

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  
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**TOWN COUNCIL MEETING AGENDA**

Original posted 1-31-2023@1:26pm.  
Updated to add the following language  
to Item number 2023-132  
To discontinue and abandon the public  
way known currently as Mother's Park  
Road in Centerville, MA; provided that  
this Order shall be effective thirty (30)  
days after the date on which it is  
approved by the Town Council.  
Updated on 1-31-2023@3:29 to add  
Exhibit A to Item # 2023-133

**February 02, 2023  
7:00 PM**

The February 02, 2023 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.

Councillors:

Matthew Levesque  
President  
Precinct 10

Jennifer Cullum  
Vice President  
Precinct 13

Gordon Starr  
Precinct 1

Eric R. Steinhilber  
Precinct 2

Betty Ludtke  
Precinct 3

Nikolas Atsalis  
Precinct 4

Paul Cusack  
Precinct 5

Paul C. Neary  
Precinct 6

Jessica Rapp Grassetti  
Precinct 7

Jeffrey Mendes  
Precinct 8

Tracy Shaughnessy  
Precinct 9

Kristine Clark  
Precinct 11

Paula Schnepf  
Precinct 12

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

**1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 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](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/81223207579>  
Meeting ID: 812 2320 7579 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**

### **7. ACT ON PUBLIC SESSION MINUTES**

- Approve Public Session Minutes: January 19, 2023

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

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

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

### **10. ADJOURNMENT**

**NEXT REGULAR MEETING: February 16, 2023**

ITEM NO.	INDEX TITLE	PAGE
<b>A. OLD BUSINESS</b>		
2022-144	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by repealing the Zoning Districts known as the “Hyannis Village Zoning Districts” and replacing them with revised and updated districts collectively known as the “Downtown Hyannis Zoning Districts” <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	4-39
2022-145	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article VII Sign Regulations to amend regulations to be consistent with proposed new district regulations <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	40-43
2022-146	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by moving and renumbering section 240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories into a new overlay Zoning District and repealing sections 240-129 and 240-129.1 expired temporary moratorium for Marijuana uses <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	44-48
2023-068	Authorizing an Intergovernmental Agreement with the Commonwealth of Massachusetts Department of Children and Families to provide police detail services <b>(May be acted upon) (Majority vote)</b> .....	49-50
2023-069	Appropriation Order in the amount of <b>\$125,000</b> in Community Preservation Historic Preservation Funds for the Phase III Exterior Access Project at Olde Colonial Courthouse, 3046 Main Street, Barnstable <b>(Public Hearing) (Roll Call Majority Full Council)</b> .....	51-52
<b>B. NEW BUSINESS</b>		
2023-072	Authorization to expend a Fiscal Year 2023 Grant from The Massachusetts Department of Fish and Game, Division of Marine Fisheries, in the amount of <b>\$25,000</b> for repairs to the Blish Point Boat Ramp in the Town of Barnstable <b>(May be acted upon) (Majority vote)</b> .....	53-54
2023-128	Appropriation Order in the amount of <b>\$300,000</b> to fund disposal costs at the Solid Waste Division of the Department of Public Works <b>(Refer to Public Hearing 02/16/2023)</b> .....	55-56
2023-129	Appropriation Order in the amount of <b>\$206,391</b> to fund Information Technology security Improvements <b>(Refer to Public Hearing 02/16/2023)</b> .....	57-60
2023-130	Appropriation Order in the amount of <b>\$1,444,398</b> for the School Department for the purpose of funding the Barnstable Public School District Wide Led Light Replacement Project <b>(Refer to Public Hearing 02/16/2023)</b> .....	61-63
2023-131	Order authorizing the taking of road easements by eminent domain for sewer and water purposes over certain private roads in Centerville known as Earles Court, Nobadeer Road, Quisset Road, Christinas Path, Capt. Ellis Lane, Jennie’s Path, Nancys Lane, and a private way adjacent to Lot 11 as shown on a plan filed in plan book 288, page 18 at the barnstable county registry of deeds <b>(First Reading) (Refer to Second Reading 02/16/2023)</b> .....	64-69
2023-132	Order to discontinue and abandon Mother’s Park Road, Centerville, MA <b>(Refer to Planngg Board)</b> .....	70-71

**2023-133** Appropriation Order in the amount of **\$22,700** for the purpose of acquiring the fee in Mother's Park Road by eminent domain for sewer and water and general municipal purposes **(Refer to Public Hearing 03/16/2023)** ..... 72-74

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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 so votes, the Council may go into executive session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-144**

**INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022, 01/05/2023, 02/02/2023**

**2022-144 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING DISTRICTS KNOWN AS THE “HYANNIS VILLAGE ZONING DISTRICTS” AND REPLACING THEM WITH REVISED AND UPDATED DISTRICTS COLLECTIVELY KNOWN AS THE “DOWNTOWN HYANNIS ZONING DISTRICTS”**

**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 districts collectively known as the “Hyannis Village Zoning Districts” and replace them with seven (7) new districts collectively known as the “Downtown Hyannis Zoning Districts”, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Hyannis Zoning Map Re-Zoning Downtown Hyannis
- Proposed Amendment to the Town Zoning Map Re-Zoning Downtown Hyannis

**SECTION 2**

A. By amending Article II, Section 240-5, Establishment of districts, by deleting:  
**“Hyannis Village Zoning Districts”**

HVB	Hyannis Village Business District
MS	Medical Services District
SF	Single Family Residential District
OM	Office/Multi-Family Residential District
HD	Harbor District
HG	Hyannis Gateway District
TD	Transportation Hub District
GM	Gateway Medical District”

and inserting in its place:

**“Downtown Hyannis Zoning Districts”**

DMS	Downtown Main Street
DV	Downtown Village
DN	Downtown Neighborhood
HH	Hyannis Harbor
TC	Transportation Center
HC	Highway Commercial

- B. By further amending said Section 240-5 by deleting “Hyannis Parking Overlay District” as it appears under the heading “Overlay Districts”.

**SECTION 3**

By amending Article III District Regulations to repeal Sections 240-24.1 through 240-24.1.13 and replace them with the following new Sections 240-24.1.1 through 240-24.1.13:

**“§240-24.1.1 Downtown Hyannis Zoning Districts”**

**§240-24.1.2 Title**

These districts shall be collectively known as the "Downtown Hyannis Zoning Districts."

**§240-24.1.3 General Provisions**

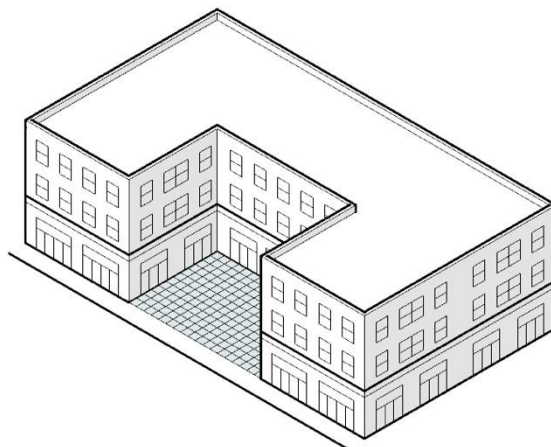
- A. Applicability
  - 1. Where the provisions of Sections 240-24.1.1 through 240-24.1.13 conflict with those found elsewhere in the Barnstable Zoning Ordinance, the provisions of this Section shall apply.
  - 2. The provisions of the Barnstable Zoning Ordinance § 240-6.C (3) shall not apply within the Downtown Hyannis Zoning Districts.
- B. Development Review
  - 1. The Planning Board is the Special Permit Granting Authority (SPGA) for all development within the Downtown Hyannis Zoning Districts.
  - 2. Development within the Downtown Hyannis Zoning Districts, excluding single-family residences, must comply with Article IX, §240-103, site development standards, and the Design and Infrastructure Plan.
    - (a) The Planning Board shall establish a Design and Infrastructure Plan (DIP) which shall be adopted after a public hearing.
  - 3. The use of land or occupancy of floor space is permitted as specified by §240-24.1.5.B Use Provisions.
- C. Compliance
  - 1. Any modification to an existing structure that results in greater conformance to this Ordinance is permitted.
  - 2. Any modification to an existing structure that increases an existing nonconformity or creates a new nonconformity is prohibited.

**§240-24.1.4 Definitions**

- A. General
  - 1. The following defined words, phrases, and terms are applicable for real property within the Downtown Hyannis Zoning Districts.

Accessory Parking	Motor vehicle parking spaces that are incidental but supportive of (a) principal building(s).
Building Component	A structural projection from the main massing or roof of a building that increases habitable square footage or enhances the usefulness of floor area.
Commercial Parking	A surface parking lot or structured parking facility providing short- or long-term parking service for a fee.
Commercial Service	The provision of various services, entertainment, or recreational opportunities to individuals, groups, or businesses including animal care, assembly & entertainment, banking & financial services, building & home repair, business support, day care & education, maintenance & repair of consumer goods, personal services, gyms & health clubs, and recreational services.
Cultural Services	The provision of social or cultural services to individuals or groups including membership based social organizations and the production, manufacture, publishing, rehearsal, performance, broadcast, selling, or teaching of the arts.

Development	The platting of any lot, construction of any structure, or establishment of any parking lot that did not exist prior to the adoption of the Downtown Hyannis Zoning Districts.
Façade.	Any exterior wall of a principal building oriented toward a front lot line.
Fenestration	The openings in the façade of a building, including windows and doors.
Food & Beverage Services	The provision of food or beverages for on- or off-site sale or consumption.
Forecourt	An open space between the forward projecting wings of a building.



Frontage Area	The area of a lot between the façade of a principal building and any front lot line(s), projected to the side lines of the lot.
Frontage Type	A distinct combination of façade and frontage area design features.
Health Care Clinic	The provision of health care services to patients or clients excluding inpatient or overnight care.
Hospital	A facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health under MGL c. 111, §51.
Lot Coverage	The ratio or percentage of a lot that is covered by principal buildings, outbuildings, accessory structures, and impervious paved surfaces including driveways, parking lots and sidewalks.
Modification	The alteration or structural change of an existing structure and any change to the parking capacity of an existing parking lot.
Office	The administrative, professional, or clerical operations of a business and the provision of outpatient health services to patients or clients by appointment.
Outbuilding	A free-standing, fully enclosed structure for an accessory use or for activities customary to the principal use of land or a principal building.
Principal Building	The primary building on a lot.
Principal Entrance	The addressed entrance to a building or commercial space.
Recreational Facility	The provision of public recreational services including bowling and billiards, and video arcades.
Research & Development	The analysis, testing, and development of ideas and technology including computer software, information technology, communications systems, transportation, and multi-media technology where the construction of prototypes may be an ancillary activity.
Residential	The provision of living accommodations.
Retail Sales	The sale, lease, or rental of new or used goods to the ultimate consumer.
Shrub, Large	A multi-stemmed, woody plant with an expected mature height of six (6) feet.
Shrub, Medium	A multi-stemmed, woody plant with an expected mature height of four (4) feet.
Shrub, Small	A multi-stemmed, woody plant with an expected mature height of two (2) feet.
Story	The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above.
Story, Ground	The lowest story of a building with a finished floor at or above the finished ground level next to a building at the façade.
Story, Upper	Any story above the ground story of a building.
Through Lot	A lot fronting on two (2) or more improved ways, excluding a corner lot.

Tree, Canopy	A deciduous tree with an expected mature height of thirty (30) feet or more.
Tree, Evergreen	An evergreen tree (conifer) with an expected mature height of twenty (20) feet or more.
Tree, Understory	A deciduous tree with an expected mature height of twenty (20) feet or more.
Visitor Accommodations	The provision of temporary lodging in guest rooms or guest units for a fee.

## §240-24.1.9 Standards for all Districts

### B. Building Standards

1. Frontage types.
  - (a) Buildings must have at least one (1) frontage type except if otherwise specified. Buildings on corner lots must have two (2) frontage types, one (1) for each frontage.
  - (b) Frontage types are permitted as specified by Table 11.
  - (c) Multiple frontage types may exist for buildings that have more than one (1) principal entrance.
2. Buildings must have at least one (1) principal entrance located on the façade.
  - (a) Multi-story buildings with ground floor commercial space(s) must have one (1) 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 (1) story, except that a single ground story over eighteen (18) feet in height is counted as two (2) stories.
  - (d) Each upper story is counted as one (1) additional story, except that any upper story over sixteen (16) feet is counted as two (2) stories.
  - (e) Basements are not counted as one (1) story unless the finished floor of the ground story is five (5) feet or more above the average ground level of the lot.
  - (f) Habitable space located directly under a pitched roof is counted as a half (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 (2) 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.
  - (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 upper most story.
5. Non-habitable architectural features including, but not limited to, mechanical & 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.
7. Facades must have fenestration as specified for each district, as applicable.
  - (a) Fenestration is calculated as a percentage of the area of a façade.
  - (b) For buildings with ground story commercial spaces, ground story fenestration is measured between two (2) feet and twelve (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 sixty percent (60%) Visible Light Transmittance (VLT) and no more than fifteen percent (15%) Visible Light Reflectance (VLR) as indicated by the manufacturer.
  - (b) For upper story fenestration, glazing must have a minimum of forty percent (40%) VLT and no more than fifteen percent (15%) VLR as indicated by the manufacturer.

## C. 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.
  - (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 (1) 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.



Use Category Specific Use	DMS	DV	DN	HH	TC	HC	DH
Commercial Services (except as follows)	P	P	N	P	P	P	P
Automobile Maintenance & Repair	N	N	N	N	N	N	N
Boat Storage	N	N	N	N	N	N	N
Contractor Services	N	N	N	N	N	N	N
Funeral Services	N	N	N	N	N	N	N
Marina	N	N	N	SP	N	N	N
Commercial Parking	N	N	N	N	P	SP	N
Public Transportation Maintenance	N	N	N	N	SP	N	N
Recreational Facility	SP	SP	N	SP	SP	SP	SP
Self-Storage Facility	N	N	N	N	N	SP	N
Veterinary Services	N	N	N	N	N	P	N
Cultural Services (as specified below)	--	--	--	--	--	--	--
Arts & Culture Establishments	P	P	N	P	P	P	N
Fraternal & Social Organizations	P	P	N	P	P	P	N
Performing Arts & Theaters	P	P	N	P	P	P	N
Artist Live/Work	P	P	P	P	P	N	N
Food & Beverage Services (except as follows)	L	L	N	L	P	P	P
Brewery/Distillery	L	N	N	N	N	N	N
Hospital	N	N	N	N	N	N	P
Office (except as follows)	P	P	L	P	P	P	P
Health Care Clinic	P	P	L	P	N	P	P
Research & Development	P	P	N	P	N	P	P
Residential (as specified below)	--	--	--	--	--	--	--
Multi-Unit Dwelling	L	L	N	L	L	N	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	L	P	P	P
Boat Sales	N	N	N	SP	N	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	P	N	P	N
Bed & Breakfast	N	P	P	P	N	N	N

P – Permitted By-Right SP – Special Permit  
N – Not Permitted  
L – Permitted with Limitations (see district)

D. 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 sf)	0	4	N/A	4	4	4	4	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Cultural Services (per 1,000 sf)	0	4	4	4	N/A	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Food & Beverage Services (per 1,000 sf)	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 sf)	3	3	3	3	3	3	3	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Residential or Artist Live/Work (per DU)	1	1	1	N/A	1	1	N/A	--
Retail Sales (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Visitor Accommodations	1.25	1.25	1.25	N/A	1.25	N/A	1.25	--

<sup>1</sup> Rounded up to the nearest whole number

Table 2. Minimum Required Accessory Parking Spaces

Use Category	DMS	DV	DN	DH	HH	TC	HC	On Site Shared Parking Adjustment <sup>1</sup>
(per room)								

E. Site Standards

1. Forecourts

- (a) Driveways and passenger drop-offs are permitted in forecourts by Special Permit.
  - (i) Real property fronting Main Street or 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 fourteen (14) feet in height or three (3) inches in caliper when planted.
- (c) New understory trees must be at least ten (10) feet in height or one and a half (1.5) inches in caliper when planted.
- (d) New evergreen trees must be at least six (6) 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 must submit a Landscape Plan(s) signed and stamped by a MA registered Landscape Architect unless waived/exempt by the Building Commissioner.
- (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 one hundred and fifty percent (150%) of the estimated cost of installation of the landscaping.
- (k) 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 of a 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 of a 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 ninety degrees (90°) and a beam cutoff of less than seventy-five degrees (75°). Attached building or wall pack lighting should be screened by the building's architectural features or contain a forty-five-degree cutoff shield.
- (c) Electrical service for lighting on posts or poles must be located underground.

6. Fences
  - (a) Fences greater than four (4) feet in height in the frontage area and seven (7) 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 (7) 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 fifty percent (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.

- F. 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 twenty-one (21) or more parking spaces that increases the number of parking spaces by five (5) or more.

2. General

- (a) To reduce traffic congestion and increasing 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 (1) three (3) inch minimum caliper low-water-use, low-maintenance tree must be provided for every five (5) parking spaces and must be located within ten (10) feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least fifty (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 ten (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 fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Five (5) medium shrubs and five (5) small shrubs or a fence or wall a maximum of four (4) feet in height.

- (c) A side/rear landscaped buffer at least six (6) feet wide must be provided between any side or rear lot line and any parking lot with five (5) or more parking spaces, excluding any vehicular connections to abutting parking lots and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Three (3) large shrubs and five (5) small shrubs or a fence or wall at least six (6) feet in height.
- (d) A landscaped buffer at least ten (10) feet wide must be provided between any building and any parking lot with ten (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 fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Four (4) medium shrubs
  - (iii) Six (6) small shrubs
- (e) At least ten percent (10%) of any parking lot with ten (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 (6) feet in width and the same length as the parking spaces. Each island must include one (1) three (3) inch minimum caliper, low-water-use, low-maintenance tree.
- (g) Landscape islands abutting a double row of parking spaces must be at least eight (8) feet in width and the same length as the parking spaces. Each island must include two (2) three (3) inch minimum caliper, low-water-use, low-maintenance trees.

**§240-24.1.10 Downtown Main Street District (DMS)**

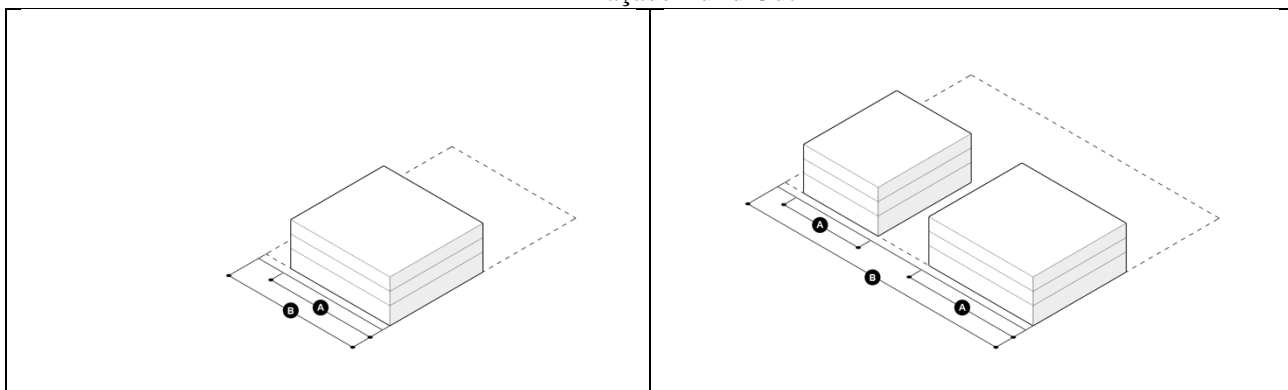
**A. Intent**

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 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 façade build out by Table 3.
  - (a) Façade build out 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 façade build out.
  - (c) The SPGA may provide relief from the façade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

Façade Build Out

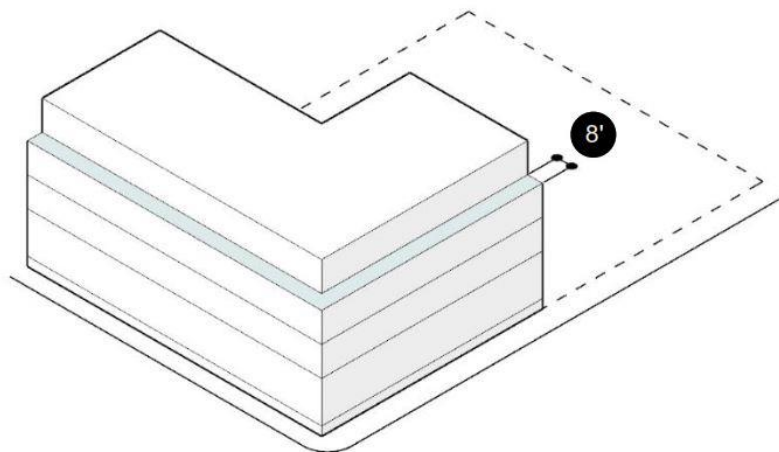


Single Building per Lot =  $A \div B$

Multiple Buildings per Lot =  $(A+A) \div B$

### C. Building Standards

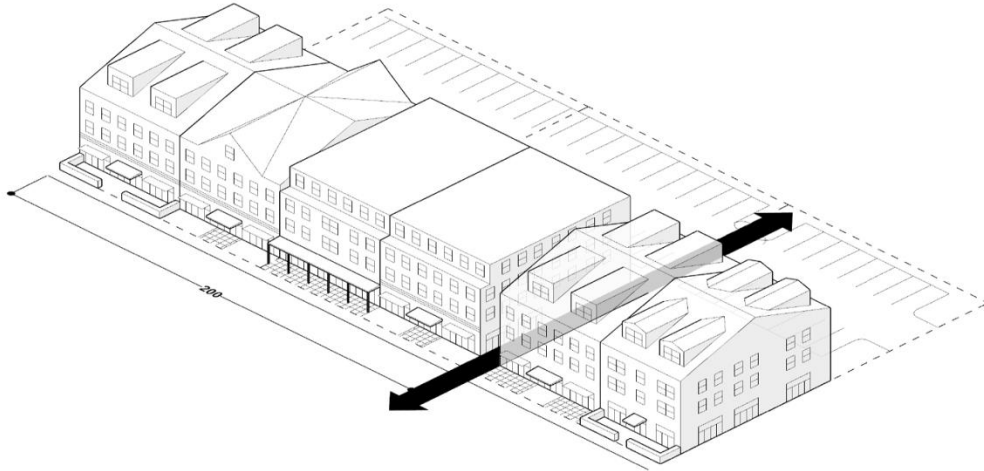
1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 3.
  - (a) Additional principal buildings are exempt from the required maximum front setback.
3. Principal building façade(s) must be built parallel to any primary front lot line, at or between 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 twenty (20) feet in depth for one hundred percent (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 non-habitable architectural features of a building may project over the public sidewalk but must provide at least eight (8) 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 (4<sup>th</sup>) story of any building must be recessed (“stepped back”) from the façade of the stories below at least eight (8) feet.



7. Mechanical & 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 twenty (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 two hundred (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 (2) story passage through a building.

#### E. Use Provisions

##### 1. Limitations

- (a) Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.
- (b) The maximum number of dwelling units permitted for any Multi-Unit 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 twenty-four (24) feet.

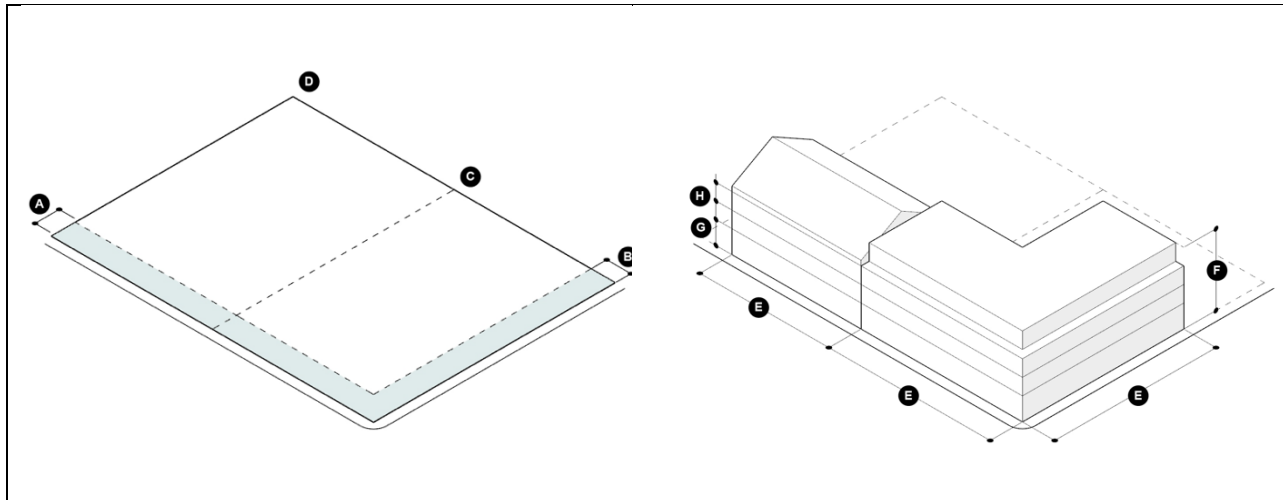
#### G. Landscape Standards

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 (1) canopy tree to be planted every thirty (30) feet of frontage of the property.
2. A side or rear landscaped area at least six (6) 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 fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Three (5) medium shrubs and three (3) small shrubs or a fence or wall at least six (6) 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		BUILDING FORM	
Lot Width	30' min	E - Building Width	180' max
Lot Coverage	100% max	F - Number of Stories	3.5 or 4 max <sup>2</sup>
Façade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
Secondary Frontage	40% min	Residential	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	<b>BUILDING FEATURES</b>	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	60% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

<sup>2</sup> See 240-24.1.6.C.6 (4<sup>th</sup> Story Step-back)



## §240-24.1.11 Downtown Village District (DV)

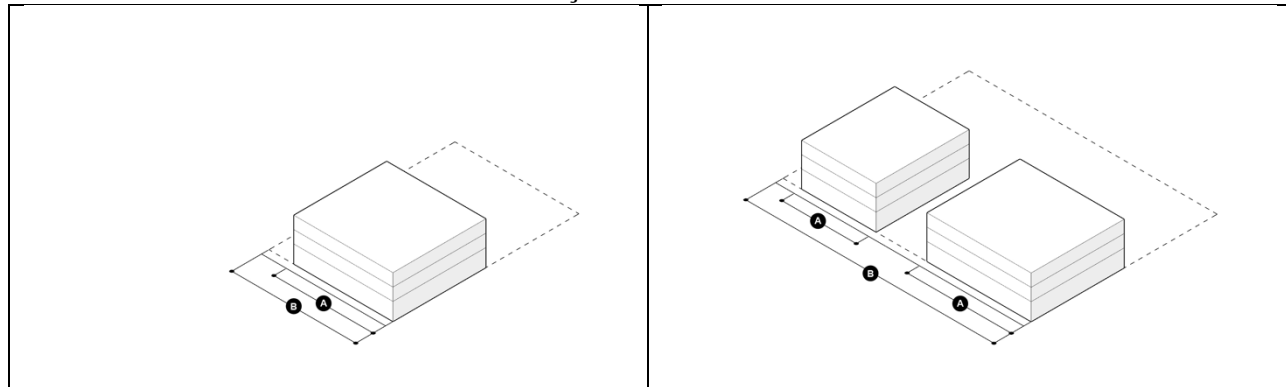
### A. Intent

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 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 façade build out on Table 4.
  - (a) Façade build out 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 façade build out.
  - (c) The SPGA may provide relief from the façade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

### Façade 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 façade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.
4. The fourth (4<sup>th</sup>) story of any building must be recessed (“stepped back”) from the façade of the stories below at least eight (8) feet.
5. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### D. Use Provisions

1. Limitations
  - (a) Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.
  - (b) The maximum number of dwelling units permitted for any Multi-Unit 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.

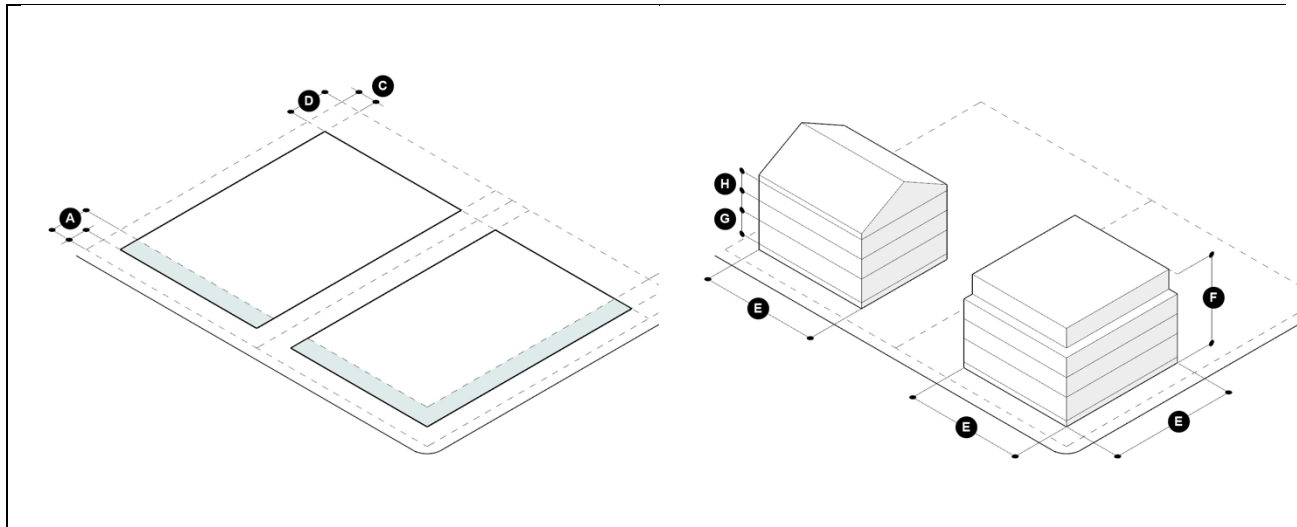
E. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (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 (1) canopy tree to be planted every thirty (30) feet of frontage of the property.

Table 4. DV Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	120' max
Lot Coverage	80% max	F - Number of Stories	3.5 or 4 max <sup>3</sup>
Façade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
		Residential	10' min
SETBACKS – PRINCIPAL BUILDINGS		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	BUILDING FEATURES	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	15% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

<sup>3</sup> See 240-24.1.7.C.4 (4<sup>th</sup> Story Step-back)

## **§240-24.1.12 Downtown Neighborhood District (DN)**

### **A. Intent**

1. The Downtown Neighborhood District is intended to promote the traditional uses and form of the neighborhoods adjacent to downtown that are characterized by a variety of 19<sup>th</sup> and 20<sup>th</sup> Century detached and semi-detached residential building types.

### **B. Lot Standards**

1. Newly platted lots must be dimensioned as specified by Table 5.
2. Lot coverage may not exceed the maximum specified by Table 5.

### **C. Building Standards**

1. One (1) principal building and multiple outbuildings are permitted per lot.
2. Principal buildings and outbuildings are permitted as specified by Table 5.
  - (a) The third story in a single-family or two-family dwelling can only occur within habitable attic space.

### **D. Use Provisions**

1. Limitations
  - (b) Office and Health Care Clinic uses are permitted only for lots fronting South Street or High School Road.
  - (c) Two-Unit dwellings are prohibited for lots fronting only Brookshire Road or King's Way.

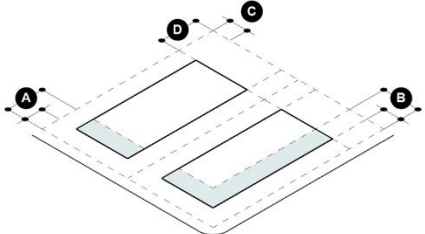
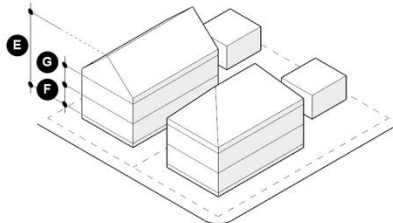
### **E. Site Development**

1. Development on corner lots must comply with the provisions of § 240-41 of the Barnstable Zoning Ordinance.
2. Curb cuts may be no wider than twelve (12) feet.
3. Outdoor lighting must be shielded and provide total cut off of all light at the boundaries of the lot under development.
4. Fences greater than four (4) feet in height in the frontage area and seven (7) feet in height in all other locations at any point along their length require a Special Permit.

### **F. Landscape Standards**

- (i) A perimeter green space of not less than ten (10) feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.

Table 5. DN Dimensional Standards

			
LOT		BUILDING FORM	
Lot Width	20' min	E - Number of Stories	3 max <sup>4</sup>
Lot Coverage	50% max	F - Ground Story Height	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		G - Upper Story Height	10' min
A - Primary Front Setback	10' min 20' max		
B - Secondary Front Setback	10' min 20' max		
C - Side Setback	10' min		
D - Rear Setback	20' min		
<b>SETBACKS - OUTBUILDINGS</b>			
Front Setback	60' min		
Side Setback	3' min		
Rear Setback	3' min		

**§240-24.1.13 Downtown Hospital District (DH)**

**A. Intent**

1. The Downtown Hospital District is intended to maintain an area of Hyannis for a large-scale Health Care Services institution and is characterized by moderate to large floor plate, multi-story buildings arranged in a campus-like setting, with clear pedestrian and vehicular connections to downtown and the region.

**B. Lot Standards**

1. Newly platted lots must be dimensioned as specified by Table 6.
2. Lot coverage may not exceed the maximum specified by Table 6.

**C. Building Standards**

1. Multiple principal buildings are permitted per lot.

<sup>4</sup> See 240-24.1.8.C.2(a)

2. Principal buildings are permitted as specified by Table 6.
  3. Buildings are exempt from 240-24.1.5.A.1 frontage types and 240-24.1.5.A.3 provisions for calculating building stories. Buildings must comply with the maximum number of stories and maximum building height defined within Table 6.
- D. Site Standards
1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet except that wider widths may be allowed by the Building Commissioner during the Site Plan Review process if additional width is needed to provide emergency access.
- E. Landscape Standards
1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
    - (i) One (1) canopy tree
    - (ii) One (1) understory or evergreen tree
    - (iii) Four (4) medium shrubs
    - (iv) Six (6) small shrubs

Table 6. DH Dimensional Standards

LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories	6 max
Lot Coverage	100% max	Building Height	85' max
<b>SETBACKS – PRINCIPAL BUILDINGS</b>			
Primary Front Setback	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

**§240-24.1.14 Hyannis Harbor District (HH)**

- A. Intent
  - 1. The Hyannis Harbor District is intended to maintain an area near Hyannis Inner Harbor for maritime activities and water-related uses, and is characterized by a mix of commercial, maritime industrial, and residential development and the presence of the commercial ferry services.
- B. Lot Standards
  - 1. Newly platted lots must be dimensioned as specified by Table 7.
  - 2. Lot coverage may not exceed the maximum specified by Table 7.
- C. Building Standards
  - 1. Multiple principal buildings are permitted per lot.
  - 2. Principal buildings are permitted as specified by Table 7.
    - (a) To support water-dependent uses on the harbor, the maximum building height permitted for existing structures used as a Marina or a Commercial Service use for constructing, selling, renting, or repairing boats is forty-five (45) feet.
  - 3. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.
- D. Use Provisions
  - 1. Limitations
    - (a) The maximum number of dwelling units permitted for any Multi-Unit 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.
- E. Site Standards
  - 1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.
- F. Landscape Standards
  - 1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
    - (i) One (1) canopy tree
    - (ii) One (1) understory or evergreen tree
    - (iii) Four (4) medium shrubs
    - (iv) Six (6) small shrubs
  - 2. A side or rear landscaped area at least six (6) 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 fifty (50) linear feet:
    - (i) Two (2) understory or evergreen trees
    - (ii) Five (5) medium shrubs and three (3) small shrubs or a fence or wall at least six (6) feet in height.

Table 7. HH Dimensional Standards

LOT		BUILDING FORM	
Lot Width	20' min	Number of Stories	2.5 max

Lot Coverage	90% max	Building Height	35 ft max <sup>5</sup>
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

**§240-24.1.15 Transportation Center District (TC)**

A. Intent

1. The Transportation District is intended to accommodate transportation related-uses serving the downtown, harbor and the region and is characterized by functional buildings and parking areas screened and not highly visible from surrounding roadways.

B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 8.
2. Lot coverage may not exceed the maximum specified by Table 8.

C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 8.
3. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

D. Use Provisions

1. Limitations
  - (a) Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.
  - (b) The maximum number of dwelling units permitted for any Multi-Unit 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.

E. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

F. Landscape Standards

1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Four (4) medium shrubs
  - (iv) Six (6) small shrubs

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<sup>5</sup> See 240-24.1.10.C.2(a)

2. A side or rear landscaped area at least six (6) 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 fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Three (3) large shrubs and three (3) medium shrubs or a fence or wall at least six (6) feet in height.

Table 8. TC Dimensional Standards

LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories	3 max
Lot Coverage	65% max	Building Height	40 ft max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	--		
Lots fronting Route 28	50' min		
All other Lots	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		



## §240-24.1.16 Highway Commercial District (HC)

### A. Intent

1. The Highway Commercial District is intended to maintain an area for larger-scale commercial land uses, with private parking appropriately screened, on a regional roadway and promote in the long-term transformation of the area into a cohesive gateway corridor into Hyannis. The area is characterized by detached low- and mid-rise commercial structures.

### B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 9.
2. Lot coverage may not exceed the maximum specified by Table 9.

### C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 9.
  - (a) The third story can only occur within habitable attic space.
3. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### D. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

### E. Landscape Standards

1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Four (4) large shrubs
  - (iv) Two (2) small shrubs
1. A side or rear landscaped area at least six (6) 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 fifty (50) linear feet:
  - (i) Two (2) canopy trees
  - (ii) Three (3) large shrubs and three (3) medium shrubs or a fence or wall at least six (6) feet in height.

### F. Parking Standards

1. 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.
2. To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to:
  - (a) Provide only the minimum number of driveways or vehicular entrances to parking lots necessary to accommodate the number of parking spaces provided
  - (b) Share driveways between abutting properties or multiple properties fronting the same street
  - (c) Relocate any existing frontage area parking spaces to the side or rear of buildings.
3. Establishment of a new curb cut on Route 28 or Barnstable Road must consult the Director of Public Works regarding access prior to applying for a state highway access permit from the Massachusetts Department of Transportation and work with the Town and other authorizing agencies on a transportation access plan prior to site plan approval.
4. New construction, modification of an existing principal building, and the establishment, change, or expansion of any use of real property abutting Engine House Road must provide vehicular access only from the Engine House Road frontage.
5. Parking is highly discouraged within the frontage area and should be limited to a single row of parking stalls and associated drive aisle where necessary.

Table 9. HC Dimensional Standards

LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories (max)	3 max <sup>6</sup>
Lot Coverage	80% max	Building Height	40 ft max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	60' max		
Lots fronting Route 28	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

<sup>6</sup> See 240-24.1.12.C.2(a)

§240-24.1.17 Tables

Table 10. Dimensional Standards Summary Table

	DMS	DV	DN	DH	HH	TC	HC
<b>A. Lot</b>							
Lot Width	30' min	30' min	20' min	50' min	20' min	50' min	50' min
Lot Coverage	100% max	80% max	50% max	100% max	90% max	65% max	80% max
Façade Build Out	--	--	--	--	--	--	--
Primary Frontage	80% min	80% min	--	--	--	--	--
Secondary Frontage	40% min		--	--	--	--	--
<b>B. Setbacks – Principal Building</b>							
Primary Front Setback	0' min 15' max	0' min 15' max	10' min 20' max	20' min	20' min	20' min	60' max
Lots fronting Route 28	--	--	--	--	--	50' min	20' min
Secondary Front Setback	0' min 15' max	0' min 15' max	10' min 20' max	20' min	20' min	20' min	20' min
Side Setback	0' min	0' min	10' min	10' min	10' min	10' min	10' min
Rear Setback	0' min	0' min	20' min	10' min	10' min	10' min	10' min
<b>C. Setbacks - Outbuilding</b>							
Primary Front Setback	--	--	60' min	--	--	--	--
Secondary Front Setback	--	--	--	--	--	--	--
Side Setback	--	--	3' min	--	--	--	--
Rear Setback	--	--	3' min	--	--	--	--
<b>D. Building Form</b>							
Building Width	180' max	120' max	--	--	--	--	--
Number of Stories	--	--	--	--	--	--	--
Principal Building	3.5 or 4 max <sup>7</sup>	3.5 or 4 max <sup>8</sup>	3 max <sup>9</sup>	6 max	2.5 max	3 max	3 max <sup>10</sup>
Outbuilding	--	--	--	--	--	--	--
Ground Story Height	--	--	10' min	--	--	--	--
Commercial	14' min	14' min	--	--	--	--	--
Residential	10' min	10' min	--	--	--	--	--
Upper Story Height	10' min	10' min	10' min	--	--	--	--
Building Height	--	--	--	85' max	35' max <sup>11</sup>	40' max	40' max
<b>E. Building Features</b>							
Ground Story Fenestration	--	--	--	--	--	--	--
Primary Frontage	60% min	15% min	--	--	--	--	--
Secondary Frontage	15% min	15% min	--	--	--	--	--
Upper Story Fenestration	15% min	15% min	--	--	--	--	--
Blank Wall	20' max	20' max	--	--	--	--	--
Commercial Space Depth	20' min	20' min					

<sup>7</sup> See 240-24.1.6.C.6 (4<sup>th</sup> Story Step-back)

<sup>8</sup> See 240-24.1.7.C.4 (4<sup>th</sup> Story Step-back)

<sup>9</sup> See 240-24.1.8.C.2(a)

<sup>10</sup> See 240-24.1.12.C.2(a)

<sup>11</sup> See 240-24.1.10.C.2(a)

Table 11. Frontage Types

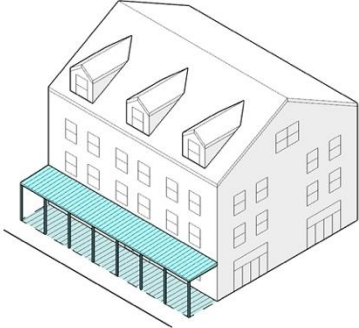
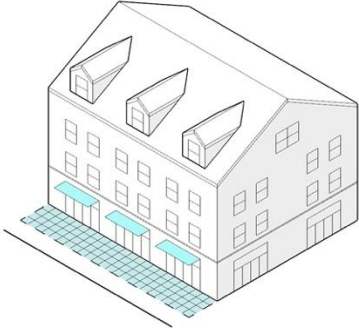
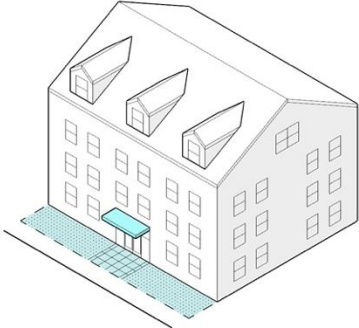
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Gallery</p>  <p>A frontage type consisting of a storefront(s) and an attached colonnade with a roof, open pergola, or balcony overhanging a paved sidewalk. A gallery may wrap around the corner of a building to create a veranda-like gallery.</p>	P	P	N	N/A	P	P	P
<p>Storefront</p>  <p>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.</p>	P	P	N	N/A	P	P	P
<p>Common Lobby</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.</p>	P	P	N	N/A	P	P	P

Table 11. Frontage Types

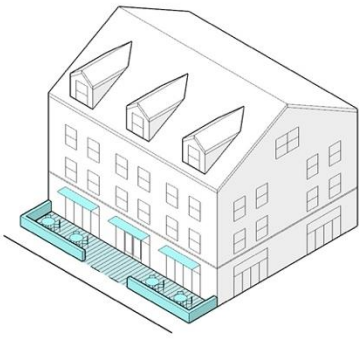
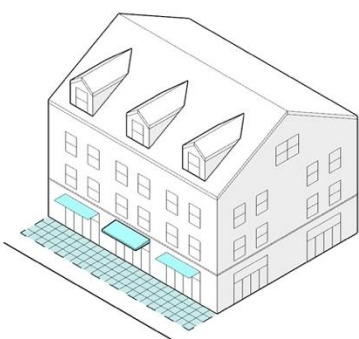
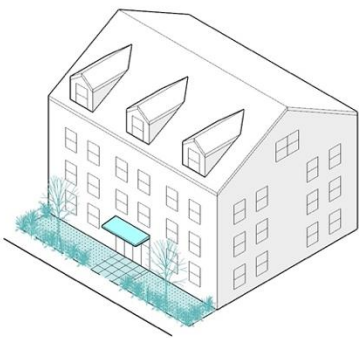
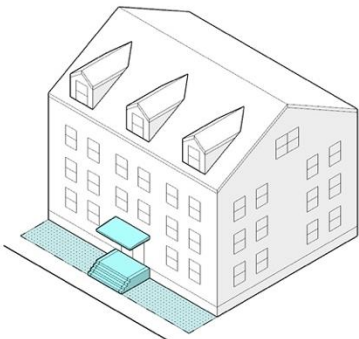
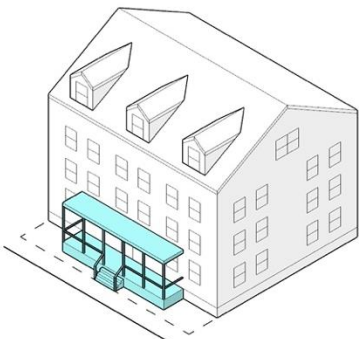
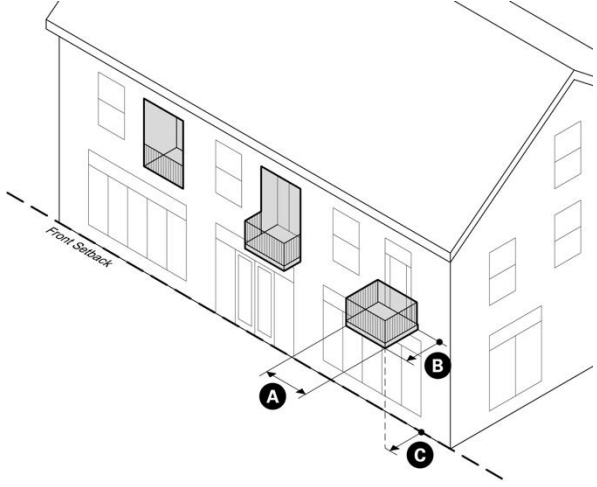
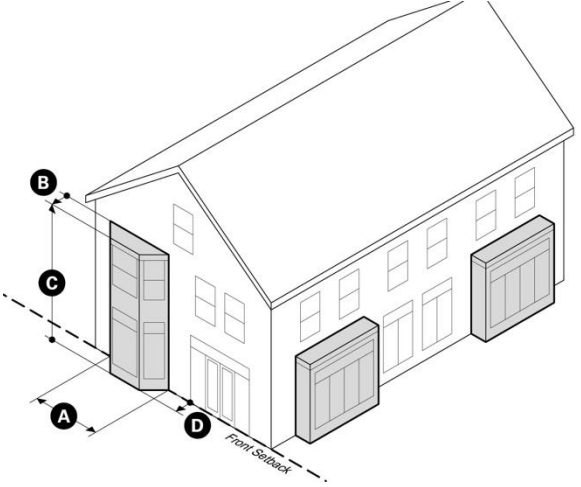
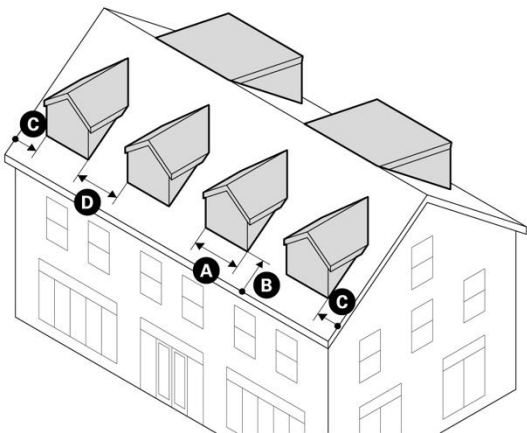
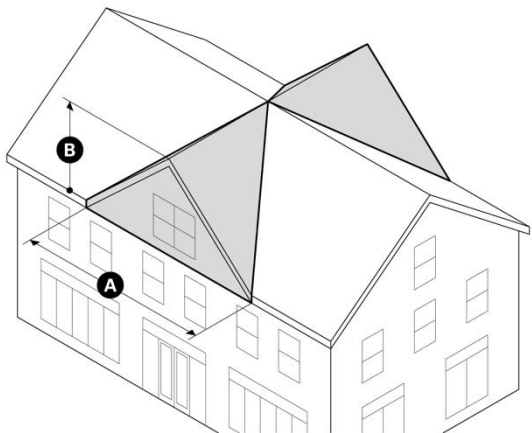
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Dining Patio</p>  <p>A frontage type consisting of a storefront(s) and outdoor café seating in the frontage area.</p>	P	P	N	N/A	P	P	P
<p>Entry Plaza</p>  <p>A frontage type consisting of a storefront(s) and a highly paved frontage area. An entry plaza may be combined with a common lobby frontage type.</p>	P	P	N	N/A	P	P	P
<p>Front Garden</p>  <p>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.</p>	N	P	P	N/A	N	N	N

Table 11. Frontage Types

P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Dooryard or Stoop</p>  <p>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.</p>	N	P	P	N/A	N	N	N
<p>Porch</p>  <p>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 type</p>	N	P	P	N/A	N	N	N

**Table 12. Building Components**

A. Balcony			B. Bay or Oriel Window		
					
A	Width (min)	5 ft	A	Single Bay Width (max)	16 ft
B	Depth (min)	4 ft		Cumulative Bay Width (max)	50% of the width of the exterior wall from which the bays project
	Area (min)	20 sf	B	Projection (max)	3 ft
C	Front Setback Encroachment (max)	5 ft	C	Stories (max)	Same as the principal building
			D	Front Setback Encroachment (max)	3 ft
<p>Design Standards:</p> <p>Balconies may attach to any exterior wall of a principal building.</p> <p>Balconies may be recessed, projecting, a combination of the two, or terraced as part of the roof of a permitted building component.</p>			<p>Design Standards:</p> <p>Bays may attach to any exterior wall of a principal building.</p> <p>A bay window may have a flat roof.</p>		

C. Dormer			D. Cross Gable		
					
A	Cumulative Width of all Dormers (max)	50% of the roof eave	A	Width (max)	50% of the roof eave below
B	Exterior Wall Setback (min)	--	B	Height (min)	Equal to the height of the roof of the attached primary massing
	Roof with Eave	0 ft	Design Standards:  The roof ridge of a cross gable must be perpendicular to the main roof ridge of the principal building.  The rakes and ridge of the roof of the cross gable must be structurally integrated into the eave and ridge of roof of the attached primary massing.		
	Roof without Eave	1 ft			
C	Setback from Gable (min)	3 ft			
D	Separation from another Dormer (min)	50% of dormer width			
	Design Standards:  The face wall of a dormer window may not project beyond the exterior wall of the building and may not interrupt the eave of the roof.				



E. Projecting Gable		
A	Width (max)	Equal to the shortest side of the attached primary massing
B	Projection (max)	6 ft
C	Height (min)	Height of Building in Stories
D	Front Setback Encroachment (max)	6 ft
<p>Design Standards:</p> <p>A projecting gable may attach only the façade of a principal building.</p> <p>The roof ridge of a projecting gable must be perpendicular to the main roof ridge of the principal building.</p>		

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

DATE	ACTION TAKEN
<u>03/03/2022</u>	<u>Due to lack of quorum this Item was referred to 03/17/2022</u>
<u>03/17/2022</u>	<u>Referred to Planning Board</u>
<u>11/03/2022</u>	<u>Due to lack of quorum this Item was referred to 12/01/2022</u>
<u>12/01/2022</u>	<u>Due to lack of quorum this Item was referred to 01/05/2023</u>
<u>01/05/2023</u>	<u>Due to a technical issue the Town Council meeting was canceled</u>

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-144

INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022, 01/05/2023, 02/02/2023

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by repealing the Zoning Districts known as the “Hyannis Village Zoning Districts” and replacing them with revised and updated districts collectively known as the “Downtown Hyannis Zoning Districts”

**RATIONALE:** This item proposes a comprehensive revision of the zoning districts in Downtown Hyannis, replacing the “Hyannis Village Zoning Districts” first adopted in 2005 with seven new districts collectively known as the “Downtown Hyannis Zoning Districts”. The purpose of updating the zoning in Downtown Hyannis is to: address housing goals, including increasing housing supply and diversity in areas with infrastructure and community activity and away from open spaces and areas with critical natural resource value; improve the urban fabric of downtown Hyannis in a manner consistent with its historic and maritime character and existing development patterns; improve the ease of use of the zoning ordinance for the public and for businesses and developers; and to encourage housing production and mixed use development at human-scale density, and create predictable outcomes in urban form.

The subject of these amendments is downtown Hyannis, in an area with the same boundary as the Downtown Hyannis Growth Incentive Zone (GIZ) and the existing “Hyannis Village Zoning Districts”. This area is currently served by public sewer and water. Hyannis is the regional commercial and transportation hub of the Cape. Achieving a greater density of jobs and housing within the GIZ supports the community’s vision of a vibrant, livable, mixed-use, walkable regional center. Compact housing options within buildings that respond to Hyannis’ unique character can support a mix of housing choices for all ages and incomes while encouraging healthier and more sustainable lifestyles.

These proposed amendments are supported by past planning initiatives including the 2010 Local Comprehensive Plan, the 2016 Housing Production Plan (HPP), and the 2018 Growth Incentive Zone Strategic Plan (GIZ). All of these plans encourage new investment in areas with infrastructure and community and business activity, promoting infill and redevelopment over the development of open spaces and sensitive natural resources. The HPP and the GIZ specifically recognize that zoning changes are necessary to achieve housing and revitalizations goals.

### *Existing Conditions*

The GIZ and the current zoning districts provide some opportunity for streamlined permitting and as-of-right multi-family development, but the regulatory structure has not been effective in broadly attracting residential development to the area. In the first 10 years of the initial GIZ designation, only 110 new residential units were built. The residential densities allowed by zoning do not respond to the high costs of land and construction. Requiring a developer to permit projects through a lengthy and unpredictable process only further increases project costs. This dis-incentivizes investment and raises the costs of housing in projects that do move forward.

Additionally, the current conventional methods of zoning do not adequately address most physical characteristics that contribute to the sense of place or sufficiently address the aesthetic character of our community. An examination of the property in the GIZ shows a diversity of lot sizes that range from small residential lots around 4,000 square feet to large commercial lots upwards of 70,000 square feet. This condition makes current multi-

family residential standards that use ratio-based zoning metrics (dwelling units/acre) problematic, unaligned with housing goals; unintended consequences result, such as regulatory agreement review for small housing projects.

### *Background & Study*

The focus of this effort is to create a predictable regulatory framework that encourages compact residential development, compatible with traditional development patterns, meeting a range of housing needs. The proposed zoning revisions benefit from input received during the Community Resiliency by Design process. This process studied ways to address the need for additional housing options while also respecting the existing historic and maritime character of downtown Hyannis. This report considered community input on preferred types and styles of building massing, scale, character, and composition and considered the unique land use patterns in Hyannis. It presented a framework for revitalization and increased housing supply that included strategies such as retrofitting existing structures (including top-of-shop housing and conversion of underutilized space), redeveloping underutilized property, and infilling underutilized lots.

This zoning amendment is also supported by the Cape Cod Commission's Form Based Code Framework which advocates for the use of form-based and hybrid zoning to help deliver context-appropriate densities in forms that respect existing historic development patterns.

### *Summary of Proposed Zoning Ordinance*

The proposed zoning is organized into six (6) sections. The 'Title' and 'General Provisions' sections introduce the ordinance and designates the Planning Board as the Special Permit Granting Authority. The 'Definitions' section provides direction on the meaning of terms used to regulate uses, dimensional and building standards, and landscape materials. The section 'Standards for All Districts' includes the use table (establishing permitted, prohibited, and special permit uses); parking standards; and landscaping, lighting, access, and surface parking lot standards. Next are 'Standards for Specific Districts' which include dimensional requirements, building standards, use standards, and site standards specific to each of the seven (7) districts proposed to be established. Finally, in 'Tables' there is a summary dimensional table and standards for frontage types and building components.

### *Districts*

The Downtown Main Street and Downtown Village districts incorporate new "form-based" standards, in addition to regulating land uses.

- The Downtown Main Street (DMS) district seeks to maintain, reinforce, and extend the character and mixed use development pattern of Main Street. Active ground floor commercial use on Main Street between Ocean Street and Sea Street continue to be required. In addition to setback requirements, new form standards include standards to build out a percentage of the lots primary and secondary frontage, modified fenestration requirements, standards for story height (ground and upper), and roof pitch. Building height in this district is proposed to increase from three (3) stories to three and a half (3.5) stories or four stories, if that story is recessed at least eight (8) feet to limit its visibility.
- The Downtown Village district encompasses areas immediately north and east of the Main Street, formerly zoned "Office/Multi-Family" and "Medical Services". This district also incorporates the new form-based standards outlined above, ensuring future buildings are pulled up to the street and parking areas are set back, and allows for the same height/number of stories in the DMS; building massing standards (frontage buildout and setbacks) are reduced from the DMS in this transitional district.

A wide range of commercial uses are proposed to be permitted in both the DMS and DV Districts, with the limitation that any one commercial use that exceeds 5,000 square feet requires a special permit.

The remaining five districts remain largely consistent with the provision in the current zoning ordinance.

- The Downtown Neighborhood District (formerly Single Family) maintains the same use requirements, but now permits two-family dwellings on South Street, Ridgewood Street, and Spring Street.
- The Downtown Hospital District consolidates the provisions called out specifically for the regional hospital formerly in the Medical Services District in the current zoning into one district. Development in this district is exempt from a number of site standards in recognition of the specific use and development type.

- The Hyannis Harbor District is limited to parcels south of South Street and maintains most current use and dimensional standards. Multi-family residential use is allowed, and the marine supportive uses continued to be allowed, with the exception of boat storage as a principal use.
- The Transportation District maintains its purpose of supporting regional transportation-related uses. Multi-family use is proposed to be permitted, in support of potential transit-oriented development.
- The Highway Commercial District consolidates the two current districts along Route 28 and includes new dimensional requirements and enhanced landscaping requirements.

In all districts, landscaping and landscape buffer standards are enhanced, with new requirements for number and size of required plant materials to enhance streetscapes and screening between commercial and residential uses.

### *Parking*

The proposed ordinance defines parking requirements for each category of permitted use in each zoning district. Shared parking is encouraged and flexibility in meeting requirements is promoted through the availability of special permit relief. Parking requirements in the DMS only are reduced to zero for retail, service, and food service uses in recognition of the built-out conditions of Main Street and availability of public parking. All other districts maintain traditional parking requirements for all uses. Parking requirements for dwelling units is proposed to be a minimum of one space per unit.

The Downtown Hyannis Parking Study and Hyannis Growth Incentive Zone strategic plan emphasize the importance of encouraging shared parking downtown. When land uses with different parking demands share parking, it allows for more housing at a lower cost, requires less land be dedicated to parking, and reduces impervious surface. The proposed parking requirements for multi-family residential dwellings (one space per unit) are minimums consistent with the Commonwealth's Housing Choice efforts that seek to encourage new housing production, and, support the viability of top-of-shop and small scale infill development.

### *Hyannis Parking Overlay District*

This proposed amendment repeals the Hyannis Parking Overlay District, an overlay district established to address zoning for commercial parking lots. This zoning ordinance was appealed and struck down in Land Court on procedural grounds. This amendment accomplishes the necessary housekeeping associated with that ruling.

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

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

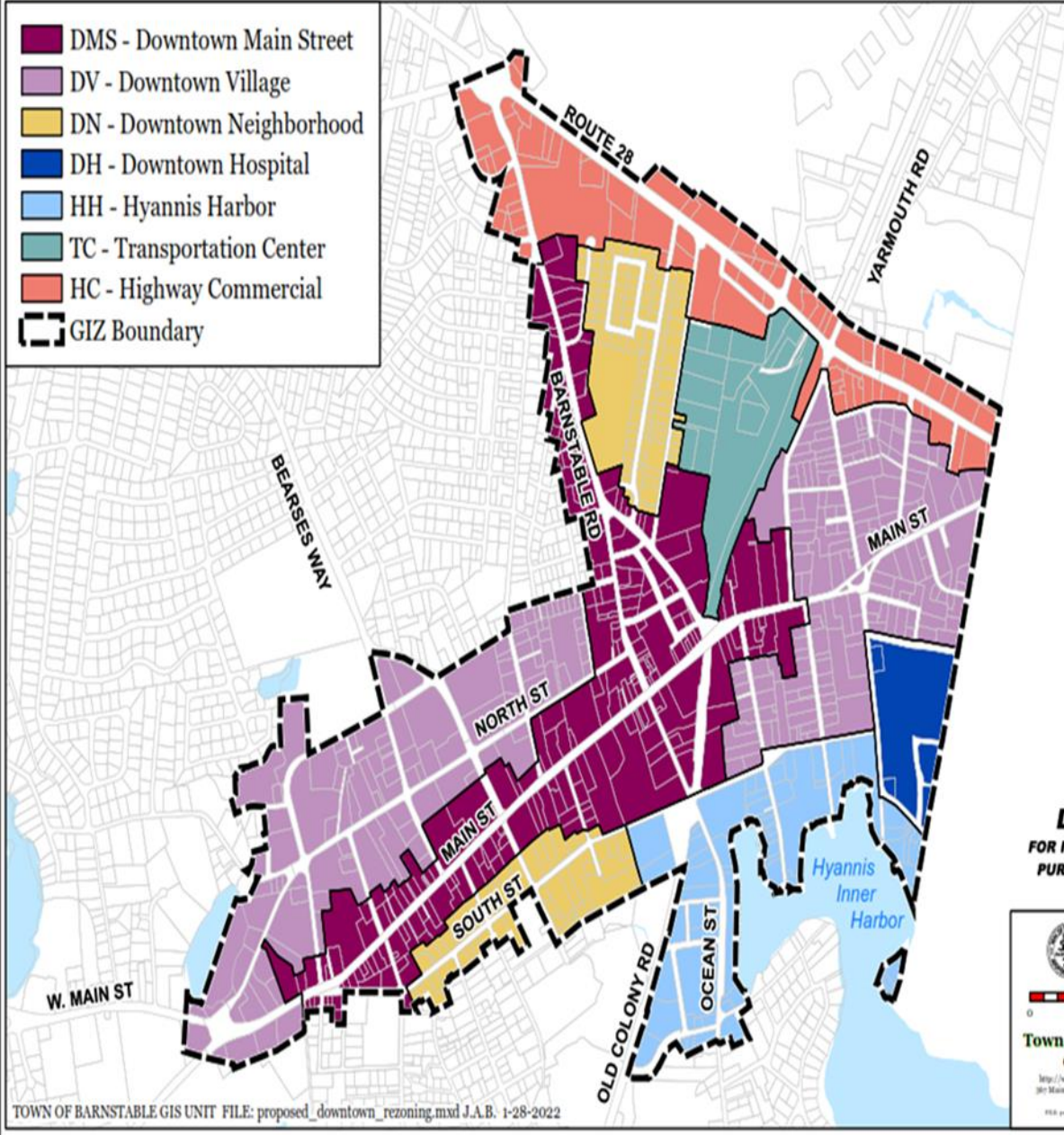
**STAFF SUPPORT:** Elizabeth Jenkins, Director, Planning & Development; Kate Maldonado, Assistant Director, Planning & Development; Gloria McPherson, Planning & Economic Development Coordinator; Jim Kupfer, Senior Planner; Ryan Bennett, Housing Coordinator; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Kate Connolly, Assistant Town Attorney



# Downtown Hyannis Zoning Districts

January 21, 2022

- DMS - Downtown Main Street
- DV - Downtown Village
- DN - Downtown Neighborhood
- DH - Downtown Hospital
- HH - Hyannis Harbor
- TC - Transportation Center
- HC - Highway Commercial
- GIZ Boundary



**DRAFT**  
FOR ILLUSTRATION  
PURPOSES ONLY

**Town of Barnstable  
GIS Unit**  
<http://www.town.barnstable.ma.us>  
 301 Main Street, Hyannis, MA 01901  
 (508) 868-4314  
11/24 project drawings prepared  
 1/21/22 10:48 AM

TOWN OF BARNSTABLE GIS UNIT FILE: proposed\_downtown\_rezoning.mxd J.A.B. 1-28-2022





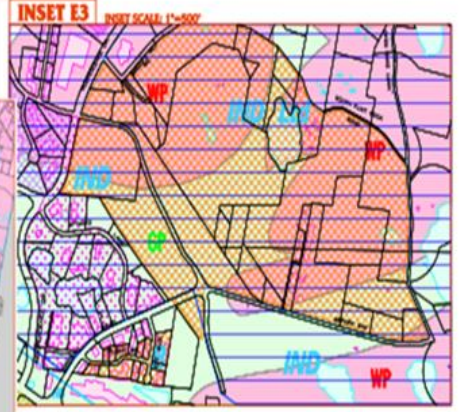
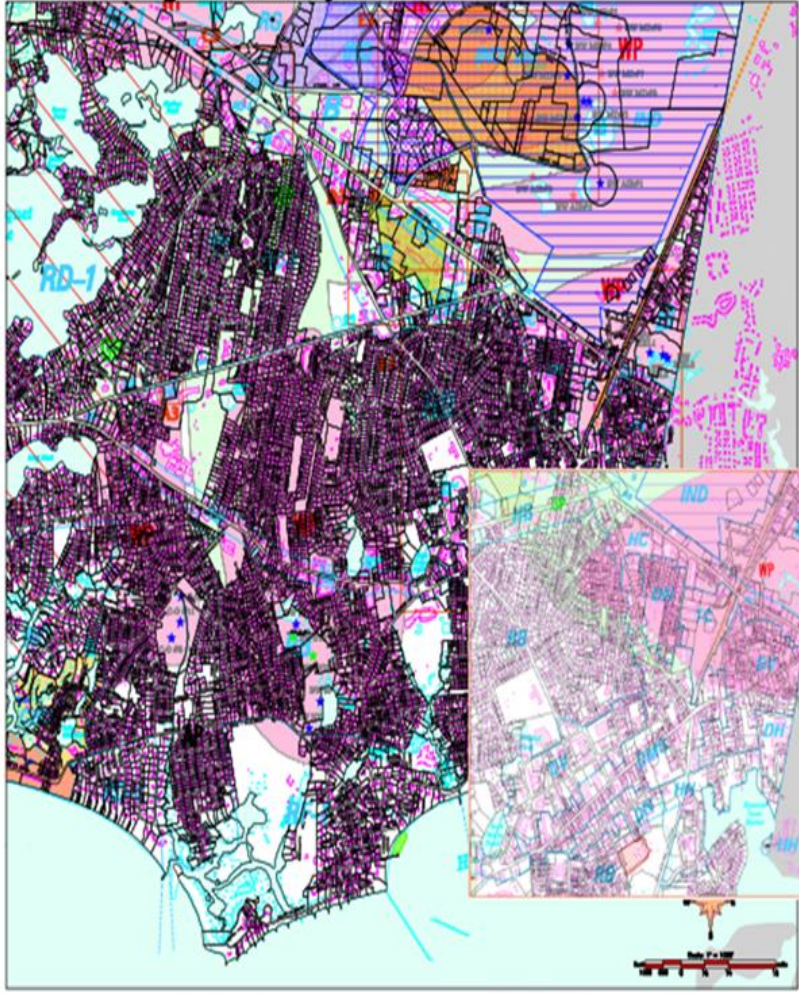




# PROPOSED AMENDMENT to the HYANNIS ZONING MAP Re-Zoning Downtown Hyannis

JANUARY 21, 2023

HYANNIS - SHEET 3 OF 7



**Map Legend**

	Existing District		Generally Slow North Beach Neighborhood Overlay
	Waterfront Protection Overlay District		Existing Public Water Site
	Crosswater Protection Overlay District		Proposed Public Water Site
	Aquifer Protection Overlay District		Period Lines (FY 2022)
	Adult Use Overlay District		Buildings
	Dock and Pier Overlay District		Relieved Track
	Former Grade II School Planned Unit Development Overlay District		Street Inventory Line
	Medical Services Overlay District		Marsh Area
	Business Protection Overlay District		Stream / Edge of Water
	Shopping Center Redevelopment Overlay District		Cowbery Bay
	State Street Intending Sub Zone of the Shopping Center Redevelopment Overlay Dist.		
	Senior Centering Core Redevelopment Overlay - RCD2000 2000-1		
	Incremental Health Area and Healthful Valley Area Zone II, Pier Overlay District		
	General Historical Fair Preservation Overlay District		
	Medical Marijuana Overlay District		
	Capeville Village Neighborhood Overlay		
	Long / Short Beach Neighborhood Overlay		
	Capeville Beach Neighborhood Overlay		

**NOTES:**  
 1. THE TOWN OF HYANNIS REQUESTS THE BOARD TO APPROVE THE PROPOSED AMENDMENT TO THE ZONING MAP.  
 2. THE BOARD SHALL REVIEW THE MAP AND REPORT TO THE BOARD ON THE PROPOSED AMENDMENT.  
 3. THE BOARD SHALL REVIEW THE MAP AND REPORT TO THE BOARD ON THE PROPOSED AMENDMENT.  
 4. THE BOARD SHALL REVIEW THE MAP AND REPORT TO THE BOARD ON THE PROPOSED AMENDMENT.

HYANNIS ZONING MAP - SHEET 3 OF 7 - JANUARY 21, 2023

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-145**

**INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022, 01/05/2023, 02/02/2023**

**2022-145 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY AMENDING ARTICLE VII SIGN REGULATIONS**

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

**SECTION 1**

By amending Article VII, Section 240-64 as follows:

- A. By striking the words “Signs in Medical Services District” from the section heading and inserting “**Signs in Downtown Hospital District**” in their place.
- B. In subsection A, by striking the words “in a professional residential zone”, so that the revised Section shall read:
  - “§ 240-64 **Signs in Downtown Hospital District.**
  - A. One sign giving the name of the occupant or other identification of a permitted use may be permitted. Such signs shall be no more than 12 square feet in area and shall not extend more than eight feet above the ground.
- C. Any illuminated sign must comply with the provisions of § **240-63** herein.”

**SECTION 2**

By amending Article VII, Section 240-65 by adding the word “and” after “S&D,” in the section heading and striking “and GM”, so that the revised section heading shall read:

“§ 240-65 **Signs in B, UB, HB, HO, S&D, and SD-1 Districts.**”

**SECTION 3**

By amending Article VII, Section 240-67 by striking “OM, HG, TD” from the section heading and inserting “HC, TC” in their place, so that the revised section heading shall read:

“§240-67 **Signs in CVD, HC, TC, VB-A, WBVBD and MMV Districts.**”

**SECTION 4**

By amending Article VII, Section 240-68 by striking “HD” from the section heading and inserting “HH” in its place, so that the revised section heading shall read:

“§ 240-68 **Signs in MB-A1, MB-A2, MB-B and HH Districts.**”

**SECTION 5**

- A. By amending Article VII, Section 240-71 by striking “HVB” from the section heading and inserting “DMS” in its place, so that the revised section heading shall read:

“§ 240-71 **Signs DMS District.**”

- B. By amending Article VII, Section 240-71, Subsection A by inserting after the words “eight feet” the



phrase “, except that the Building Commissioner may allow signs up to 14 feet in height on buildings if he finds that such height is necessary for the façade and is compatible with the appearance, scale and character of the area”, so that the revised Subsection shall read:

“The maximum allowable height of all signs on buildings shall be 12 feet, and the maximum height of a freestanding sign shall be eight feet, except that the Building Commissioner may allow signs up to 14 feet in height on buildings if he finds that such height is necessary for the façade and is compatible with the appearance, scale and character of the area.”

- C. By amending Article VII, Section 240-71, Subsection D by striking the words “HVB Business” and inserting in their place “DMS” so that the revised Subsection shall read:

“Temporary street banners may be permitted in the DMS District only, for the purpose of informing the general public of community events and activities, with approval of the Town Manager. Street banners shall be hung in prescribed locations, securely fastened to buildings, maintain a minimum height of 16 feet above the street, be constructed of durable materials, used solely for community events in the district, and remain in place for no more than three weeks prior to the event and be removed within one week after the event.”

## **SECTION 6**

By amending Article VII by adding the following new Section 240-71.1:

### **“§ 240-71.1 Signs in Downtown Village (DV) District.**

- A. Each business establishment may be allowed a maximum of two signs. The allowed signage types are: wall signs; projecting signs, which may be double sided and considered a single sign; and signage as part of a freestanding sign serving businesses on the lot.
- B. One freestanding sign may be allowed on a lot. A freestanding sign may contain signage for multiple businesses on the lot.
- C. The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade that contains the establishment's primary customer entrance or 32 square feet, whichever is the lesser amount.
- D. The total area of a wall sign shall not exceed 24 square feet.
- E. The total area of a projecting sign shall not exceed 15 square feet.
- F. The maximum height of any freestanding sign shall not exceed 8 feet in height and 12 square feet in area, except that the Building Commissioner may allow signs to be up to 24 square feet in area if the sign will include more than one business establishment and it is determined that the additional area will be in keeping with the scale of the building and will not detract from the appearance or safety of the area and will not obscure existing signs that conform to these regulations and have a Town permit.
- G. Any illuminated sign must comply with the provisions of § 240-63 herein.”

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

DATE	ACTION TAKEN
<u>03/03/2022</u>	<u>Due to lack of quorum this Item was referred to 03/17/2022</u>
<u>03/17/2022</u>	<u>Referred to Planning Board</u>

11/03/2022                    Due to lack of quorum this Item was referred to 12/01/2022  
12/01/2022                    Due to lack of quorum this Item was referred to 01/05/2023  
01/05/2023                    Due to a technical issue the Town Council meeting was canceled

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-145

INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022, 01/05/2023, 02/02/2023

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article VII Sign Regulations to amend regulations to be consistent with proposed new district regulations

**RATIONALE:** This item is a companion to Item 2022-144 which comprehensively updates the zoning regulations within the area designated as the Downtown Hyannis Growth Incentive Zone. The zoning amendments proposed create seven new zoning districts. This item updates the signage regulations in Article VII of the Zoning Code to reflect the proposed new district names. The allowable size, number, and height of signs in most cases is not proposed to be altered. For the consolidated Hyannis Gateway and Gateway Medical Districts, proposed as Highway Commercial, the more generous signage allow was incorporated. For the new Downtown Village District, provisions of the former districts were combined and redrafted with the intent of allowing appropriate signage for the wide variety of business and commercial properties, but respecting the smaller scale of many of the lots.

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

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

**STAFF SUPPORT:** Elizabeth Jenkins, Director of Planning & Development; Kate Maldonado, Assistant Director of Planning & Development; Gloria McPherson, Planning & Economic Development Coordinator; Karen Nober, Town Attorney; Kate Connolly, Assistant Town Attorney

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-146**

**INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022, 01/05/2023, 02/02/2023**

**2022-146 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY MOVING AND RENUMBERING SECTION 240-122.1 REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES INTO A NEW OVERLAY ZONING DISTRICT AND REPEALING SECTIONS 240-129 AND 240-129.1 EXPIRED TEMPORARY MORATORIAM FOR MARIJUANA USES**

**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 a Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District
- Proposed Amendment to the Hyannis Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District

**SECTION 2**

By amending Article II, Section 240-5, Establishment of districts, by inserting “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District” immediately below the “Medical Marijuana Overlay District” as it appears under the heading “Overlay Districts”.

**SECTION 3**

- A. By striking the words “Article XII. Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories” and inserting “Article XII. (Reserved)” in their place.
- B. By moving Section 240-122.1, Registered recreational marijuana cultivators, research facilities and testing laboratories, in its entirety from Article XII to Article III and inserting and renumbering said section as Section 240-31.

**SECTION 4**

By amending said Article III, Chapter 240-31 as follows:

- A. In Subsection A(1), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(1) shall read:

“Purpose. To provide for the location of registered recreational marijuana cultivators, research facilities and independent testing laboratories, as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of marijuana Act. M.G.L. c.94C, App. § 1-1, et. seq., as amended by Chapter 55 of the Acts of 2017, M.G.L. c.94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, and Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of marijuana, in locations within the Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District suitable for lawful marijuana cultivation, research and Independent Testing and to minimize adverse impacts of marijuana cultivation, research facilities and independent testing laboratories on adjacent properties,

residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of marijuana cultivators, research facilities and independent testing laboratories.”

B. By amending Subsection A (3) by striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”.

C. By further amending Subsection A(3) by striking out the words “and § 240-24.1.2E”, so that revised Section 240-31 A(3) shall read:

“Use. Within the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, a licensed marijuana cultivator, research facility or independent testing laboratory may be permitted as a conditional use, provided a special permit is first obtained from the Planning Board. All special permits granted under this article shall be subject to the provisions of § 240-125C herein and subject to all additional standards and conditions of this article.”

D. In Subsection A(4), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(4) shall read:

“Prohibition of all other non-medical marijuana establishments. Except for licensed marijuana cultivators, research facilities and independent testing laboratories permitted as a conditional use in the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, subject to all the requirements of this article, all other types of non-medical "marijuana establishments" as defined in M.G.L. c.94G § 1, including marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses are prohibited.”

E. In Subsection G, striking out “Article XII, § 240-122.1,” and substituting in its place “Article **III**, § **240-31**” so that revised Section 240-31 G shall read:

“Severability. The provisions of Article **III**, § **240-31**, are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.”

#### **SECTION 4**

By deleting Article XIV, Section 240-129 in its entirety.

#### **SECTION 5**

By deleting Article XIV, Section 240-129.1 in its entirety.

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

DATE

ACTION TAKEN

03/03/2022

Due to lack of quorum this Item was referred to 03/17/2022

03/17/2022

Referred to Planning Board

11/03/2022

Due to lack of quorum this Item was referred to 12/01/2022

12/01/2022

Due to lack of quorum this Item was referred to 01/05/2023

01/05/2023

Due to a technical issue the Town Council meeting was canceled

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-146

INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022, 01/05/2023, 01/19/2023

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth S. Jenkins, Planning & Development Director  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by moving and renumbering section 240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories into a new overlay Zoning District and repealing sections 240-129 and 240-129.1 expired temporary moratorium for Marijuana uses

**RATIONALE:** This proposed zoning ordinance amendment is a corollary amendment to the proposed new Downtown Hyannis Zoning.

Adult use registered recreational marijuana cultivators, research facilities, and testing laboratories are currently allowed within the Medical Services (MS) Zoning District and the Gateway Medical (GM) Zoning District. The new Downtown Hyannis Zoning will create a total of seven zoning districts, where there are currently eight, and the boundaries of the MS and GM Zoning Districts will be changed with the redrawing of the zoning district lines.

In order to maintain the current configuration and extent of the allowed recreational marijuana uses, we have created an overlay district that mirrors the current MS and GM zoning districts. By doing so, every lot that currently allows for recreational marijuana uses will continue to do so, and every lot that currently does not allow for recreational marijuana uses will continue to not allow them.

There are no changes proposed to the current allowed location of recreational marijuana uses; there are no changes proposed to the recreational marijuana use regulations themselves.

There is also a corollary zoning map amendment, which shows the new “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay Zoning District.”

This amendment also repeals two expired temporary zoning moratoria on marijuana uses. Section 240-129 was a temporary moratorium on medical marijuana treatment centers. This moratorium expired on January 1, 2014. Section 240-129.1 was a temporary moratorium on recreational marijuana establishments and marijuana retailers. This moratorium expired on December 31, 2018.

Collectively, these amendments clean up and consolidate all provisions related to recreational adult-use marijuana and medical marijuana and make them consistent with the proposed new Downtown Hyannis Zoning without changing any of the current regulatory provisions.

**STAFF ASSISTANCE:** Gloria McPherson, Planning & Economic Development Coordinator; Kate Connolly, Assistant Town Attorney







**PROPOSED AMENDMENT to the HYANNIS ZONING MAP Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District**

JANUARY 21, 2023

HYANNIS - SHEET 3 OF 7



**Map Legend**

Existing District	Long / Short Beach Neighborhood Overlay
Wetland Protection Overlay District	Cotuit Beach Neighborhood Overlay
Groundwater Protection Overlay District	Cotuitville River North Bank Neighborhood Overlay
Aquifer Protection Overlay District	Existing Public Vial Sites
AP	Future Future Public Vial Sites
<del>AMM Use Overlay District</del>	Proposed Future Public Vial Sites
Dock and Pier Overlay District	Parcel Lines (FY 2022)
Turkey Goods / School Planned Unit Development Overlay District	Buildings
Medical Services Overlay District	Railroad Tracks
Business Protection Overlay District	Town Boundary Line
Shopping Center Redevelopment Overlay District	Marsh Area
State Through Treatment Sub Area of the Shopping Center Redevelopment Overlay District	Stream / Edge of Water
Senior Centering Care Redevelopment Overlay District - R/C/O/C/D 2008-1	
Recreational Beach Area and Shellfish Bait Area Shell A. Pier Overlay District	
Coastal Redevelopment Plan Overlay District	
Medical Marijuana Overlay District	
Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District	
Cotuitville Village Neighborhood Overlay	

NO PART OF THESE MAPS SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE TOWN OF HYANNIS.

When using these maps, please refer to the official zoning map for the most current information. The maps are provided for informational purposes only and do not constitute a legal document. The Town of Hyannis is not responsible for any errors or omissions on this map.



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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-068  
INTRO: 01/19/2023, 02/02/2023**

**2023-068 AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES TO PROVIDE POLICE DETAIL SERVICES**

**ORDERED:** That the Town Council authorizes the execution and delivery by the Town Manager of an Intergovernmental Agreement between the Town of Barnstable and the Commonwealth of Massachusetts Department of Children and Families (DCF), under which the Town of Barnstable will provide police detail services to DCF on an as needed basis and subject to availability of Barnstable Police Department staff, and will be reimbursed for same by DCF. The initial term of this Agreement shall be for eleven (11) years, subject to renewal by mutual agreement, for a maximum term not to exceed twenty-five (25) years.

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

DATE	ACTION TAKEN
<u>01/19/2023</u>	<u>Referred to Second Reading 02/02/2023</u>

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

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-068**  
**INTRO: 01/19/2023, 02/02/2023**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Matthew Sonnabend, Chief of Police  
**DATE:** January 19, 2023  
**SUBJECT:** Authorizing an Intergovernmental Agreement with the Commonwealth of Massachusetts Department of Children and Families to provide police detail services

**BACKGROUND:** The Massachusetts Department of Children and Families (DCF) has been using Barnstable Police Department police details at its offices for about four (4) hours weekly for some time and was recently advised that it needed contracts with each municipality from which it gets such details. The police details are fully reimbursed by DCF. The Town has been provided a state contract from DCF that provides for Police Detail Services for approximately four hours per week on average with work completed on overtime outside of Town of Barnstable normal work hours. The service is subject to the availability of the Barnstable Police Department employee and neither DCF nor the Town can compel the employee to undertake the work. The initial term of this Agreement shall be for eleven (11) years, subject to renewal by mutual agreement, for a maximum term not to exceed twenty-five (25) years.

**FISCAL IMPACT:** The Town of Barnstable will be reimbursed for all police services and expenses to provide the subject services.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Matthew Sonnabend, Chief of Police; Kate Connolly, Assistant Town Attorney

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-069  
INTRO: 01/19/2023, 02/02/2023**

**2023-069 APPROPRIATION ORDER IN THE AMOUNT OF \$125,000 IN COMMUNITY PRESERVATION HISTORIC PRESERVATION FUNDS FOR PHASE III EXTERIOR ACCESS RESTORATION WORK TO THE OLDE COLONIAL COURTHOUSE, 3046 MAIN STREET, BARNSTABLE, MA**

**ORDERED:** That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of One Hundred and Twenty-Five Thousand Dollars (**\$125,000**), representing a portion of the estimated total project cost of \$372,497, be appropriated and transferred from the amount set aside for Historic Preservation within the Community Preservation Fund for the purpose of funding Phase III exterior access restoration and rehabilitation work on the Olde Colonial Courthouse located at 3046 Main Street, Barnstable, and shown on Town of Barnstable Assessor’s Map 279 as Parcel 071. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee, and to receive, execute, deliver, and record any written instruments for the purposes set forth herein.

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

DATE	ACTION TAKEN
<u>01/19/2023</u>	<u>Referred to Public Hearing 02/02/2023</u>

\_\_\_\_\_

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2023-069  
INTRO: 01/19/2023, 02/02/2023

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lindsey Counsell, Chair, Community Preservation Committee  
**DATE:** January 19, 2023  
**SUBJECT:** Appropriation Order in the amount of **\$125,000** in Community Preservation Historic Preservation Funds for the Phase III Exterior Access Project at Olde Colonial Courthouse, 3046 Main Street, Barnstable

**BACKGROUND:** Tales of Cape Cod is requesting **\$125,000** in Community Preservation Historic Preservation Funds for their Phase III Exterior Access Project at the Olde Colonial Courthouse located at 3046 Main Street, Barnstable. This funding request represents a portion of the estimated cost of the \$372,497 project, with \$120,000 of matching funds provided from a Massachusetts Cultural Facilities Fund grant and \$147,497 in additional grants and private donations. At the November 21, 2022, Community Preservation Committee (CPC) meeting, the seven (7) Committee members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager. The historic preservation and restoration work for this project includes the provision of accessibility to the building by installing a lift leading to a new accessible entrance on the east side of the building and regrading to create an accessible walkway to the building. Because the cost of Phase II restoration of the first-floor framing exceeded 30% of the assessed value of the building, Massachusetts law requires that the building be made compliant with regulations relating to building access for persons with disabilities.

**ANALYSIS:** The Olde Colonial Courthouse is one of the most historic buildings on Cape Cod. The property is listed in the National Register of Historic Places as a contributing element of the Old King's Highway Historic District and is also listed on the Massachusetts Register of Historic Places and is a contributing property in the Barnstable Village Cultural District. Originally built in 1763, the Olde Colonial Courthouse is the second courthouse constructed in Barnstable County and is one of the only two colonial-era courthouses remaining in the Commonwealth of Massachusetts. The building today provides a rich historical and cultural experience to Cape Cod's residents and visitors, helping to preserve and enhance the character of the region. Additionally, the building provides a venue for multiple programs, meetings and events held by Tales of Cape Cod in collaboration with other local organization. There is an existing Preservation Restriction recorded for the Olde Colonial Courthouse.

**FISCAL IMPACT:** This appropriation is provided from the set-aside for Historic Preservation within the Community Preservation Fund which has an available balance of \$471,486. There is no impact on the General Fund Operating Budget.

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

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-072  
INTRO: 02/02/2023**

**2023-072 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 GRANT FROM THE MASSACHUSETTS DEPARTMENT OF FISH & GAME, DIVISION OF MARINE FISHERIES, IN THE AMOUNT OF \$25,000 FOR REPAIRS TO THE BLISH POINT BOAT RAMP IN THE TOWN OF BARNSTABLE**

**RESOLVED:** That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 grant in the amount of **\$25,000** from the Massachusetts Department of Fish & Game, Division of Marine Fisheries, for the purpose of repairing the Blish Point Boat Ramp in the Town of Barnstable.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-072**  
**INTRO: 02/02/2023**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director, Department of Public Works  
**DATE:** February 02, 2023  
**SUBJECT:** Authorization to expend a Fiscal Year 2023 Grant from The Massachusetts Department of Fish and Game, Division of Marine Fisheries, in the amount of **\$25,000** for repairs to the Blish Point Boat Ramp in the Town of Barnstable

**BACKGROUND:** The Town of Barnstable was awarded a **\$25,000** grant to repair Blish Point Boat Ramp. The boat ramp has significant potholes and other damage that poses safety and operational hazards, and which if left uncorrected will accelerate deterioration of the ramp. This is a state boat ramp which is operated and maintained by the Town.

**ANALYSIS:** The Massachusetts Department of Fish & Game has informed us of their intent to reconstruct the Blish Point Boat Ramp in approximately five years. The repairs proposed at this time are intended to extend the useful life of the boat ramp until it can be reconstructed.

**FISCAL IMPACT:** A local match is not required for this grant. However, if the cost of repairing the boat ramp exceeds the grant amount, then the Town will be responsible for funding the amount over \$25,000. At this time we are aiming to complete the project within the grant amount, if possible.

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

**B. NEW BUSINESS (Refer to Public Hearing 02/16/2023)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-128  
INTRO: 02/02/2023**

**2023-128 APPROPRIATION ORDER IN THE AMOUNT OF \$300,000 TO FUND  
DISPOSAL COSTS AT THE SOLID WASTE DIVISION OF THE  
DEPARTMENT OF PUBLIC WORKS**

**ORDERED:** That the amount of **\$300,000** be appropriated and provided from the Solid Waste Enterprise Fund surplus for the purpose of funding disposal costs at the Solid Waste Division of the Department of Public Works.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-128**  
**INTRO: 02/02/2023**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director, Department of Public Works  
**DATE:** February 02, 2023  
**SUBJECT:** Appropriation Order in the amount of **\$300,000** to fund disposal costs at the Solid Waste Division of the Department of Public Works.

**BACKGROUND:** The Solid Waste Division operates the Transfer Station & Recycling Center. The services provided at the Transfer Station are funded by fees charged to users and sticker holders. These fees are used to cover the costs associated with operating and disposing of items accepted from users and sticker holders. The appropriated budget is calculated using estimated material totals and expected disposal costs. Changes to these figures can impact the budget in various ways. In Fiscal Year 2023, the Transfer Station experienced increases to the amount of municipal solid waste, recyclables, hard to recycle items, and construction & demolition material disposed of at the facility. This unexpected increase has significantly increased the cost of disposal incurred by the Solid Waste Division.

**ANALYSIS:** Preparation of the Solid Waste Division budget for Fiscal Year 2023 did anticipate increases to material being disposed of. The Solid Waste Division charges fees for disposal of a multitude of items and offers stickers for a fee to residents. The fees charged are calculated to cover the costs of disposal for materials disposed of at the facility. Due to the increase in materials disposed of at the facility, we are experiencing an increase in the associated revenue, which is expected to cover the incurred disposal costs.

**FISCAL IMPACT:** There are adequate cash reserves to cover this funds transfer. Current certified cash reserves are \$1,737,618.

**TOWN MANAGER RECOMMENDATION:** The Town Manager requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Daniel W. Santos, P.E., Director, Department of Public Works; Tracy Regazio, Division Supervisor



**B. NEW BUSINESS (Refer to Public Hearing 02/16/2023)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-129  
INTRO: 02/02/2023**

**2023-129 APPROPRIATION ORDER IN THE AMOUNT OF \$206,391 TO FUND  
INFORMATION TECHNOLOGY SECURITY IMPROVEMENTS**

**ORDERED:** That the amount of **\$206,391** be appropriated and provided from the General Fund reserves for the purpose of funding information technology security improvements.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM # 2023-129**  
**INTRO: 02/02/2023**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**DATE:** February 02, 2023  
**SUBJECT:** Appropriation Order of \$206,391 for Information Technology Security Improvements

**BACKGROUND:** There are a number of IT security improvements that were planned for FY 2024. However, with the threat from cyber-attacks ever increasing, and the serious repercussions that could result from a successful attack, the need to complete these upgrades has become more urgent. A recent attempted threat, while successfully prevented by our system, highlighted the need to make these improvements as soon as possible.

**ANALYSIS:** This supplemental budget request would fund the following security improvements to the Town's IT infrastructure:

1. Email server & Microsoft Office software upgrades – This improvement would upgrade the Town's existing email server, as well as upgrade the Microsoft Office suite of software to current versions. In addition, it would migrate the existing on-premise email server to a cloud based server, and change the licensing model of the Microsoft Office software from standalone licenses to a subscription model.

Migrating to a cloud based email system offers several advantages over an on-premise email server, including greater reliability with redundant servers located across multiple cloud data centers. In the event of a disaster, cyber-incident, or hardware failure affecting our internal systems, the Town's email would continue to function. Another major advantage is that all server updates are handled by the cloud provider. The system will always be updated with the latest security updates and patches with no intervention needed.

Also as part of this initiative, the Town's outdated Microsoft Office software would be updated to Microsoft 365 which is a subscription based offering from Microsoft. Under this model, the software is licensed on a per user basis with a recurring annual cost, rather than purchasing licenses outright as a one-time purchase. There are several advantages to the subscription model, including a predictable annual cost, and the assurance that the software will always be kept up-to-date with the latest security updates.

Funding this request would improve the reliability and functionality of both the Town's email system and its office productivity software. At the same time, it would reduce our current vulnerability to security threats by ensuring that our email system and Microsoft Office software is kept up-to-date going forward.

2. Enhanced anti-malware detection & response – This improvement would replace the Town's existing anti-malware software installed on end-user PCs with an enhanced malware detection and response program. Beyond just software, this item also includes 24/7 monitoring and response for any malware detected on end-user PCs.

With the rise in malware threats, it's critical that the Town take steps to further secure our network environment to the extent possible. Our current anti-malware platform has limitations and requires Town IT staff to take action when a threat is found. Given the round-the-clock nature of malware threats, it's vital that someone is monitoring and responding to potential threats at they occur in real time.

Supplemental Budget Request for IT Security Improvements						
Item	Recurring Annual Cost	Pro-Rated Cost	Offset	One-Time Cost	FY 2023 Net Cost	Net Recurring Annual Cost
		March - June 2023 (Exchange & Office not pro-rated)				
Email Server & MS Office Upgrades	\$ 164,000	\$ 164,000	\$ (9,909)	\$ 27,000	\$ 181,091	\$ 154,091
Enhanced Anti-maleware	\$ 54,000	\$ 18,000	\$ (16,400)	\$ -	\$ 1,600	\$ 37,600
Software Patch Management	\$ 30,000	\$ 10,000	\$ -		\$ 10,000	\$ 30,000
Additional Cloud Backup Capacity	\$ 15,000	\$ 5,000	\$ -	\$ -	\$ 5,000	\$ 15,000
Disaster Recovery	\$ 26,000	\$ 8,700	\$ -	\$ -	\$ 8,700	\$ 26,000
<b>TOTALS</b>	<b>\$ 289,000</b>	<b>\$ 205,700</b>	<b>\$ (26,309)</b>	<b>\$ 27,000</b>	<b>\$ 206,391</b>	<b>\$ 262,691</b>

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s enhanced system, known generically as Endpoint Detection & Response, uses artificial intelligence and other techniques to monitor and detect suspicious activity. When a potential threat is detected, suspicious files are quarantined and then investigated by a human analyst, who will then determine if further action is necessary.

This enhanced level of threat protection and 24/7 response capability would help ensure that the Town's network remains as secure as possible.

3. Software patch management – This improvement would implement a system to manage software updates (patches) across 500+ end user PCs. This would include both operating system updates, as well updates to third party software installed on PCs. Funding this request would help to address software vulnerabilities within the Town that have been identified by an outside security consultant. It would reduce the Town's risk by ensuring that insecure or outdated software is updated or mitigated to the extent possible.

4. Additional cloud backup capacity – This item would expand our existing cloud backup capacity, which would significantly reduce risk and increase our resiliency to a cyber-incident or other loss of data.

One of the most important functions of IT is to ensure that servers and data are securely backed up. This is critical to ensure the recoverability of data that could be lost due to a cyber-incident, hardware failure, inadvertent deletion, or other cause.

This request would improve the efficiency and resiliency of our current data backup program by expanding the use of cloud backups. Data backups would become less cumbersome with faster restore times. In the event of a disaster, there would be less disruption to core Town functions since data could be restored more quickly.

5. Disaster recovery / failover capacity for servers – Going hand in hand with data backups, a disaster recovery program is vital to ensure the continuity of critical Town functions in the event of a cyber-incident, hardware failure, or other disaster. A traditional disaster recovery program would involve maintaining secondary server hardware at an off-site location that could be powered up in the event of a disaster. With the increasing expense of maintaining physical server hardware, this approach can be costly to implement and maintain. With advancements in cloud computing, many vendors are now offering this redundant server infrastructure as a service, with on-demand backup servers available in the cloud.

This item would fund a cloud-based Disaster Recovery as a Service (DRaaS) program. This is a subscription based service with a fixed annual cost based on the server capacity that's needed. In the event of a disaster, this would enable us to activate backup copies of core Town servers which would run off-site in the cloud. Critical Town functions could then be run on these backup servers until service was restored to the Town's on-site servers.

**FISCAL IMPACT:** The first year cost for these improvements total \$206,391. Item 1 is billed on an annual subscription basis and this amount represents a full year subscription. Items 2 through 5 are billed on a monthly basis and have been prorated for fiscal year 2023 to include 4 months. In addition, one-time cost of \$27,000 is included in the requested amount to setup the new email server and MS Office upgrades. Subsequent year recurring costs are estimated at \$262,691 and this will need to be included in the Information Technology Department's budget in Fiscal Year 2024 and beyond. Savings of \$26,309 have been identified to offset these costs as we can eliminate existing funding for subscriptions on Barracuda and WebRoot security software

Funding for these items will be provided from the General fund reserves which were last certified at \$26,769,227 as of July 1, 2022.

**TOWN MANAGER RECOMMENDATION:** Mark S Ells, Town Manager, requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Jim Benoit, Director of Information Technology, Mark A. Milne, Director of Finance

**B. NEW BUSINESS (Refer to Public Hearing 02/16/2023)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-130  
INTRO: 02/02/23**

**2023-130 APPROPRIATION ORDER FOR THE SCHOOL DEPARTMENT IN THE AMOUNT OF \$1,444,398 FOR THE PURPOSE OF FUNDING THE BARNSTABLE PUBLIC SCHOOLS DISTRICT WIDE LIGHT REPLACEMENT PROJECT**

**ORDERED:** That the amount of **\$1,444,398** be appropriated for the purpose of funding the replacement of light fixtures in the Barnstable Public Schools, including the payment of costs incidental or related thereto; and that to meet this appropriation, that \$1,444,398 be provided from the General Fund Reserves and any grant received by the School District for this project be applied to project costs, thereby reducing the amount authorized by this order by a like amount; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-130**  
**INTRO: 02/02/23**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Sara Ahern, Superintendent of Schools  
**DATE:** 01/27/2023  
**SUBJECT:** Appropriation Order in the amount of **\$1,444,398** for the School Department for the purpose of funding the Barnstable Public School District Wide Light Replacement Project

**BACKGROUND:** The Barnstable School department has undergone a lighting fixture assessment with the Cape Light Compact, performed by RISE Engineering. It has been determined that the following eight (8) sites would qualify and benefit from the replacement of existing florescent and incandescent fixtures to LED:

BARNSTABLE SCHOOL SYSTEM LIGHTING SAVINGS/ECONOMIC BREAKDOWN								
Schools	Annual Energy Savings [kWh]	Annual Economic Savings \$	Total Project Cost \$	Barnstable Net Cost	Estimated Payback Period	Appropriation Request	Procurement Type	Payment / Reimbursement
Centerville E.S.	64,887	\$ 11,680	\$ 135,296	\$ 67,984	\$ 6	\$ 67,984	CLC Contract	Town Share Only
Barnstable W. Barnstable E.S.	49,630	\$ 8,933	\$ 82,830	\$ 30,936	\$ 3	\$ 30,936	CLC Contract	Town Share Only
Barnstable Community Innovation School	45,026	\$ 8,105	\$ 73,739	\$ 25,060	\$ 3	\$ 25,060	CLC Contract	Town Share Only
Barnstable Middle School	184,087	\$ 33,136	\$ 286,623	\$ 102,536	\$ 3	\$ 102,536	CLC Contract	Town Share Only
United E.S.	158,737	\$ 28,573	\$ 314,127	\$ 87,569	\$ 3	\$ 314,127	RFP	CLC Reimbursement
Barnstable High School	494,634	\$ 89,034	\$ 661,850	\$ 167,216	\$ 2	\$ 661,850	RFP	CLC Reimbursement
Hyannis W. Elementary	79,570	\$ 14,323	\$ 141,486	\$ 57,829	\$ 4	\$ 57,829	CLC Contract	Town Share Only
W. Village E.S.	69,029	\$ 12,425	\$ 165,423	\$ 91,007	\$ 7	\$ 91,007	CLC Contract	Town Share Only
Project Contingency (5%)				\$ 93,069		\$ 93,069		
<b>Total</b>	<b>1,145,600</b>	<b>\$ 206,208</b>	<b>\$ 1,861,374</b>	<b>\$ 723,206</b>	<b>\$ 4</b>	<b>\$ 1,444,398</b>		

The funding request is outside of the annual Capital Improvement Plan to allow project implementation during the April 2023 and Summer 2023 break. Future availability of LED subsidies is uncertain, accelerating this projects priority.

**ANALYSIS:** It is estimated that the improvements will save 1,145,600 kWh annually over the existing fixtures. The Barnstable School Committee unanimously voted October 05, 2022 to support the project and seek a supplemental appropriation from the school savings account. The Cape Light Compact voted on January 11, 2023 to approve the project covering approximately two thirds of the projected cost.

**FISCAL IMPACT:** Total project cost is estimated at \$1,861,374. The net cost to Barnstable after both direct and indirect reimbursements is \$630,138 plus contingencies.

Project costs of two sites exceed the MGL c.25A, §14 threshold of \$300,000 and require the School District to bid the projects directly. Appropriation of the full project cost of the two sites is required and will be subject to reimbursement from a Cape Light Compact grant. Improvements at the remaining sites will be contracted with the Cape Light Compact, with only the net District share due. Energy savings are estimated at \$206,208 annually, with a 3.1 year estimated payback on the town investment.

**TOWN MANAGER RECOMMENDATION:** Mark S Ells, Town Manager, requests favorable action by the Town Council.

Estimated Project Costs (8 Sites):	\$ 1,861,374	
Cape Light Compact Subsidy	\$ (1,231,236)	66%
Barnstable Contribution	\$ 630,138	34%
Project Contingency (5%)	\$ 93,069	
<hr/>		
Total Barnstable	\$ 723,207	
Projected Annual Energy Savings (kWh)	1,145,600	
Energy Cost (kWh)	\$ 0.18	
Projected Annual Energy Savings (\$)	\$ 206,208	

**STAFF ASSISTANCE:** Gareth Markwell, Deputy Finance Director; David Anthony, Director of Property and Risk Management; Michael Lambros, Director of School Facilities

**B. NEW BUSINESS (First Reading) (Refer to Second Reading 02/16/2023)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-131  
INTRO: 02/02/2023**

**2023-131 ORDER AUTHORIZING THE TAKING OF ROAD EASEMENTS BY EMINENT DOMAIN FOR SEWER AND WATER PURPOSES OVER CERTAIN PRIVATE ROADS IN CENTERVILLE KNOWN AS EARLES COURT, NOBADEER ROAD, QUISSET ROAD, CHRISTINAS PATH, CAPT. ELLIS LANE, JENNIE’S PATH, NANCYS LANE, AND A PRIVATE WAY ADJACENT TO LOT 11 AS SHOWN ON A PLAN FILED IN PLAN BOOK 288, PAGE 18 AT THE BARNSTABLE COUNTY REGISTRY OF DEEDS**

**ORDERED:** That the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under chapter 79 of the General Laws of Massachusetts, or otherwise acquire for sewer and water purposes a perpetual easement through, under, across, and on the following described roads for the installation, operation, maintenance, repair, relocation, and replacement of sewer and water lines and infrastructure for the same and for all purposes for which such easements are commonly used in the Town of Barnstable:

EARLES COURT, NOBADEER ROAD, QUISSET ROAD, CHRISTINAS PATH, all as shown on Land Court Plan No. 40592-C, Sheets 1 and 2; and

CAPT. ELLIS LANE, JENNIE’S PATH, NANCYS LANE, AND A PRIVATE WAY ADJACENT TO LOT 11, all as shown on a plan filed in the Barnstable County Registry of Deeds in Plan Book 288, Page 18.

Any trees, buildings, and other structures located within said roads are not included in this Order and the owners of the same may have a period of up to sixty (60) days after the recording of this Order of Taking to remove the same.

Betterments will be assessed for the associated sewer and water improvements made by the Town of Barnstable.

The names and addresses of the owners of said interests taken and their mortgagees as far as can be ascertained by the Town are as set forth on Exhibit A attached hereto, along with any awards, if any, for damages sustained by said owners.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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



**Exhibit A**

Sewer/Water Easements to be taken by Eminent Domain

<b>Parcel Number Street Address</b>	<b>Current Owner: Name &amp; Mailing Address</b>	<b>Award</b>
250033 <u>970 Falmouth Rd/ Rt 28</u>	Wade Behlman and Lisa Delia 970 Falmouth Rd Hyannis	None
250123 <u>954 Falmouth Rd /Rt28</u>	John Farrell 38 Captain Ellis Lane Centerville	None
250030 <u>20 Captain Ellis Lane</u>	James Marshall and Rosemary Marshall 20 Captain Ellis Lane Hyannis	None
250096 <u>135 Captain Ellis Lane</u>	Kathleen Murphy Finn Tr Captain Ellis Realty Trust 135 Captain Ellis Lane Centerville	None
250098 <u>117 Captain Ellis Lane</u>	Nicole Lynch Smith 117 Captain Ellis Lane Centerville	None
250099 <u>105 Captain Ellis Lane</u>	Bonnie Riess and Linda Colman Tr Riess Colman Revocable Trust 105 Captain Ellis Lane Centerville	None
250100 <u>91 Captain Ellis Lane</u>	Angela Cloutier 91 Captain Ellis Lane Centerville	None
250101 <u>79 Captain Ellis Lane</u>	Andrea Maynard 26 Tara Terrace Bourne MA 02532	None

<b>Parcel Number Street Address</b>	<b>Current Owner: Name &amp; Mailing Address</b>	<b>Award</b>
250102 <u>69 Captain Ellis Lane</u>	Dawn Burt LLC 338 Pleasant Pines Centerville	None
250103 <u>55 Captain Ellis Lane</u>	Steven Gustafson and Paula Gustafson 55 Captain Ellis Lane Centerville	None
250104 <u>41 Captain Ellis Lane</u>	Stephen Jutras 41 Captain Ellis Lane Centerville	None
250105 <u>31 Captain Ellis Lane</u>	Janis Goodnow Tr Mary Garvey Trust 31 Captain Ellis Lane Centerville	None
250106 <u>38 Captain Ellis Lane</u>	Orbin Tejada Carlos Todriquez 38 Captain Ellis Lane Centerville	None
250107 <u>54 Captain Ellis Lane</u>	Trevor Peterson and Susan Peterson 54 Captain Ellis Lane Centerville	None
250114 <u>100 Captain Ellis Lane</u>	Robin Demattos 100 Captain Ellis Lane Centerville	None
250118 <u>118 Captain Ellis Lane</u>	Charles Temple and Susan Temple 118 Captain Ellis Lane Centerville	None
250119 <u>130 Captain Ellis Lane</u>	Lester Phinney Tr Paige Three Trust 130 Captain Ellis Lane Centerville	None
250120 <u>142 Captain Ellis Lane</u>	Qiao Jin Zhang and Shao Hua Liu 142 Captain Ellis Lane Centerville	None

<b>Parcel Number Street Address</b>	<b>Current Owner: Name &amp; Mailing Address</b>	<b>Award</b>
250108 <u>68 Captain Ellis Lane</u>	Linda Drake Tr Barry-Drake Nominee Trust  177 Bishops Terrace Hyannis MA	None
250113 <u>88 Captain Ellis Lane</u>	Diego Baveloni By foreclosure deed of Citizen Bank  43 Winsome Rd Yarmouth MA 02669	None
250115 <u>24 Jennies Path</u>	Thang Nguyen  24 Jennies Path Centerville	None
250116 <u>23 Jennies Path</u>	Dennis Ashe and Susan Ashe  23 Jennies Path Centerville	None
250117 <u>21 Jennies Path</u>	Venildo Moniz  21 Jennies Path Centerville	None
250109 <u>16 Nancy's Lane</u>	Robert J Zaleski Tr Joseph F Zaleski Irrevocable Real Estate Trust  40 Barry Rd Abington MA 02351	None
250110 <u>26 Nancy's Lane</u>	Lisa Pacheco  26 Nancy's Lane Hyannis	None
250111 <u>25 Nancy's Lane</u>	Arildo Dos Santos  117 Dolphin Lane Hyannis MA 02601	None

<b>Parcel Number Street Address</b>	<b>Current Owner: Name &amp; Mailing Address</b>	<b>Award</b>
250112 <u>15 Nancy's Lane</u>	Ruy Coelho 15 Nancy's Lane Centerville	None
250072 <u>398 Bishops Terrace</u>	Monalisa Smith 398 Bishops Terrace Hyannis	None
50073 <u>386 Bishops Terrace</u>	Nancy Smith 386 Bishops Terrace Hyannis	None
250097 <u>7 Christina's Path</u>	Nancy Beauchamp 7 Christina's Path, Hyannis MA	None
250134 <u>18 Nobadeer Rd</u>	Victor Correia and Donna Correia 18 Nobadeer Rd Centerville	None
250143 <u>112 Nobadeer Rd</u>	Susan M. Kelley and Robert Storie (now Susan Storie) 112 Nobadeer Rd, Centerville	None
250141 <u>18 Christina's Path</u>	Arbinda Sah 18 Christina's Path Centerville	None

<b>Street Name</b>	<b>Current Owner: Name &amp; Mailing Address</b>	<b>Award</b>
<u>Christina's Path</u> <u>Nobadeer Road</u> <u>Quisset Road</u> <u>Earle's Court</u>	Jeffrey A. Sollows, Trustee of SLS Realty Trust, under declaration of trust dated March 16, 1983 registered as Document No. 309,328.  851 Cedar Street West Barnstable, MA  For title reference see Certificates of Title No. 91595 and 93490.	None

# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-131**  
**INTRO: 02/02/2023**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, Director, Department of Public Works  
**DATE:** February 02, 2023  
**SUBJECT:** Order authorizing the taking of road easements by eminent domain for sewer and water purposes over certain private roads in Centerville known as Earles Court, Nobadeer Road, Quisset Road, Christinas Path, Capt. Ellis Lane, Jennie's Path, Nancys Lane, and a private way adjacent to Lot 11 as shown on a plan filed in plan book 288, page 18 at the barnstable county registry of deeds

**BACKGROUND:** The Town is proceeding with plans to install sewers and related infrastructure in Centerville. These proposed takings of easements in existing private ways are the first in a series of takings that are contemplated in order to deploy sewer lines in accordance with the Town's approved Comprehensive Wastewater Management Plan. The taking will also allow the Town to cost-effectively install water mains where needed while the roadways are opened and before curb to curb repaving. The timely completion of these takings will also qualify this work for State Revolving Fund (SRF) monies in accordance with state funding. Utilizing the eminent domain procedure to acquire these easements will assure clear title to the property which is necessary to qualify for SRF funding.

Because the value of the improvements exceeds the value of the easement within the travelled roadways, there is no provision for the award of monetary damages.

**FISCAL IMPACT:** None

**TOWN MANAGER RECOMMENDATION:** Mark S Ells, Town Manager, requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Charles S. McLaughlin, Senior Town Attorney; Griffin Beaudoin, Town Engineer; Daniel W. Santos, Director, Department of Public Works; Shane Brenner, Town Surveyor

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-132  
INTRO: 02/02/2023**

**2023-132 ORDER TO DISCONTINUE AND ABANDON MOTHER’S PARK ROAD,  
CENTERVILLE, MA**

**ORDERED:** To discontinue and abandon the public way known currently as Mother’s Park Road in Centerville, MA; provided that this Order shall be effective thirty (30) days after the date on which it is approved by the Town Council.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-132**  
**INTRO: 02/02/2023**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, Director, Department of Public Works  
**DATE:** February 02, 2023  
**SUBJECT:** Order to discontinue and abandon Mother's Park Road, Centerville, MA

**BACKGROUND:** The Town is proceeding with plans to install sewers and related infrastructure in Centerville. The Town intends to install an underground sewer pump station in the current layout of Mother's Park Road as a vital component of the Town's approved Comprehensive Wastewater Management Plan. In order to accomplish this installation, Mother's Park Road must first be abandoned as a public way. Extensive outreach to the homeowners on Mother's Park Road indicates that these homeowners are fully supportive of the Town's plan. As required by statute, this matter is to be referred to the Planning Board for its recommendation.

A second consideration supporting this proposed Order is that the intersection at the lower end of Mother's Park is challenging, if not dangerous, because sightlines are significantly compromised.

The Town proposes to reconfigure the intersection to a 90 degree angle and this will require using part of the Mother's Park land as a roadway. Under Article 97 of the Amendments to the Massachusetts Constitution ("Article 97"), approval is needed from the state Legislature to dispose of, or change the use, custody or control of, park land. Under Chapter 274 of the Acts of 2022, the Town must replace any lands that are removed from a public park, as contemplated here, with land not currently subject to Article 97 that is in a comparable location and of equal or greater resource value and acreage and monetary value. Abandoning Mother's Park Road will free up considerable square footage that can then be added to Mother's Park. The Park will be expanded considerably beyond what is lost to the revised roadway improvements. The intersection will be safer. Accessible parking will make the Park easier to visit. And the proposed pump station will be accommodated.

Once Mother's Park Road is formally abandoned, the Town proposes to take under a separate Order the former roadway by Eminent Domain to extinguish any private interests within the layout. This will clear up any title interests to comply with State Revolving Fund requirements.

**FISCAL IMPACT:** There is no direct cost associated with this abandonment. Costs related to the Eminent Domain taking and the pump station construction will be addressed outside of this Item.

**TOWN MANAGER RECOMMENDATION:** Mark S Ells, Town Manager, requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney; Charles S. McLaughlin, Senior Town Attorney; Griffin Beaudoin, Town Engineer; Daniel W. Santos, Director of Public Works; Shane Brenner, Town Surveyor

**B. NEW BUSINESS (Refer to Public Hearing 03/16/2023)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-133  
INTRO: 02/02/2023**

**2023-133 APPROPRIATION ORDER IN THE AMOUNT OF \$22,700 FOR THE PURPOSE OF ACQUIRING THE FEE IN MOTHER’S PARK ROAD BY EMINENT DOMAIN FOR SEWER AND WATER AND GENERAL MUNICIPAL PURPOSES**

**ORDERED:** Provided that the Town Council has first voted to abandon Mother’s Park Road as a public way, the Town Council hereby authorizes the Town Manager to purchase, take by eminent domain under Chapter 79 of the General Laws of Massachusetts, or otherwise acquire for sewer and water and general municipal purposes the fee through, under, across, and on Mother’s Park Road, Centerville, as more fully shown on a plan to be filed in the office of the Town Council, for the installation, operation, maintenance, repair, relocation, and replacement of sewer and water lines and infrastructure for the same and for all purposes for which such infrastructure is commonly used in the Town of Barnstable, and that to fund the same, that **\$22,700** be provided from the reserves in the Sewer Construction and Private Way Improvement Special Revenue Fund, and that the Town Manager is authorized to contract for and expend said appropriation for such purposes and accept any gifts or grants in relation thereto. Any trees, buildings, and other structures located within said roads are not included in this Order and the owners of the same may have a period of up to sixty (60) days after the recording of the Order of Taking to remove the same.

The names and addresses of the owners of said interests taken and their mortgagees as far as can be ascertained by the Town are as set forth on Exhibit A attached hereto, along with any awards, if any, for damages sustained by said owners.

Betterments will be assessed for the associated sewer and water improvements made by the Town of Barnstable.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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



# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-133**  
**INTRO: 02/02/2023**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, Director, Department of Public Works;  
**DATE:** February 02, 2023  
**SUBJECT:** Appropriation Order in the amount of **\$22,700** for the purpose of acquiring the fee in Mother's Park Road by eminent domain for sewer and water and general municipal purposes

**BACKGROUND:** The Town is proceeding with plans to install sewers and related infrastructure in Centerville. These proposed taking of the fee in Mother's Park Road will enable the Town to install an underground sewer pump station in the former roadway as a vital component of the Town's approved Comprehensive Wastewater Management Plan.

The Town also contemplates making alterations to Mother's Park to correct severe turning and sightline deficiencies at the intersection of Craigville Beach Road. Article 97 of the Amendments to the State Constitution requires the Town to substitute land to replace that removed from the current configuration of Mother's Park. The taking of this land will allow the Town to add significant square footage to Mother's Park in excess of that actually removed for the safety improvements.

**FISCAL IMPACT:** Funding will be provided from the existing reserves in the Sewer Construction and Private Way Improvement Fund.

**TOWN MANAGER RECOMMENDATION:** Mark S Ells, Town Manager, requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney; Charles S. McLaughlin, Senior Town Attorney; Griffin Beaudoin, Town Engineer; Daniel W. Santos, Director, Department of Public Works; Shane Brenner, Town Surveyor

		<b>EXHIBIT A</b>		
<b>Owner</b>	<b>Street</b>	<b>Side of Street</b>	<b>Area</b>	<b>Damages</b>
	<b>Address</b>		<b>Discontinued</b>	
<b>Town of Barnstable</b>		<b>West of the center line of Mother's Park Road</b>	<b>7316 square feet</b>	<b>\$0</b>
<b>Barbara F. MacBride surviving Trustee of the Barbara F. MacBride Revocable Trust under Declaration of Trust dated February 2011 recorded with said Registry of Deeds in Book 25248, Page 328</b>	<b>15 Long Pond Circle, Centerville</b>	<b>East of the center line of Mother's Park Road as shown on Plan</b>	<b>1067 square feet</b>	<b>\$2,200.00</b>
<b>Richard J. Cohen and Shelly Cohen, individually and as Co-Trustees of the Cohen Revocable Trust</b>	<b>25 Long Pond Circle, Centerville</b>	<b>East of the center line of Mother's Park Road as shown on Plan</b>	<b>4046 square feet</b>	<b>\$8,500.00</b>
<b>Thomas L. Boduch and Karen J. Boduch</b>	<b>43 Long Pond Circle, Centerville</b>	<b>East of the center line of Mother's Park Road as shown on Plan</b>	<b>4904 square feet</b>	<b>\$10,300.00</b>
<b>Robert Dannemann and Stephanie Dannemann</b>	<b>47 Long Pond Circle, Centerville</b>	<b>East of the center line of Mother's Park Road as shown on Plan</b>	<b>819 square feet</b>	<b>\$1,700.00</b>