interior width of a curb cut (between the curb stones or flares) may be no wider than the driveway, vehicular entrance, or loading facility it serves, unless a greater width is determined to be appropriate by the Building Commissioner during the Site Plan Review process based upon unique operational requirements of the proposed use.
  - (e) A driveway apron may be installed within a sidewalk of an improved way, but the grade, cross slope, and clear width of the pedestrian walkway must be maintained between the driveway apron and the abutting driveway.
  - (f) The appearance of the pedestrian walkway (i.e., scoring pattern or paving material) must indicate that, although a vehicle may cross to enter a property, the area traversed by a vehicle remains part of the sidewalk.
- 8. Utilities.
  - (a) All mechanical equipment must be screened from view from adjacent lots and public rights-of-way and integrated into or compatible with the architectural design of the building.
- E. Surface parking lot design standards.
  - 1. Applicability.

- (a) This section is applicable to the construction of any new surface parking lot and the expansion or modification of an existing surface parking lot containing 21 or more parking spaces that increases the number of parking spaces by five or more.
2. General.
- (a) To reduce traffic congestion and increase convenience for customers, employees, and residents, development is encouraged to provide direct vehicular connections between abutting parking lots so that motor vehicles can move between properties without re-entering the public street.
  - (b) To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to provide access to rear parking lots via driveways that are shared between abutting properties or multiple properties on the same block face.
3. Surface parking lot landscaping.
- (a) One three-inch minimum caliper low-water-use, low-maintenance tree must be provided for every five parking spaces and must be located within 10 feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least 50 square feet of permeable area. Existing trees located in the interior of parking lots are credited toward this requirement.
  - (b) A front landscaped buffer at least 10 feet wide must be provided between any parking lot and any lot line abutting an improved way and must include the following features over the span of 50 linear feet:
    - (i) One canopy tree.
    - (ii) One understory or evergreen tree.
    - (iii) Five medium shrubs and five small shrubs or a fence or wall a maximum of four feet in height.
  - (c) A side/rear landscaped buffer at least six feet wide must be provided between any side or rear lot line and any parking lot with five or more parking spaces, excluding any vehicular connections to abutting parking lots and must include the following features over the span of 50 linear feet:
    - (i) Two understory or evergreen trees.
    - (ii) Three large shrubs and five small shrubs or a fence or wall at least six feet in height.
  - (d) A landscaped buffer at least 10 feet wide must be provided between any building and any parking lot with 10 or more parking spaces, excluding building entrances, service and loading areas, and utility locations, and must include the following features over the span of 50 linear feet:
    - (i) Two understory or evergreen trees.

- (ii) Four medium shrubs.
- (iii) Six small shrubs.
- (e) At least 10% of any parking lot with 10 or more parking spaces must be landscaped. Lot area required as a landscape buffer is excluded from the calculation of the parking lot area.
- (f) Landscape islands abutting a single row of parking spaces must be at least six feet in width and the same length as the parking spaces. Each island must include one three-inch minimum caliper, low-water-use, low-maintenance tree.
- (g) Landscape islands abutting a double row of parking spaces must be at least eight feet in width and the same length as the parking spaces. Each island must include two three-inch minimum caliper, low-water-use, low-maintenance trees.



## ~~§ 240-24.1.7. Downtown Village District (DV)~~

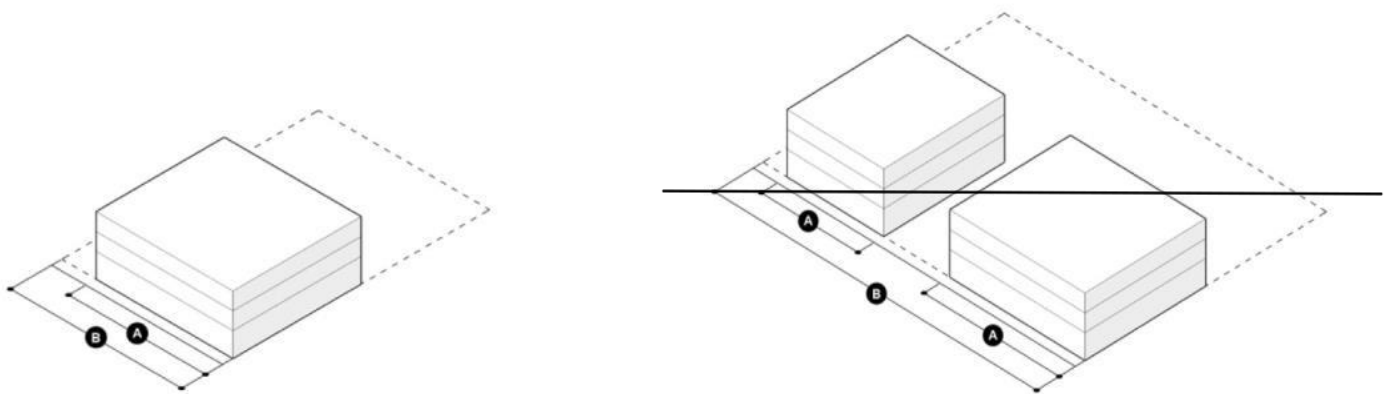
### ~~A. Intent.~~

- ~~1. The Downtown Village District is intended to promote mixed land uses that support the downtown core and reestablish or preserve traditional neighborhood forms and pedestrian orientation. Development is characterized by mid-rise (two to four story) single-use buildings and detached and semi-detached residential buildings.~~

### ~~B. Lot standards.~~

- ~~1. Newly platted lots must be dimensioned as specified by Table 4.~~
- ~~2. Lot coverage may not exceed the maximum specified by Table 4.~~
- ~~3. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the facade buildout on Table 4.~~
  - ~~(a) Facade buildout is calculated by dividing the total width of all facades at or forward of the maximum front setback by the lot width and may be cumulatively calculated by multiple buildings.~~
  - ~~(b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and facade buildout.~~
  - ~~(c) The SPGA may provide relief from the facade buildout requirements; the Board must find the issuance of the special permit is consistent with the design and infrastructure plan.~~

### **Facade Build Out**



~~Single Building per Lot =  $A \div B$  Multiple Buildings per Lot =  $(A + A) \div B$~~

### ~~C. Building standards.~~

- ~~1. Multiple principal buildings are permitted per lot.~~
- ~~2. Principal buildings are permitted as specified by Table 4.~~

(a) ~~Additional principal buildings are exempt from the required maximum front setback.~~

3. ~~Principal building facade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.~~

4. ~~The fourth story of any building must be recessed ("stepped back") from the facade of the stories below at least eight feet.~~

5. ~~Mechanical and stairwell penthouses and building systems equipment must be set back from any exterior wall a distance that is equal to their height.~~

**D. — Use provisions.**

**1. — Limitations.**

(b) ~~Occupation of a single commercial space greater than 5,000 square feet by any food and beverage service or retail sales use requires a special permit.~~

(c) ~~The maximum number of dwelling units permitted for any multiunit dwelling residential use is determined by the permitted dimensions of the building and the actual motor vehicle parking spaces provided on a lot as required by Table 2.1~~

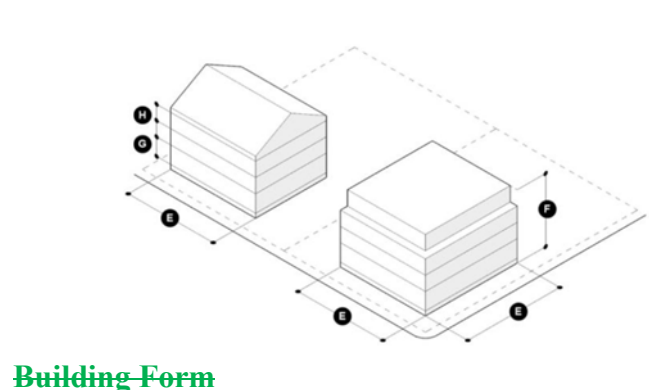
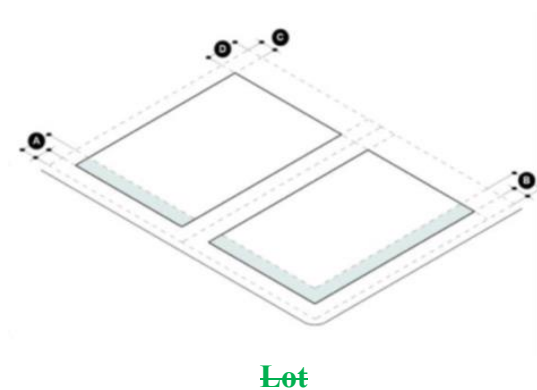
**E. — Site standards.**

1. ~~Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than 24 feet.~~

**F. — Landscape standards.**

1. ~~A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one canopy tree to be planted every 30 feet of frontage of the property.~~

**Table 4. DV Dimensional Standards**



1. ~~Editor's Note: See § 240-24.1.5, Standards for all Districts.~~

**Table 4. DV Dimensional Standards**

<del>Lot width</del>	<del>30 feet minimum</del>	<del>E—Building width</del>	<del>120 feet maximum</del>
<del>Lot coverage</del>	<del>80% maximum</del>	<del>F—Number of stories</del>	<del>3.5 or 4 maximum<sup>1</sup></del>
<del>Facade buildout (minimum)</del>	<del>—</del>	<del>G—Ground story height</del>	<del>—</del>
<del>Primary frontage</del>	<del>80% minimum</del>	<del>Commercial</del>	<del>14 feet minimum</del>
<b>Setbacks—Principal Buildings</b>		<del>Residential— Upper story height</del>	<del>10 feet minimum 10 feet minimum</del>
		<del>A—Primary front setback</del>	<del>0 foot minimum 15 feet maximum</del>
<del>B—Secondary front setback</del>	<del>0 foot minimum 15 feet maximum</del>	<del>Ground story fenestration</del>	<del>—</del>
<del>C—Side setback</del>	<del>0 foot minimum</del>	<del>Primary frontage</del>	<del>15% minimum</del>
<del>D—Rear setback</del>	<del>0 foot minimum</del>	<del>Secondary frontage</del>	<del>15% minimum</del>
		<del>Upper story fenestration</del>	<del>15% minimum</del>
		<del>Blank wall</del>	<del>20 feet maximum</del>
		<del>Commercial space depth</del>	<del>20 feet minimum</del>
<sup>1</sup> See § 240-24.1.7C4 (fourth story step back).			

Chapter 240. Zoning  
Article III. District Regulations  
§ 240-24.1.13. Tables.

**Table 10. Dimensional Standards Summary Table**

	DMS	DV	DN	DH	HH	TC	HC
<b>A. Lot</b>							
Lot width	30 feet minimum	30 feet minimum	20 feet minimum	50 feet minimum	20 feet minimum	50 feet minimum	50 feet minimum
Lot coverage	100% maximum	80% maximum	50% maximum	100% maximum	90% maximum	65% maximum	80% maximum
Facade buildout	—	—	—	—	—	—	—
Primary frontage	80% minimum	80% minimum	—	—	—	—	—
Secondary frontage	40% minimum	—	—	—	—	—	—
<b>B. Setbacks - Principal Building</b>							
Primary front setback	0 foot minimum 15 feet maximum	0 foot minimum 15 feet maximum	10 feet minimum 20 feet maximum	20 feet minimum	20 feet minimum	20 feet minimum	60 feet maximum
Lots fronting Route 28	—	—	—	—	—	50 feet minimum	20 feet minimum
Secondary front setback	0 foot minimum 15 feet maximum	0 foot minimum 15 feet maximum	10 feet minimum 20 feet maximum	20 feet minimum	20 feet minimum	20 feet minimum	20 feet minimum
Side setback	0 foot minimum	0 foot minimum	10 feet minimum	10 feet minimum	10 feet minimum	10 feet minimum	10 feet minimum
Rear setback	0 foot minimum	0 foot minimum	20 feet minimum	10 feet minimum	10 feet minimum	10 feet minimum	10 feet minimum
<b>C. Setbacks - Outbuilding</b>							
Primary front setback	—	—	60 feet minimum	—	—	—	—
Secondary front setback	—	—	—	—	—	—	—
Side setback	—	—	3 feet minimum	—	—	—	—
Rear setback	—	—	3 feet minimum	—	—	—	—
<b>D. Building Form</b>							
Building width	180 feet maximum	120 feet maximum	—	—	—	—	—
Number of stories	—	—	—	—	—	—	—
Principal building	3.5 or 4 maximum <sup>1</sup>	3.5 or 4 maximum <sup>2</sup>	3 maximum <sup>3</sup>	6 maximum	2.5 maximum	3 maximum	3 maximum <sup>4</sup>
Outbuilding	—	—	—	—	—	—	—
Ground story height	—	—	10 feet minimum	—	—	—	—
Commercial	14 feet minimum	14 feet minimum	—	—	—	—	—

**Table 10. Dimensional Standards Summary Table**

	DMS	DV	DN	DH	HH	TC	HC
Residential	10 feet minimum	10 feet minimum	—	—	—	—	—
Upper story height	10 feet minimum	10 feet minimum	10 feet minimum	—	—	—	—
Building height	—	—	—	85 feet maximum	35 feet maximum <sup>5</sup>	40 feet maximum	40 feet maximum
<b>E. Building Features</b>							
Ground story fenestration	—	—	—	—	—	—	—
Primary frontage	60% minimum	15% minimum	—	—	—	—	—
Secondary frontage	15% minimum	15% minimum	—	—	—	—	—
Upper story fenestration	15% minimum	15% minimum	—	—	—	—	—
Blank wall	20 feet maximum	20 feet maximum	—	—	—	—	—
Commercial space depth	20 feet minimum	20 feet minimum					

<sup>1</sup> See § 240-24.1.6C6 (fourth Story Step-back).

<sup>2</sup> See § 240-24.1.7C4 (fourth Story Step-back).

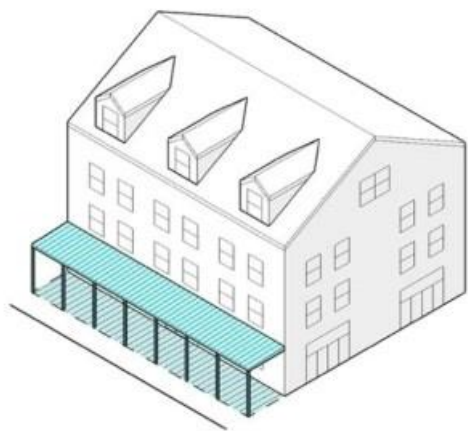
<sup>3</sup> See § 240-24.18C2(a).

<sup>4</sup> See § 240-24.1.12C2(a).

<sup>5</sup> See § 240-24.1.10C2(a).

**Table 11. Frontage Types**

P - Permitted	N - Not Permitted	DMS	DV	DN	DH	HH	TC	HC
		P	P	N	N/A	P	P	P

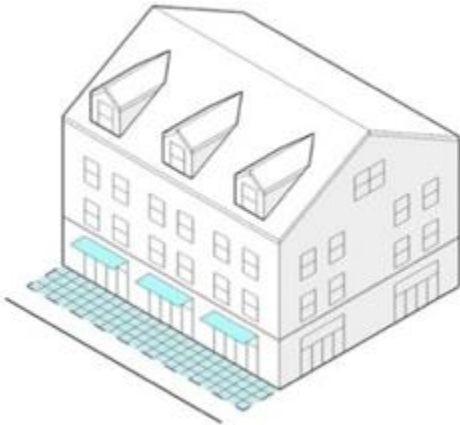


A frontage type consisting of a storefront(s) and an at- tached colonnade with a roof, open pergola, or balcony overhanging a paved sidewalk. A gallery may wrap around the corner of a building to create a veranda-like gallery.

Storefront	P	P	N	N/A	P	P	P
------------	---	---	---	-----	---	---	---

**Table 11. Frontage Types**

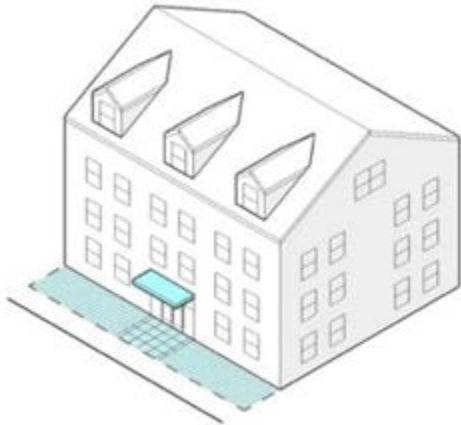
P - Permitted	N - Not Permitted	DMS	DV	DN	DH	HH	TC	HC
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A frontage type consisting of an assembly of commercial entry doors and display windows providing access and light to a commercial space and a place to display goods, services, and signs.

Common Lobby

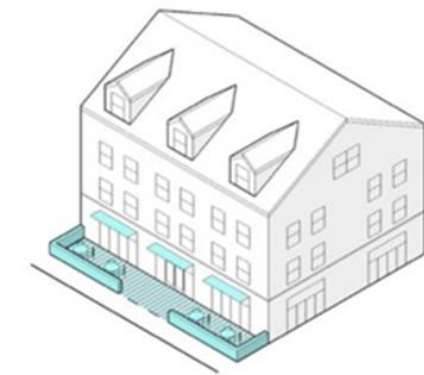
P	P	N	N/A	P	P	P
---	---	---	-----	---	---	---



A frontage type consisting of an assembly of entry doors and windows providing access and light to the lobby of a building. A common lobby may be combined with an entry plaza or front garden frontage type.

Dining Patio

P	P	N	N/A	P	P	P
---	---	---	-----	---	---	---



A frontage type consisting of a storefront(s)

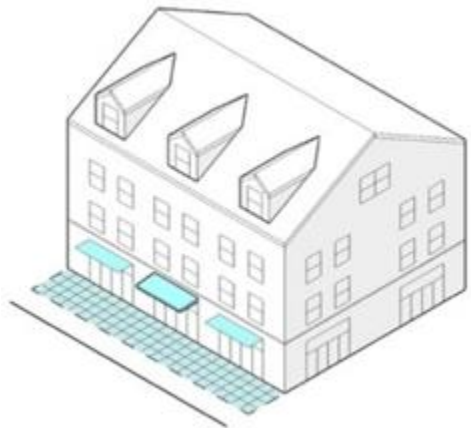
and outdoor cafe seating in the frontage area.

Entry Plaza

P	P	N	N/A	P	P	P
---	---	---	-----	---	---	---

Table 11. Frontage Types

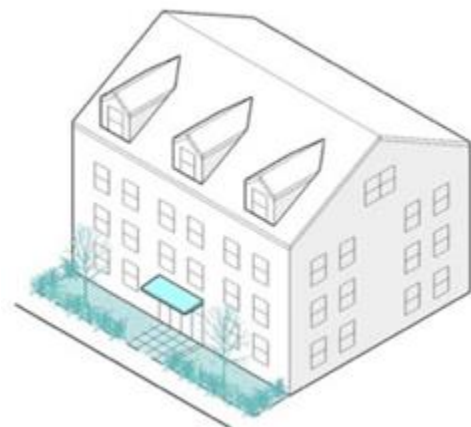
P - Permitted	N - Not Permitted	DMS	DV	DN	DH	HH	TC	HC
---------------	-------------------	-----	----	----	----	----	----	----



A frontage type consisting of a storefront(s) and a highly paved frontage area. An entry plaza may be combined with a common lobby frontage type.

Front Garden

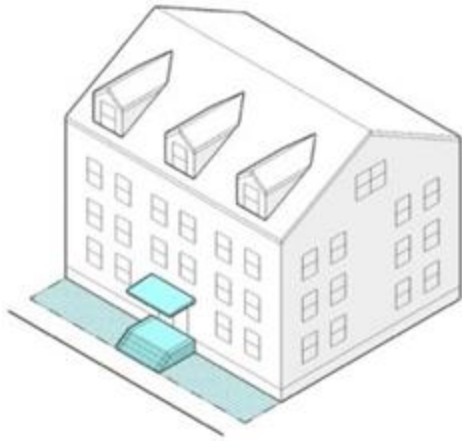
N	N	P	N/A	N	N	N
---	---	---	-----	---	---	---



A frontage type consisting of a highly landscaped frontage area. A front garden may be combined with a common lobby, dooryard or stoop, or porch frontage type.

Dooryard or Stoop

N	N	P	N/A	N	N	N
---	---	---	-----	---	---	---



A frontage type consisting of a zero-step entrance or a set of stairs with a landing that provides access to the entrance of a building. A dooryard or stoop may be combined with a front garden frontage type.

Table 11. Frontage Types

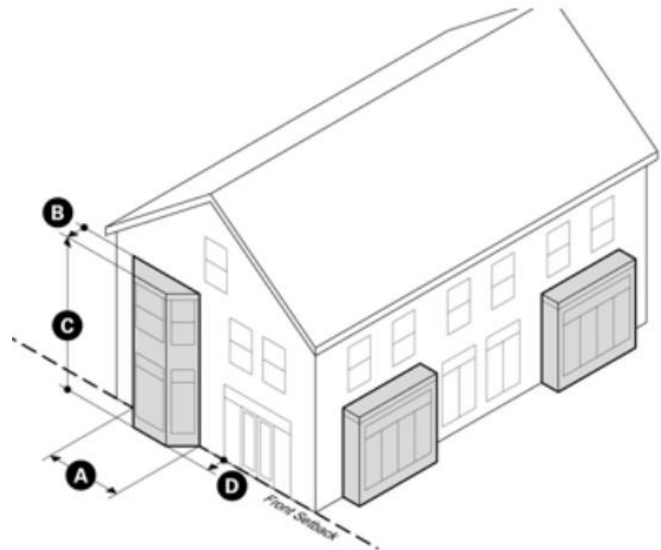
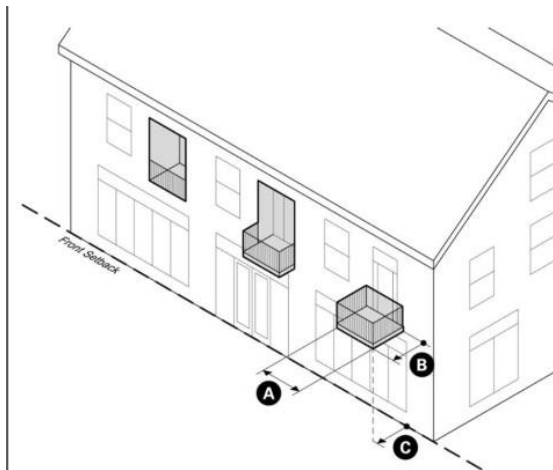
P - Permitted	N - Not Permitted	DMS	DN	DH	HH	TC	HC
---------------	-------------------	-----	----	----	----	----	----

A frontage type consisting of a raised platform with a roof supported by columns, piers, or posts; an area for seating; and an optional set of stairs with a landing that provides access to the entrance of a building. A porch may be combined with a front garden frontage

Table 12. Building

A. Balcony

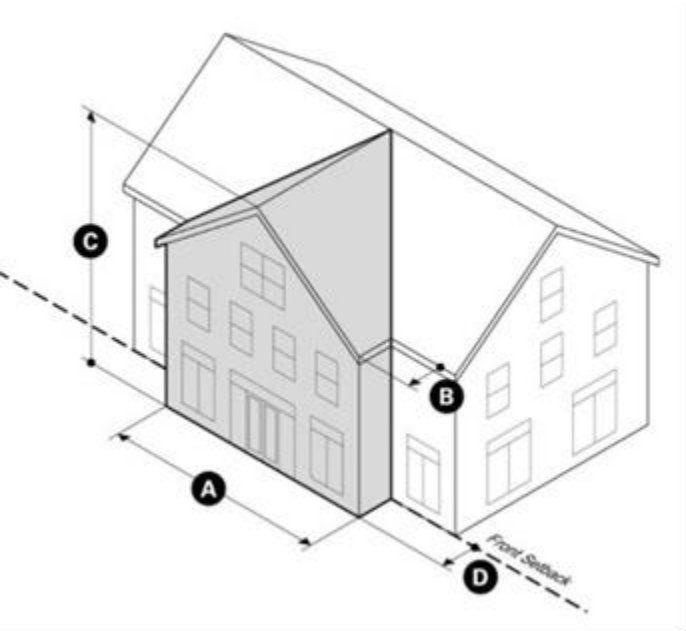
B. Bay or Oriel Window



A	Width (minimum)	5 feet	A	Single bay width (maximum)	16 feet
B	Depth (minimum)	4 feet		Cumulative bay width (maximum)	50% of the width of the exterior wall from which the bays project
	Area (minimum)	20 square feet	B	Projection (maximum)	3 feet
C	Front setback encroachment (maximum)	5 feet	C	Stories (maximum)	Same as the principal building
			D	Front setback encroachment	3 feet



	Design standards: Balconies may attach to any exterior wall of a principal building. Balconies may be recessed, projecting, a combination of the two, or terraced as part of the roof of a permitted building component.		Design standards: Bays may attach to any exterior wall of a principal building. A bay window may have a flat roof.
C.	Dormer	D.	Cross Gable
E.	Projecting Gable		



A	Width (maximum)	Equal to the shortest side of the attached primary massing
B	Projection (maximum)	6 feet
C	Height (minimum)	Height of building in stories
D	Front setback encroachment (maximum)	6 feet
	Design standards: A projecting gable may attach only the facade of a principal building. The roof ridge of a projecting gable must be perpendicular to the main roof ridge of the principal building.	

**B. NEW BUSINESS (First Reading) (Refer to Planning Board)**  
**BARNSTABLE TOWN COUNCIL**

**ITEM# 2026-007**  
**INTRO: 07/17/2025**

**2026-007 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I  
GENERAL ORDINANCES, CHAPTER 240 ZONING TO AMEND THE AREA IN  
THE DOWNTOWN MAIN STREET DISTRICT WHERE GROUND FLOOR  
COMMERCIAL SPACE IS REQUIRED**

**ORDERED:** That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning, Article III District Regulations, Section 240-24.1.6 Downtown Main Street District (DMS) be amended by deleting in subsection C.4. the words “Ocean Street” and inserting the words “Pleasant Street” in their place.

**SPONSOR:** Craig A. Tamash, Town Council President, Precinct 4

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM# 2026-007**  
**INTRO: 07/17/2025**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** James Kupfer, Director, Planning & Development Department  
**DATE:** June 30, 2025  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to revise the Downtown Main Street District by amending the area where ground-floor commercial space is required

**BACKGROUND:** These proposed zoning amendments follow discussions by the Town Council Ad-Hoc Subcommittee regarding necessary updates to Chapter 240 Zoning Ordinance. The Committee has recommended revising the area where ground-floor commercial space is required along Hyannis Main Street.

Zoning amendments are processed in accordance with Massachusetts General Law (MGL) Chapter 40A, Section 5. Adoption or change of zoning ordinances may be initiated by the submission to the Town Council of a proposed zoning ordinance by different parties, including the Town Council itself.

**ANALYSIS:** The proposed changes will change the area within the Downtown Main Street (DMS) District where ground-floor commercial space is required from lots fronting Main Street between Ocean Street and Sea Street, to lots fronting on Main Street between Pleasant Street and Sea Street.

**FISCAL IMPACT:** There is no significant fiscal impact associated with this item.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, supports this item.

**STAFF SUPPORT:** James Kupfer, Director, Planning & Development Department

## § 240-24.1.6. Downtown Main Street District (DMS).

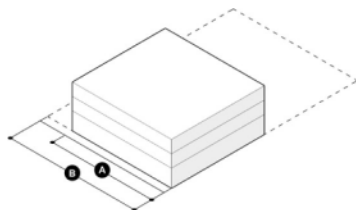
### A. Intent.

1. The Downtown Main Street District is intended to promote the continuation of a walkable, pedestrian-oriented downtown environment with continuous active streetscape. Development is characterized by mid-rise (two- to four-story) mixed-use buildings, continuous street walls and variety of materials with parking visually minimized. Land uses are mixed residential and active commercial, including retail, restaurant, office, hospitality, cultural and institutional.

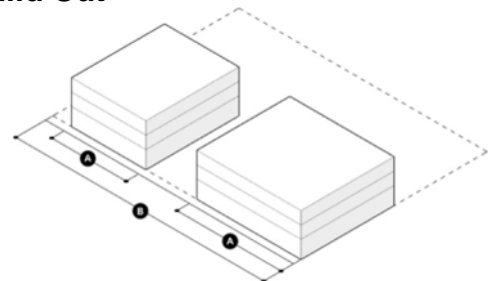
### B. Lot standards.

1. Newly platted lots must be dimensioned as specified by Table 3.
2. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the facade buildout by Table 3.
  - (a) Facade buildout is calculated by dividing the total width of all facades by the lot width and may be cumulatively calculated by multiple buildings.
  - (b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and facade buildout.
  - (c) The SPGA may provide relief from the facade buildout requirements; the Board must find the issuance of the special permit is consistent with the design and infrastructure plan.

### Facade Build Out



Single Building per Lot =  $A \div B$



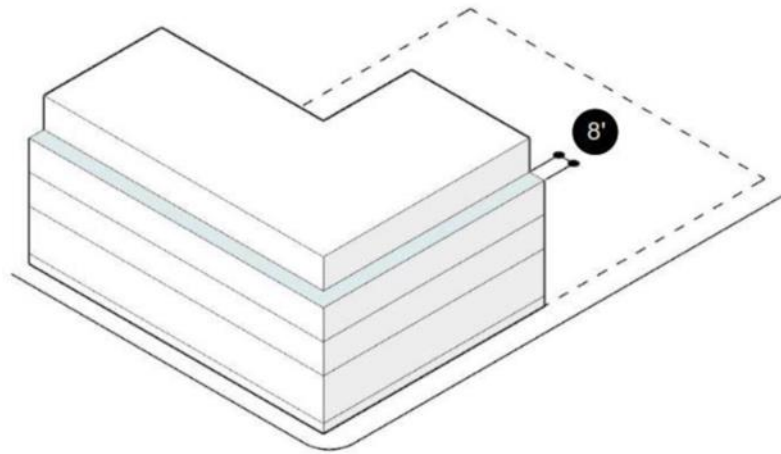
Multiple Buildings per Lot =  $(A + A) \div B$

### C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 3.
  - (a) Additional principal buildings are exempt from the required maximum front setback.
3. Principal building facade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.
4. Any building contributing toward the frontage buildout for any lot fronting Main Street between Pleasant Street and Sea Street must provide ground story commercial space that is

at least 20 feet in depth for 100% of the total width of the building, excluding lobby entrances and other means of egress associated with the use of upper stories.

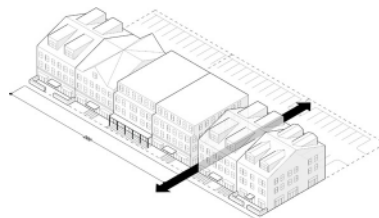
5. Awnings, canopies, signs, balconies, and nonhabitable architectural features of a building may project over the public sidewalk but must provide at least eight feet of clearance and a license from the Town Manager in accordance with Barnstable General Ordinances, Part 1, Chapter 121, § 121-6J is required.
6. The fourth story of any building must be recessed ("stepped back") from the facade of the stories below at least eight feet.



7. Mechanical and stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.
8. Facades may not have any blank wall areas without fenestration or architectural surface relief greater than 20 feet measured both vertically and horizontally for all stories of a building for any facade.
9. Loading and service areas may not be visible from any public sidewalk of Main Street.

D. Design guidelines.

1. The development of any new principal building should include a pedestrian passage connecting the sidewalk at the front of the property to any parking areas to the rear of the building, to every extent practicable, where no such pedestrian passage exists within 200 linear feet of the building's principal entrance.



2. When provided, pedestrian passages may be designed as an open-air passage between buildings, a covered atrium providing continuous protection from the elements, or as an up to two-story passage through a building.

E. Use provisions.

1. Limitations.

- (a) Occupation of a single commercial space greater than 5,000 square feet by any food and beverage service or retail sales use requires a special permit.
- (b) The maximum number of dwelling units permitted for any multiunit dwelling residential use is determined by the permitted dimensions of the building and the actual motor vehicle parking spaces provided on a lot as required by Table 2.

**F. Site standards.**

- 1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than 24 feet.

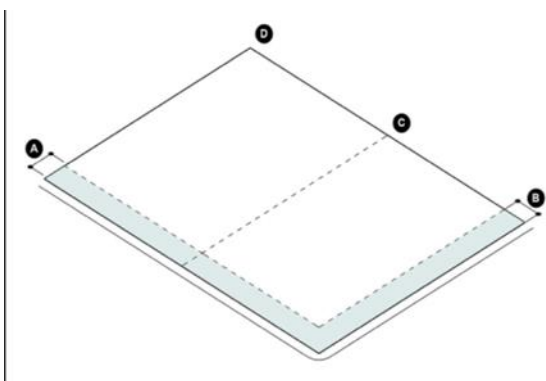
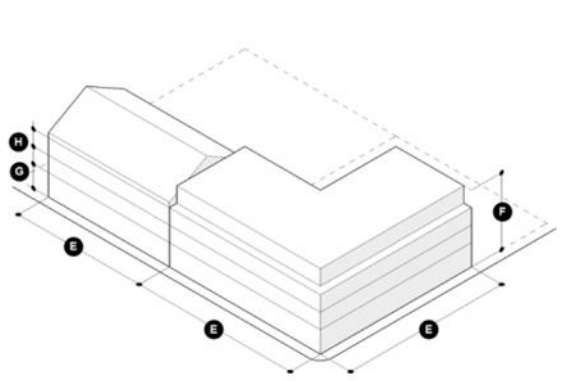
**G. Landscape standards.**

- 1. A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one canopy tree to be planted every 30 feet of frontage of the property.
- 2. A side or rear landscaped area at least six feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of 50 linear feet:
  - (a) Two understory or evergreen trees.
  - (b) Three medium shrubs and three small shrubs or a fence or wall at least six feet in height.

**H. Parking standards.**

- 3. For development on any through lot fronting Main Street, parking access must be provided from the non-Main-Street frontage.

**Table 3. DMS Dimensional Standards**

			
<b>Lot</b>		<b>Building Form</b>	
Lot width	30 feet minimum	E - Building width	180 feet maximum
Lot coverage	100% maximum	F - Number of stories	3.5 or 4 maximum <sup>1</sup>
Facade buildout (minimum)	—	G - Ground story height	—
Primary frontage	80% minimum	Commercial	14 feet minimum

Secondary frontage	40% minimum	Residential	10 feet minimum
<b>Setbacks - Principal Buildings</b>		H - Upper story height	10 feet minimum
A - Primary front setback	0 foot minimum 15 feet maximum	<b>Building Features</b>	
B - Secondary front setback	0 foot minimum 15 feet maximum	Ground story fenestration	—
C - Side setback	0 foot minimum	Primary frontage	60% minimum
D - Rear setback	0 foot minimum	Secondary frontage	15% minimum
		Upper story fenestration	15% minimum
		Blank wall	20 feet maximum
		Commercial space depth	20 feet minimum

<sup>1</sup> See § 240-24.1.6C6 (fourth story step-back).