



Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail : council@town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA

March 21, 2024

6:00 pm

The March 21, 2024 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd 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:

Felicia Penn
President
Precinct 13

Craig Tamash
Vice President
Precinct 4

Gordon Starr
Precinct 1

Dr. Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew P. Levesque
Precinct 10

Kris Clark
Precinct 11

Paula Schnepf
Precinct 12

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

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

2. Written Comments may be submitted to: <https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/TownCouncil/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/83897405322> Meeting ID: 838 9740 5322 US Toll-free • 1-888- 475- 4499

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS (Pre-Recorded)

7. ACT ON PUBLIC SESSION MINUTES

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

- Update from Dr. John Cox, President, Cape Cod Community College
- Senator Julian Cyr, Representative Kip Diggs – Citation for Jean Challies, Police Chief

9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

10. ADJOURNMENT

Administrator:
Cynthia A. Lovell
Cynthia.lovell@town.barnstable.ma.us

NEXT REGULAR MEETING: April 04, 2024

ITEM NO.	INDEX TITLE	PAGE
A.	OLD BUSINESS	
2024-166	Resolve establishing certain Ad Hoc Advisory Committees (May be acted upon) (Majority Vote)	
B.	NEW BUSINESS	
2024-167	Acceptance of a gift of a used Ping Pong table to support the Hyannis Youth and Community Center (May be acted upon) (Majority Vote)	
2024-168	Appointment to a Board/Committee/Commission: Comprehensive Financial Advisory Committee: Thomas Keane, as a regular member, to a term expiring 06/30/2026 (First Reading) (Refer to Second Reading 04/04/2024)	
2024-169	Resolve approving a letter regarding the Veteran Tax Work-Off Program (May be acted upon) (Majority Vote)	
2024-170	Order to petition the General Court of the Commonwealth to enact special legislation exempting the position of Police Chief in the Town of Barnstable from the Civil Service Law (May be acted upon) (Majority Vote)	
2024-171	Order authorizing an Intermunicipal Agreement among the Towns of Barnstable, Yarmouth, and Sandwich for the purposes of establishing a regional emergency communications center hosted by and located within the Town of Barnstable (First Reading) (Refer to Second Reading 04/04/2024)	
2024-172	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Non-Criminal Enforcement of violations, and inserting a new Chapter 185 known as “Stormwater Management and Illicit Discharge Control” (Refer to Public Hearing 04/04/2024)	
2024-173	Authorization to expend a META-12 grant from the Massachusetts Department of Energy Resources in the amount of \$15,000 for the purpose of funding assistance on energy related projects or renewable energy planning and feasibility evaluations (May be acted upon) (Majority Vote)	

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it votes, the Council may go into executive session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

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

BARNSTABLE TOWN COUNCIL

ITEM# 2024-166

INTRO: 03/07/2024, 03/21/2024

2024-166 RESOLVE ESTABLISHING CERTAIN AD HOC ADVISORY COMMITTEES

RESOLVED: That, in accordance with Section 241-8 of Chapter 241 of the Town Administrative Code, the Town Council does hereby establish the ad hoc advisory committees listed below to assist the Town Council in carrying out the Council’s responsibilities. The committees shall be limited to the purposes noted below and shall serve only for the specified time periods; provided that the time periods may be extended by the Town Council President at the request of a committee chair if additional time is needed to complete the work of the committee. In accordance with Town Council Rule 11A, the President of the Council shall designate the members of these committees, as further described below. Committees shall have an odd number of members. The committees shall be subject to and shall comply with the Open Meeting Law. All committee meetings shall include a period for public comment. The committee chairs shall provide regular reports to the Town Council at Town Council meetings.

- **Committee to Review Town Council Rules and the Town Code**
Members: 5 Councilors
Purpose: Work closely with the Town’s Legal staff to review the documents to ensure consistency with existing process and practices and recommend revisions to the Council.
Time Period: Complete work and make recommendations to the Council by October 31, 2024.
- **Committee to Review the Purpose, Composition, Functionality and Effectiveness of the Standing Committees of the Town**
Members: 5 Councilors
Purpose: Work with Town staff to review the standing committees of the Town, particularly advisory committees, to determine their effectiveness and whether there is a current need for such committees.
Time Period: Complete work and make recommendations to the Council by March 31, 2025.
- **Committee to Review and Assess Zoning and Review the Town’s Use of Regulatory Agreements**
Members: 5 Councilors and may include up to 4 registered voters in the Town (provided that the total membership shall be an odd number)
Purpose: Work with the Town’s Planning & Development staff to review and reassess recently adopted zoning changes, review the Town’s use of regulatory agreements, and make recommendations to the Council.
Time Period: Complete work and make recommendations to the Council by October 31, 2024.
- **Committee to Assess and Recommend Strategies for Housing Creation Within the Town**
Members: 5 Councilors; may include member from the Planning Board, 1 member from the Housing Committee and 1 member from the Comprehensive Financial Advisory Committee; may include up to 3 registered voters in the Town (provided that the total membership shall be an odd number)

Purpose: Recommend strategies for the creation of housing to serve year-round residents and seasonal workers. The committee shall review the Cape Cod Commission’s Regional Housing Strategy, the proposed state housing bond bill, and the Town’s Housing Production Plan, with a goal of recommending 2-4 strategies for the Town to adopt, along with recommendations for implementation and resources needed.

Time Period: Complete work and make recommendations to the Council by September 30, 2024.

- **Committee to Recommend Policy with Respect to the Town’s Acquisition and Disposition of Property and Development of Town-Owned Property**

Members: 5 Councilors and up to 4 registered voters in the Town (provided that the total membership shall be an odd number)

Purpose: Develop recommendations for Town policy on the acquisition and disposition of property and the development of Town-owned property.

Time Period: Complete work and make recommendations to the Council by March 31, 2025

SPONSOR: Felicia R. Penn, Town Council President, Precinct 13

DATE	ACTION TAKEN
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<u>03/07/2024</u>	<u>Continue Item for further discussion to 03/21/2024</u>
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_____	Read Item
_____	Rationale
_____	Council Discussion
_____	Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-166
INTRO: 03/07/2024

SUMMARY

TO: Town Council
FROM: Karen L. Nober, Town Attorney
SUBJECT: Resolve Establishing Certain Ad Hoc Advisory Committees
DATE: March 07, 2024

BACKGROUND: Section 241-8 of Chapter 241 of the Administrative Code provides that the Town Council may from time to time, by majority vote, “establish ad hoc committees to assist the Town Council in carrying out the Council’s responsibilities. Ad hoc committees shall be limited to a particular subject area and serve only in that capacity for a specific period of time.” Rule 11A of the Town Council Rules provides that the “President of the Town Council may designate such ad-hoc committees comprised of councilors or registered voters in the Town of Barnstable, as is deemed necessary.” Reading those provisions together, ad hoc committees should be established by vote of the Council and committee members should be appointed by the President of the Council.

The Town Council President is recommending that the Council establish the ad hoc advisory committees listed below. **Councilors who are interested in serving on any of these committees are requested to notify Cynthia Lovell, Town Council Administrator, by the close of business on March 29, 2024.**

Committee to Review Town Council Rules and the Town Code

Committee to Review the Purpose, Composition, Functionality and Effectiveness of the Standing Committees of the Town

Committee to Review and Assess Zoning and Review the Town’s Use of Regulatory Agreements

Committee to Assess and Recommend Strategies for Housing Creation Within the Town

Committee to Recommend Policy with Respect to the Town’s Acquisition and Disposition of Property and Development of Town-Owned Property

The ad hoc committee will be subject to and shall comply with the Open Meeting Law. Committee meetings will include a public comment period. Committee chairs shall provide regular reports to the Council at Town Council meetings.

FINANCIAL IMPACT: None

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-167
INTRO: 03/21/2024**

**2024-167 ACCEPTANCE OF A GIFT OF A USED PING PONG TABLE TO
SUPPORT THE HYANNIS YOUTH AND COMMUNITY CENTER.**

RESOLVED: That, in accordance with General Laws Chapter 44, Section 53 ½, the Town Council does hereby accept a gift of a used Ping Pong table from a donor who would like to remain anonymous for use by the Hyannis Youth and Community Center.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-167
INTRO: 03/21/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Chris Gonnella, Director of Community Services
DATE: March 21, 2024
SUBJECT: Acceptance of a gift of a used Ping Pong table to support the Hyannis Youth and Community Center.

BACKGROUND: The Hyannis Youth and Community Center has a game room for the many users and members of the facility that offers pool tables, games, ping pong and other opportunities for indoor recreation, social events and our internal “Schools Out Afterschool Recreation” program. A donor who would like to remain anonymous would like to donate a ping pong table to be utilized at the Hyannis Youth and Community Center. The ping pong table is in excellent condition and is of a similar quality of the current tables that need replacement.

FISCAL IMPACT: Accepting this donation would save approximately \$1,500 and expedite the replacement of the ping pong tables.

STAFF ASSISTANCE: Chris Gonnella, Director of Community Services

B. NEW BUSINESS (First Reading) (Refer to Second Reading 04/04/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-168
INTRO: 03/21/2024**

2024-168 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Comprehensive Financial Advisory Committee:** Thomas Keane, as a regular member, to a term expiring 06/30/2026.

SPONSORS: Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2024-169
INTRO: 03/21/2024**

**2024-169 RESOLVE APPROVING A LETTER REGARDING THE VETERAN TAX
WORK-OFF PROGRAM**

RESOLVED: That the Town Council does hereby approve sending a letter in the form as presented at this meeting regarding the veteran tax work-off program.

SPONSOR: Kristine Clark, Precinct 11

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

March 22, 2024

State Senator Julian Cyr
State House
24 Beacon Street, Room 111
Boston, MA 02133

Dear Senator Cyr:

On October 4, 2023, Governor Healey signed H. 4104 into law as Chapter 50 of the Acts of 2023, which, among other things, in section 2 amended G.L. c. 59, § 5K to increase the amount a person in a senior tax work-off program can earn each calendar year from \$1,500 to \$2,000.

On behalf of the Barnstable Town Council, I am writing to request that you work with the Governor and your colleagues in the Legislature to amend G.L. c. 59, § 5N to make the same change for the tax work-off program for veterans. Specifically, we ask that the amount a veteran may earn each calendar year in a tax work-off program be increased from \$1,500 to \$2,000. We support and applaud the change that was made for seniors, and we ask that you correct what appears to be an inadvertent oversight to provide the same increase for veterans.

Thank you for your consideration of this important matter.

Sincerely,

Felicia R. Penn, President
Barnstable Town Council

cc: Governor Maura Healey
House Speaker Ronald Mariano
Senate President Karen E. Spilka

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

BARNSTABLE TOWN COUNCIL

**ITEM # 2024-170
INTRO: 03/21/2024**

2024-170 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION EXEMPTING THE POSITION OF POLICE CHIEF IN THE TOWN OF BARNSTABLE FROM THE CIVIL SERVICE LAW

ORDERED: That the Town Council hereby directs the Town Manager to submit a petition to the General Court of the Commonwealth for a special act exempting the position of Police Chief in the Town of Barnstable from the civil service law, as follows:

“AN ACT EXEMPTING THE POSITION OF POLICE CHIEF IN THE TOWN OF BARNSTABLE FROM THE CIVIL SERVICE LAW

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the position of police chief in the city known as the town of Barnstable shall be exempt from chapter 31 of the General Laws.

SECTION 2. This act shall not impair the civil service status of any incumbent holding the position of police chief in the city known as the town of Barnstable on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.”

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM # 2024-170
INTRO: 03/21/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
SUBJECT: Order to Petition the General Court of the Commonwealth to Enact Special Legislation Exempting the Position of Police Chief in the Town of Barnstable from the Civil Service Law

BACKGROUND: On March 2, 1937, Town Meeting voted to accept G.L. c. 31, sec. 49 as to its Chief of Police for the purpose of bringing the Chief of Police under civil service. The Town is now seeking to remove the Chief of Police position from civil service. (As a separate matter, the Town is also seeking to begin discussions with the unions regarding the removal of the police department from civil service.)

The way to remove a position or department from civil service is generally the same way the position or department got in. However, under G.L. c. 4, sec. 4B, if a municipality is seeking to revoke its acceptance of a law, and that municipality has undergone “a change in charter or otherwise is required to adopt a different procedure for acceptance of such law other than that procedure used for its original acceptance, then the procedure for acceptance in effect at the time of revocation shall be the manner for revoking such original acceptance.” Because the Town underwent a charter change in 1989 to become a city form of government, the way to remove the Chief position is to follow the same procedure that would need to be followed today to put that position under civil service.

Under state law, there is a clear procedure for placing a police chief in a city under civil service, which is initiated by petition of the voters to place such question on the official ballot and then voted on at a regular municipal election. (G.L. c. 31, secs. 51, 54 and 55.) Alternatively, a police chief may be placed under civil service by special act of the Legislature. Accordingly, the Town is seeking to remove its Chief of Police position from civil service by special act of the Legislature.

FISCAL IMPACT: There is no direct fiscal impact to the town as a result of seeking this exemption.

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

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

B. NEW BUSINESS (First Reading) (Refer to Second Reading 04/04/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-171
INTRO: 03/21/2024**

2024-171 ORDER AUTHORIZING AN INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF BARNSTABLE, YARMOUTH, AND SANDWICH FOR THE PURPOSES OF ESTABLISHING A REGIONAL EMERGENCY COMMUNICATIONS CENTER HOSTED BY AND LOCATED WITHIN THE TOWN OF BARNSTABLE

ORDERED: That the Town Council does hereby authorize the execution and delivery by the Town Manager of an Intermunicipal Agreement (IMA) with the Towns of Yarmouth and Sandwich for a term of twenty-five years, substantially in the form of the agreement on file in the Town Council office, for the purpose of establishing a Regional Emergency Communications Center hosted by the Town of Barnstable, which will combine the towns' resources to provide cost efficient, shared and effective emergency and 911 dispatch services from a single primary location within the Town of Barnstable.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-171
INTRO: 03/21/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Jean B. Challies, Chief of Police
DATE: March 21, 2024
SUBJECT: Order Authorizing an Intermunicipal Agreement among the Towns of Barnstable, Yarmouth, and Sandwich for the Purposes of Establishing a Regional Emergency Communications Center Hosted by and Located within the Town of Barnstable

BACKGROUND: The Towns of Barnstable, Sandwich, and Yarmouth each operate their own Public Safety Answering Points (PSAPs). The State 911 department, an agency within the Executive Office of Public Safety and Security, has supported the regionalization of PSAPs through incentive grants. The three towns have worked for the last two years with State 911 and the University of Massachusetts Boston Collins Center to complete a feasibility study for the creation of a Regional Emergency Communications Center (RECC). The study indicated that these three communities are well suited to establish such a center and that there would be both operational and financial benefits for the communities.

ANALYSIS: The Towns have completed substantial work with the Collins Center on identifying the process to regionalize dispatch services. Regionalization of dispatch services has been successful in many areas in the Commonwealth. In order to take advantage of incentive grants and the benefits of regionalization, the Towns must enter into an intermunicipal agreement (IMA), which will establish the operating structure of the RECC. The IMA also sets forth the guidelines for management, equipment and financial responsibilities associated with the RECC. Without an IMA, the Towns will not be competitive in attempts to receive future RECC Development Grants. The RECC will be located in and hosted by the Town of Barnstable. The RECC Director shall be a Town of Barnstable employee appointed by the Barnstable Town Manager after consultation with the Town Manager of Sandwich and the Town Administrator of Yarmouth.

FISCAL IMPACT: Having an executed IMA will allow the acceptance of a \$373,090 FY2024 State 911 RECC Development Grant and will support the FY25 application for \$476,910. The combined amount of \$850,000 for these grants is intended to fund the design and engineering stage of the RECC project. In addition, the initial construction and standup of the RECC will be fully grant funded. Future incentive grants will subsidize the continued operation of the RECC. The RECC feasibility study indicates that the three communities could see \$2,700,000 in total savings with \$1,160,000 directly to the Town of Barnstable.

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

STAFF ASSISTANCE: Jean B. Challies, Chief of Police; Karen L. Nober, Town Attorney; M. Andrew Clyburn, Assistant Town Manager

B. NEW BUSINESS (Refer to Public Hearing 04/04/2024)

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-172
INTRO: 03/21/2024**

**2024-172 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I
GENERAL ORDINANCES, CHAPTER 1 GENERAL PROVISIONS, ARTICLE I
NONCRIMINAL ENFORCEMENT OF VIOLATIONS, AND INSERTING A
NEW CHAPTER 185 KNOWN AS “STORMWATER MANAGEMENT AND
ILLCIT DISCHARGE CONTROL”**

ORDERED: That the Code of the Town of Barnstable be amended as follows:

SECTION 1.By amending Chapter 1, Article I, Section 1-2 as follows:

- A. By renumbering Subsection A(10) as Subsection A(11).
- B. By striking out in Subsection A(9) the word “and” as appearing after the semi-colon.
- C. By inserting after Subsection A(9) a new subsection “A(10) The Director of Public Works and his designees; and”

SECTION 2.The schedule of fines in Chapter 1, Article I, Section 1-3 is hereby amended by inserting after Chapter 184 the following:

“Ch. 185 Stormwater Management or IDDE First offense \$100
Second or subsequent offense \$300”

SECTION 3.The schedule of fines in Chapter 1, Article I is hereby amended by inserting the following new Section 1-6.2:

“§ 1-6.2: Fines for the Violation of Department of Public Works Regulations

Offense Fine
Violation of Stormwater Management and IDDE Regulations
First offense \$100
Second or subsequent offense \$300”

SECTION 3.The Code of the Town of Barnstable is hereby amended by inserting after Chapter 184 a new Chapter 185 as follows:

“Chapter 185 Stormwater Management and Illicit Discharge Control

Article I General Provisions

§ 185-1 **Authority.**

- § 185-2 **Introduction.**
- § 185-3 **Purpose.**
- § 185-4 **Definitions.**
- § 185-5 **Administration.**
- § 185-6 **Regulations.**
- § 185-7 **Enforcement.**
- § 185-8 **Entry Upon Land to Perform Duties**
- § 185-9 **Severability.**

Article II Illicit Discharge Control

- § 185-10 **Purpose and Objectives.**
- § 185-11 **Prohibited Activities.**
- § 185-12 **Exempt Activities.**
- § 185-13 **Emergency Suspension of Storm Drainage System Access**
- § 185-14 **Notification of Hazardous Material Spills.**

Article III Construction and Post Construction Stormwater Management

- § 185-15 **Purpose and Objectives.**
- § 185-16 **Prohibited Activities.**
- § 185-17 **Exempt Activities.**
- § 185-18 **Waivers and Provisions for Relief.**
- § 185-19 **Surety.**

Article I General Provisions

§ 185-1 Authority.

Chapter 185 of the General Ordinances is adopted in accordance with the regulations of the federal Clean Water Act found at 40 C.F.R. 122.34, as amended, the Massachusetts 401 Water Quality Certification regulations found at 314 C.M.R. 9.00 *et seq.*, Section 6 of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, and the Charter of the Town of Barnstable.

§ 185-2 Introduction.

The United States Environmental Protection Agency has identified Disturbance of Land and polluted stormwater runoff as major sources of water pollution. Regulation of Illicit Connections and Discharge of Pollutants is necessary for the protection of the Town of Barnstable's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:

- (1) Impairment of water quality and reduced flow in estuaries, lakes, ponds, streams, rivers, wetlands, and groundwater.
- (2) Contamination of drinking water supplies.
- (3) Alteration or destruction of aquatic and wildlife habitat.
- (4) Flooding.
- (5) Erosion of stream channels; and
- (6) Overloading or clogging of municipal catch basins and storm drainage systems.

§ 185-3 Purpose.

The purpose of this Chapter is to comply with the conditions and requirements set forth in the Massachusetts General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer System by:

- (1) establishing the Town of Barnstable's legal authority, including that of its Department of Public Works, to prohibit, investigate, and eliminate illicit discharges into the Town's Municipal Drainage System and implement appropriate enforcement procedures and actions; and
- (2) establishing and enforcing a program to reduce Pollutants in any stormwater runoff discharged to the Municipal Storm Drain System from all construction activities that result in a Land Disturbance of greater than or equal to one acre so that it is not transported in stormwater and allowed to discharge to a water of the U.S. through the Town's MS4.
- (3) Prohibiting and eliminating Illicit Connections, the Discharge of Pollutants, safeguarding the public health, safety, environment, and general welfare, protecting aquatic resources and wildlife habitat, protecting the quality and health of water resources, conserving groundwater supplies, and fostering climate change resiliency.

This Chapter seeks to meet that purpose through the following objectives:

- (1) To prevent Pollutants from entering the Town of Barnstable's municipal storm drain system, Waters of the Commonwealth.
- (2) To prohibit Illicit Connections and unauthorized discharges to the municipal storm drain system.
- (3) To require the removal of all such Illicit Connections.
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

§ 185-4 Definitions.

For the purposes of this Chapter, the following terms shall have the following meaning:

ABUTTER

The Owner(s) of land sharing a common boundary or corner with the site of the proposed activity in any direction, including, but not limited to, land located directly across a street, way, creek, river, stream, brook, or canal.

ANIMAL WASTE

Feces, urine, or other excrement, urea, or similar substances emitted by animals (including any form of livestock, poultry, or fish). The term Animal Waste includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically found with such waste.

APPLICANT

Any Person applying for or requesting a Stormwater Management Permit for proposed Disturbance of Land activity.

BEST MANAGEMENT PRACTICE or BMP

Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the Commonwealth. BMPs also include treatment requirements, operating procedures, and practices to control animal waste, plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

CERTIFICATE OF COMPLETION

A document issued by the Department of Public Works upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

CLEARING

Any activity that removes vegetative surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

CONSTRUCTION AND DEMOLITION WASTE:

Waste from the building materials and rubble resulting from the construction, remodeling, repair, or demolition of buildings, pavements, roads, or other structures. Construction and demolition waste includes but is not limited to:

- (1) Discarded building materials such as: concrete, bricks, asphalt pavement, masonry, plaster, gypsum wallboard, metal, lumber, and wood.
- (2) Concrete truck washout.
- (3) Chemicals.
- (4) Litter; and
- (5) Sanitary waste.

DEPARTMENT

The Department of Public Works of the Town of Barnstable.

DIRECTOR

The Director of the Department of Public Works or his or her designee.

DISCHARGE OF POLLUTANTS

The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Waters of Commonwealth from any source.

DISTURBANCE OF LAND

Action to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of topsoils.

DRAINAGE FACILITY

Any constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages Stormwater or surface water, or any land and improvements thereon, if altered for the purpose of conveyance, storage, or infiltration.

EROSION

The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

GRADING

Changing the level or shape of the ground surface.

GROUNDWATER

Water beneath the surface of the ground including confined or unconfined aquifers.

ILLICIT CONNECTION

A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system or into the Waters of the Commonwealth, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Ordinance.

ILLICIT DISCHARGE

Direct or indirect discharge to the municipal storm drain system or into the Waters of the Commonwealth that is not composed entirely of stormwater, except as exempted in Section 185-13. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

IMPERVIOUS SURFACE

Any material or structure on or above the ground surface that prevents or delays water from infiltrating into the underlying soil, or causes water to runoff in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, roads, driveways, parking lots, sidewalks, rooftops, patios, storage areas, concrete or asphalt paving, gravel/dense-graded crushed stone areas, and soil densely compacted by human activity.

INFEASIBLE

Not technologically possible, or not economically practicable and achievable in light of best industry practices.

LOW IMPACT DEVELOPMENT or LID

An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing, and mitigating impacts with natural, non-structural and structural measures.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS or STANDARDS

The Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection (“DEP”) under the authority of the Massachusetts Wetlands Protection Act, G.L. c. 131 § 40, and the Massachusetts Clean Waters Act, G.L. c. 21, §§ 23-56, and further defined in the Wetlands Protection Act Regulations (310 CMR 10.00) and the 401 Water Quality Certification Regulations (314 CMR 9.00). The Stormwater Management Standards address stormwater impacts

through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4 or MUNICIPAL STORM DRAIN SYSTEM

The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention, or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Barnstable.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE PERMIT or NPDES Permit

A permit issued by the United States Environmental Protection Agency (“EPA”) or issued jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to Waters of the United States.

NEW DEVELOPMENT

Any construction activities or Disturbance of Land resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) on an area that has not previously been developed to include impervious cover.

NONPOINT SOURCE

Any source of water pollution that does not meet the definition of Point Source.

NON-STORMWATER DISCHARGE

Discharge to the municipal storm drain system not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN

A plan setting up the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL

The point where stormwater flows out from a Point Source which is a discernible, confined, and discrete conveyance into Waters of the Commonwealth.

OWNER

A person with a legal or equitable interest in property.

PERSON

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

POINT SOURCE

Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

POLLUTANT

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or Nonpoint Source, that is or may be introduced into any sewage treatment works, Municipal Storm Drain System, or Waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (1) Paints, varnishes, and solvents.
- (2) Oil and other automotive fluids.
- (3) Non-hazardous liquid and solid wastes and yard wastes.
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables;
- (5) Pesticides, herbicides, and fertilizers.
- (6) Hazardous materials and wastes; sewage, fecal coliform, and pathogens.
- (7) Dissolved and particulate metals.
- (8) Animal wastes.
- (9) Rock, sand, and soils.
- (10) Construction and Demolition Waste; and
- (11) Noxious or offensive matter of any kind.

PROCESS WASTEWATER

Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

PROFESSIONAL ENGINEER or P.E.

A Professional Engineer licensed as a civil engineer by the Commonwealth of Massachusetts in good standing.

RECHARGE

The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through soil.

REDEVELOPMENT

Any construction, Disturbance of Land, or improvement of impervious surfaces resulting in total earth disturbances greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of new development.

REVIEWING AGENT

The Department or a person or position in the Department designated in writing by the Director responsible for enforcing this Chapter. The Reviewing Agent shall be considered a designee of the Director and Enforcing Agent under Chapter 1, Article I of the Code.

STABILIZATION

The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or minimize erosion.

STORMWATER

Rainwater, snow melt, surface water runoff, and drainage.

STORMWATER MANAGEMENT PERMIT

The written approval granted by the Department of Public Works to undertake a Disturbance of Land activity pursuant to a Stormwater Permit Application.

STORMWATER MANAGEMENT PLAN

A plan required as part of the application for a Stormwater Management Permit.

SURFACE WATER DISCHARGE PERMIT

Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;

HAZARDOUS MATERIAL

Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous Material shall include, but not be limited to, substances defined as "oil," "hazardous materials," "hazardous substances," "hazardous waste," "toxic substances," "pollutants," or "contaminants" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 *et seq.*; Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802 *et seq.*; and Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6903 *et seq.*; M.G.L. c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000 and/or applicable federal and Massachusetts law now or hereafter enacted, including any synthetic or organic chemical, biological, or infectious waste or material.

WASTEWATER

Any sanitary waste, sludge, or septic tank or cesspool contents, and water that during manufacturing, cleaning, or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE

A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH

All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, Great Ponds, springs, impoundments, estuaries, wetland resource areas, coastal waters, groundwaters, and vernal pools, as well as waters of the United States.

WETLAND RESOURCE AREAS

Areas within the jurisdiction of the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in Chapter 237, Wetlands Protection Ordinance, of the Code of the Town of Barnstable, as amended.

§ 185-5 Administration.

The Department shall administer, implement, and enforce this Chapter. Any powers granted to or duties imposed upon the Department may be delegated in writing by Director to employees or agents of the Department or a Reviewing Agent.

§ 185-6 Regulations.

The Department may promulgate rules and regulations, including a fee schedule, to effectuate the purposes of this Chapter after conducting one public hearing to receive comments on any proposed revisions. Failure by the Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Chapter.

§ 185-7 Enforcement.

- A. The Director and any Reviewing Agent may enforce this Chapter and orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies available at law, including by non-criminal disposition under Chapter 1, Article I and as provided in Section 185-7.
- B. Notices of violations and enforcement orders.
 - (1) The Director and any Reviewing Agent may issue a written notice of violation or enforcement order to enforce the provisions of this Chapter or the regulations thereunder, which may include requirements to:
 - (a) Cease and desist from construction or land-disturbing activity until there is compliance with this Chapter and the stormwater management permit;
 - (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operations and maintenance plan;
 - (c) Maintain, install, or perform additional erosion and sediment control measures;
 - (d) Perform monitoring, analyses, and reporting;
 - (e) Satisfactorily address and repair adverse impacts resulting directly or indirectly from a malfunction of the stormwater management system and/or erosion and sediment control system;
 - (f) Cease and desist from unlawful discharges, practices, or operations;
 - (g) Cease and remove illicit connections or discharges to the municipal storm drain system;
 - (h) Remediate any release of hazardous materials and contamination in connection therewith, and/or
 - (i) Undertake actions determined by the Director to be required for compliance with this Chapter and the regulations thereunder.
 - (2) If the Director or Reviewing Agent determines that abatement or remediation of adverse impacts is required, the enforcement order may set forth a deadline by which such abatement or remediation must be completed. Said order may further advise that, should the violator or property Owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.

- C. After completing all measures necessary to abate the violation, the person violating this Chapter or the regulations thereunder, if known, and the property Owner shall be notified of the costs incurred by the Town of Barnstable, including administrative costs. The violator or property Owner may file a written protest objecting to the amount or basis of costs with the Director within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Director affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property Owner and shall constitute a lien on the Owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. c. 59, § 57, after the thirty-first day at which the costs first become due.
- D. Upon request of the Director, the Town Manager and Town Attorney may take legal action for enforcement under civil law. Upon request of the Director, the Chief of Police and Town Attorney may take legal action for enforcement under criminal law. Upon request of the Director, municipal boards and officers, including any police officer, natural resource officer, or other officer having police powers, shall have the authority to assist the Director, authorized employees of the Department and any Reviewing Agent in enforcement.
- E. Civil Relief. If a person violates the provisions of this Chapter, permit, notices, or order issued thereunder, the Town may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation and may seek all other remedies available by law.
- F. Noncriminal Disposition. The Town may elect to utilize the noncriminal disposition procedure in G.L. c. 40, § 21D in which case the Director or Reviewing Agent shall be the enforcing person. Any person who violates any provision of this Chapter, the regulations thereunder, including any order or permit issued thereunder, may be punished by a penalty under the non-criminal disposition statute, G.L. c. 40, § 21D. The penalties for each offense for violating this Chapter and the regulations thereunder are the same as the fines specified for each offense in Chapter 1, Article 1, Section 1-3, Ch. 185, and Chapter 1, Article 1, Section 1-6.2 of the Code. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Appeals. The decisions or orders of the Director or Reviewing Agent shall be final. Further relief shall be to a court of competent jurisdiction.
- H. Remedies not exclusive. The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law.

§ 185-8 Entry Upon Land to Perform Duties.

To the extent permitted by law, the Director, the Department, its Reviewing Agents, and authorized contractors may enter upon privately owned property for the purpose of performing their duties under this Chapter and regulations with reasonable notice to the Owner and/or other person in control of the property to set a mutually-agreeable time for such entry and inspection and may make or cause to be made such examinations, surveys, or sampling as the Director or Department deems reasonably necessary.

§ 185-9 Severability.

If any provision, paragraph, sentence, or clause of this Chapter shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE II
ILLICIT DISCHARGE CONTROL

§ 185-10 Purpose and Objectives.

- A. The purpose of this Article is to prohibit and eliminate Illicit Connections; Discharge of Pollutants; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.
- B. This Article seeks to meet that purpose through the following objectives:
 - (1) To prevent pollutants from entering the Town of Barnstable's municipal storm drain system, Waters of the Commonwealth.
 - (2) To prohibit Illicit Connections and unauthorized discharges to the municipal storm drain system.
 - (3) To require the removal of all such Illicit Connections.
 - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

§ 185-11 Prohibited Activities.

The following are prohibited unless exempted by this Article:

- A. Illicit Discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the Waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works.

§ 185-12 Exempt Activities.

The following activities are exempt from the requirements of this Article:

- A. Discharge or flow pursuant to a valid Stormwater Management Permit issued by the Department.
- B. Discharge or flow resulting from firefighting activities.
- C. The following non-stormwater discharges or flows are exempt from this Article, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (1) Waterline flushing.
 - (2) Flow from potable water sources.
 - (3) Natural springs.

- (4) Natural flow from riparian habitats and wetland resource areas.
- (5) Lawfully diverted stream flow.
- (6) Rising groundwater.
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20) or uncontaminated pumped groundwater, unless otherwise regulated or prohibited by the Department pursuant to regulations hereunder.
- (8) Landscape irrigation or lawn watering.
- (9) Water from individual residential car washing.
- (10) Discharge from street sweeping.
- (11) Dye testing provided notification is given to the Department prior to the time of the test.
- (12) Non-stormwater discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.
- (13) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment; and
- (14) Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Barnstable Town Manager, Town Council or Board of Health.

§ 185-13 Emergency Action by Department.

The Department may issue an enforcement order, or a verbal directive in an emergency to be followed by a written order, to suspend municipal storm drain system access to any person or property when such suspension is necessary to address or stop an actual or threatened discharge of pollutants that presents risk of harm to the public health, safety, welfare or the environment. If any person fails to comply with the verbal directive or enforcement order, the Department may take all reasonable steps, at the expense of the owner, permittee or other person responsible for the discharge of pollutants, to prevent or minimize harm to the public health, safety, welfare or the environment, including without limitation entering private property to disconnect the property from the municipal storm drain system or abate a discharge of pollutants to waters of the Commonwealth.

§ 185-14 Notification of Hazardous Material Spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or Waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Department, local Fire District, and Barnstable Police Department.

ARTICLE III CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

§ 185-15 Purpose and Objectives.

- A. The purpose of this Article is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and

wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and, foster climate change resiliency.

B. This Article seeks to meet that purpose through the following objectives:

- (1) Establish the Department as the Town department with the authority to ensure compliance with the provisions of this Article and any regulations issued hereunder through a review process, inspections, monitoring, and enforcement.
- (2) Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post construction monitoring.
- (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserves and/or restores the health of local water resources such as lakes, ponds, streams, rivers, wetlands, embayment's and groundwater; and
- (4) Ensure compliance with requirements of the NPDES General Permit for Stormwater Discharges from MS4 and other applicable federal and state mandates.

§ 185-16 Prohibited Activities.

- A. No construction activity, including clearing, grading, or excavation that results in a Disturbance of Land equal to or greater than one (1) acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town may commence without first obtaining a Stormwater Management Permit issued by the Department, and in accordance with any regulations promulgated hereunder by the Department.
- B. The Applicant and/or Owner is responsible for ensuring all required local, state, federal, and/or other permit or license approvals are obtained prior to commencing any Disturbance of Land activities.

§ 185-17 Exempt Activities.

The following are exempt from the requirements of this Article:

- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
- (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;
- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (4) Normal maintenance and improvements of the Town of Barnstable publicly owned roadways and associated drainage infrastructure, as defined in Section 903-7 B.(6); and/or
- (5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board.

§ 185-18 Waivers and Provisions for Relief.

A. The Director may waive strict compliance with any requirement of this Article or regulations promulgated under this Chapter, where:

- (1) Such action is allowed by federal, state and local statutes and/or regulations;
- (2) Is in the public interest;

- (3) A public safety issue exists; and/or
- (4) It is consistent with the purpose and intent of this Article.

B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Article does not further the purposes or objectives of this Article. The Department may require documentation to be submitted and stamped by a Professional Engineer.

§ 185-19 Surety.

The Department may require the permittee to post before the start of Disturbance of Land or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security or financial assurance mechanism. The form of the bond or financial assurance shall be approved by the Department, and be in an amount deemed sufficient by the Department to ensure that the work will be completed in accordance with the permit. If the project is phased, the Department may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit, but the bond may not be fully released until the Department has received a final inspection and issued a Certificate of Completion in accordance with the regulations promulgated hereunder.”

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# 2024-172
INTRO: 03/21/2024

SUMMARY

TO: Town Council
FROM: Daniel W. Santos, P.E., Director of Public Works
THROUGH: Mark S. Ells, Town Manager
DATE: March 21, 2024
SUBJECT: Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Non-Criminal Enforcement of violations, and inserting a new Chapter 185 known as “Stormwater Management and Illicit Discharge Control”

BACKGROUND: The federal Clean Water Act prohibits any person or entity from discharging pollutants through a point source into a water of the United States unless they have a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit contains limits on what can be discharged to the waters of the United States, monitoring and reporting requirements, and other provisions to ensure that the discharge does not have an adverse impact of water quality and to protect public health. In essence, the NPDES permit translates general requirements of the Clean Water Act and its regulations into specific provisions tailored to the operations of each person or entity discharging pollutants. The Town of Barnstable, with a population of 45,000, and a storm drainage system that discharges directly into the waters of the United States, is considered a Small Municipal Separate Storm Sewer System (MS4) under federal law and is required to have a NPDES MS4 permit.

The current NPDES MS4 permit became effective July 1, 2018, requiring that the Town take certain actions to comply with federal law. Compliance with the NPDES MS4 permit is necessary, including to allow continued discharges of stormwater to the waters of the United States. The remaining item that the Town needs to finalize to be in full compliance with the NPDES MS4 permit is the adoption of a local regulatory mechanism (i.e., an ordinance) intended to eliminate illicit discharges of pollutants, require stormwater management during construction, and require stormwater management standards for new redevelopment projects. In order to meet this requirement, the Department of Public Works (DPW), working closely with Legal, and with input from Planning and Development, Conservation, and Building, has prepared this Stormwater Management and Illicit Discharge Control Ordinance. This Ordinance is designed to meet the minimum requirements of the Massachusetts General Permit for stormwater discharges from MS4, thereby bringing the Town into full compliance.

ANALYSIS: The proposed Ordinance’s objective is to establish the Town of Barnstable’s legal authority under the administration of the DPW: (1) to prohibit, investigate, enforce, fine and eliminate illicit discharges of pollutants into the municipal stormwater drainage system, and (2) to create a permitting program concerning construction activities that may result in a disturbance of existing vegetation and/or underlying soil of a site greater than or equal to one acre. The goal of this permit program, as required under the NPDES MS4 permit, is to reduce pollutants in any stormwater runoff discharged from the site into the municipal stormwater system so that the pollutants are not transported in stormwater and allowed to discharge to a water of the United States. This Ordinance is not intended to impact the development of an average single-family home, rather it is focused on elimination of illicit discharges and redevelopment or new development projects that result in total earth disturbances greater than or equal to one acre. Prohibiting and eliminating illicit discharges and discharges of pollutants to our waterways acts to safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; and conserve groundwater supplies.

FINANCIAL IMPACT: The NPDES MS4 permit is effectively an unfunded federal mandate. If the Town does not completely comply with the requirements of the NPDES MS4 permit, the Environmental Protection Agency may issue an enforcement order to the Town, which would impact the Town's ability to receive funding from grants and loans from the State Revolving Fund. DPW anticipates the need for one new Full Time Equivalent (FTE) staff member in the engineering department to ensure compliance with this Ordinance and any regulations promulgated under the Ordinance by DPW, including but not limited to Site Plan Review meetings, review of Stormwater Management Permit Applications, enforcement and inspection of Stormwater Management Permit compliance, and tracking and enforcement of identified illicit discharge and erosion control complaints. Fees will be collected for stormwater permits, but it is not anticipated that these fees will be able to recover the full cost of the new FTE.

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

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works; Griffin Beaudoin, Town Engineer; Thomas J. LaRosa, First Assistant Town Attorney.

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2024-173
INTRO: 03/21/2024**

2024-173 AUTHORIZATION TO EXPEND A META-12 GRANT FROM THE MASSACHUSETTS DEPARTMENT OF ENERGY RESOURCES IN THE AMOUNT OF \$15,000 FOR THE PURPOSE OF FUNDING ASSISTANCE ON ENERGY RELATED PROJECTS OR RENEWABLE ENERGY PLANNING AND FEASIBILITY EVALUATIONS

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Municipal Energy Technical Assistance (META-12) grant in the amount of **\$15,000** from the Massachusetts Department of Energy Resources for the purpose of funding energy assistance on energy related projects or renewable energy planning and feasibility evaluations.

SPONSOR: Councilor Gordon Starr, Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2024-173
INTRO: 03/21/2024

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Sean Hogan, Environmental and Sustainability Manager
DATE: March 21, 2024
SUBJECT: Authorization to contract for and expend a META-12 Grant from the Massachusetts Department of Energy Resources (DOER), in the amount of **\$15,000** for the purpose of funding assistance on energy related projects or renewable energy planning and feasibility evaluations

BACKGROUND: Through the work of Sean Hogan, Environmental and Sustainability Manager for the Town of Barnstable, the Massachusetts Department of Energy Resources (DOER) has awarded the Town of Barnstable a grant in the amount of \$15,000 for the purpose of funding assistance on energy related projects or renewable energy planning and feasibility studies.

RATIONALE: The Massachusetts Department of Energy Resources (DOER) provides grants at certain times of the year to help pay for independent third parties to help municipalities, regional school districts, and water/wastewater districts negotiate, develop, and manage energy projects, or who perform studies to support the development of such projects. The Municipal Energy Technical Assistance (META) grants are through the Green Communities division of DOER and are available to all Massachusetts municipalities (regardless of Green Community designation status), regional school districts, and water and wastewater districts.

The Town is working towards a much larger grant application through the Federal Infrastructure Act that could result in significant funding towards a microgrid that would provide energy sustainability and asset preservation to the Barnstable High School, the Barnstable Intermediate School, the Barnstable Adult Community Center and the school maintenance facility. These four operations are all on the same campus in Hyannis and therefore are proposed to be combined into a single microgrid.

The purpose of the microgrid is to produce and store renewable energy produced on site, and then, in times of a power outage, supplement our backup generators at these locations. The microgrid can independently power those operations during extended period of power outage. The microgrid would be fed by new renewable energy installations including new roof top and canopy mounted solar panels over the parking areas on the campus.

Of particular import, this project benefits our Intermediate School directly which is the Town's emergency shelter during major storms. Having redundant power further allows this building to operate off grid if there are extended periods of time without electricity. From an asset management standpoint, being able to provide heat and electricity to these buildings also helps in our asset preservation efforts to avoid freeze ups and other perils when the electricity is out.

The META grant for \$15,000 will allow us to engage a company to assist the Town and School facilities operation to create a more robust application for the larger microgrid. This grant will not

cover full design, but it will provide conceptual feasibility and enough technical information to submit the final microgrid grant which is due in April 2024.

FISCAL IMPACT: The funds will be used for a specific energy-related activity in support of the staff preparation of the Microgrid grant. There would be no additional cost to the Town or School Department.

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

STAFF ASSISTANCE: David Anthony, Director of Asset Management; Sean Hogan, Environmental and Sustainability Manager