

Stormwater Management Program (SWMP) Plan

Town of Barnstable, Massachusetts

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Appendix B – Impaired Waterbodies
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Appendix E – Inventory of Town-Owned Property
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1 Introduction

Barnstable is one of many Massachusetts communities regulated under the Environmental Protection Agency's (USEPA) National Pollutant Discharge Elimination System (NPDES) Phase II rule (40 CFR 122). The rule requires regulated operators of municipal separate storm sewer systems (MS4) to develop a Stormwater Management Program (SWMP) and Best Management Practices (BMPs) to reduce the impacts of stormwater discharges. The requirements are outlined in the NPDES General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, which was signed on April 4, 2016, with an effective date of July 1, 2018, hereinafter referred to as the 2016 MS4 Permit.

This SWMP Plan describes and details the activities and measures that will be implemented to meet the terms and conditions of the permit.

1.1 Regulatory Background

The Stormwater Phase II Final Rule was promulgated in 1999 and was the next step after the 1987 Phase I Rule in USEPA's effort to preserve, protect, and improve the Nation's water resources from polluted stormwater runoff. The Phase II program expands the Phase I program by requiring operators of Small MS4s in urbanized areas, through the use of National Pollutant Discharge Elimination System permits, to implement programs and practices to control polluted stormwater runoff. Phase II is intended to further reduce adverse impacts to water quality and aquatic habitat by instituting the use of controls on the unregulated sources of stormwater discharges that have the greatest likelihood of causing continued environmental degradation. Under the Phase II rule all MS4s with stormwater discharges from Census designated Urbanized Area are required to seek NPDES permit coverage for those stormwater discharges.

On May 1, 2003, EPA Region 1 issued its Final General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (2003 MS4 Permit) consistent with the Phase II rule. The 2003 MS4 Permit covered "traditional" (i.e., cities and towns) and "non-traditional" (i.e., certain Federal and state agencies and/or facilities) MS4 Operators located in the states of Massachusetts and New Hampshire. This permit expired on May 1, 2008 but remained in effect until operators were authorized under the 2016 MS4 Permit.

The 2016 MS4 Permit was signed on April 4, 2016 with an effective date of July 1, 2018. The permit was cosigned by the Massachusetts Department of Environmental Protection (MassDEP) and thus is jointly regulated by EPA and MassDEP.

1.2 MS4 Program Requirements

This permit requires each regulated community to submit a Notice of Intent (NOI) briefly outlining how it will meet the 6 Minimum Control Measures (MCMs) and impaired waters requirements of the permit and requesting authorization to discharge under the new permit.

The 6 MCMs include the following:

1. Public Education and Outreach;
2. Public Involvement and Participation;
3. Illicit Discharge Detection and Elimination Program;
4. Construction Site Stormwater Runoff Control;
5. Stormwater Management in New Development and Redevelopment (Post Construction Stormwater Management); and
6. Good Housekeeping and Pollution Prevention for Permittee Owned Operations.

Permittees must also address water quality impacts from waterbodies with approved Total Maximum Daily Loads (TMDLs) and certain impairments, generally known as water quality limited waterbodies.

As required by the 2016 MS4 Permit, The Town of Barnstable submitted a NOI and required accompanying information, including endangered species, historic preservation, and an outfall map to EPA Region 1 by the September 29, 2018 deadline (**Appendix A**) requesting authorization to discharge under the new permit. Barnstable received official authorization to discharge stormwater from its MS4 on June 4, 2019 as per the letter from USEPA provided in **Appendix A**.

This Stormwater Management Program Plan has been developed by the Town of Barnstable to detail the activities and measures outlined in the NOI to address the requirements of the 2016 MS4 Permit. This SWMP Plan documents BMPs, plans, activities, and measures that have been implemented to date, those that are ongoing, and those proposed for the future to comply with the 2016 MA MS4 Permit. This is a “living” document and will be updated and/or modified as required during the permit term as the Town’s activities are modified, changed or updated to meet permit conditions. The plan has been organized to allow these updates to primarily occur within the appendices.

1.3 Regulated Area

Requirements of the 2016 MS4 Permit are limited to a regulated area, defined as the Town’s Urbanized Area (UA) which generally constitute the largest and most dense areas of settlement in a region. The Bureau of the Census determines UAs by applying a detailed set of published UA criteria to the latest decennial census data

The MS4 permit regulates UA areas based on both the 2000 and 2010 Census. Thus, areas that are identified as non-urbanized under the 2010 Census but urbanized under the 2000 Census are still regulated areas. In short, the regulated UA cannot shrink and can only expand. **Figure 1-1** shows the UA in the Town of Barnstable which covers the majority of the town limits with the exception of much of the village of West Barnstable at the northwest part of town and the areas surrounding the Three Bays area in Osterville and Cotuit (see Section 2 for more information on Barnstable’s village areas). The UA is subject to change every 10 years based on the application of the Census definition, thus a larger area may be covered following future Census reports.

1.4 How to Use this Plan

For the purposes of the 2016 MS4 Permit and ease of use, the Town's SWMP encompasses 3 separate written documents:

1. SWMP Plan (this document);
2. Illicit Discharge Detection and Elimination (IDDE) Plan; and
3. Operation and Maintenance (O&M) Plan.

Both the IDDE Plan and Operation and Maintenance Plan are prepared as separate standalone documents to this SWMP Plan, all of which are available on the Town of Barnstable website. This SWMP Plan is divided into several sections, which includes the following components:

- Section 2 Town Characteristics** – Section 2 provides an overview of relevant characteristics, focusing on those aspects related to stormwater runoff and the water quality of surface waters.
- Section 3 MCM 1: Public Education and Outreach** – regulated operators of MS4s are required to implement a public education program. Section 3 discusses activities to comply with this measure.
- Section 4 MCM 2: Public Participation and Involvement** – regulated MS4s are required to obtain public participation throughout the stormwater management program. Section 4 discusses activities to comply with this measure.
- Section 5 MCM 3: Illicit Discharge, Detection, and Elimination** – regulated MS4s must develop and implement an illicit discharge detection and elimination program and develop a regulation to prohibit illicit discharges to the storm drain system. The Town of Barnstable has prepared an Illicit Discharge Detection and Elimination Plan. Section 5 of this SWMP discusses the general summary of the plan.
- Section 6 MCM 4: Construction Site Stormwater Runoff Control** – regulated MS4s are required to implement and enforce a program to reduce pollutants in stormwater runoff from construction activities that disturb 1 or more acres. This requires the development of a local regulation requiring implementation of proper erosion and sediment controls. Permittees are also responsible for inspections and enforcement. Section 6 discusses activities that are required comply with this measure.
- Section 7 MCM 5: Stormwater Management in New Development and Redevelopment** – regulated MS4s are required to develop and enforce a regulation requiring implementation of post-construction runoff controls at sites where construction activities disturb 1 or more acres. The controls must be designed to treat stormwater runoff from post-

development sites and must be maintained over the long-term. Section 7 discusses activities to comply with this measure.

- Section 8** **MCM 6: Good Housekeeping and Pollution Prevention** – regulated MS4s must review their infrastructure operations and those at specific facilities and make improvements where needed to minimize pollution to stormwater runoff. Operations and maintenance procedures must be documented in writing. Section 8 discusses activities to comply with this measure.
- Section 9** **TMDL and Impaired Waters Controls** – regulated MS4s are required to evaluate and address stormwater contributions to impaired waters. Section 9 discusses activities to comply with this measure.
- Section 10** **Annual Reporting** – Section 10 provides a summary of annual reporting requirements in order to meet the 2016 MS4 Permit.
- Section 11** **Implementation of Best Management Practices** – Section 11 provides a summary of proposed BMPs outlined in Sections 3 through 9 in a concise format for easy reference.

1.5 Program Responsibilities

This plan is intended to be used by Town of Barnstable staff whose job involves administering the MS4 permit and associated requirements. The Town’s MS4 program will be headed by the following personnel (**Table 1-1**):

Table 1-1. MS4 Responsible Personnel

Name	Title, Department	Contact
Mr. Nathan Collins, P.E.	Assistant Town Engineer Department of Public Works	(508) 790-6400 Nathan.Collins@town.barnstable.ma.us

The Town of Barnstable has 10 departments responsible for implementing portions of its MS4 program as identified in the NOI. **Table 1-2** provides a list of responsible departments and their general responsibilities within the MS4 program. The responsible person is the most senior person within each department listed below. The names of the responsible personnel are not provided so as to avoid the plan frequently becoming out of date due to changes in personnel and positions.

Table 1-2. Program Responsibilities

Department / Division	General Responsibilities
Building Department	Information distribution for public education; bylaw and regulation development; site plan review procedures; site inspections and procedures; as-built submittal; target properties to reduce impervious areas and for BMP retrofit; develop operation and maintenance procedures; inventory private buildings and facilities.
Community Services	Information distribution for public education; website management; TMDL and water quality limited requirements (bacteria and nutrients)
Conservation Commission	Information distribution for public education; maintain Mutt Mitt dispensers; website management; public participation; bylaw and regulation development; site plan review procedures; site inspections and procedures; as-built submittal; TMDL and water quality limited requirements (bacteria and nutrients)
Department of Public Works	Information distribution for public education; maintain Mutt Mitt dispensers; website management; public participation; Sanitary Sewer Overflow (SSO) inventory; system mapping; IDDE program creation and implementation; IDDE training; target properties to reduce impervious areas and for BMP retrofit; develop operation and maintenance procedures; inventory public buildings and facilities; SWPPP development and implementation; catch basin cleaning and street sweeping; road salt optimization program; BMP inspections and maintenance; TMDL and water quality limited requirements (bacteria and nutrients)
Information Technology	Website management; social media participation; public participation; system mapping
Planning and Development	Information distribution for public education; bylaw and regulation development; site plan review procedures; site inspections and procedures; as-built submittal; target properties to reduce impervious areas and for BMP retrofit; inventory buildings and facilities; TMDL and water quality limited requirements (nutrients)
Public Health Division	Information distribution for public education; maintain Mutt Mitt dispensers; website management; public participation; TMDL and water quality limited requirements (bacteria and nutrients)
Recreation Division	Information distribution for public education; maintain Mutt Mitt dispensers; public participation; develop operation and maintenance procedures; inventory buildings and facilities
Regulatory Services	Information distribution for public education; bylaw and regulation development; site plan review procedures; site inspections and procedures; as-built submittal; TMDL and water quality limited requirements (nutrients)
Town Clerk	Information distribution for public education

2 Town Characteristics

This section provides some background information on the Town of Barnstable, Massachusetts, useful in understanding the Town's characteristics and resources to develop a tailored Stormwater Management Plan. Town characteristics are described below.

2.1 Community Information

Barnstable is a coastal community located in Cape Cod, Massachusetts, within Barnstable County. It is the largest community, both in land area and population, on Cape Cod and generally serves as the region's economic and commercial hub, including housing the main regional hospital, superior court, and regional shopping mall. It is generally bordered by Sandwich, Massachusetts to the northwest, Mashpee, Massachusetts to the southwest, and Yarmouth, Massachusetts to the east. The Town is also bordered by the Cape Cod Bay to the north and the Nantucket Sound to the south. Barnstable is also unique, in that the town is comprised of 7 village areas, each with their own characteristics. Village areas include:

- Barnstable and Cummaquid;
- Centerville and Craigville;
- Cotuit;
- Hyannis and Hyannisport;
- Marstons Mills
- Osterville; and
- West Barnstable

Select relevant community profile information is provided below:

- Total Area = 76.3 square miles (*source: Wikipedia*)
- 2010 Full-Time Population = 45,121 (*source: EPA maps based on 2010 US Census*)
- 2010 Urbanized Area Population = 43,576 (*source: EPA maps based on 2010 US Census*)
- 2010 Seasonal Population = 120,000 to 150,000 (*source: town estimate*)

2.2 Land Use

The types of land uses within the regulated area of the Town of Barnstable as of 2018 are shown on **Figure 2-1** and provided below. Impervious area is shown on **Figure 2-2**.

- | | | | |
|-----------------------------|-------|--------------------------------|-------|
| • Commercial | 5.1% | • Residential | 29.1% |
| • Forest | 44.4% | • Transportation and Utilities | 4.2% |
| • Industrial | 1.3% | • Wetlands | 4.3% |
| • Open Land and Agriculture | 3.9% | • Water | 7.1% |

As shown above, Barnstable has substantial forest, open land, and water/wetland area (approximately 60%), with much of the remaining land uses consisting of residential development (approximately 29%). Remaining land use (approximately 11%) consists largely of roadways and commercial/industrial development.

2.3 303(d) Impaired Waterbodies

The ultimate goal of this Stormwater Management Plan is to outline a program to effectively maintain the Town’s stormwater infrastructure and to improve the water quality of receiving waters (waters which receive stormwater discharges from the MS4) in compliance with the 2016 MS4 Permit. 303(d) impaired waters are those surface waters identified by the MassDEP as priority waters that do not meet water quality criteria. As part of the 2016 MS4 Permit, communities must implement BMPs to address waters with an approved Total Maximum Daily Load (TMDL) as of the issuance date of the permit (April 4, 2016) and to address water quality limited waters, including but not limited to waters listed in categories 5 or 4a on the Massachusetts Integrated Report of waters listed pursuant to Clean Water Act section 303(d) and 305(b). **Table 2-1** lists the “impaired waters” for which Barnstable must meet MS4 permit requirements based on the Final 2014 Massachusetts Integrated List of Waters produced by MassDEP every 2 years¹. These waterbodies are shown on **Figure 2-3**. Barnstable will review changes as new lists are published and record these changes and any new permit requirements in **Appendix B**.

Note that the 2016 MS4 Permit does not specify a wasteload allocation or other requirements for MS4 discharges to waterbodies impaired for mercury. Thus, there are no requirements related to mercury reduction. Remaining requirements for TMDL or water quality limited waterbodies related to nitrogen, phosphorus, and bacteria are outlined further in **Section 9**.

Table 2-1. Impaired Waters

Waterbody Name	Segment ID and Category		Impairment(s)	Approved TMDL ²
Bears Pond	MA96012	4a	(Non-Native Aquatic Plants*)	
			Mercury in Fish Tissue	42393
Bumps River	MA96-02	4a	Fecal Coliform	36771
Centerville River	MA96-04	4a	Estuarine Bioassessments	33858
			Fecal Coliform	36771
			Nitrogen (Total)	33858
Cotuit Bay	MA96-63	4a	Fecal Coliform	36582
			Nitrogen (Total)	33988
Halls Creek	MA96-93	4a	Fecal Coliform	42356
Hyannis Harbor	MA96-05	4a	Fecal Coliform	36771
Hyannis Inner Harbor	MA96-82	4a ³	Fecal Coliform	42357
			Nitrogen (Total)	64145
Lewis Bay	MA96-36	4a ³	Estuarine Bioassessments	64146 & 7
			Fecal Coliform	36771

Table 2-1 (continued). Impaired Waters

¹Note that at the time of preparation of this report (March 6, 2019), the 2014 303d list is the most up to date finalized 303d List as approved by USEPA on February 23, 2016.

²“Approved TMDLs” are those that have been approved by EPA as of the date of issuance of the 2016 Permit.

³Waterbodies are classified as category 5 under the final 2014 303(d) list, however a nitrogen TMDL has since been finalized and waterbodies have been reclassified as 4a under the draft 2016 303(d) list.

Waterbody Name	Segment ID and Category		Impairment(s)	Approved TMDL
Maraspin Creek	MA96-06	4a	Fecal Coliform	36771
Mill Creek	MA96-37	4a	Fecal Coliform	36771
Mill Creek	MA96-80	4a ³	Fecal Coliform	42365
			Nitrogen (Total)	64148 & 9
North Bay	MA96-66	4a	Estuarine Bioassessments	33791
			Fecal Coliform	36584
Popponesset Bay	MA96-40	4a	Estuarine Bioassessments	33967-9
Prince Cove	MA96-07	4a	Estuarine Bioassessments	33991-3
			Fecal Coliform	36585
Santuit River	MA96-92	4a	Fecal Coliform	42360
Seapuit River	MA96-64	4a	Fecal Coliform	36583
Shoestring Bay	MA96-08	4a	Estuarine Bioassessments	33966
			Fecal Coliform	36771
Snows Creek	MA96-81	4a	Fecal Coliform	42361
Stewarts Creek	MA96-94	4a	Fecal Coliform	42363
Wequaquet Lake	MA96333	4a	(Non-Native Aquatic Plants*)	
			Mercury in Fish Tissue	33880
West Bay	MA96-65	4a	Estuarine Bioassessments	33989
Long Pond	MA96184	4c	(Non-Native Aquatic Plants*)	
Barnstable Harbor	MA96-01	5	Estuarine Bioassessments	
			Fecal Coliform	36771
Hamblin Pond	MA96126	5	Mercury in Fish Tissue	33880
			Oxygen, Dissolved	
Lovells Pond	MA96185	5	Chlorophyll-a	
			Excess Algal Growth	
			Oxygen, Dissolved	
			Phosphorus (Total)	
			Secchi disk transparency	
Middle Pond	MA96198	5	Oxygen, Dissolved	
Mystic Lake	MA96218	5	(Non-Native Aquatic Plants*)	
			Oxygen, Dissolved	
Red Lily Pond	MA96257	5	Fecal Coliform	
			Nutrient/Eutrophication Biological Indicators	

Category 4a Waters – impaired waters with a completed TMDL.

Category 4c Waters – impaired waters where the impairment is not caused by a pollutant. No TMDL required.

Category 5 Waters – impaired waters that require a TMDL.

*TMDL not required (Non-pollutant)

2.4 Endangered Species Act Determination

In order to be eligible to discharge stormwater under the 2016 MS4 Permit, the Town of Barnstable must certify that its stormwater system is not impacting federally listed rare or endangered species habitat or other critical environmental locations. This was completed in the summer of 2018 and met “Criterion B” on the Notice of Intent with the results documented in **Appendix A**. The Northern Long-eared Bat (*Myotis septentrionalis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Roseate Tern (*Sterna dougallii dougallii*), and Sandplain Gerardia (*Agalinis acuta*) were the only species identified as potentially being present within Barnstable’s regulated area. No critical habitats were identified.

2.5 National Historic Preservation Act Determination

Regulated MS4s must also evaluate whether its discharges have the potential to affect historic properties. If there have been no relevant changes in existing discharges since the 2003 MS4 General Permit, the discharge can still be considered to have no potential to have an effect on historic properties. This has been documented as “Criterion A” on the Notice of Intent (**Appendix A**) and thus no additional information is required for documentation.

Where there is disturbance of land through the construction and/or installation of control measures, there is a possibility that artifacts, records, or remains associated with historic properties could be impacted. In these cases, such as during future construction of structural stormwater BMPs, the Town will ensure that historic properties will not be impacted by their activities. If impact cannot be avoided, any work will be in compliance with a written agreement with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or other tribal representative. Any agreement will outline all measures the applicant will carry out to mitigate or prevent any adverse effects on historic properties.

3 MCM 1: Public Education and Outreach

3.1 Summary of Permit Requirements

3.1.1 Core Permit Requirements

Under MCM 1, the Town of Barnstable must develop an educational program, define educational goals, express specific messages, define the targeted audience for each message, and identify responsible parties for program implementation. At a minimum, the program must provide information concerning the impact of stormwater discharges on water bodies within the community, especially those waters that are impaired or identified as priority waters. The program must identify steps and/or activities that the public can take to reduce the pollutants in stormwater runoff and their impacts to the environment.

The Town must address 4 core target audiences, unless 1 of these audiences is not present in the MS4 community. The targeted audiences and educational topics requiring consideration under the permit are outlined below:

1. Residents
 - Effects of outdoor activities such as lawn care (use of pesticides, herbicides, and fertilizers) on water quality;
 - Benefits of appropriate on-site infiltration of stormwater;
 - Effects of automotive work and car washing on water quality;
 - Proper disposal of swimming pool water;
 - Proper management of pet waste; and
 - Maintenance of septic systems.

2. Businesses, Institutions, and Commercial Facilities
 - Proper lawn maintenance (use of pesticides, herbicides and fertilizer);
 - Benefits of appropriate on-site infiltration of stormwater;
 - Building maintenance and storage of materials;
 - Proper use and storage of salt or other de-icing and anti-icing materials;
 - Proper management of waste materials and dumpsters;
 - Proper management of parking lot surfaces;
 - Proper car care activities; and
 - Proper disposal of swimming pool water by entities such as motels, hotels, and health and country clubs.

3. Developers and Construction
 - Proper sediment and erosion control management practices;
 - Information about Low Impact Development (LID) principles and technologies; and
 - Information about EPA's construction general permit (CGP).

4. Industrial facilities

- Equipment inspection and maintenance;
- Proper storage of industrial materials (emphasizing pollution prevention);
- Proper management of dumpsters;
- Minimization of use of salt or other de-icing/anti-icing materials;
- Proper storage of salt or other de-icing/anti-icing materials;
- Benefits of appropriate on-site infiltration of stormwater runoff from areas with low exposure to industrial materials such as roofs or employee parking;
- Proper maintenance of parking lot surfaces (sweeping); and
- Requirements for coverage under EPA's MSGP.

At least 2 educational messages must be distributed to each audience over the permit term spaced at least a year apart. See sections below for more information.

3.1.2 TMDL & Impaired Waters Requirements

Public education and outreach programs must also address impaired waterbodies or those identified as priority waters. Impaired waterbodies are shown in **Table 2-1**, with updates provided in **Appendix B** as they become available. As noted in **Table 2-1**, Barnstable has a substantial number of waterbodies throughout the community that are listed as impaired for bacteria, nitrogen, and estuarine bioassessments due to nitrogen loading which are considered high priority. Barnstable also has an additional waterbody listed as impaired for phosphorous. Therefore, relevant public information on nitrogen, phosphorus, and bacteria topics as outlined in the 2016 MS4 Permit, and summarized below, will be included within the education program.

Nitrogen and Phosphorus TMDL and Impaired Waterbody Requirements (Residents & Businesses)

- Spring (March/April): encourage proper use and disposal of grass clippings and use of slow-release and phosphorus-free fertilizers;
- Summer (June/July): encourage proper management of pet waste, including noting any existing bylaws; and
- Fall (August/September/October): encourage the proper disposal of leaf litter.

Bacteria TMDL and Impaired Waterbody Requirements (Residents)

- Annual message encouraging the proper management of pet waste, including noting any existing bylaws where appropriate;
- Disseminate educational materials to dog owners at the time of issuance or renewal of a dog license;
- Describe detrimental impacts of improper pet waste management, requirements for waste collection and disposal, and penalties for non-compliance; and
- Provide information to owners of septic systems about proper maintenance.

Due to the extent of impaired waters present throughout the Town, each message will be distributed community-wide. For details, see the following sections.

3.2 Existing Public Education Program

In response to requirements under the 2003 permit, Barnstable has enacted a multifaceted approach to stormwater public education and outreach. The following summarizes the Town's existing public education activities that were in place prior to the effective permit date and will be continued under the 2016 MS4 Permit:

- **Pet Waste Fact Sheets** – distribute fact sheets on the proper collection and disposal of pet waste with dog licenses and renewals.
- **Educational Flyer** – book markers are available at public and school events.
- **Pet Waste Bags** – provide “Mutt Mitt” dispensers and refills at public areas frequented by dog walkers to encourage pet waste pickup.
- **Stormwater Webpage** – maintain a web presence with information and helpful links relating to stormwater management and volunteer events.
(https://www.townofbarnstable.us/Departments/PublicWorks/Projects_and_Updates/MS4-Program.asp)

3.3 Ongoing Public Education Program

Tables 3-1 through **3-4** summarize Barnstable's public education program, by targeted audience, to meet the requirements of the 2016 MS4 Permit. Measurable goals, responsible departments and a schedule for implementation of all BMPs under the SWMP are provided in **Section 11**.

3.4 Measuring Public Education Program Effectiveness

During completion of the Town's annual report as detailed further under **Section 10**, Barnstable will review the effectiveness of each message and the Town's overall education program. Effectiveness is expected to vary by message, however will generally be measured based on quantities of materials distributed and feedback from town employees based on observations in their area of work. Educational messages and/or distribution techniques will be modified as needed, should program managers determine that they are ineffective.

Table 3-1. Residential Public Outreach Topics and Messages (BMP 1-1)

Topics	Materials	Distribution	Measurable Goal/ Effectiveness	Schedule	Responsible Department									
					Town Clerk	Recreation Dept.	DPW	Public Health Div.	Community Svcs.	Cons. Com.	Info. Technology	Building Dept.	Regulatory Svcs.	Planning & Dev.
Pet waste management	Brochure / fact sheet	With dog licenses	Track number distributed	With dog licenses / renewals	x	x	x	x	x					
	Mutt Mitt dispensers	Public areas frequented by dog walkers	Track amount of waste collected	Continually available		x	x	x		x				
Roof & yard maintenance	Brochure / fact sheet / pamphlet and poster board	Display in 2 public buildings	Track number distributed	Continually available			x	x	x					
<ul style="list-style-type: none"> • Pet waste management • Lawn care • Leaf litter • On-site infiltration • Auto & car washing • Swimming pool water disposal • Septic system maintenance 	Flyers / bookmarks developed in conjunction with the Cape Cod Commission Project Storm Team	Select public events	Track number distributed	Once per year			x		x	x				
	Relevant information & links for viewing and/or download from Town webpage	Website	Track number of hits to website	Continually available, update as needed			x	x	x	x	x			
Stormwater topics covered by “ThinkBlue” campaign	Relevant stormwater information via various social media platforms, as well as through the town blog	Social media & town blog	Track number of followers	Continually available							x			

Table 3-2. Businesses, Institutions, & Commercial Public Outreach Topics and Messages (BMP 1-2)

Topics	Materials	Distribution	Measurable Goal/ Effectiveness	Schedule	Responsible Department									
					Town Clerk	Recreation Dept.	DPW	Public Health Div.	Community Svcs.	Cons. Com.	Info. Technology	Building Dept.	Regulatory Svcs.	Planning & Dev.
<ul style="list-style-type: none"> • Pet waste management • Lawn maintenance • Leaf litter • On-site infiltration • Building maintenance & storage of materials • Salt use & storage • Waste & dumpster management • Parking lot management • Car care activities • Swimming pool water disposal 	Relevant information & links for viewing and/or download from Town webpage	Website	Track number of hits to website	Continually available, update as needed			X	X	X	X	X			
Stormwater topics covered by “ThinkBlue” campaign	Relevant stormwater information via various social media platforms, as well as through town blog	Social media & town blog	Track number of followers	Continually available							X			

Table 3-3. Developers and Construction Public Outreach Topics and Messages (BMP 1-3)

Topics	Materials	Distribution	Measurable Goal/ Effectiveness	Schedule	Responsible Party									
					Town Clerk	Recreation Dept.	DPW	Public Health Div.	Community Svcs.	Cons. Com.	Info. Technology	Building Dept.	Regulatory Svcs.	Planning & Dev.
<ul style="list-style-type: none"> • Erosion & sediment control • LID • EPA’s CGP 	Brochure/fact sheet	Distribute with permit applications	Track number of applications	Continually with new permit applications					x	x		x	x	x
	Relevant information & links for viewing and/or download from Town webpage	Website	Track number of hits	Continually available, update as needed			x	x	x	x	x			
Stormwater topics covered by “ThinkBlue” campaign	Provide relevant stormwater information via various social media platforms, as well as through the Town blog	Social media & town blog	Track number of followers	Continually available							x			

Table 3-4. Industrial Public Outreach Topics and Messages (BMP 1-4)

Topics	Materials	Distribution	Measurable Goal/ Effectiveness	Schedule	Responsible Party										
					Town Clerk	Recreation Dept.	DPW	Public Health Div.	Community Svcs.	Cons. Com.	Info. Technology	Building Dept.	Regulatory Svcs.	Planning & Dev.	
<ul style="list-style-type: none"> • Equipment inspection & maintenance • Storage & management of materials & dumpsters • Waste management & disposal • Salt use & storage • Parking lot maintenance • EPA’s CGP 	Relevant information & links for viewing and/or download from Town webpage	Website	Track number of hits	Continually available, update as needed			x	x	x	x	x				
Stormwater topics covered by “ThinkBlue” campaign	Provide relevant stormwater information via various social media platforms, as well as through the Town blog	Social media & town blog	Track number of followers	Continually available							x				

4 MCM 2: Public Participation and Involvement

4.1 Summary of Permit Requirements

Under MCM 2, The Town of Barnstable should provide annual opportunities for public participation in the review and implementation of the Town's SWMP as part of a public education and involvement program. All public involvement activities should comply with state public notice requirements. The SWMP and annual reports are made available on the Town of Barnstable website so that the public has opportunities to review and comment.

4.2 Existing Public Participation and Involvement Opportunities

The following summarizes Barnstable's existing public participation activities that were in place prior to the effective permit date and will be continued under the 2016 MS4 Permit:

- **Coastal Cleanups** – organize and support volunteer groups for the annual COASTSWEEP shoreline clean-up focusing on conservation areas and Town beaches to pick up trash and other discarded materials. Currently, beaches are cleaned bi-annually.
- **Massachusetts Estuary Program (MEP)** – as part of the Massachusetts Estuary Program, Barnstable staff continually monitor select water quality stations, and collect representative samples at least 4 times per year. This program has been ongoing since approximately 2005.
- **Household Hazardous Waste Collection Days** – in conjunction with the Cape Cod Cooperative Extension, the Town of Barnstable sponsors up to 4 household hazardous waste collection days a year to encourage the proper disposal of hazardous materials by its residents.
- **Infrastructure & Energy Committee (IEC)** – Barnstable's DPW continually works to promote involvement in the Infrastructure & Energy Committee (IEC) to promote water quality and stormwater goals.

4.3 Ongoing Public Participation and Involvement Opportunities

This written SWMP Plan and the annual reports are available for review and comment via the Town's website, along with the name, email address and/or phone number of a contact person from the Town government to request additional information or submit comments. This allows the public to comment on the program at least once per year.

4.4 Public Participation and Involvement Summary

Table 4-1 summarizes Barnstable’s proposed Public Participation and Involvement Opportunities BMPs to meet the requirements of the 2016 MS4 Permit. Measurable goals, responsible departments and a schedule for implementation of all BMPs under the SWMP are provided in **Section 11**.

Table 4-1. Public Participation and Involvement Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
2-1	Make SWMP Plan and Annual Reports Publicly Available	Information Technology, Department of Public Works	Annual review of stormwater management plan and posting on website. Allow public to comment on the plan at least annually. Track number of website hits.
2-2	Sponsor Household Hazardous Waste Event	Public Health Division, Department of Public Works	Continue to allow public to drop off household hazardous waste up to 4 times per year in conjunction with the Cape Cod Cooperative Extension as budget allows.
2-3	Hold Shoreline / Waterbody Cleanup Events	Conservation Commission, Recreation Department, Department of Public Works	Allow annual participation in an annual COASTSWEEP cleanup event of beaches and Town landings. Track number of events and/or amount of trash removed.
2-4	Continue involvement in the Massachusetts Estuary Program (MEP)	Department of Public Works, Public Health Division	Continue to promote good water quality through meetings and periodic sampling under the MEP. Track number of meetings and sampling events held.
2-5	Solicit public involvement through the Infrastructure & Energy Committee (IEC)	Department of Public Works	Continue to promote involvement in the IEC to improve water quality through Town.

5 MCM 3: Illicit Discharge, Detection, and Elimination

5.1 Summary of Permit Requirements

Under MCM 3, the Town of Barnstable must implement an IDDE Plan to systematically find and eliminate sources of non-stormwater discharges to its MS4 and implement procedures to prevent such discharges. An “illicit discharge” is any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire-fighting activities. A summary of the required activities within the Town’s IDDE plan are as follows:

- **Legal Authority** – The IDDE plan shall include adequate legal authority in the form of a currently effective ordinance, bylaw, or other regulatory mechanism to prohibit, investigate, and eliminate illicit discharges.
- **Sanitary Sewer Overflow** – SSOs are discharges of untreated sanitary wastewater from a municipal sanitary sewer that can contaminate surface waters, cause serious water quality problems and property damage, and threaten public health. SSOs can be caused by blockages, line breaks, sewer defects that allow stormwater and groundwater to overload the system, power failures, improper sewer design, and vandalism. Regulated communities must identify all known locations where sanitary sewer overflows (SSOs) have discharged to the MS4 within the previous 5-years. The Town must also develop an inventory within 1-year of the effective date and update it annually. Upon detection of an SSO, the Town must eliminate it as quickly as possible and take interim mitigation measures to minimize or eliminate the discharge of pollutants until remediation work is complete. To date, the Town of Barnstable had identified and addressed all SSO’s and currently has zero active SSO’s within the Town’s infrastructure.
- **System Mapping** – Regulated communities must complete a comprehensive map of their stormwater system in 2 phases. Phase 1 must be completed within 2 years and include infrastructure such as outfalls and preliminary catchment delineations, waterbodies, open channel conveyances, interconnections with other MS4s, and structural stormwater BMPs. Phase 2 must be completed within 10 years and include information such as outfalls with high accuracy GPS location and refined catchment delineations, catch basins, manholes, pipe connectivity, and sanitary or combined sewer systems as available/applicable. As of June 2019, Phase 1 has been completed by the Town of Barnstable.
- **Written Illicit Discharge, Detection, and Elimination Plan** – The 2016 MS4 Permit requires preparation of a comprehensive written IDDE Plan that provides detailed procedures for assessment and priority ranking of outfalls and interconnections, dry and wet weather outfall sampling, catchment investigation procedures, system vulnerability factor (SVF) assessment, identification of an illicit

discharge, illicit discharge removal, and ongoing screening requirements. The Town of Barnstable completed the IDDE Plan in 2019 and it is available on the Town's website.

- **Annual IDDE Training** – The 2016 MS4 Permit requires annual IDDE training to be provided to all employees involved in the IDDE Plan. The Town of Barnstable includes annual training, which includes information on how to identify illicit discharges and SSOs and includes additional training specific to the functions of particular personnel and their function within the framework of the IDDE Plan.

5.2 Existing IDDE Program

The following summarizes Barnstable's current IDDE activities that will be continued under the 2016 MS4 Permit:

- **Stormwater System Mapping** – nearly 100% of Town outfalls are mapped and portions of the full drainage system within coastal areas are also mapped. Mapping is incorporated into a town-wide GIS system. Mapping continues to be updated.
- **Training** – the Town conducts periodic employee training for various items, including illicit discharges.

5.3 Ongoing IDDE Program

Barnstable has conducted multiple activities to identify illicit discharges. A separate written IDDE plan is available on the Town's website and it outlines program responsibilities, ranks catchment areas, and outlines procedures for investigation and removal in accordance with the permit. This written plan will be updated and refined as needed to incorporate findings of field investigations.

The following sections outlines Barnstable's IDDE program to meet the requirements of the 2016 MS4 Permit.

5.3.1 Establish Legal Authority

The Town of Barnstable will establish a new or amended ordinance to:

- Prohibit illicit discharges;
- Investigate suspected illicit discharges;
- Eliminate illicit discharges, including discharges from properties not owned by or controlled by the MS4 that discharge into the MS4 system; and
- Implement appropriate enforcement procedures and actions.

The Town is currently preparing a new ordinance that must be made to suit the Town. Barnstable anticipates that the final ordinance will be developed during spring 2020 and presented to Town Council for approval prior to June 30, 2020.

5.3.2 Complete System Mapping

The Town of Barnstable has completed preliminary mapping of its stormwater system. Mapping status as of the end of Year 1 and accompanying maps are provided in **Appendix D**, and are being continuously updated. The Town of Barnstable will continue to update its stormwater mapping by the required deadlines to include the above information. All information is incorporated into its GIS library.

5.3.3 Complete Sanitary Sewer Overflow Inventory

The Town of Barnstable will annually complete an inventory of SSOs that have discharged to the MS4 within the 5 years prior to the effective date of the 2016 MS4 Permit, based on review of available documentation pertaining to SSOs. The SSO inventory will be included in the annual report, including the status of mitigation and corrective measures to address each identified SSO. An ongoing list of SSOs that have discharged to the MS4 in the past 5 years is maintained in the IDDE Plan.

5.3.4 Develop and Implement Written IDDE Program

Barnstable has developed a written IDDE Plan as a separate standalone document to address the illicit discharge requirements of the 2016 MS4 Permit. This includes dry and wet weather screening on Town outfalls, including those with SVFs where applicable and addresses select requirements of bacteria-impaired TMDL and water quality limited waterbody requirements. Ongoing screening will also be performed after the conclusion of the initial sampling rounds.

5.3.5 Perform Annual IDDE Training

The 2016 MS4 Permit requires annual IDDE training to be provided to all employees involved in the IDDE program. Therefore, Barnstable provides annual training that includes information on how to identify illicit discharges and also includes additional training specific to the functions of particular personnel and their function within the framework of the IDDE program. Frequency and type(s) of training will be included in the annual reports.

5.4 IDDE Program Summary

The following table outlines Barnstable’s IDDE program to meet permit requirements. Measurable goals, responsible departments and a schedule for implementation of all BMPs under the SWMP are provided in **Section 11**.

Table 5-1. IDDE Program Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
3-1	Phase I Storm Sewer System Map	Information Technology - GIS, Department of Public Works	Complete preliminary system map within 1 year of effective date of permit
3-2	Complete SSO Inventory	Department of Public Works, Public Health Division	Develop SSO inventory and complete within 1 year of effective date of permit
3-3	Outfall Inventory and Ranking	Department of Public Works, Public Health Division	Classify and rank outfalls and interconnections within 1 year of the effective date of the permit.
3-5	Final Written IDDE Plan	Department of Public Works, Public Health Division	Create written IDDE program within 1 year of the effective date of the permit and update periodically
3-6	Enact and Enforce IDDE Ordinance	Department of Public Works, Public Health Division	Regulatory mechanism in place within 2 year of the permit effective date.
3-7	Dry Weather Screening	Department of Public Works, Public Health Division	Complete in accordance with outfall screening procedure within 3 years of the effective permit date
3-8	Wet Weather Screening	Department of Public Works, Public Health Division	Complete in accordance with outfall screening procedure within 10 years of the effective permit date
3-9	Ongoing Screening	Department of Public Works, Public Health Division	Conduct ongoing dry and wet weather outfall screening upon completion of the IDDE program
3-10	Perform IDDE Training	Department of Public Works, Public Health Division	Complete annual training
3-11	Phase II Storm Sewer System Map	Information Technology - GIS, Department of Public Works	Complete full system map 10 years after effective date of permit

5.5 Indicators of IDDE Program Progress

The success of the IDDE Program will be evaluated according to the following parameters:

- Storm system mapping progress;
- Number of SSOs and illicit discharges identified and removed;
- Number and percent of total outfall catchments served by the MS4 evaluated using the catchment investigation procedures;
- Updated SVF and catchment inventory and ranking;
- Dry weather and wet weather screening and sampling results;
- Estimated volume or quantity of sewage removed; and
- Number of employees successfully trained on IDDE.

The above parameters will be tracked annually and reported as part of each annual report submitted to EPA each year by September 29th of the calendar year.

6 MCM 4: Construction Site Stormwater Runoff Control

6.1 Summary of Permit Requirements

Under MCM 4, The Town of Barnstable is required to implement and enforce a program to reduce pollutants in stormwater runoff discharged to the MS4 from all construction activities that result in a land disturbance of greater than or equal to 1 acre within the regulated area. This program shall also regulate disturbances less than 1 acre if they are part of a larger common plan of development or sale that would disturb 1 or more acres. A summary of the required Construction Site Stormwater Runoff Control Program activities and timelines are provided below:

- **Legal Authority** – The Construction Site Stormwater Runoff Control Program shall include adequate legal authority in the form of a currently effective ordinance, or other regulatory mechanism to:
 - Require the use of sediment and erosion control practices at construction sites; and
 - Include controls for other wastes on construction sites.

- **Construction Site Stormwater Runoff Control Program** – The 2016 MS4 Permit requires preparation of written Construction Site Stormwater Runoff Control Program procedures that includes the following:
 - Pre-construction plan review of the site design, planned operations, planned BMPs during the construction phase, and planned BMPs to manage runoff after development;
 - Site inspections and enforcement actions to take place both during construction of BMPs and after construction of BMPs; and
 - Requirements for construction site to implement a sediment and erosion control program that includes BMPs appropriate for the conditions at the construction site.

6.2 Existing Construction Site Stormwater Runoff Control Measures

The following summarizes Barnstable’s current activities that will be continued under the 2016 MS4 Permit:

- **Site Plan Review** – requires review of site plans, however only applies to some development generally related to commercial and industrial facilities.

- **Subdivision Regulations** – requires many of the items outlined under this MCM, such as use of erosion and sediment control measures, site inspection requirements, and plan review requirements, however only applies to subdivisions.

6.3 Ongoing Construction Site Stormwater Runoff Control Program

The following sections outlines Barnstable's Construction Site Stormwater Runoff Control program to meet the requirements of the 2016 MS4 Permit.

6.3.1 Establish Legal Authority

The Town is establishing a new ordinance to require the use of sediment and erosion control practices at construction sites and include controls for other wastes on construction sites. The Town is currently preparing a new ordinance that must be made to suit the Town. Barnstable anticipates that the final ordinance will be developed during spring 2020 and presented to Town Council for approval prior to June 30, 2020.

6.3.2 Establish Written Procedures for Site Plan Review

The Town of Barnstable requires site plan review as part of its Subdivision Regulations, however regulations do not cover all development regulated under the MS4 program. The Town is preparing a new ordinance for compliance with the 2016 MS4 Permit including establishing written procedures for pre-construction plan review of the site design, planned operations, planned BMPs during construction, and planned BMPs to manage runoff after development that:

- Address potential water quality impacts;
- Consider information submitted by the public;
- Evaluate of opportunities for use of LID and green infrastructure (GI); and
- Track the number of site reviews for annual reporting.

Barnstable anticipates that the final ordinance will be developed during spring 2020 and presented to Town Council for approval prior to June 30, 2020.

6.3.3 Establish Procedures for Site Inspections and Enforcement

The Town of Barnstable's Subdivision Regulations require site inspections; however, this does not apply for all development regulated under the MS4 program and does not have formal written procedures. The Town is preparing a new ordinance for compliance with the 2016 MS4 Permit including development of written procedures for site inspections and enforcement actions to take place both during construction of BMPs and after construction of BMPs is completed to ensure they are working as described in the approved plans. Procedures will define the following:

- Who is responsible and necessary qualifications for performing site inspections;
- Who has authority to implement enforcement procedures;
- Ability to impose sanctions to ensure program compliance;
- Use of standardized inspection forms (if appropriate); and

- How to track the number inspections and enforcement actions for reporting.

Barnstable anticipates that the final ordinance will be developed during spring 2020 and presented to Town Council for approval prior to June 30, 2020.

6.3.4 Establish a Sediment and Erosion Control Program

The Town is preparing a sediment and erosion control ordinance to regulate construction site operators performing land disturbance activities within the MS4 jurisdiction that result in stormwater discharges to the MS4. This will include implementing a sediment and erosion control program that includes BMPs appropriate for the conditions at the construction site.

Barnstable anticipates that the final ordinance will be developed during spring 2020 and presented to Town Council for approval prior to June 30, 2020.

6.4 Construction Site Stormwater Runoff Control Program Summary

The following table outlines the Barnstable’s anticipated Construction Site Stormwater Runoff Control program to meet permit requirements. Measurable goals, responsible departments and a schedule for implementation of all BMPs under the SWMP are provided in **Section 11**.

Table 6-1. Construction Site Stormwater Runoff Control Program Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
4-1	Develop and Enforce Construction Ordinance	Building Department, Planning and Development, Conservation Commission, Department of Public Works, Regulatory Services	Complete ordinance by June 30, 2020
4-2	Develop Written Procedures for Site Plan Review	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete ordinance by June 30, 2020
4-3	Develop Written Procedures for Site Inspections and Enforcement	Building Department, Planning and Development, Conservation Commission, Department of Public Works, Regulatory Services	Complete ordinance by June 30, 2020
4-4	Establish a Sediment and Erosion Control Program	Building Department, Planning and Development, Conservation Commission, Department of Public Works, Regulatory Services	Complete ordinance by June 30, 2020

7 MCM 5: Stormwater Management in New Development and Redevelopment

7.1 Summary of Permit Requirements

Under MCM 5, permittees shall develop, implement, and enforce a program to address post-construction stormwater runoff from new development and redevelopment sites that disturb 1 or more acres and discharge into an MS4 system. This program will regulate disturbances less than 1 acre if they are part of a larger common plan of development or sale that would disturb 1 or more acres. A summary of the requirements of the Stormwater Management in New Development and Redevelopment ordinance, also known as Post Construction Stormwater Management, is provided below:

- **Legal Authority** – The Post Construction Stormwater Management Program shall include adequate legal authority in the form of a currently effective ordinance, or other regulatory mechanism to:
 - Require LID site planning and design strategies;
 - Meet many of the requirements of the Massachusetts Stormwater Handbook and associated stormwater standards;
 - Incorporate runoff volume storage and/or pollutant removal requirements; and
 - Meet additional requirements for TMDL and water quality limited waterbodies.
- **As-Built Submittals** – Require the submission of as-built drawings within 2 years after completion of construction projects and include structural and non-structural controls.
- **Operation and Maintenance** – Include procedures to ensure adequate long-term operation and maintenance of BMPs are established after completion of a construction project, along with a dedicated funding source within 2 years of the effective permit date.
- **Regulatory Assessment** – Complete an assessment of existing regulations that could affect creation of impervious cover to determine if changes are required to support LID. Additionally, the permittee must assess current regulations to ensure that certain green infrastructure is allowable where feasible. Any required changes must be completed within 4 years of the effective permit date.
- **Inventory of Potential Retrofit Sites** – Complete an inventory of municipal properties with significant impervious cover within 4 years of the effective permit date to determine at least 5 properties that could be modified or retrofitted with stormwater BMP improvements. As BMPs are constructed, the inventory should be updated so that it always contains at least 5 sites in the inventory for potential improvement.

7.2 Existing Post Construction Stormwater Management

The following summarizes Barnstable’s current activities that will be continued under the 2016 MS4 Permit:

- **Site Plan Review** – requires developers to address some stormwater and drainage requirements and establishing a long-term O&M Plan, however only applies to some development generally related to commercial and industrial facilities.
- **Subdivision Regulations** – requires some provisions for handling stormwater runoff, however only applies to subdivisions.

7.3 Ongoing Post-Construction Stormwater Management Program

The following sections outlines Barnstable’s Post-Construction Stormwater Management Program to meet the requirements of the 2016 MS4 Permit.

7.3.1 Establish Legal Authority

The Town is preparing a new ordinance to require as the following:

1. Use LID site planning and design strategies to the maximum extent feasible;
2. Design of treatment and infiltration practices should follow Volume 2 of the Massachusetts Stormwater Handbook and associated Standards;
3. Stormwater management systems on new development sites shall be designed to:
 - a) Not allow untreated stormwater discharges (Standard 1), control peak runoff rates (Standard 2), recharge groundwater (Standard 3), eliminate or reduce discharge of pollutants from land uses with higher pollutant loads (Standard 5), protect Zone II or Interim Wellhead Protection Areas (Standard 6), and implement long term maintenance practices (Standard 9); and
 - b) Require that all stormwater management systems be designed to:
 - 1) Retain the volume of runoff equal to at least 1.0 inches over the total post-construction impervious surface area on the site and/or
 - 2) Remove 90% of the average annual Total Suspended Solids (TSS) load and 60% of the average annual Total Phosphorus (TP) load from the total post-construction impervious surface area on the site.
4. Redevelopment Requirements
 - a) Stormwater management systems on Redevelopment sites shall meet the following to the maximum extent feasible:
 - 1) Standards 1, 2, and 3, and pretreatment and structural BMP requirements of Standards 5 and 6.
 - b) Stormwater management systems on Redevelopment sites shall also improve existing conditions by requiring stormwater BMPs be designed to:

- 1) Retain the volume of runoff equal to at least 0.80 inches over the total post-construction impervious surface area on the site and/or
 - 2) Remove 80% of the average annual TSS load and 50% of the TP load from the total post-construction impervious area on the site.
 - c) Redevelopment activities that are limited to maintenance and improvement of existing roads, (including widening less than a single lane, adding shoulders, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from other parts above.
5. Nitrogen and Phosphorus Requirements
- a) Include requirements for stormwater structural BMPs proposed as part of new or redevelopment to be optimized for nitrogen removal for development within watersheds draining to nitrogen-impaired waterbodies and for phosphorus within the Lovells Pond watershed. See Section 9 for more information.

Barnstable anticipates that the final ordinance will be developed during spring 2020 and presented to Town Council for approval prior to June 30, 2020.

7.3.2 Require Submittal of As-Built Plans

The Town of Barnstable currently requires final submittal of subdivision as-built plans that include depicting storm drain facilities, however does not specifically call for the depiction of non-structural stormwater controls or a timeframe for submittal. The Town is preparing a new ordinance comply with the 2016 MS4 Permit and make changes to require the submission of as-built drawings that include structural and non-structural stormwater controls as required.

7.3.3 Require Long Term Operation and Maintenance

As part of its Post Construction Stormwater Management Program, the Town of Barnstable is developing procedures to ensure that the adequate long-term operation and maintenance of BMPs is accounted for at the conclusion of a construction project, along with a dedicated funding source.

7.3.4 Complete Regulatory Assessment

The Town of Barnstable has not yet performed a comprehensive review of all regulations for the above items, however, existing regulations do encourage the use of LID. Although no known barriers to LID and GI exist, the Town will review and update relevant regulations to include recommendations and proposed schedules to incorporate policies and standards. Any required changes to reduce mandatory creation of impervious cover in support of LID should be made within 4 years of the effective permit date.

7.3.5 Complete Inventory of Potential BMP Retrofit Sites

The Town of Barnstable will complete an inventory of municipal properties (**Appendix E**) that could be retrofitted with stormwater BMPs, along with a review of existing site conditions. Retrofit opportunities must also consider the potential to reduce nitrogen discharges for properties within watersheds draining to nitrogen-impaired waterbodies and for phosphorus within the Lovells Pond watershed. This inventory will be updated continuously starting in Year 5.

7.4 Stormwater Management in New and Redevelopment Program Summary

The following table outlines Barnstable’s Stormwater Management in New Development and Redevelopment program to meet permit requirements. Measurable goals, responsible departments and a schedule for implementation of all BMPs under the SWMP are provided in **Section 11**.

Table 7-1. Stormwater Management in New and Redevelopment Program Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
5-1	Develop Post-Construction Ordinance	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete ordinance by June 30, 2020
5-2	Require Stormwater As-Built Plan Submittal	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Require submittal of as-built plans for completed projects within 2 years of completion
5-3	Require Long Term Operation and Maintenance	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Require submittal of operation and maintenance plans and dedicated funding to ensure long term maintenance within 2 years of the effective date of the permit

Table 7-1 (continued). Stormwater Management in New and Redevelopment Program Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
5-4	Street design and parking lot guidelines	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete regulatory updates within 4 years of the effective date of the permit
5-5	Target properties to reduce impervious areas	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete inventory within 4 years of the effective date of the permit and update annually on retrofitted properties

8 MCM 6: Good Housekeeping and Pollution Prevention

8.1 Summary of Permit Requirements

Under MCM 6, permittees shall develop and implement an operations and maintenance program to reduce stormwater pollution from permittee activities. This includes optimizing existing activities related to parks and open space, buildings and facilities, vehicles and equipment, and stormwater infrastructure maintenance. A summary of the required Good Housekeeping and Pollution Prevention for Permittee Owned Operations activities and timelines is provided below.

- **Operations and Maintenance Programs** – Permittees shall develop written operations and maintenance procedures for parks and open space, buildings and facilities, vehicles and equipment, winter road maintenance, stormwater infrastructure, and structural stormwater BMPs within 2 years of the effective permit date. This program shall also optimize catch basin cleaning and street sweeping, along with establishing proper storage techniques for cleaning residuals. All maintenance activities, inspections, and training shall be logged for annual reporting.
- **Stormwater Pollution Prevention Plans** – Develop and implement Stormwater Pollution Prevention Plans (SWPPPs) for municipally-owned maintenance garages, public works yards, transfer stations within 2 years of the effective permit date.

8.2 Existing Good Housekeeping and Pollution Prevention Program

The following summarizes Barnstable’s current activities that will be continued under the 2016 MS4 Permit:

- **Street and Parking Lot Sweeping** – sweep streets and Town-owned parking lots annually. High priority areas are also swept more frequently, such as downtown Hyannis roadways which are swept twice per year. Additional spot sweeping is done on an as-needed basis.
- **Catch Basin Cleaning** – periodic catch basins cleaning, currently approximately 1,500 basins are cleaned each year by an outside contractor. Basins subject to higher accumulation rates are cleaned more frequently. A DPW employee logs data for tracking purposes before it is entered into the Town’s Asset Management Program.
- **Winter Roadway Maintenance Optimization** – prepared snow and ice management procedures to minimize pollution sources to supplement the Town’s Contractor’s Snow and Ice Control Manual. Barnstable prepared and documented existing and proposed winter O&M items to be included under a separate Operation and Maintenance document as noted under Section 1.4.

- **Chapter 78 – Fertilizer Nitrogen and Phosphorus Control** – prepared an ordinance to provide for a reduction of nitrogen and phosphorus entering the Town's waters and wetlands by means of an organized system of education, certification, standardization and regulation of practice.

8.3 Ongoing Good Housekeeping and Pollution Prevention Program

The following sections outline how Barnstable will meet the requirements of the 2016 MS4 Permit to establish a Good Housekeeping and Pollution Prevention Program.

8.3.1 Complete Facilities O&M Procedures

The Town of Barnstable will complete an inventory of all parks and open space, buildings and facilities where pollutants are exposed to stormwater runoff, including those coming from vehicles and equipment, within 2 years of the permit effective date. The inventory will be reviewed annually and updated as necessary. Upon completion, the Town will establish written procedures as part of an Operation and Maintenance Plan within 2 years of the permit effective date for the following items:

Parks and Open Space

- Proper use, storage, and disposal of pesticides, herbicides, and fertilizers;
- Lawn maintenance and landscaping activities to protect water quality, such as reducing mowing, lawn clippings handling, and use of alternative materials;
- Pet waste handling collection and disposal locations at all locations where pets are permitted, including signage;
- Control of waterfowl in areas where they congregate to reduce waterfowl droppings from entering the MS4s;
- Management of trash containers; and
- Addressing erosion or poor vegetative cover, particularly near a surface waterbody.

Buildings and Facilities

- Use, storage, and disposal of petroleum products and other potential pollutants.
- Materials handling training to applicable employees;
- Ensuring that Spill Prevention, Control, and Countermeasures (SPCC) Plans are in place if needed (aboveground petroleum storage greater than 1,320 gallons or underground petroleum storage greater than 42,000 gallons);
- Dumpsters and other waste management equipment; and
- Sweeping parking lots and keeping facility areas clean to reduce pollutants in runoff.

Vehicles and Equipment

- Storage of vehicles to prevent fluid leaks to stormwater;
- Fueling area evaluation, including feasibility of fueling under cover; and
- Preventing vehicle wash waters from entering surface waters or the MS4.

8.3.2 Complete Infrastructure O&M Procedures

The Town of Barnstable has established written procedures as part of an Operation and Maintenance Plan to ensure that MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants from the MS4. The Town recently updated its existing street sweeping, catch basin cleaning, and winter O&M procedures to meet permit requirements in accordance with the following:

Street Sweeping Prioritization Plan (Appendix F)

- Sweeping all streets and Town-owned parking lots, with the exception of rural uncurbed roads with no catch basins or high-speed limited access highways at least 1 per year in the spring following winter sanding events;
- More frequent sweeping of targeted areas based on inspections, land use, or known water quality impacts;
- Increasing street sweeping frequency of all municipal owned streets and parking lots to a minimum of 2 times per year; once in the spring (following winter activities such as sanding) and at least once in the fall (Sept 1 – Dec 1; following leaf fall) for areas within the nitrogen and phosphorus-impaired watersheds; and
- For rural uncurbed roadways with no catch basins or limited access highways, either an evaluation to meet the minimum frequencies above or development and implementation of an inspection, documentation, and targeted sweeping plan within 2 years of the effective date and submitted with the Year 1 annual report.

Catch Basin Optimization Plan (Appendix G)

- Prioritization of catch basins located near construction activities for more frequent inspection and maintenance;
- Establishing a schedule with a goal that at the time of maintenance, no catch basin is more than 50% full;
- For catch basins that are more than 50% full during 2 consecutive inspections or cleaning events, methods for investigating the contributing drainage area for sources of excessive sediment loads;
- Establishing a plan for optimizing catch basin cleaning, inspections, and documentation; and
- Review results each year to determine next steps.

Catch Basin and Street Sweeping Residuals Management

- Ensure proper storage of catch basins cleanings and street sweepings prior to disposal or reuse such that they will not be discharged to receiving waters based on available MassDEP policies.

Winter Operation and Maintenance

- Establish and implement procedures for winter road maintenance including the use and storage of salt and sand;
- Minimizing use of sodium chloride and other salts and evaluation of opportunities to use alternative materials; and
- Ensuring that snow disposal activities do not result in disposal of snow into waters of the United States.

8.3.3 Stormwater Pollution Prevention Plans

The Town of Barnstable will perform a preliminary analysis of its maintenance garages, public works yards, transfer stations, and other waste handling facilities where pollutants are exposed to stormwater to determine which facilities, if any, are located within areas that drain to the MS4. This assessment will take place during the first half of Year 2 to determine which facilities require SWPPPs (**Appendix H**). Should SWPPPs for any facility be required, they will be prepared by the end of Year 2 of the permit to ensure compliance with permit requirements and include the following:

- Pollution Prevention Team;
- Facility description, identification of potential pollutant sources, and identification of stormwater controls;
- Stormwater management practices, including measures to minimize or prevent exposure, good housekeeping and preventative maintenance, spill prevention and response, erosion and sediment control, management of runoff, salt storage, employee training, and control measure maintenance; and
- Procedures for site inspections and sampling.

8.3.4 Structural Stormwater BMP Inspections

The Town of Barnstable will perform an inventory (**Appendix I**) of known structural stormwater BMPs within the Town's regulated area. Once complete, the Town will establish and implement written inspection and maintenance procedures and frequencies for all stormwater treatment structures, such as infiltration and detention basins, proprietary stormwater treatment structures, gravel wetlands, etc. at least annually. The O&M Plan will also document logs for BMP inspection and maintenance.

8.4 Good Housekeeping and Pollution Prevention Program Summary

The following table outlines Barnstable's Good Housekeeping and Pollution Prevention program to meet permit requirements. Measurable goals, responsible departments and a schedule for implementation of all BMPs under the SWMP are provided in **Section 11**.

Table 8-1. Good Housekeeping and Pollution Prevention Program Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
6-1	Inventory MS4 properties	Department of Public Works, Recreation Department, Building Department, Planning and Development	Complete inventory of open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit
6-2	Establish Facilities Operation and Maintenance Procedures	Department of Public Works, Recreation Department, Building Department	Create written O&M Plan for open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit
6-3	Establish Infrastructure O&M Procedures	Department of Public Works	Create written O&M Plan for stormwater infrastructure within 2 years of the effective date of the permit
6-4	Perform Catch Basin Cleaning	Department of Public Works	Clean catch basins on established schedule and report number of catch basins cleaned and volume of material moved annually
6-5	Perform Street Sweeping	Department of Public Works	Sweep all streets and parking lots at least annually and sweep all streets within nitrogen and phosphorus-impaired waterbody watersheds twice per year.
6-6	Assess regulated facilities to determine SWPPP eligibility	Department of Public Works	Complete facilities assessment within 2 years of the effective date of permit.
6-7	Develop SWPPPs for applicable facilities	Department of Public Works	Complete and implement within 2 years of the effective date of the permit
6-8	Establish BMP O&M Procedures	Department of Public Works	Create written O&M Plan for stormwater BMPs within 2 years of the effective date of the permit
6-9	Inspect and maintain stormwater BMPs	Department of Public Works	Inspect and maintain treatment structures annually

9 TMDL and Impaired Waters Controls

9.1 Permit Requirements

The 2016 MS4 Permit requires regulated operators of MS4s to determine whether stormwater discharges from their MS4 contribute to any impaired waterbodies, including those subject to an approved TMDL and certain water quality limited waterbodies. Water quality limited waters are any waterbodies that do not meet applicable water quality standards, including waterbodies listed in categories “4a” and “5” on the Massachusetts Integrated List of Waters, also known as the “303(d) List”. MassDEP is responsible for preparing TMDLs for many of these listed waters to identify the problem pollutant and establish water quality goals. As shown in **Table 2-1**, the Town of Barnstable has multiple waterbodies on the Massachusetts Integrated List, however, not all of these impairments are associated with pollutants and not all must be addressed under the 2016 MS4 Permit. Under the 2016 MS4 Permit, the Town of Barnstable must address certain TMDL and water quality limited waterbody requirements for bacteria, nitrogen, and phosphorus as shown below:

Table 9-1. TMDL and Impaired Waters Requirements

Waterbody Names	TMDL – Impairment	2016 Permit Requirements
<ul style="list-style-type: none"> • Barnstable Harbor • Bumps River • Centerville River • Hyannis Harbor 	<ul style="list-style-type: none"> • Lewis Bay • Maraspin Creek • Mill Creek • Shoestring Bay 	Cape Cod – Fecal Coliform Appendix F, Part A.III
<ul style="list-style-type: none"> • Halls Creek • Hyannis Inner Harbor • Mill Creek 	<ul style="list-style-type: none"> • Santuit River • Snows Creek • Stewarts Creek 	Cape Cod (addendum) – Fecal Coliform Appendix F, Part A.III
<ul style="list-style-type: none"> • Cotuit Bay • North Bay 	<ul style="list-style-type: none"> • Prince Cove • Seapuit River 	Three Bays – Fecal Coliform Appendix F, Part A.III
<ul style="list-style-type: none"> • Centerville River 		Centerville River, East Bay – Nitrogen Appendix F, Part A.IV
<ul style="list-style-type: none"> • Popponesset Bay • Shoestring Bay 		Popponesset Bay – Nitrogen Appendix F, Part A.IV
<ul style="list-style-type: none"> • Cotuit Bay • North Bay 	<ul style="list-style-type: none"> • Prince Cove • West Bay 	Three Bays – Nitrogen Appendix F, Part A.IV
<ul style="list-style-type: none"> • Hyannis Inner Harbor • Lewis Bay 	<ul style="list-style-type: none"> • Mill Creek 	Lewis Bay & Halls Creek – Nitrogen Appendix F, Part A.IV
<ul style="list-style-type: none"> • Red Lily Pond 		N/A – Nutrient Eutrophication (Nitrogen) Appendix H, Part I
<ul style="list-style-type: none"> • Lovells Pond 		N/A – Phosphorus Appendix H, Part II
<ul style="list-style-type: none"> • Red Lily Pond 		N/A – Fecal Coliform Appendix H, Part III

The Town will review the most recent approved list of impaired waters as it is released and outline any additional requirements associated with the most recent list in **Appendix B**.

9.2 Discharges to Approved TMDL Waterbodies

Approved TMDLs are those that have been approved by EPA as of the effective date of the permit, or July 1, 2018. As shown in **Table 9-1**, the Town of Barnstable currently has multiple waterbodies with an approved TMDL for fecal coliform and nitrogen. Thus, the Town is required to implement the following requirements as outlined in **Appendix F** of the 2016 MS4 Permit.

9.2.1 Fecal Coliform TMDL Requirements

The Town of Barnstable currently has eighteen (18) waterbodies as outlined in Table 9-1 with an approved TMDL for fecal coliform. Thus, the Town is required to implement the following requirements as outlined under Appendix F, Part III of the 2016 Permit.

The Town of Barnstable will include the following additional or enhanced BMPs, in addition to the 6 MCMs outlined previously:

- **Public Education** – supplement its Residential program with an annual message encouraging the proper management of pet waste and disseminate educational materials to dog owners at the time of issuance or renewal of a dog license. Education materials will describe the detrimental impacts of improper management of pet waste, requirements for waste collection and disposal, and penalties for non-compliance. The Town will provide information to owners of septic systems about proper maintenance in any catchment that discharges to a water body impaired for bacteria or pathogens.
- **Illicit Discharge, Detection, and Elimination** – designate catchments draining to pathogen impaired segments as “Problem Catchments” or “High” priority.

Public education requirements have been incorporated into future public education outreach components as described in Section 3. IDDE requirements have been incorporated into Barnstable’s IDDE Plan.

9.2.2 Cape Cod Nitrogen TMDL Requirements

The Town of Barnstable currently has ten (10) waterbodies as outlined in Table 9-1 that are subject to the Cape Cod nitrogen TMDL and thus is required to implement the following requirements as outlined under Appendix F, Part A.IV of the 2016 Permit. The Town of Barnstable will include the following additional or enhanced BMPs, in addition to the 6 MCMs outlined previously:

- **Public Education** – supplement its Residential and Business/Commercial/Institution programs with additional annual messages as follows:
 - Spring (April-May): Proper use and disposal of grass clippings and use of slow-release fertilizers;
 - Summer (June-July): Proper management of pet waste; and
 - Fall (August-October): Proper disposal of leaf litter.

- **Stormwater Management in New Development and Redevelopment** – develop ordinance requirements to mandate the use of stormwater BMPs optimized for nitrogen removal as part of new development and redevelopment projects. Additionally, retrofit opportunities should also consider the potential to reduce nitrogen discharges for properties within nitrogen-impaired waterbody watersheds.

- **Good Housekeeping and Pollution Prevention** – continue implementation of the Town’s fertilizer ordinance, establish procedures for properly managing grass cuttings and leaf litter on Town-owned property, and prohibit blowing organic waste onto impervious surfaces. Additionally, street sweeping will be increased to at least twice per year, once in the spring and once in the fall in areas where required.

9.3 Discharges to Water Quality Limited Waterbodies

Water quality limited waterbodies are those that have been listed on the most recent approved Massachusetts Integrated List of Waters. For Barnstable, existing water quality limited waterbodies listed in **Table 9-1** must adhere to the requirements in **Appendix H** of the 2016 MS4 Permit. Red Lily Pond and Lovells Pond are two (2) Water Quality Limited Waterbodies that fall under this designation. The following sections describe those additional requirements.

9.3.1 Nitrogen Water Quality Limited Waterbody Requirements

The Town of Barnstable is subject to the nitrogen water quality limited waterbody requirements for discharges to Red Lily Pond and thus is required to implement the following requirements as outlined under Appendix H, Part I of the 2016 Permit.

The Town of Barnstable will include the following additional or enhanced BMPs, in addition to the 6 MCMs outlined previously:

- **Public Education** – supplement its Residential and Business/Commercial/Institution programs with additional annual messages as follows:
 - Spring (April-May): Proper use and disposal of grass clippings and use of slow-release fertilizers;
 - Summer (June-July): Proper management of pet waste; and
 - Fall (August-October): Proper disposal of leaf litter.

- **Stormwater Management in New Development and Redevelopment** – develop ordinance requirements to mandate the use of stormwater BMPs optimized for nitrogen removal as part of new development and redevelopment projects. Additionally, retrofit opportunities should consider opportunities for constructing infiltration BMPs for properties within the Red Lily Pond watershed.
- **Good Housekeeping and Pollution Prevention** – continue implementation of the Town’s fertilizer ordinance, establish procedures for properly managing grass cuttings and leaf litter on Town-owned property, and prohibit blowing organic waste onto impervious surfaces. Additionally, street sweeping will be increased to at least twice per year, once in the spring and once in the fall in areas where required.

The Town of Barnstable will also prepare a Nitrogen Source Identification Report that generally does the following and must be completed by the end of Year 4:

- Identifies, delineates, and prioritizes areas of town at the catchment-level that have the highest nitrogen loading potential based on land use and other factors;
- Accounts for the urbanized area that discharges to the Red Lily Pond watershed;
- Determines impervious area based on catchment delineations;
- Accounts for any screening results performed under MCM 3 when developing conclusions; and
- Identifies potential retrofit opportunities for installing structural BMPs during redevelopment.

Upon completion of the Nitrogen Source Identification Report, the Town will evaluate all properties identified under the report or using the procedures identified under Section 7.3.5 to complete a site-specific evaluation addressing the following:

- Identifies the next planned redevelopment activity or planned retrofit date;
- Determines an estimated cost of redevelopment or retrofit BMPs; and
- Determines the engineering and regulatory feasibility BMP installation.

Upon completion, the Town will provide a list of planned structural BMPs, along with a plan and schedule for implementation by the end of Year 5. At least 1 BMP must be designed and constructed as a demonstration project by the end of Year 6 that targets a catchment with a high nitrogen load potential. Remaining structural BMPs must be constructed according to the provided plan and schedule. Nitrogen removals must be tracked and reported annually.

9.3.2 Phosphorus Water Quality Limited Waterbody Requirements

The Town of Barnstable is also subject to the phosphorus water quality limited waterbody requirements for discharges to Lovells Pond and thus is required to implement the following requirements as outlined under Appendix H, Part II of the 2016 Permit. The Town of

Barnstable will include the following additional or enhanced BMPs, in addition to the 6 MCMs outlined previously:

- **Public Education** – supplement its Residential and Business/Commercial/Institution programs with additional annual messages as follows:
 - Spring (April-May): Proper use and disposal of grass clippings and use of slow-release and phosphorus-free fertilizers;
 - Summer (June-July): Proper management of pet waste; and
 - Fall (August-October): Proper disposal of leaf litter.

- **Stormwater Management in New Development and Redevelopment** – develop ordinance requirements to also mandate the use of stormwater BMPs optimized for phosphorus removal as part of new development and redevelopment projects. Additionally, retrofit opportunities should consider opportunities for constructing infiltration BMPs for properties within the Lovells Pond watershed.

- **Good Housekeeping and Pollution Prevention** – continue implementation of the Town’s fertilizer ordinance, establish procedures for properly managing grass cuttings and leaf litter on Town-owned property, and prohibit blowing organic waste onto impervious surfaces. Additionally, street sweeping will be increased to at least twice per year, once in the spring and once in the fall in areas where required.

The Town of Barnstable will also prepare a Phosphorus Source Identification Report that generally does the following and must be completed by the end of Year 4:

- Identifies, delineates, and prioritizes areas of town at the catchment-level that have the highest phosphorus loading potential based on land use and other factors;
- Accounts for the urbanized area that discharges to the Lovells Pond watershed;
- Determines impervious area based on catchment delineations;
- Accounts for any screening results performed under MCM 3 when developing conclusions; and
- Identify potential retrofit opportunities for installing structural BMPs during redevelopment.

Upon completion of the Phosphorus Source Identification Report, the Town will evaluate all properties identified under the report or using the procedures identified under Section 7.3.5 to complete a site-specific evaluation addressing the following:

- Identifies the next planned redevelopment activity or planned retrofit date;
- Determines an estimated cost of redevelopment or retrofit BMPs; and
- Determines the engineering and regulatory feasibility BMP installation.

Upon completion, the Town will provide a list of planned structural BMPs, along with a plan and schedule for implementation by the end of Year 5. At least 1 BMP must be designed and constructed as a demonstration project by the end of Year 6 that targets a catchment with a high phosphorus load potential. Remaining structural BMPs must be

constructed according to the provided plan and schedule. Phosphorus removals must be tracked and reported annually.

9.3.3 Fecal Coliform Water Quality Limited Waterbodies Requirements

The Town of Barnstable is also subject to the fecal coliform water quality limited waterbody requirements for discharges to Red Lily Pond and thus is required to implement the following requirements as outlined under Appendix H, Part III of the 2016 Permit. The Town of Barnstable will include the following additional or enhanced BMPs, in addition to the 6 MCMs outlined previously:

- **Public Education** – supplement its Residential program with an annual message encouraging the proper management of pet waste and disseminate educational materials to dog owners at the time of issuance or renewal of a dog license. Education materials will describe the detrimental impacts of improper management of pet waste, requirements for waste collection and disposal, and penalties for non-compliance. The Town will provide information to owners of septic systems about proper maintenance in any catchment that discharges to a water body impaired for bacteria or pathogens.
- **Illicit Discharge, Detection, and Elimination** – designate catchments draining to pathogen impaired segments as “Problem Catchments” or “High” priority.

Public education requirements have been incorporated into future public education outreach components as described in Section 3. IDDE requirements have been incorporated into Barnstable’s IDDE Plan.

9.4 TMDL and Impaired Waters Controls Program Summary

The following table outlines Barnstable’s TMDL and Impaired Waters Controls program to meet permit requirements.

Table 9-2. TMDL and Impaired Waters Controls Program Summary

BMP ID#	BMP Description	Responsible Parties	Measurable Goal
TMDL Requirements			
7-1	Fecal Coliform	Department of Public Works, Public Health Department, Community Services, Conservation Commission	Adhere to requirements in part A.III of Appendix F
7-2	Cape Cod Nitrogen	Building Department, Planning and Development, Regulatory Services, Department of Public Works, Public Health Department, Community	Adhere to requirements in part A.IV of Appendix F

		Services, Conservation Commission	
Water Quality Limited Waterbody Requirements			
7-3	Nitrogen	Building Department, Planning and Development, Regulatory Services, Department of Public Works, Public Health Department, Community Services, Conservation Commission	Adhere to requirements in Part I of Appendix H
7-4	Phosphorus	Building Department, Planning and Development, Regulatory Services, Department of Public Works, Public Health Department, Community Services, Conservation Commission	Adhere to requirements in Part II of Appendix H
7-5	Fecal Coliform	Department of Public Works, Information Technology, Town Clerk, Planning Board, Conservation Commission, Building Department	Adhere to requirements in part III of Appendix H

10 Annual Reporting

The Town of Barnstable will submit annual reports each year of the permit term. The reporting period will be a one-year period commencing on the permit effective date, and subsequent anniversaries thereof, except that the first annual report under this permit covered the period from May 1, 2018 to the permit effective date. The annual report is due 90 days from the close of each reporting period, or by September 29th of each year. The annual reports will contain the following relevant information which will be tracked throughout the year, and will be filed within **Appendix J**:

- A self-assessment review of compliance with the permit terms and conditions.
- An assessment of the appropriateness of the selected BMPs.
- The status of any plans or activities, including:
 - Identification of all discharges determined to be causing or contributing to an exceedance of water quality standards and description of response;
 - For discharges subject to TMDL or water quality limited waterbody requirements, identification of BMPs used to address the impairment and assessment of the BMPs effectiveness;
 - For discharges to water quality limited waters a description of each BMP and any deliverables required.
- An assessment of the progress towards achieving the measurable goals and objectives of each of the 6 MCMs:
 - Evaluation of the public education program including a description of the targeted messages for each audience; method and dates of distribution; methods used to evaluate the program; and any changes to the program.
 - Description of the activities used to promote public participation including documentation of compliance with state public notice regulations.
 - Description of IDDE activities including: status of mapping and results of the ranking and assessment; identification of problem catchments; status of all IDDE Plan components; number and identifier of catchments evaluated; number and identifier of outfalls screened; number of illicit discharges located and removed; gallons of flow removed; identification of tracking indicators and measures of progress; and employee training.
 - Evaluation of construction runoff management including number of project plans reviewed; number of inspections; and number of enforcement actions.
 - Evaluation of stormwater management for new and redevelopment including status of ordinance development; review and status of the street design and barriers to green infrastructure assessment; and inventory status.
 - Status of the O&M Programs.
 - Status of SWPPPs, including inspection results.
- All outfall screening and monitoring data during the reporting period and cumulative for the permit term; and a description of any additional monitoring data received by the Town during the reporting period.
- Description of activities for the next reporting cycle.
- Description of any changes in identified BMPs or measurable goals.
- Description of activities undertaken by any entity contracted for achieving any measurable goal or implementing any control measure.

11 Implementation of Best Management Practices

The Town of Barnstable's Best Management Practices Plan as outlined in the Town's NOI (**Appendix A**) is summarized in **Table 11-1**.

For consistency with the 6 MCMs and impaired water requirements, the BMPs are broken down into 7 categories:

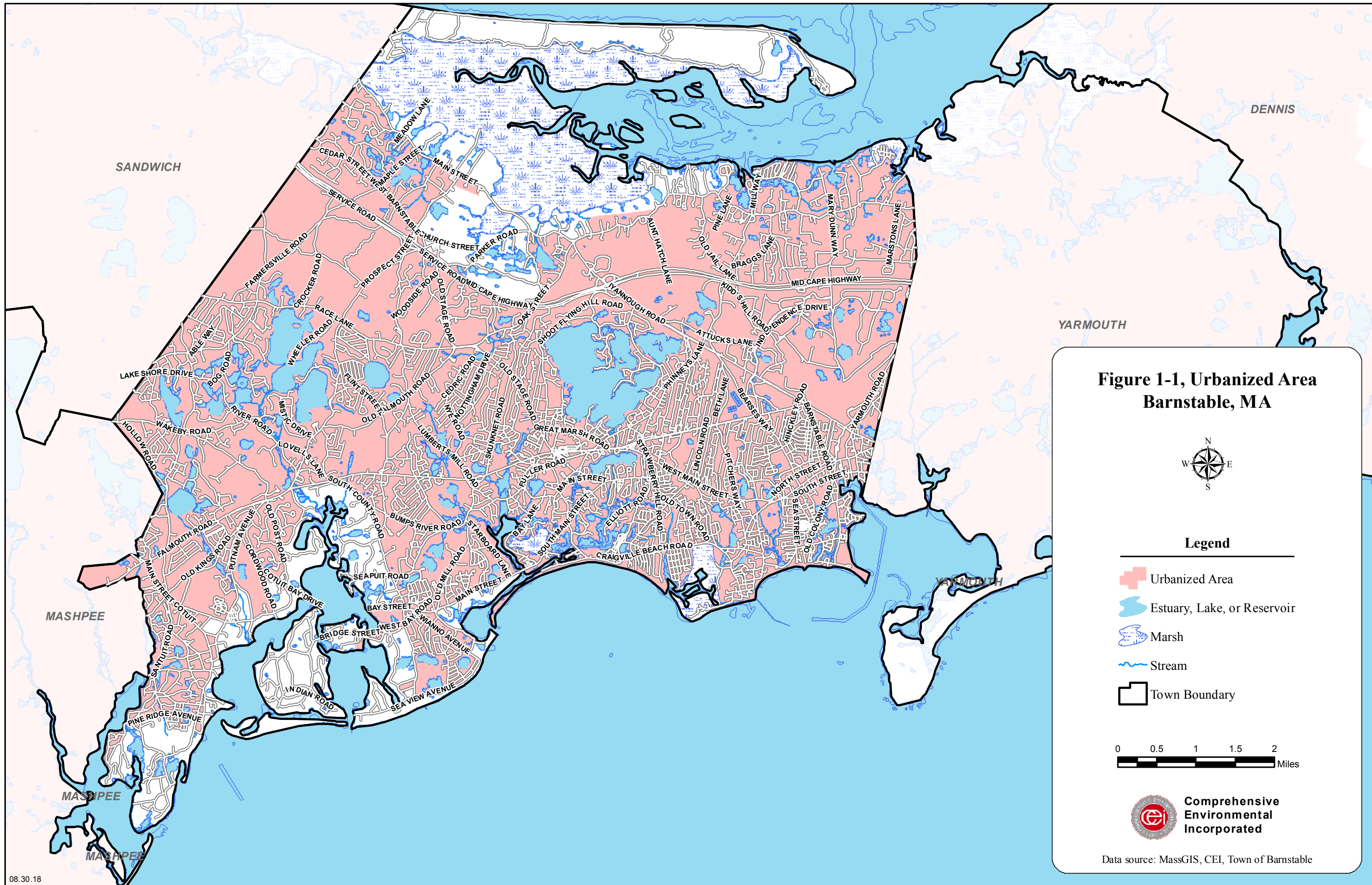
1. Public Education and Outreach;
2. Public Participation and Involvement;
3. Illicit Discharge Detection and Elimination;
4. Construction Site Stormwater Runoff Control;
5. Stormwater Management in New Development and Redevelopment;
6. Good Housekeeping and Pollution Prevention; and
7. TMDL and Water Quality Limited Waterbodies Controls

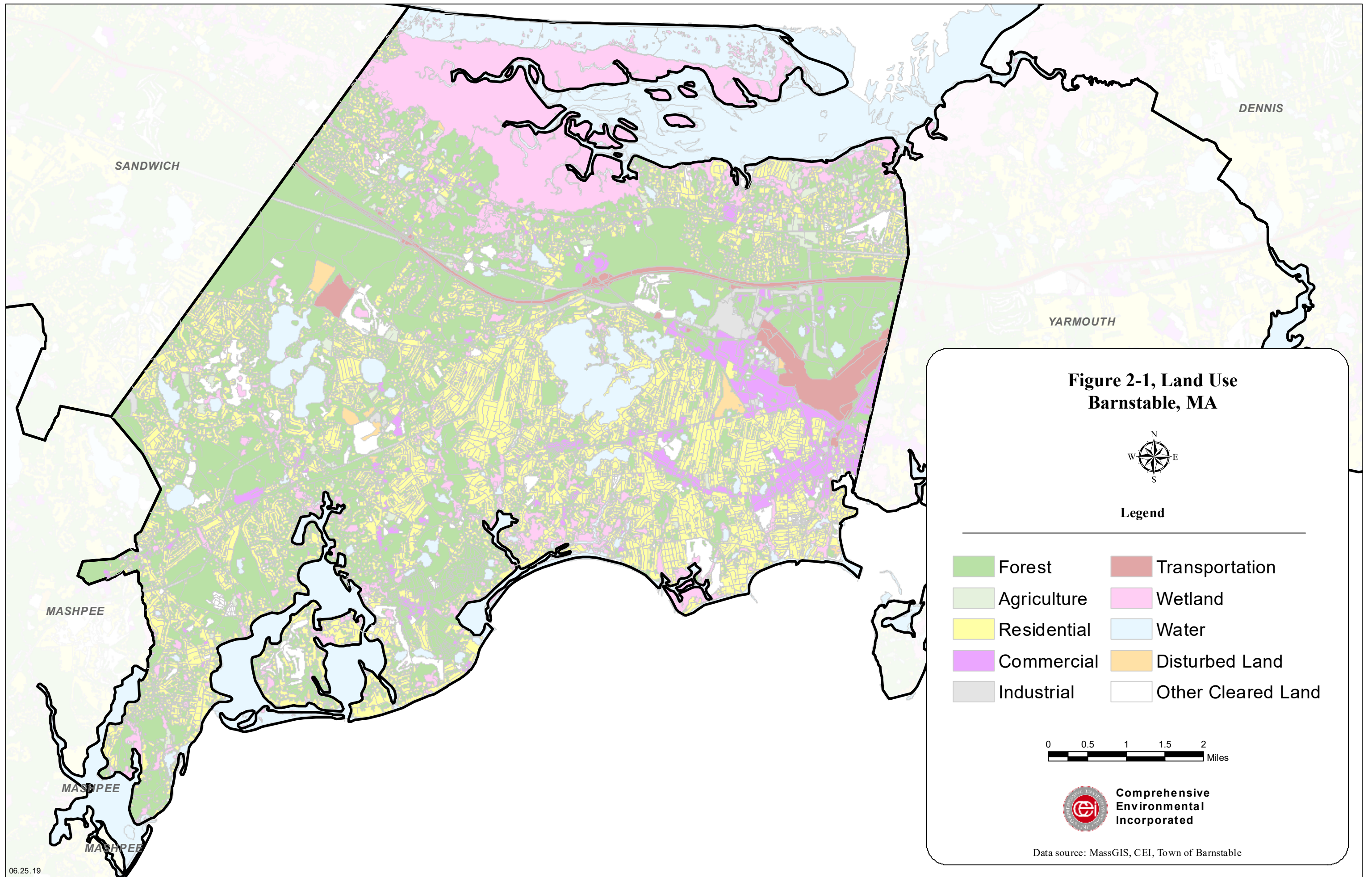
The BMP tables also outline the measurable goals for each BMP to gauge permit compliance, the responsible party(ies) for implementing each BMP, and an implementation schedule to be used throughout the permit period. In addition to the implementation activities outlined in this plan, the Town will also perform the following activities throughout the duration of the permit:

1. **Program Evaluation** – conduct annual evaluations of the Stormwater Management Program for compliance with permit conditions. The evaluation must include a determination of the appropriateness of the selected BMPs in efforts towards achieving the measurable goals outlined in **Table 11-1**.
2. **Record Keeping** – maintain records that pertain to the Stormwater Management Program for a period of at least 5 years. Records need to be made available to the public and the Town may charge a reasonable fee for copying. Records need not be submitted to EPA or MassDEP unless specifically requested.
3. **Reporting** – submit an annual report to EPA and MassDEP, including the information as noted in Section 10.

Refer to the following link for a copy of the 2016 MA MS4 Permit:

<https://www.epa.gov/npdes-permits/massachusetts-small-ms4-general-permit>





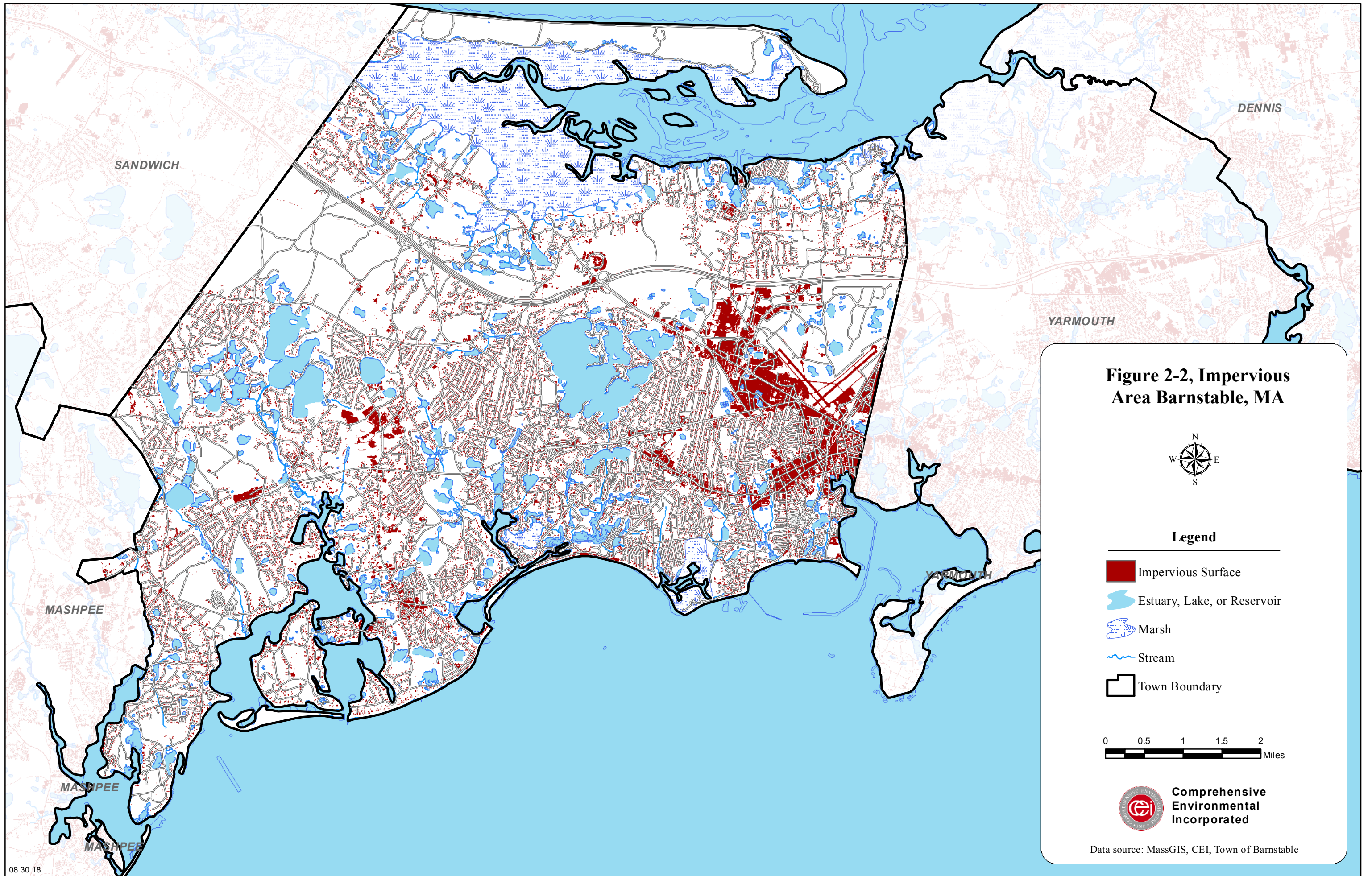


Figure 2-2, Impervious Area Barnstable, MA

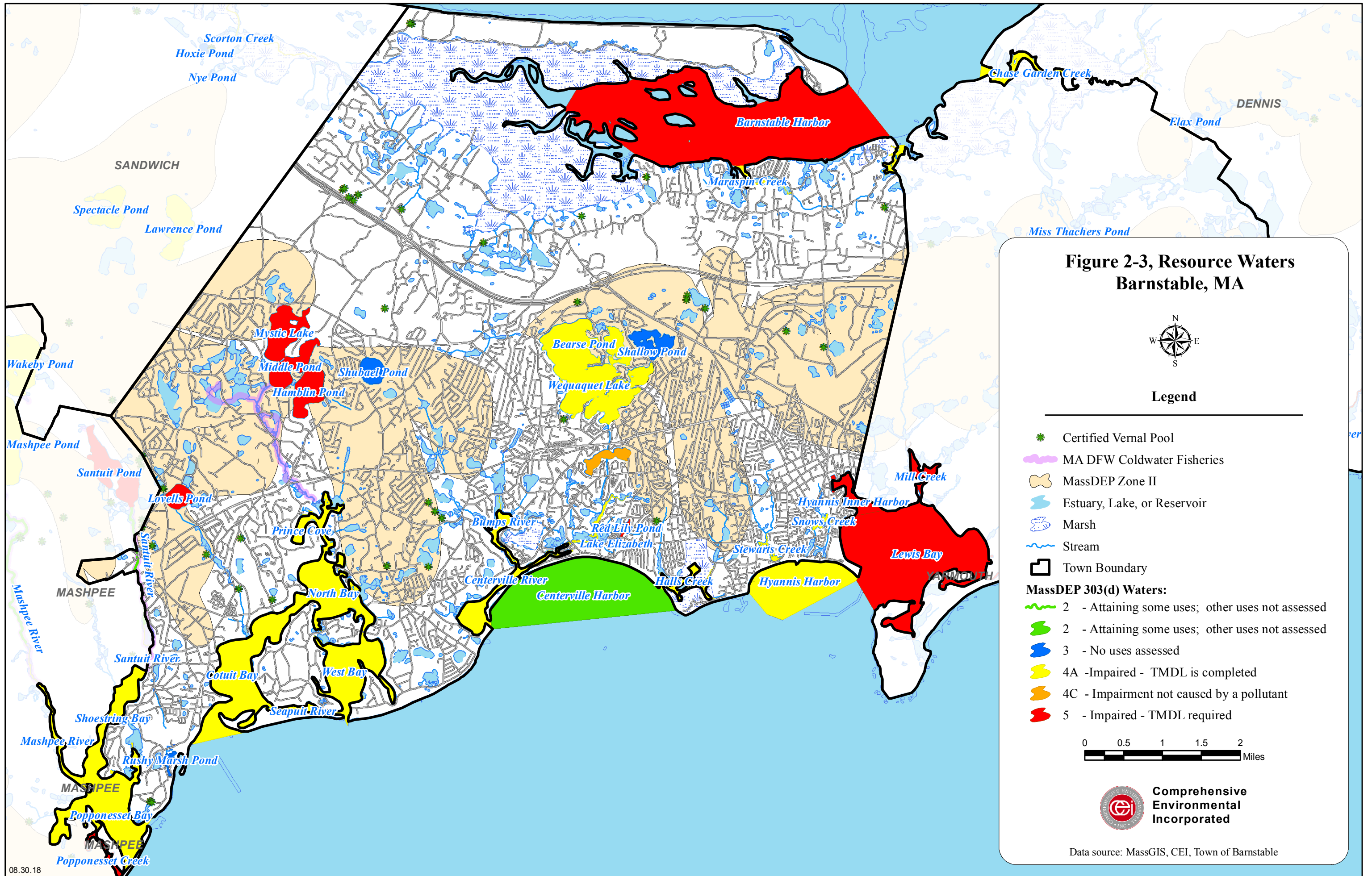


Legend

- Impervious Surface
- Estuary, Lake, or Reservoir
- Marsh
- Stream
- Town Boundary



Data source: MassGIS, CEI, Town of Barnstable

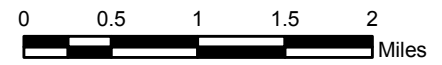


**Figure 2-3, Resource Waters
Barnstable, MA**



Legend

- Certified Vernal Pool
 - MA DFW Coldwater Fisheries
 - MassDEP Zone II
 - Estuary, Lake, or Reservoir
 - Marsh
 - Stream
 - Town Boundary
- MassDEP 303(d) Waters:**
- 2 - Attaining some uses; other uses not assessed
 - 2 - Attaining some uses; other uses not assessed
 - 3 - No uses assessed
 - 4A -Impaired - TMDL is completed
 - 4C - Impairment not caused by a pollutant
 - 5 - Impaired - TMDL required



**Comprehensive
Environmental
Incorporated**

Data source: MassGIS, CEI, Town of Barnstable

Table 11-1. Proposed BMP Plan - Implementation of Phase II Activities

BMP ID	BMP Description	Implementation	Responsible Dept./Person	Measurable Goal	Report Section	Year / Schedule					
						1	2	3	4	5	6
						7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
1. Public Education and Outreach											
1-1	Residential Education Program	1. Distribute flyers and bookmarks developed in conjunction with the Cape Cod Commission Project Storm Team.	Department of Public Works, Conservation Commission, Community Services	Continue to make information available at select public events. Track number distributed.	3.3; Table 3-1	*	*	*	*	*	*
		2. Provide fact sheets on pet waste management with all dog registrations and renewals.	Town Clerk, Recreation Department, Department of Public Works, Public Health Division, Community Services	Provide information with all applications and renewals. Track number distributed.		*	*	*	*	*	*
		3. Distribute flyers on roof and yard maintenance, such as the "Get Your Mind in the gutter" program.	Department of Public Works, Public Health Division, Community Services	Continue to make informational flyers available. Provide download links and develop poster boards for use at public locations. Track number distributed.		*	*	*	*	*	*
		4. Provide "Mutt Mitt" dispensers and refills at public areas frequented by dog walkers to encourage pet waste pickup.	Recreation Department, Department of Public Works, Public Health Division, Conservation Commission	Continue to maintain Mutt Mitt dispensers at certain public areas. Track amount of waste collected.		*	*	*	*	*	*
		5. Provide comprehensive stormwater information on the Town's website, including on septic system maintenance, illicit discharges, pet waste disposal, lawn care, pesticide and fertilizer use, grass clippings and leaf litter disposal, car washing, and use of environmentally friendly products.	Information Technology, Community Services, Department of Public Works, Public Health Division, Conservation Commission	Continue to update and maintain the websites. Track number of hits to website.			*	*	*	*	*
		6. Provide relevant stormwater information to different audiences via social media.	Information Technology	Follow statewide "Think Blue" campaign on social media platforms. Track number of followers			*	*	*	*	*
1-2	Businesses, Institutions, and Commercial Education Program	1. Provide comprehensive stormwater information on the Town's website, including effects of outdoor activities such as lawn care on water quality; benefits of appropriate on-site infiltration of stormwater; building maintenance and storage of materials; proper use and storage of salt or other de-icing and anti-icing materials; proper management of waste materials and dumpsters; proper management of parking lot surfaces; proper car care activities; and proper disposal of swimming pool water by entities such as motels, hotels, and health and country clubs.	Information Technology, Community Services, Department of Public Works, Public Health Division, Conservation Commission	Continue to update and maintain the websites. Track number of hits.	3.3; Table 3-2		*	*	*	*	*
		2. Provide relevant stormwater information to different audiences via social media.	Information Technology	Follow statewide "Think Blue" campaign on social media platforms. Track number of followers			*	*	*	*	*

Table 11-1. Proposed BMP Plan - Implementation of Phase II Activities

BMP ID	BMP Description	Implementation	Responsible Dept./Person	Measurable Goal	Report Section	Year / Schedule					
						1	2	3	4	5	6
						7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
1-3	Developer and Construction Education Program	1. Distribute erosion control fact sheets to developers with building permit applications	Building Department, Regulatory Services, Planning and Development, Conservation Commission, Community Services	Distribute with all permit applications	3.3; Table 3-3		*	*	*	*	*
		2. Provide comprehensive stormwater information on the Town's website, including proper sediment and erosion control management practices; information about Low Impact Development (LID) principles and technologies; and information about EPA's construction general permit (CGP).	Information Technology, Community Services, Department of Public Works, Public Health Division, Conservation Commission	Continue to update and maintain the websites. Track number of hits.			*	*	*	*	*
		3. Provide relevant stormwater information to different audiences via social media.	Information Technology	Follow statewide "Think Blue" campaign on social media platforms. Track number of followers			*	*	*	*	*
1-4	Industrial Education Program	1. Provide comprehensive stormwater information on the Town's website, including equipment inspection and maintenance; proper storage of industrial materials; proper management and disposal of wastes; proper management of dumpsters; minimization of use and proper storage of salt or other de-icing/anti-icing materials; benefits of appropriate on-site infiltration of stormwater runoff from areas with low exposure to industrial materials such as roofs or employee parking; proper maintenance of parking lot surfaces; and information about EPA's CGP.	Information Technology, Community Services, Department of Public Works, Public Health Division, Conservation Commission	Continue to update and maintain the websites. Track number of hits.	3.3; Table 3-4		*	*	*	*	*
		2. Provide relevant stormwater information to different audiences via social media.	Information Technology	Follow statewide "Think Blue" campaign on social media platforms. Track number of followers			*	*	*	*	*

Table 11-1. Proposed BMP Plan - Implementation of Phase II Activities

BMP ID	BMP Description	Implementation	Responsible Dept./Person	Measurable Goal	Report Section	Year / Schedule					
						1	2	3	4	5	6
						7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
2. Public Participation and Involvement											
2-1	Make SWMP Publicly Available	1. Post SWMP Plan on Town website, along with contact name, email address and/or phone number of a Town official for more information or to submit comments.	Information Technology, Department of Public Works	Annual review of stormwater management plan and posting on website. Allow public to comment on the plan at least annually	4.4; Table 4-1	*	*	*	*	*	*
2-2	Sponsor Household Hazardous Waste Event	1. Hold at least four household hazardous waste collection events a year in conjunction with the Cape Cod Cooperative Extension.	Public Health Division, Department of Public Works	Continue to allow public drop-off of household hazardous waste for proper disposal		*	*	*	*	*	*
2-3	Hold Shoreline / Waterbody Improvement Events	1. Organize and support annual COASTSWEEP volunteer cleanup of freshwater and marine Town shorelines	Conservation Commission, Recreation Department, Department of Public Works	Allow annual participation in COASTSWEEP cleanup event		*	*	*	*	*	*
2-4	Solicit Public Involvement through the Water Resources Advisory Committee	1. Promote Water Resources Advisory Committee (WRAC) involvement to improve water quality throughout the town.	Department of Public Works	Continue to solicit public involvement in the WRAC		*	*	*	*	*	*
2-5	Continue involvement in the Massachusetts Estuary Program	1. Continue to take part in the Massachusetts Estuary Program (MEP) and promote good water quality through meetings and periodic volunteer water sampling.	Department of Public Works, Public Health Division	Continue to promote good water quality through periodic meetings and sampling for MEP		*	*	*	*	*	*

Table 11-1. Proposed BMP Plan - Implementation of Phase II Activities

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						7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
3. Illicit Discharge Detection and Elimination											
3-1	Enact and Enforce IDDE Bylaw	1. Establish a legal authority to enact and enforce IDDE bylaw.	Department of Public Works, Public Health Division	Regulatory mechanism in place within 1 year of permit effective date	5.3.1	*	*	*	*	*	*
3-2	Phase I Storm Sewer System Map	1. Delineate catchment areas based on topography for each MS4 outfall and map in GIS.	Information Technology - GIS, Department of Public Works	Updated map within 2 years of effective date of permit	5.3.2	*					
		2. Update outfalls, conveyances receiving waters, interconnections, MS4-owned BMPs & initial catchment delineations.				*	*				
3-3	Phase II Storm Sewer System Map	1. Update outfall spatial location, pipes, manholes, catch basins, refined catchment delineations as new information becomes available.	Information Technology - GIS, Department of Public Works	Updated map within 10 years of effective date of permit	5.3.2	*	*	*	*	*	*
3-4	Sanitary Sewer Overflow Inventory	1. Complete an inventory of Sanitary Sewer Overflows (SSOs) that have discharged to the MS4 within the previous 5 years and update annually.	Department of Public Works, Public Health Division	Develop SSO inventory and complete within 1 year of effective date of permit and update annually	5.3.3	*	*	*	*	*	*
3-5	Written IDDE Program Development	1. Prepare written IDDE Plan to include procedures on assessing and priority ranking outfalls and interconnections, dry and wet weather outfall sampling, catchment investigations, system vulnerability factor assessment, identification of an illicit discharge, illicit discharge removal, and ongoing screening requirements.	Department of Public Works, Public Health Division	Complete within 1 year of the effective date of permit and update as required	5.3.4	*					
3-6	Outfall / Interconnection Inventory & Ranking	1. Develop an outfall and interconnection inventory that identifies each outfall and interconnection discharging from the MS4, records its location and condition and provides a framework for tracking inspections, screenings and other activities under the IDDE program.	Department of Public Works, Public Health Division	Identification of outfalls and initial ranking by July 1, 2019	5.4	*					
		2. Classify/rank outfalls. Initial ranking by end of Year 1. Update ranking annually with new information.				*	*	*	*	*	*
3-7	Implement IDDE Program	1. Inspect key catchment structures (manholes, catch basins) during dry weather conditions. Where flowing water is observed, collect samples for analysis.	Department of Public Works, Public Health Division	Implement catchment investigations according to program and permit conditions (Problem Outfalls by July 1, 2025, all outfalls by July 1, 2028)	5.3.4		*	*	*	*	*
		2. Inspect key catchment structures (manholes, catch basins) in all catchments during dry weather conditions. Where flowing water is observed, collect samples for analysis.					*	*	*	*	*
3-8	Conduct Dry Weather Screening	1. Inspect drainage outfalls classified as High or Low priority during dry weather.	Department of Public Works, Public Health Division	Complete in accordance with outfall screening procedure and permit conditions by July 1, 2021	5.3.4	*	*	*			
		2. Investigate potential illicit discharges, if any.				*	*	*	*	*	*
		3. Enforce removal of illicit discharges, if any.				*	*	*	*	*	*
3-9	Conduct Wet Weather Screening	1. Sample select outfalls with System Vulnerability Factors under wet weather conditions. Sampling can be done upon completion of any dry weather investigation, but must be completed before catchment investigation is marked as complete.	Department of Public Works, Public Health Division	Complete in accordance with outfall screening procedure within 10 years of the effective permit date	5.3.4						*
3-10	Ongoing Screening	1. Upon completion of catchment investigations, reprioritize outfalls for ongoing screening.	Department of Public Works, Public Health Division	Conduct ongoing dry and wet weather outfall screening upon completion of the IDDE program	5.3.4						*
		2. Continue performing dry and wet weather sampling according to the new prioritization at least once every 5 years.								*	
3-11	Employee Training	1. Provide annual training to employees involved in the IDDE program.	Department of Public Works, Public Health Division	Train applicable employees annually	5.3.5	*	*	*	*	*	*

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4. Construction Site Stormwater Runoff Control											
4-1	Develop and Enforce Construction Bylaw	1. Establish a legal authority to enact and enforce a Construction Site Stormwater Runoff Control Bylaw.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete bylaw within 1 year of the effective date of the permit	6.3.1	*					
4-2	Develop Written Procedures for Site Plan Review	1. Review and update existing requirements mandating site plan review and make changes as needed, such as incorporating additional information submitted by the public.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Establish procedures for site plan review within 1 year of the effective date of the permit	6.3.2	*					
4-3	Develop Written Procedures for Site Inspections and Enforcement	1. Review and update existing requirements mandating site inspections, enforcement, and requirements for submittal of monthly inspection reports as needed	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Establish procedures for site inspections and enforcement within 1 year of the effective date of the permit	6.3.3	*					
4-4	Establish a Sediment and Erosion Control Program	1. Develop an Erosion and Sediment Control Program for construction sites.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Establish procedures for development of an erosion and sediment control program within 1 year of the effective date of the permit	6.3.4	*					
4-5	Develop Procedures for Waste Control	1. Establish requirements to control construction site wastes within 1 year of the effective date of the permit	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Establish requirements to control construction site wastes within 1 year of the effective date of the permit	6.4	*					

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						7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
5. Stormwater Management in New Development and Redevelopment											
5-1	Enact and Enforce Post-Construction Bylaw	1. Establish a legal authority to enact and enforce a post-construction bylaw, and incorporate specific design requirements outlined in the final permit regarding new development and redevelopment tied to the Massachusetts Stormwater Handbook. Include a requirement that stormwater management BMPs that ultimately discharge to a nitrogen or phosphorus impaired water body be optimized for nitrogen or phosphorus removal.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete bylaw within 2 years of the effective date of the permit	7.3.1	*	*				
5-2	Require Stormwater As-Built Plan Submittal	1. Review existing as-built submittal requirements and make changes as necessary to require submittal of structural and nonstructural stormwater controls on as-built drawings.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Require submittal of as-built plans for completed projects within 2 years of completion	7.3.2	*	*				
5-3	Require Long Term Operation and Maintenance	1. Review existing Stormwater Management for Discharges to Municipal Stormwater System bylaw and make changes as necessary to require long term operation and maintenance, such as addressing funding sources.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Require submittal of operation and maintenance plans to ensure long term maintenance within 1 year of the effective date of the permit	7.3.3	*	*				
5-4	Street Design and Parking Lot Guidelines	1. Review existing by-laws, regulations and guidance pertaining to current street and parking lot design and all regulations for ability to incorporate LID into designs. 2. Prepare a report assessing whether existing street and parking lot design regulations allow for incorporation of LID practices and recommendations for changes.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete regulatory updates within 4 years of the effective date of the permit	7.3.4		*	*			*
5-5	Allow Green Infrastructure	1. Review existing by-laws, regulations and guidance to determine the feasibility of making green practices allowable. 2. Prepare a report assessing existing local regulations to determine the feasibility of allowing green roofs, infiltration practices, and water harvesting devices.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete regulatory updates within 4 years of the effective date of the permit	7.3.4		*	*			*
5-6	Identify 5 MS4-owned Properties for Potential Retrofits	1. Identify 5 properties for potential retrofits to stormwater impacts, as well as nitrogen and phosphorus impacts to the Hyannis Inner Harbor and Lovells Pond, respectively. 2. Track and report annually properties that have been modified or retrofitted with BMPs.	Building Department, Planning and Development, Conservation Commission, Regulatory Services	Complete inventory within 4 years of the effective date of the permit and update annually on retrofitted properties	7.3.5				*		* *

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6. Good Housekeeping and Pollution Prevention											
6-1	Inventory MS4 Properties	1. Inventory all permittee-owned parks and open spaces, building and facilities (including storm drains), and vehicles and equipment in the regulated area.	Department of Public Works, Recreation Department, Building Department, Planning and Development	Complete inventory of open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit	8.3.1	*					
6-2	Establish Facilities Operation and Maintenance Procedures	1. Evaluate practices at MS4 properties (parks and open spaces, building and facilities, vehicles and equipment) and develop written Facilities O&M Plan.	Department of Public Works, Recreation Department, Building Department	Create written O&M Plan for open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit	8.3.1	*					
		2. Distribute written O&M/SOPs as part of employee training.				*					
		3. Update inventory annually				*	*	*	*	*	
		4. Ensure all vehicle maintenance and washing is performed indoors.				*	*	*	*	*	
6-3	Establish Infrastructure O&M Procedures	1. Develop written O&M procedures or SOPs for the storm drain system, roadways and existing Town-owned BMPs (e.g., catch basin cleaning, street sweeping, winter road maintenance, stormwater BMPs).	Department of Public Works	Create written O&M Plan for stormwater system within 2 years of the permit effective date.	8.3.2	*					
		2. Distribute written O&M/SOPs as part of employee training.				*					
6-4	Perform Catch Basin Cleaning	1. Establish a cleaning schedule and maintain catch basins so that they remain less than 50% full of sediment.	Department of Public Works	Clean catch basins on established schedule and report number of catch basins cleaned and volume of material moved annually	8.3.2	As Needed					
		2. Properly manage storage of catch basin residuals.				*	*	*	*	*	*
6-5	Perform Street Sweeping	1. Sweep streets once a year in spring and twice a year where drainage is to nitrogen impaired water.	Department of Public Works	Sweep all streets and parking lots at least annually and sweep all streets within the Mount Hope Bay watershed twice per	8.3.2	*	*	*	*	*	*
		2. Properly manage storage of street sweeping residuals.									
6-6	Develop Road Salt Optimization Program	1. Establish and implement procedures for proper winter road maintenance, including use and storage of salt and sand, and procedures to minimize the use of road salt.	Department of Public Works	Implement salt use optimization during winter maintenance operations	8.3.2	*					
6-7	Assess Regulated Facilities to Determine SWPPP Eligibility	1. Evaluate the need for SWPPPs for municipal maintenance garages, public works yards, transfer stations, and other waste handling facilities where pollutants are exposed to stormwater.	Department of Public Works	Document whether a SWPPP is needed and where required.	8.3.3	*					
6-8	Develop SWPPPs for Applicable Facilities	1. Evaluate the need for SWPPPs for municipal maintenance garages, public works yards, transfer stations, and other waste handling facilities where pollutants are exposed to stormwater. Complete SWPPP or document No Exposure as applicable.	Department of Public Works	Document whether a SWPPP is needed and where required, prepare SWPPP by July 1, 2020.	8.3.3	*					
6-9	Establish BMP O&M Procedures	1. Establish written inspection and maintenance procedures and frequencies for inspection of all structural stormwater BMPs.	Department of Public Works	Create written O&M Plan for stormwater BMPs within 2 years of the effective date of the permit	8.3.4	*					
6-10	Inspect and Maintain Stormwater BMPs	1. Annually inspect MS4-owned stormwater treatment BMPs. Document inspections and maintenance performed.	Department of Public Works	Inspect and maintain treatment structures annually	8.3.4	*	*	*	*	*	*

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						7/1/18-6/30/19	7/1/19-6/30/20	7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23	7/1/23-6/30/24
7. TMDL and Impaired Waters Controls											
7-1	Discharges to Approved TMDL Waterbodies - Bacteria (see Table 9-1)	1. Enhanced BMPs - Public Education. Include management of pet waste and septic system maintenance with the Residential public education program.	Department of Public Works, Public Health Department, Community Services, Conservation Commission	Distribute materials with Residential education program.	9.2.1	*	*	*	*	*	*
		2. Enhanced BMPs - Illicit Discharge, Detection, and Elimination. Designate catchment draining to bacteria/pathogen impaired segments as "Problem Catchments" or "High" priority catchments in IDDE ranking.		Complete initial ranking within 1 year of the effective date of the permit		*					
7-2	Discharges to Approved TMDL Waterbodies - Nitrogen (see Table 9-1)	1. Enhanced BMPs - Public Education. Include fertilizer use, disposal of grass clippings and leaf litter, and pet waste management with the Residential and Commercial public education programs.	Building Department, Planning and Development, Regulatory Services, Department of Public Works, Public Health Department, Community Services, Conservation Commission	Distribute materials with Residential education program.	9.2.2	*	*	*	*	*	*
		2. Enhanced BMPs - Stormwater Management in New Development and Redevelopment. Include a requirement in the regulatory mechanism that new development and redevelopment stormwater management BMPs be optimized for nitrogen removal.		Complete bylaw updates within 2 years of the effective date of the permit		*	*				
		3. Enhanced BMPs - Consider BMPs to reduce nitrogen discharges when identifying MS4 properties for retrofits.		Evaluate stormwater BMPs for nitrogen removal during facility inventory within 2 years of the effective date of the permit		*	*				
		4. Enhanced BMPs - Good Housekeeping and Pollution Prevention. Incorporate nitrogen reduction practices into Town good housekeeping practices such as fertilizer use and managing grass cuttings and leaf litter.		Create written O&M Plan for open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit			*				
		5. Enhanced BMPs - Good Housekeeping and Pollution Prevention. Increase street sweeping to twice per year (spring and fall) for catchment areas that discharge to nitrogen-impaired waters.		Sweep streets and parking lots twice per year.		*	*	*	*	*	*

Table 11-1. Proposed BMP Plan - Implementation of Phase II Activities

BMP ID	BMP Description	Implementation	Responsible Dept./Person	Measurable Goal	Report Section	Year / Schedule					
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7-3	Discharges to Water Quality Limited Waterbodies - Nitrogen (Red Lily Pond)	1. Enhanced BMPs - Public Education. Include fertilizer use, disposal of grass clippings and leaf litter, and pet waste management with the Residential and Commercial public education programs.	Building Department, Planning and Development, Regulatory Services, Department of Public Works, Public Health Department, Community Services, Conservation Commission	Distribute materials with Residential and Commercial education programs.	9.3.1	*	*	*	*	*	*
		2. Enhanced BMPs - Stormwater Management in New Development and Redevelopment. Include a requirement in the regulatory mechanism that new development and redevelopment stormwater management BMPs be optimized for nitrogen removal.		Complete bylaw updates within 2 years of the effective date of the permit		*	*				
		3. Enhanced BMPs - Consider BMPs to reduce nitrogen discharges when identifying MS4 properties for retrofits.		Evaluate stormwater BMPs for nitrogen removal during facility inventory within 2 years of the effective date of the permit		*	*				
		4. Enhanced BMPs - Good Housekeeping and Pollution Prevention. Incorporate nitrogen reduction practices into Town good housekeeping practices such as fertilizer use and managing grass cuttings and leaf litter.		Create written O&M Plan for open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit			*				
		5. Enhanced BMPs - Good Housekeeping and Pollution Prevention. Increase street sweeping to twice per year (spring and fall) for catchment areas that discharge to nitrogen impaired waters.		Sweep streets and parking lots twice per year.		*	*	*	*	*	*
		6. Prepare a Nitrogen Source Identification Report to identify, delineate, and prioritize catchments with high nitrogen loading and identify potential retrofit opportunities or opportunities for the installation of structural BMPs during redevelopment.		Complete Nitrogen Source Identification Report within 4 years of the effective date of the permit.				*	*		
		7. Evaluate municipal properties for potential BMPs to construct one that will treat nitrogen, determine estimated costs, and determines engineering and regulatory feasibility.		Evaluate municipal facilities within 5 years of the permit effective date to determine candidates for a nitrogen BMP.						*	*
		8. Design and install a demonstration BMP to treat nitrogen from stormwater runoff.		Installed demonstration BMP within 6 years of the effective date of the permit.						*	*
		9. Track BMPs installed, including type, total area treated, design storage volume and estimated nitrogen removal and report annually to EPA and MassDEP.		Summary progress table.							*

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7-4	Discharges to Water Quality Limited Waterbodies - Phosphorus (Lovells Pond)	1. Enhanced BMPs - Public Education. Include fertilizer use, disposal of grass clippings and leaf litter, and pet waste management with the Residential and Commercial public education programs.	Building Department, Planning and Development, Regulatory Services, Department of Public Works, Public Health Department, Community Services, Conservation Commission	Distribute materials with Residential and Commercial education programs.	9.3.2	*	*	*	*	*	*
		2. Enhanced BMPs - Stormwater Management in New Development and Redevelopment. Include a requirement in the regulatory mechanism that new development and redevelopment stormwater management BMPs be optimized for phosphorus removal.		Complete bylaw updates within 2 years of the effective date of the permit		*	*				
		3. Enhanced BMPs - Consider BMPs to reduce phosphorus discharges when identifying MS4 properties for retrofits.		Evaluate stormwater BMPs for phosphorus removal during facility inventory within 2 years of the effective date of the permit		*	*				
		4. Enhanced BMPs - Good Housekeeping and Pollution Prevention. Incorporate nitrogen reduction practices into City good housekeeping practices such as fertilizer use and managing grass cuttings and leaf litter.		Create written O&M Plan for open spaces, buildings and facilities, and vehicles and equipment within 2 years of the effective date of the permit			*				
		5. Enhanced BMPs - Good Housekeeping and Pollution Prevention. Increase street sweeping to twice per year (spring and fall) for catchment areas that discharge to nitrogen or phosphorus impaired waters.		Sweep streets and parking lots twice per year.		*	*	*	*	*	*
		6. Prepare a Phosphorus Source Identification Report to identify, delineate, and prioritize catchments with high phosphorus loading and identify potential retrofit opportunities or opportunities for the installation of structural BMPs during redevelopment.		Complete Phosphorus Source Identification Report within 4 years of the effective date of the permit.				*	*		
		7. Evaluate municipal properties for potential BMPs to construct one that will treat phosphorus, determine estimated costs, and determines engineering and regulatory feasibility.		Evaluate municipal facilities within 5 years of the permit effective date to determine candidates for a phosphorus BMP.						*	*
		8. Design and install a demonstration BMP to treat phosphorus from stormwater runoff.		Installed demonstration BMP within 6 years of the effective date of the permit.						*	*
		9. Track BMPs installed, including type, total area treated, design storage volume and estimated phosphorus removal and report annually to EPA and MassDEP.		Summary progress table.							*
7-5	Discharges to Water Quality Limited Waterbodies - Bacteria (Red Lily Pond)	1. Enhanced BMPs - Public Education. Include management of pet waste and septic system maintenance with the Residential public education program.	Department of Public Works, Information Technology, Town Clerk, Planning Board, Conservation Commission, Building Department	Distribute materials with Residential education program.	9.3.3	*	*	*	*	*	*
		2. Enhanced BMPs - Illicit Discharge, Detection, and Elimination. Designate catchment draining to bacteria/pathogen impaired segments as "Problem Catchments" or "High" priority catchments in IDDE ranking.		Complete initial ranking within 1 year of the effective date of the permit		*					

Appendix A

Notice of Intent and Authorization to Discharge

Part I: General Conditions

General Information

Name of Municipality or Organization: Town of Barnstable State: MA

EPA NPDES Permit Number (if applicable): MAR 041090

Primary MS4 Program Manager Contact Information

Name: Dale Saad Title: Senior Project Manager

Street Address Line 1: 382 Falmouth Road

Street Address Line 2:

City: Hyannis State: MA Zip Code: 02601

Email: Dale.Saad@town.barnstable.ma.us Phone Number: (508) 790-6400

Fax Number:

Other Information

Stormwater Management Program (SWMP) Location (web address or physical location, if already completed): http://www.town.barnstable.ma.us/bids/adendums/Addendum 2 Attachment B NOI 7 2003.pdf

Eligibility Determination

Endangered Species Act (ESA) Determination Complete? Yes

Eligibility Criteria (check all that apply): A B C

National Historic Preservation Act (NHPA) Determination Complete? Yes

Eligibility Criteria (check all that apply): A B C

Check the box if your municipality or organization was covered under the 2003 MS4 General Permit

MS4 Infrastructure (if covered under the 2003 permit)

Estimated Percent of Outfall Map Complete? 100% If 100% of 2003 requirements not met, enter an estimated date of completion (MM/DD/YY):

Web address where MS4 map is published: If outfall map is unavailable on the internet an electronic or paper copy of the outfall map must be included with NOI submission (see section V for submission options)

Regulatory Authorities (if covered under the 2003 permit)

Illicit Discharge Detection and Elimination (IDDE) Authority Adopted? No Effective Date or Estimated Date of Adoption (MM/DD/YY): 06/30/19

Construction/Erosion and Sediment Control (ESC) Authority Adopted? No Effective Date or Estimated Date of Adoption (MM/DD/YY): 06/30/19

Post- Construction Stormwater Management Adopted? No Effective Date or Estimated Date of Adoption (MM/DD/YY): 06/30/20

Waterbody segment that receives flow from the MS4	Number of outfalls into receiving water segment	Chloride	Chlorophyll-a	Dissolved Oxygen/DO Saturation	Nitrogen	Oil & Grease/ PAH	Phosphorus	Solids/ TSS/ Turbidity	E. coli	Enterococcus	Other pollutant(s) causing impairments
Unnamed pond south of Sylvan Dr	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed wetlands near Old Colony Rd near McKeon Park	12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed pond south of Oak St at Great Hill Dr	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed wetland south of Shell Ln	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed wetland west of Chickadee Ln	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed pond north of Main St at Maple St	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed pond west of Estey Ave	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed tributary to Centerville River	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed tributary to Halls Creek	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed tributary to Stewart's Creek	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed pond north of Wingfoot Dr	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Round Pond	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed tributary to Mill Pond, next to River Rd	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed stream from Mill Pond to Prince Cove	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed pond at end of Ralyn Rd	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnamed tributary to Prince Cove	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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Waterbody segment that receives flow from the MS4	Number of outfalls into receiving water segment	Chloride	Chlorophyll-a	Dissolved Oxygen/DO Saturation	Nitrogen	Oil & Grease/ PAH	Phosphorus	Solids/ TSS/ Turbidity	E. coli	Enterococcus	Other pollutant(s) causing impairments
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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Click to lengthen table

Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary

Identify the Best Management Practices (BMPs) that will be employed to address each of the six Minimum Control Measures (MCMs). For municipalities/organizations whose MS4 discharges into a receiving water with an approved Total Maximum Daily Load (TMDL) and an applicable waste load allocation (WLA), identify any additional BMPs employed to specifically support the achievement of the WLA in the TMDL section at the end of part III.

For each MCM, list each existing or proposed BMP by category and provide a brief description, responsible parties/departments, measurable goals, and the year the BMP will be employed (public education and outreach BMPs also requires a target audience). **Use the drop-down menus in each table or enter your own text to override the drop down menu.**

MCM 1: Public Education and Outreach

BMP Media/Category (enter your own text to override the drop down menu)	BMP Description	Targeted Audience	Responsible Department/Parties (enter your own text to override the drop down menu)	Measurable Goal	Beginning Year of BMP Implementation
Brochures/Pamphlets	Distribute fact sheets or brochures on pet waste	Residents	Public Health Division, MEA, Town Clerk	Continue to provide informational flyers with all applications and renewals.	2018
Brochures/Pamphlets	Distribute flyers and bookmarks developed in conjunction with the Cape Cod Commission Project Storm Team	Residents	Department of Public Works	Continue to make information available at select public events.	2018
Brochures/Pamphlets	Distribute information on roof and yard maintenance, such as the "Get Your Mind in the Gutter" program.	Residents	Public Health Division	Continue to make informational flyers available. Provide download links and develop poster boards for use at public locations.	2018
Brochures/Pamphlets	Develop town standards & distribute standards & fact sheets on erosion & sediment control as conditions of permit applications.	Developers (construction)	Building Department, Planning and Development, Conservation Com	Provide information with all applications	2019

Mutt Mitt Dispensers	Maintain existing Mutt Mitt dispensers & refills at public areas frequented by dog walkers to encourage pet waste pickup.	Residents	Department of Public Works	Continue to maintain Mutt Mitt dispensers at certain public areas.	2018
Web Page	Provide web access to erosion and sediment control standards, Low Impact Development, and the NPDES Construction General Permit.	Developers (construction)	Department of Public Works, Public Health Division, Conservation Co	Each Dept. will maintain links to standards and fact sheets.	2019
Web Page	Provide web information on pesticide and fertilizer use, grass clippings and leaf litter disposal, building maintenance, storage of materials and wastes, car washing, benefits of infiltration, and use of environmentally friendly products.	Businesses, Institutions, and Commercial Facilities	Public Health Division	Continue to update and maintain the websites.	2019
Web Page	Provide web information on septic system maintenance, illicit discharges, pet waste disposal, lawn care, pesticide and fertilizer use, grass clippings and leaf litter disposal, car washing, and use of environmentally friendly products.	Residents	Public Health Division	Continue to update and maintain the websites.	2019

Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary (continued)

MCM 2: Public Involvement and Participation

BMP Categorization	Brief BMP Description <small>(enter your own text to override the drop down menu)</small>	Responsible Department/Parties <small>(enter your own text to override the drop down menu)</small>	Additional Description/ Measurable Goal	Beginning Year of BMP Implementation
Public Review/ Participation	SWMP Review; Develop and upload SWMP to the Town website and pr	Department of Public Works	Allow annual review and comment of stormwater management plan and posting of stormwater management plan on website.	2018
Public Participation	Continue involvement in the Massachusetts Estuary Program (MEP) san	Department of Public Works	Continue to promote good water quality through meetings and periodic sampling under the MEP	2018
Public Participation	Cleanups - Shoreline/Water body	Conservation Commission	Allow annual participation in an annual COASTSWEEP cleanup event of beaches and Town landings	2018
Public Participation	Household haz. waste/used oil collection	Department of Public Works	Continue to allow public to drop off household hazardous waste four times per year in conjunction with the Cape Cod Cooperative Extension	2018

Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary (continued)

MCM 3: Illicit Discharge Detection and Elimination (IDDE)

BMP Categorization (enter your own text to override the drop down menu)	BMP Description	Responsible Department/Parties (enter your own text to override the drop down menu)	Measurable Goal (all text can be overwritten)	Beginning Year of BMP Implementation
SSO inventory	Develop SSO inventory in accordance of permit conditions	Department of Public Works	Complete within 1 year of effective date of permit	2018
Storm sewer system map	Create map and update during IDDE program completion	Department of Public Works	Update map within 2 years of effective date of permit and complete full system map 10 years after effective date of permit	2018
Written IDDE program	Create written IDDE program	Department of Public Works	Complete within 1 year of the effective date of permit and update as required	2018
Implement IDDE program	Implement catchment investigations according to program and permit conditions	Department of Public Works	Complete 10 years after effective date of permit	2020
Employee training	Train employees on IDDE implementation	Department of Public Works	Train annually	2018
Conduct dry weather screening	Conduct in accordance with outfall screening procedure and permit conditions	Department of Public Works	Complete 3 years after effective date of permit	2019
Conduct wet weather screening	Conduct in accordance with outfall screening procedure	Department of Public Works	Complete 10 years after effective date of permit	2024
Ongoing screening	Conduct dry weather and wet weather screening (as necessary)	Department of Public Works	Complete ongoing outfall screening upon completion of IDDE program	2024

Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary (continued)

MCM 4: Construction Site Stormwater Runoff Control

BMP Categorization (enter your own text to override the drop down menu or entered text)	BMP Description	Responsible Department/Parties (enter your own text to override the drop down menu)	Measurable Goal (all text can be overwritten)	Beginning Year of BMP Implementation
Site inspection and enforcement of Erosion and Sediment Control (ESC) measures are linked with permits	Complete written procedures of site inspections and enforcement procedures	Building Department, Conservation Commission, Public Health	Complete within 1 year of the effective date of permit	2018
Site plan review	Pre-permit procedures of site plan review and begin implementation	Building Department, Planning and Development, Conservation Commission, Pul	Complete within 1 year of the effective date of permit	2018
Erosion and Sediment Control are linked with permits	Adoption of requirements for construction operators to implement a sediment and erosion control program	Building Department, Planning and Development, Conservation Commission, Pul	Complete within 1 year of the effective date of permit	2018
Waste Control fact sheet linked with permits	Creation of a fact sheet to be included with permits on requirements to control wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes	Building Department, Planning and Development, Conservation Commission, Pul	Complete within 1 year of the effective date of permit	2018

Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary (continued)

MCM 5: Post-Construction Stormwater Management in New Development and Redevelopment

BMP Categorization (enter your own text to override the drop down menu or entered text)	BMP Description	Responsible Department/Parties (enter your own text to override the drop down menu)	Measurable Goal (all text can be overwritten)	Beginning Year of BMP Implementation
As-built plans for on-site stormwater control as by permit	The procedures to require submission of as-built drawings and ensure long term operation and maintenance will be a part of the SWMP	Building Department, Planning and Development, Conservation Commission, Pul	As by permit require submission of as-built plans for completed projects	2018
Target properties to reduce impervious areas	Identify at least 5 permittee-owned properties within MS4 areas that could be modified or retrofitted with BMPs to reduce impervious areas and update annually	Department of Public Works	Complete 4 years after effective date of permit and report annually on retrofitted properties	2020
Allow green infrastructure	Develop a report assessing existing local regulations to determine the feasibility of making green infrastructure practices allowable when appropriate site conditions exist	Department of Public Works, Planning and Development	Complete 4 years after effective date of permit and implement recommendations of report	2020
Street design and parking lot guidelines	Develop a report assessing requirements that affect the creation of impervious cover. The assessment will help determine if changes to design standards for streets and parking lots can be modified to support low impact design options.	Department of Public Works, Planning and Development	Complete 4 years after effective date of permit and implement recommendations of report	2020

Notice of Intent (NOI) for coverage under Small MS4 General Permit

Part III: Stormwater Management Program Summary (continued)

MCM 6: Municipal Good Housekeeping and Pollution Prevention

BMP Categorization (enter your own text to override the drop down menu or entered text)	BMP Description	Responsible Department/Parties (enter your own text to override the drop down menu)	Measurable Goal (all text can be overwritten)	Beginning Year of BMP Implementation
Inspections and maintenance of stormwater treatment structures	Establish and implement inspection and maintenance procedures and frequencies	Department of Public Works	Inspect and maintain treatment structures at least annually	2018
Inventory all permittee-owned parks and open spaces, buildings and facilities, and vehicles and equipment	Create inventory	Department of Public Works	Complete 2 years after effective date of permit and implement annually	2018
Infrastructure O&M	Establish and implement program for repair and rehabilitation of MS4 infrastructure	Department of Public Works	Complete 2 years after effective date of permit	2018
Stormwater Pollution Prevention Plan (SWPPP)	Create SWPPPs for maintenance garages, transfer stations, and other waste-handling facilities	Department of Public Works	Complete and implement 2 years after effective date of permit	2018
Catch basin cleaning	Establish schedule for catch basin cleaning such that each catch basin is no more than 50% full and clean catch basins on that schedule	Department of Public Works	Clean catch basins on established schedule and report number of catch basins cleaned and volume of material moved annually	2018
Street sweeping program	Sweep all streets and permittee-owned parking lots in accordance with permit conditions	Department of Public Works	Sweep all streets and permittee-owned parking lots once per year in the spring. Sweep downtown Hyannis roads approximately 8 times per year.	2018
Road salt use optimization program	Establish and implement a program to minimize the use of road salt	Department of Public Works	Implement salt use optimization during deicing season	2018

Part IV: Notes and additional information

Use the space below to indicate the part(s) of 2.2.1 and 2.2.2 that you have identified as not applicable to your MS4 because you do not discharge to the impaired water body or a tributary to an impaired water body due to nitrogen or phosphorus. Provide all supporting documentation below or attach additional documents if necessary. Also, provide any additional information about your MS4 program below.

Click to add text

Part V: Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name:

Title:

Signature:

Date:

[To be signed according to Appendix B, Subparagraph B.11, Standard Conditions]

Note: When prompted during signing, save the document under a new file name



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New England Ecological Services Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5094
Phone: (603) 223-2541 Fax: (603) 223-0104
<http://www.fws.gov/newengland>

In Reply Refer To:

October 03, 2017

Consultation Code: 05E1NE00-2018-SLI-0014

Event Code: 05E1NE00-2018-E-00031

Project Name: Barnstable MA MS4

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New England Ecological Services Field Office

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

Project Summary

Consultation Code: 05E1NE00-2018-SLI-0014

Event Code: 05E1NE00-2018-E-00031

Project Name: Barnstable MA MS4

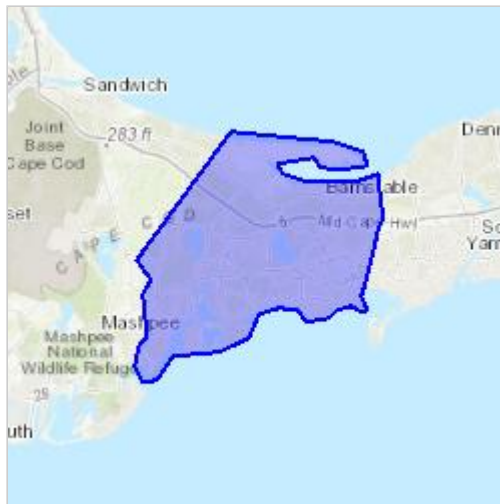
Project Type: Regulation Promulgation

Project Description: Barnstable MA MS4, Endangered Species Act Determination

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/41.66452973747511N70.36323065276716W>



Counties: Barnstable, MA

Endangered Species Act Species

There is a total of 5 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: except Great Lakes watershed There is final designated critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> Population: northeast U.S. nesting pop. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Flowering Plants

NAME	STATUS
Sandplain Gerardia <i>Agalinis acuta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8128	Endangered

Critical habitats

There is 1 critical habitat wholly or partially within your project area under this office's jurisdiction.

NAME	STATUS
North Atlantic Right Whale <i>Eubalaena glacialis</i> For information on why this critical habitat appears for your project, even though North Atlantic Right Whale is not on the list of potentially affected species at this location, contact the local field office. https://ecos.fws.gov/ecp/species/159#crithab	Final designated



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

VIA EMAIL

June 4, 2019

Mark S Ells
Town Manager

And;

Dale Saad
Senior Project Manager
382 Falmouth Rd
Hyannis, MA. 02601
dale.saad@town.barnstable.ma.us

Re: National Pollutant Discharge Elimination System Permit ID #: MAR041090, Town of Barnstable

Dear Dale Saad:

The 2016 NPDES General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts (MS4 General Permit) is a jointly issued EPA-MassDEP permit. Your Notice of Intent (NOI) for coverage under this MS4 General Permit has been reviewed by EPA and appears to be complete. You are hereby granted authorization by EPA and MassDEP to discharge stormwater from your MS4 in accordance with the applicable terms and conditions of the MS4 General Permit, including all relevant and applicable Appendices. This authorization to discharge expires at midnight on **June 30, 2022**.

For those permittees that certified Endangered Species Act eligibility under Criterion C in their NOI, this authorization letter also serves as EPA's concurrence with your determination that your discharges will have no effect on the listed species present in your action area, based on the information provided in your NOI.

As a reminder, your first annual report is due by **September 30, 2019** for the reporting period from May 1, 2018 through June 30, 2019.

Information about the permit and available resources can be found on our website: <https://www.epa.gov/npdes-permits/massachusetts-small-ms4-general-permit>. Should you have

any questions regarding this permit please contact Newton Tedder at tedder.newton@epa.gov or (617) 918-1038.

Sincerely,



Thelma Murphy, Chief
Stormwater and Construction Permits Section
Office of Ecosystem Protection
United States Environmental Protection Agency, Region 1

and;



Lealdon Langley, Director
Wetlands and Wastewater Program
Bureau of Water Resources
Massachusetts Department of Environmental Protection

Appendix B

Impaired Waterbodies

Impaired Waters

Waterbody Name	Segment ID and Category		Impairment(s)	Approved TMDL ⁴
Bears Pond	MA96012	4a	(Non-Native Aquatic Plants*)	
			Mercury in Fish Tissue	42393
Bumps River	MA96-02	4a	Fecal Coliform	36771
Centerville River	MA96-04	4a	Estuarine Bioassessments	33858
			Fecal Coliform	36771
			Nitrogen (Total)	33858
Cotuit Bay	MA96-63	4a	Fecal Coliform	36582
			Nitrogen (Total)	33988
Halls Creek	MA96-93	4a	Fecal Coliform	42356
Hyannis Harbor	MA96-05	4a	Fecal Coliform	36771
Hyannis Inner Harbor	MA96-82	4a ⁵	Fecal Coliform	42357
			Nitrogen (Total)	64145
Lewis Bay	MA96-36	4a ³	Estuarine Bioassessments	64146 & 7
			Fecal Coliform	36771
Maraspin Creek	MA96-06	4a	Fecal Coliform	36771
Mill Creek	MA96-37	4a	Fecal Coliform	36771
Mill Creek	MA96-80	4a ³	Fecal Coliform	42365
			Nitrogen (Total)	64148 & 9
North Bay	MA96-66	4a	Estuarine Bioassessments	33791
			Fecal Coliform	36584
Popponesset Bay	MA96-40	4a	Estuarine Bioassessments	33967-9
Prince Cove	MA96-07	4a	Estuarine Bioassessments	33991-3
			Fecal Coliform	36585
Santuit River	MA96-92	4a	Fecal Coliform	42360
Seapuit River	MA96-64	4a	Fecal Coliform	36583
Shoestring Bay	MA96-08	4a	Estuarine Bioassessments	33966
			Fecal Coliform	36771
Snows Creek	MA96-81	4a	Fecal Coliform	42361
Stewarts Creek	MA96-94	4a	Fecal Coliform	42363
Wequaquet Lake	MA96333	4a	(Non-Native Aquatic Plants*)	
			Mercury in Fish Tissue	33880
West Bay	MA96-65	4a	Estuarine Bioassessments	33989
Long Pond	MA96184	4c	(Non-Native Aquatic Plants*)	

Category 4a Waters – impaired waters with a completed TMDL.

Category 4c Waters – impaired waters where the impairment is not caused by a pollutant. No TMDL required.

Category 5 Waters – impaired waters that require a TMDL.

*TMDL not required (Non-pollutant)

⁴“Approved TMDLs” are those that have been approved by EPA as of the date of issuance of the 2016 Permit.

⁵Waterbodies are classified as category 5 under the final 2014 303(d) list, however a nitrogen TMDL has since been finalized and waterbodies have been reclassified as 4a under the draft 2016 303(d) list.

Impaired Waters (continued)

Waterbody Name	Segment ID and Category		Impairment(s)	Approved TMDL
Barnstable Harbor	MA96-01	5	Estuarine Bioassessments	
			Fecal Coliform	36771
Hamblin Pond	MA96126	5	Mercury in Fish Tissue	33880
			Oxygen, Dissolved	
Lovells Pond	MA96185	5	Chlorophyll-a	
			Excess Algal Growth	
			Oxygen, Dissolved	
			Phosphorus (Total)	
			Secchi disk transparency	
Middle Pond	MA96198	5	Oxygen, Dissolved	
Mystic Lake	MA96218	5	(Non-Native Aquatic Plants*)	
			Oxygen, Dissolved	
Red Lily Pond	MA96257	5	Fecal Coliform	
			Nutrient/Eutrophication Biological Indicators	

Category 4a Waters – impaired waters with a completed TMDL.

Category 4c Waters – impaired waters where the impairment is not caused by a pollutant. No TMDL required.

Category 5 Waters – impaired waters that require a TMDL.

*TMDL not required (Non-pollutant)

Appendix C

Regulatory Review and Legal Authority

MS4 REGULATORY REVIEW – TOWN OF BARNSTABLE

TO: Town of Barnstable
FROM: Rebecca Balke P.E., CEI
DATE: May 23, 2019
SUBJECT: MS4 Regulatory Review

Comprehensive Environmental, Inc. has performed a preliminary review of Barnstable’s existing bylaws and applicable regulations to determine compliance with Section 2.3.4.a of Minimum Measure 3 – Illicit Discharge Detection and Elimination (IDDE) Program, and Section 2.3.5 of Minimum Measure 4 – Construction Site Stormwater Runoff Control of the 2016 Massachusetts MS4 General Permit. The bylaws and regulations that were reviewed include the following:

- Chapter 184 “Sewers and Water,” Section 3 “Use of public sewers,” dated 11/25/1986
- Chapter 240 “Zoning,” Articles III and IX: “Site Development Standards” & “Site Plan Review,” adopted 4/7/1987, last updated 4/10/2003
- Chapter 801 “Subdivision Regulations,” adopted 2/24/2003
- Chapter 901 “Sewer Connections,” Section 24 “Erosion control,” dated Spring 2003

The MS4 Permit requires regulated communities to develop or modify, as appropriate, its regulatory mechanism for post construction stormwater management by the end of Year 2 of the permit term. The revisions will include the incorporation of specific design criteria as outlined in the permit. Given the nature of the comments below, CEI recommends that all updates be performed at the same time during Year 2, with the exception of developing and adopting an IDDE bylaw, which should be done as soon as practical. Written procedures outside of the regulations, such as inspection checklists, can be developed in the interim to satisfy the MS4 requirements. The following table summarizes the requirements of the permit, existing regulatory mechanisms in the Town that address the requirements and to what extent, and recommendations for regulatory updates or supplemental information for full compliance.

Minimum Measure 3 – Illicit Discharge, Detection, and Elimination		
Required Elements	Current Municipal Regulatory Requirements	Recommended Changes
<p>Section 2.3.4.a. Have adequate legal authority to:</p> <ul style="list-style-type: none"> • Prohibit illicit discharges. • Investigate suspected illicit discharges. • Eliminate illicit discharges, including those from properties not owned or controlled by the Town. • Implement appropriate enforcement procedure and actions. 	<p>No ordinance currently gives the Town the authority to prohibit, investigate, and eliminate illicit discharges to the MS4 system.</p> <p><u>Chapter 184 “Sewers and Water,” Section 3, “Use of Public Sewers”</u> requires stormwater and all other nonpolluted drainage to be discharged to designated combined or stormwater sewer, but does not specifically prohibit illicit discharges.</p>	<p>CEI recommends adopting a new bylaw that allows the Town to prohibit, investigate and eliminate illicit discharges.</p>

MS4 REGULATORY REVIEW – TOWN OF BARNSTABLE

Minimum Measure 4 – Construction Site Stormwater Runoff Control		
Required Elements	Current Municipal Regulatory Requirements	Recommended Changes
<p>Section 2.3.5.a. Implement program that reduces stormwater pollutants at construction sites >1 acre, or < 1 acre if part of a common development plan that will disturb >1 acre.</p>	<p>No comprehensive plan currently exists.</p>	<p>CEI recommends passing a comprehensive bylaw that clearly regulates construction sites >1 acre, or < 1 acre if part of a common development plan that will disturb >1 acre.</p>
<p>Section 2.3.5.c.i. and iv. Regulatory mechanism that requires the use of sediment and erosion control practices at construction sites.</p> <p>Ordinance must include requirement for construction site operators to control other wastes on construction sites, such as demolition debris, litter, concrete truck wash-out, and chemicals.</p>	<p><u>Chapter 240, “Zoning,” Section 103, “Site Development Standards”</u> requires that nonresidential construction within the Craigville Beach District use erosion controls and stormwater best management practices.</p> <p><u>Chapter 801, “Subdivision Regulations,” Section 40, “Erosion Control Measures”</u> requires the use of erosion control measures during subdivision construction.</p> <p><u>Chapter 901, “Sewer Connections,” Section 24, “Erosion Control”</u> requires that erosion control methods for sewer connection projects be reviewed and approved by the Department of Public Works.</p> <p>No requirement currently exists.</p>	<p>Current regulations require erosion control practices at a very limited list of sites. CEI recommends passing a comprehensive plan that includes specific requirements to use sediment and erosion control practices, and control other wastes at construction sites. Such a plan should also require the control of other construction wastes, including — but not limited to — the wastes listed here.</p>

MS4 REGULATORY REVIEW – TOWN OF BARNSTABLE

Minimum Measure 4 (continued) – Construction Site Stormwater Runoff Control		
Required Elements	Required Elements	Required Elements
<p>Section 2.3.5.c.ii. and v. Written procedures for site inspections and enforcement:</p> <ul style="list-style-type: none"> • Inspection procedures. • Require inspections to occur during and after BMP construction. • Who’s responsible for inspecting. • Who has authority to implement enforcement. • Inspector qualifications. • Statement that sanctions may be imposed. • Using standard inspection form (if appropriate). • Procedures for tracking number of site reviews, inspections, and enforcement actions. 	<p><u>Chapter 801, “Subdivision Regulations,” Article 7, “Inspection”</u> outlines the inspection procedures at subdivision construction sites, requiring them after clear points in the construction process, including during and after BMP construction.</p> <p>Article 7 also designates the Planning Board’s Engineer or authorized agent as responsible for inspections.</p> <p><u>Chapter 240, “Zoning,” Article 7, “Administration and Enforcement”</u> designates the building commissioner as responsible for enforcement of the zoning bylaws or the approved building permit, and states that sanctions may be imposed.</p> <p>No inspection form was available to CEI for review.</p> <p>There were no listed procedures for tracking the number of site reviews, inspections, and enforcement actions.</p>	<p>Current regulations are not combined into a comprehensive program and only apply in very limited settings, primarily in regards to subdivisions. CEI recommends passing a comprehensive bylaw that includes clearly designates an inspector, lists their required qualifications, requires inspections during and after BMP installation, and provides procedures for site inspections and tracking the number of site reviews, inspections, and enforcement actions. Additionally, it is recommended that a standardized inspection form be developed to simplify annual reporting requirements.</p>
<p>Section 2.3.5.c.iii. Requirements for construction site runoff control programs to include BMPs. Program may reference state or Town BMP design standards.</p>	<p><u>Chapter 240, “Zoning,” Article 9, “Site Plan Review”</u> construction within the Craigville Beach District must use erosion BMPs and meet the Massachusetts Stormwater Management Standards.</p> <p><u>Chapter 801, “Subdivision Regulations,” Section 40, “Erosion Control Measures”</u> requires the use of debris basins, sediment basins, silt traps or other acceptable methods, as recommended by the Soil Conservation Service.</p>	<p>CEI recommends adopting an ordinance that requires BMPs during construction of all regulated construction sites, and references specific design standards.</p>

MS4 REGULATORY REVIEW – TOWN OF BARNSTABLE

Minimum Measure 4 (continued) – Construction Site Stormwater Runoff Control		
Required Elements	Current Municipal Regulatory Requirements	Recommended Changes
<p>Section 2.3.5.c.v. Written procedures for site plan review:</p> <ul style="list-style-type: none"> • Pre-construction review of the site design. • Procedures for the receipt and consideration of information submitted by the public. • Consideration of water quality impacts. • Planned BMPs to manage stormwater after development. • Planned BMPs during construction. Planned construction site operations • Evaluation of Low Impact Development (LID) and Green Infrastructure (GI) opportunities 	<p><u>Chapter 240, “Zoning,” Article 9, “Site Plan Review”</u> lays out the procedures for the site plan review, including a pre-construction review of the site design.</p> <p>This includes drainage designed for a 20-year storm, disposed of on site. Construction in the Craigville Beach District must use erosion controls and meet the Massachusetts Stormwater Management Standards.</p> <p><u>Chapter 801, “Subdivision Regulations,” Article 5, “Subdivision Plans”</u> This site plan must show:</p> <ul style="list-style-type: none"> • Planned erosion control measures during construction. • A drainage plan and drainage calculations by a registered P.E. <p>LID/GI opportunities are not explicitly evaluated, but are encouraged. Subdivision regulations require a public hearing, and a written statement indicating the project actions and phases. Some, but not all subdivision projects must submit an environmental analysis. The phases of construction operations are not explicitly required, but are likely typically included in the erosion and sediment control plan.</p>	<p>CEI recommends passing a comprehensive bylaw includes requirements for a site plan review, reviewing the planned BMPs during and after construction, water quality impacts, LID/GI opportunities, and planned construction phasing. These procedures should also include methods for the receipt and consideration of information submitted by the public, such as a public hearing.</p>

Chapter 184
SEWERS AND WATER

GENERAL REFERENCES

- | | |
|---|---|
| Noncriminal disposition — See Ch. 1, Art. I. | On-site sewage disposal systems — See Ch. 360. |
| Hazardous materials — See Chs. 108 and 381. | Wells — See Ch. 397. |
| Wastewater discharge — See Ch. 232. | Sewer connections — See Ch. 901. |

ARTICLE I

Sewer Use

[Adopted 5-15-1980, approved 8-26-1980; amended 11-1-1986, approved 11-25-1986 (Art. XXXVI of Ch. III of the General Ordinances as updated through 7-7-2003)]

§ 184-1. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

BOD (denoting "biochemical oxygen demand") — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C., expressed in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys in to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER — A sewer receiving both surface runoff and sewage.

GARBAGE — Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES — The liquid waste from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON — Any individual, firm, company, association, society, corporation or group.

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PUBLIC SEWER — A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

SANITARY SEWER — A sewer which carries sewage and to which storm, surface and ground waters and not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT — Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS — All facilities for collecting, pumping, treating and disposing of sewage.

SEWER — A pipe or conduit for carrying sewage.

SHALL and MAY — "Shall" is mandatory; "may" is permissive.

SLUG — Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour concentration or flows during normal operation.

STORM DRAIN (sometimes termed "storm sewer") — A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT — The Superintendent of the Department of Public Works of the Town of Barnstable or his authorized deputy, agent or representative.

SUSPENDED SOLIDS — Solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

§ 184-2. Building sewers and connections.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb and public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
- B. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Superintendent at least 45 days prior to the proposed change or connection.
- C. A sewer connection permit shall be required before any building or unit thereof is connected to the Town sewer system. The owner or his/her agent shall make application on a special form furnished by the Town. The permit shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee shall be paid to the Town at the time the application is filed. The fee shall be based on the classification of the building or unit thereof to be connected as specified in the sewer connection fee schedule in effect at the time the application is filed. **[Amended 11-5-1988; approved 1-3-1989]**
- D. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify

the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

- E. A separate and independent billing sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- F. Old buildings sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this article.
- G. The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity to flow to the public sewer, sanitary sewage carried by such buildings drain shall be lifted by an approved means and discharged to the building sewer.
- I. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building or sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- J. The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the Town, or the procedures set forth in an appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
- K. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.
- L. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Street, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

§ 184-3. Use of public sewers.

- A. No person shall discharge or cause to be discharged any stormwater, surface water, or unpolluted industrial process waters to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted waters may be discharged, on approval of the Superintendent to a storm sewer, combined sewer or natural outlet.
- C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - (1) Any gasoline, benzene, naphtha, fuel oil or other flammable liquid, solid or gas.
 - (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to animals or humans, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.
 - (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper fishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. No person shall discharge or cause to be discharged, the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, having an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150° F. or 65° C.
- (2) Any water or waste containing fats, wax, grease, or oils whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. and 0° C. and 65° C.
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- (4) Any waters or wastes containing strong acid iron picking wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage to meet the requirements of the state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- (8) Any waters or wastes having a pH in excess of 9.5.
- (9) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solution).
 - (c) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.
 - (d) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 184-3D of this chapter, and which, in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rate of discharge; and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or by sewer charges.
- F. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws.
- G. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be ready and easily accessible for cleaning and inspection.
- H. Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- I. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

- J. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole. In the event that no special manhole has been required, the control manholes shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constitutes upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls where pH's are determined from periodic grab samples.
- K. All industry discharging into a public sewer shall perform such monitoring of their discharges the Superintendent and/or other duly authorized employees of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Agencies having jurisdiction over discharges to the receiving waters.

§ 184-4. Protection from damage.

- A. No person shall:
- (1) Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the public sewer system.
 - (2) Unless specifically authorized by the Superintendent, discharge any liquid or soils of any description whatsoever through any opening or connection to or leading into the public sewer system other than an authorized plumbing fixture.
- B. Any person violating this provision shall be fined not more than \$300 per incident. Each day or part of a day in which an incident occurs shall be treated as a separate offense.

§ 184-5. Powers and authority of inspectors.

- A. The Superintendent and other duly authorized employees of the Town bearing proper credential and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil,

refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharging to the sewers or waterways of facilities for waste treatment.

- B. While performing the necessary work on private properties referred to in Subsection A, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal property or injury damage asserted against the company and growing out of the gauging and sampling operations except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 184-3.
- C. The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 184-6. Private pumping stations. [Added 11-5-1988, approved 1-3-1989]

- A. Privately owned sewage pumping stations which discharge into the public sewer shall be designed and constructed in accordance with the same engineering standards used for construction of Town-owned pumping stations. Plans and specifications or other information considered pertinent shall be submitted to the Superintendent for review and approval prior to commencing construction.
- B. Stations in this category shall not be placed into operation until an inspection of the facility of conducted and the facility is deemed satisfactory to the Superintendent.
- C. To insure satisfactory operational performances, owners of such facilities shall perform the following minimum maintenance annually:
 - (1) Clean wet wells.
 - (2) Test high-water alarms.
 - (3) Power transfer test generator (if part of the approved installation).
 - (4) Routine preventive maintenance.

- D. Documentation certifying completion of the above maintenance items shall be submitted December 31 of each year to the Superintendent. In the case of preventive maintenance, a chart shall be submitted documenting maintenance checks performed and dates on which performed throughout the year on all installed equipment. The chart shall also indicate types of repairs and the dates on which they were made.
- E. Upon petition of the owner, the Town may assume ownership and responsibility for the operation and maintenance of the station, provided that the facility meets current standards of design and construction and material condition; necessary property easements are conveyed to the Town; and the Superintendent deems it to be in the best interests of the Town.

§ 184-7. Violations and penalties.

- A. Any person found to be violating any provision of this article, except § 184-4, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within a period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subsection A shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding \$200 for each violation. Each day in which any violation shall continue shall be deemed a separate offense.

§ 184-8. Repealer; severability.

All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this article shall not affect any other part of this article which can be given effect without such invalid part or parts.

§ 184-9. When effective.

This article shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

ARTICLE II

Collection of Sewer Use Charges

**[Adopted 10-3-1991 (Art. XVIII of Ch. II of the General Ordinances
as updated through 7-7-2003)]**

§ 184-10. Adoption of statutory provisions.

The provisions of §§ 16A through 16F of Chapter 83 of the General Laws, with respect to the collection of sewer use charges, are hereby adopted by reference as a part of the general ordinances of the Town.

§ 184-11. Authority to follow statutory collection methods.

The Town Manager, together with the other officials of the Town therein named, are hereby authorized to follow the methods set forth therein in the collection of such charges.

**§ 184-12. Proportionate share of sewer betterment costs
assessment charges. [Added 7-15-2010 by Order No. 2010-158¹]**

Fifty percent of the costs or charges for sewer construction shall be assessed to parcels or owners of land in the manner provided in Chapter 80 or 83 of the General Laws as applicable. This section shall not apply to costs or charges for sewer connection or use.

1. Editor's Note: This order also renumbered former §§ 184-12 and 184-13 as §§ 184-13 and 184-14, respectively.

ARTICLE III
Collection of Water Use Charges
[Adopted 3-19-2009 by Ord. No. 2009-070]

§ 184-13. Adoption of statutory provisions.

The provisions of §§ 42A through 42F, inclusive, of Chapter 40 of the General Laws, with respect to the collection of water use charges by the Water Supply Division of the Department of Public Works, are hereby adopted by reference as a part of the general ordinances of the Town.

§ 184-14. Authority to follow statutory collection methods.

The Town Manager, together with the other officials of the Town therein named, are hereby authorized to follow the methods set forth therein in the collection of such charges.

Chapter 240

ZONING

GENERAL REFERENCES

- Noncriminal disposition** — See Ch. 1, Art. I.
- Affordable housing** — See Ch. 9.
- Airport** — See Ch. 13.
- Building construction** — See Ch. 47.
- Comprehensive occupancy** — See Ch. 59.
- Fees** — See Ch. 76.
- Hazardous materials** — See Chs. 108 and 381.
- Historic properties** — See Ch. 112.
- Outdoor businesses** — See Ch. 141.
- Signs** — See Ch. 192.
- Tourist camps** — 217.
- Wetlands protection** — See Ch. 237.
- Food establishments** — See Ch. 322.
- On-site sewage disposal systems** — See Ch. 360.
- Wells** — See Ch. 397.
- Marinas** — See Ch. 405.
- Secondhand dealers and secondhand collectors** — See Ch. 508.
- Subdivision Regulations** — See Ch. 801.

ARTICLE I
Introduction

§ 240-1. Title.

This chapter shall be known and may be referred to as the "Zoning Ordinance of the Town of Barnstable, Massachusetts."

§ 240-2. Purpose.

The purpose of this chapter is to promote the health, safety, convenience, morals and general welfare of the inhabitants of the Town of Barnstable, to protect and conserve the value of the property within the Town, to increase the amenities of the Town, and to secure safety from seasonal or periodic flooding, fire, congestion or confusion, all in accord with the General Laws, Chapter 40A, as amended. For this purpose, the height, number of stories, size of buildings and structures, size and width of lots, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, marine business, industry, agriculture, residence or other purposes are regulated within the Town of Barnstable as hereinafter provided.

§ 240-3. Interpretation.

The provisions of this chapter shall be held to be the minimum requirements for the promotion of the purposes herein stated, and shall be interpreted and applied in accordance with the following:

- A. Overlapping/contradictory regulations. Except as otherwise provided herein, this chapter shall not interfere with or annul any other ordinance, rule, regulation or permit, provided that, unless specifically excepted, where this chapter is more stringent, it shall control.
- B. Cumulative provisions. The provisions of this chapter shall be construed as a continuation thereof and not as new enactments.

§ 240-4. Severability.

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

ARTICLE II
General Provisions

§ 240-5. Establishment of districts. [Amended 7-15-1999; 10-26-2000; 2-1-2001; 11-18-2004 by Order No. 2004-113; 1-20-2005 by Order No. 2005-038; 1-20-2005 by Order No. 2005-039; 7-14-2005 by Order No. 2005-100; 5-10-2007 by Order No. 2007-101; 2-28-2008 by Order No. 2008-077; 2-28-2008 by Order No. 2008-090; 4-3-2008 by Order No. 2008-091; 6-17-2010 by Order No. 2010-122; 10-7-2010 by Order No. 2010-159; 9-8-2011 by Order No. 2011-138; 2-6-2014 by Order No. 2014-050; 7-21-2016 by Order No. 2016-166; 4-27-2017 by Order No. 2017-100]

In order to carry out the purpose of this chapter, the following districts are hereby established:

Residential Districts

RB	Residence B District
RC	Residence C District
RC-1	Residence C-1 District
RC-2	Residence C-2 District
RC-2C	Residence 2-C (Pond Village District)
RD	Residence D District
RD-1	Residence D-1 District
RF	Residence F District
RF-1	Residence F-1 District
RF-2	Residence F-2 District
RG	Residence G District
RAH	Residence AH District
MAH	Multi-Family Affordable Housing MAH District

Office Districts

HO	Highway Office District
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Commercial Districts

B	Business District
BA	Business A District
MB-A1	Marine Business A1 District
MB-A2	Marine Business A2 District
MB-B	Marine Business B District
VB-A	Village Business A District
HB	Highway Business District
UB	Urban Business District

Commercial Districts

S&D	Service and Distribution District
SD-1	Service and Distribution District
MMV	Marston Mills Village District
WBVBD	West Barnstable Village Business District

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

Industrial Districts

IND LIMITED	Industrial Limited District
IND	Industrial District

Overlay Districts

GP	Groundwater Protection Overlay District
AP	Aquifer Protection Overlay District
WP	Well Protection Overlay District
	Shopping Center Redevelopment Overlay District
	Adult Use Overlay District
RPOD	Resource Protection Overlay District
DOD	Dock and Pier Overlay District
	Medical Services Overlay District
FG-5	Former Grade 5 School Planned Unit Development Overlay District
SCCRC	Senior Continuing Care Overlay District
	Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District
	Medical Marijuana Overlay District
	Hyannis Parking Overlay District

§ 240-6. Zoning Map.

The Town of Barnstable is hereby divided into districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

- A. Identification of Zoning Map. The official Zoning Map shall be identified by the title "ZONING MAP OF BARNSTABLE, MASS. DATED September 1, 1998", which is on file in the office of the Town Clerk as amended.
- B. Location of Zoning Map. The Official Zoning Map shall be on file with the Town Clerk.
- C. Zoning district boundaries.
 - (1) The scale of the Zoning Map and the figures entered thereon are to serve as guides in locating the zoning district boundaries shown on the Zoning Map.
 - (2) Where a street divides two zoning districts, the districts shall be deemed to abut each other.
 - (3) Where the boundary line between zoning districts divides any lot existing at the time such line is adopted, which has street frontage in the less restricted area, a use authorized on the less restricted portion of such lot may be extended into the more restricted portion for a distance of not more than 30 feet. This subsection shall not apply to the following districts: HO Highway Office District; Groundwater Protection Overlay Districts; Adult Use Overlay District; Shopping Center Redevelopment Overlay District; MA-2 Business District; OR Office Residential District; and O-1, O-2, O-3 Office Districts. **[Amended 9-17-1998 by Order No. 99-012; 6-28-2001 by Order No. 2001-036; 7-19-2001 by Item Nos. 2001-37, 2001-038 and 2001-039]**

§ 240-7. Application of district regulations.

Regulations within each district established herein shall be applied uniformly to each class or kind of structure or use.

- A. Conformance to use regulations. No building shall be erected or altered and no building or premises shall be used for any purpose except in conformity with all of the regulations herein specified for the district in which it is located.
- B. Conformance to bulk and yard regulations. No building shall be erected or altered to exceed the height or bulk, or to have narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this chapter.
- C. Lot size requirements. Wetlands shall not be included in the lot area (square feet) requirement for zoning compliance.

- D. Lot shape factor/residential districts. To meet the minimum area requirements in residential districts, a lot must be a closed plot of land having a definite area and perimeter and having a shape factor not exceeding the numerical value of 22, except that a lot may have a shape factor exceeding 22 if the proposed building site is located on a portion of a lot that itself meets the minimum lot area requirement and has a shape factor not exceeding 22, and such lots shall not be created to a depth greater than two lots from the principal way.
- E. Contiguous upland required. In addition to the requirements of Subsection C herein, all lots shall have 100% of the minimum required lot area as contiguous upland.
- F. Number of buildings allowed per lot.
- (1) Residential districts: Unless otherwise specifically provided for herein, within residential districts, only one principal permitted building shall be located on a single lot.
 - (2) All other districts: In all other districts, any number of buildings may be located on a single lot; provided, however, that all regulations for the district in which such buildings are located are complied with, including percentage lot coverage if applicable.
- G. Setbacks from wetlands/great ponds. In addition to the setbacks established hereinafter, the following shall also apply:
- (1) All construction, with the exception of elevated stairways, decks, driveways, fences and water-dependent structures such as piers and marina facilities, shall be set back a minimum of 35 feet from wetlands.
 - (2) All construction shall be set back a minimum of 50 feet from mean high water on any great pond, except that in residential districts, all buildings except boathouses shall be set back a minimum of 50 feet from mean high water on any great pond.
- H. In any residential district a one-family dwelling and its accessory buildings may be erected on any lot which complies with the applicable provisions of Chapter 40A of the General Laws.
- I. Gross floor area requirements. Gross floor area shall be used in all determinations related to this chapter. **[Added 10-7-1993 by Order No. 94-016]**

§ 240-8. Exempt uses. [Amended 10-7-1999 by Order No. 99-160A]

- A. The following uses and structures are permitted in all zoning districts:
- (1) Municipal and water supply uses.
 - (2) Municipal recreation use, including recreational activities conducted on Town-owned land under the terms of a lease

approved by Town Council. In the case of such a lease, any improvements or changes to such Town-owned land shall be subject to the review of a committee of five residents appointed by the Town Manager or Town Council, at least two of whom shall be from the precinct in which the land is located.

- (3) The use of land or structures exempt from the use provisions of this chapter pursuant to MGL Ch. 40A, § 3, and any other statute.
 - (a) Where such exempt uses are subject to reasonable regulation of bulk, density and parking regulations by MGL Ch. 40A, § 3, reasonable regulation shall be deemed to be: the bulk regulations of the zoning district, except that church steeples may be permitted up to 75 feet in height; Article VI, Off-Street Parking Regulations; and Article IX, Site Plan Review.
 - (b) Where the proposed use does not comply with Subsection A(3)(a) above, the Zoning Board of Appeals shall by a modification permit, modify the bulk regulations of the zoning district and/or the parking requirements of Article VI, Off-Street Parking Regulations, where such regulation would substantially diminish or detract from the usefulness of a proposed development, or impair the character of the development so as to affect its intended use, provided that the modification of the bulk regulations and/or parking requirements will not create a public safety hazard along the adjacent roadways and will not create a nuisance to other, surrounding properties such that it will impair the use of these properties.
 - (c) A modification permit shall be subject to the same procedural requirements as a special permit, except that approval of the modification permit shall require a majority of the members of the Board.
 - (4) Agriculture, horticulture, viticulture, aquaculture and/or floriculture on a parcel of land five acres or less in size shall be permitted subject to the following requirements in residential districts:
 - (a) Seasonal garden stands for the sale of seasonal fruits, flowers and vegetables shall be permitted, only for the sale of produce grown on the premises.
 - (b) No person shall be employed on the premises.
 - (c) No more than one temporary, on-premises sign may be erected, not to exceed two square feet, to be removed during the off season.
- B. Any structure for agricultural, horticulture, viticulture, aquaculture and/or floriculture use shall conform to the setbacks of the zoning

district, or a minimum of 25 feet, whichever is greater, except that the keeping of horses in a residential district shall be in compliance with the requirements of that zoning district.

§ 240-9. Temporary uses.

The following temporary uses are permitted in all zoning districts:

- A. Temporary occupancy of a trailer during construction of a permanent home; provided, however, a special permit is first obtained from the Zoning Board of Appeals.
- B. Temporary occupancy of a trailer for living purposes by nonpaying guests for a period not exceeding 20 days in any calendar year; provided, however, that the owner of land upon which the trailer is to be located first obtains a permit from the Building Commissioner.
- C. Temporary occupancy of a trailer as a construction office incidental to development of or construction on the premises on which the trailer is to be located; provided, however, that a permit is first obtained from the Building Commissioner.
- D. Tents. **[Added 2-22-1996 by Order No. 95-194]**
 - (1) Maintenance and occupancy of tents in an organized and supervised recreational camp subject to compliance with the rules of the Barnstable Board of Health; provided, however, that a special permit is first obtained from the Zoning Board of Appeals.
 - (2) A tent may be put in place on a lot used for residential purposes, for not more than 10 days, in connection with special family occasions or events, but not to be used for any commercial purposes.
 - (3) A tent may be put in place for not more than 10 days, not more than twice in any calendar year, in connection with a fund-raising or special event by a public institution or nonprofit agency.
 - (4) Subject to annual approval by the Building Commissioner, a tent may be erected and used as a temporary accessory structure to an existing permanent business only during the period beginning May 1 until October 31. The tent shall conform to all the parking requirements and bulk or dimensional requirements of this chapter.

§ 240-10. Prohibited uses.

The following uses are prohibited in all zoning districts:

- A. Any use which is injurious, noxious or offensive by reason of the emission of odor, fumes, dust, smoke, vibration, noise, lighting or other cause.

- B. A tent maintained or occupied for living or business purposes, except as permitted in § 240-9D above. **[Amended 2-22-1996 by Order No. 95-194]**
- C. A trailer parked, stored or occupied for living or business purposes, except as specifically provided for in § 240-9 herein.
- D. Hotels and motels in Precincts 1, 2, 4, 6, and 7 as existing on November 9, 1983, except in the IND Limited and IND Industrial Districts.

ARTICLE III
District Regulations

§ 240-11. RB, RD-1 and RF-2 Residential Districts.

- A. Principal permitted uses. The following uses are permitted in the RB, RD-1 and RF-2 Districts:
- (1) Single-family residential dwelling (detached).
- B. Accessory uses. The following uses are permitted as accessory uses in the RB, RD-1 and RF-2 Districts:
- (1) Renting of rooms for not more than three nonfamily members by the family residing in a single-family dwelling. **[Amended 11-7-1987 by Art. 12]**
 - (2) Keeping, stabling and maintenance of horses subject to the following:
 - (a) Horses are not kept for economic gain.
 - (b) A minimum of 21,780 square feet of lot area is provided, except that an additional 10,890 square feet of lot area for each horse in excess of two shall be provided.
 - (c) All state and local health regulations are complied with.
 - (d) Adequate fencing is installed and maintained to contain the horses within the property, except that the use of barbed wire is prohibited.
 - (e) All structures, including riding rings and fences to contain horses, conform to 50% of the setback requirements of the district in which located.
 - (f) No temporary buildings, tents, trailers or packing crates are used.
 - (g) The area is landscaped to harmonize with the character of the neighborhood.
 - (h) The land is maintained so as not to create a nuisance.
 - (i) No outside artificial lighting is used beyond that normally used in residential districts.
- C. Conditional uses. The following uses are permitted as conditional uses in the RB, RD-1 and RF-2 Districts, provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and the specific standards for such conditional uses as required in this section:

- (1) Renting of rooms to no more than six lodgers in one multiple-unit dwelling.
- (2) Public or private regulation golf courses subject to the following:
 - (a) A minimum length of 1,000 yards is provided for a nine-hole course and 2,000 yards for an eighteen-hole course.
 - (b) No accessory buildings are located on the premises except those for storage of golf course maintenance equipment and materials, golf carts, a pro shop for the sale of golf related articles, rest rooms, shower facilities and locker rooms.
- (3) Keeping, stabling and maintenance of horses in excess of the density provisions of Subsection B(2)(b) herein, either on the same or adjacent lot as the principal building to which such use is accessory.
- (4) (Reserved)¹
- (5) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
- (6) Bed-and-breakfast. **[Added 2-20-1997]**
 - (a) Intent: It is the intent of this section to allow bed-and-breakfast operations in larger older homes to provide an adaptive reuse for these structures and, in so doing, encourage the maintenance and enhancement of older buildings which are part of the community character. This use will also create low-intensity accommodations for tourist and visitors and enhance the economic climate of the Town. By requiring that the operation is owner occupied and managed, the Town seeks to ensure that the use will be properly managed and well maintained.
 - (b) Bed-and-breakfast, subject to the following conditions:
 - [1] The bed-and-breakfast operation shall be located within an existing, owner-occupied single-family residential dwelling constructed prior to 1970 containing a minimum of four bedrooms as of December 1, 1996.
 - [2] No more than three bedrooms shall be rented for bed-and-breakfast to a total of six guests at any one time. For the purpose of this section, children under the age of 12 years shall not be considered in the total number of guests.
 - [3] No cooking facilities including but not limited to stoves, microwave ovens, toaster ovens and hot plates shall be

1. Editor's Note: Former Subsection C(4), regarding family apartments, was repealed 11-18-2004 by Order No. 2005-026. See now § 240-47.1.

available to guests, and no meals except breakfast shall be served to guests.

- [4] The owner of the property shall be responsible for the operation of the property and shall be resident when the bed-and-breakfast is in operation. The owner shall file an affidavit with the Building Commissioner on an annual basis in the month of January stating that the property is the principal residence of the owner and that the owner is resident all times that the bed-and-breakfast is being operated. If the affidavit is not filed, the operation shall cease forthwith and any special permit issued shall be considered null and void. The requirement for filing of an affidavit shall not apply to bed-and-breakfast operations legally established prior to October 1, 1996.
 - [5] The single-family residence in which the bed-and-breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a single-family residence.
 - [6] If the property is not served by public water, the applicant shall provide evidence to the Zoning Board of Appeals that the proposed use will not have any detrimental impact on any private water supply on site or off site.
 - [7] No parking shall be located in any required building yard setback, and parking areas shall be screened from adjoining residential properties by a fence or dense plantings, not less than five feet in height. Parking areas may be permitted in front of the house, not within the required building front yard setback, provided that the Zoning Board of Appeals finds that the spaces are designed and located in a manner which retains the residential character of the property. Grass overflow areas may be utilized for parking, provided these are maintained with a grass ground cover in good condition.
 - [8] The special permit for the bed-and-breakfast conditional use operation shall be issued to the owner only and is not transferable to a subsequent property owner. This provision shall only apply to bed-and-breakfast conditional use operations established in residential districts.
- D. Special permit uses. The following uses are permitted as special permit uses in the RB, RD-1 and RF-2 Districts, provided a special permit is first obtained from the Planning Board:
- (1) Open space residential developments subject to the provisions of § 240-17 herein.
- E. Bulk regulations.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Yard Setbacks			Maximum Building Height (feet)		
		Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			
				Front	Side	Rear	
RB	43,560 ²	20	100	20 ³	10	10	30 ¹
RD-1	43,560 ²	20	125	30 ³	10	10	30 ¹
RF-2	43,560 ²	20	150	30 ³	15	15	30 ¹

NOTES:

- ¹ Or 2 1/2 stories, whichever is lesser.
- ² A minimum lot area of 87,120 square feet is required in RPOD Overlay District. **[Added 10-26-2000]**
- ³ One hundred feet along Routes 28 and 132.

§ 240-12. Pond Village (Barnstable) District of Critical Planning Concern (PVDCPC) R-2C² [Added 5-10-2007 by Order No. 2007-101]

- A. Principal permitted uses. The following uses are permitted in the R-2C District:
 - (1) Single-family residential dwelling (detached).
- B. Accessory uses. The following uses are permitted as accessory uses in the R-2C District:
 - (1) Family apartments. (See § 240-47.1.)
 - (2) Keeping, stabling and maintenance of horses subject to the provisions of § 240-11B(2).
 - (3) Home occupation. (See § 240-46).
 - (4) Renting of rooms to not more than three nonfamily members by the family residing in a single-family residence.
 - (5)
- C. Special permit uses. The following uses are permitted as special permit uses in the R-2C District, provided that a special permit is first obtained from the Board.
 - (1) Keeping, stabling and maintenance of horses in excess of the density provisions of § 240-11B(2)(b) herein, either on the same lot or adjacent lot as the principal building to which such use is accessory.

2. Editor's Note: Former § 240-12, RB-1 Residential District, as amended, was repealed 7-14-2005 by Order No. 2005-100.

- (2) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy but only as an accessory use. (See § 240-44.1.)
- D. Open space residential developments. (See § 240-17.)
 - (1) Bulk regulations:
 - (a) Minimum lot area, contiguous upland: 87,120 square feet.
 - (b) Minimum lot frontage: 20 feet.
 - (c) Minimum front yard setback: 30 feet.
 - (d) Minimum side and rear yard setback: 15 feet.
 - (e) Maximum building height:
 - [1] Maximum building height in feet: 30.
 - [2] Maximum building height in stories: 2 1/2.
 - (2) Grandfathering. Within the R-2C District, any lot that met the minimum lot area and minimum lot frontage requirements of the RF-1 or RF-2 Districts respectively, prior to the effective date of the Pond Village DCPC nomination of August 26, 2005, as specified in the Cape Cod Commission Acceptance Decision dated September 15, 2005, shall not be subject to R-2C minimum lot area.

§ 240-13. RC, RD, RF-1 and RG Residential Districts.

- A. Principal permitted uses. The following uses are permitted in the RC, RD, RF-1 and RG Districts:
 - (1) Single-family residential dwelling (detached).
- B. Accessory uses. The following uses are permitted as accessory uses in the RC, RD, RF-1 and RG Districts:
 - (1) Keeping, stabling and maintenance of horses subject to the provisions of § 240-11B(2) herein.
- C. Conditional uses. The following uses are permitted as conditional uses in the RC, RD, RF-1 and RG Districts, provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
 - (1) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.
 - (2) Keeping, stabling and maintenance of horses in excess of the density provisions of § 240-11B(2)(b) herein, either on the same or adjacent lot as the principal building to which such use is accessory.

- (3) (Reserved)³
- (4) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
- D. Special permit uses. The following uses are permitted as special permit uses in the RC, RD, RF-1 and RG Districts, provided a special permit is first obtained from the Planning Board:
 - (1) Open space residential developments subject to the provisions of § 240-17 herein.
- E. Bulk regulations.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks			Maximum Building Height (feet)
				Front (feet)	Side (feet)	Rear (feet)	
RC	43,560 ²	20	100	20 ³	10	10	30 ¹
RD	43,560 ²	20	125	30 ³	15	15	30 ¹
RF-1	43,560 ²	20	125	30 ³	15	15	30 ¹
RG	65,000	20	200	30 ³	15	15	30 ¹

NOTES:

- ¹ Or 2 1/2 stories, whichever is lesser.
- ² A minimum lot area of 87,120 square feet is required in RPOD Overlay District. **[Added 10-26-2000]**
- ³ One hundred feet along Routes 28 and 132.

§ 240-14. RC-1 and RF Residential Districts.

- A. Principal permitted uses. The following uses are permitted in the RC-1 and RF Districts:
 - (1) Single-family residential dwelling (detached).
- B. Accessory uses. The following uses are permitted as accessory uses in the RC-1 and RF Districts:
 - (1) Renting of rooms for not more than three nonfamily members by the family residing in a single-family dwelling. **[Amended 11-7-1987 by Art. 12]**

3. Editor's Note: Former Subsection C(4), regarding family apartments, was repealed 11-18-2004 by Order No. 2005-026. See now § 240-47.1.

- (2) Keeping, stabling and maintenance of horses subject to the provisions of § 240-11B(2) herein.
- C. Conditional uses. The following uses are permitted as conditional uses in the RC-1 and RF Districts, provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section: **[Amended 8-17-1995 by Order No. 95-195]**
- (1) Home occupation, subject to all the provisions of § 240-46C, Home occupation by special permit.
 - (2) Renting of rooms to no more than six lodgers in one multiple-unit dwelling.
 - (3) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.
 - (4) Keeping, stabling and maintenance of horses in excess of the density provisions of § 240-11B(2)(b) herein, either on the same or adjacent lot as the principal building to which such use is accessory.
 - (5) (Reserved)⁴
 - (6) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
 - (7) Bed-and-breakfast operation subject to the provisions of § 240-11C(6). **[Added 2-20-1997]**
- D. Special permit uses. The following uses are permitted as special permit uses in the RC-1 and RF Districts, provided a special permit is first obtained from the Planning Board:
- (1) Open space residential developments subject to the provisions of § 240-17 herein.
 - (2) Private initiated affordable housing developments: A private-initiated affordable housing developments (PI-AHD) on seven acres or more, subject to the provisions of § 240-17.1 and in full compliance with the standards set forth therein. **Added 11-18-2004 by Order No. 2004-113]**
- E. Bulk regulations.

4. Editor's Note: Former Subsection C(4), regarding family apartments, was repealed 11-18-2004 by Order No. 2005-026. See now § 240-47.1.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)
				Front	Side	Rear	
				RC-1	43,560 ²	125	
RF	43,560 ²	150	—	30 ³	15	15	30 ¹

Or 2 1/2 stories, whichever is lesser.

A minimum lot area of 87,120 square feet is required in RPOD Overlay District. **[Added 10-26-2000]**

One hundred feet along Routes 28 and 132.

§ 240-15. RC-2 Residential District.

- A. Principal permitted uses. The following uses are permitted in the RC-2 District:
 - (1) Single-family residential dwelling (detached).
- B. Accessory uses. The following uses are permitted as accessory uses in the RC-2 District:
 - (1) Keeping, stabling and maintenance of horses subject to the provisions of § 240-11B(2) herein.
- C. Conditional uses. The following uses are permitted as conditional uses in the RC-2 District, provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
 - (1) Nursing and/or retirement home, but not to include hospitals, sanatoriums, convalescent homes or detached infirmaries or clinics, subject to the following:
 - (a) The site for the home consists of a minimum of five acres.
 - (b) The capacity-to-land ratio of the home does not exceed 10 beds per acre.
 - (c) Off-street parking is provided in compliance with Article VI herein.
 - (d) All buildings are located a minimum of 150 feet from existing public ways.

- (e) The applicant has received a certificate of need from the Massachusetts Division of Medical Care, Department of Public Health.
 - (f) A perimeter survey has been submitted showing entire tract ownership, all abutting ownership and all existing ways and easements.
 - (g) A topographic plan of the entire site has been submitted by a registered land surveyor showing elevation contours at five-foot intervals and showing all existing structures and vegetative cover masses, such plan to have been compiled by means of on-site survey or approved aerial photographic method.
 - (h) A sketch plan of the proposed development has been submitted showing the density and location of structures, vehicular and pedestrian circulation, roadways and parking, proposed utilities and pertinent vegetation and soil and water conditions.
 - (i) An architectural rendering or sketch has been submitted of any proposed structure.
- (2) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.
 - (3) Keeping, stabling and maintenance of horses in excess of the density provisions of § 240-11B(2)(b) herein, either on the same or adjacent lot as the principal building to which such use is accessory.
 - (4) (Reserved)⁵
 - (5) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
- D. Special permit uses. The following uses are permitted as special permit uses in the RC-2 District, provided a special permit is first obtained from the Planning Board:
- (1) Open space residential developments subject to the provisions of § 240-17 herein.
- E. Bulk regulations.

5. Editor's Note: Former Subsection C(4), regarding family apartments, was repealed 11-18-2004 by Order No. 2005-026. See now § 240-47.1.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)
				Front	Side	Rear	
RC-2	43,560 ²	20	100	20 ³	10	10	30 ¹

Or 2 1/2 stories, whichever is lesser.

A minimum lot area of 87,120 square feet is required in RPOD Overlay District.

One hundred feet along Routes 28 and 132. **[Added 10-26-2000]**

§ 240-16. RAH Residential District. [Added 11-5-1988 by Art. 9]

- A. Principal permitted uses. The following uses are permitted in the RAH District:
 - (1) Single-family residential dwelling (detached).
 - (2) Affordable single-family residential dwellings subject to the special bulk regulation contained herein. For the purpose of this section the term "affordable" shall mean dwellings sold or leased by a nonprofit corporation and/or governmental agency whose principal purpose is to provide housing to eligible tenants and/or buyers.

- B. Conditional uses. The following uses are permitted as conditional uses in the RAH District, provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
 - (1) (Reserved)⁶
 - (2) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.

- C. Special permit uses. The following uses are permitted as special permit uses in the RAH District, provided a special permit is first obtained from the Planning Board:
 - (1) Open space residential developments subject to the provisions of § 240-17 herein.

- D. Bulk regulations.

6. Editor's Note: Former Subsection C(4), regarding family apartments, was repealed 11-18-2004 by Order No. 2005-026. See now § 240-47.1.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)
				Front	Side	Rear	
RAH	43,560	125	—	30	15	15	30 ¹
RAH	10,000 ^{2,3}	20	75	30	15	15	30 ¹

Or 2 1/2 stories, whichever is lesser.

Provided that each dwelling is connected to the municipal sewage collection system when the site is located in a Groundwater Protection Overlay District.

As an alternative to individual lots, more than one single-family dwelling may be constructed on a lot, provided that the area of any such lot shall contain not less than 10,000 square feet of contiguous upland for each single-family dwelling constructed. When more than one single-family dwelling is constructed on a lot said dwelling shall be at least 30 feet apart.

§ 240-16.1. MAH Residential District. [Added 2-28-2008 by Order No. 2008-077; amended 1-20-2011 by Order No. 2011-039]

- A. Purpose. The purpose of this section is to authorize by special permit privately initiated affordable housing by for-profit or not-for-profit organizations that:
 - (1) Provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types; and
 - (2) Authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide housing for persons of low or moderate income.
- B. Principal permitted uses. The following uses are permitted in the MAH District:
 - (1) Single-family residential dwelling (detached).
- C. Special permit uses. For the purposes of this section, the Planning Board shall be the special permit granting authority. The following uses are permitted as conditional uses in the MAH District, provided that a special permit is first obtained from the Planning Board subject to the provisions of § 240-125C herein and subject to the specific standards for such special permit uses as required in this section:
 - (1) Multifamily affordable housing developments connected to the municipal sewage collection system.

D. Bulk regulations. **[Amended 11-2-2017 by Order No. 2018-027]**

Zoning District	Minimum Lot Area	Minimum Lot Frontage	Minimum Lot Width	Minimum Yard Setbacks (feet)			Maximum Building Height¹
	(square feet)	(feet)	(feet)	Front	Side	Rear	(feet)
MAH	87,120	200	—	60	30	30	30

NOTES:

¹ Height shall be measured from the grade plane to the plate.

E. Density requirements. The total number of residential units allowable within a Multifamily Affordable Housing Development (MAHD) shall not exceed 16 per acre of upland. **[Amended 11-2-2017 by Ord. No. 2018-027]**

F. Affordable units. At least 25% of the dwelling units shall be affordable units, subject to the following conditions:

- (1) All affordable units shall remain affordable, as defined herein, in perpetuity. A use restriction shall assure this condition. The use restriction shall be structured to survive any and all foreclosures.
- (2) The continuing enforcement of the use restriction through subsequent resale of the affordable units shall be the subject of a monitoring agreement.
- (3) The use restriction and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP), and guidelines promulgated thereunder. The use restriction and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.
- (4) The affordable unit shall conform to all Department of Housing and Community Development (DHCD) standards that must be met to qualify these units for inclusion in the DHCD Subsidized Housing Inventory (SHI).
- (5) A right of first refusal upon the transfer of such affordable units shall be granted to the Town or its designee for a period of not less than 120 days after notice thereof.
- (6) Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units. It is the intent of this section that the affordable units shall be eligible for inclusion in

the DHCD Subsidized Housing Inventory as LIP units. **[Amended 11-2-2017 by Order No. 2018-027⁷]**

- (7) Affordable units shall obtain occupancy permits issued at the rate of one affordable unit for every four market rate units. **[Amended 11-2-2017 by Order No. 2018-027⁷]**
 - (8) In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result of this computation shall be the number of affordable units required to be built within the MAHD. Affordable units shall only be located within any development permitted under this provision. This standard is not subject to variance.
 - (9) No occupancy permit shall be granted unless the affordable dwelling units have been approved by the DHCD as eligible for the DHCD Subsidized Housing Inventory under the Local Initiative Program (LIP) Guidelines. **[Amended 11-2-2017 by Order No. 2018-027⁸]**
- G. Decision. The Planning Board may grant a special permit for a MAHD where it makes the following findings:
- (1) The proposed MAHD complies with all applicable subdivision rules unless otherwise waived by the Board.
 - (2) The proposed MAHD complies with the Zoning Ordinance and the requirements of this section.
 - (3) The proposed MAHD provides affordable units consistent with the requirements set forth herein.
 - (4) The proposed MAHD does not cause substantial detriment to the neighborhood.
- H. Relation to other requirements. The submittals and special permit required herein shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance.
- I. Definitions. As used in this section, the following terms shall have the meanings indicated:
- AFFORDABLE UNIT — A dwelling unit reserved in perpetuity for rental or ownership by a qualified affordable housing unit purchaser or tenant

7. **Editor's Note: This order also repealed former Subsection F(7), which immediately followed and set forth regulations for inclusionary requirements for applicants under § 240-29 of the Senior Continuing Care Retirement Community Overlay District. The order also renumbered former Subsection F(8) through (10) as Subsection F(7) through (9), respectively.**

8. **Editor's Note: This order also repealed former Subsection F(11), which immediately followed and set forth regulations for a multifamily affordable housing development proposed to satisfy inclusionary requirements for a senior continuing care retirement community.**

as defined under § 9.2 of the Code, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in the Local Initiative Program Guidelines, in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory.

APPLICANT — The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a private-initiated affordable housing development (MAHD) hereunder. The applicant must own or be the beneficial owner of all the land included in the proposed MAHD, or have authority from the owner(s) to act for the owner(s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site.

MULTIFAMILY AFFORDABLE HOUSING DEVELOPMENT (MAHD) — A development of multifamily residential dwelling(s), including required affordable units and permissible accessory structures, authorized by special permit from the Planning Board as set forth herein.⁹

USE RESTRICTION — A restriction ensuring the continued affordability of a dwelling unit. A use restriction is a deed restriction or other legally binding instrument in a form consistent with Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines which runs with the land and is recorded with the relevant registry of deeds or land court registry district, and which effectively restricts the occupancy of a low- or moderate-income housing unit to income eligible households during the term of affordability. A use restriction shall contain terms and conditions for the resale of a homeownership unit, including definition of the maximum permissible resale price, and for the subsequent rental of a rental unit, including definition of the maximum permissible rent. A use restriction shall require that tenants of rental units and owners of homeownership units shall occupy the units as their principal residences.

§ 240-17. Open space residential development. [Amended 11-7-1987 by Art. 4; 6-17-1999]

- A. Purpose. This section has been established to permit a variation in development styles with efficient provision of roads and utilities; and to provide for the public interest by the preservation of open space in perpetuity, for protection of both natural resources and visual character of the land.
- B. Application. An open space residential development is permitted in all residential districts by special permit from the Planning Board.

9. Editor's Note: The definition of "nursing or convalescent home," which immediately followed, was repealed 11-2-2017 by Order No. 2018-027.

- C. Minimum area. A minimum area shall be required sufficient to accommodate no less than four dwelling units based on all the requirements of the zoning district in which the development is located.
- D. Permitted uses. The following uses are permitted in an open space residential development:
- (1) Detached single-family dwellings and permitted accessory uses, including a cluster unit wastewater treatment facility.
 - (2) Common open space, preserved as such in perpetuity.
 - (3) Recreational facilities and activities exclusively for use by residents of an open space residential development, as approved by the Planning Board.
- E. Density requirements. The total number of residential units allowable within an open space residential development shall not exceed the number of units that would be allowed in the zoning district in which the site is located. The total number of units allowed shall be determined by submission of a preliminary grid sketch plan in accordance with Subsection M(1) herein, showing the total number of developable lots which could be obtained by utilizing a conventional grid subdivision, in conformance with all the zoning district area requirements, and with legal access over the road providing frontage. Lots on the preliminary plan which are not practically buildable because of impediments to development, such as slope in excess of 15%, utility easements, impervious soils, high groundwater or the location of wetlands, shall not be countable towards the number of developable lots, except that this provision may be waived for a development which is 100% affordable. For the purposes of this section, "affordable" shall mean dwellings sold or leased by a nonprofit corporation and/or government agency whose principal purpose is to provide housing to eligible tenants and/or buyers. Such housing shall remain affordable in perpetuity.
- F. Bulk regulations. The Planning Board may grant a reduction of the bulk regulations, provided that in no instance shall any lot contain less 15,000 square feet or have less than 20 feet of frontage, a front yard setback of not less than 20 feet, and side and rear setbacks of not less than 12 feet. The minimum lot size may be further decreased by the Planning Board for a development which is 100% affordable, as defined in Subsection C above. No lot shall be panhandled more than two lots from a roadway, and panhandled lots shall only be permitted where the Planning Board finds that safe and adequate access is provided to the rear lot. As a condition of approval of the special permit, the developer shall submit evidence to the Planning Board of recorded easements, to assure access to joint driveways, where shown on the definitive subdivision plan.
- G. Soils. The nature of the soils and subsoils shall be suitable for the construction of roads and buildings. The Planning Board may require

that soil borings or test pits be made on each lot as shown on the preliminary sketch plan, when borings required pursuant to the Subdivision Rules and Regulations,¹⁰ or the USDA, Soil Conservation Service maps indicate soils which may not be suitable for development. Soil borings if required, shall indicate soil texture, percolation rates and depth to the ground water table at its maximum elevation, in order to determine the buildability of each lot. Maximum groundwater elevation shall be determined using data available from the US Geological Survey publication "Probable High Ground Water Levels on Cape Cod."

H. Wastewater.

- (1) The development shall be connected to Town sewer, or shall comply with the provisions of 310 CMR 15.00, of the State Environmental Code (Title 5) and the on-site wastewater disposal regulations of the Board of Health.¹¹ No on-site sewage disposal leaching field systems shall be located within 150 feet from any wetland or surface water body, and where possible, located outside a riverfront area as defined according to 310 CMR 10.58, Riverfront Area. In no instance shall an open space residential development be approved which requires a variance to be granted from Title 5 of the State Environmental Code, or on-site sewage disposal regulations of the Board of Health with regard to depth to groundwater, distance to wetlands, buildings or public or private water supply wells. Such Board of Health variance shall render the special permit void as it pertains to the lot or lots affected.
- (2) Based only upon recommendation by the Board of Health pursuant to MGL Ch. 41, § 81U, that lots in the development be connected to a clustered unit wastewater system, with or without nutrient removal, the Planning Board shall incorporate such requirement into a decision of approval, as a condition of that approval.
- (3) The clustered unit wastewater system shall be located as far as possible from any sensitive environmental receptor, such as public or private wells, wetlands or water bodies, vernal pools, and rare and endangered species habitats.
- (4) A clustered unit wastewater system location, design, maintenance, repair and operation is specifically subject to approval by the Board of Health as a condition of approval of the open space residential development.
- (5) Where the common open space is to be owned by the homeowners, a clustered unit wastewater system shall be located on a common open space lot, shown on the definitive plan and labeled as such. Where the common open space is to be deeded to the Town or to a nonprofit corporation pursuant to Subsection M(2)(b) below, a

10. Editor's Note: See Ch. 801, Subdivision Rules and Regulations.

11. Editor's Note: See 360, On-Site Sewage Disposal Systems.

clustered unit wastewater system shall be located upon a separate lot and owned by a corporation or trust, owned or to be owned, by the owners of lots or residential units within the development. Undivided interest in the wastewater treatment facility and the lot on which it is located shall pass with the conveyance of each building lot, or unit. The trust or corporation documents ensuring common ownership and management of the facility by the homeowners shall be submitted to the Planning Board with the definitive subdivision plan; and submitted to the Board of Health at the time of application of the definitive plan to the Planning Board.

- (6) The homeowners corporation or trust shall be responsible for the operation, maintenance, repair and eventual replacement of the wastewater treatment facility, in accordance with all federal, state, Cape Cod Commission and Board of Health requirements, as a condition of approval of the open space residential development special permit.

I. Water supply.

- (1) Public water supply shall ordinarily be required in open space residential developments, unless the applicant demonstrates that it cannot reasonably be made available to the site.
- (2) In areas dependent upon private wells, a special permit for an open space residential development shall only be granted upon recommendation from the Board of Health, pursuant to MGL Ch. 41, § 81U, with the finding that contamination of private wells both on site and off site, will not occur, either because the development has been designed with sufficient distance between private wells, septic systems and drainage facilities, or because the applicant is providing an appropriately located clustered unit wastewater system.
- (3) No variance shall be granted from Board of Health, well and on-site sewage disposal regulations, to waive the minimum separation distance between a public or private well and septic system, either on site or off site.

J. Floodplains.

- (1) No developable lots or roads shall be located on barrier beaches and coastal dunes as defined by the Wetlands Policy Act, or within the FEMA V Zones.
- (2) Filling, dredging and placement of utilities or structures within the one-hundred-year floodplain, as shown on the current National Flood Insurance Rate Maps, shall be avoided and development concentrated outside the A and B Flood Zones to the maximum extent feasible. If site conditions are such that compliance with this subsection would be impracticable, such activities may be allowed in conformity with § 240-34 herein.

- K. Preservation of site topographic features. The subdivision design shall preserve and enhance the natural topography of the land by locating roads and building sites in relationship to the existing topography so as to minimize the amount of land clearance, grading, and cuts and fills.
- L. Open space use, design and maintenance standards. Within an open space residential development, the balance of the area requirement for lot size shall be provided in common open space, designated as an open space lot or lots on the subdivision plan. The common open space shall be used, designed, and maintained in accordance with the following standards:
- (1) As a condition of approval of the special permit, open space shall be retained as such, in perpetuity, and not built upon or developed, except as permitted by the Planning Board pursuant to Subsection L(5) below.
 - (2) A minimum of 50% of the total upland area of the development shall be devoted to common open space, except that 60% shall be required where the minimum lot size of the zoning district exceeds one acre. Land set aside for roads, appurtenant drainage systems, and/or parking uses shall not be included in the percentage calculation of open space. The lot, or portion of an open space lot containing a clustered unit wastewater system, may be included in the open space minimum percentage requirement.
 - (3) Open space land shall be designed as a large contiguous lot or lots. Strips or narrow parcels of common open space shall be permitted only when necessary for access or for walking trails, including linkages to adjacent trails. Open space shall be located so as to provide maximum protection to the environmental resources of the site and of adjacent lands. Priority natural resources areas are as follows and shall include but not be limited to the following areas:
 - (a) WP and GP Groundwater Protection Overlay Districts, as shown on the most current Groundwater Protection Overlay District Map, adopted as part of this chapter;
 - (b) Three-hundred-foot buffer zones to freshwater bodies and vernal pools; and two-hundred-foot riverfront buffer areas and vernal pools as defined according to 310 CMR 10.58;
 - (c) Critical and significant habitats as determined from the following sources: Cape Cod Critical Habitats Atlas, APCC, 1990; Cape Cod Wildlife Conservation Project, significant habitat maps, prepared by the Compact of Cape Cod Conservation Trusts Inc.; and any other town or county significant resource habitat maps;
 - (d) FEMA V, A and B Flood Zones as shown on the current National flood Insurance Rate Maps;

- (e) Wetland and coastal habitats;
 - (f) Private supply wells;
 - (g) Adjacent open space; and historic structures and archeological sites.
- (4) Open space may also be used to provide a buffer from roadways, to protect steep slopes from development activities, and to preserve a scenic corridor along roadways. The Planning Board in approving an open space residential development shall take into consideration any report from the Planning Department, Conservation Department or Conservation Commission relative to the location and design of the open space lot or lots.
- (5) Common open space shall be maintained in an open and natural condition, without clearing, predominantly in its present condition, for the protection of natural habitats, except as permitted by the Planning Board as follows:
- (a) Where the open space is to be owned by corporation or trust of homeowners, a maximum of 10% of the common open space may be developed for common recreational facilities. The location and type of recreational facilities shall be shown on the definitive open space subdivision plan. A minimum setback of 50 feet shall be provided between any common open space structure and adjacent lots.
 - (b) Naturally existing woods, fields, meadows and wetlands should be maintained and improved in accordance with good conservation practices. The Planning Board shall require submission of a maintenance plan where improvements to, or on-going maintenance, would enhance the open space lot or lots.
 - (c) Subject to approval of a management plan by the Planning Board, the following may be permitted: farming, agriculture, horticulture, silviculture, and the harvesting of crops, flowers and hay.
 - (d) The construction and maintenance of fences around the perimeter of the open space.
 - (e) The creation of unpaved walking paths, horseback riding trails or jogging paths for recreational use.
 - (f) The Planning Board may permit utility tie ins across open space, by an easement shown on the subdivision plan. Clearing should be no more than 10 feet in width, and the land promptly restored after installation. The Engineering Division of DPW shall be notified prior to the commencement of any clearance for utilities across open space.

- (6) In cases where the open space has been environmentally damaged prior to the completion of the development as a result of land clearance, grading, soil removal, excavation, harvesting of trees, refuse disposal, structures, or any other activity deemed inappropriate with the proposed uses of the common open space, the Planning Board may require the developer to restore or improve the condition and appearance of the common open space, and may require the posting of security, in a form and amount to be determined by the Planning Board, to ensure such restoration or improvement.

M. Common open space ownership and management.

- (1) The applicant for approval of an open space residential development special permit shall demonstrate to the Planning Board ownership and control of the open space. The Planning Board may require title insurance to the open space.
- (2) Upon approval by the Planning Board of the development concept, and subject to acceptance by the Town Council, the common open space shall be conveyed to and owned by one or more of the following entities:
 - (a) A nonprofit corporation, the principle purpose of which is the preservation of open space.
 - (b) A corporation or trust, owned or to be owned, by the owners of lots or residential units within the development. Undivided interest in the open space lot or lots shall pass with the conveyance of each building lot or unit.
 - (c) The Town for conservation purposes, or for a park in areas suitable for such purpose. No open space lot or lots shall be deeded to the Town without acceptance of the land by the Town Council and/or Town Manager, taking into consideration an advisory opinion of the Planning Board, Planning Department, Conservation Commission and/or Conservation Department, local or regional historic district and Historic Commission.
- (3) In those cases where the common open space is not conveyed to the Town, a restriction enforceable by the Town by Form 1A¹² shall be recorded, provided that such land shall be kept in open and in a natural state and not built upon for residential use or developed for accessory uses such as parking or roadways. The applicant shall provide an agreement empowering the Town to perform maintenance of the common open space in the event of failure to comply with the maintenance program, provided that, if the Town is required to perform any maintenance work, the owners of lots or units within the open space residential development shall

12. Editor's Note: Form 1A can be found at the end of Chapter 801, Subdivision Rules and Regulations.

pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid. Form 1A shall be fully executed and recorded with the development permits and approved subdivision plan.

- (4) In addition to the common open space required herein, the Planning Board may require that a developable lot or lots shall be set aside for the purpose of creating additional open space or recreational areas, pursuant to MGL Ch. 41, § 81U, for a period of not more than three years, during which time no clearing of the land or building shall be erected without approval of the Planning Board. Any such condition of approval shall be endorsed upon the definitive subdivision open space residential development plan.

N. Review procedures.

- (1) Prior to any application for an open space residential development, no land clearance, grading, cuts, fills, excavation, ditching, or utility installations shall occur, except for purposes of soil testing in accordance with all the requirements of the Subdivision Rules and Regulations,¹³ on any part of the development site prior to development application submission and approval as provided for herein. Commencement of land clearance or grading of the land for the construction of access or development of lots prior to application may be grounds for denial of the special permit by the Planning Board.
- (2) An application for an open space residential development special permit shall be submitted in conformity with the requirements and procedures for submission and review under the Subdivision Rules and Regulations of the Planning Board, and the following additional requirements in Subsection O below.

O. Preliminary plan requirements.

- (1) Applicants shall submit a preliminary plan to the Planning Board and the Board of Health prior to filing a formal special permit application, in order to obtain a consensus regarding the suitability of the open space residential development general design concepts, and to determine allowable density prior to submission of special permit application and definitive subdivision plan. In addition to the materials required for submission of a preliminary plan under the Subdivision Rules and Regulations, the preliminary materials shall include the following:
 - (a) Nine copies of a preliminary grid sketch plan, to demonstrate the number of buildable lots that can be obtained in conformance with the area requirements of the zoning district, and all the requirements of the Subdivision Rules and

13. Editor's Note: See Ch. 801, Subdivision Rules and Regulations.

Regulations. Topographic information may be obtained from Information Technology, GIS unit.

- (b) Two copies of the following maps for the development site as follows:
 - [1] USDA Natural Resources soil survey, maps and soil descriptions regarding the nature of the soils within the proposed development. The location of all test pit and soil logs shall be shown on the topographic plan, and soil log descriptions submitted to both the Planning Board and Engineering Division of DPW.
 - [2] Cape Cod Critical Habitats Atlas, APCC, 1990; Cape Cod Wildlife Conservation Project, significant habitat maps, prepared by the Compact of Cape Cod Conservation Trusts Inc.; and any other Town or county resource habitat maps; when these documents indicate critical or significant habitats on, or adjacent to the site.
 - (c) Nine copies of the proposed preliminary open space residential development plan showing the location and dimensions of all building lots, the location of open space lot or lots, the location and use of any common facilities or structures, including any proposed clustered unit wastewater system, and/or recreational facilities, the location of all ways and easements, private water supply wells within the site, and public and private water supply wells on adjacent properties, and such other improvements as may be proposed.
 - (d) A description of the proposed uses of the common open space and the preferred form of ownership and maintenance thereof.
 - (e) The Planning Board shall notify all abutters within 300 feet of the perimeter of the subdivision of the date, time and place that the preliminary plan will be considered, in order to receive input on the overall plan design, prior to application for the special permit and definitive plan approval.
- (2) Within 45 days after the receipt of a complete preliminary plan application as specified herein, the Planning Board shall give its approval, with or without modifications, or shall disapprove the proposal stating its reasons. The Town Clerk shall be notified in writing of such action. Preliminary approval for an open space residential development shall be valid for a period of six months.

P. Definitive application.

- (1) Applicants for a special permit for open space residential development shall, at the time of filing the application, submit a definitive subdivision open space residential development plan in conformity with § 240-17 herein, and the Subdivision Rules and

Regulations of the Planning Board.¹⁴ The plan shall be derived from the approved preliminary concept plan required above. In addition to the materials required for submission of a definitive subdivision plan, the applicant shall submit documents signed by all owners and applicants as follows: deed of open space lot or lots to the Town, to a corporation, trust of homeowners, or to a nonprofit conservation organization; the corporation or trust documents; and Form 1A where applicable.¹⁵

- (2) The definitive development plan shall show the location of a cluster unit wastewater system or recreational facilities, if any.
- (3) The definitive plan shall indicate the limit of clearing along roadways, within both building lots and the open space lot or lots, and around any commonly owned facilities.
- (4) A maintenance plan for the open space lot or lots shall be submitted where required.
- (5) A note shall appear on the plan to the effect that "No lot as shown on this plan and approved in accordance with the open space residential development provisions of the Zoning Ordinance of the Town of Barnstable shall be further divided."
- (6) Upon receipt of an open space residential development application, the Planning Board shall proceed as with applications for special permits under MGL Ch. 40A. Hearings on an application for a special permit under this section shall be held simultaneously with definitive subdivision plan review hearings.

Q. Approved open space residential developments.

- (1) Within 30 days of the Planning Board's endorsement of approval of the subdivision plan, the applicant shall record the plan, together with the following documents: the decision of the Planning Board; the deed of open space to the Town, or to a trust or corporation, or to a nonprofit conservation organization; Form 1A; the trust or corporation documents; as well as development agreements and covenants required under the Subdivision Rules and Regulations. Failure to comply with this provision shall result in the Planning Board approval being considered null and void. Upon application to the Planning Board, the Board may extend the thirty-day recordation period for good cause.
- (2) Period of validity: The provisions of § 240-125C(3) shall apply.
[Amended 5-7-2009 by Order No. 2009-077]

14. Editor's Note: See Ch. 801, Subdivision Rules and Regulations.

15. Editor's Note: Form 1A is included at the end of Ch. 801, Subdivision Rules and Regulations.

- (3) A request to modify the open space residential development subdivision plan requiring a change in the configuration of the open space, or the road right-of-way shall require a duly noticed public hearing and notification of all parties in interest, pursuant to MGL Ch. 40A, § 15. The Planning Board shall decide whether or not the addition of recreational facilities or a change in location of such facilities shall constitute a modification of the approved plan. If lots have been conveyed out on an individual basis, the applicant for a modification of the special permit and/or installation of recreational facilities shall provide the Planning Board with evidence of the power to act upon the behalf of the corporation or trust of owners of the open space.
- R. An application for endorsement of approval-not-required plans to adjust lot lines between abutting lot owners, not involving open space lot lines or road right-of-way lines, shall not be considered a modification of the subdivision, or require notice to owners or abutters, provided that such plan and building locations comply with all the requirements of § 240-17 herein.

**§ 240-17.1. Private-initiated affordable housing development.
[Added 11-18-2004 by Order No. 2004-114]**

- A. Purpose. The purpose of this section is to authorize by special permit privately initiated affordable housing by for-profit or not-for-profit organizations that:
- (1) Provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types; and
 - (2) Authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide housing for persons of low or moderate income.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AFFORDABLE UNIT — A dwelling unit reserved in perpetuity for ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in 760 CMR 45.03(4), in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory.

APPLICANT — The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a private-initiated affordable housing development (PI-AHD) hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed PI-AHD, or have authority from

the owner(s) to act for the owner(s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site.

BEDROOM — A separate room within a dwelling unit intended for, or which customarily could be used for, sleeping.

PRIVATE INITIATED AFFORDABLE HOUSING DEVELOPMENT (PI-AHD) — A development of single-family residential dwellings (detached), including required affordable units, and permissible accessory structures on seven acres or more authorized by special permit from the Planning Board as set forth herein.

C. Application.

(1) An application for a special permit for a PI-AHD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the following:

(a) Information pertaining to any association which the applicant proposes to form for the private management of the PI-AHD.

(b) Copies of all proposed documents as required for the subdivision, including architectural rendering and layouts of proposed homes to be built and landscaping plans.

(c) Copies of proposed deed restrictions and monitoring agreements, drafted consistent with all requirements of 760 CMR 45 Local Initiative Program (LIP), and guidelines promulgated thereunder assuring the affordable units remain affordable in perpetuity, and assuring the resale of affordable units at the restricted price, and providing a right of first refusal in favor of the Town.

(2) Copies of the application and accompanying materials shall be transmitted forthwith to the Barnstable Housing Committee for review and comment. Said Committee shall have 45 days after receipt thereof to make written recommendations to the Planning Board. Failure to make such written recommendation shall be deemed a lack of opposition thereto.

D. Standards. In order to be eligible for consideration for a special permit, the proposed PI-AHD shall meet all of the following standards:

(1) Qualifying area. The site shall be located entirely within the RC-1 Zoning District and shall contain at least seven contiguous upland acres.

(2) Compliance with applicable regulations and standards. All plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.¹⁶

- (3) Wastewater. All dwellings within the PI-AHD shall be connected to the municipal wastewater treatment facility.
- (4) Lot shape factor. The numerical lot shape factor as required in § 240-7D of the Zoning Ordinance shall not apply. However no panhandled lot shall be created to a depth greater than two lots from the principal way.
- (5) Bulk regulations. For all lots and building within the PI-AHD, the following bulk regulations shall apply:

Minimum Yard Setbacks						
(feet)						
Minimum	Minimum Lot	Minimum				Maximum
Lot Area	Frontage	Lot Width	Front	Side	Rear	Building
(square	(feet)	(feet)				Height
feet)	(feet)	(feet)				(feet)
10,000	50; 20 for a lot on the radius of a cul-de-sac	65 ⁽¹⁾	15 ⁽³⁾	10 ⁽⁴⁾	20 ⁽⁴⁾	30 ⁽⁵⁾

Notes:

The Planning Board may grant a waiver to the lot width requirement to individual lots located on the radius of a cul-de-sac, provided that the grant of the waiver will result in a proper alignment of the home to the street.

Accessory structures that require a building permit shall be required to conform to all setback requirements.

Accessory garages, whether attached or detached, shall require a minimum front yard setback of 20 feet.

The Planning Board may require a planted buffer area within any required rear or side yard setback area.

Or 2 1/2 stories, whichever is less.

- (6) Parking. A minimum of two on-site parking spaces per dwelling unit shall be provided. A one-car garage shall count as one parking space. A two-car garage shall count as two parking spaces.
- (7) Phasing. The applicant, as part of the application for subdivision approval, may propose a phasing plan identifying the number of building permits requested to be issued in each year of the phasing plan. The Planning Board, upon a finding of good cause, may vary the provisions of § 240-114A and B and § 240-115B(1) through (3) herein and allow for the allocation to the applicant of the number of building permits proposed in the phasing plan or any different

16. Editor's Note: See Ch. 801, Subdivision Regulations.

number that the Planning Board deems appropriate, provided that, at the time of the granting of the special permit, the determined number of building permits are available and that no more than 1/4 of each year's allocation under § 240-114A and B shall be allocated to the applicant. Every permit allocated to the applicant by the Planning Board shall be included as part of the yearly building permit allocations under § 240-114A and B. There shall be no extension of a building permit granted under a phasing plan, and any unused and/or expired permits shall be credited back as part of the adjustments under § 240-114D for the next calendar year.

- (8) Visitability. The Planning Board may require that some or all of the dwelling units provide access for visitors in accordance with the recommendations of the Barnstable Housing Committee.
- E. Affordable units. At least 20% of the dwelling units shall be affordable units, subject to the following conditions:
- (1) The affordable unit shall be affordable in perpetuity. A deed rider shall assure this condition. The deed rider shall be structured to survive any and all foreclosures.
 - (2) The continuing enforcement of the deed rider through subsequent resale of the affordable units shall be the subject of a monitoring agreement.
 - (3) The deed rider and the monitoring agreement shall be drafted in compliance with 760 CMR 45.00 Local Initiative Program (LIP) and guidelines promulgated thereunder. The deed rider and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of a certificate of occupancy for any dwelling unit.
 - (4) The affordable unit shall conform to the standards of the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory.
 - (5) A right of first refusal upon the transfer of such affordable units shall be granted to the Town or its designee for a period not less than 120 days after notice thereof.
 - (6) The affordable units shall not be segregated within the PI-AHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program, 760 CMR 45.00, with regard to distinguishability from market rate units. It is the intent of this section that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units.

- (7) The affordable units shall be constructed and occupancy permits issued at the rate of one affordable unit for every four market rate units.
 - (8) In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result shall be the number of affordable units to be built within the PI-AHD and not off site.
 - (9) No special permit shall be granted unless the affordable dwelling units have been approved by the DHCD as eligible for the Affordable Housing Inventory under 760 CMR 45.00, the LIP Program.
- F. Decision. The Planning Board may grant a special permit for a PI-AHD where it makes the following findings:
- (1) The proposed PI-AHD complies with all applicable Subdivision Rules and Regulations, the Zoning Ordinance and the requirements of this section except as they may be waived by the Board;
 - (2) The proposed PI-AHD provides affordable units consistent with the requirements set forth herein;
 - (3) The proposed PI-AHD does not cause substantial detriment to the neighborhood.
- G. Relation to other requirements. The submittals and special permit required herein shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance.

§ 240-18. (Reserved)¹⁷

§ 240-19. (Reserved)¹⁸

§ 240-20. West Barnstable Village Business District.¹⁹

- A. Purpose and intent. The purposes and intent of this section is to guide development and redevelopment in West Barnstable Village Business District so that it:
- (1) Promotes a location-appropriate scale and traditional mix of business, institutional and residential land uses that contribute to and respect the historic character and historic neighborhood development patterns.

17. Editor's Note: Former § 240-18, PR Professional Residential District, as amended, was repealed 7-14-2005 by Order No. 2005-100.

18. Editor's Note: Former § 240-19, OR Office Residential District, as amended, was repealed 7-14-2005 by Order No. 2005-100.

19. Editor's Note: Former § 240-20, O-1, O-2 and O-3 Office Districts, as amended, was repealed 7-14-2005 by Order No. 2005-100.

- (2) Acknowledges the historic context of the village and preserves or enhances historic buildings or other historic resources.
 - (3) Protects and preserves the historic and scenic streetscape.
 - (4) Provides a variety of functions that support residents' day-to-day use of the district.
 - (5) Supports and enhances the diverse local economy and retains established village goods and service offerings.
 - (6) Preserves and protects the traditional New England village character of West Barnstable through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of Cape Cod and New England to enhance the aesthetic quality of Barnstable as a whole.
 - (7) Conforms with the Old Kings Highway Regional Historic District Act.
 - (8) Is consistent with the Barnstable Comprehensive Plan and the West Barnstable Village Plan.
- B. The following uses are permitted in the WBVBD, provided that no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as follows: household quantities; waste oil retention facilities for small-scale retailers of motor oil required and operated in compliance with MGL c. 21 § 52A; oil on site for heating of a structure or to supply an emergency generator.
- (1) Principal permitted uses.
 - (a) Single-family residential dwelling. A single-family residential dwelling may be freestanding or attached to a building also used for nonresidential uses. More than one single-family residential dwelling per lot is permitted as long as there is a minimum of one acre per single-family dwelling, but in no case will more than one principal permitted single-family residential dwelling be contained in any one building.
 - (b) Small-scale retail store.
 - (c) Professional, business or medical office.
 - (d) Office of a bank, credit union, savings and loan or other financial institution.
 - (2) Accessory uses. The following uses are permitted as accessory uses in the WBVBD:
 - (a) Bed-and-breakfast operation within an owner-occupied single-family residential structure, subject to the provisions of § 240-11C(6) except Subsection C(6)(b)[1] and [2]. No more

than three total rooms shall be rented to not more than six total guests at any one time in the WBVBD. No special permit shall be required in the WBVBD. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests.

- (b) Automated banking facilities (ATM) shall be located within a principal building and shall not be accessed from the exterior of the building.
 - (c) Accessory apartments as provided for in the Town of Barnstable Code, Chapter 9, Affordable Housing, Article II, Accessory Apartments and Apartment Units.
- (3) Special permit uses. The following uses are permitted, provided that a special permit is first obtained from the Special Permit Granting Authority (SPGA) subject to the provisions of § 240-125C herein and subject to the specific standards for such uses as required in this section:
- (a) Artisans and craftspeople.
 - (b) Personal service business.
 - (c) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy subject to the provisions of § 240-44.1.
- (4) Special permit performance standards. In addition to the standards for the grant of a special permit set forth in § 240-125C, the grant of any special permit within the WBVBD requires findings to support that the development meets the following criteria:
- (a) Is compatible with and supports the purpose and intent of this section.
 - (b) Mitigates impacts to safety and congestion from development.
 - (c) Protects and preserves water supply for both drinking water and fire protection.
 - (d) Stormwater shall be contained on site and mitigated using best management practices.
 - (e) Manages waste, by-products and other debris that may be associated with artisan and craft use in a manner compatible with abutting or nearby residential uses.
 - (f) Does not generate noise, vibration, smoke, dust or other particulate matter, odors, heat, glare or intrude with similar nuisance on abutting or nearby residential uses.
 - (g) Storage of all raw material and finished product associated with artisan or craft use shall be stored within a duly permitted

permanent structure. All outdoor storage associated with artisan or craft use is prohibited.

- (h) Deliveries may take place not sooner than one hour before, or later than one hour after the permitted operating hours of a business.
- (i) Vehicles are prohibited from running motors, refrigeration units or other mechanical units outside of permitted hours of operation.

(5) Bulk regulations.

Minimum Yard Setbacks

Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Front³ (feet)	Side (feet)	Rear (feet)	Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
43,560	160	—	30	30	30	30 ¹	10 ²

NOTES:

¹ Or two stories, whichever is lesser

² No more than 33% of the total upland area of any lot shall be made impervious by the installation of buildings, structures and paved surfaces.

³ Front yard landscaped setback from the road lot line: 20 feet. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

- (6) Nonconforming use limitations. Within the WBVBD the change of a nonconforming use to another nonconforming use is prohibited notwithstanding the provisions of § 240-94A. A nonconforming use shall only be permitted to change to a principal permitted use as of right or to a special permit use as provided for by the grant of a special permit pursuant to § 240-20B(3) and (4) herein.
- (7) Corporate branding. Buildings, colors, signage, architectural features, text, symbols, graphics, other attention-getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. All structures and sites shall be designed to include architectural and design elements that are

consistent with the WBVBD architectural composition, character, and historic context. Interior corporate branding elements shall not be visible to the street through windows, doors or by any other means. The Town will work with applicants to adapt critical functional features of prototype plans to their sites, but will not accept standard plans, building forms, elevations, materials, or colors that do not relate to the site, adjacent development or West Barnstable community character.

- (8) Site development standards. In addition to Article IX, Site Plan Review, and Article VI, Off-Street Parking, the following additional requirements shall apply within the WBVBD.
- (a) Loading docks. Loading docks shall be screened from Meetinghouse Way (Route 149), Main Street (Route 6A), Lombard Avenue, Navigation Road, Packet Landing Road and Whitecap Lane with landscaping or fencing materials of an appropriate scale.
 - (b) To the greatest extent feasible, all new parking areas shall be located to the side and rear of the building. Parking is not permitted in the required front yard setback with the exception of parking required by ADA compliance as determined by the Building Commissioner.
 - (c) Curb cuts and driveways.
 - [1] Shared driveways and parking area interconnections are strongly encouraged. No more than one curb cut on Meetinghouse Way (Route 149, Main Street (Route 6A), Lombard Avenue, Packet Landing Road, Navigation Road and Whitecap Lane shall be allowed for any lot. For traffic safety and to reduce traffic congestion, no new driveways shall be permitted on Route 149, Route 6A, Lombard Avenue and Whitecap Lane within 200 feet of any intersection.
 - [2] Driveways shall not exceed the width required by site plan review.
 - (d) Lighting. In no case shall exterior or outdoor lighting cause glare that impacts motorists, pedestrians or neighboring premises.
 - [1] All exterior lighting shall use full cutoff light fixtures in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
 - [2] Up-lighting is prohibited.

- (9) Definitions. The following terms are defined in the WBVBD and shall not be construed to apply to other regulations.

ARTISAN OR CRAFTSPERSON USE — A small-scale use that typically employs one or two people who practice craft or artisan activities. A key feature of works produced by artisans or craftspeople is the high degree of manual expertise involved. The use must be compatible with abutting and nearby residential and nonresidential uses. The following is included in the definition of "artisan or craftspeople use:"

- (a) ARTISAN OR CRAFTSPERSON — A person using manual skills to produce, in limited quantities, ornamental or functional works in ceramic, glass, metal, paper, wood or textiles. Examples include, without limitation, the following: drawing, painting, sculpture, pottery, photography, graphic design, interior design, fashion design, jewelry making, wood turning, glass blowing, furniture making, small wooden boat building, upholstering and weaving.

PERSONAL SERVICE — Establishments engaged in the provision of services, but not goods, of a personal nature to individuals and households. Such establishments include barbershop, beauty salon, clothing repair or seamstress shop, shoe repair shop, florist and day spas. Personal service establishments that are not commonly found in rural village environments such as check cashing services, fortune tellers, psychics, palm readers and similar services, spas and hot tubs for rent, tanning, piercing and similar services are prohibited.

SMALL-SCALE RETAIL STORE — Small stores and businesses, including but not limited to, corner groceries, bookstore, galleries and other small retail uses typically found in small New England towns. Small-scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline and oil filling stations, garages for automotive repair. Small-scale retail is subject to corporate branding limitations as described herein and shall not include drive-through window service.

§ 240-21. B, BA and UB Business Districts. [Amended 2-20-1997; 3-11-1999 by Order No. 99-056]

- A. Principal permitted uses. The following uses are permitted in the B, BA and UB Districts:
- (1) Retail and wholesale store/salesroom.
 - (2) Retail trade service or shop.
 - (3) Office and bank.
 - (4) Restaurant and other food establishment.

- (5) Place of business of baker, barber, blacksmith, builder, carpenter, caterer, clothes cleaner or presser, confectioner, contractor, decorator, dressmaker, dyer, electrician, florist, furrier, hairdresser, hand laundry, manicurist, mason, milliner, news dealer, optician, painter, paper hanger, photographer, plumber, printer, publisher, roofer, shoemaker, shoe repairer, shoe shiner, tailor, tinsmith, telephone exchange, telegraph office, undertaker, upholsterer, wheelwright.
- (6) Gasoline and oil filling stations and garages.
- (7) Hotel/motel subject to the provisions of Subsection F herein, except that hotels/motels shall be prohibited in the BA District and prohibited in the Osterville UB District.
- (8) Any other ordinary business use of a similar nature.
- (9) Multifamily dwellings (apartments) subject to the provisions of Subsection A(9)(a) through (i) herein, except that multifamily dwellings shall be prohibited in the BA District. **[Amended 7-14-2005 by Order No. 2005-100]**
 - (a) The minimum lot area ratio shall be 5,000 square feet of lot area per each apartment unit for new multifamily structures and conversions of existing buildings.
 - (b) The maximum lot coverage shall be 20% of the gross upland area of the lot or combination of lots.
 - (c) The maximum height of a multifamily dwelling shall not exceed three stories or 35 feet, whichever is lesser.
 - (d) The minimum front yard setback shall be 50 feet or three times the building height, whichever is greater.
 - (e) The minimum side and rear yard setbacks shall be not less than the height of the building.
 - (f) A perimeter green space of not less than 20 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.
 - (g) Off-street parking shall be provided on site at a ratio of 1.5 spaces per each apartment unit and shall be located not less than 30 feet from the base of the multifamily dwelling and be easily accessible from a driveway on the site.
 - (h) No living units shall be constructed or used below ground level.
 - (i) The Zoning Board of Appeals may allow by special permit a maximum lot coverage of up to 50% of the gross area of the lot or combination of lots.

- (j) Multifamily dwellings (apartments) for active adult or assisted living located in the IND District, where the project includes a total project land area of 24 acres or more and is subject to a Senior Continuing Care Retirement Community Overlay District (SCCRCOD) (§ 240-29), the following regulations shall apply in lieu of all other bulk and dimensional, parking, landscaping, screening, and setbacks as may otherwise be applicable, and which shall apply to the entire project land area as if it were one lot, even though it may be composed of more than one lot, which lots may be separated by a street or way: **[Added 5-19-2016 by Order No. 2016-146]**
- [1] Minimum total project land area of 24 acres, including therein any streets or ways.
 - [2] Minimum project land area ratio shall be 3,000 square feet of project land area per each dwelling unit.
 - [3] Maximum building height shall be 60 feet/five stories.
 - [4] Minimum front yard setback: 30 feet.
 - [5] Landscape buffers (driveways, signage, lighting and walkways excepted):
 - [a] Front yard: 20 feet.
 - [b] Side and rear yard: 10 feet.
 - [6] Parking.
 - [a] For active adult dwelling units, off-street parking shall be provided at a ratio of 0.75 resident space per dwelling unit, 0.5 guest space per dwelling unit, and 0.75 employee space per five dwelling units;
 - [b] For assisted living dwelling units, off-street parking shall be provided at a ratio of 0.5 resident space per dwelling unit, 0.5 guest space per dwelling unit, and 0.75 employee space per five dwelling units.
 - [7] To the extent a project developed pursuant to this § 240-21A(9)(j) is also subject to the Groundwater Protection Overlay District regulations set forth in § 240-35, the lot coverage and site clearing requirements of such § 240-35 shall be calculated using the entire project land area as described in this section. All allowed impervious area may be located on an individual lot within the project land area, provided the impervious area requirements are met over the entire project land area.

(10) Single-family residential structure (detached), except that single-family residential structures shall not be permitted in the B District.

B. Accessory uses.

(1) Bed-and-breakfast operation within an owner-occupied single-family residential structure, subject to the provisions of § 240-11C(6) except Subsections (b)[1] and [2]. No more than six total rooms shall be rented to not more than 12 total guests at any one time, and no special permit shall be required. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests. Bed-and-breakfast operations shall not be permitted in the B District.

C. Conditional uses. The following uses are permitted as conditional uses in the B, BA and UB Districts, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and the specific standards for such conditional uses as required in this section:

(1) Storage yards for coal, oil, junk, lumber or any business requiring use of a railroad siding; such uses being provided for in the B District only.

(2) A building or place for recreation or amusement but not to include a use which is principally the operation of coin-operated amusement devices; such uses being provided for in the B District only.

(3) Any manufacturing use; such uses being provided for in the B District only.

(4) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.

(5) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.

D. Special permit uses. (Reserved for future use.)

E. Bulk regulations.

Zoning Districts	Minimum Yard Setbacks						Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Front (feet)	Side (feet)	Rear (feet)		
B	—	20	—	20 ¹	—	—	30 ³	—
BA	—	20	—	20	—	—	30 ³	35
UB	—	20	—	20 ²	0 ²	0 ²	30 ³	35

NOTES:

- ¹ One hundred feet along Routes 28 and 132.
- ² Fifty feet when abutting a residentially zoned area.
- ³ Or two stories, whichever is lesser.

Front yard landscaped setback from the road lot line:

B Business District: 10 feet, except 50 feet along Attucks Lane Extension and Independence Drive.

BA District: 10 feet.

UB District: 10 feet.

Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein

F. Special hotel/motel provisions. In addition to the provisions of Subsection E, hotels and motels shall be developed only in conformance with the following:

- (1) The minimum lot area ratio shall be 2,500 square feet of lot area per each of the first 10 hotel/motel units, and an additional 250 square feet of lot area per each unit in excess of 10.
- (2) The minimum lot frontage shall be 125 feet.
- (3) The maximum lot coverage for all buildings shall not exceed 30% of the gross land area.

- (4) In addition to the parking requirements of § 240-54 herein, there shall be two additional off-street parking spaces provided per each 10 hotel/motel units or fraction thereof.
- (5) The minimum front yard setback shall be 30 feet.
- (6) The minimum total side yard setback shall be 30 feet; provided, however, that no allocation of such total results in a setback of less than 10 feet.
- (7) The minimum rear yard setback shall be 20 feet.
- (8) No other uses shall be permitted within the required yard setbacks, except driveways in a required front yard. All yard areas shall be appropriately landscaped and adequately maintained.
- (9) A site plan for each development or addition shall be submitted to the Building Commissioner along with the request for a building permit. The site plan shall include, but not be limited to, all existing and proposed buildings, structures, parking, driveways, service areas and other open uses, all drainage facilities and all landscape features such as fences, walls, planting areas and walks on the site.

§ 240-22. (Reserved)²⁰

§ 240-23. MB-A1, MB-A2 and MB-B Business Districts.

- A. Principal permitted uses. The following uses are permitted in the MB-A1, MB-A2 and MB-B Districts:
- (1) Commercial marina to include the berthing, building, sale, rental, storage and repair of boats, including the storage of boats on racks within the MB-A1 and MB-A2 Business Districts, subject to the provisions of Subsection A(6) below, and the installation and maintenance of docks, piers, ramps, floats and moorings.
 - (2) Retail sale of marine fishing and boating supplies, marine electronics, marine motors and marine communication equipment.
 - (3) Retail sale of fishing bait, fish and shellfish, such uses being provided for in the MB-B District only.
 - (4) Commercial fishing, not including commercial canning or processing of fish; such use being provided for in the MB-B District only.
 - (5) Whale-watching facility, such use being provided for in the MB-B District only.

20. Editor's Note: Former § 240-22, BL-B Business District, as amended, was repealed 7-14-2005 by Order No. 2005-100.

- (6) Storage of boats on racks within the MB-A1 Business District subject to the following provisions:
 - (a) There shall be no more than 30 boats stored on racks for seasonal use (June 15 through Sept. 15);
 - (b) There shall be no launching or hauling of boats stored on racks for seasonal use before 8:00 a.m. or after 6:00 p.m.;
 - (c) There shall be unlimited year-round rack storage of boats that are not stored for seasonal use; and
 - (d) Any process by which seasonally used boats are launched and hauled, such as but not limited to by forklift or crane, shall be undertaken in a manner in which to minimize noise.
 - (7) Craft boat building, including the berthing, sale, rental, storage and repair of boats, including the storage of boats on racks within the MB-A1 and MB-A2 Business Districts, subject to the provisions of Subsection A(6) and the installation and maintenance of docks, piers, ramps, floats, and moorings. **[Added 6-1-2017 by Order No. 2017-102]**
- B. Accessory uses. The following uses are permitted as accessory uses to principal permitted use, Subsection A(1), Commercial marina, above.
- (1) Retail sale of fuel to marine vessels only.
 - (2) Not more than one apartment for occupancy by the marina owner or by staff employed at the marina.
- C. Conditional uses. The following uses are permitted as conditional uses in the MB-A1 and MB-A2 and MB-B Districts, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
- (1) Restaurant, such use being provided for in the MB-B District only.
 - (2) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
- D. Special permit uses.
- (1) In the MB-A1 and MB-A2 Districts only, the retail sale of marine-related equipment, sporting-goods-type clothing, marine-related decorative goods and furnishings, as an accessory use to principal permitted use, Subsection A(1) above only
- E. The following use limitations shall apply within the MB-B only: **[Added 3-18-2010 by Order No. 2010-068²¹]**

21. Editor's Note: This order also redesignated former Subsection E as Subsection G.

- (1) Use limitations: A permitted retail establishment, lodging establishment, restaurant, or take-out food establishment shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than eight other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.
- (2) Corporate branding prohibition: Buildings, colors, signage, architectural features, text, symbols, graphics, other attention-getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. **[Amended 9-8-2011 by Order No. 2011-138]**

F. (Reserved)

G. Bulk regulations. **[Amended 3-11-1999 by Order No. 99-058; 7-19-2001 by Order No. 2001-099; 6-1-2017 by Order No. 2017-102]**

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
				Front	Side	Rear		
				MB-A1	10,000	20		
MB-A2								
MB-B	7,500	20	75	10	30 ²	30	30 ¹	—

Or two stories, whichever is lesser

The minimum total side yard setback shall be 30 feet, provided that no allocation of such total results in a setback of less than 10 feet, except abutting a residential district, where a minimum of 20 feet is required.

NOTE:

- A. Front yard landscaped setback from the road lot line:
 - MB-A1 and MB-A2 Business District: 10 feet.
 - MB-B Business District: 10 feet.

- B. Side/rear yard landscaped setback from residential lot lines:
MB-A1 Business District: 50 feet.
- C. Existing trees and shrubs shall be retained within the road right-of-way and within the required landscaped setbacks and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscape areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

§ 240-24. VB-A Business District. [Amended 11-7-1987 by Art. 5; 10-4-1990 by Order No. 90-68; 2-20-1997; 1-7-1999; 3-11-1999 by Order No. 99-058]

- A. Principal permitted uses. The following uses are permitted in Subsections (1) through (5) below in the VB-A: **[Amended 9-8-2011 by Order No. 2011-138]**
 - (1) Single-family residential dwelling (detached).
 - (2) Retail store.
 - (3) Professional or business office.
 - (4) Branch office of a bank, credit union, or savings and loan institution.
 - (5) Personal service business.
- B. Accessory uses. The following uses are permitted as accessory uses in the VB-A District:
 - (1) Apartments, provided they are:
 - (a) Accessory to uses listed in Subsection A(2) through (5) herein; and
 - (b) Located above the first floor only; and
 - (c) Comply with the standards of § 240-19A(10)(a) through (h) herein.
 - (2) Bed-and-breakfast operation within an owner-occupied single-family residential structure, subject to the provisions of § 240-11C(6) except Subsections (b)[1] and [2]. No more than six total rooms shall be rented to no more than 12 total guests at any one time in the VB-A Business District. No special permit shall be required in the VB-A Business District. For the purposes of this section, children under the age of 12 years shall not be considered

in the total number of guests. **[Amended 9-8-2011 by Order No. 2011-138]**

- C. Conditional uses. The following uses are permitted as conditional uses in the VB-A District, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
- (1) Restaurant or other food-service establishment, but not including drive-in restaurants.
 - (2) Gasoline and oil filling stations subject to the following:
 - (a) There shall be no sale of vehicles on the same premises; and
 - (b) There shall be no storage of vehicles on the premises.
 - (3) Auto service and repair shops subject to the following:
 - (a) Such use shall be limited to two service/repair bays; and
 - (b) There shall be no sale of vehicles on the same premises; and
 - (c) Any outside storage of vehicles shall be screened from view to a height of six feet; and
 - (d) Any stored vehicles shall bear a current vehicle registration.
 - (4) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, subject to the following:
 - (a) Such use remains accessory to a principal use permitted in Subsection A herein; and
 - (b) A building permit shall be obtained prior to commencement of construction of such use.
 - (5) Place of business of blacksmith, decorator, upholsterer or undertaker.
 - (6) Telephone exchange.
 - (7) Place of business of building trades subject to the following:
 - (a) Not more than three full-time employees shall be on the premises at any time; and
 - (b) Any outside parking of commercial vehicles or equipment shall be screened from view to a height of six feet; and
 - (c) Any outside storage of materials or supplies shall be screened from view to a height of six feet, and shall be stored to a height not exceeding six feet.

- (8) Light manufacturing uses subject to the following:
 - (a) The building housing such use shall not exceed 2,000 square feet of gross floor area; and
 - (b) The screening standards of Subsection C(7)(b) and (c) herein.
- (9) Storage yard for coal, oil, lumber, or other business dependent on using a railroad siding subject to the following:
 - (a) The screening standards of Subsection C(7)(b) and (c) herein.

D. (Reserved)²²

E. The following use limitations shall apply within the Barnstable Village VB-A only: **[Added 3-18-2010 by Order No. 2010-068]**

- (1) Use limitations: A permitted retail establishment, lodging establishment, restaurant, or take-out food establishment shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than eight other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.
- (2) Corporate branding prohibition: Buildings, colors, signage, architectural features, text, symbols, graphics, other attention-getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. **[Amended 9-8-2011 by Order No. 2011-138]**

F. Bulk regulations. **[Amended 9-8-2011 by Order No. 2011-138]**

Zoning Districts	Minimum Yard Setbacks						Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Front (feet)	Side (feet)	Rear (feet)		
VB-A	10,000	20	100	10	30 ²	20	30 ¹	25

22. Editor's Note: Former Subsection D, Conditional uses, was repealed 9-8-2011 by Order No. 2011-138.

NOTES:

- ¹ Or two stories, whichever is lesser
- ² The minimum total side yard setback shall be 30 feet, provided that no allocation of such total results in a setback of less than the 10 feet, except abutting a residential district, where a minimum of 20 feet is required.
- ³ No more than 33% of the total upland area of any lot shall be made impervious by the installation of buildings, structures and paved surfaces.

Front yard landscaped setback from the road lot line:

VB-A 10 feet.

Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

§ 240-24.1. Hyannis Village Zoning Districts.²³ [Added 7-14-2005 by Order No. 2005-100]

§ 240-24.1.1. Title. [Added 7-14-2005 by Order No. 2005-100]

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

§ 240-24.1.2. General provisions. [Added 7-14-2005 by Order No. 2005-100]

- A. Effective date: This section shall become effective upon the adoption of a Design and Infrastructure Plan by the Barnstable Planning Board, as set forth in § 240-24.1.11 below. The foregoing shall be adopted not later than October 15, 2005.
- B. Conflicts. Unless otherwise stated, the requirements of the Barnstable Zoning Ordinance shall apply to uses within the Hyannis Village Zoning Districts. In the event of a conflict, these regulations shall apply.
- C. Nonconforming uses. The change of a nonconforming use to another nonconforming use is prohibited in the Hyannis Village Zoning Districts.
- D. Site plan review. All development within the Hyannis Village Zoning Districts, with the exception of single-family residences, shall comply with the provisions of Article IX, § 240-103, Site development

23. Editor's Note: The specific regulations for the Hyannis Village Zoning District are found in §§ 240-24.1.1 through 240-24.1.12.

standards, and with the Design and Infrastructure Plan. Refer to § 240-24.1.10 and individual district regulations below for additional site plan review standards.

- E. Special permit granting authority and special permit criteria.
- (1) Within the Hyannis Village Zoning Districts, the Planning Board shall be the special permit granting authority. The Planning Board shall follow the criteria and procedures set forth in § 240-125C of the Barnstable Zoning Ordinance when acting on a special permit application. In addition to the criteria set forth in § 240-125, the Planning Board shall find that the issuance of the special permit is consistent with the Design and Infrastructure Plan, including the payment of applicable impact fees, and that the development meets one or more of the following criteria:
 - (a) The development provides for or supports mixed use development where appropriate;
 - (b) The development maintains or improves pedestrian access and outdoor public spaces;
 - (c) The development contributes to the historic and maritime character of the Hyannis Village area;
 - (d) The development eliminates or minimizes curb cuts and driveways on Route 28 and Barnstable Road;
 - (e) The development provides or preserves views from public ways and spaces to the waterfront and provides or preserves public access to the waterfront;
 - (f) The development provides for or contributes to alternative transportation or travel demand management; and/or
 - (g) The development provides workforce housing where appropriate and provides an appropriate mix of affordability levels.
 - (2) Refer to individual district regulations below for additional special permit criteria.
- F. Dimensional relief. Within the Hyannis Village Zoning Districts, the SPGA may provide relief from minimum lot area, minimum lot frontage, maximum building setback, minimum yard setbacks, floor area ratio limits, facade length requirements, ground floor window requirements, and through lot requirements, when such relief is necessary to ensure that a proposed development is consistent with zoning, the Design and Infrastructure Plan and/or the special permit criteria set forth above.
- G. Building expansion/repair on nonconforming lot. The expansion, repair, alteration or replacement of any legally conforming building or structure in existence as of July 14, 2005, proposed to be expanded

within the setbacks established herein shall not require a variance or special permit solely on the basis that the lot is rendered dimensionally nonconforming by the minimum lot area or minimum lot frontage and/or maximum building facade length provisions established in this section.

- H. Building expansion/repair exceeding lot coverage. The expansion, repair, alteration or replacement of any legally conforming building or structure in existence as of July 14, 2005, proposed to be expanded in a manner that increases lot coverage in excess of the maximum lot coverage provisions established herein shall require a special permit.
- I. Transitional exemptions. This section shall not apply to any development application that has received site plan approval or a special permit prior to July 14, 2005, provided that said site plan approval and/or special permit has been exercised within one year.
- J. Zoning district boundaries. The provisions of Barnstable Zoning Ordinance § 240-6C(3) do not apply within the Hyannis Village Zoning Districts.
- K. Related ordinances. The following list of related ordinances is provided to assist the reader. Applicants must review all Barnstable ordinances, rules, regulations and guidelines for additional requirements that may relate to a particular permit application.
 - (1) For additional information regarding the requirements of the Barnstable Inclusionary Housing Ordinance, see Chapter 9 of the Barnstable Town Code.
 - (2) For additional information regarding site plan review requirements, see §§ 240-98 through 240-105, inclusive, of the Barnstable Zoning Ordinance.
 - (3) For additional information regarding special permit requirements, see § 240-125C of the Barnstable Zoning Ordinance.
 - (4) For additional information regarding growth management requirements, see §§ 240-110 through 240-122, inclusive, of the Barnstable Zoning Ordinance.
 - (5) For additional information regarding parking requirements, see off-street parking regulations, at §§ 240-48 through 240-58, inclusive, of the Barnstable Zoning Ordinance.
 - (6) For additional information regarding signage requirements, see Sign Regulations, at §§ 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance.
 - (7) For additional information regarding historic and design review, see Ch. 112, Historic Properties, of the Barnstable Town Code.

L. Definitions specific to the Hyannis Village Zoning Districts are contained below at § 240-24.1.12.

§ 240-24.1.3. HVB Hyannis Village Business District. [Added 7-14-2005 by Order No. 2005-100]

A. Permitted uses. The following principal and accessory uses are permitted in the HVB District. Uses not expressly allowed are prohibited.

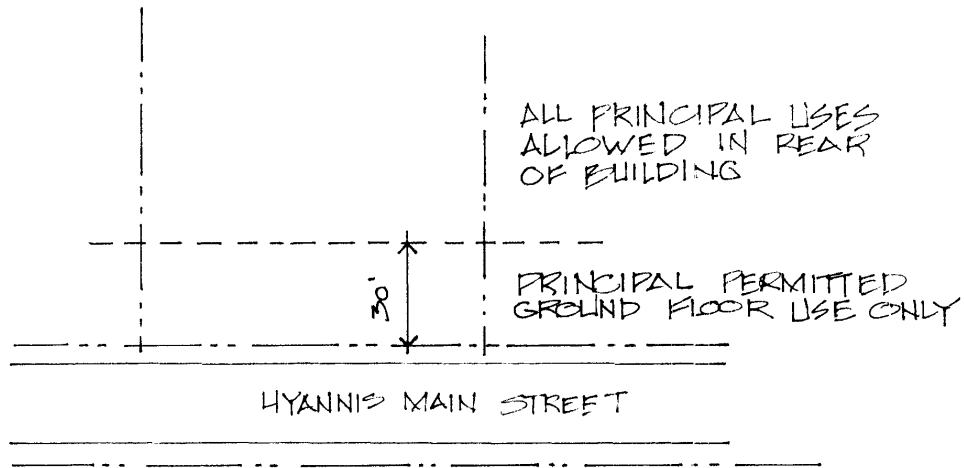
(1) Permitted principal uses.

- (a) *Business and professional offices.
- (b) Banks.
- (c) Retail uses.
- (d) Personal services establishments.
- (e) Packaging and delivery services.
- (f) *Research and development facilities.
- (g) Publishing and printing establishments.
- (h) Restaurants.
- (i) *Health clubs.
- (j) Movie theaters.
- (k) Artist's lofts.
- (l) Art galleries.
- (m) Museums.
- (n) Performing arts facilities.
- (o) *Educational institutions.
- (p) Bed-and-breakfasts.
- (q) *Fraternal or social organizations.
- (r) Hotels.
- (s) Motels.
- (t) Conference centers.
- (u) Recreational establishments.
- (v) Mixed use development consistent with ground floor limitations established by an asterisk (*) and with building

footprint not exceeding 20,000 square feet and totaling not more than 60,000 square feet.

(w) *Apartments and multifamily housing, not including mixed use development, totaling not more than 12 dwelling units per acre

* Ground floor limitations: For lots abutting Hyannis Main Street and located between Sea Street and Barnstable Road/Ocean Street, uses denoted by an asterisk (*) are allowed above the ground floor only, with the exception that uses denoted by an asterisk may occur on the first floor in the rear portion of such a building only when, at a minimum, the first 30 feet of ground floor building space fronting on Hyannis Main Street is occupied by a permitted principal ground floor use. (See diagram below). In this case a Hyannis Main Street entrance to the use or uses at the rear of the building is allowed.



1. GROUND FLOOR REQUIREMENTS; HYANNIS MAIN STREET BETWEEN SEA STREET AND BARNSTABLE RD./OCEAN ST.

(2) Permitted accessory uses.

(a) Entertainment and/or dancing is permitted: **[Amended 6-1-2006 by Order No. 2006-136]**

[1] As an accessory use to a full-service food service establishment, subject to the following:

- [a] Food is served to customers at tables by waitpersons;
- [b] Bar seats and bar places do not exceed 20% of restaurant seats; and

[c] Any dance floor area shall not exceed 500 square feet, or 10% of the floor area of the restaurant, whichever is less.

[2] As an accessory use to a preexisting smoking bar that has received a variance from the Barnstable Board of Health, subject to the following:

[a] The establishment holds a valid Board of Health variance issued under the provisions of the Barnstable Code, § 371-18; and

[b] Any dance floor area shall not exceed 500 square feet, or 10% of the floor area of the smoking bar.

(b) Repair services.

(c) Automated banking facilities (ATM).

B. Special permits.

(1) Parking facilities.

(2) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a development of regional impact approval, exemption or hardship exemption from the Cape Cod Commission:

(a) Nonresidential development with a total floor area greater than 10,000 square feet.

(b) Mixed use development with a building footprint greater than 20,000 square feet or a total building square footage greater than 60,0000 square feet.

(3) Multifamily housing, not including mixed use development, consistent with the ground floor limitations established above, and proposing 13 or more dwelling units per acre and not more than 16 dwelling units per acre.

C. Dimensional, bulk and other requirements.

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks			Maximum Building Height ¹		Maximum Lot Coverage ²	FAR ³
			Front (feet)	Rear (feet)	Side (feet)	Feet	Stories		
Hyannis Village	5,000	10	4	—	—	42	3	100%	3.0

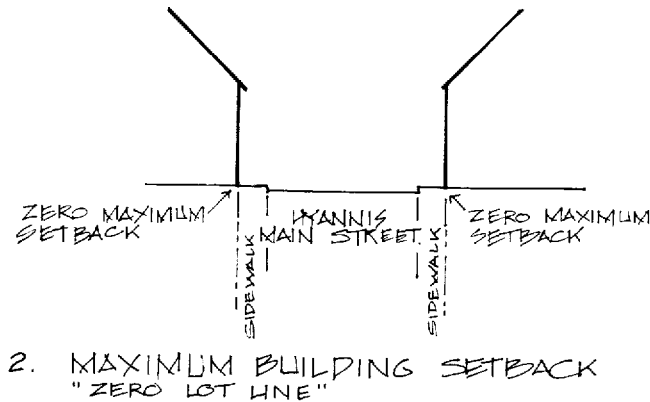
NOTES:

- 1 See additional height regulations in Subsection (2) below.
- 2 Maximum lot coverage pertains to building footprint only.
- 3 Applies to mixed use development only.
- 4 See also setbacks in Subsection (1) below.

(1) Setbacks.

(a) Maximum building setback.

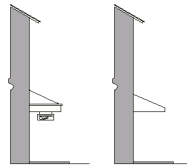
- [1] The maximum building setback from the street line shall be zero feet for the front and street side facade so that the building visually reinforces the building facade line of the street. (See Diagram No. 2 below.).



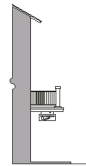
- [2] Existing buildings within the HVB District not currently located at the zero maximum building setback may be altered, expanded, replaced or redeveloped so long as the maximum building setback is equal to the setback of the building(s) in existence upon the adoption of this section or 20 feet, whichever is less, and provided that the area between the building setback and the street line shall provide permanent public plazas, sidewalk cafes, public spaces or amenities and/or landscaping.
- [3] The SPGA may vary the maximum building setback for the building facade, or any portion thereof, and may allow buildings to be set back from the front and/or street side property line where it would result in better alignment of buildings, improved design of the building facade, or where necessary to accommodate shop entrances, arcades, plazas, sidewalk cafes, permanent public spaces, pocket parks, or landscaping required pursuant to the provisions of this section or as allowed by permit, and so

long as such increase in building setback will not create significant interruption of the alignment of any sidewalk constructed on public or private property or will not otherwise interfere with pedestrian access.

- (b) Awnings, marquees and balconies. The SPGA may provide relief from the zero front yard setback for awnings, marquees and balconies. These building structures are allowed to protrude up to five feet past the property line into the public right-of-way. All awnings, marquees and open air balconies shall require a license from the Town Manager consistent with Barnstable General Ordinances, Part 1, Chapter 121, § 121-6J.



Awnings and Marquees

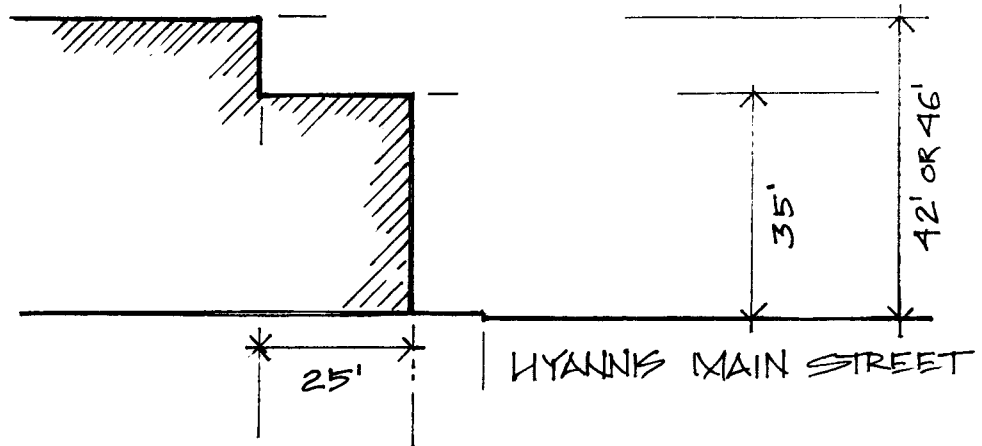


Open Air Balconies

(2) Height.

(a) Maximum building height.

- [1] The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is 42 feet or three stories not to exceed 46 feet.
- [2] Maximum height may be increased to 46 feet or three stories when the roof pitch is in the range of six in 12.
- [3] In order to reduce shadows on Hyannis Main Street, for lots located on the southerly edge of the layout of Hyannis Main Street between Barnstable Road/Ocean Street and Sea Street, the maximum building height within 25 feet of the layout of Hyannis Main Street shall not exceed 35 feet unless a special permit is obtained from the SPGA. (See Diagram No. 3 below.)



3. MAXIMUM BUILDING HEIGHT SOUTH SIDE OF MAIN STREET BETWEEN SEA ST. AND BARNSTABLE RD. / OCEAN ST.

- (b) Height of rooftop equipment. Accessory rooftop equipment may extend to 46 feet {or to 50 feet when the building height is allowed at 46 feet under Subsection [(2)(a)[2] above}, provided that it is set back from the exterior wall(s) by at least 10 feet, and is enclosed or screened with materials compatible with the building, and the headhouse and screening are not visible from the ground. Accessory equipment shall not exceed 20% of the roof area. Eight-foot tall roof headhouse structures shall be set back from the exterior wall(s) by at least 10 feet, and shall not exceed 20% of the roof area.
- (3) Facade length. Buildings or portions of a building with a mass over 50 feet wide must divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.
- (4) Roof pitch. Flat roofs shall not extend for more than 50 linear feet, unless otherwise permitted by special permit.
- (5) Building entrances and alleyways.
 - (a) For lots which have at least 10 feet of frontage on Hyannis Main Street, development and redevelopment shall include building facades that front on and have a principal pedestrian entrance on Hyannis Main Street.

- (b) The construction of any new buildings shall provide for the creation of pedestrian alleyways, where appropriate, in order to allow for passageways to parking at the rear of the lots and adjoining streets.
- (6) Ground floor windows.
 - (a) All new nonresidential development shall provide ground floor windows along street facades, including windows that allow views into working areas or lobbies, pedestrian entrances, or display windows. Required windows shall have a sill no more than four feet above grade. Where interior floor levels prohibit such placement, the sill may be raised to no more than two feet above the finished floor level, up to a maximum sill height of six feet above grade.
 - (b) Windows that block two-way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows along street facades.
 - (c) Any wall which is within 30 feet of the street shall contain at least 20% of the ground floor wall area facing the street in display areas, windows, or doorways. Blank walls, including walls that do not include display areas, windows, architectural features, and/or doorways, are prohibited.
- (7) Through lots.
 - (a) Through lots defined. A "through lot" shall be a lot with a lot line of at least 10 feet on Hyannis Main Street that also abuts on another public street or way (the "alternative street or way"), but shall not include a corner lot. A through lot with at least 10 feet of property line abutting Hyannis Main Street is presumed to have frontage on Hyannis Main Street.
 - (b) For through lots, the lot shall provide vehicular access off of the alternative street or way unless otherwise permitted by special permit.
- (8) Curb cuts and driveways.
 - (a) New curb cuts on Hyannis Main Street shall only be allowed where the curb cut leads to parking for at least 21 vehicles. No more than one curb cut on Hyannis Main Street shall be allowed for any lot. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Hyannis Main Street within 200 feet of any intersection.
 - (b) Driveways shall not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide.

- D. Site development standards. In addition to the site development standards set forth in § 240-24.1.10 below, the following requirements shall apply.
- (1) Loading docks. Loading docks shall not be visible from Main Street.
 - (2) Parking spaces, computation.
 - (a) The parking standards contained within the Schedule of Off-Street Parking Requirement, § 240-56 of the Barnstable Zoning Ordinance, shall establish the minimum parking requirements, with the following exceptions:
 - [1] The use of shared parking for different uses having different peak hours of demand will be considered in evaluating compliance with § 240-56. A signed lease agreement between relevant parties sharing parking must be provided as part of the site plan approval or special permit process.
 - [2] A permitted use can be changed to another permitted use, and any permitted principal or accessory use can be intensified, without increasing the required off-street parking requirements of § 240-56, Schedule of Off-Street Parking Requirements, provided that as of July 14, 2005:
 - [a] There is no increase in gross square footage of the building; and
 - [b] There is no reduction in existing parking spaces required pursuant to § 240-56; and
 - [c] There is no added outdoor use requiring the provision of parking according to Section 204-56, except that no parking spaces shall be required for outdoor dining on both public and private property; and
 - [d] Parking space requirements for residential dwelling units shall be one parking space per bedroom for one- and two-bedroom units or a total of two parking spaces for units with two or more bedrooms.
 - (3) Parking spaces shall be provided for new and/or expanded building area, and for new and/or expanded outdoor uses, as follows:
 - (a) Fifty percent of the spaces required under § 240-56 for all uses other than office uses and residential dwelling units.
 - (b) Parking space requirements for residential dwelling units shall be one parking space per bedroom for one- and two-bedroom units or a total of two parking spaces for units with two or more bedrooms.

- (4) The SPGA may, by special permit, further reduce the parking required as follows:
- (a) Off-site parking. Parking requirements may be satisfied if an off-street municipal parking lot of 20 spaces or more exists within 500 feet of the proposed use and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. Off-site parking may also be provided on a private parking lot with sufficient parking spaces within 300 feet of the proposed use, provided that a lease agreement is presented as part of the site plan approval or special permit process and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. In no case shall leased parking be allowed on land that is residentially zoned for, or in residential use as, a single-family or a two-family dwelling.
 - (b) The SPGA may reduce the on-site and off-street parking requirement for all uses except office uses and residential uses, based upon a consideration of:
 - [1] Availability of shared parking.
 - [2] Other factors supporting the reduction in the number of required parking spaces.
- (5) Landscaping.
- (a) Front yard landscape is not required if front setback is zero. When the front setback is greater than zero, those portions of the front yard not occupied by pedestrian amenities and public spaces shall be landscaped.
 - (b) Street trees are required consistent with § 240-24.1.10 below if front setback is greater than zero feet.
- (6) Lighting.
- (a) All developments shall use full cutoff light fixtures for exterior lighting in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
 - (b) Flood-, area and up-lighting is not permitted.

§ 240-24.1.4. MS Medical Services District. [Added 7-14-2005 by Order No. 2005-100]

A. Permitted uses. The following principal and accessory uses are permitted in the MS District. Uses not expressly allowed are prohibited.

(1) Permitted principal uses.

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Business and professional offices.
- (d) Nursing homes.
- (e) Medical/dental clinics.
- (f) Hospitals (nonveterinarian).
- (g) Bed-and-breakfasts.
- (h) Multifamily housing totaling not more than six dwelling units per acre or 12 bedrooms per acre.
- (i) Mixed-use development.

(2) Permitted accessory uses.

- (a) Family apartments.
- (b) The following uses shall only be permitted as ancillary operations to a hospital, nursing home, or other medical-oriented facility:
 - [1] Personal services, such as barber or beauty shops.
 - [2] Banking services.
 - [3] Restaurants.
 - [4] Pharmacies.

B. Special permits.

(1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a development of regional impact approval, exemption or hardship exemption from the Cape Cod Commission:

- (a) Nonresidential development, including nursing homes, with a total floor area greater than 10,000 square feet.
- (b) Mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.

(2) Multifamily housing proposing to create seven or more dwelling units per acre or 13 or more bedrooms per acre and including

at least 25% of workforce housing and totaling not more than 12 units per acre. Multifamily housing in the MS District is not required to provide inclusionary housing pursuant to Chapter 9 of the Barnstable Code.

- C. Dimensional, bulk and other requirements. (NOTE: For hospital uses: the maximum building height provisions set forth in the table below may be extended to no more than 85 feet or a maximum of six stories not to exceed 85 feet; and, the maximum lot coverage requirements set forth below shall not apply.)

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks			Maximum Building Height ¹		Maximum Lot Coverage ²	FAR ³
			Front	Rear	Side	Feet	Stories ¹		
			(feet)	(feet)	(feet)				
Medical Services	10,000	50	20 ²	10 ²	10 ²	38	3	80%	—

NOTES:

¹ The third story can only occur within habitable attic space.

² See also setbacks in Subsection C(1) below.

(1) Setbacks.

- (a) The front yard landscaped setback shall be 10 feet.
- (b) The SPGA may reduce to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots.

(2) Site access/curb cuts.

- (a) Driveways on Route 28 shall be minimized. Access shall not be located on Route 28 where safe vehicular and pedestrian access can be provided on an alternative roadway, or via a shared driveway, or via a driveway interconnection. On Route 28, new vehicular access, new development, redevelopment and changes in use that increase vehicle trips per day and/or increase peak hour roadway use shall be by special permit.
- (b) Applicants seeking a new curb cut on Route 28 shall consult the Town Director/Superintendent of Public Works regarding access on state highway roadways prior to seeking a curb-cut permit from the Massachusetts Highway Department, and work with the Town and other authorizing agencies, such as

the MHD, to agree on an overall access plan for the site prior to site approval. The applicant shall provide proof of consultation with the listed entities and other necessary parties.

- (c) All driveways and changes to driveways on Route 28 shall:
 - [1] Provide the minimum number of driveways for the size and type of land use proposed;
 - [2] Provide shared access with adjacent development where feasible; and
 - [3] Provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road.

D. Site development standards. In addition to the site development standards set forth in § 240-24.1.10 below, the following requirement shall apply:

- (1) Landscaping for multifamily housing. A perimeter green space of not less than 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 and/or entry walk.

§ 240-24.1.5. SF Single Family Residential District. [Added 7-14-2005 by Order No. 2005-100]

A. Permitted uses. The following principal and accessory uses are permitted in the SF District. Uses not expressly allowed are prohibited.

- (1) Permitted principal uses.
 - (a) Single-family dwellings (detached).
 - (b) Bed-and-breakfasts.
 - (c) Artists lofts.
 - (d) For those lots with frontage on South Street and/or High School Road, professional offices.
 - (e) Renting of rooms for not more than three nonfamily members by the family residing in a single-family dwelling. **[Added 6-1-2006 by Order No. 2006-136]**

(2) Permitted accessory uses.

- (a) Family apartments.

B. Dimensional, bulk and other requirements.

Zoning District	Minimum Lot Area ¹	Minimum Lot Frontage ¹	Minimum Lot Width ²	Minimum Yard Setbacks			Maximum Building Height ¹	Maximum Lot Coverage ¹	FAR ³
	(square feet)	(feet)	(feet)	Front (feet)	Rear (feet)	Side (feet)			
Single Family Residential	20,000	20	100	20 ³	10 ³	10 ³	38	3	— —

NOTES:

- ¹ The minimum lot area shall be reduced to 10,000 square feet and/or the minimum lot frontage shall be reduced to 50 feet if an existing nonresidential use, in existence as of the effective date of this section, is changed to a single-family residential use.
- ² Lot width at front building setback
- ³ See also setbacks in Subsection C(1) and corner lot setback in Subsection C(2) below.
- ⁴ The third story in a single-family or two-family dwelling can only occur within habitable attic space.

- (1) Setbacks. A perimeter green space of not less than 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.
- (2) Corner lot setback. Corner lots shall comply with the provisions of § 240-41 of the Barnstable Zoning Ordinance.

C. Site development standard. Single-family dwellings are encouraged to comply with the provisions of Article IX, § 240-103, Site development standards. Single-family dwellings are not required to comply with § 240-24.1.10 below, and they are not required to obtain site plan approval. Single-family dwellings shall comply with the following requirements:

- (1) Parking and signage. All development within the SF District shall comply with applicable parking and signage requirements contained in Article VI, §§ 240-48 through 240-58, and Article VII, §§ 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance.
- (2) Lighting. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.
- (3) Fences. No fence shall exceed a height of 6 1/2 feet (eight feet when abutting a nonresidential district) unless a special permit is obtained from the SPGA.

§ 240-24.1.6. OM Office/Multifamily Residential District. [Added 7-14-2005 by Order No. 2005-100]

- A. Permitted uses. The following principal and accessory uses are permitted in the OM District. Uses not expressly allowed are prohibited.
- (1) Permitted principal uses.
 - (a) Business and professional offices.
 - (b) Personal services establishments.
 - (c) Repair services.
 - (d) Publishing and printing establishments.
 - (e) Packaging and delivery services.
 - (f) Artist's lofts.
 - (g) Restaurants.
 - (h) Multifamily housing, including but not limited to townhouses, totaling not more than 12 dwelling units, or 24 bedrooms per acre.
 - (i) Mixed-use development.
 - (j) Office, dental or medical. **[Added 3-18-2010 by Order No. 2010-069]**
 - (2) Permitted accessory uses.
 - (a) Health clubs.
 - (b) Retail uses directly related to a principal permitted use that does not exceed 1,500 square feet.
- B. Special permits.
- (1) Permitted principal uses as follows; provided, however, that a special permit shall not be required when the applicant has obtained a development of regional impact approval, exemption or hardship exemption from the Cape Cod Commission.
 - (a) Nonresidential development with a total floor area greater than 10,000 square feet;
 - (b) Mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.
 - (2) Multifamily housing, including at least 25% workforce housing and totaling not more than 16 dwelling units or 32 bedrooms per acre.

C. Dimensional, bulk and other requirements.

Zoning District	Minimum Lot Area (square feet)	Minimum Yard Setbacks			Maximum Building Height ¹	Feet	Stories ²	Maximum Lot Coverage ²	FAR ³	
		Minimum Lot Frontage (feet)	Front (feet)	Rear (feet)						Side (feet)
Office/Multifamily Residential	20,000	50	20 ¹	10 ¹	10 ¹	40	3	80%	1.0	

NOTES:

¹ See also setbacks in Subsection C(1) below.

(1) Setbacks.

- (a) The front yard landscaped setback shall be 10 feet, with the exception of townhouse development.
- (b) The SPGA may reduce to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots.
- (c) For townhouses, buildings shall be set back zero to 15 feet from the frontage line. Buildings at street intersections shall be set back at least six feet but not more than 15 feet from the frontage line and side street lines. Setback requirements shall apply to the enclosed portion of the buildings only. That area between the building setback (including decks and unenclosed structures) and the street line shall be landscaped.
- (d) For townhouses with direct vehicular access from the street, garage and carport entrances shall not be closer to the street property line than any other portion of the front facade of the building.

D. Site development standards. For additional site plan review and special permit standards see § 240-24.1.10 below.

§ 240-24.1.7. HD Harbor District. [Added 7-14-2005 by Order No. 2005-100]

A. Permitted uses. The following principal and accessory uses are permitted in the HD District. Uses not expressly allowed are prohibited.

(1) Permitted principal uses.

- (a) Marinas.
 - (b) Building, sale, rental, storage and repair of boats.
 - (c) Retail sale of marine fishing and boating supplies.
 - (d) Retail sale of fishing bait, fish and shellfish.
 - (e) Commercial fishing, not including canning or processing of fish.
 - (f) Charter fishing and marine sightseeing and excursion facilities.
 - (g) Museums.
 - (h) Performing arts facilities.
 - (i) Restaurants.
 - (j) Hotels.
 - (k) Motels.
 - (l) Conference centers.
 - (m) Bed-and-breakfasts.
 - (n) Artist's lofts.
 - (o) Mixed-use development with all residential units located above the ground floor only.
- (2) Permitted accessory uses.
- (a) Offices to be used for ancillary activities which are directly related to a principal permitted use in the district.
 - (b) Accessory retail uses that do not exceed 1,500 square feet and which are directly related to a principal permitted use in the district.
 - (c) Health club not exceeding 1,500 square feet and which is directly related to a principal permitted use in the district.
- B. Special permits.
- (1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a development of regional impact approval, exemption or hardship exemption from the Cape Cod Commission:
- (a) Nonresidential development with a total floor area greater than 10,000 square feet;

(b) Mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.

(2) Multifamily residential development totaling not more than seven units per acre.

C. Dimensional, bulk and other requirements.

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks			Maximum Building Height ¹		Maximum Lot Coverage ¹	FAR
			Front (feet)	Rear (feet)	Side (feet)	Feet	Stories		
Harbor District	20,000	20	20 ²	10 ²	10 ²	35	2.5 ³	70%	—

NOTES:

¹ See additional dimensional regulations for marine uses in Subsection C(1) below.

² See also setbacks in Subsection C(2) below.

³ The half story can only occur within habitable attic space.

(1) Special dimensional regulations for marine uses. In order to support water-dependent uses on the harbor, for buildings and structures used as a marina and/or used in the building, sale, rental, storage and/or repair of boats, so long as such buildings or structures exist as of the date of the adoption of this section, the following dimensional regulations shall apply: maximum building height 45 feet, maximum lot coverage 90%.

(2) Setbacks. The front yard landscaped setback shall be 10 feet.

D. Site development standards. For additional site plan review and special permit standards, see § 240-24.1.10 below.

§ 240-24.1.8. HG Hyannis Gateway District. [Added 7-14-2005 by Order No. 2005-100]

A. Permitted uses. The following principal and accessory uses are permitted in the HG District. Uses not expressly allowed are prohibited.

(1) Permitted principal uses.

(a) Business and professional offices.

(b) Banks.

(c) Restaurants.

- (d) Business support services not exceeding 5,000 square feet.
 - (e) Dental and medical clinics, including a change of use, that do not increase the number of vehicle trips per day and do not increase peak hour vehicle trips per day.
 - (f) Retail uses that do not increase the number of vehicle trips per day and do not increase peak hour vehicle trips per day.
 - (g) Mixed-use development.
 - (h) Multifamily housing totaling not more than four dwelling units per acre, or eight bedrooms per acre.
- (2) Permitted accessory uses.
- (a) Accessory retail uses that do not exceed 1,500 square feet and which are directly related to a principal permitted use in the district.
 - (b) Personal services establishments.
 - (c) Automated banking facilities (ATM).
- B. Special permits.
- (1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a development of regional impact approval, exemption or hardship exemption from the Cape Cod Commission:
 - (a) Nonresidential development with a total floor area greater than 10,000 square feet.
 - (b) Mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.
 - (2) Multifamily housing, including workforce housing totaling not more than 16 dwelling units or 32 bedrooms per acre, that includes at least 25% of workforce housing dwelling units.
 - (3) Retail uses and dental and medical clinics that increase the number of vehicle trips per day and/or increase peak hour vehicle trips per day.
- C. Dimensional, bulk and other requirements.

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks			Maximum Building Height ¹		Maximum Lot Coverage ² FAR ³	
			Front (feet)	Rear (feet)	Side (feet)	Feet	Stories	80%	0.8
			Front	Rear	Side	Feet	Stories		
Hyannis Gateway	40,000	50	30 ³	15	20	40	3	80%	0.8

NOTES:

- ¹ Floor area ratio = gross building square footage divided by the lot area.
- ² The third story can only occur within habitable attic space.
- ³ See also setbacks in Subsection C(1) below.

(1) Setback. Front yard landscape setback on Route 28 is 60 feet. For lots with less than 20,000 square feet of lot area, front yard landscape setback shall be at least 10 feet.

(2) Site access/curb cuts.

(a) Driveways on Route 28 and Barnstable Road shall be minimized. Access shall not be located on Route 28 or Barnstable Road where safe vehicular and pedestrian access can be provided on an alternative roadway, or via a shared driveway, or via a driveway interconnection. On Route 28, new vehicular access, and changes in use that increase vehicle trips per day and/or peak hour roadway use for an existing driveway or curb cut, shall be by special permit.

(b) Applicants seeking a new curb cut on Route 28 shall consult the Town Director of Public Works regarding access on state highway roadways prior to seeking a curb cut permit from the Massachusetts Highway Department, and work with the Town and other authorizing agencies such as the MHD to agree on an overall access plan for the site prior to site approval. The applicant shall provide proof of consultation with the listed entities and other necessary parties.

(c) All driveways and changes to driveways shall:

- [1] Provide the minimum number of driveways for the size and type of land use proposed.
- [2] Provide shared access with adjacent development where feasible.

- [3] Provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road.
- (d) Parking at the front of the lot is strongly discouraged. When parking is allowed on the front of the lot, where feasible, it shall be limited to a single row of vehicles and associated turning space. Also within the HG District, to the extent feasible, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.
- (e) Transit improvement incentives. For redevelopment, the SPGA may provide relief from required parking where the applicant:
 - [1] Permanently eliminates and/or significantly reduces the width of existing curb cuts in a manner that improves the through flow of traffic on Barnstable Road and/or Route 28; and/or
 - [2] Provides a perpetual agreement for one or more driveway interconnections that will alleviate traffic on Barnstable Road and/or Route 28.
- D. Site development standards. In addition to the site development standards set forth in § 240-24.1.10 below, the following requirements shall apply.
 - (1) Landscaping. All site plan and special permit applications shall include a landscaping plan which shall be signed and stamped by a Massachusetts certified landscape architect.

§ 240-24.1.9. Transportation Hub District. [Added 7-14-2005 by Order No. 2005-100]

- A. Permitted uses. The following principal and accessory uses are permitted in the TD District. Uses not expressly allowed are prohibited.
 - (1) Permitted principal uses.
 - (a) Restaurants.
 - (b) Tourist information service.
 - (c) Parking facilities outside of the WP Overlay District.
 - (d) Bicycle rental services (nonmotorized vehicles only).
 - (e) Shuttle services.
 - (f) Alternative transportation facilities.
 - (g) Car rental services outside of the WP Overlay District.
 - (h) Automated banking facilities (ATM).

- (2) Permitted accessory uses. Accessory retail uses that do not exceed 1,500 square feet and which are directly related to a principal permitted use in the TD District.

B. Special permits.

- (1) Parking facilities within the WP Overlay District.
- (2) Public transportation maintenance facilities.
- (3) Car rental services within the WP Overlay District.
- (4) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a development of regional impact approval, exemption or hardship exemption from the Cape Cod Commission:
 - (a) Nonresidential development with a total floor area greater than 10,000 square feet.

C. Dimensional, bulk and other requirements.

Zoning District	Minimum Lot Area (square feet)	Minimum Yard Setbacks				Maximum Building Height (Feet)	Stories ²	Maximum Lot Coverage ¹	FAR
		Minimum Lot Frontage (feet)	Minimum Lot Front (feet)	Minimum Lot Rear (feet)	Minimum Lot Side (feet)				
Transportation Hub	30,000	100	20 ³	10 ³	10 ³	40	3	25%	—

NOTES:

- ¹ Maximum lot coverage pertains to building footprint only, with the exception of parking facilities which are permitted a maximum lot coverage of 65%.
- ² The third story can only occur within habitable attic space.
- ³ See also setbacks in Subsection C(1) below.

(1) Setbacks.

- (a) Front setback on Route 28 is 50 feet.
- (b) The SPGA may reduce to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots.

(2) Site access/curb cuts.

- (a) Driveways on Route 28 shall be minimized. Access shall not be located on Route 28 where safe vehicular and pedestrian

access can be provided on an alternative roadway, via a shared driveway, or via a driveway interconnection. On Route 28, new vehicular access, and changes in use that increase vehicle trips per day and/or peak hour roadway use for an existing driveway or curb cut, shall be by special permit.

- (b) Upon the redevelopment, expansion, alteration or change of use of any lot with a lot line on Engine House Road, the new, expanded, altered or changed use shall provide vehicular access solely on Engine House Road.
- (c) Applicants seeking a new curb cut on Route 28 shall consult the Town Director of Public Works regarding access on state highway roadways prior to seeking a curb cut permit from the Massachusetts Highway Department, and work with the Town and other authorizing agencies such as the MHD to agree on an overall access plan for the site prior to site approval. The applicant shall provide proof of consultation with the listed entities and other necessary parties.
- (d) Parking at the front of the lot is strongly discouraged. When parking is allowed on the front of the lot, where feasible, it shall be limited to a single row of vehicles and associated turning space. Also within the TD District, to the extent feasible, for redevelopment, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.
- (e) All driveways and changes to driveways shall:
 - [1] Provide the minimum number of driveways for the size and type of land use proposed;
 - [2] Provide shared access with adjacent development where feasible;
 - [3] Provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road.
- (f) Transit improvement incentives. For redevelopment, the SPGA may provide relief from required parking where the applicant:
 - [1] Permanently eliminates and/or significantly reduces the width of existing curb cuts in a manner that improves the through flow of traffic on Barnstable Road and/or Route 28; and/or
 - [2] Provides a perpetual agreement for one or more driveway interconnections that will alleviate traffic on Barnstable Road and/or Route 28.

- D. Site development standards. In addition to the site development standards set forth in § 240-24.1.10 below, the following requirements shall apply.
- (1) Special permit criteria. In determining whether to grant a special permit within the WP Overlay District, the SPGA shall consider the criteria set forth in § 240-24.1.2, General provisions, Subsection E, above, in addition to the following factors:
 - (a) The nature and extent of the risk of contamination to the proposed well that will result from the grant of the special permit;
 - (b) The nature and degree to which the proposal eliminates existing threats to the public water supply, including on-site and off-site mitigation;
 - (c) The overall effectiveness of existing land uses and/or protective measures on the public water supply well; and
 - (d) Whether granting the special permit will accommodate an overriding community interest.

§ 240-24.1.9.1. GM Gateway Medical District. [Added 4-27-2017 by Order No. 2017-100]

- A. Permitted uses. The following principal and accessory uses are permitted in the GM District. Uses not expressly allowed are prohibited.
- (1) Permitted principal uses.
 - (a) Business and professional offices.
 - (b) Banks.
 - (c) Restaurants.
 - (d) Business support services.
 - (e) Dental and medical clinics.
 - (f) Retail uses.
 - (g) Personal services.
 - (h) Mixed-use development.
 - (i) Multifamily housing totaling not more than six dwelling units per acre or 12 bedrooms per acre.
 - (2) Permitted accessory uses.
 - (a) Automated banking facilities (ATM).

B. Special permits.

(1) Permitted principal uses as follows:

- (a) Nonresidential development with a total floor area greater than 10,000 square feet.
- (b) Mixed-use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.
- (c) Multifamily housing proposing to create seven or more dwelling units per acre or 13 or more bedrooms per acre and including at least 25% of workforce housing and totaling not more than 12 units per acre. Multifamily housing in the GM District is not required to provide inclusionary housing pursuant to Chapter 9 of the Barnstable Code.

C. Dimensional, bulk and other requirements.

Zoning District	Minimum Yard Setbacks					Maximum Building Height			
	Minimum Lot Area (square feet)	Minimum Lot			Side (feet)	Feet	Stories	Maximum Lot Coverage	FAR
		Frontage (feet)	Front (feet)	Rear (feet)					
Gateway Medical Services	10,000	50	20 ¹	10	20	38	3	80%	-

NOTES:

¹ See also setbacks in Subsection C(1) below.

- (1) Setbacks. Front yard landscape setback on Route 28 is 60 feet. For lots with less than 10,000 square feet of lot area, front yard landscape setback on Route 28 shall be 10 feet.
- (2) Site access/curb cuts.
 - (a) Driveways on Route 28 shall be minimized. Access shall not be located on Route 28 where safe vehicular and pedestrian access can be provided on an alternative roadway, or via a shared driveway, or via a driveway interconnection.
 - (b) Applicants seeking a new curb cut on Route 28 shall consult the Town Director of Public Works regarding access prior to seeking an application for a permit to access a state highway from the Massachusetts Department of Transportation, and work with the Town and other authorizing agencies such as MassDOT on a site access plan prior to site plan approval.

The applicant shall provide proof of consultation with the listed entities and other necessary parties.

- (c) All driveways and changes to driveways shall:
 - [1] Provide the minimum number of driveways for the size and type of land use proposed.
 - [2] Provide shared access with adjacent development where feasible.
 - [3] Provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road where feasible.
 - (d) Parking at the front of the lot is strongly discouraged. When parking is allowed on the front of the lot, where feasible, it shall be limited to a single row of vehicles and associated turning space. To the extent feasible, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.
 - (e) The SPGA may provide relief from required parking where the applicant:
 - [1] Permanently eliminates and/or significantly reduces the width of existing curb cuts in a manner that improves the through flow of traffic on Route 28; and/or
 - [2] Provides an agreement for one or more driveway interconnections that will alleviate traffic on Route 28.
 - [3] Has the availability of shared parking.
- D. Site development standards. Site development standards set forth in § 240-24.1.10 shall apply.
- (1) Landscaping for multifamily housing. A perimeter green space of not less than 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 and/or entry walk.

§ 240-24.1.10. Hyannis Parking Overlay District (HPOD). [Added 7-21-2016 by Order No. 2016-166²⁴]

- A. Purposes and intent. This section allows as-of-right permitting for land located south of Main Street in Hyannis, which land has some legal pre-existing nonconforming status or was licensed as of May 1, 2014, as an open air parking lot involving the temporary storage of vehicles. The

24. Editor's Note: This order also provided for the renumbering of former §§ 240-24.1.10 through 240-24.1.12 as §§ 240-24.1.11 through 240-24.1.13, respectively.

scope of such uses would otherwise have to be clarified through a quasi-judicial or regulatory process. The purpose of this section is to:

- (1) Clarify this land use and create as of right permitting for land now used as open air parking lots and located south of Main Street in Hyannis;
- (2) Protect the safety of the users of the lot and the general public through site development standards providing constant access for emergency responders;
- (3) Ensure safe access to structures for emergency responders;
- (4) Protect adjacent property from nuisances which may result from the operation of cars and parking off streets;
- (5) Enhance and protect the visual quality of the Hyannis harbor area;
- (6) Reduce congestion on lot access streets which also serve residential areas; and
- (7) Contribute to traffic safety by ensuring orderly access to and egress from such lots.

B. Relationship to underlying districts and regulations.

- (1) The Hyannis Parking Overlay District (HPOD) shall overlay all underlying districts so that any parcel of land lying in the HPOD shall also lie in the zoning district or districts in which it is otherwise classified by this chapter.
- (2) All regulations of the underlying zoning district(s) shall apply within the HPOD to the extent that they are not inconsistent with the specific provisions of this § 240-24.1.10. To the extent the provisions of this § 240-24.1.10 are in conflict with or are inconsistent with other provisions of this chapter, the provisions of this § 240-24.1.10 shall govern and prevail even if such other provisions are more restrictive than those set forth in this section 240-24.1.10.

C. Definitions.

As used in this section, the following terms shall have the meanings indicated:

AISLE — That portion of the commercial surface parking lot circulation area providing safe and constant access for emergency responders and access to parking spaces for lot patrons. Aisle area is calculated exclusive of any other area on the lot, such as driveway, parking stalls, and attendant areas.

COMMERCIAL SURFACE PARKING LOT — The commercial parking of vehicles where parking is a principal use on the property. Commercial surface parking lots shall not include structures, fully or partially

enclosed, that accommodate vehicle parking spaces. Noncommercial trucks, vans and other vehicles not exceeding 7.5 feet may use a commercial surface parking lot.

EMERGENCY ACCESS AISLES AND FIRE LANES — Aisles, unobstructed at all times, for the safe and immediate access of emergency response vehicles. At no time shall any portion of a designated emergency access aisle be used for parking or storing vehicles for any length of time no matter how short.

KIOSK — A structure, which may be temporary or seasonal, located on the commercial surface parking lot from which parking transactions are conducted.

PARKING ATTENDANT — An employee of the commercial surface parking lot available to customers to park and retrieve vehicles within the licensed lot.

REMOTE PARKING SITES — Sites accommodating excess parking for HPOD parking lots that are located in another area of Hyannis where such parking use is allowed. Such remote parking lots shall be permitted and licensed only in connection with the HPOD parking lot.

SECOND PRINCIPAL USE — A second principal use, lawfully permitted and established at the time of the adoption of this section, may share a parcel with a commercial surface parking lot.

STACKED PARKING — Parking of vehicles in a line or stack that may be up to three vehicles deep at a commercial surface parking lot. The lot operator shall have an attendant present to move vehicles out of the stack at all times that the lot is open for vehicle pickup by vehicle owners.

D. Permitted uses.

(1) Principal uses.

Commercial surface parking lot

E. Site development standards.

(1) Access management.

(a) Entrance and exit driveways shall be a minimum of 14 feet wide for one-way use only and a minimum of 20 feet wide for two-way use and shall be delineated.

(b) Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

(2) Parking spaces.

(a) Computation.

- [1] Within the property boundaries the number of parking spaces is limited only by the required dimensions for parking spaces, aisles, emergency access aisles, and fire lanes.
 - [2] Where another principal use, lawfully permitted and established at the time of the adoption of this section, is located on the same parcel as the commercial surface parking lot, the number of parking spaces required to support that use shall be deducted from the number of spaces for the commercial surface parking lot use; provided that the number of commercial surface parking spaces shall not exceed the number determined as of the effective date of this section, even if any other principal use is subsequently discontinued.
 - [3] Where another principal use not located on the same parcel as the commercial surface parking lot uses some of the lot's spaces as shared parking for the off lot use, those spaces shall be deducted from the zoning and licensing number of spaces for the commercial surface parking lot; provided that the number of commercial surface parking spaces shall not exceed the number determined as of the effective date of this section, even if any shared parking use is subsequently discontinued.
 - [4] Up to 10% of parking spaces may be designed for and allocated to compact spaces.
 - [5] Parking facilities shall provide specially designated parking spaces according to 521 CMR, the Architectural Access Board.
- (b) Dimensions.
- [1] Noncompact spaces: nine feet by 18 feet.
 - [2] Compact spaces: six feet by 14 feet.
- (c) Demarcation.
- [1] The lot owner shall submit to the Building Commissioner a plan of the commercial surface parking lot drawn and stamped by a registered professional land surveyor, known as the "record parking plan." Any changes to the lot boundaries or internal configuration shall require that a new record parking plan be prepared and filed in the same manner. All property lines and emergency access aisles and fire lanes shall be marked as shown on the record parking plan. In addition to showing the number of spaces that can be accommodated according to the dimensions herein, such plan shall depict demarcations for emergency

access aisles through a method permanently affixed to the ground and approved by the Building Commissioner and Fire Safety Official.

[2] Wheel stops and/or striping shall be installed and maintained to mark each permitted parking space. Stacked parking spaces shall be marked using ground-mounted delineators or other demarcation.

[3] Property boundaries for properties abutting other separately owned properties shall be marked with fencing or other means as may be approved by the Building Commissioner.

(3) Stacked parking.

(a) Stacked parking in compliance with this section may be permitted subject to the approval of the Building Commissioner and the Fire Safety Official.

(b) Lots using stacked parking configurations shall have a full-time attendant supervising the lot and to enable owner access to vehicles at all times.

(4) Aisle width.

(a) Unless otherwise provided for in this section, parking lots shall be designed so that each motor vehicle is able to proceed to and from the parking space provided without requiring the moving of any other motor vehicle.

(b) All angle parking shall have one-way circulation with an aisle width of at least 14 feet.

(c) Fire lanes and emergency access aisles shall be provided as required by the Building Commissioner and the Fire Safety Official.

(5) Lot circulation.

(a) Dead-end aisles, including but not limited to emergency access aisles, and fire lanes are prohibited.

(6) Landscaping and fencing.

(a) Parking lots shall install perimeter landscaping area along street frontages.

(b) Fencing other than split-rail fencing is prohibited.

(7) Lighting. Lighting shall not cause glare for motorists, pedestrians or neighboring premises. Full cut-off light fixtures shall be used in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.

- (8) Signage. Signage provisions rely on the requirements of the underlying zoning district or on rights that may be vested in the property as determined by the Building Commissioner.
- (9) Accessory structures.
 - (a) Parking lot kiosk. A kiosk for parking lot attendants and/or business needs may be allowed. Kiosks are typically located at the main entrance(s) to or exit(s) from the lot. Each kiosk shall not exceed 150 square feet in gross floor area and shall be located so as not to interfere with fire lanes, emergency access aisles, or site circulation. Kiosks shall include temporary sanitary facilities for employees. In no case shall the temporary sanitary facility be visible from any public way. Such structures shall be subject to applicable code or other permitting requirements and shall not host other principal or accessory uses such as retail without the required approvals.
 - (b) Trash receptacles. All lots shall provide accommodations for client and employee trash. Trash receptacles and/or dumpsters shall be located near each parking lot kiosk as may be required by the Building Commissioner and the Fire Safety Official. In no case shall the receptacles be visible from any public way.

§ 240-24.1.11. Site development standards. [Added 7-14-2005 by Order No. 2005-100]

- A. Application. Unless otherwise stated herein, the following additional site development standards shall apply within the Hyannis Village Zoning Districts, with the exception of Zone 3, the Single Family Residential District.
 - (1) Utilities and services.
 - (a) Mechanical equipment, whether ground level or rooftop shall be screened from view of adjacent properties and public rights-of-way and designed to be an integral part of the building.
 - (b) Trash containers shall be fully screened on three sides with solid walls a minimum of six feet high with a solid front gate, six feet high, which shall be kept closed. Trash compactors shall be enclosed to minimize noise.
 - (2) Stormwater. Rain gardens, as defined in § 240-24.1.12 below, are encouraged.
 - (3) Drive-through windows. Drive-through windows are prohibited within the Hyannis Village Zoning Districts, with the exception that banks allowed as a principal permitted use may construct and operate a drive-through window upon the issuance of a special permit.

(4) Off-street parking requirements. All new, expanded or intensified uses shall provide adequate off-street parking. No uses shall be intensified, except for single-family detached dwellings, without providing adequate parking as provided herein.

(a) Parking spaces, computation. See § 240-24.1.3 above for additional parking regulations applicable to the HVB District.

[1] Unless otherwise specified, all development shall comply with the parking requirements contained in Article VI, § 240-56, Schedule of Off-Street Parking Requirements, of the Barnstable Zoning Ordinance. The SPGA may by special permit reduce the on-site and off-street parking requirements consistent with these regulations.

[2] For multifamily housing, off-street parking shall be provided on-site at a ratio of 1 1/2 spaces per each dwelling unit and shall be located not less than 30 feet from the base of the multifamily dwelling and be easily accessible from a driveway on the site.

[3] Existing parking spaces may be counted to meet the minimum off-street parking requirements for an intensified use only if it can be demonstrated that they are not used as of right by existing uses and are exclusively available as of right for said proposed intensification.

[4] Circumstances warranting reduction of requirements. The SPGA may reduce or waive required on-site parking if lesser off-street parking is shown to be adequate given such special circumstances as:

[a] Use of a common parking area by different uses having different peak hours of demand and where the applicant provides a lease agreement between the necessary parties.

[b] Age or other characteristics of occupants which reduce auto usage.

[c] Characteristics of use invalidating normal methods of calculating parking demand.

[d] Supplementary parking provided off premises.

(b) Location of off-street parking spaces.

[1] All required off-street parking spaces shall be located on the same lot as the use for which such spaces are required, except that the SPGA may reduce or waive on-site parking required by the Zoning Ordinance for new development located within 500 feet of leased parking, provided that a lease agreement is presented as part of the site plan

approval or special permit process and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. In no case shall leased parking be allowed on land that is residentially zoned for, or in residential use as, a single-family or a two-family dwelling.

(c) Parking design standards.

- [1] Parking areas shall be located to the rear of a building unless such location would have an adverse environmental impact, or is infeasible due to configuration of the site. To the extent that parking cannot be located to the rear of a building, it shall be located to the side of a building to the extent possible.
- [2] Each off-street parking space shall have a minimum dimension of nine feet by 20 feet, excluding the driveway, and consistent with the dimensional parking requirements set forth in § 240-104, Minimum parking lot design standards, of the Barnstable Zoning Ordinance.
- [3] Maneuvering space shall be provided so that vehicles need not back onto a public way.
- [4] Lighting shall not cause glare for motorists, pedestrians or neighboring premises. Full cut-off light fixtures shall be used in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
- [5] Drainage facilities for each parking area shall be designed and constructed to contain stormwater runoff on the premises.

(d) Parking lot landscaping.

- [1] Trees. One three-inch minimum caliper low-water-use, low-maintenance tree must be provided for every five parking spaces and must be located within 50 feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least 50 square feet of permeable area. Existing trees located in the interior of lots shall be credited towards this requirement.
- [2] Five or more spaces: A six-foot landscape buffer must be provided between property lines and parking spaces. The landscape buffer must screen parking with a dense hedge providing year-round screening or a fence must be constructed with no more than 50% open space between

the panels. Hedges and fences may be subject to other regulation.

- [3] Ten or more spaces: A six-foot landscape buffer must be provided between a building and a surface area parking lot or drive except at entrances, building loading, and utility locations.
- [4] Twenty-one or more spaces: at least 10% of the interior parking lot must be landscaped. Planting along the perimeter shall not be considered as part of the 10%. Interior planting beds are ideally continuous to allow for maximum plant bed size and are constructed as rain gardens to control stormwater. No landscaped island shall be less than six feet wide, except that in parking lots with 51 or more parking spaces where the minimum island with shall be 10 feet.
- [5] Plant materials shall be low-water-use and low-maintenance and be of a sufficient size to create an attractive appearance. A list of recommended plant materials shall be included in the Design and Infrastructure Plan and can be obtained from the Planning Department. Brick or stone mulch shall not be used in place of plant material in landscaped islands. Where mulch is used, it shall not be placed in such a manner that it will wash into catch basins or drainage pipes in the lot or in adjacent roadways.

(e) Landscaping of pre-existing parking lots.

- [1] Upon the expansion of an existing parking lot containing 21 or more parking spaces and/or an alteration of a structure, or a change or extension of a use which increases the parking requirements by five or more spaces according to the standards of §§ 240-48 through 240-58, Schedule of Off-street Parking Requirements, the entire existing parking lot shall be brought into compliance with this section.

(5) Landscaping.

- (a) Existing significant trees and shrubs shall be maintained to the maximum extent possible.
- (b) The front yard landscaped setback from the road lot line shall be 10 feet, unless otherwise specified.
- (c) Within the HD, MS, SF, HG and TD Districts, landscaped setback from all residential property lines shall be 20 feet.

- (d) In addition to natural vegetation that is retained, the front yard landscaped setback shall be landscaped with a combination of indigenous grasses, trees and shrubs commonly found on Cape Cod.
 - (e) All developments must be adequately landscaped with low water use plants and provide habitat value whenever possible. No plantings shall obscure site entrance and exit drives and road intersections. Planting areas should serve as stormwater treatment areas often referred to as "rain gardens." As such they should be designed in a way that they are slightly depressed below adjacent parking or sidewalk grades with run-off directed to these areas. Plantings, while encouraging drought resistance, should be capable of withstanding seasonally wet conditions.
 - (f) Street trees. One deciduous tree with a three-inch minimum caliper is required to be planted within the front setback for every 30 feet of frontage of property if the front setback is greater than zero feet. Trees in paved areas shall have a minimum of 25 square feet of permeable area for growth. Trees in islands shall have a minimum of 50 square feet of permeable area for growth. All landscaped areas shall be continuously maintained, irrigated, and fertilized. Plant materials shall be organically maintained to the maximum extent possible.
 - (g) No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation of the plant materials.
- (6) Signage. 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 Hyannis Village Zoning Districts.
- (7) Lighting. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.
- (8) Fences. No fence shall exceed a height of 6 1/2 feet (eight feet when abutting a nonresidential district) from the grade plane unless a special permit is obtained from the SPGA.

§ 240-24.1.12. Design and infrastructure plan. [Added 7-14-2005 by Order No. 2005-100]

- A. The Planning Board shall establish a Design and Infrastructure Plan (DIP) which shall be adopted after public hearing. The DIP shall establish building and site design standards for all development and shall require, at a minimum:
- (1) Consistency with the historic and maritime character of the area;
 - (2) Creation of livable neighborhoods for year-round residents;
 - (3) Creating housing opportunities for persons and households of all income levels;
 - (4) Creation of opportunities for pedestrian access and public spaces;
 - (5) Preservation of views and public access to the waterfront;
 - (6) Creation of opportunities for eliminating curb cuts and for creating driveway interconnections, shared driveways, public transit, alternative transportation and/or travel demand management; and
 - (7) Creation of opportunities to foster history, culture and the arts.
- B. Design review. The DIP shall establish guidelines regarding the appropriateness of the scale, placement, materials, design and detail of buildings, landscapes and settings, and signage. The DIP shall identify buildings and areas of the landscape that are of particular cultural, historical and/or architectural significance and shall establish guidelines for their preservation. The Hyannis Main Street Waterfront Historic District Commission shall implement design review within the Hyannis Village Zoning Districts.
- C. Infrastructure. The Downtown Hyannis area is the transportation, health care, and commercial hub of Cape Cod. In recognition of this and local growth initiatives for the Downtown Hyannis area, the DIP shall identify the infrastructure and services necessary to support new development and redevelopment, the method or methods of providing such services, and the time schedule for providing those services. Without limitation, the DIP may establish standards related to the following:
- (1) The Design and Infrastructure Plan shall establish a process for permit applicants to challenge ITE assumptions regarding trip generation (vehicle trips per day). Based upon generally accepted engineering, legal and planning standards, the Design and Infrastructure Plan may modify the definition of peak hour roadway use for specific roadways in the Hyannis Village Zoning Districts and may establish base line traffic counts for existing land uses.
 - (2) The Barnstable Town Council may establish a fee schedule to be included in the DIP, which fee schedule shall establish the fair share contribution of new development and redevelopment. In such case, the DIP shall establish the costs of providing services to new development and redevelopment using generally accepted legal,

accounting, and planning principles. In the event the Barnstable Town Council adopts such a fee schedule, it shall be included in the DIP as a severable provision.

- (3) The DIP shall identify prior Town actions and future opportunities to offset increased development in the Hyannis Village Zoning Districts.
- (4) The DIP shall identify opportunities to benefit residents and business owners by identifying locations for shared community services, shared parking, shared transit and travel demand management facilities, shared waste management facilities, and similar facilities.

§ 240-24.1.13. Definitions applicable to the Hyannis Village Zoning Districts. [Added 7-14-2005 by Order No. 2005-100]

A. In the interpretation of §§ 240-24.1.1 through 240-24.1.11, the following words and terms are to be used and interpreted as defined herein unless the context otherwise requires. The definitions contained in § 240-128 of the Barnstable Zoning Ordinance shall also apply to § 240-24.1.1 through 240-24.1.11, provided that, in the event of a conflict the definitions below shall apply.

B. As used in § 240-24.1.1 through 240-24.1.11, the following terms shall have the meanings indicated:

ACCESSORY USE — A structure or use that is subordinate in building area, building extent, and purpose to the principal use; is customarily incidental and subordinate to the principal use and contributes to the comfort, convenience, or necessity of the principal use; and, is located on the same lot as the principal use.

ART GALLERY — A public or private facility which is operated as a repository or a collection of works of individual art pieces, not mass-produced, consisting of one or more of the following: paintings, drawings, etchings or sculptures; may include the sale of related objects and services.

ARTIST'S LOFT — A place designed to be used as both a dwelling and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts, such as drawing, vocal or instrumental music, painting, sculpture, photography, graphics, media arts, and writing. The work activities shall not adversely impact the public health, safety, and welfare, or the livability, functioning, and appearance of adjacent property.

AUTOMATED BANKING FACILITY (ATM) — An automated device, which is operated by the customer, that performs banking or financial transactions.

AUTOMOBILE GASOLINE AND REPAIR STATION — A retail establishment engaged in the sale of automotive fuel, motor oil, and/

or services, which provides for the routine maintenance of automobiles. Such services may include washing, polishing, greasing, emissions testing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing.

BANK — A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities. Walk-in services to consumers are generally provided on site. Drive-through services may be allowed by special permit where banks are allowed as a principal permitted use.

BUILDING HEIGHT — Shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridgeline.

BUILDING STORY — The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

BUSINESS OFFICES — Include all types of offices, other than professional offices as defined elsewhere in this chapter, which are defined as a room, or group of rooms used for conducting the affairs of a business, service industry, or government entity.

BUSINESS SUPPORT SERVICES — Establishments engaged in the sale, rental, or repair of office equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments. Typical uses include office equipment and supply firms, small business machine or computer repair shops, convenience printing and copying establishments, or hotel equipment and supply firms.

CLINIC, DENTAL OR MEDICAL — A building or portion of a building in which the primary use is the provision of health care services to patients or clients. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, related medical services, or a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services. The sale of merchandise is allowed only as an accessory use. **[Amended 3-18-2010 by Order. No. 2010-069]**

CONFERENCE CENTER — A facility which provides meeting halls for conferences, seminars, training and other similar functions for large numbers of people. A conference center shall be considered to be an accessory use to a hotel.

CONVENIENCE STORE GAS STATION — A facility associated with the sale of prepackaged food items and other retail goods, primarily for

self-service by the consumer which also offers the retail sale of gasoline from pumps.

DESIGN AND INFRASTRUCTURE PLAN — A plan establishing site and building design standards and establishing fair share contributions to infrastructure (impact fees) for new development and redevelopment, as further defined in § 240.24.1.11 herein.

DRIVE-THROUGH WINDOW — This use is prohibited in all districts, with the exception that banks may seek a special permit to construct and operate a drive-through window.

DRIVEWAY/CURB CUT — Any access point onto a roadway. This may include, but is not limited to, an entrance to a parcel, or an intersection with another roadway.

DRIVEWAY INTERCONNECTION — A private driveway connection between two lots that does not require traveling on the public roadway system.

FLOOR AREA RATIO (FAR) — The ratio of gross building area to the lot area on which the building(s) are located. The ratio is calculated by dividing the gross area of said buildings by said lot area.

FRATERNAL OR SOCIAL ORGANIZATION LODGE — A building or land used for the activities of an association of persons for the promotion of some nonprofit common objective, such as literature, science, politics, and good fellowship (not accessory to, or operated as, or in connection with a tavern, eating place, or other place open to the public), which meets periodically and may be limited to members.

GRADE PLANE — A reference plane representing the natural, undisturbed ground level adjoining the proposed building at all exterior walls. Where the ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet from the building, or between the building and the lot line, whichever point is closer.

GROUND FLOOR — The floor located at the street level, closest to the naturally occurring grade.

HABITABLE ATTIC — The habitable space between the rafters of a pitched roof and the next floor below.

HABITABLE SPACE — Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and other similar areas are not considered "habitable space."

HEALTH CLUB — A building or portion of a building designed and equipped for the conduct of exercise and related activities utilizing weight control or muscle building equipment or other apparatus for the purpose of physical fitness, along with customary ancillary activities and facilities.

HIGHEST ROOF PLANE — The roof plane having the highest ridge and having highest average height (exclusive of cupolas and parapets) or the flat roof that is higher than any pitched roof.

HOSPITAL — A facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health under MGL c. 111, § 51.

HOTEL — One or more buildings providing temporary lodging accommodations offered to the public on a daily rate for compensation. The building or buildings have an interior hall and lobby with access to each room from such interior hall or lobby, supervised by a person in charge at all hours. Accessory uses may include a restaurant, conference center facility, meeting rooms, health club and other customary uses.

HYANNIS VILLAGE ZONING DISTRICTS — The seven Hyannis zoning districts including HVB, MS, SF, OM, HD, HG and TD.

LOT COVERAGE, MAXIMUM — A measure of the portion of a site that is impervious (i.e., does not absorb water), including but not limited to all areas covered by buildings, structures, parked surfaces and structures, driveways, roads, sidewalks and any area of concrete asphalt, except as otherwise defined herein. The remaining area of a site shall be maintained as natural vegetation or landscaped area.

MIXED-USE DEVELOPMENT — Development including residential and nonresidential principal permitted uses on a single lot and including at least 33% residential development for three-story buildings.

MOTEL — One or more attached or detached buildings providing residential room accommodations intended primarily for sleeping which are rented out to the public on a daily rate, where each room has a separate entrance leading directly outside the building.

MULTIFAMILY HOUSING — A structure containing three or more dwelling units, or apartments, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the families residing there.

MUSEUMS — A public or private facility, including an aquarium, established for preserving and exhibiting artistic, historical, scientific, natural or man-made objects of interest, designed to be used by members of the public for viewing, with or without an admission charge. Such activity may include, as an accessory use, the sale of memorabilia, crafts work and artwork, and the holding of meetings and social events.

NURSING HOME — A facility for the aged or chronically ill, providing bed-care and in-patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services.

OFFICE, DENTAL OR MEDICAL — A building or portion of a building in which the primary use is the provision of health-care services to

patients or clients by an appointment only. Appointments limited to the hours between 7:00 a.m. to 7:00 p.m., Monday through Friday, and Saturday from 7:00 a.m. to 1:00 p.m. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, related medical services, or a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services. The sale of merchandise is allowed only as an accessory use. **[Added 3-18-2010 by Order No. 2010-069]**

PACKAGING AND DELIVERY SERVICES — The packaging and delivery of parcels as a retail service use. It shall not include the bulk storage of parcels on-site but may include the sale of ancillary goods typically used in the packaging and shipping of parcels.

PARKING FACILITY — When identified as a permitted principle use within a zoning district, refers to either structured parking (such as a multi-level parking garage or parking deck), or a surface parking lot, which is not an accessory use to another permitted use in the district.

PEAK-HOUR ROADWAY USE — For Monday through Friday, peak morning (7:30 a.m. to 9:30 a.m.) and peak evening (4:00 p.m. to 6:00 p.m.) roadway use; for Saturday, 10:00 a.m. to 12:00 p.m. roadway use. Based upon accepted engineering, legal and planning standards, the Design and Infrastructure Plan may change, modify or expand the definition of peak hour roadway use for specific roadways in the Hyannis Village Zoning Districts.

PERFORMING ARTS FACILITY — An enclosed space suitable for a variety of cultural arts performances, permanently available for the primary principal use of public performing arts presentations, such as plays, dances, and concerts, although incidental use for private meetings, exhibits and presentations shall be permitted. Such space may also include studios, classrooms, and galleries.

PERSONAL SERVICES ESTABLISHMENT — An establishment engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, barbershop, beauty shop, dry cleaner, tailor, or other similar services, but shall not include a public laundry where clothing is laundered on-site.

PROFESSIONAL OFFICES — The office of a member of a recognized profession maintained for the conduct of that profession. A "profession" is defined as an occupation requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field, any occupation requiring licensing by the state and maintenance of professional standards applicable to the field. This category excludes medical and dental offices and clinics but includes lawyers and realtors.

PUBLISHING AND PRINTING ESTABLISHMENT — The publishing and printing of information as a retail service use. It shall not include the bulk publishing or printing of paper documents on-site, but may include the sale of ancillary goods typically used in the publishing and printing of information.

RAIN GARDEN — A bowl-shaped landscape area designed to absorb stormwater runoff from impervious surfaces. It cleanses water of pollutants by filtering water through soil and plants.

RECREATIONAL ESTABLISHMENT — An establishment engaged in the provision of public recreational services, including bowling and billiards, but not including miniature golf and video arcades.

REPAIR SERVICES — Repair and servicing of appliances, computers, electronic equipment, tools and other small machinery common to homes and businesses, not to include any appliances, tools or small machinery that are powered by hydrocarbon fuel.

RESEARCH AND DEVELOPMENT FACILITY — A business that engages in research and development of innovative ideas and technology. Examples include research and development of computer software, information systems, communication systems, transportation, multi-media and video technology. Development and construction of prototypes may be associated with this use.

RESTAURANT — An establishment where food and/or beverages are prepared, served, and consumed, and whose principal method of operation includes one or both of the following characteristics: customers are normally provided with an individual menu and served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or a cafeteria-type operation where food and beverages generally are consumed within the restaurant building. This category excludes drive-through restaurants.

RESTAURANT, DRIVE-THROUGH — An establishment whose primary business is serving food to the public for consumption on or off the premises, and which provides all or part of these services by means of a drive-through window. A "drive-through window" is defined as an opening in the wall of a building or structure designed and intended to be used to provide for sales to and/or service to patrons who remain in their vehicles.

RETAIL USES — A business or activity having as its primary function the sale of merchandise or wares to the end consumer (for example, grocery stores, hardware stores, apparel stores, bookstores); or establishments engaged in the rental of goods at retail, or in providing a service(s) to individuals and households (for example, travel agents or real estate sales offices). This category excludes animal sales or service; bulk retail sales or rental of building and garden materials or equipment (for example, lumber, electrical and heating fixtures, plant nurseries); and motor vehicle retail or wholesale sales and related equipment sales, leasing, rental, or repair.

RETIREMENT HOUSING — A facility for long-term residency exclusively by persons 60 years of age or older, which provides independent living and/or assisted living arrangements, and which may include common dining and social and recreational features, and special safety and convenience features designed for the needs of the elderly. The facility may also include the provision of services, such as meal services, transportation, housekeeping, personal care, or health care. Such a facility shall not be construed to mean a nursing home, group home, or residential treatment center.

SPGA — The special permit granting authority, which shall be the Barnstable Planning Board.

STREET LINE — The edge of the public layout of the street, or public right-of-way as defined by the sidewalk, whichever is greater.

TOTAL FLOOR AREA — Gross floor area as defined in § 240-128 of the Barnstable Zoning Ordinance, and shall include additions and auxiliary buildings.

TOWNHOUSE — A single dwelling unit which is not above or below another dwelling unit and whose side walls are separated from other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner.

VEHICLE TRIPS PER DAY — As defined by the Institute of Transportation Engineers' (ITE) Trip Generation Manual, 7th Edition, as that publication may be amended from time to time, provided, however, that the Design and Infrastructure Plan shall establish a process for permit applicants to challenge ITE assumptions regarding trip generation, and the Design and Infrastructure Plan may establish existing vehicle trips per day for a particular use or uses in the Hyannis Village Zoning Districts.

WORKFORCE HOUSING — Residential dwelling units, offered for sale or rent, affordable to families earning between 81% and 120% of the area median income, as defined by the U.S. Department of Housing and Urban Development, and provided within a multifamily structure. Such residential dwelling units shall remain affordable in perpetuity and shall provide a deed restriction, regulatory agreement and monitoring agreement and similar documentation as may be required by and approved by the Barnstable Town Attorney.

§ 240-24.2. Marstons Mills Village Zoning District. [Added 6-17-2010 by Order No. 2010-122]

- A. Principal permitted uses. The following uses are permitted in the Marstons Mills Village Zoning District (MMVD). Uses not expressly allowed are prohibited.
- (1) Professional or business office.
 - (2) Medical or dental office.

- (3) Branch office of a bank or credit union, excluding drive-through banking.
 - (4) Small-scale retail.
 - (5) Small-scale food service.
 - (6) Mixed use development where the building footprint does not exceed 5,000 square feet and total gross floor area does not exceed 10,000 square feet with retail or office use on the first floor, residential apartment units above not to exceed four apartment units.
 - (7) Bed-and-breakfast within an owner-occupied single-family residential structure subject to the provisions of § 240-11C(6) except Subsection C(6)(b) [1] and [2]. No more than six total rooms shall be rented to not more than 12 total guests at any one time. For the purposes of this section, children under the age of 12 years shall not be considered in the total number of guests.
 - (8) Single-family residential dwelling (detached).
- B. Accessory uses. In addition to Article V, Accessory Uses, herein, the following uses are also permitted as accessory uses in the MMV District.
- (1) Apartment incidental to a nonresidential use.
 - (2) Automated banking facilities (ATM) within a principal building or a walk-up ATM facility located in a side or rear yard.
- C. Conditional uses. The following uses are permitted as conditional uses in the MMV District, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the provisions of § 240-125C herein and the specific standards for such conditional uses as required in this section:
- (1) Mixed use development in excess of that permitted as of right above provided that:
 - (a) The building footprint does not exceed 5,000 square feet and total gross floor area of the building does not exceed 13,300 square feet;
 - (b) Retail or office use on the first floor with residential apartment units above;
 - (c) The number of residential apartment units does not exceed seven;
 - (d) Effluent from the on-site septic system for the mixed use development complies fully with all Board of Health regulations without relief or variances from the Board of Health nitrogen standard for this area; and

- (e) The location of the mixed use development is appropriate and compatible with abutting uses and supports abutting uses.
 - (2) Health clubs.
 - (3) Artist's lofts.
 - (4) Art galleries.
 - (5) Museums.
 - (6) Performing arts facilities.
 - (7) Educational institutions.
 - (8) Bed-and-breakfast inns within an owner-occupied structure that exceed the provisions of accessory uses permitting, provided that the on-site septic system complies fully with all current Board of Health regulations.
 - (9) Not-for-profit fraternal or social organizations.
- D. Special permit standards. In addition to the standards for the grant of a special permit set forth in § 240-125C, the grant of any special permit within the MMVD requires findings to support that the development meets one or more of the following criteria:
- (1) The development maintains or improves pedestrian access and outdoor public spaces.
 - (2) The development contributes to the historic character of the Marstons Mills Village area.
 - (3) The development eliminates or minimizes curb cuts and driveways on Route 149 and River Road.
- E. Bulk regulations.

Minimum Yard Setbacks					Maximum Building Height	Maximum Coverage by Structures as a Percentage of Lot Area³
Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Front⁴ (feet)	Side (feet)¹	Rear (feet)¹		
10,000	20	10	0	0	30 ²	20%

Notes:

¹ A minimum thirty-foot side or rear yard setback is required where lot boundaries abut a residential district.

² Or 2 1/2 stories, whichever is less, and except that:

The maximum building height may be increased to 36 feet when the roof pitch is at least six in 12.

Accessory rooftop equipment may extend to 36 feet, provided that it is set back from all exterior wall(s) by at least 10 feet, and is enclosed or screened with materials compatible with the building, and the equipment and screening are not visible from the ground. Accessory equipment shall not exceed 20% of the roof area.

³ 30% of the total upland area of the lot shall remain pervious and may contain landscaping, tree plantings, mulch or natural vegetation including the requirements of § 240-53.

⁴ Front yard landscape setback from the road lot line shall be 10 feet. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of 3.0 inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure the site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

- F. Special permit for dimensional relief. The SPGA may provide relief from minimum yard setbacks where the boundary does not abut a residential district, facade length requirements or ground floor window requirements when such relief is consistent with this section and § 240-125C.
- G. Nonconforming use limitations. Within the MMVD the change of a nonconforming use to another nonconforming use is prohibited notwithstanding the provisions of § 240-94A. A nonconforming use shall only be permitted to change to a principal permitted use as of right or to a conditional use as provided for by the grant of a special permit pursuant to § 240-24.2C and D herein.
- H. Corporate branding. Buildings, colors, signage, architectural features, text, symbols, graphics, other attention-getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation is prohibited. All structures and sites shall be designed to include architectural and design elements that are consistent with the MMVD architectural

composition, character, and historic context. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. The Town will work with applicants to adapt critical functional features of prototype plans to their sites, but will not accept standard plans, building forms, elevations, materials, or colors that do not relate to the site, adjacent development or Marstons Mills community character.

- I. Design guidelines. Within the MMVD the following design guidelines shall apply to all new buildings and structures and/or expansions and alteration to existing buildings and structures as follows:
 - (1) Facade and roof standards.
 - (a) Facade length. Buildings or portions of a building with a mass over 50 feet wide must divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.
 - (b) Roof pitch. Roof pitch for new structures and additions to existing structures shall be within the range of roof pitches found on the main roofs of existing structures within the MMVD. Flat roofs may extend up to 20 linear feet only in combination with other pitched roof elements by right or, if greater than 20 feet with other pitched roof elements, through a special permit.
 - (c) Roofline variation. Roofline variation is achieved by visually and physically changing roof direction or off-setting roof peaks and ridgelines, both horizontally and vertically. The roofline shall be varied on all elevations visible from a street, parking area, or public space. Individual segments of the roofline shall not extend more than 30 feet in width measured horizontally.
 - (2) Ground floor windows. Religious institutions are exempt from ground floor window requirements.
 - (a) All new nonresidential development or redevelopment shall provide ground floor windows for facades facing the street, including windows that allow views into working areas or lobbies, pedestrian entrances, or display windows. The glazing pattern shall be aligned in regular and traditional patterns found within the MMVD.
 - (b) In new and redeveloped nonresidential structures, windows that block two-way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows along street facades.

- (c) In new and redeveloped nonresidential structures, any wall that is within 30 feet of the street shall contain at least 20% of the ground floor wall area facing the street in display areas, windows, or doorways. Blank walls, including walls that do not include display areas, windows, architectural features, and/or doorways, are prohibited.
- (3) All structures within the MMVD shall utilize at least four of the following design features:
 - (a) Gables.
 - (b) Offsets on the building face or roof of at least two inches.
 - (c) Gable dormers.
 - (d) Cupolas or other appropriate roof elements.
 - (e) Covered porch or recessed entry area.
 - (f) Window shutters.
 - (g) Horizontal lap siding.
 - (h) Wood shingles.
- (4) Divided light windows metal-sided buildings are prohibited within the Marstons Mills Village District.
- (5) Drive-through and drive-up windows are prohibited within the Marstons Mills Village District.
- (6) The design of all structures and materials selected for their exterior surfaces will utilize scale, color and materials that enhance and promulgate the traditional small-scale village character currently found in the MMVD.
- (7) Signs. In addition to compliance with Article VII, Sign Regulations, the following restrictions shall also apply to all signs in the MMVD.
 - (a) Internally illuminated signs, halo and backlit signs are prohibited in the MMVD.
 - (b) Business identity, either by awnings, accent bands, paint or other applied color schemes, signage, decorative roof details or materials should not be the dominant architectural feature.
- J. Site development standards. In addition to Article IX, Site Plan Review, and Article VI, Off-Street Parking, the following additional requirements shall apply within the MMVD.
 - (1) Loading docks. Loading docks shall be screened from Route 149, River Road and Main Street with landscaping or fencing materials of an appropriate scale.

- (2) To the greatest extent feasible, all new parking areas shall be located to the side and rear of the building. Parking is not permitted in the required front yard setback with the exception of parking required by ADA compliance as determined by the Building Commissioner.
 - (3) Curb cuts and driveways.
 - (a) Shared driveways and parking area interconnections are strongly encouraged. No more than one curb cut on Route 149, River Road and Main Street shall be allowed for any lot. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Route 149, River Road and Main Street within 200 feet of any intersection.
 - (b) Driveways shall not exceed the width required by site plan review
 - (4) Lighting.
 - (a) All developments shall use full cutoff light fixtures for exterior lighting in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
 - (b) Flood, area and up lighting is prohibited.
- K. Definitions. The following terms are defined for the purpose of the MMVD and shall not be construed to apply to other regulations.
- APARTMENT — One or more rooms with private bath and kitchen facilities comprising an independent self-contained rental dwelling unit (a unit not owned in fee simple) located in a building where the principal use is nonresidential.
- MIXED USE DEVELOPMENT — Development including at least one residential unit and at least one nonresidential use on a single lot or several nonresidential uses on a single lot. In the MMV District, for every four apartment units permitted, one of those units shall be dedicated as affordable in addition to the provisions of Chapter 9, Article I, Inclusionary Affordable Housing Requirements.
- SMALL-SCALE FOOD SERVICE — An establishment where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to corporate branding limitations as described herein. These uses are intended to increase pedestrian traffic.
- SMALL-SCALE RETAIL — Small stores and businesses, including but not limited to, corner groceries, artist space, bookstore, galleries and other small retail uses typically found in small New England towns. Small-scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline

and oil filling stations, garages for automotive or machine repair. Small-scale retail is subject to corporate branding limitations as described herein. These uses are intended to increase pedestrian activity.

§ 240-25. HB Business District. [Amended 11-7-1987 by Art. 1; 5-7-1988 by Art. 4; 3-11-1999 by Order No. 99-058]

- A. Principal permitted uses. The following uses are permitted in the HB Business District:
 - (1) Office, but not including medical office.
 - (2) Bank, but not consisting in whole or in part of drive-in bank or drive-up automatic teller.
- B. Accessory uses. (Reserved for future use.)
- C. Conditional uses. The following uses are permitted as conditional uses in the HB District, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
 - (1) Any use permitted in the B District not permitted in Subsection A herein, subject to the following:
 - (a) Such uses do not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.
 - (2) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
 - (3) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.
- D. Special permit uses. (Reserved for future use.)
- E. Bulk regulations.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
				Front	Side	Rear		
HB	40,000	20	160	60 ²	30 ³	20	30 ¹	30

Or two stories, whichever is lesser

One hundred feet along Route 28 and 132.

The minimum total side yard setback shall be 30 feet, provided that no allocation of such total results in a setback of less than 10 feet, except abutting a residential district, where a minimum of 20 feet is required.

NOTE: Front yard landscaped setback from the road lot line:

HB 45 feet.

Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

§ 240-26. HO Highway Office.

A. Standards applicable to all uses within the HO Highway Office District:

- (1) Naturally occurring vegetation, including trees shall be incorporated into the design of the site wherever possible, and natural vegetation shall be retained in landscaped buffer areas to the maximum extent feasible. The limit of clearing shall be indicated on plans submitted to site plan review pursuant to Article IX herein. No clearance of vegetation shall occur prior to submission to site plan review.
- (2) No nonresidential development shall have principal vehicular access through a single-family residentially zoned area, or principal vehicular access via a road located in a single-family residential zoning district.
- (3) Building and site design shall, in so far as practical, conform to officially published, local and regional design guidelines applicable to Cape Cod.

B. Principal permitted uses. The following uses are permitted in the HO Highway Office Zone:

- (1) Business, professional and governmental office; bank, including drive-through facilities.
- (2) Medical, dental office and clinic, including patient treatment facilities.
- (3) Technological and computer research, data processing; computer operations.

- (4) Publishing and printing operations.
- C. Accessory uses. (Reserved for future use.)
- D. Conditional uses. (Reserved for future use.)
- E. Special permit uses. (Reserved for future use.)
- F. Bulk regulations. **[Amended 7-16-1998 by Order No. 98-133; 3-11-1999 by Order No. 99-056; 3-11-1999 by Order No. 99-058]**

Zoning Districts	Minimum Yard Setbacks						Maximum Building Height (feet)	Maximum Floor Area Ratio ²
	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	(feet)				
				Front	Side	Rear		
HO	2 acres	200	—	45	15	20	30 ¹	0.3

Or two stories, whichever is lesser.

Floor area ratio (FAR) is the ratio of gross building square feet to lot area.

NOTE: Front yard landscaped setback from the road lot line: 45 feet. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

- (1) Dimensional requirements.
- (2) Landscape buffer:
 - (a) Landscape buffer from side yard: 10 feet.
 - (b) Landscape buffer from rear yard: 20 feet.
 - (c) Natural vegetation shall be retained in landscape buffers and supplemented, or replanted where natural vegetation has been lost, with similar plant materials common to Cape Cod, including bushes, trees and ground cover.

§ 240-27. S&D Service and Distribution District. [Amended 7-16-1998]

- A. Principal permitted uses. The following uses are permitted in the S&D District:

- (1) Retail store.
 - (2) Professional/business office.
 - (3) Bank.
 - (4) Personal service store/shop.
 - (5) Warehouse and distribution facility.
 - (6) Servicing, storing and processing of goods in transit.
 - (7) Facilities for service-type trades, including shops and storage yards.
- B. Accessory uses. The following uses are permitted as accessory uses in the S&D district.
- (1) Offices, garages and related facilities for uses listed as principal permitted uses in Subsection A herein.
- C. Conditional uses. The following uses are permitted as conditional uses in the S&D District provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
- (1) Full-service restaurants and delicatessens.
 - (2) Kennels as defined in MGL Ch. 140, § 136A, or other similar facilities for the breeding, boarding, sale or training and related treatment of common domestic pets subject to the following:
 - (a) The Board may impose reasonable conditions, including without limitation, measures for security and the reduction or containment of noise so as to render such uses as inoffensive as practicable.
 - (3) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use
 - (4) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.
- D. Special permit uses. (Reserved for future use.)
- E. Bulk regulations.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
				Front	Side	Rear		
S&D	43,560	20	160	60	25	40	30'	25

Or two stories, whichever is lesser.

NOTE: Front yard landscaped setback from the road lot line:

S &D: 20 feet, 60 feet from Route 28.

Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein. **[Amended 3-11-1999 by Order No. 99-056]**

§ 240-28. SD-1 Service and Distribution District.

- A. Principal permitted uses. The following uses listed in Subsection A(1) through (9) below are permitted in the SD-1 Service and Distribution District, provided that no operation shall result in the treatment, generation, storage or disposal of hazardous materials, except as follows: very small quantity generators; waste oil retention facilities for retailers of motor oil required and operated in compliance with MGL Ch. 21, § 52A; oil on site for heating of a structure or to supply an emergency generator.
 - (1) Medical, dental offices, laboratory services, treatment facilities.
 - (2) All other business, governmental and professional offices.
 - (3) Bank.
 - (4) Personal service business including but not limited to the following: barber, beauty shop, dry-cleaning pickup service, shoe repair, tailor and dressmaker.
 - (5) Mortuary or funeral home.
 - (6) Research and development, technological and computer research, software development and data processing including computer operations services.

- (7) Publishing and printing establishments.
 - (8) Boat sales and storage.
 - (9) Contractor service establishments:
 - (a) Wholesale sales and distribution of building materials including plumbing, carpentry, lumber, electrical, heating and air conditioning, and other similar service or repair businesses; associated showrooms and sales/display space customarily accessory to such uses; and
 - (b) Landscaping, construction and site preparation, and other similar service businesses, provided that all outdoor storage of building materials, trucks and landscaping equipment and materials, are screened from view from Route 28 and Old Post Road.
- B. Accessory uses. (Reserved for future use.)
- C. Conditional uses. (Reserved for future use.)
- (1) Retail store, provided that Zoning Board of Appeals finds that:
 - (a) The proposed business is a low- to average-volume traffic generator, not to include a high-volume traffic generator such as a convenience store. The applicant shall provide the Zoning Board of Appeals with traffic data including a comparison with trip generation rates for different types of retail uses, from the Institute of Transportation Engineers "Trip Generation Manual."
 - (2) Full-service restaurant, subject to the following conditions:
 - (a) Food is served to customers at tables by waitpersons, except that the Zoning Board of Appeals may permit buffet style dining;
 - (b) Approximately 85% of food is consumed on the premises;
 - (c) Bar seats or places do not exceed 15% of restaurant seats;
 - (d) Entertainment shall be limited to nonamplified dinner music;
 - (e) No drive-in or outdoor take-out counter facilities shall be permitted; and
 - (f) Access shall be from Industry Road or Old Post Road.
- D. Special permit uses. (Reserved for future use.)
- E. Bulk regulations (dimensional requirements).

Zoning Districts	Minimum Yard Setbacks						Maximum Building Height (feet)	Maximum Floor Area Ratio ² Retail/All Other
	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Front (feet)	Side (feet)	Rear (feet)		
SD-1	43,560	150	—	45	15	20	30 ¹	0.25/0.30

NOTES:

- ¹ Or two stories, whichever is lesser.
- ² Floor area ratio (FAR) is the ratio of gross building square feet to lot area.

Front yard landscaped setback from the road right-of-way: 20 feet, 45 feet from Route 28.

Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein. **[Added 7-15-1999]**

§ 240-29. SCCRCOD Senior Continuing Care Retirement Community Overlay District.²⁵ [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

§ 240-29.1. Purpose. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

The purpose of this section is to encourage the development of residential communities designed to offer shelter, convenience, services and personal medical care, including nursing facility services, to senior persons while providing adequate and economical provision of streets, utilities and public spaces and preserving the natural and scenic qualities of the open areas. These facilities shall offer a continuum of care, ranging from independent living to assisted living and nursing home care that reflects the changing needs of their residents.

25. Editor's Note: Former § 240-29, MA-1 Business District, as amended, was repealed 7-14-2005 by Order No. 2005-100. The specific requirements for the SCCRCOD District are found in §§ 240-29.1 through 240-29.11.

§ 240-29.2. Definitions. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

As used in this § 240-29, the following terms shall have the meanings indicated:

APPLICANT — The person or persons, including a corporation or other legal entity, who applies for approval of a Senior Continuing Care Retirement Community Overlay District (SCRCOD) hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed SCRCOD, or have authority from the owner(s) to act for the owner (s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site.

ASSISTED-LIVING UNITS — Residential living units in which supportive services are offered for individuals who need assistance in activities of daily living.

BUILDING HEIGHT — Building height shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridge line.

BUILDING STORY — The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

CONTINUING CARE RETIREMENT COMMUNITY — A facility which may include a wide range of housing types including studio, one-, two-, and three-bedroom apartments, townhouses, duplexes, clusters or single-family homes and which offers a continuum of services ranging from in-home services to on-site nursing home care. The facility shall include independent living units, assisted living units and skilled nursing home facilities. The facility may include accessory uses for the benefit of the residents which accessory uses are subordinate and incidental to the continuing care retirement community as determined by the Town of Barnstable Planning Board. Other than nursing home beds, the facility shall meet the Town's Inclusionary Ordinance, Chapter 9 of the Barnstable Code, requiring that 10% of the units be affordable as "affordable" is currently defined under Chapter 9, with the exception that required affordable units may be provided off-site. In the event that off-site units are allowed, the applicant shall provide such units in accordance with § 240-29.3 below.

GRADE PLANE — A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. The reference plane shall be established by using the lowest points of grade within the area between the building and a point six feet from the building.

SENIOR PERSON — Person aged 55 or older or in the case of a couple, one spouse must be over the age of 55. It may include a developmentally disabled adult person under the age of 55.

SPECIAL PERMIT GRANTING AUTHORITY — For the purposes of this section, the Barnstable Planning Board shall be the special permit granting authority.

NURSING OR CONVALESCENT HOME — Any dwelling or building with sleeping rooms for people who are housed or lodged with meals and nursing care for hire, as licensed by the Massachusetts Department of Public Health under MGL c. 111 §§ 71 through 73, as amended.

VISITABILITY — Shall mean that a dwelling unit has no steps between the exterior walking surface adjacent to the unit and the interior primary floor level of the unit; that at least one egress door from the unit be at least three feet wide; that all primary floor passage doors in the unit are at least two feet eight inches wide; and that at least one toilet room be located on the primary floor of the unit.

§ 240-29.3. Description of district. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

The SCCRCOD is an overlay district that allows a continuing care retirement community as a use by special permit and which overlay district may be superimposed on any parcel(s) of five acres or more of contiguous upland in any zoning district deemed appropriate as determined by the Town of Barnstable Planning Board. Where the SCCRCOD authorizes uses not otherwise allowed in the underlying district, the provisions of the SCCRCOD shall control. In the event that off-site affordable units are allowed, such units are not required to meet the definition of a "continuing care retirement community" but must meet the following criteria: The number of required affordable units shall be increased to a number not less than 12% of the total proposed market rate units on-site plus not less than 12% of any additional market rate units proposed off site.

§ 240-29.4. Location. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

The SCCRCOD is to be shown on the Official Zoning Map of the Town of Barnstable.

§ 240-29.5. Concept plan. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

Prior to the rezoning of any property for inclusion in the SCCRCOD and as part of a petition for such rezoning, a schematic plan, called for purposes of this section, a "concept plan," shall be filed by the applicant with the Planning Board for review at least 21 days prior to a regularly scheduled meeting of the Planning Board. The concept plan shall be consistent with the provisions of this SCCRCOD Ordinance. In deliberation on approval of a concept plan, the Planning Board shall give consideration to the Town of Barnstable Local Comprehensive Plan. The purpose of the concept plan is to ensure that the overall development scheme is consistent with Town policies and plans; adequately protects natural resources; provides safe

traffic circulation consistent with the adjacent roadway network that also ensures adequate access to the development; and to ensure that the development is arranged to provide maximum protection of its residents from nuisance and hazard.

A. The concept plan shall include:

- (1) A schematic site development plan showing in general, the location and square footage of all proposed buildings, general site grading, parking, landscaping, roads, walkways and accessways, open space, wetlands, lighting and signage.
- (2) A general breakdown of building types: single-family, two-family, multifamily and accessory structures, including total number of bedrooms for the entire development.
- (3) A schematic subdivision plan(s), if applicable.
- (4) Specific floor plans, building plans or other detailed construction documents are not required at the concept plan stage.

B. The Barnstable Planning Board will notify the public of the time and date of the public meeting on the concept plan. Thereafter, the Barnstable Planning Board shall determine that (i) the concept plan has been approved; or (ii) the concept plan has been approved subject to modifications; or (iii) the concept plan has been disapproved. The Barnstable Planning Board shall provide to the applicant in writing the reasons for any denial of approval of the concept plan. The determination of the Barnstable Planning Board of the approvability of the concept plan shall be the basis for a recommendation to the Town Council for the rezoning petition.

§ 240-29.6. Map amendment. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

In order to obtain approval of a SCCRCOD the applicant, after first having received a decision from the Planning Board on the approvability of its concept plan, must file a petition for the amendment of the Town of Barnstable Zoning Map for inclusion of the subject parcel(s) within the SCCRCOD.

§ 240-29.7. Application for special permit. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

After successful rezoning of a SCCRCOD, an application for a special permit shall be submitted to the Planning Board within one year from the effective date of such rezoning. The Planning Board may grant extensions for the time of filing for a special permit as may be deemed appropriate due to the size and scope of the proposed development. The application for special permit shall be submitted on forms furnished by the Planning Board, accompanied by the following:

- A. A site plan in accordance with the Town of Barnstable site plan review regulations, §§ 240-98 through 240-105, indicating the planned location of buildings and their use, off-street parking areas, driveways, easements, walks, the location, type and height of walls, and the extent of landscaping or other treatment for the protection of adjacent properties.
- B. Building plans and elevations for all buildings and structures as may be required to fully describe the project.
- C. A tabulation of the areas of the proposed site elements (including footprints and gross floor area), including total number of buildings, number of bedrooms, accessory structures, parking structures and surface parking areas (square footage and number of parking spaces) and stormwater management areas.
- D. Information pertaining to the proposed entity that is to manage the SCCRCOD and the type of operating agreement contemplated.
- E. If a subdivision is proposed, then all documents as required for the subdivision shall be reviewed during the special permit process.
- F. A narrative detailing the services to be provided to the residents and the staff to be employed to provide those services.
- G. Description of all proposed accessory structures and uses.
- H. Building phasing schedule, if applicable.
- I. Description of any green building construction techniques being used, including a description of how maximum water and energy efficiencies will be achieved.
- J. A landscape plan signed and stamped by a Massachusetts certified landscape architect.
- K. Proposed signage, consistent with the requirements of the underlying zoning district.
- L. Plans detailing provision for wastewater disposal.
- M. Description of any infrastructure improvements that may be necessary to provide for the project.
- N. Additional information as may be required by the Planning Board as reasonably necessary to making the determinations required by this section.

§ 240-29.8. Joint Cape Cod Commission Review. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

- A. Upon a determination by the Building Commissioner that an application for site plan review for a development requiring a special permit under the SCCRCOD constitutes a development of regional impact (DRI)

under Section 12(h) of the Cape Cod Commission Act, 1990 Mass. Acts, Ch. 716, a referral shall be made to the Cape Cod Commission, accompanied by a request that a joint review process of the proposed development be established between the Cape Cod Commission and the Planning Board.

- B. The joint review process shall include joint hearings between the Planning Board and the Cape Cod Commission, as feasible.

§ 240-29.9. Standards. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

In order to be eligible for consideration for a special permit, the proposal must contain parcels included in the SCCRCOD and shall meet all of the following standards:

- A. Compliance with applicable regulations and standards. In the case of a subdivision, all plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.
- B. Bulk regulations. For all lots within the SCCRCOD the minimum lot area shall be 217,800 square feet of contiguous upland. For all lots and buildings within the SCCRCOD, the density, minimum lot frontage, property line and road layout setbacks, minimum building height and number of stories and minimum building separation requirements of the underlying zoning district shall apply unless the Planning Board finds that a waiver of any of those requirements is beneficial to create a SCCRCOD which better preserves open space without creating adverse environmental or aesthetic impacts or facilitates the delivery of services to senior persons or provides benefits which outweigh any detriments or provides sufficient mitigation to offset impacts.
- C. Parking. Parking shall be provided as follows:

SCCRCOD Uses	Minimum Number of Spaces	Guest Spaces
Independent-living dwelling unit	0.75 per dwelling unit	0.5 per dwelling unit
Assisted-living dwelling unit	0.5 per dwelling unit	0.5 per dwelling unit
Skilled care facility	0.5 per bed	0.5 per bed
Employee — dwelling unit administration	0.75 per 5 dwelling units	N/A
Employee — skilled care facility	0.5 per bed	N/A

- D. Waiver of parking requirements. The Planning Board may waive the number of parking spaces required for the above-listed uses upon a finding that the applicant has provided a parking demand analysis

that adequately demonstrates alternate parking requirements for the proposed use or combination of uses.

E. Parking and loading design standards.

(1) Any above-grade parking or loading facility should be screened from public view to the extent necessary to eliminate unsightliness. Screening shall consist of landscape materials, topographic features, residential buildings or any combination of these. In the alternative, the parking facility shall treat exterior walls with architectural features typical of the development it serves. Aboveground, multilevel parking garages are discouraged.

(2) Outdoor storage shall not be permitted.

(3) These requirements are in addition to the parking and parking lot landscaping requirements of the underlying zoning district.

F. Visitability. The applicant shall provide that all of the dwelling units shall be visitable as determined by the SPGA.

G. Design standards.

(1) All buildings in the layout and design, including landscaping, the placement of pedestrian sidewalks and parking, shall be an integral part of the development and have convenient access to and from adjacent uses.

(2) Primary landscape treatment shall consist of a combination of indigenous grasses, trees and shrubs commonly found on Cape Cod and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Planting areas should be designed to serve as stormwater treatment areas often known as "rain gardens."

(3) Existing significant trees and natural vegetation shall be retained to the maximum extent possible. A minimum of one tree with a three-inch minimum caliper is required to be planted within the front setback for every 30 feet of frontage of property.

(4) All landscaped areas shall be continuously maintained, irrigated, and organically fertilized.

(5) All stormwater shall be treated as appropriate and discharged on site and shall incorporate low-impact techniques for stormwater discharge.

(6) Minimum recommended light levels established by the Cape Cod Commission Technical Bulletin 95-001, DRI Standards and Submittal Requirements for Exterior Lighting Design shall apply. Site lighting, security lighting and architectural/landscape lighting shall provide illumination levels appropriate for the designed activity without exceeding minimum requirements.

- (7) There shall be an adequate safe and convenient arrangement of pedestrian circulation facilities, sidewalks, roadways, driveways, off-street parking and loading space. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- H. Impact analysis. The applicant shall provide additional data and analysis requested by the Planning Board to enable the Board to assess the fiscal, community and environmental impacts of the proposed development. At its discretion, the Planning Board may impose reasonable fees upon the applicant for the hiring of outside consultants and the provisions of MGL c. 44, § 53G, shall apply thereto.
- I. Phasing and period of validity for special permit. The applicant, as part of the application, may propose a phasing plan identifying the specific units to be constructed in each phase and stating the reasons for the request. Said submission shall show the full buildout of the development. The Planning Board, upon a finding of good cause and of consistency with the provisions of this section, may approve a phasing plan that allows the construction of the development to be extended over a period not to exceed 10 years. Notwithstanding anything to the contrary contained in § 240-125C(3), as long as the applicant proceeds with construction continuously in compliance with the approved phasing plan or with any modifications thereto approved by the Planning Board, the period of validity for the special permit shall be the same as the period of the phasing plan. **[Added 6-18-2009 by Order No. 2009-139]**

§ 240-29.10. Decision. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

The Planning Board may grant a special permit for a SCCRCOD where it makes the following findings:

- A. The SCCRCOD complies with all applicable Subdivision Rules and Regulations,²⁶ except as they may be waived by the Board.
- B. The SCCRCOD does not cause substantial detriment to the neighborhood.
- C. The SCCRCOD is consistent with the Town of Barnstable Local Comprehensive Plan.
- D. The SCCRCOD provides an effective and unified treatment of the development on the project site making appropriate provision for environmental protection, the preservation of scenic features, sensitive habitat and other amenities of the site and the surrounding areas.

26. Editor's Note: See Ch. 801, Subdivision Regulations.

- E. The SCCRCOD is planned and developed to harmonize with any existing or proposed development in the surrounding area.
- F. The applicant has provided mitigation that sufficiently addresses the impacts of the SCCRCOD.
- G. The SCCRCOD provides services which are tailored to the needs of senior persons and may include meals, housekeeping, transportation, health care services and personal care assistance, and the benefits of the development for the residents and the community outweighs the detriments.
- H. The SCCRCOD complies with the standards established in §§ 240-29.9 and 240-29.3 except as they may be waived by the Board based upon a finding that the waivers granted do not jeopardize health and safety and do not diminish environmental and aesthetic protections. Nothing herein shall allow the Board to waive the minimum twelve-percent off-site inclusionary housing requirement.
- I. Where a phasing plan has been proposed, that the applicant has demonstrated good cause to phase the development and that the approved phasing plan is consistent with the provisions of the SCCRCOD. **[Added 6-18-2009 by Order No. 2009-139]**

§ 240-29.11. Transferability. [Added 6-21-2007 by Order No. 2007-160; amended 2-28-2008 by Order No. 2008-057]

The special permit for the SCCRCOD shall be transferable upon the prior written approval of the Planning Board.

§ 240-30. Medical Marijuana Overlay District.²⁷ [Added 2-6-2014 by Order No. 2014-050]

- A. District established. A Medical Marijuana Overlay District is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.
- B. Purpose; use.
 - (1) Purpose. The purpose of the Medical Marijuana Overlay District is to provide for the limited establishment of registered marijuana dispensaries as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. Given that registered marijuana dispensaries shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations intend to permit them where there is access

27. Editor's Note: Former § 240-30, MA-2 Business District, as amended, was repealed 7-14-2005 by Order No. 2005-100.

to both regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where their impacts are ameliorated by these locations.

- (2) Use. Within the Medical Marijuana Overlay District, a registered marijuana dispensary that dispenses, cultivates and prepares marijuana products may be permitted as a conditional use only within the overlay district, provided a special permit is first obtained from the Zoning Board of Appeals, subject to the provisions of § 240-125C herein and subject to the all additional standards and conditions of this section.
- C. Special permit granting authority. Within the MMOD, the Zoning Board of Appeals shall be the special permit granting authority.
 - D. Use. Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, a registered marijuana dispensary shall be allowed within the Medical Marijuana Overlay District upon the granting of a special permit, subject to the requirements set forth in this section. Within the Medical Marijuana Overlay District, and only within the Medical Marijuana Overlay District, a registered marijuana dispensary may be permitted, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the following standards and conditions.
 - E. Requirements/standards.
 - (1) Registration. All permitted registered marijuana dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No building permit or certificate of occupancy shall be issued for a registered marijuana dispensary that is not properly registered with the Massachusetts Department of Public Health.
 - (2) Building. A registered marijuana dispensary shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations.
 - (3) Proximity to residential uses. A medical marijuana treatment center shall not be allowed within a building containing a residential use, or upon a lot with a residential use, except an incidental residential use that may be necessary for RMD security.
 - (4) Separation requirements. The site is located at least 1,000 feet distant from a religious institution/place of religious assembly, school, day-care center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at

such a distance, it is determined by the Zoning Board of Appeals to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the registered marijuana dispensary, but in no case shall the distance be less than 500 feet measured from parcel boundary to parcel boundary. In no case shall a RMD directly abut another RMD or any medical marijuana use.

- (5) Dimensional requirements. Except where it is explicitly stated otherwise in this section, Registered marijuana dispensaries shall conform to the dimensional requirements applicable to nonresidential uses within the underlying and other overlaying zoning districts.
 - (6) Parking. The required number of parking (both long-term and short-term) spaces for a registered marijuana dispensary shall be one space for every 200 square feet of gross floor area for a RMD; and one space for every 700 square feet of gross floor area for RMD marijuana infused product manufacturing or marijuana cultivation. The Board of Appeals shall also rely on the recommendation of site plan review.
 - (7) Loading. The Board of Appeals may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
 - (8) Signage. Signage shall not exceed 12 square feet in area, and no part of the sign shall exceed eight feet above existing average grade. For other site signage, the requirements of Article VII of this chapter shall also apply through the underlying zoning district. The Zoning Board of Appeals may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
 - (9) Consistency with registration materials. Plans and information provided to the Zoning Board of Appeals shall be consistent with the with the registration materials issued by the Massachusetts Department of Public Health and any other information and materials provided to the Massachusetts Department of Public Health.
- F. Special permit requirements.
- (1) Application requirements. An application to the Zoning Board of Appeals shall include, at a minimum, the following information:
 - (a) Complete application form.
 - (b) Description of activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIPs), on-site sales, off-site deliveries, site security, hours

of operation, community benefit, distribution of educational materials, and other programs or activities.

- (c) Service area: A scaled map and narrative describing the area proposed to be served by the registered marijuana dispensary and the anticipated number of clients that will be served within that area. This description shall indicate where any other registered marijuana dispensaries exist or have been proposed within the expected service area.
 - (d) Context map: A scaled map depicting all properties and land uses within a two-thousand-foot radius of the project site, whether such uses are located in Barnstable or within surrounding communities, including but not limited to all religious institutions/places of religious assembly, schools, day-care centers, preschool or afterschool facilities or any facilities in which children commonly congregate.
 - (e) Site plan: The proposal is subject to the provisions of Article IX, Site Plan Review, § 240-102.
 - (f) Security plan: The security plan shall be submitted to the Chief of Police who shall provide written comment to the Board as to the adequacy or inadequacy of the security provisions and plans.
 - (g) Building elevations and signage: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.
 - (h) Registration materials: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Zoning Board of Appeals is consistent with the information provided to the Massachusetts Department of Public Health.
- (2) Special permit criteria. In granting a special permit for a registered marijuana dispensary, in addition to the general criteria for issuance of a special permit as set forth in § 240-125C herein and in consideration of all application materials submitted and testimony received, the Zoning Board of Appeals shall find that the following criteria are met:
- (a) The registered marijuana dispensary complies with all requirements of this section, including but not limited to Subsections E and F in their entirety.

- (b) The registered marijuana dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other registered marijuana dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
 - (c) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, cyclists and public transportation users.
 - (d) Traffic generated by client trips, employee trips, and deliveries to and from the registered marijuana dispensary shall not create a substantial adverse impact on nearby residential uses.
 - (e) Where necessary to shield adjacent uses, the Zoning Board of Appeals may require buffering by fencing, vegetation or other screening methods.
- (3) Prohibition on transfer. The special permit shall be issued to the owner of the Medical marijuana treatment center and shall not transfer with a change in ownership of the business and/or property.
- (4) Limitation of approval. A special permit authorizing the establishment of a registered marijuana dispensary shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the registered marijuana dispensary has been authorized by special permit. If the registration for a registered marijuana dispensary has been revoked, transferred to another controlling entity, or relocated to a different site within the Medical Marijuana Overlay District, a new special permit shall be required prior to issuance of a certificate of occupancy.
- (5) Revocation/nonrenewal.
- (a) In accordance with 105 CMR 725.100(E), Expiration and Renewal of Registration, all materials submitted pursuant to the RMD compliance with that section shall also be submitted to the Zoning Board of Appeals record file. The Board reserves the right to hold a public hearing based on a review of the materials showing inconsistencies with special permit conditions and/or the requirements and standards of this section.
 - (b) In accordance with 105 CMR 105(O), Requirements Upon Expiration, Revocation or Voiding of Certificate of Registration of RMD, should DPH take action under this section, the special permit shall be null and void.

- G. Relationship to other laws. Nothing in this section poses an obstacle to federal enforcement of federal law. Nothing in this law supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes. Nothing in this law requires the violation of federal law or purports to give immunity under federal law.

§ 240-31. (Reserved)²⁸

§ 240-32. IND Limited Industrial District.

A. Principal permitted uses.

- (1) The following uses are permitted in the IND Limited District:

- (a) Warehousing and wholesale distribution facilities of nontoxic and nonhazardous materials.
- (b) Light manufacturing and assembly facilities.
- (c) Research and development facilities.
- (d) Professional or business offices, banks, architectural, engineering and drafting firms, computer operations centers, recreation facilities, and such sewerage treatment facilities as may have been allowed by previous Zoning Ordinance.

- (2) Specifically prohibited are petroleum refineries, landfills, resource recovery facilities, hotels, motels, restaurants, manufacturing and processing uses, any use involved in the manufacture, storage, transportation, disposal or use of toxic or hazardous materials and any residential use.

B. Accessory uses. (Reserved for future use.)

- C. Conditional uses. The following uses are permitted as conditional uses in the IND Limited District, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:

- (1) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
- (2) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.

D. Special permit uses. (Reserved for future use.)

E. Bulk regulations.

28. Editor's Note: Former § 240-31, B-1 Business District, added 7-19-2001 by Item Nos. 2001-037, 2001-038, 2001-039, was repealed 7-14-2005 by Order No. 2005-100. Said § 240-31, was subsequently repealed again 6-1-2006 by Order No. 2006-136.

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks			Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
				Front (feet)	Side (feet)	Rear (feet)		
IND LTD	90,000	20	200	50	30	30	30'	25

NOTES:

¹ Or two stories, whichever is lesser.

F. Special screening standards. In IND Limited Districts a buffer strip with a minimum depth of 30 feet at the rear and side site lines and a buffer strip of 50 feet at the front line shall be maintained in existing ground cover and trees or shall be replanted with native trees, shrubs and grasses which do not require continued nurturing and watering; provided, however, that in no instance shall the natural vegetation coverage on any lot consist of less than 25% of the total lot area. A maximum of two driveways, each not more than 50 feet wide, shall be allowed for ingress and egress.

§ 240-33. IND Industrial District.

A. Principal permitted uses.

(1) The following uses are permitted in the IND District:

- (a) Any use permitted in the B District.
- (b) Lumber, fuel and ice establishments.
- (c) Contractors' yards.
- (d) Manufacturing and industrial uses.
- (e) Any use permitted in the S&D District.
- (f) Recreation ice rink facilities.
- (g) Sports and recreation facility. **[Added 8-17-2017 by Order No. 2017-165]**

(2) Specifically prohibited are petroleum refineries, landfills, resource recovery facilities, sewerage treatment facilities which process and discharge less than tertiary-treated effluent, and any other use which involves as a principal activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials.

B. Accessory uses. (Reserved for future use.)

- C. Conditional uses. The following uses are permitted as conditional uses in the IND District, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and subject to the specific standards for such conditional uses as required in this section:
 - (1) Kennels as provided for in § 240-27C(2) herein.
 - (2) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.
 - (3) Public or private regulation golf courses subject to the provisions of § 240-11C(2) herein.
- D. Special permit uses. (Reserved for future use.)
- E. Bulk regulations. **[Amended 8-17-2017 by Order No. 2017-165]**

Zoning Districts	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks (feet)			Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area ⁴	
			Minimum Lot Width (feet)	Front ¹	Side ²			Rear ²
IND	90,000	20	200	60	30	30	30 ³	25

For sports and recreation facilities, outdoor uses (e.g., fields, tracks, courts and swimming pools, etc.) and their accessory structures with a footprint of less than 2,000 square feet shall have a minimum front yard setback of 20 feet; provided however, that for such outdoor uses which are temporarily (i.e., not more than 182 days) covered by an air-supported or removable bubble/dome, said temporary bubble/dome shall have a minimum front yard setback of 15 feet. Retaining walls (including those used for outdoor climbing) and outdoor field/court lighting for sports and recreation facilities shall not be subject to these setbacks.

For sports and recreation facilities, outdoor uses (e.g., fields, tracks, courts and swimming pools, etc.) and their accessory structures with a footprint of less than 2,000 square feet shall have a minimum side and rear setback of 10 feet; this ten-foot side/rear setback shall also apply to such outdoor uses which are temporarily (i.e., not more than 182 days) covered by an air-supported or removable bubble/dome. Retaining walls (including those used for outdoor climbing) and outdoor field/court lighting for sports and recreation facilities shall not be subject to these setbacks.

Or two stories, whichever is lesser; except that for sports and recreation facilities, the maximum building height shall be 55 feet measured to the highest point on the roof (not including antennas or similar roof fixtures).

For sports and recreation facilities, the following outdoor uses shall not be considered structures included in this calculation: open-air solar-mounted carports, fields (grass or turf), courts, tracks, swimming pools, retaining walls, and similar outdoor, open-air features; additionally, any such outdoor uses which are temporarily (i.e., not more than 182 days) covered by an air-supported or removable bubble/dome shall not be included in this calculation.

- F. Special screening requirements. The provisions of § 240-32F herein shall apply to all uses, except they shall not apply to sports and recreation facilities. **[Amended 8-17-2017 by Order No. 2017-165]**

§ 240-34. Floodplain District. [Amended 5-22-2014 by Order No. 2014-126]

A Floodplain District is herein established within the Town of Barnstable. The district includes all special flood hazard areas within the Town designated as Zone AE, AO, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Barnstable are Panel Numbers 25001C0532J, 25001C0533J, 25001C0534J, 25001C0537J, 25001C0539J, 25001C0541J, 25001C0542J, 25001C0543J, 25001C0544J, 25001C0551J, 25001C0552J, 25001C0553J, 25001C0554J, 25001C0556J, 25001C0557J, 25001C0558J, 25001C0559J, 25001C0561J, 25001C0562J, 25001C0563J, 25001C0564J, 25001C0566J, 25001C0567J, 25001C0568J, 25001C0569J, 25001C0752J, 25001C0754J, 25001C0756J, 25001C0757J and 5001C0776J, effective date July 16, 2014. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, and Engineering Department.

Permits for new construction, alteration of structures, or other development (any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations), at or below the base flood elevation as specified with the A and V Zones as determined by the Flood Insurance Study and designated on the special FEMA Flood Insurance Rate Maps, shall be approved subject to the following:

- A. New construction or substantial improvement (repair, construction or alteration costing 50% or more of the market value of the structure before improvement, or if damaged, before damage occurred) of

residential structures shall have the lowest floor (including basement) elevated to not less than base flood elevations. New construction or substantial improvement of nonresidential structures shall either be similarly elevated or, together with attendant utility and sanitary facilities, be floodproofed to not less than base flood elevations.

- B. Where floodproofing is utilized in accordance with Subsection A herein, a registered engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.
- C. Any new construction or substantial improvement to be under taken within flood areas shall be in accordance with Massachusetts State Building Code 780 CMR. The Building Commissioner shall review all proposed development within flood areas to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Sec. 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. § 1334, and shall obtain and maintain records of elevation and floodproofing levels for new construction or substantial improvement within the flood areas.
- D. Any new construction, alteration of structures or other development which is removed from the A or V Zones by subsequent FEMA Flood Insurance Rate Map amendments shall only have to meet the requirements of its new zone designation.
- E. All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is lesser, shall include within such proposals base flood elevation data.
- F. Subdivision and development proposals, including utility and drainage systems, shall assure that they are located and designed to be consistent with the need to minimize flood damage.
- G. In Zone AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- H. In a riverine situation, the Conservation Division Administrator or designee shall notify the following of any alteration or relocation of a watercourse: Adjacent Communities, the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104, and the NFIP Program Specialist, Federal Emergency Management Agency, Region I at 99 High Street, 6th Floor, Boston, MA 02110.

- I. Within Zone AO on the FEMA Flood Insurance Rate Maps, adequate drainage paths must be provided around structures on slopes to guide floodwaters around and away from proposed structures.
- J. No land within areas designated as V (Velocity) Zones on the FEMA Flood Insurance Rate Maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. All new construction and substantial improvement within the V Zones shall be in full compliance with the State Building Code and shall be certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
- K. The following shall be prohibited within flood areas designated as V Zones:
 - (1) Any man-made alteration of sand dunes and salt marshes which might increase the potential for flood damage.
 - (2) Use of fill.
 - (3) Mobile homes.
- L. The Zoning Board of Appeals may authorize exceptions from the flood regulations of this section by special permit within the flood areas in accordance with § 240-125 herein, as in any other zoning district, and may grant special permit exceptions from the requirements of this section in the case of new structures or substantial improvement to be erected on a lot contiguous to and surrounded by lots with existing structures and constructed below the base flood elevation, provided that the following are met:
 - (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the special permit would result in exceptional hardship to the applicant.
 - (3) A determination that the special permit will not result in increased flood heights, additional threats to public safety or environment, extraordinary public expense, or any conflict with requirements in accordance with Chapter 40A of the Massachusetts General Laws.
 - (4) The Zoning Board of Appeals has notified the applicant for the special permit in writing that the actuarial rates will increase as the first-floor elevation decreases, and that such construction below base flood elevation increases risks to life and property.
 - (5) Favorable recommendation from the Board of Health on all structures requiring sewerage disposal and/or water supply.
- M. Upon the granting of such a special permit or permits, the Zoning Board of Appeals shall maintain a record of all such special permits

granted by said Board, including justification for their issuance, and report such special permits in its annual report to the Flood Insurance Administrator in accordance with the Housing and Urban Development Guidelines.

- N. The Zoning Board of Appeals may grant a special permit for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places or the Old King's Highway Regional Historic District without regard to the procedures set forth in Subsection J herein.

§ 240-35. Groundwater Protection Overlay Districts. [Added 11-7-1987 by Art. 2; amended 11-4-1989 by Art. 5; 8-19-1993 by Order No. 93-105]

- A. Purpose. The purpose of this section is to protect the public health, safety, and welfare by encouraging nonhazardous, compatible land uses within groundwater recharge areas.
- B. Districts established. In order to carry out the purpose of this section, the following overlay districts are hereby established, and shall be considered as superimposed over any other district established by this chapter:

AP Aquifer Protection Overlay District
 GP Groundwater Protection Overlay District
 WP Well Protection Overlay District

- (1) The GP Groundwater Protection Overlay District is based on Zone 11 delineations to existing, proven future, and proposed future public supply wells, as determined by Geraghty and Miller, Inc., and as shown on Figure 44, in their report entitled "Groundwater Conditions, Town of Barnstable, Massachusetts, Volumes I of III; together with Appendices A-D and E-H in Volumes II of III and III of III," dated November 1993 and "Corrections, Zone II Delineations for Public Water Supply Wells, Town of Barnstable, Massachusetts," dated December 1993; except that the GP Groundwater Protection Overlay District (Zone II), to Barnstable Fire District wells 3 and 4, is delineated by Whitman and Howard, Inc. in a report entitled "Report on Prolonged Pumping Test and Zone II Delineation at Test Well Site 8-90, Barnstable Fire District, Barnstable, Massachusetts," dated October 1991. The Zone II delineations to existing and proven future wells have been approved by the Department of Environmental Protection, Executive Office of Environmental Affairs, Commonwealth of Massachusetts, in a letter to the Town of Barnstable dated March 13, 1996.
- (2) The WP Well Protection Overlay District is based on a five-year time of travel zone to existing, proven future and potential future public supply wells, delineated by Geraghty and Miller Inc., in

reports referenced above, except that the WP Zone to Barnstable Fire District Well No. 2 is delineated by Earth Tech, consultant to Barnstable Fire District, summarized in a letter and a map to the district dated May 13, 1997. The WP Well Protection Overlay District to Barnstable Fire District 2 is that portion of the five-year time of travel zone located within the GP Groundwater Protection Overlay District (Zone 11).

- (3) The AP Aquifer Protection Overlay District consists of all areas of the Town, except those areas within the GP Groundwater and WP Well Protection Overlay Districts. The reports, letters and maps are on file with the Town Clerk. **[Amended 9-17-1998 by Order No. 99-012]**
- C. Overlay Districts Map. The overlay districts established by this section (the GP Groundwater Protection District; the WP Well Protection Overlay District; and the AP Aquifer Protection Overlay District) are shown on the Official Zoning Map, § 240-6A, Identification of Zoning Map. **[Amended 9-17-1998 by Order No. 99-012]**
 - D. District boundaries. Where the overlay district boundaries divide a lot, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located. **[Amended 9-17-1998 by Order No. 99-012]**
 - E. AP Aquifer Protection Overlay District regulations.
 - (1) Permitted uses. The following uses are permitted in the AP Aquifer Protection Overlay District:
 - (a) Any use permitted in the underlying zoning districts, except for those uses specifically prohibited by Subsection E(2) herein.
 - (2) Prohibited uses. The following uses are prohibited in the AP Aquifer Protection Overlay District:
 - (a) Any use prohibited in the underlying zoning districts.
 - F. GP Groundwater Protection Overlay District regulations.
 - (1) Permitted uses. The following uses are permitted in the GP Groundwater Protection Overlay District:
 - (a) Any use allowed in the underlying zoning districts, except those uses specifically prohibited in Subsection F(2) herein:
 - (2) Prohibited uses. The following uses are prohibited in the GP Groundwater Protection Overlay District:
 - (a) Any use prohibited in the underlying zoning districts.
 - (b) Landfills and open dumps as defined in 310 CMR 19.006.

- (c) Junkyards, salvage yards and automobile graveyards, as defined in MGL Ch. 140B, § 1.²⁹
- (d) Mining of land, removal of sand and gravel, and quarrying of other raw materials.
- (e) The removal of soil, loam, sand, gravel and other mineral substances to within four feet of the historic high-water mark unless the substances removed are redeposited within 45 days and the final grade exceeds four feet above the historic high-water mark, and except for excavations for the foundations of buildings and structures and the installation of utilities.
- (f) Underground fuel storage tanks.³⁰
- (g) Storage for resale of heating fuels, including but not limited to, oil, coal, gas and kerosene.
- (h) Sewage treatment plant, disposal works, or small package treatment facility subject to 314 CMR 5.00, except for the following:
 - [1] The replacement or repair of an existing facility that will not result in a design capacity greater than the design capacity of the existing system(s);
 - [2] Treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated ground or surface waters; and
 - [3] Sewage treatment works including package treatment facilities, which are owned and operated by the Town of Barnstable, and located in areas with existing water quality problems attributable to current septic systems where there will be a net improvement in water quality with the installation of the treatment facility.
- (i) Commercial feeding of livestock.
- (j) Storage of road salt or other deicing materials.
- (k) Metal plating, finishing and polishing.
- (l) Chemical and bacteriological laboratories.
- (m) Boat, motor vehicle and aircraft cleaning, service and repair.
- (n) Dry-cleaning processing establishments.
- (o) Furniture stripping, painting and refinishing.

29. Editor's Note: See Ch. 502, Junk Dealers.

30. Editor's Note: See Ch. 326, Fuel and Chemical Storage Systems.

- (p) Any other use which generates, treats, stores or disposes of hazardous waste that are subject to MGL Ch. 21C and 310 MCR 30.00, except for the following uses:
 - [1] Very small quantity generators as defined by 310 CMR 30.00;
 - [2] Waste oil retention facilities for retailers of motor oil required and operated in compliance with MGL Ch. 21, § 52A.
 - [3] Treatment works approved by the Department of Environmental Protection designed in accordance with 314 CMR 5.00, for the treatment of contaminated ground or surface waters.
 - [4] Household hazardous waste collection centers or events operated according to 310 CMR 30.390.
- (q) Landfilling of sludge and septic as defined in 310 CMR 32.05.
- (r) Storage of sludge and septage, as defined in 310 CMR 32.05, unless in compliance with 310 CMR 32.30 and 310 CMR 32.41
- (s) Storage of animal manures unless protected from the elements and contained in a structure which prevents leachate from contaminating groundwater, in accordance with all the requirements of the United States Soil Conservation Service.
- (t) Stockpiling and disposal of snow and ice removed from highways and streets located outside of the GP and WP Districts which contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for ice and snow removal.
- (u) Storage of liquid petroleum products of any kind, except those incidental to:
 - [1] Normal household use and outdoor maintenance or the heating of a structure;
 - [2] Waste oil retention facilities required by MGL Ch. 21, § 52A;
 - [3] Emergency generators required by statute, rule or regulation;
 - [4] Treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

and provided that such storage is either in a freestanding container within a building or in a freestanding container above ground level with protection adequate to contain a spill the size of the container's total storage capacity; however, replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline is allowed consistent with state and local requirements; and

- [5] Any other use which involves as a principal activity or use the generation, storage, use, treatment, transportation or disposal of hazardous materials.
- (v) Storage of commercial fertilizers, as defined in MGL c 128, § 64, unless such storage is within a structure designed and engineered to prevent escape or transport of commercial fertilizers to the groundwater under any circumstances. **[Added 1-17-2013 by Order No. 2013-001]**
- (3) Lot coverage. Unless the applicant demonstrates that all runoff is recharged on site, no more than 15% or 2,500 square feet, whichever is greater, of the total area of any lot shall be rendered impervious by the installation of buildings, structures and paved surfaces. If all recharge is disposed of on site, no more than 50% of the total upland area of any lot shall be made impervious by the installation of buildings, structures, and paved surfaces. For the purposes of this section, a temporary (i.e., not more than 182 days) air-supported or removable bubble/dome over a sports and recreation facility's outdoor use (e.g., outdoor field, track, court, and swimming pool) shall not be considered a building or structure. **[Amended 8-17-2017 by Order No. 2017-165]**
- (4) Site clearing. A minimum of 30% of the total upland area of any lot shall be retained in its natural state. This shall not prevent the removal of dead, diseased or damaged trees. For sports and recreation facilities, the site clearing/natural state requirements shall not apply where the proposed stormwater management system will be designed and constructed to provide a minimum water quality volume treatment equal to one inch times the total impervious area of the post-development site; and to provide treatment to remove at least 44% total suspended solids prior to discharge to the infiltration system. **[Amended 8-17-2017 by Order No. 2017-165]**
- (a) Additionally, a long-term operations and maintenance plan shall be developed and implemented to ensure that stormwater management systems function as designed. At a minimum, the plan shall include:
- [1] Stormwater management system(s) owners;

- [2] The party or parties responsible for operation and maintenance, including how future property owners will be notified of the presence of the stormwater management system and the requirement for proper operation and maintenance;
 - [3] The routine and nonroutine maintenance tasks to be undertaken after construction is complete and a schedule for implementing those tasks;
 - [4] A plan that is drawn to scale and shows the location of all stormwater BMPs in each treatment train along with the discharge point;
 - [5] A description and delineation of public safety features; and
 - [6] An estimated operations and maintenance budget.
- (b) The plan shall be subject to review and approval by the Director of Public Works as a condition of site plan review approval. stormwater operation and maintenance reports documenting compliance with the plan shall be submitted annually to the Director of Public Works and Director of Planning and Development.
- G. WP Well Protection Overlay District regulations. **[Amended 8-19-1993 by Order No. 93-105]**
- (1) Permitted uses. The following uses are permitted in the WP Well Protection Overlay District:
 - (a) Any use allowed in the underlying zoning districts, except those specifically prohibited in Subsection G(2) herein:
 - (2) Prohibited uses. The following uses are prohibited in the WP Well Protection Overlay District:
 - (a) Any use prohibited in the underlying zoning districts.
 - (b) All uses prohibited in Subsection F(2) herein.
 - (c) Parking and/or storage of transport vehicles for fuel, including but not limited to oil, coal and gas.
 - (d) Parking and/or storage of transport vehicles for toxic and/or hazardous substances.
 - (e) Any use which uses, generates or stores, including racking for resale, toxic or hazardous substances, totaling at any one time more than 50 gallons liquid volume or 25 pounds dry weight.
 - (3) Lot coverage. Unless the applicant demonstrates that all runoff is recharged on site, no more than 15% or 2,500 square feet, whichever is greater, of the total area of any lot shall be rendered

impervious by the installation of buildings, structures and paved surfaces. If all recharge is disposed on on site, no more than 50% of the total upland area of any lot shall be made impervious by the installation of buildings, structures, and paved surfaces. For the purposes of this section, a temporary (i.e., not more than 182 days) air-supported or removable bubble/dome over a sports and recreation facility's outdoor use (e.g., outdoor field, track, court, and swimming pool) shall not be considered a building or structure. **[Amended 8-17-2017 by Order No. 2017-165]**

- (4) Site clearing. A minimum of 30% of the total upland area of any lot shall be retained in its natural state. This shall not prevent the removal of dead, diseased or damaged trees. For sports and recreation facilities, the site clearing/natural state requirements shall not apply where the proposed stormwater management system will be designed and constructed to provide a minimum water quality volume treatment equal to one inch times the total impervious area of the post-development site; and to provide treatment to remove at least 44% total suspended solids prior to discharge to the infiltration system. **[Amended 8-17-2017 by Order No. 2017-165]**
 - (a) Additionally, a long-term operations and maintenance plan shall be developed and implemented to ensure that stormwater management systems function as designed. At a minimum, the plan shall include:
 - [1] Stormwater management system(s) owners;
 - [2] The party or parties responsible for operation and maintenance, including how future property owners will be notified of the presence of the stormwater management system and the requirement for proper operation and maintenance;
 - [3] The routine and nonroutine maintenance tasks to be undertaken after construction is complete and a schedule for implementing those tasks;
 - [4] A plan that is drawn to scale and shows the location of all stormwater BMPs in each treatment train along with the discharge point;
 - [5] A description and delineation of public safety features; and
 - [6] An estimated operations and maintenance budget.
 - (b) The plan shall be subject to review and approval by the Director of Public Works as a condition of site plan review approval. stormwater operation and maintenance reports documenting compliance with the plan shall be submitted

annually to the Director of Public Works and Director of Planning and Development.

§ 240-36. RPOD Resource Protection Overlay District. [Added 10-26-2000]

A. Purpose.

- (1) The purpose of this section is to create a Resource Protection Overlay District overlaying residential zoning districts, and, in part, the Groundwater Protection Overlay District. The boundaries of the Resource Protection Overlay District shall include the recharge areas to the Centerville River, Popponessett and Shoestring Bays, and the Three Bays area of Cotuit and Osterville, so-called, together with areas dependent upon private well water supplies, and shall be as shown on the Barnstable Zoning Map as described in Subsection C below. When regulations are in conflict, the more restrictive regulation shall apply.
- (2) The Resource Protection Overlay District implements the Barnstable Local Comprehensive Plan, adopted by the Barnstable Town Council, October 30, 1997, and approved by the Cape Cod Commission, February 12, 1998. The purposes of the Resource Protection Overlay District include:
 - (a) To reduce nitrogen contamination by reducing impacts from septic systems, fertilizers, and runoff from impervious surfaces, which contamination adversely affects groundwater, ponds and freshwater bodies, and south coastal marine embayments.
 - (b) To reduce nitrogen loading to groundwater, surface water and coastal embayments to prevent deterioration of water quality, destruction of bottom habitat, loss of fin fish and shellfish habitat, closure of swimming areas, and other adverse environmental and economic impacts.
 - (c) To increase protection of groundwater quality in areas where no public wastewater treatment and no public water supply is provided; to ensure protection of private drinking water wells; to protect private drinking water wells from adverse impacts in areas of varying soil conditions that are vulnerable to contamination of groundwater due to environmental conditions such as impervious soils, high groundwater levels or steep slopes; and to protect private wells from impacts from adjacent road drainage systems.
 - (d) To reduce development potential. The Barnstable Local Comprehensive Plan identifies the potential for 36% more residential growth and a shortfall in public facilities to service that additional residential development. Potential shortfalls in

public services include inadequate roads, lack of capacity in public wastewater treatment facilities, lack of options for public water supply development, and lack of capacity of schools and recreational facilities.

- B. Districts established. In order to implement the purpose of this section, the Resource Protection Overlay District is hereby established, and shall be superimposed over existing residential zoning districts established by this chapter, and as they may be amended from time to time.
- C. Overlay Districts Map. The boundaries of the Resource Protection Overlay District established by this section are shown on the Official Zoning Map, § 240-6A, Identification of Zoning Map, as amended with a file date of October 26, 2000, and a title of "Resource Protection Overlay District."
- D. Resource Protection Overlay District regulations. Within the Resource Protection Overlay District, the minimum lot area requirement of the bulk regulations in all residential zoning districts shall be 87,120 square feet.

§ 240-37. Dock and Pier Overlay District. [Added 2-1-2001]

- A. Purpose.
 - (1) The purpose of this section is to protect the general public interest in, and access to, the public tidelands of the commonwealth by creating a Dock and Pier Overlay District overlaying residential zoning districts. The boundaries of the Dock and Pier Overlay District shall include an area along the western and northerly shores of Cotuit Bay from Loop Beach to Handy Point, and shall be as shown on the Barnstable Zoning Map as described in Subsection C below. If the provisions of this amendment conflict with any other provisions of this chapter, the more restrictive provisions shall apply.
 - (2) The Dock and Pier Overlay District implements the Barnstable Local Comprehensive Plan, adopted by the Barnstable Town Council on October 30, 1997, and approved by the Cape Cod Commission on February 12, 1998. The purposes of the Dock and Pier Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law (Strategy 2.2.6.1.1);
 - (b) Maintaining safe, open waters for recreational pursuits, including swimming, power boating, rowing, rowing instruction, sailing, sailing instruction, sailboat racing, and kayaking (Goal 2.2.4); and

- (c) Protecting and retaining the natural open character and scenic vistas of the seacoast and water (Policy 2.2.6.2).
- B. Establishment of district.
 - (1) In order to implement the purposes of this section, the Dock and Pier Overlay District is hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time.
- C. Overlay District Map. The boundaries of the Dock and Pier Overlay District established by this section are shown on the Official Zoning Map, § 240-6A, Identification of Zoning Map, as amended with a file date of August 30, 2000.
- D. Prohibition. Within the Dock and Pier Overlay District, the construction and/or installation of docks and piers is prohibited.
- E. Reestablishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95, Reestablishment of damaged or destroyed nonconforming use or building or structure. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- F. Expansion of existing docks or pier. For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Dock and Pier Overlay District shall be deemed to be substantially detrimental and shall be prohibited.

§ 240-37.1. Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District. [Added 4-3-2008 by Order No. 2008-091; amended 10-7-2010 by Order No. 2010-159]

- A. Purpose.
 - (1) The purpose of this section is to protect the general public's interest in the recreational harvesting of shellfish by creating a Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District within said overlay zoning district.
 - (2) The purposes of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District include:
 - (a) Maintaining public access along the shore and to shellfish and shellfish beds, whether existing or potential, for the purposes allowed by law.
 - (b) Prohibiting docks and piers in mapped portions of the coastal waters of Cotuit Bay, North Bay, West Bay, Lewis Bay and Barnstable Harbor designated as a Recreational Shellfish Area or Shellfish Relay Area.

- B. Establishment of district. The boundaries of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District are hereby established and shall be considered as superimposed over any other districts established by this chapter as amended from time to time. The Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall include those areas shown on a maps on file with the Town Clerk entitled "Recreational Shellfish Area and Shellfish Relay Area Overlay District," dated June 17, 2010, and "Amendment to the Barnstable Zoning Map - Sheet 1 of 7, Cotuit Zoning Map Sheet 7 of 7, Hyannis Zoning Map Sheet 3 of 7, Centerville Zoning Map Sheet 4 of 7, Osterville Zoning Map Sheet 5 of 7," all dated June 17, 2010, up to and including the area seaward of the mean high water line, which map, together with all explanatory material thereon, is hereby incorporated in and made part of this chapter.
- C. Prohibition. Within the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District, the construction and/or installation of docks and piers is prohibited, unless such dock or pier has the benefit of a valid order of conditions issued prior to August 17, 2007, and receives all other necessary local, state and federal permits, in which case the construction and/or installation and maintenance of said dock or pier shall not be prohibited.
- D. Reestablishment of damaged or destroyed nonconforming docks or piers. The reestablishment of a lawful preexisting nonconforming dock or pier which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted pursuant to § 240-95A(1) and B, provided that such reestablishment shall include only materials currently allowed for such construction by the Barnstable Conservation Commission, and, for the purposes of this section, the "pursuit of construction continuously to completion" shall mean that construction shall be completed within one year of receipt of all required permits. The redeployment of a lawful preexisting nonconforming seasonal dock or pier is permitted.
- E. Expansion of existing docks or pier. For the purposes of Article VIII, Nonconformities, the expansion of an existing dock or pier located within the Recreational Shellfish Area and Shellfish Relay Area Overlay District shall be deemed to be substantially detrimental and shall be prohibited.
- F. Definitions. As used in this section, the following terms shall have the meanings indicated, [(from Ch. 703, Private Docks and Piers, § 703-2, Definitions.)]

DOCK and PIER — The terms "dock" and "pier" shall be used interchangeably for the purposes of these regulations and shall mean the entire structure of any pier, wharf walkway, or float, and any part thereof, including pilings, ramps, walkways, float, tie-off pilings, dolphins and/or outhaul posts, that is located on a coastal bank (310 CMR 10.30), land under water bodies and waterways (310 CMR 10.56),

land under the ocean (310 CMR 10.25), land under a salt pond (310 CMR 10.33), rocky intertidal shore (310 CMR 10.31), or that portion of a coastal beach (310 CMR 10.27) seaward of the mean high water line. Notwithstanding the above, either a swimming float or work float, kept at a mooring, that receives a permit from the Harbormaster and is not connected with the shore, is not a float subject to these regulations. Bulkheads duly permitted for the purpose of erosion control are not subject to this section.

SEASONAL — The dock, ramp, floats and all supporting materials are not in place prior to April 1 of each year and are removed prior to November 1 of each year.

- G. Enforcement. Any violation of the provisions of the Recreational Shellfish Area and Shellfish Relay Area Dock and Pier Overlay District shall be subject to penalty and fines pursuant to § 240-123 of the Town of Barnstable Code.

§ 240-38. Medical Services Overlay District. [Added 8-16-2001]

A. Purpose.

(1) The purpose of this section is to permit the development and relocation of medical and healthcare services on a previously developed site with convenient regional access. The Medical Services Overlay District is established as a special district which overlays the Industrial Zoning District and, in part, the Groundwater Protection Overlay District. The boundaries of the Medical Services Overlay District are shown on a map of land entitled "Medical Services Overlay District" filed with the Town Clerk, which map, together with all explanatory matter therein, is hereby incorporated in and made a part of this chapter.

(2) Provisions of this section are designed to insure that all development activities associated with the Medical Services Overlay District will be carried out so as to provide for and maintain protection of neighboring properties, convenient and safe access for vehicular and pedestrian movement, fire-fighting and emergency rescue vehicles, satisfactory methods of stormwater management, groundwater recharge and handling and disposal of sewage and waste and adequate off-street parking. Nothing contained herein shall serve to invalidate or affect the provisions of any existing zoning ordinances which affect the proposed Medical Services Overlay District, including without limitations, the provisions of §§ 240-33 and 240-35 of this chapter.

- B. Principal permitted uses. The principal permitted uses allowed in the Medical Services Overlay District shall include ambulatory medical services, medical offices, dental offices and clinics including patient treatment facilities of an ambulatory nature, research and development

activities associated with medical and healthcare issues and/or healthcare research, treatment or administration.

- C. Accessory use. (Reserved for future use.)
- D. Conditional use. (Reserved for future use.)
- E. Special permit use. (Reserved for future use.)
- F. Bulk regulations (dimensional requirements).
 - (1) Minimum lot area: 90,000 square feet.
 - (2) Minimum lot frontage: 200 feet.
 - (3) Minimum setback, front: 60 feet (except 100 feet from Hadaway).
 - (4) Side/rear yard: 30 feet maximum.
 - (5) Building height: 30 feet or 2 1/2 stories, whichever is less.
 - (6) Front yard landscape buffer: 45 feet.
 - (7) Landscape buffer, rear and side yard: 30 feet.
 - (8) Maximum lot coverage: 25%.
 - (9) Maximum floor area ratio: 0.40.

§ 240-39. Shopping Center Redevelopment Overlay District. [Added 4-24-1996]

- A. Purposes.
 - (1) The purpose of this § 240-39 is to permit the renovation and redevelopment of a large-scale integrated retail shopping center on a large site with convenient highway access. The Shopping Center Redevelopment Overlay District is established as a special district which overlays another nonresidential zoning district or districts (including a Groundwater Protection Overlay District).
 - (2) The Shopping Center Redevelopment Overlay District permits the redevelopment and expansion of a shopping center subject to the specific regulations and requirements contained in this § 240-39, which regulations and requirements shall govern even where they are inconsistent with or less restrictive than the other requirements of this chapter. The regulations of this § 240-39 relating to use, building and lot dimensions, development intensity, parking, signage and advisory site plan review shall apply only to a regional shopping center, and not to any other use that is allowed or permitted in the underlying zoning district.
 - (3) The provisions of this § 240-39 are designed to assure that all development activities associated with a regional shopping center will be carried out so as to provide for and maintain:

- (a) Protection of neighboring properties against harmful effects of uses on the development site;
 - (b) Convenient and safe access for fire-fighting and emergency rescue vehicles within the development site and in relation to adjacent streets;
 - (c) Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;
 - (d) Satisfactory methods of stormwater management and groundwater recharge shall be provided with due regard to the protection of the Town's groundwater resources;
 - (e) Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishments on the development site;
 - (f) Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishments on the development site;
 - (g) Adequate off-street parking and traffic mitigation measures that will enhance the efficiency of the transportation system taking into consideration the overall Town traffic needs identified in the Barnstable/Yarmouth Transportation Study prepared by the Town in conjunction with the Town Local Comprehensive Plan;
 - (h) Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site; and
 - (i) Attractive and functional design with due regard to the existing conditions of the development site and the use thereof for a regional shopping center, in order to promote the interests of the community.
- B. Location. The boundary of the Shopping Center Redevelopment Overlay District is shown on a map of land entitled "Shopping Center Redevelopment Overlay Zoning District" filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this chapter.
- C. Relationship to underlying districts and regulations.
- (1) The Shopping Center Redevelopment Overlay District shall overlay all underlying districts so that any parcel of land lying in a Shopping Center Redevelopment Overlay District shall also lie in the zoning district or districts in which it is otherwise classified by this chapter.

(2) All regulations of the underlying zoning district(s) shall apply within the Shopping Center Redevelopment Overlay District to the extent that they are not inconsistent with the specific provisions of this § 240-39. To the extent the provisions of this § 240-39 are in conflict with or are inconsistent with other provisions of this chapter, the provisions of this § 240-39 shall govern and prevail even if such other provisions are more restrictive than those set forth in this § 240-39.

D. Definitions. The following definitions shall be applicable to land and its use within the Shopping Center Redevelopment Overlay District:

ADVISORY SITE PLAN REVIEW — The process set forth in § 240-39L of this chapter, and shall not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto.

AMUSEMENT USES — The principal use of stores or common areas in a regional shopping center for the operation of a coin-operated video arcade, game room, indoor playground, bowling alley or similar use (but restaurant and theater uses and amusement uses that are accessory to retail uses shall not constitute amusement uses).

GROSS FLOOR AREA -- — The meaning set forth in § 240-128 of this chapter.

GROSS LEASABLE AREA -- — Gross floor area, exclusive of mall areas, stairs, escalators, elevators, utility, storage and equipment rooms, mall offices, exit and service corridors, toilet rooms, maintenance areas, and mezzanine areas not used for the public sale or display of goods.

INITIAL REDEVELOPMENT — The expansion of existing improvements within the Shopping Center Redevelopment Overlay District which increases the gross floor area of all buildings within the district above that which is in existence on January 1, 1996, by 50,000 square feet of gross floor area or more in the aggregate pursuant to a special permit issued under § 240-39M hereof.

MAJOR STORE — A store having 50,000 or more contiguous square feet of gross floor area occupied by a single tenant or occupant and operated under a single trade name.

MEZZANINE(S) — An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than 10% of the gross floor area of the store or area of the building in which the level or levels are located. Mezzanines which are not used for the public sale or display of goods shall not be treated as an additional story for purposes of calculating maximum building height. Mezzanine space may be used for storage and for backroom office functions incident to the operation of gross floor area within the regional shopping center, but shall not be rented for such purposes to persons not operating gross floor area within the regional shopping center. Mezzanines which are

used for the public sale or display of goods shall be treated as gross leasable area.

REDEVELOPMENT AREA — Land within the boundaries of the Shopping Center Redevelopment Overlay District, which is used or proposed for use as part of a regional shopping center, and encompassing one or more individual lots on which the regional shopping center will be situated.

REGIONAL SHOPPING CENTER — A concentration of stores and establishments devoted to retail shopping center uses and amusement uses including an enclosed structure (which may consist of several buildings) containing a total of not less than 500,000 square feet of gross floor area and located on a redevelopment area, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. A regional shopping center may consist of one or more lots and one or more buildings under separate ownership, provided that:

- (1) The lots and buildings are subject to an operating agreement or leasehold arrangements, provided that the areas used in common, including the central enclosed mall area, the parking structures and the exterior parking and circulation areas, will be under integrated management; and
- (2) The separate lots and buildings are developed with a unified approach to architectural and landscape design, pedestrian ingress and egress, parking, truck loading, vehicular entrances and exits, drainage, groundwater recharge and utilities.

RETAIL SHOPPING CENTER USES — A concentration of retail stores and service establishments, including restaurants, movie theaters and such other uses as are customarily found in a regional shopping center, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. Regional shopping center uses may include one area devoted to outdoor, tent-type sales of home and garden goods, provided that any such area is operated incident to a retail store having not less than 40,000 square feet of gross floor area and occupies not more than 5,000 square feet of area.

E. Application of requirements.

- (1) A redevelopment area may consist of more than a single building lot, and in such event the requirements of this chapter shall not be applied to individual building lots, but shall be applied to the entire redevelopment area as if the redevelopment area were a single building lot notwithstanding the fact that the building lots within the redevelopment area may be in different ownership.
- (2) The regional shopping center and other improvements within the redevelopment area may be developed in phases and may be

developed and occupied under one or more building permits and occupancy permits.

- (3) The provisions of this § 240-39 shall not apply to any expansion of existing improvements within the Shopping Center Redevelopment Overlay District until the exercise of rights under a special permit issued under § 240-39M with respect to the initial redevelopment, and any such expansion which does not constitute the initial redevelopment shall be subject to all of the requirements of the underlying zoning district(s) including, without limitation, the requirement of a special permit for certain uses and structures within the district. Following the exercise of rights under a special permit issued under § 240-39M with respect to the initial redevelopment, this § 240-39 shall apply to all improvements thereafter constructed within the Shopping Center Redevelopment Overlay District.

F. Permitted and prohibited uses.

- (1) No more than 25% of the gross leasable area within the regional shopping center shall be devoted to uses other than retail shopping center uses, and not more than 75,000 square feet of gross leasable area in a regional shopping center shall be devoted to amusement uses unless a special permit is issued therefor by the Zoning Board of Appeals.
- (2) The following uses are prohibited in the Shopping Center Redevelopment Overlay District:
 - (a) All uses prohibited in § 240-35F(2) [GP Groundwater Protection Overlay District] of this chapter.
 - (b) Parking and/or storage of transport vehicles for fuel, including but not limited to oil, coal and gas.
 - (c) Parking and/or storage of transport vehicles for toxic and/or hazardous substances.
 - (d) Hotel/motel.
 - (e) Multifamily dwellings.
 - (f) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the underlying Highway Business District, subject to the special permit provisions of § 240-39M and a drive-through restaurant may be permitted only on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone" as shown on the map entitled "Shopping Center Redevelopment Overlay District Amendment,"³¹ dated February 20, 2015, subject to the special permit provisions of § 240-39M.

[Amended 9-18-2008 by Order No. 2009-08; 5-7-2015 by Order No. 2015-071]

- (g) Gasoline and oil filling stations (other than a tire, battery and auto accessories store which is operated incident to a retail store having not less than 40,000 square feet of gross floor area in the regional shopping center and which does not provide for the changing of oil or lubrication of motor vehicles).
- (h) Casinos and other gambling establishments (other than the incidental sale of lottery tickets as part of a use otherwise permitted in the Shopping Center Overlay District).

G. Bulk and dimensional regulations.

- (1) Land located within the Shopping Center Redevelopment Overlay District and used for a regional shopping center shall be subject to the dimensional controls set forth below:
 - (a) Minimum area of redevelopment area: 50 acres.
 - (b) Minimum lot size (individual building lots): none.
 - (c) Minimum lot frontage (individual building lots): 20 feet.
 - (d) Minimum side, front and rear yards (other than at the perimeter of the redevelopment area): none.
 - (e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet. **[Amended 9-18-2008 by Order No. 2009-08]**
 - [1] One hundred feet along Iyannough Road/Route 132 Road except 50 feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone."
 - [2] One hundred feet along the easterly side of the roadway which would be created if Independence Drive were extended from its existing terminus on the northerly side of Route 132 along its current trajectory across Route 132 and the redevelopment area.
 - [3] Within 100 feet of Route 28/Falmouth Road, the minimum setback shall be 20 feet, but there shall be a maximum setback of 50 feet.
 - (f) Minimum side and rear yards (at perimeter of redevelopment area): 30 feet.
 - (g) Maximum lot coverage as percentage of lot area of redevelopment area: 50%.

- (h) Maximum building height: 42.5 feet or two stories, whichever is lesser.
 - (2) Except as specifically stated to the contrary in Subsection G(1), the bulk and dimensional requirements set forth therein shall be applied to a redevelopment lot as if it were one lot, even though it may be comprised of several lots in different ownerships. More than one building may be located on a single lot within the Shopping Center Redevelopment Overlay District.
 - (3) Skylights, mechanical penthouses and architectural features not designed for human occupancy (collectively, the "special features") shall be excluded in determining the height of any building within a regional shopping center. However, such special features shall be subject to the following restrictions and limitations:
 - (a) Provided the same are approved in the special permit issued pursuant to § 240-39M hereof, architectural features shall be permitted above each entrance to the regional shopping center in excess of the maximum building height, provided such architectural features do not exceed 60 feet in height, and the length of the architectural features over any single entrance shall not extend over more than 25% of the entire length of the building wall above which such architectural features are located (measured on a building-by-building basis); and
 - (b) Rooftop mechanical features (such as heating and air-conditioning units, vents, stacks and mechanical penthouses), rooftop screening elements and skylight features over the food court and over the enclosed mall (collectively, the "rooftop features") shall be permitted to exceed the maximum building height, provided that they remain within the rooftop feature height limitation. A rooftop feature shall be considered to remain within the rooftop feature height limitation if it falls below a sight line running 10° above the horizontal starting from a height of 42.5 feet. Rooftop features may exceed the rooftop feature height limitation only if the special permit described in § 240-39M so provides. In no case shall a rooftop feature exceed 60 feet in height. Rooftop mechanical features (such as heating and air-conditioning units, vents, stacks and mechanical penthouses) shall in any event be screened by use of parapet walls or similar elements if necessary. **[Amended 1-20-2005 by Order No. 2005-038]**
- H. Maximum increase in gross leasable area. No regional shopping center shall result in more than 1,200,000 square feet of gross floor area within the redevelopment area, measured on an aggregate basis. The maximum gross floor area of 1,200,000 square feet set forth above shall be reduced by 20,000 square feet of gross floor area for every acre by which the total area of the redevelopment area is less than 59 acres.

For purposes of this § 240-39, the floor area of parking structures shall not be treated as gross floor area or gross leasable area.

I. Limitation on impervious surfaces; buffer strip landscaping.

(1) No more than 70% of the total redevelopment area shall be rendered impervious by the installation of buildings, structures and paved surfaces, measured on an aggregate basis, unless groundwater mitigation land is provided at a one-to-one ratio for any overage of impervious cover in the redevelopment area. Groundwater mitigation land shall mean land located within the same or a more restrictive Groundwater Protection District in a zone of contribution to the well fields operated as of January 1, 1996 by the Barnstable Water Company and/or the Barnstable Fire District which land is permanently restricted by or on behalf of the owners of the redevelopment area to be left in an open and natural state. However, even with the dedication of groundwater mitigation land, no more than 82.7% of the total redevelopment area shall be so rendered impervious. Rooftop and surface water drainage systems shall be designed and maintained in accordance with the standards set forth in § 240-39L(4)(j). For purposes of this § 240-39I, roadways (other than interior access drives) built in accordance with municipal specifications (as the same may be modified or waived by the Planning Board) and used as public way(s) or private way(s) shall not be treated as impervious surfaces and shall not be treated as part of the area of the district for purpose of such calculation.

(2) As a part of the portion of the redevelopment area to be maintained in pervious condition, a landscaped buffer strip of variable width shall be provided and maintained along the redevelopment area's frontage on Route 28, Route 132 and any extension of Enterprise Road which is laid out in conjunction with the redevelopment. Said landscaped buffer strip shall be a minimum of 15 feet in depth from the property line and contain at least 2.5% of the total redevelopment area. The design of this buffer strip may include sidewalks/bikepaths, berms, indigenous planting materials and other ground cover. Cross over access drives and signs provided for herein shall be permitted in the landscaped buffer strip, but parking areas are prohibited. All other roadway frontages shall have a landscaped buffer strip of at least 10 feet.

J. Parking and loading. A regional shopping center shall be subject to the following minimum off-street parking and loading requirements:

(1) Required off-street parking for a regional shopping center shall be provided at a ratio of not less than 4.3 parking spaces for each 1,000 square feet of gross leasable area of all buildings located in the regional shopping center. The foregoing parking requirement shall be calculated without regard to the multiple uses that may be contained in the regional shopping center.

- (2) All off-street parking spaces required by this § 240-39J shall be located within the redevelopment area, except that parking spaces may be located outside of the redevelopment area on another nonresidentially zoned lot provided (a) such other lot is located within 300 feet of the redevelopment area on which the use for which such spaces are required is located, and (b) such lot is in common ownership with, or subject to a long term lease or easement for the benefit of, all or a portion of the redevelopment area. In addition, parking spaces may be located at such other locations as may be approved by the Zoning Board of Appeals as part of any Traffic Demand Management Plan which shall be incorporated as part of the special permit issued under § 240-39M hereof.
 - (3) Each off-street parking space shall have minimum dimensions of nine by 18 feet, excluding the driveway to such space. Parking stalls within the Shopping Center Redevelopment Overlay District which are designed at 90° shall have the following minimum dimensions:
 - (a) Ninety-degree parking dimensions:
 - [1] Stall width: nine feet, zero inches.
 - [2] Stall length: 18 feet, zero inches.
 - [3] Aisle width: 24 feet, zero inches.
 - [4] Bay width: 60 feet, zero inches.
 - (b) All parking stalls which are designed at angles other than 90° shall comply with the minimum parking space dimensions set forth in § 240-104 of this chapter. Landscaping shall be provided at the rate of one tree of three-inch caliper per eight spaces, and such trees shall be located within the parking area. Such parking area landscaping areas shall constitute not less than 5% of the land area devoted to grade-level parking fields. Above-grade parking structures shall be designed so as to provide a visual screen to shield, to the extent practicable, cars parked on the upper level from the view of pedestrians.
- K. Signs in the Shopping Center Redevelopment Overlay District. Only the following types of signs shall be permitted in the Shopping Center Redevelopment Overlay District:
- (1) Large freestanding exterior signs:
 - (a) Maximum number: three signs.
 - (b) Maximum height: not to exceed 22 feet above grade.
 - (c) Maximum area: not to exceed 150 square feet per side exclusive of structures holding the sign. Reasonable efforts

shall be exercised to minimize the size of any such supporting structures.

- (2) Wall signs identifying retail stores or restaurants having gross leasable area of greater than 25,000 square feet or having exterior public entrances; the food court; and the regional shopping center, provided that no wall sign shall extend higher than the top of the parapet wall:
 - (a) Maximum number: the lesser of two times the total number of exterior public entrances or 15 signs.
 - (b) Maximum letter height: five feet for signs accessory to major stores, and four feet for other such signs.
 - (c) Maximum area: 150 square feet for signs accessory to major stores, and 100 square feet for other such signs
- (3) Wall signs designating loading areas, service courts, employee entrances and similar areas:
 - (a) Maximum number: no limit.
 - (b) Maximum mounting height above ground: eight feet.
 - (c) Maximum area: six square feet.
- (4) Freestanding directional signs indicating access and egress to the site, as well as direction to department stores, services or other areas within the regional shopping center:
 - (a) Maximum number: three times the total number of vehicular entrances.
 - (b) Maximum height to top of sign above ground: seven feet.
 - (c) Maximum area: 16 square feet per side.
- (5) Hanging parking structure signs at vehicular entrances to parking structures:
 - (a) Maximum number: one per vehicle ramp access point to parking structures.
 - (b) Maximum height: one foot, six inches.
 - (c) Maximum area: 16 square feet per side.
 - (d) In addition, directional and parking area identification signs shall be permitted within the parking structures, and safety/height limitation markings shall be permitted on the exterior of the parking structures.
- (6) Parking lot identification signs.

- (a) Maximum number: one per light post.
 - (b) Maximum size: three square feet per side.
- (7) One electronic reader board shall be permitted on one of the large freestanding exterior signs permitted under Subsection K(1), subject to the following restrictions:
- (a) Maximum number: one.
 - (b) Maximum height: three feet per side.
 - (c) Maximum width: 10 feet per side.
 - (d) Maximum letter height: 12 inches high, with a total of no more than three lines of text per side.
 - (e) The text on any such electronic reader board:
 - [1] Shall not flash or trail;
 - [2] Shall only relate to promotional events within the regional shopping center; and
 - [3] May be changed no more frequently than once per day.
- (8) Banners which do not advertise particular stores or articles for sale shall be permitted.
- (9) In addition to the signs otherwise permitted under this § 240-39J, wall signs for freestanding buildings and movie theaters (meaning buildings and movie theaters which are not physically connected to the enclosed mall of the regional shopping center) which are otherwise permitted in the underlying zoning district under this chapter shall be permitted in the Shopping Center Redevelopment Overlay District. In addition, for so long as fewer than two of the freestanding signs described in Subsection K(11) are installed, one freestanding exterior sign shall be permitted for freestanding movie theaters, which sign shall have dimensions which meet the size requirements of the underlying zoning district.
- (10) In addition to the wall signs permitted under § 240-39K(2), one exterior marquee wall sign for movie theaters located within a regional shopping center shall be permitted with a size of up to 150 square feet.
- (11) In addition to the signs permitted under § 240-39K(1) hereof, up to two freestanding exterior signs for movie theaters located within a regional shopping center shall be permitted as follows:
- (a) Maximum number: two.
 - (b) Maximum height: 14 feet above grade.

(c) Maximum area: not to exceed 175 square feet per side, exclusive of structures holding the sign.

(12) In addition to the signs permitted under § 240-39K(1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone," provided that the maximum height of freestanding signs does not exceed 12 feet above grade and the maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign. **[Added 5-7-2015 by Order No. 2015-071³²]**

(13) No special permit shall be required for signs that are in conformance with the standards set forth above.

L. Advisory site plan review and provisions.

(1) Findings. Owing to their physical characteristic and the nature of their operations, a regional shopping center may affect neighboring properties and adjacent sidewalks and streets. It is in the interest of the community to promote functional and aesthetic design, construction and maintenance of a regional shopping center and to minimize any harmful affects on surrounding areas.

(2) Purposes. The provisions of this section are designed to assure that all development activities associated with a regional shopping center will be carried out in furtherance of the purposes articulated in § 240-39A, taking into account the existing condition of the redevelopment area, the large-scale character of developments such as the regional shopping center, the customary site layout of regional shopping centers, and the necessity to permit natural light to illuminate the common areas of the regional shopping center (hereinafter referred to as the "design constraints").

(3) Advisory site plan review/when required. The provisions of this § 240-39L shall apply to development within the Shopping Center Redevelopment Overlay District in lieu of the site plan review provisions of Article IX of this chapter. At least 60 days prior to filing any DRI application with the Cape Cod Commission, the proponent of a regional shopping center shall make an informal filing with the Building Commissioner, in draft form, of such plans and materials relating to the DRI application as the proponent intends to file with the Commission with its DRI application and such relevant plans and materials relating to the MEPA process as are then available. Within 30 days following such informal submission, the Building Commissioner and other members of the Site Plan Review Committee established under Article IX of this chapter and such other Town staff as may be designated by the Building Commissioner shall review, comment upon and make

32. Editor's Note: This order also renumbered former Subsection K(12) as Subsection K(13).

recommendations with respect to the plans and materials so submitted, provided that the Building Commissioner shall have the right to extend such thirty-day period by an additional 30 days at the request of the Site Plan Review Committee. In conducting its review the Site Plan Review Committee shall consider the consistency of such plans and materials with the site development standards set forth in Subsection L(4) hereof. The informal filing and review described in this Subsection L(3) requires no approval and therefore does not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto; however, the Cape Cod Commission shall be invited to have representatives participate in the advisory site plan review process.

- (4) Site development standards.
- (a) A reasonable effort shall be made to improve, conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.
 - (b) Slopes which exceed 10% shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.
 - (c) The placement of buildings, structures, fences, lighting and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.
 - (d) At any driveway, a visibility triangle shall be provided in which nothing shall be erected, placed, planted or allowed to grow so as to materially impede vision from within motor vehicles between a height of three feet and eight feet above the average center-line grades of the intersecting street and driveway, said triangle being bounded by the intersection of the street line and the edges of a driveway and a line joining points along said lines 20 feet distant from their projected intersection.
 - (e) Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to interfere with traffic beyond the perimeter of the site.
 - (f) All areas designed for vehicular use shall be paved with a minimum of either a 2 1/2 inches bituminous asphalt concrete, a six-inch portland cement concrete pavement, or other surface, such as brick or cobblestone, as approved by the Town Engineer.

- (g) All parking spaces shall be arranged and clearly marked in accordance with the parking lot design standards contained in § 240-39J herein. Signs and pavement markings shall be used as appropriate to control approved traffic patterns.
- (h) The provisions of § 240-52 of this chapter shall not apply to land within the Shopping Center Redevelopment Overlay District. Instead, exterior landscaping of a regional shopping center shall be subject to review in connection with the advisory site plan review process described herein.
- (i) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground. Electric, telephone, cable TV, and other such utilities shall be underground, except for transformers, electric switching boxes or similar equipment and gas meters, which may be above ground.
- (j) All surface water runoff from structures and impervious surfaces shall be disposed of on site, but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies (except for drainage structures in place as of the effective date of this § 240-39). All drainage systems shall be designed to minimize the discharge of pollutants by maximizing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration (with due regard to the design constraints). Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Subject to ambient surcharge conditions, roof runoff shall be recharged to the ground via a system of dry wells and/or infiltration systems. Nontoxic roof materials shall be used to minimize the leaching of toxic materials to the groundwater. To minimize water utilization, all new plumbing fixtures shall be designed to meet water conservation measures as required under the State Building and Plumbing Codes. All such drainage structures shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants. All calculations shall be for a twenty-five-year storm and shall be reviewed by the Town Engineer. The materials submitted shall include provision for an appropriate maintenance program for such drainage structures to be implemented and maintained by the proponent. The materials submitted shall show adequate measures to mitigate pollution of surface or groundwater to minimize erosion and sedimentation. All drainage shall be designed so that all runoff shall be disposed of on site,

groundwater recharge is maximized, and neighboring properties will not be adversely affected.

- (k) The materials submitted shall describe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow showing adequate access to and from the site and adequate circulation within the site taking into account the Barnstable/Yarmouth Transportation Study. The proponent of a regional shopping center will include in such materials reasonable measures to lower traffic demand to the regional shopping center such as, by way of example only, working with other major retailers along the 132 corridor to promote bus and shuttle bus activity, encouraging carpooling among employees, and/or similar measures, which materials shall be referred to as the "Traffic Demand Management Plan." Reasonable efforts shall be made to provide vehicular and pedestrian connections within the redevelopment area to adjoining properties devoted to retail use.

M. Special permit provisions.

- (1) Special permit for regional shopping center.
 - (a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39M. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this § 240-39M. **[Amended 9-18-2008 by Order No. 2009-08; 5-7-2015 by Order No. 2015-071]**
 - (b) A special permit for a regional shopping center may provide for phased development (and, if applicable, a projected phasing plan shall be provided to the Board of Appeals as part of the special permit process under § 240-39M). A special permit for a regional shopping center shall become void two years from the date of issue unless any construction work contemplated thereby (or first phase thereof, if applicable) shall commence and proceed in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the use authorized thereby is commenced.
 - (c) Any work done in deviation from a special permit granted pursuant to this § 240-39M shall be a violation of this chapter,

unless such deviation is approved in writing by the Zoning Board of Appeals. However, a special permit may be granted based upon plans showing one or more permissible building areas and/or permissible parking structure areas, in which buildings and other structures are to be located, rather than with the locations of the buildings and other structures finally established. Provided the boundaries of such permissible building areas and/or permissible parking structure areas are approved by the Zoning Board of Appeals in connection with the special permit, once the special permit is granted, no separate approval of the Zoning Board of Appeals will be required for the actual location of the buildings or improvements within such permissible building areas and/or permissible parking structure areas [provided that no material change to the design or materials described in § 240-39M(2)(a) shall be made without the approval of the Zoning Board of Appeals.] The Zoning Board of Appeals may amend or modify a special permit upon the application of the developer of a regional shopping center and, if the Zoning Board of Appeals determines that such amendment or modification is minor in nature, such amendment or modification may be approved without a hearing upon the submission of plans and information that may, in the discretion of the Zoning Board of Appeals, be less extensive than the plans and information required in this § 240-39M. Amendments or modifications determined by the Zoning Board of Appeals not to be minor in nature shall require a public hearing.

- (d) The purpose of the special permit for a regional shopping center is to assure that the development of a regional shopping center is carried out in a manner which is (1) consistent with the purposes set forth in § 240-39A hereof and the site development standards set forth in § 240-39L(4) hereof, (2) consistent with the terms and conditions of any DRI permit issued by the Cape Cod Commission and the certificate of the Secretary of Environmental Affairs on the final environmental impact report, (3) with due regard given to the Design Guidelines for Cape Cod prepared by the Cape Cod Commission in light of the design constraints, and (4) consistent with such additional reasonable conditions as may be imposed by the Zoning Board of Appeals as are not inconsistent with the foregoing. The Zoning Board of Appeals shall grant a special permit for a regional shopping center upon its determination that the standards for the issuance of such special permit set forth in this Subsection M(1)(d) have been complied with, giving due regard to the design constraints.
- (2) Required contents of special permit application. The application for a special permit under this § 240-39M shall include:

- (a) Building elevation plans for all exterior facades of buildings and structures, at a scale of 1/16 inch equals one foot, or such scale as may be required by the Zoning Board of Appeals for detail drawings, indicating surface materials and colors, together with not less than three representative cross sections.
 - (b) A tabulation of the areas of the proposed site elements, including buildings (footprints and gross leasable area and gross floor area), parking structures and surface parking areas (square footage and number of parking spaces), stormwater management facilities, and landscaped areas (square footage, number of trees and other plantings).
 - (c) Updated versions of the materials submitted to the Building Commissioner in connection with the advisory site plan review process described in § 240-39L above.
 - (d) Any request for gross leasable area in excess of the use limitations set forth in § 240-39F(1).
 - (e) Any request to permit rooftop features to exceed the rooftop feature height limitation set forth in § 240-39G(3)(b).
 - (f) All materials relating to any request to permit off-site parking under § 240-39J(2).
 - (g) A description of the operating agreement and/or leasehold agreements contemplated in the definition of "regional shopping center."
 - (h) Additional information as may be required by the Zoning Board of Appeals as reasonably necessary to making the determinations required by this section.
- (3) Required procedures for special permit.
- (a) At least six copies are required of all plans, drawings and written information. Submissions shall be delivered to the Zoning Board of Appeals.
 - (b) The Zoning Board of Appeals may solicit the advice of any other Town agency or department it deems necessary to properly make the determinations required by this section.
 - (c) In issuing a special permit under this § 240-39M, the Zoning Board of Appeals shall give due regard to, and shall not be inconsistent with the decisions and recommendations of the Cape Cod Commission as set forth in any DRI permit or similar approval.
 - (d) The Zoning Board of Appeals shall also include as a condition of its special permit the performance of any written commitments made by the developer of a regional shopping

center to the Zoning Board of Appeals, the Planning Board or the Town Council intended to reduce or limit the impacts, financial or otherwise, of the regional shopping center on the Town. Such conditions shall be based on the written information furnished to the Zoning Board of Appeals by the Planning Board and Town Council. Such conditions shall be binding on the applicant for such special permit provided they are consistent with the provisions of Section 15 of Chapter 716 of the Acts of 1989 (the Cape Cod Commission Act).

- (e) The Zoning Board of Appeals may include as a condition of its special permit that, prior to the issuance of a certificate of occupancy for the regional shopping center, the Building Commissioner shall be provided with evidence that the operating agreement and/or leasehold arrangements contemplated in the definition of "regional shopping center" are in place.
- (f) If the proposed improvements which are the subject of an application for a special permit under this § 240-39M have not been subject to the review of the Cape Cod Commission because at the time of such application the Cape Cod Commission or the DRI process has been abolished, then the proposed improvements shall be subject to site plan review under Article IX of this chapter.

§ 240-40. Adult Use Overlay District. [Added 6-4-1998]

- A. District established. An Adult Use Overlay District is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.
- B. Adult use. Within the Adult Use Overlay District, and only within the Adult Use Overlay District, an adult use may be permitted, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the following conditions of approval:
 - (1) The special permit shall be issued to the owner of the adult use and shall not transfer with a change in ownership of the business and/or property.
 - (2) The special permit shall lapse after two years, unless a shorter term is specified by the Zoning Board of Appeals. Upon receipt of a valid application, the Zoning Board of Appeals may grant another special permit, provided that the Board finds that all conditions of this § 240-40 herein have been complied with, and all conditions of approval of the Zoning Board of Appeals.

- (3) The special permit shall not be renewed if any of the following has taken place on or in proximity to and associated with the premises, as provided for in Subsection B(2) above:
 - (a) Unlawful sexual activity.
 - (b) Gambling.
 - (c) Drug use.
 - (d) Violent crimes.
 - (e) Offenses against children.
 - (f) Repeated public disturbances requiring intervention by the police.
 - (g) Any other illegal activities.
- (4) Violation of any of the conditions of approval of the special permit shall be grounds for nonrenewal of the special permit as provided for in Subsection B(2) above.
- (5) No special permit shall be issued to an owner convicted of violating MGL Ch. 119, § 63, (Inducing or abetting delinquency of a child) or MGL Ch. 272 § 28, (Matter harmful to minors, etc.), or similar laws in other states.
- (6) Where necessary to protect adjacent uses, the Zoning Board of Appeals may require buffering by fencing, vegetation or other screening methods.
- (7) No adult use shall be allowed within a building containing residential use, or upon a lot with residential use. No adult use shall be located within 500 feet of a residence.
- (8) Where the adult use is not governed by the Licensing Board, the following conditions shall apply:
 - (a) A manager responsible for the operation of the establishment shall be designated by the owner, if the owner is not the manager. The manager shall register with the Building Commissioner. No manager shall be designated who has been convicted of violating MGL Ch. 119, § 63, (Inducing or abetting delinquency of a child) or MGL Ch. 272, § 28, (Matter harmful to minors, etc.) or similar laws in other states
 - (b) The owner and/or manager of the establishment shall be responsible for knowing what is taking place with respect to the patrons in all parts of the establishment at any given time.
 - (c) The Zoning Board of Appeals may establish the hours of operation.

- (d) There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right-of-way.
 - (e) The interior of an adult bookstore, adult video store, or adult paraphernalia store shall be well lit; and there shall be no closed booths.
- (9) The interior of an adult use nonlive entertainment establishment shall provide the following:
- (a) An anteroom or other content-neutral space which will identify the adult use through the use of content-neutral signage.
 - (b) All adult materials will be segregated from nonadult use nonlive entertainment materials.
 - (c) Written cautions will be made denying access to minors to the adult sections of the establishment.
 - (d) The purchase point of adult use nonlive entertainment materials shall be segregated from the purchase point of nonadult use nonlive entertainment materials.
 - (e) Adult use nonlive entertainment purchases or rentals shall be bagged with an opaque material.
- C. Preexisting adult uses. Any adult use that was in existence as of the first date of publication of the notice of public hearing on the zoning amendment inserting this section regulating adult uses may continue to operate in the same location, without material change in scale or content of the business, provided that the owner complies with the provisions of this section requiring a special permit, including all relevant conditions imposed thereon.
- D. Prohibited uses. Nothing in this chapter is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violated any Town ordinance or statute of the commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or public display thereof.

§ 240-40.1. Former Grade 5 School Planned Unit Development Overlay District. [Added 9-2-2004 by Order No. 2004-128]

A. Purpose.

- (1) The purpose of the Former Grade 5 School Planned Unit Development District is to encourage flexibility in the design and development of land within the district in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities and public spaces; and to preserve the natural and scenic qualities of open areas.

(2) This development district is intended to permit diversification in the location of structures and uses and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy of buildings and facilities.

B. Procedure. The owner or owners or lessees of tracts of land consisting of five acres or more in the Former Grade 5 School Planned Unit Development Overlay District may submit to the Planning Board a request for a Special Permit to allow for a plan of development and use of such tracts meeting the requirements set forth below:

- (1) The Planning Board shall be the special permit granting authority and shall follow the procedures for issuing special permits as provided for in § 240-125C herein, specifically substituting the words "Planning Board" for the words "Zoning Board of Appeals."
- (2) Lot area and lot frontage requirements may be reduced, provided the overall density is not reduced, and yard requirements need only be applied in relationship to the tract boundaries.
- (3) Bulk regulations shall be as follows:

Zoning Districts	Minimum Yard Setbacks							Maximum Building Height (feet)	Maximum Lot Coverage as % of Lot Area
	Minimum Lot Area (square feet)	Minimum Lot Frontage Width (feet)			Minimum Yard Setbacks (feet)				
		Minimum Lot Area (square feet)	Minimum Lot Frontage Width (feet)	Minimum Lot Frontage Width (feet)	Front	Side	Rear		
FG-5 PUD	43,560	20	--	50	50	50	38	50 ¹	

Notes:

¹ Less any required setback.

- (4) More than one building is permitted on tracts held by one owner or in common ownership.
- (5) A site plan in accordance with the Town of Barnstable site plan review regulations³³ indicating the planned location of buildings and their use, off-street parking areas, driveways, easements, walks, the location, type and height of walls, and the extent of landscaping or other treatment for the protection of adjacent properties is required.

33. Editor's Note: See Art. IX, Site Plan Review.

- (6) A copy of any deed restrictions intended to be recorded shall be submitted.
- C. Permitted uses with issuance of special permit for planned unit development. The permitted uses shall include: residential uses such as garden apartments, townhouses, multifamily housing; office uses such as medical and professional offices; assisted-living developments; museum uses; recreational uses; open space uses; private educational uses; higher educational uses; and mixed-use developments incorporating any of the above, including food service as an accessory use to the principal uses listed above.
- D. Standards for reviewing and approving planned unit developments. Before any action on any of the plans for a planned unit development, a site plan and any supplemental plans shall be submitted to the Planning Board for study and review. The Planning Board shall report its recommendations for approval or disapproval, together with the reasons therefor and any additional requirements, within 20 days of receipt of a site plan. Reasonable requirements may be recommended by the Planning Board for the protection of adjoining residential property. The Planning Board shall approve the planned unit development only if it finds that the planned unit development satisfies all of the following standards:
- (1) General standards.
- (a) The planned unit development shall be consistent with the Town of Barnstable Comprehensive Plan.
- (b) The planned unit development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.
- (c) The planned unit development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the site.
- (2) Design standards.
- (a) All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses.
- (b) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
- (c) Treatment of the sides and rear of all buildings within the planned unit development shall be comparable in amenity and

appearance to the treatment given to street frontages of these same buildings.

- (d) The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate, to provide separate levels of access.
 - (e) All buildings shall be arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
 - (f) All buildings shall be arranged as to be accessible to emergency vehicles.
- (3) Landscape design standards.
- (a) Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design.
 - (b) Primary landscape treatment shall consist of shrubs, ground cover, and street trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town of Barnstable's environment.
- (4) Circulation system design standards.
- (a) There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
 - (b) Road, pedestrian walks and open space shall be designed as an integral part of an overall site design. They shall be properly related to existing and proposed buildings, and appropriately landscaped.
 - (c) There shall be an adequate amount, in a suitable location, of pedestrian walks and landscaped spaces to discourage pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks and public transportation loading places from general vehicular circulation facilities.
 - (d) Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
 - (e) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to street, parking areas and adjacent buildings.

- (f) The location and design of pedestrian walks should emphasize desirable views of new and existing development in the area.
 - (g) Encourage the maximum separation of private automobiles and service vehicles through the use of separate service lanes.
 - (h) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.
- (5) Parking and loading design standards.
- (a) Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
 - (b) Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping and ease of access, and shall be developed as an integral part of an overall site design.
 - (c) Any above-grade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.
 - (d) Outdoor storage shall not be permitted.

ARTICLE IV
Supplemental Provisions

§ 240-41. Vision clearance on corner lots.

In residential districts, on corner lots, no fence, wall or structure, planting or foliage more than three feet in height above the plan of the established grades of the streets shall be allowed in any part of a front or side yard herein established, that is included within the street lines at points which are 20 feet distant from their point of intersection measured along said street lines which will materially obstruct the view of a driver of a vehicle approaching a street intersection.

§ 240-42. Planning Board standards/certain subdivisions.

The Planning Board, as part of its review of subdivisions within 500 feet of the major arteries known as Routes 28, 132, 149 and West Main Street, is hereby authorized to:

- A. Prescribe, in distance and composition, a vegetation buffer strip between said major arteries and a proposed subdivision.
- B. Locate streets within a proposed subdivision so that:
 - (1) Ingress and egress onto the aforementioned major arteries is safe, efficient and convenient;
 - (2) A minimum number of roads intersect any such artery. Roads intersecting a major artery on the same side of the artery should, if possible, be not less than 500 feet apart between side lines. Roads intersecting a major artery on the opposite sides of such an artery should, if possible, be not less than 150 feet between center lines.

ARTICLE V
Accessory Uses

§ 240-43. Incidental and subordinate nature of accessory uses.

Within the zoning districts established herein, accessory uses or accessory buildings are permitted, provided that any such use or building is customarily incidental to, subordinate to and on the same lot as the principal use it serves except as otherwise provided for herein.

§ 240-44. Accessory uses permitted with special permit.

The following accessory uses are permitted, provided that a special permit is first obtained from the Board of Appeals:

- A. In residential zoning districts, accessory uses and structures on a lot adjoining or immediately opposite and across a road from the lot on which the principal use it serves is located, provided that both lots are retained in identical ownership with respect to both fee and nonfee interests.
- B. Uses accessory to permitted scientific research or scientific development or related production only if the Board finds that such accessory use does not substantially derogate from the public good. Such accessory use need not be located on the same lot as the principal use it serves.
- C. Other accessory uses requiring special permit authorization are provided for within the various zoning districts established herein.

**§ 240-44.1. Land-based wind energy conversion facilities (WECFs).
[Added 6-14-2007 by Order No. 2007-082]**

- A. Purpose and intent. It is the express purpose of this section to accommodate distributed wind energy conversion facilities in appropriate land-based locations, while minimizing any adverse visual, safety and environmental impacts of the facilities. The section enables the review of wind energy conversion facilities by the Town's special permit granting authority, clarifying the criteria for siting such a facility. This section is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local ordinances designed to encourage appropriate land use and environmental protection. Further, it is the express intent of this section that any special permit granted hereunder run with the land and that any subsequent owner of said land be bound by the terms and conditions of said special permit.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

CLEAR AREA — The distance from the lowest point of the blade tip to the ground.

HEIGHT — Height is measured from the grade at the base of the tower to the top of the fixed tower (moveable blades are not included).

LAND-BASED — Wholly located on upland including any guy wires as may be required.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) — Shall be the Planning Board, for this section.

WIND ENERGY CONVERSION FACILITY (WECF) — All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.

WIND-MONITORING OR METEOROLOGICAL (TEST OR MET) TOWERS — Tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

WIND TURBINE — A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft.

C. District regulations.

(1) Use regulations.

- (a) All wind energy conversion facilities or wind-monitoring towers shall require a building permit and may be permitted only as an accessory use to permitted uses in all zoning districts.
- (b) Wind energy conversion facility and wind-monitoring or meteorological towers. The construction of any wind energy conversion facility or wind-monitoring/meteorological tower shall be permitted in all zoning districts, subject to issuance of a special permit and provided the proposed use complies with all dimensional and special permit regulations set forth in § 240-125C (unless waived by the SPGA). Any subsequent change or modification of wind energy equipment shall be subject to review by the Building Commissioner.

(2) Dimensional requirements.

- (a) Type. Tilt-up towers, fixed-guyed towers, freestanding towers or other designs may be considered for approval by the SPGA. Towers may not be attached to any residence or habitable structures.
- (b) Setback. The base of any WECF shall be set back from any property line or road layout line by not less than 120% of the proposed height of the tower if abutting residentially zoned

properties and 80% of the proposed height of the tower, if abutting nonresidentially zoned properties. Guy wires or any WECF related construction not wholly below grade, as may be required by the proposed design, shall be set back at least 20 feet from property lines, and 30 feet from road layout lines if located on, or adjacent to, residentially zoned property. If located on nonresidentially zoned property and not abutting residentially zoned property, guy wire setbacks may be reduced to five feet. Other setbacks shall conform to the yard setbacks of the zone in which the subject property is located. The SPGA may allow the setback to be reduced as part of the special permit process if the project proponent can demonstrate that additional height is needed and that the additional benefits of the higher tower outweigh any increased adverse impacts.

D. Special permit regulations. The SPGA shall grant a special permit only if it finds that the proposal complies with the provisions of this Zoning Ordinance (unless waived) and is consistent with the applicable criteria for granting special permits.

(1) General. Proposed wind energy conversion facilities shall be consistent with all applicable local, state and federal requirements, including, but not limited to, all applicable electrical, construction, noise, safety, environmental and communications requirements.

(a) Demonstrated utility. The proponent shall demonstrate that the proposed WECF efficiently generates electrical power.

(b) Maintenance. A written maintenance plan shall be submitted with the application for a special permit for review and approval by the SPGA and shall be made a condition of said special permit.

(2) Design standards.

(a) Visual impact. The proponent shall demonstrate through project siting and proposed mitigation that the wind energy conversion facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, lighting. All electrical conduits shall be underground.

(b) Color. Wind energy conversion facilities shall be painted nonreflective muted colors that blend with the sky, without graphics or other decoration.

(c) Equipment shelters. All equipment necessary for monitoring and operation of the wind energy conversion facilities should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment may be located outside the

tower, provided it is contained either within an underground vault, or enclosed within a separate structure or behind a year-round landscape or vegetated buffer.

(d) Lighting and signage.

[1] Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.

[2] Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties.

[3] No signage allowed.

(e) Guy wires. Guy wires as may be utilized in the construction of the tower shall be left totally unadorned. Nothing shall be hung from or attached to said wires. To prevent unintended contact by persons who may be on-site, landscaping or other approved methods may be implemented. Exception: On nonresidentially zoned properties, not abutting residential property, guy wires may be wrapped with a colored sleeve only, to prevent unintended contact. Such sleeve shall extend to a height not greater than 10 feet above grade.

(3) Environmental standards.

(a) Noise.

[1] The wind energy conversion facility and associated equipment shall conform to the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10). A source of sound will be considered to be violating these regulations if the source:

[a] Increases the broadband sound level by more than 10 dB(A) above ambient; or

[b] Produces a pure tone condition: when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more.

[2] "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. The ambient noise level shall be measured at the property line when the WECF is located on a lot adjacent to residentially zoned

property. Otherwise, the special permit granting authority, in consultation with the Department, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

[3] Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the SPGA. The report shall be submitted to the SPGA for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded in which case the owner of the system shall pay the fee.

[4] If the maximum decibel readings are exceeded, the installation shall be considered a nuisance. The nuisance violation must be corrected within 90 days from notification of the violation, and if the violation cannot be corrected, the wind energy system shall be removed or relocated at the expense of the owner.

(b) Shadowing/flicker. Wind energy conversion facilities shall be sited in a manner that does not result in significant shadowing or flicker impacts. The proponent has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

(c) Safety standards.

[1] No hazardous materials or waste shall be discharged on the site of any wind energy conversion facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste.

[2] Climbing access to tower shall be limited by placing climbing apparatus no lower than 10 feet from the ground.

[3] The clear area shall be no less than 10 feet.

[4] The wind turbine shall conform to FAA safety standards, as amended.

(4) Condemnation.

(a) Upon a finding by the Building Commissioner that the WECF has been abandoned or has been left in disrepair or has not been maintained in accordance with the approved maintenance plan, the owner of said WECF shall be notified in writing by certified mail that the WECF shall be brought up to standard. If required repairs or maintenance are not accomplished within 45 days, the WECF shall be deemed

condemned and shall be removed from the site within 90 days thereafter at the expense of the property owner. The aforementioned periods of time may be extended at the request of the owner and at the discretion of the Building Commission. "Removed from site" shall mean:

- [1] Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property;
 - [2] Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations;
 - [3] Restoration of the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after condition.
- (b) If an applicant fails to remove a wind energy conversion facility in accordance with this section of this chapter, the Town shall have the authority to enter the subject property and physically remove the facility. The SPGA may require the applicant to provide a form of surety (i.e., post a bond, letter of credit or establish an escrow account or other) at the SPGA's election at the time of construction to cover costs of the removal in the event the Town must remove the facility. The amount of such surety shall be equal to 150% of the cost of compliance with this section. The applicant shall submit a fully inclusive estimate of the costs associated with removal. The amount shall include a mechanism for a cost of living adjustment every five years.

**§ 240-44.2. Ground-Mounted Solar Photovoltaic Overlay District.
[Added 10-7-2010 by Order No. 2011-006³⁴]**

A. Purpose.

- (1) This section promotes the creation of new large-scale, ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. This section ordinance is adopted pursuant to the Commonwealth of Massachusetts Green Communities Act.

34. Editor's Note: Section 3 of this order reads as follows: "A building permit shall be issued by the Building Commissioner within one year from the date an application submitted is deemed complete by the Building Commissioner. Failure to issue a building permit within one year shall not result in a constructive grant."

- (2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale, ground-mounted solar photovoltaic installations.
- B. Applicability. This section applies to large-scale (250 kW), ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.
- C. District established. A Ground-Mounted Solar Photovoltaic Overlay District (GMSPOD) is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map
- D. Definitions. These definitions shall apply to § 240-44.2 exclusively:
- AS-OF-RIGHT SITING — The ground-mounted solar photovoltaic installation may proceed without the need for a special permit, variance, amendment, waiver, or other local discretionary approval. As-of-right development is subject to Article IX, Site Plan Review. As-of-right solar photovoltaic installations that are consistent with the Zoning Ordinance and applicable state and federal law can be reasonably regulated and approved by the Building Commissioner.
- GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A large-scale solar photovoltaic (PV) system that is structurally mounted on the ground, not roof-mounted, and has a nameplate capacity of at least 250 kW DC.
- OFF-GRID SYSTEM — A solar photovoltaic installation where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.
- RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).
- E. Application and review.
- (1) Ground-mounted, large-scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review pursuant to Article IX, Site Plan Review, prior to construction, installation or modification as provided in this section. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
- (2) Required documents. In addition to the requirements of § 240-102, Contents of site plan, the project proponent shall provide the following documents:
- (a) A site plan showing:

- [1] Property lines and physical features, including roads, for the project site;
 - [2] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. The square footage of each disturbed area shall be identified on a plan, and details of any site alteration, including number and species of trees to be removed, shall be provided. **[Amended 8-17-2017 by Order No. 2018-04]**
 - [3] Blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 - [4] One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - [5] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - [6] Name, address, and contact information for proposed system installer;
 - [7] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - [8] The name, contact information and signature of any agents representing the project proponent; and
- (b) Documentation of actual or prospective access and control of the project site (See also Subsection G below.);
 - (c) An operation and maintenance plan (See also Subsection H below.);
 - (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a Zoning Map with the parcel(s) identified is suitable for this purpose);
 - (e) Description of financial surety that satisfies Subsection N(3) below.
- F. Site control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to

allow for construction and operation of the proposed solar photovoltaic installation.

- G. Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include specific measures for maintaining safe access to the installation, a stormwater management plan, and general procedures for and frequency of operational maintenance of the installation.
- H. Utility notification. No ground-mounted solar photovoltaic installation shall receive a building permit until an executed interconnect agreement with EVERSOURCE, the utility company operating the electrical grid, has been submitted to the Building Commissioner. Off-grid systems are exempt from this requirement. **[Amended 8-17-2017 by Order No. 2018-04]**
- I. Dimensional requirements. Ground-mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s).
- J. Design standards.
 - (1) Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
 - (2) Signage. Signs on large-scale, ground-mounted solar photovoltaic installations shall comply with Article VII, Sign Regulations. A sign shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising.
 - (3) Accessory structures. All structures accessory to ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. To avoid adverse visual impacts, all such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, multiple accessory structures shall be clustered to the greatest extent feasible and views of such structures to residential properties and roadways shall be screened with landscaping.
- K. Utility connections. Reasonable efforts, as determined by site plan review, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of

the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

L. Safety and environmental standards.

- (1) Emergency services. The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (2) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale, ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws. **[Amended 8-17-2017 by Order No. 2018-04]**
 - (a) Land clearing is prohibited within 800 feet from the outer boundary of any Zone I protective radius around a public water supply well or wellfield established by 310 CMR 22.
 - (b) Land clearing in excess of two contiguous acres in connection with any single installation is prohibited.
 - (c) No such installation shall be segmented or broken into separate ownerships so as to avoid the prohibitions of Subsection L(2)(a) and (b) above.

M. Monitoring and maintenance.

- (1) Solar photovoltaic installation conditions. The large-scale, ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to site plan review. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation.
- (2) Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require site plan review approval.

N. Abandonment or decommissioning.

- (1) Removal requirements. Any large-scale, ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the

installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large-scale, ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (c) Stabilization or revegetation of the site as necessary to minimize erosion. The Building Commissioner may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (2) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale, ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- (3) Financial surety. Proponents of large-scale, ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal and disposal in the event the Town must remove the installation and remediate the landscape, in an amount and in a form acceptable to the Town Attorney but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for pro rating removal costs as they may be affected by inflation or changes to disposal regulations.

§ 240-45. Off-street storage of trailers. [Amended 2-22-1996 by Order No. 95-194]

A mobile home may be stored in a garage or other accessory building or on the rear half of a lot owned or occupied by the owner of the mobile home.

The location of the mobile home shall comply with the yard requirements of the zoning district in which it is located.

§ 240-46. Home occupation. [Added 8-17-1995 by Order No. 95-195]

- A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within single-family dwellings, subject to the provisions of this section, provided that the activity shall not be discernible from outside the dwelling; there shall be no increase in noise or odor; no visible alteration to the premises which would suggest anything other than a residential use; no increase in traffic above normal residential volumes; and no increase in air or groundwater pollution.
- B. After registration with the Building Commissioner, a customary home occupation shall be permitted as of right subject to the following conditions:
- (1) The activity is carried on by the permanent resident of a single-family residential dwelling unit, located within that dwelling unit.
 - (2) The activity is a type customarily carried on within a dwelling unit.
 - (3) Such use is clearly incidental to and subordinate to the use of the premises for residential purposes.
 - (4) Such use occupies no more than 400 square feet of space.
 - (5) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use.
 - (6) The use is not objectionable or detrimental to the neighborhood and its residential character.
 - (7) No traffic will be generated in excess of normal residential volumes.
 - (8) The use does not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other objectionable effects.
 - (9) There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.
 - (10) Any need for parking generated by such use shall be met on the same lot containing the customary home occupation, and not within the required front yard.
 - (11) There is no exterior storage or display of materials or equipment.
 - (12) There are no commercial vehicles related to the customary home occupation, other than one van or one pickup truck not to exceed

one-ton capacity, and one trailer not to exceed 20 feet in length and not to exceed four tires, parked on the same lot containing the customary home occupation.

- (13) No sign shall be displayed indicating the customary home occupation.
 - (14) If the customary home occupation is listed or advertised as a business, the street address shall not be included.
 - (15) No person shall be employed in the customary home occupation who is not a permanent resident of the dwelling unit.
 - (16) Customary home occupations shall not include such uses similar to, and including the following:
 - (a) Barber- and beauty shops.
 - (b) Commercial stables or kennels.³⁵
 - (c) Real estate or insurance office.
 - (d) The sale of retail or wholesale merchandise from the premises.
 - (e) The sale of antique or secondhand goods.
 - (f) Service or repair of vehicles, and gasoline or diesel powered machinery.
 - (g) Contractors storage yards.
 - (h) Veterinary services.
 - (i) The manufacture of goods using heavy machinery.
 - (j) Medical or dental practice.
 - (k) Fortune-telling or palm reading.
- C. Home occupation by special permit. A home occupation may be permitted in the RC-1 and RF Single-Family Zoning Districts, provided that a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein, and subject to the specific standards for such conditional uses as required in this section:
- (1) All of the requirements of Subsection B(1) through (12) above.
 - (2) There is no more than one nonilluminated wall sign not exceeding two square feet in area, listing only the occupants' name and occupation.
 - (3) Not more than one nonresident of the household is employed.

35. Editor's Note: See Ch. 376, Stables.

- (4) Home occupations shall not include the uses listed in Subsection B(16) above.
- (5) The Zoning Board of Appeals may permit the home occupation to be located within an accessory structure located on the same lot as the single-family residential dwelling unit.
- (6) Approval of site plan review is obtained.
- (7) The special permit shall be issued to the applicant only at his or her residence, and shall not be transferable to another person, or to another location.

§ 240-47. Shared elderly housing. [Added 4-27-2000]

The Zoning Board of Appeals may grant special permits to allow for the use of structures as shared housing to provide care and shelter for persons with special needs due to age or disability. Said special permits shall be issued only with respect to owner-occupied single-family residences to be occupied by not more than six persons not less than 65 years of age or in approved instances persons of lesser age in need of special care, in addition to the family residents in the dwelling, and shall be conditioned upon the maintenance of proper licensed status as a shared residence under the laws of the commonwealth, and upon such other requirements as the Zoning Board of Appeals deems appropriate with respect to safety, parking, screening and other amenities designed to mitigate the impact of the use upon the neighborhood, and may be conditioned as to time and ownership in the discretion of the Board.

§ 240-47.1. Family apartments. [Added 11-18-2004 by Order No. 2005-026; amended 10-7-2010 by Order No. 2011-010; 3-1-2018 by Order No. 2018-053]

The intent of this section is to allow within all residential zoning districts one temporary family apartment occupied only by the property owner or a member(s) of the property owner's family as accessory to a single-family residence to provide families the ability to live together as a family unit, but not to allow for a separate dwelling for rental purposes to non-family members. A family apartment may be permitted, provided that there is compliance with all the criteria, conditions and procedural requirements herein.

- A. As of right. A family apartment shall be allowed as of right, provided that it complies with Subsection C below and satisfies the following criteria:
 - (1) The apartment unit shall not exceed 50% of the square footage of the existing single-family dwelling and shall be limited to no more than two bedrooms.

- (2) Occupancy of the apartment shall not exceed two family members; occupancy limitations shall not apply to children ages 18 and under.
 - (3) The family apartment shall be located within a single-family dwelling or connected to the single-family dwelling in such a manner as to allow for internal access between the units. The apartment must comply with all applicable zoning requirements for the zoning district in which it is located.
- B. By special permit. The Zoning Board of Appeals may allow by special permit, subject to the provisions of § 240-125C herein, the following waivers from the requirements of Subsection A above:
- (1) A family apartment unit greater than 50% of the square footage of the dwelling.
 - (2) A family apartment unit with more than two bedrooms.
 - (3) Occupancy of a family apartment unit by greater than two adult family members.
 - (4) A family apartment unit within a detached structure, with a finding that the single-family nature of the property and of the accessory nature of the detached structure are preserved.
- C. Conditions and procedural requirements. Prior to the creation of a family apartment, the owner of the property shall make application for a building permit with the Building Commissioner providing any and all information deemed necessary to assure compliance with this section, including, but not limited to, scaled plans of any proposed remodeling or addition to accommodate the apartment, signed and recorded affidavits reciting the names and family relationship among the parties, and a signed family apartment accessory use restriction document.
- (1) Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.
 - (2) Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.

- (3) At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
- (4) When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.

ARTICLE VI
Off-Street Parking Regulations

§ 240-48. Purpose.

It is the purpose of this article that all new, expanded or intensified uses within the Town provide adequate off-street parking.

§ 240-49. Applicability.

No use shall be intensified, except for single-family detached dwellings, without providing adequate off-street parking as provided herein.

§ 240-50. Computation.

Existing parking spaces may be counted to meet the minimum off-street parking requirements for an intensified use only if it can be demonstrated that they are not used as of right by existing uses and are exclusively available as of right for said proposed intensification.

§ 240-51. Location of parking spaces. [Amended 11-15-2001 by Order No. 2002-029; 7-21-2016 by Order No. 2016-166]

- A. All off-street parking spaces required by this article shall be located on the same lot as the use for which such spaces are required, except that in nonresidential districts, parking spaces may be located on another lot within 300 feet of, and in the same zoning district as, the use for which such spaces are required.
- B. Parking facilities, including those governed by § 240-24.1.11. The site development standards in §§ 240-24.1.11A(4)(d) and 240-24.1.10, Hyannis Parking Overlay District, may operate parking lots in other locations and propose shuttle service to transport patrons from these remote lots to their desired destination. Such proposals shall be subject to site plan review.

§ 240-52. Design and screening standards. [Amended 3-11-1999 by Order No. 99-056]

- A. Each off-street parking space shall have minimum dimensions of nine feet by 20 feet excluding the driveway to such space.
- B. Drainage facilities for each parking area shall be designed and constructed to contain stormwater runoff on the premises.
- C. Parking areas for five or more cars shall be designed with enough maneuvering space so that vehicles need not back onto a public way.
- D. No parking lot shall be illuminated so as to cause glare for motorists, pedestrians or neighboring premises.

§ 240-53. Landscape requirements for parking lots.

- A. In all Single Family Residential Districts, where a legal use or a combination of legal uses requires the provision of five or more parking spaces pursuant to § 240-56, Schedule of Off-Street Parking Requirements, the following requirements shall apply:
 - (1) All the requirements of § 240-53, Landscape Requirements of Parking Lots, Subsections C, D, E and F below; and
 - (2) A landscaped setback shall be provided from the surfaced area of a parking lot and all entrance and exit drives to the road lot line, a distance equal to the required front yard building setback requirement, or a maximum of 50 feet, whichever is lesser. Existing trees and shrubs shall be retained within the road right-of-way and within the required front yard landscaped setback and supplemented with other landscape materials, in accordance with accepted landscape practices. Where natural vegetation cannot be retained, the required front yard landscaped setback shall be landscaped with a combination of grasses, trees and shrubs commonly found on Cape Cod. A minimum of one street tree with a minimum caliper of three inches shall be provided per 30 feet of road frontage distributed throughout the front yard setback area. No plantings shall obscure site at entrance and exit drives and road intersections. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein.

- B. In all office and commercial districts, a parking lot shall conform to the following requirements:
 - (1) The surfaced area of a parking lot and all entrance and exit drives shall be set back from the side and rear lot lines, by a landscaped buffer, as follows: **[Amended 6-28-20001 by Order No. 2001-036; 7-19-2001 by Item Nos. 2001-037, 2001-038, 2001-039; 11-15-2001 by Order No. 2002-029]**

**Landscape Buffer Setbacks (in feet)
to Parking Lots and Drives**

Zoning District	Side	Rear
B-1 Business	5	5
HO Highway Office	10	20
MA-1 Business	—	5
MA-2 Business	5	5
O-1, O-2, O-3 Office	5	5
OR Office Residential	5	10
PR Professional Residential	5	5
All other office and commercial districts	10	10

**Landscape Buffer Setbacks (in feet)
to Parking Lots and Drives**

Zoning District	Side	Rear
Uses requiring 5 or more spaces in single-family residential districts	10	10

- (2) A ten-foot minimum, landscaped perimeter buffer shall be maintained between a building and the surfaced area of a parking lot or drive, except at entrances, building loading and utility locations. A walkway may be located within the landscaped perimeter buffer, provided that the landscape area is not reduced to less than 40% of the area of the perimeter buffer.
 - (3) Screening from residential districts: Where a parking lot containing five or more spaces abuts a residential district, or is located across the road from a residential district, it shall be screened as follows: (a) retention or planting of a sufficient area of natural vegetation to provide a dense screen; and/or (b) a dense hedge providing year-round screening, and/or (c) where vegetative screening is not practical, a fence, with not more than 50% open space between the panels. Such screening shall be maintained in good condition at all times, and no advertising shall be placed upon the screening. In an Historic District, fences and hedges may be subject to other regulation.
- C. In all office and commercial districts, at least 10% of the interior of a parking lot with 21 or more parking spaces shall be landscaped. Planting along the perimeter of a parking area shall not be considered as part of the 10% interior landscaping. Interior landscaped islands shall be distributed throughout the parking lot. At least one tree with a minimum three-inch caliper or larger shall be provided per eight spaces or any portion thereof, located within interior landscaped islands. Existing naturally occurring trees in good condition located in landscaped islands shall be credited towards this requirement only in those areas where the existing trees are located. No landscaped island shall have an overall width of less than six feet, except that in parking lots with 51 or more parking spaces, the overall width of islands shall be no less than 10 feet. A walkway may be located within an interior landscaped island, provided that the walkway is separated from the surfaced area of the drive or parking lot by a minimum of four feet of landscaped area. The interior landscape requirements of Subsection D herein shall not apply to parking lots used for sale and/or display of motor vehicles.
- D. In all industrial districts, and in marine business districts, a parking lot with 21 or more parking spaces shall comply with the requirements of Subsections B(2) and (3) and C and E herein, except where a parking lot is also used for loading, material storage, or parking of trucks, boat storage and other equipment associated with the following uses: light

industry, warehouse and distribution, contractor service establishments and commercial marinas. **[Amended 7-19-2001 by Order No. 2001-099]**

- E. Where landscaped setbacks to parking areas, landscaped buffers to buildings, and landscaped islands within parking areas are required in Subsections B, C and D above, the following requirements shall apply:
- (1) Existing natural trees and shrubs shall be retained within landscaped islands, and side and rear yard landscaped buffers to parking lots and drives wherever possible and supplemented with other landscape materials, in accordance with accepted landscape practices. Specimen trees shall be retained and, if practical, relocated within the site where necessary. Where natural vegetation cannot be retained, these areas shall be landscaped with a combination of low-maintenance grasses, trees and shrubs commonly found on Cape Cod. A list of recommended plant materials is on file with the Town Clerk and may also be obtained from the Planning Department. Plant materials shall be of sufficient size and density to create an attractive appearance. Brick or stone mulch shall not be used in place of ground covers in landscaped islands. Where mulch is used, it shall be in such a manner that it will not wash into leaching catch basins located in a parking lot, or adjacent roadway.
 - (2) All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX herein. No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except that the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.
- F. The preceding requirements of this § 240-53 shall not apply to parking lots constructed and in use prior to March 11, 1999, which conformed to all applicable regulations when established, except whenever there is:
- (1) An expansion of an existing parking lot containing 21 or more parking spaces; and/or
 - (2) An alteration of a structure, or a change or extension of a use created prior to March 11, 1999, which increases the parking requirements by five or more spaces according to the standards of § 240-56, Schedule of Off-Street Parking Requirements;

The entire parking lot shall be brought into compliance with § 240-53 herein; and the front yard landscaped setback requirement, if any, in accordance with the applicable zoning district bulk regulations. For the purpose of this subsection only, a development containing several different business enterprises sharing a common parking lot or lots shall be considered to be one use.

- (3) Reduction of parking and/or landscape buffers for parking lots created prior to March 11, 1999. The number of parking spaces required in § 240-56 may be reduced by the number of spaces lost to the installation of landscape buffers and traffic islands. Alternatively or in addition thereto, landscape buffers and islands may be reduced sufficient to ensure the creation of a functional, attractive parking lot, subject to approval of site plan review. This provision shall only apply to parking lots subject to § 240-53F herein. **[Amended 3-11-1999 by Order No. 99-056]**

§ 240-54. Location of parking lot in relationship to buildings. [Amended 3-11-1999 by Order No. 99-056]

Parking lots shall be located to the rear or side of a building unless such location would have an adverse environmental impact or is infeasible due to configuration of the site.

§ 240-55. Conflicting provisions.

Any specific provision in any other section of this chapter relating to parking shall prevail over the provisions of this section.

§ 240-56. Schedule of Off-Street Parking Requirements. [Amended 11-5-1988 by Art. 1]

The following standards represent the minimum parking requirements to be applied as provided for herein:

Use	Required Spaces
Attached dwelling units (D.U.)	1.5/D.U.+ 1 visitor space/10 required D.U. spaces
Guesthouse, lodging house, group accommodation, bed-and-breakfast	1.2/bedroom
Hotel/motel guest units	1.2/guest unit + 1/every 2 employees on maximum shift
Nursing homes/hospitals	1/every 3 beds
Industry, warehousing, storage, distribution, wholesaling	1/700 sq. ft. gross floor area or 1/every 1.3 employees on maximum shift, whichever is greater

Use	Required Spaces
Retail, consumer service	1/200 sq. ft. gross floor area + 1/ separate enterprise
Office, professional, administrative, banks	1/300 sq. ft. gross floor area + 1/ separate suite
Restaurants, licensed common victualer or purveyor of food ready to be consumed on or off premises	1/every 3 seats + 1/every 2 employees + 5/take-out area
Places of public assembly	1/every 3 persons capacity
Bowling alley	4/alley
Tennis, handball and racquetball courts	3/court, except 0 when a single court is located as accessory to a single- family dwelling
Laundromats	1/every 4 machines
Gas/service stations	3/service bay or 1/100 sq. ft. gross floor area, whichever is greater
All other uses	As determined by the Building Commissioner

**§ 240-57. Circumstances warranting reduction of requirements.
[Amended 11-5-1988 by Art. 1]**

The Zoning Board of Appeals may reduce the requirements of this article by the granting of a special permit only if lesser off-street parking is shown to be adequate given such special circumstances as:

- A. Use of a common parking area by different uses having different peak hours of demand.
- B. Age or other characteristics of occupants which reduce auto usage.
- C. Characteristics of use invalidating normal methods of calculating parking demand.
- D. Supplementary parking provided off premises.

§ 240-58. Reduction of parking within the MA-1 and MA-2 Business Districts. [Added 7-19-2001 by Item Nos. 2001-037, 2001-038, 2001-039; amended 11-15-2001 by Order No. 2002-029]

- A. Within the MA-1 and MA-2 Business Districts, a permitted use can be changed to another permitted use, and a use can be intensified, without increasing the required off-street parking requirements of § 240-56, Schedule of Off-Street Parking Requirements, herein, provided that as of September 15, 2001, there is:

- (1) No increase in gross square footage of the building; and

- (2) No reduction in existing parking spaces required pursuant to § 240-56; and
 - (3) There is no added outdoor use requiring the provision of parking according to § 204-56, except that no parking spaces shall be required for outdoor dining on both public and private property; except
 - (4) That in the MA-1 Business District, the following requirements shall apply to apartments:
 - (a) One parking space per one-bedroom apartment unit;
 - (b) Two parking spaces per apartment unit with two bedrooms.
- B. Within the MA-1 Business District, parking spaces shall be provided for new and/or expanded building area, and for new and/or expanded outdoor uses, as follows:
- (1) Fifty percent of the spaces required under § 240-56 for all uses other than apartments.
 - (2) Parking spaces requirements for apartments shall be according to Subsection A(4) above.
- C. The Zoning Board of Appeals may by special permit, further reduce the parking required within the MA-1 Business District as follows:
- (1) Off-site parking. Parking requirements may be satisfied if an off-street municipal parking lot of 20 spaces or more exists within 500 feet of the proposed use.

ARTICLE VII
Sign Regulations

§ 240-59. Statement of intent.

The provisions of this article establish the comprehensive regulations, conditions and limitations under which signs are permitted in the Town of Barnstable. It is intended that these regulations shall be held to be the minimum regulations necessary for the protection of the visual environment of the Town and the public safety, convenience and welfare and shall be narrowly construed and strictly applied in favor of the public interest to those ends.

§ 240-60. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ABANDONED SIGN — A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity and/or for which no legal owner can be found.

ANIMATED SIGN — Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.

AREA (OF A SIGN) — (See § 240-62 herein).

BANNER — A sign made of fabric or any nonrigid material with no enclosing framework.

BILLBOARD — (See "off-premises sign.")

BUILDING COMMISSIONER — The Building Commissioner of the Town of Barnstable or his designee.

BUILDING SIGN — A sign affixed to and wholly supported by an exterior wall of a building or structure.

BUSINESS AREA SIGNS — An off-premises sign intended to direct the motoring public to specific commercial areas only, and not to include individual businesses.

CANOPY OR ARCADE SIGN — A wall-mounted sign attached to or constructed on the face of a permanent roofed structure covering an area customarily used for pedestrian circulation.

CHANGEABLE-COPY SIGN — A sign that is designed so that characters, letters or illustrations can be changed or rearranged either manually or automatically without altering the face or the service of the sign.

CONSTRUCTION SIGN — A temporary sign identifying an architect, contractor, subcontractor, material supplier or others participating in the construction on the property on which the sign is located.

DIRECT LIGHTING — Illumination by means of an external source.

DIRECTIONAL/INFORMATION SIGN — An on-premises sign identifying a premises or activity conducted upon such premises, and providing direction for the safe and efficient flow of vehicular or pedestrian traffic to such activity or premises. Directional signs shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premises.

DISCONTINUED SIGN — (See "abandoned sign.")

DOUBLE-FACED SIGN — A sign with two faces or panels, neither of which is visible at the same time and are directly back to back as opposed to a V-shaped sign.

ELECTRONIC MESSAGE CENTER — A sign on which the copy changes automatically on a lampbank or through mechanical means, e.g., electrical or electronic time-and-temperature units.

EXTERNALLY ILLUMINATED SIGN — A sign whose illumination is derived entirely from an external artificial source.

FACADE — The entire building front, including the parapet.

FLASHING SIGN — A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. This does not include changeable-copy signs, animated signs or signs which, through reflection or other means, create an illusion of flashing or intermittent light. (Compare "animated sign.")

FREESTANDING SIGN — A sign supported upon the ground by poles or braces and not attached to any building.

FRONTAGE — The length of the property line of any one premises along a public right-of-way on which it borders.

GOVERNMENT SIGN — Any temporary or permanent sign erected and maintained by the Town, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historic site or public service, property or facility.

HEIGHT (OF A SIGN) — The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.

IDENTIFICATION SIGN — A sign whose copy is limited to the name and address of the building, institution or person and/or activity or occupation being identified.

ILLEGAL SIGN — A sign which does not meet the requirements of this chapter and which has not received legal nonconforming status.

INDIRECT LIGHTING — Illumination by means of a concealed light source, whereby all incandescent or fluorescent devices are shielded from view by opaque or translucent materials, and including reflected lighting.

INTERNALLY ILLUMINATED SIGN — Illumination by means of a light source completely enclosed by the sign panel(s).

INTERMITTENT LIGHTING — (See "flashing sign.")

LOCATION HARDSHIP SIGN — [Added 6-17-2010 by Order No. 2010-123]

- A. A temporary portable sign allowed in the HVB for a business demonstrating a location hardship, as further defined herein, to identify and/or direct patrons to their business. Such locations are ones where:
- (1) A permitted sign is not visible due to substantial obstruction(s) outside the control or ownership of the business owner, including but not limited to other signs, awnings, trees in leaf, outdoor dining or other business appurtenances or where building facades are excessively setback; or
 - (2) Due to the location on an upper floor the business is unable to display a trade figure or symbol or a trade flag; or
 - (3) Where, due to the upper floor location, the visibility of other permitted signage is substantially reduced.
- B. Hardship location signs are not counted toward the amount of signage allowed.

MAINTENANCE (OF A SIGN) — The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

MENU SIGNS — The menu normally presented at tableside.

MULTIPLE-FACED SIGNS — Signs containing more than two faces or panels.

NEON SIGN — A neon sign is made of glass tubes filled with an inert gas, such as neon or argon, electrified to produce illumination. This provision is an exception to § 240-24.1.10A(6). **[Added 6-20-2013 by Order No. 2013-133]**

NONCONFORMING SIGN — Sign which was erected legally, but which does not comply with subsequently enacted regulations.

OFF-PREMISES SIGN — A sign structure advertising an establishment, merchandise, service or entertainment which is not sold, provided, manufactured or furnished at the property on which said sign is located, e.g., "billboards," "outdoor advertising" or "off-site signs."

ON-PREMISES SIGN — A sign which pertains to the use of the premises on which it is located and maintained.

OPEN/CLOSED SIGN — A sign indicating whether a business is open or closed. A business in the HVB may display a neon open/closed sign, as defined herein, indicating whether it is open or closed. Open/closed signs are not counted towards the amount of signage allowed. **[Added 6-17-2010 by Order No. 2010-123; amended 6-20-2013 by Order No. 2013-133]**

OPEN HOUSE DIRECTIONAL SIGN — A temporary sign to be displayed only for real estate open house events staffed by real estate professionals

such as brokers or agents. Such directional signs shall not exceed 24 inches by 24 inches in size, may be two-sided and shall display a directional arrow in addition to any other sign display. **[Added 5-5-2011 by Order No. 2011-046]**

OPEN HOUSE SIGN — A temporary sign to be displayed only for real estate open house events where real estate professionals such as brokers or agents are present at the open house. Such signs shall not exceed 24 inches by 24 inches in size and may be two-sided A-frame or panel signs. **[Added 5-5-2011 by Order No. 2011-046]**

PAINTED WALL SIGN — A sign which is applied with paint or similar substance on the face of a wall; such sign shall be considered a wall sign for calculation purposes.

PORTABLE SIGN — Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

PRIVATE WAY — For the purposes of this Article VII, a private way shall be considered a public way. (See "public way.")

PROJECTING SIGN — A sign other than a flat wall sign which is attached to and projects from a building wall or other structure not specifically designed to support the sign and is not parallel to the structure to which it is attached.

PUBLIC SERVICE INFORMATION SIGN — Any sign intended exclusively to promote items of general interest to the community, such as time, temperature, date, atmospheric conditions, news or travel control.

PUBLIC WAY — Any roadway over which everyone has rights to pass, including Town ways and private ways.

REAL ESTATE SIGN — A temporary sign advertising real estate upon which the sign is located as being for rent, lease or sale.

ROOF SIGN — Any sign erected upon a roof and wholly or partially supported by the sign structure placed upon the roof.

ROTATING SIGN — Any sign or device which has any visible moving part, visible revolving part, or visible mechanical movement but not including methods of changing copy.

SIGN — Any permanent or temporary structure, light, letter, word, model, banner, pennant, insignia, trade flag, representation or any other device which is used to advertise, inform or attract the attention of the public and which is designed to be seen from outside a building, including all signs in windows or doors but not including window displays of merchandise.

SPECIAL EVENT SIGN — A temporary sign advertising or pertaining to any civic, patriotic or special event of general public interest taking place within the Town.

STREET BANNER SIGN — Any banner which is stretched across and hung over a public right-of-way.

SUBDIVISION IDENTIFICATION SIGN — A freestanding or wall sign identifying a recognized subdivision, condominium complex or residential development.

TEMPORARY SIGN — A sign not constructed or intended for long-term use.

TRADE FIGURE OR SYMBOL — A three-dimensional representation of a business that is used to indicate the type of merchandise or services offered by the business. Trade figures or symbols shall be still and silent. Business trade figures are not counted towards the amount of signage allowed. **[Added 6-17-2010 by Order No. 2010-123]**

**Trade
Figure
or
Symbol
Example
Butcher
Shop**



TRADE FLAG — Any sign consisting of lightweight fabric that is affixed to a pole displaying letters, designs or icons exemplary of the business displaying the flag. Such images shall be consistent with the historical heritage and character of village or neighborhood in which it is displayed. **[Added 6-17-2010 by Order No. 2010-123; amended 5-5-2011 by Order No. 2011-047]**

UNDER-CANOPY SIGN — A directional sign suspended beneath a canopy, ceiling, roof or marquee.

V-SHAPED SIGN — A sign with two faces or panels not supported by one common structural member and which faces are not back-to-back.

WALL SIGN — A sign attached parallel to and extending not more than 18 inches from the wall of a building, including painted signs, individual lettered signs, cabinet signs and signs on a mansard.

WINDOW SIGN — A sign installed inside a window and intended to be viewed from the outside.

§ 240-61. Prohibited signs.

The following signs shall be expressly prohibited in all zoning districts, contrary provisions of this chapter notwithstanding:

- A. Any sign, all or any portion of which is set in motion by movement, including pennants, banners or flags, with the exception of trade flags pursuant to § 240-72 and at the entrance to subdivisions where

developed and undeveloped lots are offered for initial sale and official flags of nations or administrative or political subdivisions thereof. **[Amended 6-17-2010 by Order No. 2010-123; 5-5-2011 by Order No. 2011-046; 5-5-2011 by Order No. 2011-047]**

- B. Any sign which incorporates any flashing, moving or intermittent lighting. Such signs include LED (light emitting diode) signs; LED border tube signs, including any sign that incorporates or consists solely of a LED border tube lighting system; and simulated neon signs which are extremely bright backlit signs using fluorescent lamps and neon colored inks or translucent vinyl for lettering and display. **[Amended 6-17-2010 by Order No. 2010-123]**
- C. Any display lighting by strings or tubes of lights, including lights which outline any part of a building or which are affixed to any ornamental portion thereof, except that temporary traditional holiday decorations of strings of small lights shall be permitted between November 15 and January 15 of the following year. Such temporary holiday lighting shall be removed by January 15.
- D. Any sign which contains the words "Danger" or "Stop" or otherwise presents or implies the need or requirement of stopping or caution, or which is an imitation of, or is likely to be confused with any sign customarily displayed by a public authority.
- E. Any sign which infringes upon the area necessary for visibility on corner lots.
- F. Any sign which obstructs any window, door, fire escape, stairway, ladder or other opening intended to provide light, air or egress from any building.
- G. Any sign or lighting which casts direct light or glare upon any property in a residential or professional residential district.
- H. Any portable sign, with the exception of a location hardship sign in the HVB, including any sign displayed on a stored vehicle, except for temporary political signs. **[Amended 6-17-2010 by Order No. 2010-123]**
- I. Any sign which obstructs the reasonable visibility of or otherwise distracts attention from a sign maintained by a public authority.
- J. Any sign or sign structure involving the use of motion pictures or projected photographic scenes or images.
- K. Any sign attached to public or private utility poles, trees, signs or other appurtenances located within the right-of-way of a public way.
- L. A sign painted upon or otherwise applied directly to the surface of a roof.

- M. Signs advertising products, sales, events or activities which are tacked, painted or otherwise attached to poles, benches, barrels, buildings, traffic signal boxes, posts, trees, sidewalks, curbs, rocks and windows regardless of construction or application, except as otherwise specifically provided for herein.
- N. Signs on or over Town property, except as authorized by the Building Commissioner for temporary signs for nonprofit, civic, educational, charitable and municipal agencies.
- O. Signs that will obstruct the visibility of another sign which has the required permits and is otherwise in compliance with this chapter.
- P. Off-premises signs except for business area signs as otherwise provided for herein.
- Q. Any sign, picture, publication, display of explicit graphics or language or other advertising which is distinguished or characterized by emphasis depicting or describing sexual conduct or sexual activity as defined in MGL Ch. 272, § 31, displayed in windows, or upon any building, or visible from sidewalks, walkways, the air, roads, highways, or a public area.

§ 240-62. Determination of area of a sign.

- A. The area of the sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed.
- B. The area of signs painted upon or applied to a building shall include all lettering, wording and accompanying designs or symbols together with any background of a different color than the finish material or the building face.
- C. When a sign consists of individual letters or symbols attached to or painted on a surface, wall or window, the area shall be that of the smallest rectangle which encompasses all of the letters and symbols.
- D. Only one side of a double-faced sign shall be counted in computing the area of that sign.
- E. For the purposes of these regulations, the area of a building face or wall shall be calculated by using a height of no more than 10 feet from the ground multiplied by the width of the building front.

§ 240-63. Signs in residential districts. [Amended 2-20-1997]

In residential districts, only the following signs are permitted:

- A. One sign displaying the street number and identifying the premises not to exceed two square feet in area. The street number must be approved by the Engineering Department in conformance with the Town's regulations governing numbering of buildings.³⁶

- B. One sign no larger than four square feet in area shall be allowed which displays the name of the house or the name of the family residing therein.
- C. One sign not to exceed two square feet in area shall be permitted for a professional office or home occupation for which a special permit or variance has been granted by the Board of Appeals.
- D. One temporary sign not to exceed four square feet in area advertising property for sale, lease or rent. Such signs must be removed within 10 days of transfer of title or signing of lease or rental agreement.
- E. Where a legal nonconforming business exists within a residential district, one sign may be permitted by the Building Commissioner if it is determined that the appearance, placement, size and lighting of the proposed sign will not be detrimental to the residential character or visual quality of the area. In no instance shall such signs exceed eight feet in height or eight square feet in area.
- F. Permits may be posted at construction sites as required by state or Town regulations, except that in no instance shall they be attached to trees or utility poles.
- G. One identification sign not to exceed 12 square feet in area may be permitted at any public entrance to a subdivision or multifamily development.
- H. Illuminated signs within residential zones require the approval of the Building Commissioner, and may be permitted if the applicant can demonstrate that the proposed illumination will not intrude upon adjacent residential areas, will not be illuminated except during actual hours of business, and will not cause traffic hazards.
- I. One identifying sign for lodging houses, bed-and-breakfast or similar identification not to exceed four square feet in area.

§ 240-64. Signs in Medical Services District. [Amended 7-14-2005 by Order No. 2005-100]

- A. One sign giving the name of the occupant or other identification of a permitted use in a professional residential zone 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.
- B. Any illuminated sign must comply with the provisions of § 240-63 herein.

§ 240-65. Signs in B, UB, HB, HO, S&D, SD-1 and GM Districts. [Amended 8-15-1991; 7-15-1999; 6-20-2013 by Order No. 2013-133; 4-27-2017 by Order No. 2017-100]

- A. Each business may be allowed a total of two signs.
- B. The maximum height of any freestanding sign will be 10 feet, except that a height of up to 12 feet may be allowed by the Building Commissioner if it is determined that the additional height 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.
- C. The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade associated with the business establishment that contains the establishment's primary customer entrance or 100 square feet, whichever is the lesser amount. In instances where multiple business establishments share a customer entrance on the same facade, the total square footage for all signs of all business establishments attached to each facade shall not exceed 10% of the total area of the facade associated with the business establishments that contains the establishments' shared customer entrance or 100 square feet, whichever is the lesser amount.
[Amended 4-17-2014 by Order No. 2014-047]
- D. Only one freestanding sign is allowed per business, which may not exceed half the allowable size as permitted in this section.
- E. One projecting overhanging sign may be permitted per business in lieu of either a freestanding or wall sign, provided that the sign does not exceed six square feet in area, is no higher than 10 feet from the ground at its highest point and is secured and located so as to preclude its becoming a hazard to the public. Any sign projecting onto Town property must have adequate public liability insurance coverage, and proof of such insurance must be provided to the Building Commissioner prior to the granting of a permit for such sign.
- F. Incidental business signs indicating the business, hours of operation, credit cards accepted, business affiliations, "sale" signs and other temporary signs shall be permitted so long as the total area of all such signs does not exceed four square feet and is within the allowable maximum square footage permitted for each business.
- G. When a business property is located on two or more public ways, the Building Commissioner may allow a second freestanding sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.
- H. When two or more businesses are located on a single lot, only one freestanding sign shall be allowed for that lot, except as provided in this section, in addition to one wall or awning sign for each business. If approved by the Building Commissioner, the one freestanding sign can include the names of all businesses on the lot.

- I. One awning or canopy sign may be permitted per business in lieu of the allowable wall or freestanding sign, subject to approval by the Building Commissioner.
- J. In addition to the allowable signs as specified in this section each restaurant may have a menu sign or board not to exceed three square feet.
- K. In lieu of a wall sign, one roof sign shall be permitted per business, subject to the following requirements:
 - (1) The roof sign shall be located above the eave, and shall not project below the eave, or above a point located 2/3 of the distance from the eave to the ridge.
 - (2) The roof sign shall be no higher than 1/5 of its length.

§ 240-65.1. Signs in BA Districts. [Added 6-20-2013 by Order No. 2013-133]

- A. Business identification signs.
 - (1) Each business establishment is allowed two signs.
 - (2) The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade associated with the business establishment that contains the establishment's primary customer entrance or 100 square feet, whichever is the lesser amount.
 - (3) In instances where multiple business establishments share a customer entrance on the same facade, the following requirements shall apply:
 - (a) The total square footage for all signs of all business establishments attached to each facade shall not exceed 10% of the total area of the facade associated with the business establishments that contains the establishments' shared customer entrance or 100 square feet, whichever is the lesser amount.
 - (b) In instances where a building facade with a shared customer entrance does not have a ground-floor window belonging to each and all business establishments within the building, the following additional requirements shall apply:
 - [1] Business establishments with a window on the ground floor of the building facade that includes a shared customer entrance shall be allowed one sign attached to that building facade.
 - [2] Up to two directory signs shall be allowed for all businesses within the building. That sign may have

multiple panels for each business tenant within the building. The total size of the directory sign(s) shall not exceed 20 square feet.

- (4) Additional standards for each sign type. In addition to the number and size limitations of Subsection (A), signs shall be subject to the following requirements. The most restrictive requirement shall apply.

(a) Wall signs.

[1] The maximum size of a wall sign shall not exceed 50 square feet.

(b) Projecting signs.

[1] The maximum size of a projecting sign shall not exceed six square feet.

[2] The sign may be double-faced.

[3] The bottom of a projecting sign shall be a minimum of 8 feet from grade and the height of the projecting sign shall not exceed 12 feet where the sign projects over a pedestrian walkway.

[4] The projecting sign must be secured and located so as to preclude it from becoming a hazard to the public.

[5] Each business establishment may only have one projecting sign on a facade.

[6] Any sign projecting over Town property must have adequate public liability insurance coverage. Proof of such insurance must be provided to the Building Commissioner prior to the granting of a permit for such sign.

(c) Roof signs.

[1] The maximum size of a roof sign shall not exceed 20 square feet.

[2] A roof sign shall be no higher than 1/5 of its length.

[3] The roof sign shall be located above the eave, and shall not project below the eave, or above a point located 2/3 of the distance from the eave to the ridge.

(d) Freestanding signs.

[1] One freestanding sign is allowed on each lot where the building is set back a minimum of five feet from the property line.

[2] The sign may be double-faced.

- [3] The maximum size and height of freestanding signs shall be as follows:
 - [a] For properties that contain one business establishment, a freestanding sign shall not exceed four square feet in area and seven feet in height.
 - [b] For properties that contain two or more business establishments, a freestanding sign shall not exceed eight square feet in area and 10 feet in height.
 - [c] For properties that are located in the portion of the BA District south of Osterville-West Barnstable Road and north of Pond Street, a freestanding sign shall not exceed 20 square feet in area and 12 feet in height.
- [4] When a lot is located on two or more public ways, the Building Commissioner may allow a second freestanding sign, provided the second freestanding sign also conforms to the requirements of Subsection A(4)(d)[3] above.
- (e) Awning signs.
 - [1] Signage may be displayed on a maximum of two awnings per facade per business establishment.
 - [2] For the purposes of this section, two awnings with signage on the same facade shall constitute one sign.
 - [3] When a business establishment elects to put signage on two awnings on the same facade pursuant to Subsection A(4)(e)[2] above, that business establishment shall be limited to one of the following additional signs:
 - [a] One wall sign, not to exceed six square feet in area; or
 - [b] One projecting sign, subject to the requirements of Subsection A(4)(b); or
 - [c] One freestanding sign, subject to the requirements of Subsection A(4)(d).
 - [4] Lettering on an awning sign shall not exceed six inches in height.
 - [5] Any logo, symbol, graphic, or image incorporated into an awning sign shall not exceed two square feet.
- (5) Special permit for dimensional relief. Within the BA Zoning District, the Special Permit Grant Authority (SPGA) may provide relief subject to the provisions of § 240-125C herein, from the size and dimensional requirements of § 240-65.1A. The grant of any special permit for dimensional relief within the BA District shall require the SPGA to make the following findings:

- (a) There are unique features affecting the property or structure containing the business establishment that make it distinctly different in character from other development in the district. Such features may include, but are not limited to, the visibility of a structure or primary customer entrance from a public way, the size of the structure containing the business establishment, orientation of the structure on the lot, access to the structure, or the number of tenants located on a single lot.
 - (b) The proposed sign is consistent with the visual character of surrounding neighborhood and the community.
- B. Identification signs. Identification signs shall not count toward the total number of signs allowed for a business establishment in § 240-65.1A.
 - (1) Identification signs for secondary customer entrances.
 - (a) Each business establishment with a second customer entrance on a second facade oriented to a public way, parking lot, or publicly used walkway is allowed one identification sign.
 - (b) The area of the sign shall not exceed 5% of the area of the building facade associated with the business establishment that contains the establishment's secondary customer entrance or 20 square feet, whichever is the lesser amount.
 - (c) The identification sign shall be limited to either a wall sign, projecting sign, or awning sign, subject to the requirements set forth in § 240-65.1A(4) above.
 - (d) The sign shall be attached to the building facade containing the second customer entrance.
 - (e) In instances where the multiple business establishments share a secondary customer entrance, identification signs shall be subject to the requirements of § 240-65.1A(3), except that size limitations of Subsection B(1)(c) above shall apply.
 - (2) Identification signs for delivery or service entrances.
 - (a) Each business establishment is allowed one identification sign attached to a building facade oriented to a public way, parking lot, or publicly used walkway, providing that such facade has a delivery or service entrance serving that business establishment.
 - (b) The identification sign shall be a wall sign located near the delivery or service entrance.
 - (c) The maximum size of an identification sign shall not exceed two square feet.

- C. Trade signs and temporary signs. These signs shall be permitted in addition to the signs permitted in Subsections A and B above. All trade signs and temporary signs shall be made of high-quality materials and kept clean and properly maintained so as to avoid peeling, rusting or other forms of decay.
- (1) Menu signs.
 - (a) Each restaurant or food-service establishment may have one menu sign not to exceed three square feet.
 - (b) The menu sign shall be attached to the building.
 - (2) A-frame menu boards.
 - (a) A-frame menu boards are permitted for restaurants and other food service establishments.
 - (b) One A-frame menu board sign per establishment is permitted.
 - (c) The maximum size of the A-frame menu board shall not exceed two feet by three feet. The sign may be double-sided.
 - (d) The sign must be A-frame style, and the frame must be made out of solid wrought-iron and may incorporate a chalkboard.
 - (e) Where the A-frame menu board is proposed on private property, proof shall be submitted demonstrating to the satisfaction of the Building Commissioner that explicit written permission has been given by the owner of the property proposed for locating the A-frame menu board.
 - (f) Where the A-frame menu board is proposed on Town property, the following additional criteria shall be met:
 - [1] Proof of receipt of a license from the Town Manager or designee for the sign at the proposed location.
 - [2] Proof of insurance consistent with this license from the Town Manager or designee shall be provided to the Building Commissioner prior to placing any approved sign.
 - (g) A-frame menu boards may not be used in conjunction with trade figure/symbols, open/closed signs or menu signs.
 - (h) A-frame menu boards must comply with the following performance standards:
 - [1] Shall be secured as necessary so as not to create nuisance or hazard to pedestrians, motorists or business patrons under any conditions.
 - [2] Shall not obstruct safe passage or impede accessibility on the sidewalk.

- [3] Shall not obstruct views to another business or business sign.
 - [4] Shall be professionally made and well maintained. Hand-lettered signs shall not incorporate informal, irregular hand lettering.
 - [5] Shall not be illuminated.
 - [6] Shall not have lights, banners, flags or similar objects placed on or adjacent to the sign.
 - [7] Shall be placed on the sidewalk leading to the public business entrance.
 - [8] Shall be removed at the close of business each day.
 - [9] Shall not be displayed outside of business hours.
- (3) Trade figure or symbols.
- (a) One trade figure or symbol per business establishment is permitted.
 - (b) The trade figure or symbol shall represent the business and/or its services and shall be based on historic trade representations.
 - (c) Trade figures or symbols shall comply with the following requirements:
 - [1] The trade figure or symbol shall be placed at the public entrance immediately abutting the building front or affixed to the front facade of the building in which the business is located. Trade figures or symbols may also be incorporated into a freestanding sign.
 - [2] The maximum size of any trade figure or symbol shall be three cubic feet.
 - [3] The trade figure or symbol shall be secured as necessary so that it does not create nuisance or hazard under any conditions to pedestrians, motorists or business patrons.
 - [4] The trade figure or symbol shall not obstruct safe passage or impede accessibility on the sidewalk and shall not obstruct views to another business or business sign.
 - [5] Trade figures or symbols may not be used in conjunction with A-frame menu boards.
 - (d) Proof shall be submitted demonstrating to the satisfaction of the Building Commissioner that explicit written permission has

been given by the owner of the property proposed for locating the trade figure or symbol.

(e) Where the trade figure or symbol is proposed on Town property, the following additional criteria shall be met:

[1] Proof of receipt of a license from the Town Manager or designee for the sign at the proposed location.

[2] Proof of insurance consistent with this license from the Town Manager or designee shall be provided to the Building Commissioner prior to placing any approved trade figure or symbol.

(4) Open/closed signs.

(a) Each business establishment is allowed one open/closed sign on each building facade oriented to a street or parking lot, providing that such facade has a customer entrance serving that business establishment.

(b) The open/closed sign shall either be attached at the customer entrance, in a display window or door of the building in which the business is located or attached to a freestanding sign. Open/closed signs may also be incorporated into a trade figure or A-frame menu board.

(c) The maximum size of an open/closed sign shall not exceed 22 inches by 14 inches.

(5) Incidental business signs.

(a) Incidental business signs indicating the business, hours of operation, credit cards accepted, and business affiliations shall be permitted so long as the total area of all signs does not exceed one square foot.

(b) "Sale" signs and other temporary signs shall be permitted so long as the total area of all such signs does not exceed three square feet.

(6) Trade flags. Trade flags are prohibited in the BA District.

D. Illumination, design and materials.

(1) No neon or LED signs are permitted in the BA District.

(2) Internally illuminated signs are prohibited in the BA District.

(3) The lettering, shape, and color employed in a sign shall be compatible with the form, color, and materials of the building housing the business establishment that the sign is identifying. Signs for different businesses within the same building or for

multiple business establishments in multiple buildings on the same property shall be of harmonious style and design.

- (4) Wall signs, projecting signs, roof signs, and freestanding signs shall be made primarily of wood, PVC composite, medium-density or high-density overlay plywood or HDPE sign board.

§ 240-66. Signs in industrial districts.

The provisions of § 240-65 herein shall apply, except that the total square footage of all signs, while normally not to exceed 100 square feet, may be allowed up to 200 square feet if the Building Commissioner finds that larger signs are necessary for the site and are within the scale of the building and are otherwise compatible with the area and in compliance with the provisions and intent of these regulations.

§ 240-67. Signs in CVD, OM, HG, TD, VB-A, WBVBD and MMV Districts. [Amended 6-1-2006 by Order No. 2006-136; 7-16-2009 by Order No. 2009-137; 6-17-2010 by Order No. 2010-122; 9-8-2011 by Order No. 2011-138]

The provisions of § 240-65 herein shall apply except that:

- A. The maximum allowable height of all signs is eight feet, except that the Building Commissioner may allow up to 12 feet if he finds that such height is necessary for the site and is compatible with the appearance, scale and character of the area.
- B. The maximum square footage of all signs shall be 50 square feet or 10% of the building face, whichever is less.
- C. The maximum size of any freestanding sign shall be 10 square feet, except that the Building Commissioner may grant up to 24 square feet if he finds that the size is necessary for the site and that the larger size is in scale with the building and does not detract from the visual quality or character of the area.

§ 240-68. Signs in MB-A1, MB-A2, MB-B and HD Districts. [Amended 7-14-2005 by Order No. 2005-100]

The provisions of § 240-65 herein shall apply except that:

- A. The maximum allowable height of signs shall not exceed eight feet.
- B. Freestanding signs shall not exceed 24 square feet in area.
- C. The total square footage of all signs shall not exceed 50 square feet.

§ 240-69. Gasoline station signs.

- A. In addition to the two allowable signs as specified in § 240-65 herein each gas pump may have signage not to exceed 12 inches by eight

inches indicating the name or type of gasoline and its price and other information as may be required by federal, state or Town regulation.

- B. Each gas station or garage may divide the one allowable attached wall sign into no more than four separate signs affixed to and parallel to the wall indicating the separate operations or departments of the business, provided that the total area of the separate signs shall not exceed maximum permitted areas specified in § 240-65 herein.
- C. If the business is an approved inspection station, it may additionally have a sign indicating that fact as part of its permitted building or freestanding sign, except that the total square footage of all signs must not exceed the maximum permitted in § 240-65 herein.
- D. Temporary or portable signs of any and every type are specifically prohibited.

§ 240-70. Shopping center signs.

Each business in a shopping center is allowed one attached building sign and one portion of a common freestanding sign. If the shopping center has two or more public entrances which are at least 500 feet apart, a second freestanding sign may be permitted if the Building Commissioner finds that an additional sign is necessary, will not represent a visual hazard, and will not detract from the visual quality or character of the area.

§ 240-71. Signs HVB District. [Amended 11-15-2001 by Order No. 2002-029; 7-14-2005 by Order No. 2005-100]

The provisions of § 240-65 herein shall apply except that:

- A. 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.
- B. The maximum square footage of all signs shall be 50 square feet or 10% of the building face, whichever is less.
- C. The maximum size of any freestanding sign shall be 12 square feet.
- D. Temporary street banners may be permitted in the HVB Business 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.
- E. Open/closed sign, business trade figure or symbol, or location hardship sign: Subject to § 240-85, Permit required; identification stickers. **[Added 6-17-2010 by Order No. 2010-123; amended 5-5-2011 by Order No. 2011-047]**

- (1) Open/closed sign. A business may display a sign to identify and/or direct patrons to their business, provided that the following standards are met:
 - (a) The open/closed sign is attached, at the public entrance, in a display window or door of the building in which the business is located.
 - (b) Only one open/closed sign per business establishment is permitted per frontage.
 - (c) An open/closed sign may not be used in conjunction with a trade flag or business trade figure or symbol.
 - (d) The dimensions of any open/closed sign shall not exceed 22 inches by 14 inches.
- (2) Trade figure or symbol. A business may use a three dimensional representation of their business, providing that the following criteria are met:
 - (a) The business trade figure or symbol is placed at the public entrance immediately abutting the building front or is affixed to the front facade of the building in which the business is located. Such figures or symbols shall not be located on Town property.
 - (b) The business trade figure or symbol represents the business and/or its services and is based on historic trade representations.
 - (c) Only one business trade figure or symbol per business establishment is permitted.
 - (d) A business trade figure or symbol may not be used in conjunction with an open/closed sign or a trade flag.
 - (e) The dimensions of any business trade figure or symbol shall not exceed two feet by three feet by four feet.
 - (f) The business trade figure or symbol shall be secured as necessary so that it does not create nuisance or hazard under any conditions to pedestrians, motorists or business patrons.
 - (g) The business trade figure or symbol shall not obstruct safe passage or impeded accessibility on the sidewalk and shall not obstruct views to another business or business sign.
 - (h) Proof shall be submitted demonstrating to the satisfaction of the Building Commissioner that explicit written permission has been given by the owner of the property proposed for locating the trade figure or symbol.

(3) Location hardship sign. These signs are allowed in the HVB District, provided that a special permit is obtained from the Planning Board subject to the provisions of § 240-125C herein and subject to the following criteria and performance standards.

(a) Criteria.

- [1] Applications for location hardship signs shall demonstrate through visual evidence substantial obstruction or other substantial location hardship as defined herein.
- [2] One location hardship sign is permitted per each business frontage.
- [3] Evidence demonstrating to the satisfaction of the Planning Board and the Building Commissioner that explicit written permission has been given by the owner(s) of the property proposed for placing the sign that is the subject of the special permit application.
- [4] Where the location hardship sign is within the Hyannis Main Street and Waterfront Historic District a certificate of appropriateness shall be obtained prior to and submitted with the application for special permit.
- [5] Where the location hardship sign is proposed on Town property, the following additional criteria shall be met:
 - [a] Proof of receipt of a license from the Town Manager or designee for the sign at the proposed location.
 - [b] Proof of insurance consistent with this license from the Town Manager or designee shall be provided to the Planning Board and the Building Commissioner prior to placing any approved sign.

(b) Performance standards.

- [1] Location hardship signs:
 - [a] Shall not exceed two feet by four feet.
 - [b] Shall be secured as necessary so as not to create nuisance or hazard to pedestrians, motorists or business patrons under any conditions.
 - [c] Shall not obstruct safe passage or impede accessibility on the sidewalk.
 - [d] Shall not obstruct views to another business or business sign.

- [e] Shall be professionally made, professionally painted and well maintained. Hand-lettered signs shall not incorporate informal, irregular hand lettering.
- [f] Shall not be illuminated.
- [g] Shall not have lights, banners, flags or similar objects placed on or adjacent to the sign.
- [h] Shall be placed on the sidewalk leading to the public business entrance.
- [i] Shall be removed at the close of business each day.
- [j] Shall not be displayed outside of business hours.

§ 240-72. Trade flags.³⁷ [Added 5-5-2011 by Order No. 2011-047]

Trade flags may be displayed by a business use located in a nonresidential zoning district or trade flags may be displayed by a preexisting nonconforming business use along the portion of Phinneys Lane from Attucks Lane to Kidd's Hill Road and along Route 6A from Sandwich/Barnstable line to the Barnstable/Yarmouth line. Trade flags are subject to § 240-85 and to the following:

- A. Trade flags shall not be displayed in conjunction with location hardship signs, open/closed signs, or trade figure or symbol.
- B. Trade flags are not counted towards the amount of signage allowed.
- C. Trade flags shall be attached at the primary public entrance, to the facade of the building in which the business is located.
- D. One trade flag per business establishment is permitted. For structures with common entrances leading to multiple business establishments, only one trade flag is allowed per common entrance.
- E. The dimensions of any trade flag shall not exceed three feet by five feet.³⁸

§ 240-73. Construction signs.

- A. When a building permit has been issued for the construction, alteration or repair of a structure, and all other required permits have been obtained, contractors or architects shall display a sign on the site while approved work is going on.
- B. No contractor or architect shall display more than one sign on any building at any given time.

37. Editor's Note: Former § 240-72, Signs in B-1, O-1, O-2, and O-3 Districts, as amended, was repealed 7-14-2005 by Order No. 2005-100.

38. Editor's Note: Former Subsection F, regarding trade flags in the BA District, which immediately followed this subsection, was repealed 6-20-2013 by Order No. 2013-133.

- C. No sign shall be larger than 24 square feet in area, nor more than five feet tall.
- D. The total area of all construction signs displayed at a site at any given time shall not exceed 24 square feet.

§ 240-74. Temporary signs.

Temporary signs and special sale signs may be permitted in all districts subject to the following requirements:

- A. The total area of all temporary signs allowed in this section shall not exceed 20% of the glass area of the window in which the sign is placed.
- B. Special event and/or temporary signs, flags or banners belonging to a not-for-profit organization, civic organization or church: **[Added 5-7-2009 by Order No. 2009-074]**
 - (1) Prior to installation, shall be registered with and approved by the Building Commissioner for a specific property owned or leased to a not-for-profit, civic organization or church.
 - (2) Shall be displayed only during permitted hours of operation and shall be removed once operations cease each day.
 - (3) Shall not obstruct pedestrian and/or vehicular traffic or be otherwise considered, at the discretion of the Building Commissioner or public safety officials, to be a public safety risk.
 - (4) Shall not exceed four feet in width and five feet in length.
 - (5) Shall remain subject to approvals of all applicable historic boards or commissions.
- C. Real estate signs. **[Added 5-5-2011 by Order No. 2011-046]**
 - (1) Open house signs:
 - (a) Shall only be placed for display 60 minutes before and shall be removed within 60 minutes after the open house event.
 - (b) Shall not obstruct pedestrian and/or vehicular traffic or be otherwise considered, at the discretion of the Building Commissioner or public safety officials, to be a public safety risk.
 - (c) Shall not be placed in any area that obstructs or otherwise intrudes into areas containing memorials or monuments. Open house signs are prohibited on a traffic island where such memorials or monuments are located.
 - (2) Open house directional signs:

- (a) Shall only be placed for display 60 minutes before and shall be removed within 60 minutes after the open house event.
 - (b) Shall only be displayed to assist motorists in finding an open house that is concurrently displaying an open house sign.
 - (c) Shall not obstruct pedestrian and/or vehicular traffic or be otherwise considered, at the discretion of the Building Commissioner or public safety officials, to be a public safety risk.
 - (d) Shall not be placed in any area that obstructs or otherwise intrudes into areas containing memorials or monuments. Open house signs are prohibited on a traffic island where such memorials or monuments are located.
- (3) Subdivision off-premises directional signs:
- (a) Shall be displayed only during period of time when developed or undeveloped lots in the subdivision are offered for initial sale by the developer and shall be removed once such initial sales are complete.
 - (b) In accordance with § 240-85, prior to installation, shall be permitted by the Building Commissioner for the specific subdivision. Evidence of ownership, lease or other arrangement allowing installation and display at the proposed location shall be provided to the Building Commissioner with the sign permit application.
 - (c) Shall not obstruct pedestrian and/or vehicular traffic or be otherwise considered, at the discretion of the Building Commissioner or public safety officials, to be a public safety risk.
 - (d) Shall be located within reasonable proximity to the boundary of the subdivision.
 - (e) Shall not exceed three feet by five feet.
 - (f) Shall remain subject to approvals of all applicable historic boards or commissions.

§ 240-75. Directional or safety signs.

In addition to other allowable signs, directional, warning or traffic signs necessary for the safety and direction of residents, employees, customers and visitors may be allowed as follows:

- A. Such signs shall not exceed one square foot in area, nor be more than three feet high.
- B. No more than four such signs will be allowed per site.

- C. The Building Commissioner may grant exceptions from the provisions of this subsection on a case-by-case basis if he finds that the site requires more or larger or higher directional or safety signs, and that such signs will not conflict with the visual quality and character of the area nor lead to clutter or confusion.

§ 240-76. Business area signs.

Business area signs may, at the discretion of the Building Commissioner, be permitted off-premises in remote areas, provided that the owner of record of the land on which the sign is placed has given written permission and that such signs shall be no more than eight square feet in area and shall identify the business area only, and not individual businesses.

§ 240-77. Movie houses and places of entertainment.

- A. Movie houses and places of entertainment may use one of their signs as a display sign indicating movie titles, their ratings, the time(s) of showing, or in the case of places of entertainment, the names of current and/or next-appearing performers so long as they meet all dimensional requirements.
- B. When a movie house or place of entertainment is one of two or more businesses on a single lot, the Building Commissioner may allow two freestanding signs, one of which may be a display sign, so long as the total area of both signs combined does not exceed the maximum square footage allowed in § 240-65 herein.

§ 240-78. Illumination. [Amended 11-15-2001 by Order No. 2002-029]

- A. Illuminated signs will normally not exceed fifty-foot lamberts (or equivalent measurement) of intensity. Additional intensity may be permitted by the Building Commissioner if it is determined that additional intensity is necessary and that it will not detract from the visual quality or character of the area. **[Amended 7-14-2005 by Order No. 2005-100]**
- (1) Internally illuminated signs shall not be permitted in the Hyannis Village Zoning Districts.
- B. The light from any sign shall be so shaded, shielded or directed or shall be maintained at a sufficiently low level of intensity and brightness so that it shall not adversely affect neighboring premises or the safe vision of operators of vehicles moving on public roads and highways.
- C. All illuminated signs shall be so shaded, shielded or directed that they will not reflect or shine on or into residential structures to an extent that would constitute a nuisance or a disruption of the residential character of the area.

§ 240-79. Signs in Old King's Highway Historic District.

- A. The dimensional requirements of these regulations shall apply to all portions of the Town.
- B. Within the boundaries of the Old King's Highway Historic District, the Historic District's Regional Committee shall exercise the duties of the Building Commissioner for the purposes of these regulations, except that the Building Commissioner shall be informed of all actions taken by the Regional Committee.
- C. The Building Commissioner and the Chairman of Regional Committee shall consult with each other frequently regarding the administration of these regulations, and shall work together to establish common sign and architectural standards whenever possible.

§ 240-80. Relocating or changing signs.

- A. Any sign that is moved to another location, either on the same or other premises shall require a permit.
- B. Any change in the width, length, height, color, wording, materials, illumination or clearance between the bottom of the sign and the ground, other than authorized in the permit, will require a new permit prior to making any such changes.

§ 240-81. Transfer of permits prohibited.

Permits cannot be transferred, and the new owner of a business for which there are permitted signs must request a permit for those signs, which shall be granted if all signs are found to be in compliance with these regulations.

§ 240-82. Protection of subsequent purchasers.

Any vendor or lessor who sells or leases any real property which includes a nonconforming sign or signs has a duty to disclose to his vendee or lessee the time remaining in the amortization or transition period applicable to the sign or signs in question.

§ 240-83. Illegal signs.

- A. Order to remove. Following the procedures described in these regulations for abandoned signs, the Building Commissioner can establish an order of removal for illegal signs which may then be removed by the Building Commissioner following due procedures of law, with costs assessed to the permit holder or property owner.
- B. New signs at sites of illegal signs. No sign permit shall be granted for a new sign to be located on a building or on a lot where one or more illegal signs exist.

§ 240-84. Abandoned signs.

- A. Signs which have been abandoned due to a closing of a business, a change in business name or for any other reason which renders the sign not applicable to the property involved shall be removed by the permit holder or the owner of the building or premises within 14 days from the date of the action that caused the sign to be considered abandoned.
- B. A condition of approval for all sign permits shall be that permit holders or owners of the building or premises shall, at his or her own expense, remove all abandoned signs.
- C. New signs for a building or property on which an abandoned sign is located shall not be approved until the abandoned sign is removed.
- D. The Building Commissioner shall determine when a sign is abandoned. Notice shall be sent to the permit holder and to the property owner prior to administrative action.

§ 240-85. Permit required; identification stickers.

- A. All signs regulated by this chapter require a permit from the Building Commissioner, with the exception of residential signs described in § 240-63A and B herein, so long as the house number has been approved by the Engineering Department.
- B. Failure to obtain a permit shall make the sign illegal and subject to the penalty provisions of § 240-86 herein.
- C. All signs regulated by this chapter shall be marked with an identification sticker supplied by the Building Commissioner. Failure to display this sticker as issued by the Town shall constitute a violation of these regulations and be subject to the provisions of § 240-86 herein.

§ 240-86. Violations and penalties.

- A. The Building Commissioner may issue citations for violations of these regulations.
- B. A failure to respond to properly issued citations or the issuance of three or more citations for a sign shall be construed as a major violation subject to a fine of not more than \$100. Each day that such violation continues shall constitute a separate offense.
- C. Continued violation, even with payment of penalties, for a period of 60 days, shall be grounds for removal of the sign(s) in question, following the procedures for illegal signs.
- D. Applicants for signs who have previously had penalties for illegal signs may be required to post a deposit of not more than \$500 per sign for new permits. The Building Commissioner shall review the sign one year from the issuance of a permit and either issue a certificate of compliance, release the deposit, or order necessary corrective action

utilizing the deposited funds, with any remaining funds and a full accounting of monies spent returned to the applicant.

§ 240-87. Safety and maintenance.

- A. All signs, together with their supporting structures, must be kept properly maintained, repaired, and in proper condition. All signs and the grounds about them shall be kept free from all rubbish and other objectionable material.
- B. Failure to comply with these provisions shall be grounds for a citation.
- C. If the Building Commissioner finds that a sign is unsafe or otherwise improperly maintained, he shall issue a written notice to that effect to the permit holder and the property owner. If the specified conditions are not corrected, the Building Commissioner is authorized to remove or repair the sign, all costs of which shall be assessed to the permit holder or property owner, including an administrative fee of \$50. If public safety is involved, the Building Commissioner may take immediate action.

§ 240-88. Appeals.

Any individual aggrieved by a decision of the Building Commissioner may appeal to the Barnstable Board of Appeals, as provided under Chapter 40A of the General Laws.

§ 240-89. Enforcement. [Amended 10-17-2002]

- A. The provisions of these regulations shall be enforced by the Building Commissioner.
- B. Citations, as specified in § 240-85 may be issued by the Building Commissioner.

ARTICLE VIII
Nonconformities

[Amended 11-7-1987 by Art. 8; 11-2-1995 by Order No. 95-198]

§ 240-90. Intent.

It is the intent of this section to protect property rights of owners of preexisting legally created nonconforming lots, uses and buildings or structures and to provide regulation of changes or expansion of preexisting nonconforming structures, building and uses.

§ 240-91. Nonconforming lot.

A. Separate lot exemption. Any increase in area, frontage, width, yard or depth requirement of this chapter shall not apply to a lot for single- or two-family residential use which at the time of recording or endorsement:

- (1) Was not held in common ownership with any adjoining land; and
- (2) Had a minimum of 5,000 square feet of area and 50 feet of frontage or the minimum frontage requirement for the zoning district in which it is located; and
- (3) Conformed to the existing zoning if any when legally created; and
- (4) Was separately owned at the time of every zoning change which made it nonconforming.

B. Common lot protection.

(1) Any increase in the area, frontage, width, yard or depth requirement of this chapter shall not apply for a period of five years from the effective date of the change, to a lot for single- or two-family residential use that:

- (a) Is held in common ownership with not more than two adjoining lots; and
- (b) Had a minimum of 7,500 square feet in area and 75 feet of frontage or the minimum frontage requirement for the zoning district in which it is located; and
- (c) Was recorded or endorsed on a plan that conformed to zoning when legally created; and

(d) Conformed to applicable zoning requirements as of January 1, 1976.

C. The protection afforded by Subsection B shall become vested upon the sale or transfer of the lot so protected into ownership separate from that of adjoining lots or the building thereon of a residence. **[Amended 1-20-2005 by Order No. 2005-039]**

- D. Approval-not-required plan protection. Any change in uses permitted under this chapter shall not apply to any lot created by a plan endorsed by the Planning Board as a plan not requiring approval under the Subdivision Control Law for such period of three years from the date of endorsement, as provided by MGL Ch. 40A, § 6.
- E. Subdivision plan protection. Any change in this chapter shall not apply to land shown on a plan under the Subdivision Control Law by a duly submitted and endorsed definitive subdivision plan, or a preliminary plan followed within seven months by a definitive plan, for such period of eight years from the date of endorsement, as provided by MGL Ch. 40A, § 6. Any legally created lot with a recorded release from covenant of the Planning Board that has been sold or transferred into separate ownership and control from any adjoining lots within eight years from the endorsement of the original subdivision plan shall be exempt from any dimensional or bulk zoning changes and shall not lose its status as a single buildable lot under zoning.
- F. Merged lots. Except as otherwise provided herein, lawfully nonconforming lots that are adjoining and held in common ownership, or under the control of the same owner, shall be treated so as to conform so far as possible with the minimum area requirement of the zoning district in which they are located. No lot so merged, or portion thereof, may be changed or transferred in any manner that will increase the degree of nonconformity unless a special permit has first been obtained from the Zoning Board of Appeals. No such special permit may create any additional buildable lot(s).
- G. Resource Protection Overlay District. **[Amended 10-26-2000]**
- (1) Any increase in area, frontage, width, yard or depth requirements of the Resource Protection Overlay District shall not apply to a lot for single- or two-family residential use which immediately prior to November 16, 2000, either:
 - (a) Conformed to the applicable bulk requirements of this chapter immediately prior to November 16, 2000: or
 - (b) Immediately prior to (on the effective date of this chapter,) was protected from the applicable bulk requirements of this subsection by the provisions of § 240-91A, B, C, D, or E of this chapter.
 - (2) This protection afforded by this subsection shall be permanent.
- H. Developed lot protection; demolition and rebuilding on nonconforming lots. Preexisting legal nonconforming lots which have been improved by the construction of a single- or two-family residence which conformed to all provisions of the zoning ordinance or bylaw at the time of construction shall be entitled to completely demolish the old residence and construct thereon a new residence in accordance with the following. **[Added 11-18-2004 by Order No. 2005-025³⁹]**

- (1) As-of-right. The proposed demolition and rebuilding shall be permitted as-of-right on a preexisting legal nonconforming lot that contains a minimum of 10,000 square feet of contiguous upland, provided that the Building Commissioner determines that all of the following criteria are met:
 - (a) The proposed new structure conforms to all current use and setback requirements of the zoning district it is located in;
 - (b) The proposed construction conforms to the following requirements of lot coverage, floor area ratio and building height:
 - [1] Lot coverage by all buildings and all structures shall not exceed 20% or the existing lot coverage, whichever is greater;
 - [2] The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished and rebuilt, whichever is greater; and
 - [3] The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 1/2 stories. The building height, in feet, shall be defined as the vertical distance from the average grade plane to plate.
 - (c) Further expansion of the rebuilt structure must conform to Subsection H(1)(b) above.
- (2) As of right: merged lots each containing a minimum area of 43,560 square feet of contiguous upland. Where, immediately prior to November 16, 2000, two legally created contiguous lots each containing a minimum area of 43,560 square feet of contiguous upland were: (a) located in the Resource Protection Overlay District and (b) held in common ownership and (c) improved by the construction of one single-family residence, including accessory structures which occupied both lots, each said 43,560 square foot lot may be treated under these provisions as two separate buildable lots, provided that each of said lots conformed to all the bulk regulations of the zoning ordinance immediately prior to November 16, 2000, and as long as the other requirements of § 240-91H(1)(a) through (c) above are satisfied. **[Added 5-7-2009 by Order No. 2009-099]**
- (3) By special permit. If the proposed demolition and rebuilding cannot satisfy the criteria established in Subsection H(1) above, then the Zoning Board of Appeals may allow the demolition and rebuilding by special permit, provided that the Board finds that:

- (a) If the proposed new dwelling does not comply with Subsection H(1)(a) above, then the proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building; and **[Amended 2-17-2005 by Order No. 2005-058]**
- (b) All the criteria in Subsection H(1)(b)[1], [2] and [3] above are met.
- (c) The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.
- (d) This section shall only apply to Subsection H(2) to the extent that the proposed demolition and rebuilding cannot satisfy the criteria established in Subsection H(1) above and shall not be available for relief from any of the other provisions of Subsection H(2). **[Added 5-7-2009 by Order No. 2009-099]**

§ 240-92. Nonconforming buildings or structures used as single- and two-family residences.

A preexisting nonconforming building or structure that is used as a single- or two-family residence may be physically altered or expanded only as follows:

- A. As of right. If the Building Commissioner finds that:
 - (1) The proposed physical alteration or expansion does not in any way encroach into the setbacks in effect at the time of construction, provided that encroachments into a ten-foot rear or side yard setback and twenty-foot front yard setback shall be deemed to create an intensification requiring a special permit under Subsection B below; and
 - (2) The proposed alteration or expansion conforms to the current height limitations of this chapter.
- B. By special permit. If the proposed alteration or expansion cannot satisfy the criteria established in Subsection A above, the Zoning Board of Appeals may allow the expansion by special permit, provided that the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.

§ 240-93. Nonconforming buildings or structures not used as single- or two-family dwellings.

- A. As of right.
 - (1) The normal and customary repair and maintenance of a preexisting nonconforming building or structure not used as a single or two-family dwelling is permitted as of right.
 - (2) The alteration and expansion of a preexisting nonconforming building or structure, housing a conforming use, is permitted as of

right, provided that the alteration or expansion does not increase or intensify the degree of the preexisting nonconformity of the building or structure, and that the alteration or expansion conforms in all other respects with all applicable requirements of this chapter.

- B. By special permit. Alterations or expansions in a preexisting nonconforming building or structure that do not meet the provisions of Subsection A shall be permitted only by a special permit from the Zoning Board of Appeals. In granting such special permit, the Board must find that the proposed repairs, alterations and/or expansion are not substantially more detrimental to the surrounding neighborhood. If the building or structure houses a nonconforming use, the provisions of § 240-94 shall also apply.

§ 240-94. Nonconforming use. [Amended 3-11-1999 by Order No. 99-056]

A preexisting nonconforming use shall be limited in the extent it may expand or intensify. A preexisting nonconforming use may be changed to a principal permitted use as of right. A preexisting nonconforming use may be changed to a conditional use by special permit as provided for within the zoning district in which it is located, or to another nonconforming use as provided for herein.

- A. Change of a nonconforming use to another nonconforming use. A preexisting nonconforming use may be changed to another nonconforming use only by special permit from the Zoning Board of Appeals. In granting a special permit for the change of a nonconforming use, the Board must find that the proposed nonconforming use is no more detrimental to the neighborhood and that all of the following requirements are met:
- (1) The applicant has received all necessary approvals from the Board of Health.
 - (2) The proposed nonconforming use:
 - (a) Requires no more parking than the previous use;
 - (b) Does not generate more traffic than the previous use, as measured by the Institute of Transportation Engineers Trip Generation Handbook or other sources acceptable to the Zoning Board of Appeals, nor does it cause Town expenditures to address traffic mitigation measures;
 - (c) Does not result in an increase of on-site and off-site noise, dust, and odors;
 - (d) Does not result in an increase in the hours of operation or in the number of tenants or employees;

- (e) Does not expand the gross floor area of the nonconforming use, except as may be provided in § 240-93B, nor does it increase the number of nonconforming uses on a site;
 - (f) Is on the same lot as occupied by the nonconforming use on the date it became nonconforming; and
 - (g) Is not expanded beyond the zoning district in existence on the date it became nonconforming.
- B. Expansion of a preexisting nonconforming use. A preexisting nonconforming use shall not be expanded and/or intensified except by special permit from the Zoning Board of Appeals. In granting a special permit for expansion of a preexisting nonconforming use, the Board must find that the proposed expansion, and/or intensification will not be more detrimental to the neighborhood and that the following requirements are met:
- (1) Any proposed expansion of the use shall conform to the established setbacks for the zoning district in which it is located, or such greater setbacks as the Zoning Board of Appeals may require due to the nature of the use and its impact on the neighborhood and surrounding properties.
 - (2) The proposed use and expansion is on the same lot as occupied by the nonconforming use on the date it became nonconforming.
 - (3) The proposed new use is not expanded beyond the zoning district in existence on the date it became nonconforming.
 - (4) At the discretion of the Zoning Board of Appeals, improvements may be required in order to reduce the impact on the neighborhood and surrounding properties including but not limited to the following:
 - (a) Greater conformance of signage to the requirements of Article VII;
 - (b) The addition of off-street parking and loading facilities;
 - (c) Improved pedestrian safety, traffic circulation and reduction in the number and/or width of curb cuts;
 - (d) Increase of open space or vegetated buffers and screening along adjoining lots and roadways. The applicant shall demonstrate maximum possible compliance with § 240-53, Landscape Requirements for Parking Lots, Subsection F, if applicable.
 - (e) Accessory uses or structures to the principal nonconforming use may be required to be brought into substantial conformance with the present zoning.

§ 240-95. Reestablishment of damaged or destroyed nonconforming use, building or structure.

- A. The reestablishment of a lawful preexisting nonconforming use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:
- (1) The reconstruction or repair will not increase the gross floor area or height of the building or structure beyond that which previously existed, nor increase the footprint of the structure;
 - (2) If the building's location on the lot is to be changed, it will change in a manner that will result in greater compliance with the bulk regulations established in the zoning district in which it is located; and
 - (3) The reconstruction or repair will not constitute an expansion or intensification of any nonconforming use.
 - (4) In the case of any use in which it would otherwise be required, the site plan review process has been followed.
- B. The preexisting nonconforming use and/or structure or building shall be discontinued unless a building permit has been applied for within two years from the date of damage or destruction, and construction is continuously pursued to completion.

§ 240-96. Variance situations.

Situations which exist pursuant to the duly authorized grant of a variance from the terms of this chapter as provided for in § 240-125B(3) and (5) shall not constitute nonconformities for the purposes of this chapter.

§ 240-97. Abandonment; nonuse.

Any lawful preexisting nonconforming use or building or structure or use of land which has been abandoned or not used for three years shall not thereafter be reestablished. This section shall not apply in cases of damage or destruction governed by § 240-95.

ARTICLE IX
Site Plan Review
[Added 11-7-1987 by Art. 1]

§ 240-98. Findings.

Developments designed to be used for business and professional offices, commercial establishments, industrial facilities, medical-service facilities, public recreational facilities and multiple-family dwellings, together with their associated outdoor areas for vehicular movement and parking, invite and accommodate varying degrees of open and continuous use by the general public. Owing to their physical characteristic and the nature of their operations, such developments may affect neighboring properties and adjacent sidewalks and streets. It is in the interest of the community to promote functional and aesthetic design, construction and maintenance of such developments and to minimize any harmful effects on surrounding areas.

§ 240-99. Purposes.

The provisions of this article are designed to assure that all development activities regulated by this article will be carried out so as to provide for and maintain:

- A. Protection of neighboring properties against harmful effects of uses on the development site;
- B. Convenient and safe access for fire-fighting and emergency rescue vehicles within the development site and in relation to adjacent streets;
- C. Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;
- D. Satisfactory methods for drainage of surface water to and from the development site;
- E. Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishment(s) on the development site;
- F. Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment(s) on the development site; and
- G. Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site.

§ 240-100. Scope of application.

The provisions of this article shall apply to:

- A. Any construction, demolition, grading, clearing or other land development activity, except for improvements made as shown on a definitive subdivision plan approved by the Planning Board of the Town of Barnstable and minimal clearing necessary to accomplish soil test borings, percolation tests and similar site testing and investigation.
- B. Establishment of any new use or new construction of any building or structure, including any grading or land development activity except detached single-family and two-family dwellings and permitted accessory structures thereto. **[Amended 10-7-1993 by Order No. 94-015]**
- C. Any alteration, expansion, reconstruction or modification to the existing condition(s) of a structure or any change of use which would necessitate the provision of additional off-street parking, additional lot area or any other site alteration in order for such structure or use as so changed to comply with all requirements of this chapter.
- D. The construction or creation of any new parking lot or the expansion or redesign of any existing parking lot. **[Amended 2-22-1996 by Order No. 95-194]**
- E. The erection of any freestanding sign, except not to include directional signs.

§ 240-101. Site plan approval required.

- A. No building permit or occupancy permit shall be issued for any activity or use within the scope of § 240-100 herein unless a site plan has been approved therefor.
- B. No activity within the scope of § 240-100 herein shall be carried out without an approved site plan therefor. Any work done in deviation from an approved site plan shall be a violation of this chapter, unless such deviation is approved in writing by the Building Commissioner as being of no significant detriment to the achievement of any of the purposes set forth in § 240-99 herein.

§ 240-102. Contents of site plan.

- A. The site plan shall include one or more appropriately scaled maps or drawings of the property, drawn to an engineer's scale, clearly and accurately indicating such elements of the following information as are pertinent to the development activity proposed:
 - (1) Legal description, Planning Board subdivision number (if applicable), Assessors' Map and parcel number and address (if applicable) of the property.
 - (2) Name, address and phone number of the property owner and applicant, if different than the property owner.

- (3) Name, address, and phone number of the developer, contractor, engineer, other design professional and agent or legal representative.
- (4) Complete property dimensions, area and zoning classification of property.
- (5) Existing and proposed topographical contours of the property taken at two-foot contour intervals by a registered engineer or registered land surveyor.
- (6) The nature, location and size of all significant existing natural land features, including, but not limited to, tree, shrub, or brush masses, all individual trees over 10 inches in caliper, grassed areas, large surface rock in excess of six feet in diameter and soil features.
- (7) Location of all wetlands or water-bodies on the property and within 100 feet of the perimeter of the development activity.
- (8) The location, grade and dimensions of all present and/or proposed streets, ways and easements and any other paved surfaces.
- (9) Engineering cross sections of proposed new curbs and pavements, and vision triangles measured in feet from any proposed curb cut along the street on which access is proposed.
- (10) Location, height, elevation, interior and exterior dimensions and uses of all buildings or structures, both proposed and existing; location, number and area of floors; number and type of dwelling units; location of emergency exits, retaining walls, existing and proposed signs.
- (11) Location of all existing and proposed utilities and storage facilities including septic systems and any storage materials, truck loading and parking areas, tanks, garbage dumpsters and recyclable storage materials.
- (12) Proposed surface treatment of paved areas and the location and design of drainage systems with drainage calculations prepared by a registered civil engineer.
- (13) Complete parking and traffic circulation plan, if applicable, showing location and dimensions of parking stalls, dividers, bumper stops, required buffer areas and planting beds.
- (14) Lighting plan showing the location, direction and intensity of existing and proposed external light fixtures.
- (15) A landscaping plan showing the location, name, number and size of plant types, and the locations and elevation and/or height of planting beds, fences, walls, steps and paths.

- (16) A location map or other drawing at appropriate scale showing the general location and relation of the property to surrounding areas including, where relevant, the zoning and land use pattern or adjacent properties, the existing street system in the area and location of nearby public facilities.
 - (17) Location within an Historical District and any other designation as an historically significant property, and the age and type of each existing building and structure on the site which is more than 50 years old.
 - (18) Location of site with regard to the GP Groundwater Protection Overlay District and WP Well Protection Overlay District as shown on the Official Zoning Map, § 240-6A, Identification of Zoning Map. **[Amended 9-17-1998 by Order No. 99-012]**
 - (19) Location of site with regard to flood areas regulated by § 240-34 herein.
 - (20) Location of site with regard to areas of critical environmental concern as designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs.
- B. Additional information may be required by the Building Commissioner or his designee, as reasonably necessary, to make determinations required by this article.

§ 240-103. Site development standards. [Amended 11-15-2001 by Order No. 2002-029]

- A. A reasonable effort shall be made to conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.
- B. Slopes which exceed 10% shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.
- C. The placement of buildings, structures, fences, lighting and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.
- D. At any driveway, a visibility triangle shall be provided in which nothing shall be erected, placed, planted or allowed to grow so as to materially impede vision from within motor vehicles between a height of three feet and eight feet above the average center-line grades of the intersecting street and driveway, said triangle being bounded by the intersection of the street line and the edges of a driveway and a line joining points along said lines 20 feet distant from their projected intersection.

- E. Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. In no case shall freestanding illumination devices be installed to a height exceeding 15 feet in a residential district. All illumination shall be directed and/or shielded so as not to shine beyond the perimeter of the site or interfere with traffic.
- F. All areas designed for vehicular use shall be paved with a minimum of either a three-inch bituminous asphalt concrete, a six-inch portland cement concrete pavement, or other surface, such as brick, cobblestone or gravel, as approved by the Town Engineer.
- G. All parking spaces shall be arranged and clearly marked in accordance with the parking lot design standards contained in § 240-104 herein. Signs and pavement markings shall be used as appropriate to control approved traffic patterns.
- H. All utility service transmission systems, including but not limited to electrical, telephone, cable and other communication lines, shall, whenever practicable, be placed underground or moved behind buildings.
- I. All surface water runoff from structures and impervious surfaces shall be disposed of on site, but in no case shall surface water drainage be across sidewalks or public or private ways. In no case, shall surface water runoff be drained directly into wetlands or water bodies. Drainage systems shall be designed to minimize the discharge of pollutants by providing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration. Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. All such drainage structures shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants. All calculations shall be for a twenty-year storm and shall be reviewed by the Town Engineer.
- J. In addition to the provisions of this section, all other applicable requirements of this chapter shall be complied with.
- K. Storage areas. Exposed storage areas, machinery, garbage dumpsters, recyclable storage, service areas, truck loading areas, utility buildings and structures shall be screened from view of abutting properties and streets using planting, fences and other methods compatible with this chapter. Garbage dumpsters shall be located in designated areas, and where feasible, shared with other uses.
- L. Craigville Beach District implementing regulation: additional site development standards. **[Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]**
 - (1) Stormwater management. Within the Craigville Beach District, for nonresidential uses including nonresidential parking lots, all new

development, expansions, modifications, alterations and changes in use shall obtain the approval of the Building Commissioner for a stormwater management plan that meets the following requirements:

- (a) Stormwater management and erosion controls shall use best management practices, low-impact designs and other adaptive management practices that at a minimum accommodate the twenty-four-hour, twenty-five-year storm event and, to the maximum extent feasible, conform to the Massachusetts Stormwater Management Standards adopted pursuant to 310 CMR 10.05(6)(k), Policy, and guidelines as set forth in the Massachusetts Stormwater Handbook; and
 - (b) A long-term operation, inspection and maintenance plan that ensures stormwater management systems will function as designed.
- (2) Planting and vegetation management. Within the Craigville Beach District, for nonresidential uses including nonresidential parking lots, all new development, expansions, modifications, alterations and changes in use shall obtain the approval of the Building Commissioner for a planting and vegetation management plan that incorporates the use of native and drought-resistant plantings that minimize the need for irrigation and the use of pesticides and chemical fertilizers. Drip irrigation should be used as an alternative to spray irrigation for establishing plantings and maintaining plantings under extreme drought conditions.

§ 240-104. Minimum parking lot design standards.

(Editor's Note: See drawings at the end of this chapter.)

§ 240-105. Required procedures for site plan review.

- A. At least six copies are required of all site plan sheets, drawings and written information. Submissions shall be delivered to the Building Department.
- B. Within five working days of receiving a site plan, the Building Commissioner or his designee shall distribute copies of the site plan to the Department of Planning and Development, the Department of Public Works and the Board of Health.
- C. Upon receipt of a site plan from the Building Commissioner or his designee, the agencies as noted in Subsection B shall respond in writing, by notations on the site plan, or both, as to the propriety of the proposed development, within the context of each agency's jurisdiction. Such response shall be made to the Building Commissioner or his designee within 10 working days of each agency's receipt of the site plan.

- D. The Building Commissioner or his designee may solicit the advice of any other Town agency or department he deems necessary to properly make the determinations required by this article.
- E. Site plans shall be reviewed for consistency with zoning and other applicable regulations and standards, and within 20 working days of receiving a site plan, the Building Commissioner or his designee, shall notify the applicant of any approval, conditional approval or disapproval, stating reasons.
- F. One copy of the approved site plan shall be provided each to the applicant, the Department of Planning and Development, the Department of Public Works and the Board of Health. One copy of the approved site plan shall remain in the records of the Building Department.
- G. Upon completion of all work, a letter of certification, made upon knowledge and belief according to professional standards, shall be submitted to the Building Commissioner or his designee by a registered engineer or registered land surveyor, as appropriate to the work involved, that all work has been done substantially in compliance with the approved site plan, except that the Building Commissioner or his designee may certify compliance.

ARTICLE X

**Personal Wireless Communication
[Added 6-3-1999 by Order No. 99-074A]****§ 240-106. Purpose and intent.**

It is the intent of this article to provide for the location and siting of wireless service communication facilities and their accessory structures in accordance with the Telecommunications Act of 1996, to provide for the orderly provision of facilities; ensure public safety; and to minimize adverse visual impacts upon both residential and nonresidential areas.

§ 240-107. Requirements for all personal wireless facilities in all zoning districts.

- A. Installation and construction of all personal wireless service facilities, including but not limited to antennas, mounts, equipment shelters and structures, shall be subject to Article IX Site Plan Review, and shall require issuance of a building permit.
- B. The applicant shall provide site plan review with evidence that they are a licensed carrier, authorized by the Federal Communications Commission (FCC) to construct and operate personal wireless services, and that the proposed transmitters are FCC regulated and approved.
- C. The structure to which any mount or antenna is attached is a legally built structure under zoning, or a preexisting, legal nonconforming structure.
- D. If the location is within a designated historic district, the applicant shall secure a certificate of appropriateness, to the extent required.
- E. Structural components including guy wire anchors and equipment shelters shall comply with all required setbacks of the zoning district.
- F. Any equipment or base receiver station, not located within an existing building or underground vault, shall be designed to fit in with traditional Cape Cod architecture styles and materials, or shall be screened from view.

§ 240-108. Antennas permitted by special permit in all zoning districts. [Amended 8-1-2013 by Order No. 2013-126]

Except where permitted as of right in § 240-109 below, in all zoning districts, an antenna mounted or located on any existing building, structure or communications tower may be permitted by special permit from the Zoning Board of Appeals, provided that no antenna exceeds the height of the existing structure by more than 12 feet, unless the Board finds that additional height is necessary to provide coverage, and the additional height will not be visually intrusive upon the surrounding area.

**§ 240-109. Antennas permitted as of right in all zoning districts.
[Amended 8-1-2013 by Order No. 2013-126]**

Antennas permitted as of right in all zoning districts shall be as follows:

- A. Co-location of antennas and customary appurtenant equipment on an existing communications tower lawfully permitted for the purpose of supporting FCC-licensed antennas, subject to compliance with § 240-107 and the following standards:
- (1) The antenna shall not increase the height of the communications tower.
 - (2) The antenna shall not extend out from the tower more than technically necessary for proper operation.
 - (3) The applicant shall submit a structural analysis, prepared and stamped by a registered professional engineer licensed to practice in the Commonwealth of Massachusetts, demonstrating that the communications tower has sufficient structural capacity for the installation. The analysis shall include information about all antenna installations on the tower.
 - (4) Ground-mounted accessory equipment shall be located within an existing equipment shelter or an area fully screened in accordance with § 240-107F.
- B. An antenna and/or tower used in accordance with the terms of an amateur radio service license issued by the Federal Communications Commission provided that any facility tower is not licensed or used for any commercial use, subject to all the requirements of § 240-8, Exempt uses.
- C. Television and radio antennas, including satellite dishes not exceeding a diameter of four feet, for personal use, accessory to a residential use, or to provide entertainment for a single business such as a restaurant.
- D. An antenna completely enclosed within an existing structure other than a communications tower, provided that the associated equipment or base transceiver station is located within an underground vault, or within an existing building or addition thereto, other than an equipment or base receiver shelter.
- E. An antenna located upon the roof of an existing building or structure other than a communications tower, provided that the antenna does not exceed a height of 12 feet, and provided that the equipment shelter is set back from the roof edge a distance equal to the height of the equipment shelter
- F. An antenna located on a water tower belonging to a public water supply utility, by permission of the water utility, not to exceed the height of the water tower by more than 12 feet, except that the Zoning Board of Appeals may by special permit increase the height of the antenna up to

20 feet where the location of the water tower and design of the antenna is such that it will not be visually intrusive upon the surrounding area.

- G. Antennas located on existing utility stanchions, not to exceed a height of 12 feet above the utility stanchions, located within a Commonwealth Electric Company easement, with permission of the landowner to location and maintenance of an equipment or base receiver station shelter, or submission of recorded easement language demonstrating the right to install an equipment or base receiver station for a wireless communication facility.

ARTICLE XI
Growth Management
[Added 7-19-2001 by Order No. 2001-118⁴⁰]

§ 240-110. Authority.

This article is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, MGL Ch. 40A, Ch. 41 §§ 81L through 81GG, and Ch. 111.

§ 240-111. Purposes.

- A. The purpose of this article is to ensure that a harmonious pattern and predictable rate of development occurs in Barnstable, which protects the health, safety and welfare of current and future Barnstable residents. The consequences of the historical and current patterns and rates of development in Barnstable such as our historic inability to fund our capital needs and the further degradation of our environmental assets are described in the Local Comprehensive Plan. The rate of residential development in Barnstable is determined by and should not exceed the ability of the Town to provide adequate infrastructure and to protect the natural environment. In addition, this development rate is intended to further the legitimate commonwealth and local interests in the provision of a fair share of housing that is affordable to persons with both low and moderate incomes. This development rate will also guard against potential increases in the growth rate, which could adversely affect the Town's environmental resources, economy and land values.
- B. This article establishes a development rate adequate to ensure that the Town, with prudent reliance on local and other financial sources and in compliance with the revenue generating guidelines of Proposition 2 1/2, can and will provide infrastructure and operate in a manner which provides current and future Barnstable residents with an adequate and responsible level of Town services, as defined by relevant, commonly accepted professional standards. This article also establishes a development rate adequate to ensure that the Town has the ability to implement its affordable housing goals, as set forth in the Barnstable Local Comprehensive Plan as updated by the Barnstable Affordable Housing Plan dated January 31, 2001.⁴¹
- C. It is anticipated by this article that during the time until buildout occurs, the Town will strive to upgrade its infrastructure to keep pace

40. Note: The following Growth Management Ordinance is a DCPC (District of Critical Planning Concern) implementing regulation. The DCPC was approved by the Barnstable Assembly of Delegates on September 5, 2001; and the Cape Cod Commission gave its final approval on September 20, 2001. The Commission also approved this ordinance (originally approved by the Barnstable Town Council on July 19, 2001) as the implementing regulation on September 20, 2001. This implementing ordinance became a part of the Zoning Ordinance on September 21, 2001.

41. Editor's Note: See Ch. 9, Affordable Housing.

with its total population, as outlined in the Capital Improvements Plan and consistent with the growth rate established by this article. This includes the preparation of a long-term capital plan and a commitment to make contributions, as practical, to infrastructure and to the established Capital Trust Fund as appropriate to fund infrastructure, promote affordable housing and protect the environment.

§ 240-112. Definitions.

For the purposes of this Article X only, the following terms shall have the following meanings:

AFFORDABLE DWELLING UNIT — A residential dwelling unit:

- A. Subject to a valid Chapter 40B comprehensive permit and meeting the requirements of the Commonwealth's Department of Housing and Community Development (the "DHCD") to be counted as affordable in the state count toward the 10% goal, as that goal may be amended by the General Court (the "affordable goal"); or
- B. Otherwise meeting the affordability requirements of the DHCD as evidenced by receipt of a certificate of affordability, as defined below.

AFFORDABLE PERMIT — A building permit to construct an affordable dwelling unit.

BUILDING PERMIT — A permit to construct an affordable or market rate residential dwelling unit, issued pursuant to the State Building Code, state law and local ordinances and regulations. When a single structure is proposed to accommodate three or more residential dwelling units, the issuance of the first building permit shall authorize construction of the entire structure; however, only three dwelling units shall receive a certificate of occupancy per building permit issued.

CERTIFICATE OF AFFORDABILITY — A certificate issued by the Barnstable Office of Community Development authorizing an applicant to apply for a building permit to construct an affordable dwelling unit. A certificate shall issue for all units that meet the requirements of the DHCD to be counted as affordable in the state count toward the affordable goal.

CALENDAR YEAR — January 1 through December 31 of a given year.

DATE OF FILING — The date of the Building Department's date and time stamp on a fully completed application to construct a new residential dwelling unit.

MARKET PERMIT — A building permit to construct a market-rate residential dwelling unit.

PERSON — An individual, corporation, business trust, estate, trust, partnership, association, joint venture, two or more persons having a joint or common interest, or any legal entity.

RESIDENTIAL DWELLING UNIT — A single unit providing complete independent living facilities for one or more persons including permanent

provisions for living, sleeping, eating, cooking and sanitation. The term "residential dwelling unit" shall not include family apartments, group homes and congregate facilities, hotels, motels, and other uses that are not considered residential for purposes of zoning, as determined by the Town Attorney.**[Amended 2-28-2008 by Order No. 2008-089]**

SUBSTANTIAL FINANCIAL INTEREST — A one-percent or greater legal or equitable interest. A person is deemed to have a substantial financial interest in an application for a building permit in which that person has a current, or had within the last 12 months a one-percent or greater legal or equitable interest in the real property that is the subject of the building permit application.

TOWN MANAGER — The Town Manager or his designee(s).

§ 240-113. Effective date and applicability.

- A. **Effective date.** The provisions of this article shall take effect upon the termination of the limited moratorium establishing a lottery system for the issuance of building permits, as established through the District of Critical Planning Concern nomination under the provisions of Sections 10 and 11 of the Cape Cod Commission Act.
- B. **Applicability.** This article applies to all new residential construction, including new structures and expansions, changes or alterations of existing structures that result in an increase in residential dwelling units, as that term is defined in § 240-112 above. It is intended that the cap established by this article shall apply to both market-rate units and affordable units. The development of additional dwelling units protected by MGL, Ch. 40A, § 6 shall be subject to the delays imposed by this growth management article; provided, however, this article is not intended to diminish the ability ultimately to construct a dwelling unit.

§ 240-114. Rate of residential development.

- A. **Affordable growth rate.** Subject to adjustments provided in this Article XI, the Building Commissioner shall issue building permits for construction of additional affordable dwelling units only if the aggregate of permits issued therefor will not result in authorizing construction, within each consecutive calendar year, of greater than 36 additional affordable dwelling units (the "annual affordable distribution"). In the event the Building Commissioner is required pursuant to a Chapter 40B comprehensive permit to issue affordable permit(s) in excess of the annual affordable distribution, or the Town Manager authorizes issuance of affordable permit(s) pursuant to a certificate of affordability in excess of the annual affordable distribution, future annual affordable distribution(s) shall be decreased by the same number, as necessary. In the event the Building Commissioner does not issue all of the affordable permits made available through an annual affordable distribution, as adjusted, the

next calendar year annual affordable distribution shall be increased by the amount of remaining affordable permits.

B. Market growth rate.

- (1) Subject to adjustments provided in this Article XI, the Building Commissioner shall issue building permits for construction of additional market rate residential dwelling units only if the aggregate of permits issued therefor will not result in authorizing construction, within each consecutive calendar year, of greater than 96 market permits (the "annual market distribution"). In the event the Building Commissioner is required to issue market permit(s) in excess of the annual market distribution pursuant to Subsection D, Adjustments, below, future annual market distribution(s) shall be decreased by the same number, as necessary.
- (2) In order to lessen the impact of this article at the time of its adoption, this article:
 - (a) Contains the following graduated scale for implementation of the target growth rate:

Graduated Annual Market Distribution Schedule

Year	Market Permits
2002	132
2003	126
2004	108
2005 and forward	96 = target annual market distribution

- (b) And provides a hardship exemption procedure (§ 240-117).
- (3) Transition year 2001. The following provisions shall remain in effect from the effective date of this article through December 31, 2001:
 - (a) The Building Commissioner shall issue building permits for construction of additional market-rate and affordable residential dwelling units only if the aggregate of permits issued will not result in authorizing construction, within the 2001 calendar year, of greater than 183 building permits.
 - (b) No person shall submit a building permit application within 10 days from the date of their last building permit application in which they have a substantial financial interest, and no person shall submit more than three building permit applications per month in which they have a substantial financial interest. In a given month, no person or entity shall receive more than three building permits in which the person or entity has a substantial financial interest.

- (c) During calendar year 2001 no person shall receive more than 30 building permits in which they have a substantial financial interest. Any person issued 30 or more building permits in calendar year 2001 permits in which they have a substantial financial interest shall, upon receipt of the 30th building permit, immediately withdraw all pending building permit application(s); said withdrawn application(s) may be resubmitted consistent with the terms of the preceding subsection.
- C. Chapter 40B permits. It is the intention of the Town to phase the development of all residential dwelling units constructed under the provisions of Chapter 40B. Within Chapter 40B comprehensive permit developments, those units that are included in the DHCD tally of affordable units counted toward the affordable goal, as determined by the Town, shall apply for affordable permits. Those units that are not included in the DHCD count toward the affordable goal, as determined by the Town, shall apply for market permits.
- D. Adjustments. The following activities shall result in the adjustment of annual affordable and market distributions, as the case may be:
 - (1) Revocation and abandonment. Building permits issued on or after July 1, 2000, but revoked or subsequently abandoned under the provisions of the State Building Code shall be added to the next annual distribution. Building permits issued pursuant to this article shall be exercised in a continuous and expeditious manner. Construction shall commence within six months of issuance of a building permit; provided, however, that the Building Commissioner shall grant one six-month extension upon request.
 - (2) Single lot protection. A building permit to construct a market-rate single-family dwelling unit on a lot in single ownership, to be owned and occupied by the owner of that parcel of land, applied for but not issued within 24 months from the date of filing shall be issued, and future annual market distributions shall be decreased by the same amount, if necessary.
 - (3) Other required permits. Permits required to be issued under Chapter 40B or by a final court or administrative order shall be issued as required, and future annual affordable and/or market distributions, as the case may be, shall be decreased by the same amount, if necessary.
 - (4) Borrowing against future distributions. In the event that no market permits are available to be issued in a given month, the Building Commissioner shall issue six market permits in that month and shall decrease subsequent annual market distribution(s) by the same number.

§ 240-115. Issuance of residential building permits.

- A. The Building Commissioner shall issue building permits for construction of additional residential dwelling units only if permit issuance complies with the requirements of this section.
- (1) Building permits shall be issued on a monthly basis. Prior to issuing market permits within each month, the Building Commissioner shall determine the number of market permits remaining available within the annual market distribution and shall increase or decrease the number of available market permits consistent with any adjustments required by § 240-114D above. The Building Commissioner shall then divide the number of available market permits by the number of months remaining in the calendar year, which shall be the number of market permits issued within that month. Fractions shall be rounded down to the nearest whole number and added to subsequent monthly calculations.
 - (2) Prior to issuing affordable permits within each month, the Building Commissioner shall determine the number of affordable permits remaining available within the annual affordable distribution and shall increase or decrease the number of available affordable permits consistent with any adjustments required by § 240-114A and D above. The Building Commissioner shall then divide the number of available affordable permits by the number of months remaining in the calendar year, which shall be the number of affordable permits issued within that month. Fractions shall be rounded down to the nearest whole number and added to subsequent monthly calculations.
 - (3) In the event that no affordable or market permits are available to be issued in a given month, only those permits requiring issuance or authorized for issuance pursuant to § 240-114A and D above shall be issued until any adjustments result in additional available permits or the next annual distribution becomes available.
- B. Limitations and transferability of building permits. The following restrictions shall apply to the submission of building permit applications and the issuance of building permits:
- (1) Within any calendar year, no person shall submit to the Building Department more than 20 building permit applications in which such application(s) that person has a substantial financial interest;
 - (2) No person shall submit a building permit application within 10 days from the date of their last building permit application in which that person has a substantial financial interest, and no person shall submit more than three building permit applications per month in which that person has a substantial financial interest. In a given month, no person or entity shall receive more than three building permits in which the person or entity has a substantial financial interest.

- (3) During any calendar year no person shall receive more than 20 building permits in which that person has a substantial financial interest.
 - (4) Any applicant authorized to receive a building permit under this article may transfer said building permit to another lot owned by the same applicant. This provision shall not be deemed to extend the time period for exercising a building permit.
- C. Application and issuance of affordable permits.
- (1) In order to be deemed complete, applications for affordable permits shall include a valid certificate of affordability or shall include a copy of a valid Chapter 40B comprehensive permit providing that the unit constructed will meet the requirements of the DHCD to be counted as affordable in the state count toward the affordable goal.
 - (2) Affordable permits shall be issued based upon the date of filing. Applications filed prior in time shall be issued a building permit prior to subsequently filed applications.
- D. Market permit issuance. Market permits shall be issued based upon the date of filing. Applications filed prior in time shall be issued a building permit prior to subsequently filed applications.

§ 240-116. Exemptions.

The following uses shall be exempt from the residential building permit limitations established by this article:

- A. Municipal uses;
- B. Affordable housing dwelling units created pursuant to Chapter 9, Affordable Housing, Article II, Accessory Apartments and Apartment Units, of the Code of the Town of Barnstable;
- C. Senior continuing care retirement community units created under § 240-29 of the Code of the Town of Barnstable; **[Added 2-28-2008 by Order No. 2008-089]**
- D. Multifamily dwellings (apartments) for active adult or assisted living created under § 240-21A(9)(j) of the Code of the Town of Barnstable; **[Added 5-19-2016 by Order No. 2016-146⁴²]**
- E. Nonresidential development; and
- F. Reconstruction, extension, alteration, modification, and upgrade of an existing dwelling unit that does not result in the creation of a new residential dwelling unit.

42. Editor's Note: This order also provided for the redesignation of former Subsections D and E as Subsections E and F, respectively.

§ 240-117. Hardship procedure.

The Town Manager shall establish a procedure for holding hearings and rendering decisions on whether to grant an exemption from the provisions of this article, in whole or in part, to relieve a substantial hardship, financial or otherwise.

§ 240-118. Determination of buildability.

The Town Manager shall establish a procedure for issuance of determinations of buildability to establish the residential development potential of a lot or lots. Such procedure shall include consultation with the Planning Board if such lot or lots are included in an approved subdivision or approval-not-required plan. Other boards and officials may be consulted to determine potential limitations on development.

§ 240-119. Violations and penalties.

Any person who knowingly violates the provisions of this article shall be prosecuted to the fullest extent of the law. Fraud and conspiracy in connection herewith shall remain separate offenses.

§ 240-120. Review of provisions.

The Town Council shall review this article within one year of adoption and every three years thereafter, and may review this article upon achieving its goal of supplying 10% affordable housing, to determine whether adjustments are necessary for the public health, safety or welfare.

§ 240-121. Scope and validity.

Nothing in this article shall nullify or exempt any property or use from any other provisions of this chapter or other Town regulations. The invalidity of any section or provision of this article shall not invalidate any other section or provision hereof, nor shall it invalidate any building permit, occupancy permit or special permit issued in reliance on said section or provision prior to the determination of its invalidity.

§ 240-122. Severability.

If for any reason the proposed District of Critical Planning Concern nomination under consideration by the Barnstable County government fails, the provisions of this article shall become effective under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, MGL Ch. 40A, and Ch. 41, §§ 81L through 81GG.

ARTICLE XII

Administration and Enforcement**§ 240-123. Enforcement; violations and penalties.**

- A. Enforcement. This chapter shall be enforced by the Building Commissioner of the Town of Barnstable or his designee.
- B. Violations. For any violation of this chapter, the Building Commissioner or his designee may, where the situation requires, cause a criminal complaint to issue from the First District Court of Barnstable or may institute proceedings in Superior Court to enjoin the construction, alteration, enlargement, reconstruction or use of any building or the use of any premises in violation hereof, or further may institute proceedings to enjoin the construction, alteration, enlargement or reconstruction of any building which would result in a use in violation hereof.
- C. Nonconflicting remedies. The use of one of the remedies described in Subsection B above shall not preclude the use of the other remedy for the same violation or a continuing violation.
- D. Verification required. The Building Commissioner or his designee may require any plans, documents or sworn statements to be filed with his office to verify the intended use of a building or premises, or to establish the existence, nature or extent of a nonconformity alleged to exist or any other matter in which evidence is required.
- E. Penalties. Anyone convicted of a violation under this chapter shall be fined not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.

§ 240-124. Bonds and permits.

- A. Performance bonds required. A performance bond of not less than \$4 per foot of frontage against possible costs due to erosion or damage within passable street rights-of-way shall be required by the Building Commissioner prior to authorization of any new building, and a bond or cash security may be required by the Building Commissioner for other construction, such bond or cash security to be held by the Town Treasurer until an occupancy permit is granted as provided for in Subsection B herein. Prior to the proceeding with construction above the foundation, a registered land surveyor shall certify that the structure has been located in compliance with all yard requirements.
- B. Occupancy permits. No premises and no building or structure erected, altered or in any way changed as to construction or use, under a permit or otherwise, shall be occupied or used without an occupancy permit signed by the Building Commissioner. Such permit shall not be issued until the premises, building or structure and its uses and accessory uses comply in all respects with this chapter.

§ 240-125. Zoning Board of Appeals.

- A. Establishment of the Board. The Zoning Board of Appeals established by Chapter 215 of the Acts of 1984, as amended by Chapter 295 of the Acts of 1984 and as may be further amended from time to time, is the Zoning Board of Appeals referred to herein.
- (1) Membership of the Board. The Zoning Board of Appeals shall consist of five members appointed by the Town Council of the Town of Barnstable.
 - (2) Term of office. Members of the Zoning Board of Appeals shall be appointed for three-year terms so arranged that as nearly as possible 1/3 of the terms shall expire each year.
 - (3) Associate Board members. The Town Council may appoint not more than six associate members for similar terms as provided in Subsection A(2).
 - (4) Election of officers. The Zoning Board of Appeals shall elect a Chairman and clerk from its own membership each year.
 - (5) Removal of members. Members may only be removed for cause by the Town Council after a hearing.
 - (6) Vacancies. In case of a vacancy, inability to act, or interest on the part of a member of the Board, the Chairman of the Zoning Board of Appeals may designate a duly appointed associate member to act to fill the vacancy.
- B. General powers.
- (1) The Zoning Board of Appeals shall have the following powers:
 - (a) Appeals from administrative official. To hear and decide an appeal taken by any person aggrieved by reason of their inability to obtain a permit from any administrative official under the provisions of Chapter 40A of the General Laws, or by any officer or board of the Town, or by any person aggrieved by any order or decision of the Building Commissioner, or other administrative official in violation of any provision of Chapter 40A of the General Laws or of this chapter.
 - (b) Special permits. To hear and decide applications for special permits for exceptions as provided for in Chapter 40A of the General Laws and in this chapter.
 - (c) Variances. To authorize upon appeal or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon, a variance from the terms of this chapter where, owing to conditions especially affecting such parcel or such building but not affecting generally the zoning

district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter, but not otherwise.

- (d) Other powers. To act as a Board of Appeals under the provisions of Chapter 41, §§ 81Y, 81Z, 81AA, and 81BB of the General Laws.
 - (e) Use variances. To authorize variances for uses in accordance with the provisions of this chapter; provided, however, that no such variances shall be granted within 300 feet of the major arteries known as Route 28, Route 132, Route 149 and West Main Street and Route 6A, within the Marstons Mills Village District (MMVD) and the West Barnstable Village Business District (WBVBD) and within 300 feet of the MMVD and WBVBD boundary. **[Amended 6-17-2010 by Order No. 2010-122; 9-8-2011 by Order No. 2011-138; 3-21-2013 by Order No. 2013-060]**
- (2) In exercise of the foregoing enumerated powers, the Zoning Board of Appeals shall take into consideration the same types of evidence as referred to in § 240-123D. **[Amended 11-2-1995 by Order No. 95-198]**
- C. Special permit provisions. The Zoning Board of Appeals may grant special permits only for uses specifically provided for as such in this chapter.
- (1) Public hearing required. The Zoning Board of Appeals shall, within 65 days after the filing of a special permit application with the Town Clerk or the Board, hold a public hearing on said application as per Chapter 808, Acts of 1975, as amended. Special permits shall not be issued until said public hearing is held.
 - (2) Standards for granting special permits. A decision of the Zoning Board of Appeals on an application for a special permit shall be based on the following:
 - (a) Whether or not the application falls within the category specifically excepted by this chapter.
 - (b) An evaluation of all the evidence presented at the public hearing by the petitioner and interested parties as it relates to the fulfillment of the spirit and intent of this chapter without substantial detriment to the public good or the neighborhood affected.

- (c) A site plan has been reviewed and found approvable in accordance with Article IX herein subject only to the issuance of a special permit. **[Added 11-7-1987 by Art. 1]**
- (3) Validity. **[Amended 5-7-2009 by Order No. 2009-077]**
- (a) Period of validity: A special permit shall become void within two years from the date of issue unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the premises shall be open for business or in full use under said special permit. The two-year period shall not include time required to pursue or await determination of an appeal referred to in MGL Ch. 40A, §17. However, the special permit granting authority, in its discretion, may extend the time for exercise of such rights for a period not to exceed a total of one year upon a showing of good cause; and provided, further, that the request for such extension is filed with the special permit granting authority prior to the expiration of said two-year period. If the permit granting authority does not grant such extension, upon the expiration of the original two-year period, such special permit shall become void.
- (b) Retroactive applicability: The period of validity for any special permit in effect on the effective date of these provisions shall be two years from the date of issue, unless further extended pursuant to Subsection C(3)(a) above. The period of validity for any special permit that would have lapsed before the effective date of these provisions, but for which a request for extension was filed prior to its lapse, shall be two years from the date of issue, unless further extended pursuant to Subsection C(3)(a) above.
- (4) Subsequent amendments. Construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance unless the use or construction is commenced within a period of not more than six months after the issuance of said permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

§ 240-126. Variance provisions. [Amended 10-7-1993 by Order No. 94-014]

The Zoning Board of Appeals may grant variances as provided for within this chapter and in accordance with MGL Ch. 40A, § 10, provided that, when an application for a variance proposes a development or activity which would require site plan review in accordance with § 240-100, the applicant should submit to the Zoning Board of Appeals a site plan which

has been reviewed and found approvable in accordance with Article IX herein, subject only to the issuance of a variance.

ARTICLE XIII
Amendment; Definitions; Moratorium

§ 240-127. Zoning amendment procedures

All amendments to the Zoning Ordinance shall be in accordance with Massachusetts General Law, Chapter 40A, § 5.

§ 240-128. Definitions.

In the interpretation of this chapter, the following words and terms are to be used and interpreted as defined herein unless the context otherwise requires:

ACTIVE ADULT DWELLING — An attached dwelling unit (apartment) intended and operated for occupancy by persons 55 years of age or older in which at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older in accordance with applicable requirements of federal and Massachusetts law.**[Added 5-19-2016 by Order No. 2016-146]**

ACUTELY HAZARDOUS WASTE — As defined in MGL Ch. 21C.**[Added 8-19-1993 by Order No. 93-105]**

ADJOINING — When used to modify "lot" or "lots," shall mean that the said lots share a common boundary or property line for at least 20 continuous feet.**[Added 11-2-1995 by Order No. 95-198]**

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other material, which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, § 31. For purposes of this definition, "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock or greater than 25% of subject premises' gross floor area, or 200 square feet, whichever is greater.**[Added 6-4-1998 by Order No. 98-064]**

ADULT MOTION-PICTURE THEATRE — An enclosed building used for presenting material, motion picture films, video cassettes, cable television, slides or any other such visual material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, § 31.**[Added 6-4-1998 by Order No. 98-064]**

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL Ch. 272, § 31. For purposes of this definition, "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock or greater than 25% of subject premises' gross floor area, or 200 square feet, whichever is greater.**[Added 6-4-1998 by Order No. 98-064]**

ADULT VIDEO STORES — An establishment having a substantial or significant portion of its stock-in-trade for sale or rent, movies, videos, and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch 272, § 31. For purposes of this definition, "substantial or significant portion of stock" shall mean greater than 25% of the subject establishment's inventory stock or greater than 25% of subject premises' gross floor area, or 200 square feet, whichever is greater. **[Added 6-4-1998 by Order No. 98-064]**

ADULT USE — As defined herein, an adult bookstore, adult paraphernalia store, adult motion-picture theatre establishment, or an establishment which displays live nudity, or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or sexual excitement as defined in MGL Ch. 272, § 31. Adult use shall include an establishment with a combination of adult use materials as listed above including books, magazines, devices, objects, tools, or toys, movies, videos, and any similar audio/visual media for sale or rent, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, § 31, which in combination, is either greater than 25% of the subject establishment's inventory stock or greater than 25% of subject premises' gross floor area, or 200 square feet, whichever is greater. **[Added 6-4-1998 by Order No. 98-064]**

AGRICULTURE AND RELATED USES — The adoption of this definition is explicitly intended to be a clarification of existing ordinances and is not intended to be a new restriction. **[Added 10-7-1999 by Order No. 99-160A]**

- A. For the purposes of § 240-8A(3), agriculture, horticulture, floriculture and viticulture on a parcel of land more than five acres subject to statutory exemption pursuant to MGL Ch 40A, § 3, shall be defined to mean what they mean under state statute.
- B. For the purposes of § 240-8DA(4), on a parcel of land five acres or less in size, the terms agriculture, horticulture, viticulture, aquaculture or floriculture shall not include:
 - (1) The sale of products or plants grown elsewhere;
 - (2) The storage of loam, mulch, gravel, and similar materials;
 - (3) The storage of plants for installation, use or sale elsewhere;
 - (4) The parking, storage or use of heavy equipment; and
 - (5) The assembling of crews for the purpose of landscape construction and maintenance at off-site locations.

APARTMENT UNIT — That portion of the floor area of a single-family dwelling or a multifamily dwelling designed for occupancy by a single family. **[Amended 3-1-2018 by Order No. 2018-053]**

ASSISTED LIVING DWELLING — An attached dwelling unit (apartment) in which supportive services are offered for individuals who need assistance in activities of daily living. **[Added 5-19-2016 by Order No. 2016-146]**

BED-AND-BREAKFAST — Tourist and guest accommodations located within an owner-occupied, single-family residential dwelling unit, let for compensation for brief periods of time, customarily less than two weeks long, without cooking facilities accessible to the guests; the temporary abode of visitors who have a permanent residence elsewhere. **[Added 2-20-1997]**

BOATHOUSE — A building used solely for the storage of boats and related equipment.

BUILDING HEIGHT — The vertical distance from the ground level to the plate.

DOCK or PIER — A combination of assembled materials that may be used as access to the water and extending below the reach of mean high water, including but not limited to, the following: **[Amended 2-1-2001]**

- A. Elevated open, pile-supported structure including gangways, floats, extensions, including ells and tees, dolphins, outhaul piles, and attendant pilings;
- B. Floating dock or pier; and
- C. Float, dock or pier installed for seasonal use, whether fixed or floating.

DWELLING, SINGLE-FAMILY — A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. **[Amended 3-1-2018 by Order No. 2018-053]**

DWELLING, TWO-FAMILY — A detached residential building designed for and occupied by two families.

ESTABLISHMENT WHICH DISPLAYS LIVE NUDITY — An establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in MGL Ch. 272, § 31.

FAMILY APARTMENT — An apartment unit within a single-family dwelling intended to be occupied only by family members of the property owner and which provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitization. **[Amended 3-1-2018 by Order No. 2018-053]**

FAMILY MEMBER — Any person who is related by blood or marriage.

FLOOR AREA, GROSS — The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor

area, mezzanine and attic space and enclosed porches.**[Amended 10-7-1993 by Order No. 94-016]**

HALF STORY — That space above the plate line but below the ridgeline in an area commonly called the "attic space," provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.**[Added 6-28-2001 by Order No. 2001-036]**

HAZARDOUS MATERIALS — As defined in Chapter 108, Hazardous Materials, of the Code of the Town of Barnstable.**[Added 8-19-1993 by Order No. 93-105]**

HAZARDOUS WASTE — As defined in MGL Ch. 21C.**[Added 8-19-1993 by Order No. 93-105]**

INTENSIFICATION OF USE — Any new construction, reconstruction, alteration, remodeling, repair, enlargement, change in use, increase in capacity, or addition of service resulting in greater off-street parking demand.

LOT — A single area of land in one ownership defined by metes and bounds or boundary lines, no portion of which is bisected by a street.

LOT COVERAGE — The term "maximum lot coverage as % of lot area" where used as a column heading in bulk regulations shall mean the maximum lot coverage by structures as a percent of lot area.**[10-4-1990 by Order No. 90-68]**

LOT WIDTH — The width of any lot shall be measured wholly within the lot at the building setback line along a straight line parallel to a line connecting the intersection of the front boundary with the lot side lines, except that an owner of land may establish his own setback line at a distance greater than that required, and the lot width may be determined at the setback line so established.

MARIJUANA — Has the meaning given "marihuana" in Chapter 94C of the General Laws.**[Added 2-6-2014 by Order No. 2014-050]**

MARIJUANA DISPENSARY, REGISTERED — Also known as "RMD" or "medical marijuana treatment center," shall mean an establishment properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.**[Added 2-6-2014 by Order No. 2014-050]**

PERSONAL WIRELESS SERVICE FACILITIES — Facilities for personal wireless service including commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange access services as defined by the Telecommunications Act of 1996.**[Added 6-3-1999 by Order No. 99-74A]**

RETAIL — The term "retail" shall not be construed to include "restaurant."

SETBACK — The distance between a street line and the front building line of a principal building or structure, projected to the side lines of the lot. Where a lot abuts on more than one street, front yard setbacks shall apply from all streets.

SHAPE FACTOR (LOT SHAPE FACTOR) — The numerical value resulting from:

- A. Division of the square of the perimeter in feet of a lot by the area in square feet thereof; or
- B. Division of the square of the perimeter in feet of that portion of a lot intended as the site for building by the area in square feet thereof.
[Amended 1-20-2005 by Order No. 2005-038]

SHUTTLE SERVICE — Use of a multipassenger vehicle to shuttle parking lot patrons between remote parking lots, parking facilities, and transportation terminals.**[Added 7-21-2016 by Order No. 2016-166]**

SIGN — See Article VII, § 240-59 et seq., herein.

SPECIMEN TREES — A native, introduced or naturalized tree which is sufficiently well grown to be an important visual element on a site. Any tree with a dbh of six inches or greater is eligible to be considered a specimen tree. Trees that have a small height at maturity, or are slow growing, such as a flowering dogwood or American holly with a dbh of four inches or larger, are eligible to be considered specimen trees.**[Amended 3-11-1999 by Order No. 99-056]**

SPORTS AND RECREATION FACILITY — A facility that offers indoor and outdoor sporting, recreation, physical fitness and training, and athletic competition venues. Such a facility may include multiple structures including a field house that contains one indoor ice rink, and one or more playing fields, athletic courts, track space, swimming pools, fitness training centers, locker rooms, batting cages, accessory retail and sports related proshops, athletic and fitness training center, including rehabilitation facilities, food concessions and restaurant, child-care areas, sports-related museums and memorabilia, accessory office space and community meeting rooms. Such facilities may also contain outdoor playing fields, tracks and courts, swimming pool, viewing stands, scoreboards, shall not have an outdoor ice rink, outdoor lighting, and detached comfort stations (restrooms/concessions) and other accessory structures.**[Added 8-17-2017 by Ord. No. 2017-165]**

STORY — That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above and having at least 1/2 its height above grade.

STRUCTURE — Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner, not including poles, fences and such minor incidental improvements.

TENT — A temporary shelter with a frame supporting a cloth or similar flexible covering, without a fixed location, foundation or permanent anchors. **[Added 2-22-1996 by Order No. 95-194]**

UPLAND — All lands not defined herein as wetlands.

VERY SMALL QUANTITY GENERATORS — Those operations that generate less than 26 gallons or 220 pounds of dry weight of hazardous waste per month and no acutely hazardous waste as defined in 310 CMR 30.00.

WETLANDS — The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune or other shifting sand formation.⁴³

§ 240-129. Temporary moratorium on medical marijuana treatment centers and associated activities relating to Ballot Question 3. [Added 3-7-2013 by Order No. 2013-065]

- A. There shall be a temporary moratorium on the use of land or structures in the Town for the siting of one or more medical marijuana treatment centers and associated activities relating to Ballot Question 3.
- B. No building permit, special permit, variance, site plan approval decision or other permit may be issued under this Zoning Ordinance for the purpose of establishing a medical marijuana treatment center or associated activities.
- C. The moratorium shall be in effect through and including January 1, 2014, or until 180 days after the effective date of the final regulations promulgated by the State Department of Public Health relating to Ballot Question 3, whichever occurs first.
- D. During the moratorium period, the Town shall undertake a planning process to address the potential direct and secondary impacts of siting one or more medical marijuana treatment centers in the Town and shall review and consider the Department of Public Health regulations regarding the siting of such centers and related uses, and shall consider proposing the adoption of zoning amendments to address the potential direct and secondary impacts of siting one or more medical marijuana treatment centers and related uses in the Town.
- E. Zoning amendments resulting from the aforementioned study process shall be deemed to be continuations of this moratorium and not new zoning amendments. Applications for permits submitted after the first publication of the notice of the public hearing which results in the

43. Editor's Note: Former § 240-129, Hyannis Downtown 500 Block Moratorium Zone, added 4-10-2003 by Town Council agenda item 2003-045, which immediately followed this section, was removed from the Code because it ceased to be effective on 5-10-2005.

adoption of this moratorium but before the moratorium's effective date, shall be administered according to established procedures until the effective date of this moratorium, and if a permit or other relief is granted prior to such effective date, it shall be subject to the effectiveness of this moratorium and shall be issued at the peril of the permit applicant and/or recipient. During the moratorium, any application shall be denied on the basis of this moratorium. In no event shall any permit or other relief sought after the first publication of the notice of the public hearing create or result in any protections with respect to the land, its uses or structures upon it.

- F. Unless extended, continued or modified by a subsequent action of Town Council, this section shall cease to be effective January 2, 2014, or 180 days after the effective date of the final regulations promulgated by the Department of Public Health relating to Ballot Question 3, whichever occurs first.

**§ 240-129.1. Temporary moratorium on recreational marijuana establishments and marijuana retailers and associated activities.
[Added 4-27-2017 by Order No. 2017-108]**

- A. Definitions. As used in this § 240-129.1, the following terms shall have the meanings indicated:

MARIJUANA ACCESSORIES — Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA CULTIVATOR — An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA ESTABLISHMENT — A marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

MARIJUANA MANUFACTURING — To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

MARIJUANA PRODUCTS — Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana

establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA TESTING FACILITY — An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

RECREATIONAL MARIJUANA RETAILER — An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

- B. No building permit, special permit, variance, site plan approval decision or other permit may be issued under this chapter for recreational marijuana establishments and marijuana retailers or associated activities, as those terms are defined herein.
- C. The moratorium shall be in effect through and including December 31, 2018.
- D. During the moratorium period, the Town shall undertake a planning process to address the complex and novel planning, legal and public safety issues related to recreational marijuana establishments and marijuana retailers, to consider the Cannabis Control Commission regulations regarding recreational marijuana establishments and marijuana retailers and related uses, to determine whether the Town shall restrict any, or all, licenses for recreational marijuana establishments and marijuana retailers and to determine whether the Town will prohibit on-site consumption at recreational marijuana establishments and marijuana retailers and shall consider adopting new provisions of this chapter to address the direct and secondary impacts and operation of recreational marijuana establishments and marijuana retailers and related uses.
- E. Applications for permits submitted after the first publication of the notice of the public hearing which results in the adoption of this moratorium but before its effective date shall be dealt with in due course until the effective date of this moratorium; and if a permit or other relief is granted prior to such effective date, it shall be subject to the effectiveness of this moratorium and shall be issued subject to any reliance thereon being at the peril of the recipient. During the effective period of this moratorium, any application shall be denied on the basis of this moratorium. In no event shall any permit or other relief applied for after the first publication of the notice of the public hearing create or result in any protections with respect to the land, its uses or structures upon it,.
- F. Unless extended, continued or modified by a subsequent action of Town Council, this section shall cease to be effective on January 1, 2019.

- G. Severability. The provisions of this section are severable. If any provision, paragraph, sentence, or clause of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section.

ARTICLE XIV

**District of Critical Planning Concern Regulations
[Added 7-16-2009 by Order No. 2009-137]****§ 240-130. Centerville Village District.**

Authority. This article is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§ 240-130.1. Purposes and intent.

- A. The purposes and intent of this section is to guide development and redevelopment in Centerville Village that:
- (1) Promotes a location-appropriate scale and traditional mix of business, institutional and residential land uses that contribute to and respect the historic character and historic neighborhood development patterns;
 - (2) Acknowledges the historic context of the village, including the National Register District which encompasses properties in the northern portion of the district;
 - (3) Protects and preserves the historic and scenic streetscape and minimizes traffic congestion;
 - (4) Provides a variety of functions that support residents' day-to-day use of the district;
 - (5) Supports and enhances the diverse local economy and retains established village goods and service offerings;
 - (6) Preserves and protects the traditional New England village character of Centerville through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of Cape Cod and New England to enhance the aesthetic quality of Barnstable as a whole.
- B. The further purpose and intent of this section is to enable the Town of Barnstable to enter into development agreements (hereinafter "regulatory agreements") under Chapter 168 of the Code of the Town of Barnstable (Barnstable Code) within the Centerville Village District (CVD).

§ 240-130.2. Definitions.

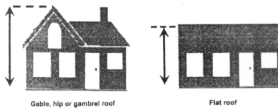
As used in the CVD, the following terms shall have the meanings indicated:

APARTMENT — One or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit located in a

building containing two or more such rooms or suites or located in a building devoted primarily to nonresidential use or in a mixed-use building.

BED-AND-BREAKFAST — Tourist and guest accommodations located within an owner-occupied, single-family residential dwelling unit, let for compensation for brief periods of time, customarily less than two weeks long, without cooking facilities accessible to the guests; or the temporary abode of visitors who have a permanent residence elsewhere.

BUILDING HEIGHT — The vertical distance between the grade and the highest point of a gable, hip or gambrel roof; the highest point of the coping of a flat roof.



GRADE — The referenced plane of the average of all finished ground level adjoining the building or structure for a distance of six feet from all exterior walls.

HALF STORY — That space above the plate line but below the ridgeline in an area commonly called the "attic space," provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.

ICE CREAM SPECIALTY RETAIL USE — An establishment specializing in the retail sale of ice cream for consumption on or off site or carry-out consumption that may include a seating area for food service use as an accessory use to the ice cream specialty retail or an ice cream retail use in existence at the time of the adoption of this section. Accessory food service use may sell and serve by wait staff a variety of foods that may be prepared on site. Ice cream specialty retail and any accessory food service use is subject to formula business limitations as described herein. Ice cream specialty retail may include on-site ice cream product preparation for wholesale sales; provided, however, in no case shall wholesale sales of ice cream product for use off-site become the principal use; truck distribution and delivery activity necessary to the wholesale sale of ice cream product for off-site use shall not create additional congestion; and the use shall not generate noise that violates Town ordinances, or detract from the established character within the CVD.

IMPERVIOUS SURFACE — A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, natural stone, sidewalks, etc. Any area designed for vehicle use or vehicle parking covered with porous pavers may become impervious over time and may, at the discretion of the Building Commissioner, be considered impervious surface.

INN — A commercial structure used for overnight lodging accessed through interior hallways which may include the provision of meals and incidental

related services to lodgers or a motel or motor inn use in existence at the time of the adoption of this section.

LIBRARY — A building or room that houses a collection of books, records, literary documents or other reference materials for borrowing, reading, study, education or reference and which is owned or operated by a nonprofit educational corporation.

LOT AREA — The upland area of the lot.

MIXED-USE DEVELOPMENT — Development including at least one residential unit and at least one nonresidential use on a single lot or several nonresidential uses on a single lot.

NONPROFIT EDUCATIONAL USE — An educational use conducted by a not-for-profit corporation whose articles of incorporation permit it to engage in educational activities and "educational purposes" as its principal permitted use within the meaning of MGL c. 40A, § 3, including but not limited to libraries and museums.

PROFESSIONAL OR BUSINESS OFFICE — Office, but not including medical or dental offices.

RELIGIOUS INSTITUTION — An institution engaged in "religious purposes" within the meaning of MGL c. 40A, § 3.

SETBACK — The required distance between every structure and lot line of the lot on which it is located.

SINGLE-FAMILY RESIDENCE — A detached residential building designed for and occupied by a single family.

SMALL-SCALE FOOD SERVICE — An establishment where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian traffic.

SMALL-SCALE RETAIL — Small stores and businesses, including, but not limited to, corner groceries, artist space, bookstore, galleries and other small retail uses typically found in small New England towns. Small-scale retail does not include retail or commercial buildings or storage designed to serve a large volume of customers, e.g. gasoline and oil filling stations, garages for automotive or machine repair. Small-scale retail is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

STORY — That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above and having at least 1/2 its height above grade.

STRUCTURE — Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, sheds, swimming pools and towers, but shall exclude fences of six feet or less in height, flagpoles and retaining walls.

UPLAND — All lands not defined herein as wetlands.

WETLANDS — The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune or other shifting sand formation.

§ 240-130.3. Permitted uses.

The following principal and accessory uses are permitted in the Centerville Village District subject to the use limitations outlined below. Other uses of an appropriate scale and function may also be considered subject to a regulatory agreement and are subject to the use limitations outlined below. Municipal uses are exempt from these regulations.

- A. Use limitations. Permitted retail establishment, lodging establishment, restaurant, or take-out food franchise shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than 14 other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.
- B. Principal uses.
- *Ice cream specialty retail
 - *Mixed-use development
 - *Professional or business office
 - Single-family residence
 - *Small-scale food service
 - *Small-scale retail
 - *Bed-and-breakfast
 - *Inn
 - *Subject to use limitations as described in § 240-130.3A.
- C. Accessory uses.
- (1) Automated banking facilities (ATM) within a principal building or a walk-up facility located in a rear or side yard that also meets landscaping and lighting guidelines of this section.
 - (2) Garages accessory to a single-family residence. Such structures shall be located in the rear or side yard. The footprint of the garage shall not exceed 40% of the footprint of the single-family

residence and may consist of 1 1/2 stories with a pitched roof unless otherwise permitted for residential use.

(3) Apartment.

D. Exempt uses.

- (1) Religious institutions, accessory day-care centers, and nonprofit educational uses are permitted as exempt uses within the CVD. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the CVD as set forth in § 240-130.1A, Purposes and intent, § 240-130.6, Dimensional, bulk and other requirements, § 240-130.7, Design guidelines, and § 240-130.8, Site development standards.
- (2) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use; provided, however, that the relief granted will not create a public safety hazard along adjacent roadways and will not create a nuisance to other surrounding properties.
- (3) A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

§ 240-130.4. Continuation; changes to use; damaged structures.

A. Continuation. Legally established structures, uses and site improvements in existence at the time of the adoption of this section shall be allowed to continue.

B. Change, expansion or alteration of uses and structures.

(1) As of right.

(a) The normal and customary repair and maintenance of a building or structure is permitted as of right.

(b) The alteration and expansion of a building or structure is permitted as of right, provided that the alteration or expansion conforms in all other respects with all applicable requirements of this chapter.

(2) By special permit. Alterations or expansions of a building or structure that do not qualify under as-of-right provisions shall be permitted only by a special permit from the Zoning Board of Appeals, the special permit granting authority (SPGA) for the CVD. In granting such special permit, the Board must find that the

proposed alterations and/or expansion are not substantially more detrimental, by standards set out herein, to the surrounding neighborhood under this chapter, § 240-130.1A, Purposes and intent, § 240-130.3A, Use limitations, and, where applicable, § 240-130.2, Definitions.

- C. Special permit for dimensional relief. The SPGA may provide relief from minimum lot area, minimum lot frontage, maximum building setback, minimum yard setbacks, facade length requirements, and ground floor window requirements when such relief ensures that the proposed development is consistent with the § 240-130.1A, Purposes and intent, and the applicant demonstrates undue hardship without desired relief.
- D. Re-establishment of damaged or destroyed building or structure.
 - (1) The re-establishment of a previously legally established use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:
 - (a) The reconstruction or repair will not, as determined by the Building Commissioner, materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure, or materially change the grade.
 - (b) If the building's location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations.
 - (c) The reconstruction or repair will not constitute an expansion or intensification of any use.
 - (d) In the case of any use in which it would otherwise be required, the site plan review process has been followed.
 - (e) Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction, the CVD design guidelines do not apply.
 - (f) A building permit has been applied for within two years from the date of damage or destruction.
 - (2) Discontinuance: Any legally established structure which no longer complies with the provisions of the CVD that has been damaged or destroyed shall be discontinued unless a building permit has been applied for within two years from the date of damage or

destruction, and construction is continuously pursued to completion.

§ 240-130.5. Additional provisions.

- A. Other regulations. The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7, Application of district regulations; § 240-9C and D; § 240-10, Prohibited uses; § 240-34, Floodplain District; § 240-43, regarding accessory uses; § 240-46A and B, home occupations; Article VI, Off Street Parking Regulations; Sections 240-52, 240-53.B through .E ; and Sign Regulations § 240-59 through 62, and Section 240-67; Article XI, Growth Management, §§ 240-110 through 240-122; Article IX, Site Plan Review; Article XII, Administration and Enforcement, §§ 240-123 and 240-124; § 240-125C special permit provisions, as these provisions of the Barnstable Code cited in this section may be amended from time to time. **[Amended 5-22-2014 by Order No. 2014-126]**
- B. Conflicts. Unless otherwise stated, the requirements of the Centerville Village District shall apply to uses and structures within the Centerville Village District. In the event of a conflict, these regulations shall apply.
- C. Severability. The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

§ 240-130.6. Dimensional, bulk and other requirements.

Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yard Setbacks			Maximum Building Height		Maximum Lot Coverage By Structures	Maximum Total Impervious Surface
		Front ² (feet)	Rear (feet)	Side (feet)	Feet	Stories		
20,000 or lot area of legally established lot as of 06/18/2009	20	20 or setback of existing legally established structure from front lot line as of 06/18/2009, whichever is less	0	0	36 ¹	2 1/2	35%	80%

NOTES:

- (1) Height - maximum building height. The maximum height of buildings or structures is 36 feet or 2 1/2 stories, whichever is less, at the highest point of the roof for roofs with a pitch of at least six inches in each foot and at the highest point of a gambrel roof. The maximum height for flat-roofed structures is limited to two stories at a maximum of 24 feet.
- (2) Setbacks:
 - (a) The building setback may be modified through a special permit from the Zoning Board of Appeals upon demonstration to the satisfaction of that Board that redevelopment cannot meet the minimum setback without undue hardship or due to topography, lot shape or constraints of existing structures.
 - (b) Wherever possible parking shall be located within side or rear yard setbacks.

§ 240-130.7. Design guidelines.

- A. Purpose: The purpose of these design guidelines is to enhance the traditional small-scale village character currently found in the CVD through the use of compatible building materials, appropriate scale and architectural details currently found within the district or immediate surrounding area. New structures are encouraged to complement, but not necessarily duplicate, surrounding structures.
- B. Objectives:

- (1) To encourage site planning and architectural design that will enhance the existing historic character of the CVD.
 - (2) Ensure that redevelopment and new development is compatible with the existing character of the CVD while encouraging variety through flexibility in the application of these design standards.
- C. Application: The design guidelines set forth herein do not apply to legally established structures in existence as of the effective date of the CVD but shall apply to all new development, to any additions to existing structures and to all reconstruction projects except as provided for in § 240-130.4D(1)(e). These design guidelines shall not apply to walk-in coolers, freezers or their accessories for an ice cream specialty retail use. Any such coolers, freezers and accessories shall be attached to the side or rear of the principal structure and shall be appropriately screened from street view.
- (1) Massing: Buildings or portions of buildings with a mass, including rooflines, over 32 feet in length must divide their elevations into smaller parts through a variety of architectural elements, including but not limited to dormers or additive massing as well as pronounced changes in wall planes. Flat and shed roof architectural elements are limited to a length of 20 linear feet and only in combination with other gable or hip roof elements; except that ground floor open porches may have a longer expanse of shed roof on a structure that otherwise meets these massing provisions.
 - (2) Roof pitch: Except as permitted under massing herein, roof pitch and pattern for new structures and additions to existing structures shall complement the roof pitches found on the main rooflines of existing structures within the CVD and the immediate surrounding area or at least 4 in 12 where the roofs of surrounding structures are flat or only slightly pitched.
 - (3) Ground floor windows for nonresidential development:
 - (a) All new nonresidential development, including nonresidential portions of mixed-use developments, shall provide ground floor windows along street facades, including windows that allow view into working areas or lobbies, pedestrian entrances, or display windows. The glazing pattern shall be aligned in a regular and traditional pattern as found within the CVD and the immediate surrounding area.
 - (b) Window glazing or films that inhibit two-way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows. Mirrored windows are prohibited throughout the CVD.
 - (c) Street facade blank walls greater than four feet in length that do not include display areas, functional landscape structures

such as a trellis, windows, architectural features, and/or doorways are prohibited.

(4) Architectural details and materials:

- (a) Architectural character of buildings must complement the historic character of buildings found within the CVD and the immediate surrounding area.
- (b) Facade materials shall be high-quality, authentic materials such as wood, stone or brick. Manufactured materials intended to duplicate the look of natural materials may be allowed.
- (c) External side elements, including but not limited to screening devices, site walls, enclosed service, loading and refuse areas and mechanical equipment, shall be designed as an integral part of the building's architectural character.
- (d) Primary entrance to buildings, other than single-family homes, shall be distinguished with facade variations, porticos, roof variations, recesses or other integral architecturally appropriate building elements.
- (e) Extended bands of corporate or franchise colors are prohibited in the CVD.
- (f) Metal-sided buildings are prohibited in the CVD.
- (g) The following design features shall be incorporated into structures within the CVD where architecturally appropriate. Structures shall include at least one of the following elements:
 - [1] Gable.
 - [2] Offsets on the building face or roof of at least two inches.
 - [3] Gable dormers.
 - [4] Cupolas or other appropriate roof elements.
 - [5] Covered porches.

§ 240-130.8. Site development standards.

All new development and redevelopment and change of use except as set forth in § 240-130 within the CVD with the exception of single-family residences shall be subject to the provisions of Article IX, Site Plan Review, §§ 240-98 through 240-105.

- A. Access management. To ensure traffic safety, pedestrian safety and maintain traffic flow, the following standards for new access shall apply in the CVD:

- (1) New access on South Main Street and Main Street:

- (a) Shall only be allowed where the Building Commissioner determines that the access will improve internal circulation or address safety at existing access.
 - (b) Interconnections between lots and uses are encouraged to prevent unsafe turning conflicts and increase pedestrian safety.
 - (c) New driveways on South Main Street and Main Street within 200 feet of any intersection shall not be permitted unless the Town Engineer determines that the proposed driveway location will not create new traffic safety hazards or increase traffic congestion.
- (2) New access shall not be more than 24 feet in width unless the Building Commissioner or site plan review determines that a wider width is necessary for safety purposes.
- B. Parking spaces, computation.
- (1) The parking standards contained within the Schedule of Off-Street Parking Requirements, § 240-56 of the Barnstable Zoning Ordinance, shall establish the minimum parking requirements, with the following exceptions:
- (a) The use of shared parking for different uses having different peak hours of demand will be considered in evaluating compliance with § 240-56. A signed lease agreement or recorded easement between relevant parties sharing parking must be provided as part of the site plan approval.
 - (b) A permitted use can be changed to another permitted use, and any permitted or accessory use can be intensified, without increasing the required off-street parking requirements of § 240-56, Schedule of Off-Street Parking Requirements, provided that:
 - [1] There is no increase in gross square footage of the building; and
 - [2] There is no reduction in existing parking spaces required pursuant to § 240-56; and
 - [3] A minimum of two on-site parking spaces per dwelling unit shall be provided. A one-car garage shall count as one parking space. A two-car garage shall count as two parking spaces.
- (2) Parking spaces shall be provided for new and/or expanded building area, and for new and/or expanded outdoor uses, as follows:
- (a) Parking space requirements for residential mixed use shall be subject to § 240-130.8B(1) above; and for the residential units

parking, the parking requirement shall be one parking space per bedroom for one- and two-bedroom units or a total of two parking spaces for units with two or more bedrooms.

- (b) Parking space requirements for nonresidential uses shall be subject to § 240-130.8B(1) above.
 - (3) Reduction of required parking spaces may be allowed, provided the Building Commissioner, who may waive up to two spaces, or if parking is proposed to be reduced by more than two (2) spaces the Zoning Board of Appeals must find that:
 - (a) Adequate shared parking is available consistent with Subsection A(1) above; or
 - (b) There are other factors that support the reduction.
- C. Landscaping. All applications for new nonresidential development and redevelopment shall be accompanied by a landscape plan that shows the location within the development of each species of trees, shrubs and/or other plantings, their suitability for the conditions at the proposed location and their size at maturity.
- (1) Those portions of the front yard not occupied by pedestrian amenities and public spaces shall be landscaped.
 - (2) Existing trees and other features of the land shall be protected in the development or redevelopment of the site.
 - (3) Landscape materials shall be used that, at full growth, will not overwhelm the site location or interfere with views or pedestrian activity over time.
 - (4) Landscaping plan will adequately provide street trees and will buffer parking areas from sidewalks and streets.
- D. Lighting.
- (1) All exterior lighting shall use full cutoff light fixtures in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted.
 - (2) Flood, area and up lighting shall not cast glare onto neighboring properties or oncoming traffic.

§ 240-131. Craigville Beach District; statutory authority. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

Sections 240-131 through 240-131.8 are adopted under the local authority of the Town of Barnstable and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§ 240-131.1. Purposes and intent. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

- A. The purpose and intent of §§ 240-131 through 240-131.8 are to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 09-10 to ensure that development and redevelopment:
- (1) Contributes to and respects the character and historic development patterns of the area and minimizes inconsistent development and redevelopment impacts to the historic and community character resources in this area;
 - (2) Protects and preserves scenic views and vistas and ways to the water;
 - (3) Protects and improves natural resources, including but not limited to the barrier beach and groundwater and coastal water quality and minimizes development and redevelopment impacts to the natural resources and ecosystems in this district;
 - (4) Protects human life and property from the hazards of periodic flooding;
 - (5) Preserves the natural flood control characteristics and the flood control function of the floodplain;
 - (6) Preserves and maintains the groundwater table and water recharge areas within the floodplain. As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection.

§ 240-131.2. District boundaries. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

- A. The provisions of §§ 240-131 through 240-131.8 shall apply within the Craigville Beach District (CBD), as shown on the Zoning Map of the Town of Barnstable, as amended in Section 1 above.⁴⁴
- B. Neighborhood Overlays. For the purpose of §§ 240-131 through 240-131.8, the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Zoning Map and identified as:

44. Editor's Note: Section 1 of Ord. No. 11-01 of the Barnstable County Assembly of Delegates amended the Zoning Map of the Town of Barnstable. A description of said amendment is included in the Table of Zoning Map Revisions at the end of this chapter.

LBSB	Long Beach/Short Beach
CB	Craigville Beach
CRNB	Centerville River North Bank
CV	Craigville Village

§ 240-131.3. Definitions. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

ACCESSORY USE OR BUILDING — A use or structure which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal use or structure.

BASE FLOOD ELEVATION (BFE) — The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

BEACH CLUB — A membership establishment legally in existence at the time of the adoption of §§ 240-131 through 240-131.8, not open to the general public, located in close proximity to a beach and providing recreational and social activities, including food service, to members.

BUILDING COVERAGE — The percentage of a lot covered by principal and accessory buildings or structures. For the purposes of §§ 240-131 through 240-131.8, this definition does not include uncovered swimming pools and tennis courts, and decks not exceeding 100 square feet or 10 feet in length.

BUILDING HEIGHT — The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys, cupolas, flagpoles or other similar appurtenances as approved by the Building Commissioner.

COASTAL BANK — The first significant break in slope beyond the one-hundred-year storm elevation on a seaward face or elevated landform, other than a coastal dune, which lies at the landward edge of a coastal beach, land subject to tidal action, or other coastal wetland. The slope of the bank must be greater than 18% and serve to contain storm flowage, rather than being inundated by it, or function as a sediment source. (See Barnstable Code, Wetlands Protection, § 237-5.)

COMMON DRIVEWAY — A form of access which is not a street but extends from a street and provides common vehicular access to more than one lot. For the purposes of calculating lot coverage, the common driveway's impervious surfaces shall be equally allocated among the lots served and/or benefited by the common driveway in proportion to the sizes of the lots.

CONFERENCE CENTER — A nonprofit religious and educational use legally in existence at the time of the adoption of §§ 240-131 through 240-131.8, comprised of guest houses and cottages, single-family residences,

recreational areas, lodging for guests, meeting spaces, and summer recreational opportunities.

COTTAGE COLONY — A group of three or more detached dwellings, under one ownership, legally in existence at the time of the adoption of §§ 240-131 through 240-131.8, located on a single lot, which are customarily rented out to the transient public by day, week, month, or season and occupied on a seasonal basis only. Cottage colonies shall not be used year round. Cottage colony structures shall not exceed 1 1/2 stories and 800 square feet of gross floor area.

DEMOLITION, VOLUNTARY — Destruction of 20% or more of the exterior walls of a building or the destruction of more than 50% of the roof structure of a building, not including like-for-like replacement of the roof structure.

ELEVATED STRUCTURE — A structure elevated for the purpose of Barnstable Code, § 240-34, Floodplain District, whose lowest structural member is one foot above BFE in A Zones and two feet above BFE in V Zones. **[Amended 5-22-2014 by Order No. 2014-126]**

FEMA — Federal Emergency Management Agency.

FEMA FLOOD ZONES — Geographic areas susceptible to inundation by water that FEMA has mapped according to varying levels of flood risk, as defined and delineated on a community's Flood Insurance Rate Map, as may be amended from time to time.

FIRM — Flood Insurance Rate Map.

GRADE — The referenced plane as of November 6, 2009, representing the ground elevation adjoining the proposed building at all exterior walls. Where the ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet from the building, or between the building and the lot line, whichever point is closer. Retaining walls for mounded septic systems mandated by the Board of Health are not included in the calculation of grade.

GROSS FLOOR AREA — The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

HALF STORY — That space above the plate line but below the ridgeline in an area commonly called the "attic space," provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.

IMPERVIOUS SURFACE — A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, sidewalks, etc. Any area designed for vehicle use or vehicle parking covered with porous pavers, which may become impervious over time may,

at the discretion of the Building Commissioner, be considered impervious surface.

LOT AREA — For the purpose of determining maximum building coverage and maximum lot coverage allowances, the lot area for legally created lots that are vacant or developed and/or improved as of November 6, 2009, shall be the horizontal area of the lot defined by metes and bounds. All of the lot area used for zoning compliance shall be land other than that under water nine months or more in a normal year.

LOT COVERAGE — The percentage of a lot covered by impervious surfaces. For the purposes of §§ 240-131 through 240-131.8, paved driveways and parking areas, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious shall be included in the calculation of lot coverage.

NONPROFIT EDUCATIONAL USE — An educational use conducted by a not-for-profit corporation whose articles of incorporation permit it to engage in educational activities and educational purposes as its principal permitted use within the meaning of MGL c. 40A, § 3, including but not limited to libraries and museums.

OPEN FOUNDATION — A pile or column foundation designed for structures in flood zones that minimizes the foundation area subject to lateral flood loads. Open foundations are intended to prevent flotation, collapse, and lateral movement of a building during a flood event.

RELIGIOUS INSTITUTION — An institution engaged in religious purposes within the meaning of MGL c. 40A, § 3.

SEASONAL USE — A use carried on for only a part of the year. Typical seasonal uses are outdoor recreational activities such as swimming and boating, both motorized and nonmotorized; impermanent use of cottages, motels, hotels, letting of rooms in a residential structure and letting an entire residential structure.

SEASONAL USE STRUCTURE — Any structure designed or used as temporary seasonal living quarters that is not used as a primary, permanent residence. Seasonal use structures may have heat and other amenities but do not deposit wastewater into wastewater treatment systems on a regular year-round basis and do not withdraw water for consumption or other activities on a regular year-round basis.

SINGLE-FAMILY RESIDENCE — A detached residential building designed for and occupied by a single family.

SMALL-SCALE FOOD SERVICE — An establishment legally in existence at the time of the adoption of §§ 240-131 through 240-131.8, where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) — The Zoning Board of Appeals shall be the special permit granting authority within the Craigville Beach District.

STORY — The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

STRUCTURE — Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, sheds, swimming pools and towers, but shall exclude fences of six feet or less in height and flagpoles.

UPLAND — All lands not defined herein as wetlands.

V (VELOCITY) ZONE — The area extending from mean low water to the inland limit one-hundred-year floodplain supporting waves greater than three feet in height. V-zones are mapped on the FEMA FIRM.

WETLAND — The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune, or other shifting sand formation.

§ 240-131.4. Craigville Beach District use regulations. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

Municipal uses are exempt from these regulations. For principal permitted uses, see § 240-131.7 (Neighborhood Overlay regulations) herein.

A. Use limitations.

- (1) Any use not expressly allowed herein is prohibited.
- (2) The conversion of any building or structure from seasonal use to year-round use is prohibited, except that single-family residences are not subject to this use limitation. The conversion of a building, or buildings, constituting a cottage colony, hotel, inn or rooming house, or of a facility required to be licensed as a recreational camp, overnight camp or cabin, or motel under MGL c. 140, §§ 32A to 32I, to condominium-type ownership, shall be deemed to be a change in use from seasonal to year-round use and is prohibited.
- (3) Permitted business and retail uses shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (formula) array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar

standardized features and which causes it to be substantially identical to more than 14 other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

B. Exempt uses.

- (1) Religious institutions, accessory day-care centers, and nonprofit educational uses are permitted as exempt uses within the Craigville Beach District. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the Craigville Beach District as set forth in § 240-131.1, Purposes and intent, § 240-131.5, Dimensional, bulk and other regulations, § 240-131.7, Neighborhood Overlay regulations, including general performance standards and applicable neighborhood performance standards.
- (2) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use; provided, however, that the relief granted will not create a public safety hazard along adjacent roadways and will not adversely impact natural resources or create a nuisance or adverse impacts to other surrounding properties. A modification permit shall be subject to the same procedural requirements as a special permit, except that approval of a modification permit shall require a simple majority of the members of the Board.

C. Continuation. Any lawfully established lot, structure or use existing at the time of the adoption of §§ 240-131 through 240-131.8 that does not conform to the provisions of the CBD shall be allowed to continue.

D. Change, expansion or alteration of uses and structures. Changes, expansions, or alterations of existing conforming or nonconforming uses and structures lawfully existing are permitted subject to the following:

(1) As of right.

- (a) The normal and customary repair and maintenance of a building or structure and the conversion of existing floor area to habitable space consistent with Board of Health and other regulations is permitted as of right.
- (b) The alteration and expansion of a building or structure is permitted as of right, provided that the alteration or expansion shall conform to following criteria:

[1] Conforms to applicable height and setback requirements of § 240-131.5B, § 240-131.5A notwithstanding.

[2] Does not exceed the coverage limitations set forth in § 240-131.6.

[3] Complies with applicable general and neighborhood performance standards.

(2) By special permit.

(a) The alteration or expansion of an existing conforming or nonconforming lawfully established building or structure in lawful existence at the time of adoption of §§ 240-131 through 240-131.8 that does not qualify under the as-of-right provisions above shall be permitted only by a special permit from the SPGA. In granting such special permit, the SPGA shall find that the proposed alterations and/or expansions:

[1] Are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.

[2] Comply with § 240-131.1, Purposes and intent, and with the performance standards and design guidelines for the neighborhood overlay area in which the development is located, in accordance with § 240-131.7, Neighborhood District Overlay regulations, with the exception of the dimensional requirements of § 240-131.7D(1).

[3] Do not entail an increase in gross floor area or footprint for voluntary demolition of a single-family residence.

[4] Do not exceed 25% of the gross floor area of structures in existence as of July 1, 1989, or do not exceed 10% of the gross floor area of structures in existence as of November 6, 2009.

[5] Do not increase lot coverage over what is allowed under § 240-131.6, Coverage limitations, or by more than 10% over what was existing on November 6, 2009, whichever is greater.

[6] Do not increase flood hazards in the neighborhood.

[7] Maintain or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with § 240-131.5, Note 4.

[8] In V Zones, do not increase south-facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of floodwaters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way.

- E. Special permit for dimensional relief. The SPGA may provide relief from minimum yard setbacks when such relief ensures that the proposed development:
- (1) Is consistent with § 240-131.1, Purposes and intent;
 - (2) Is consistent with the performance standards for the neighborhood district where the development is located in accordance with § 240-131.7, Neighborhood Overlay regulations; and
 - (3) The applicant demonstrates undue hardship without desired relief.
- F. Reestablishment of damaged or destroyed use, building or structure.
- (1) The reestablishment of a lawfully established conforming or nonconforming use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:
 - (a) The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade other than grades required for installation or upgrade of on-site septic systems; except that buildings in the floodplain that existed prior to November 6, 2009, may be elevated two feet above BFE or as required by the applicable law regardless of the resulting building height, provided that the building complied with building height regulations at the time of its construction.
 - (b) If the building's location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations and with performance standards regarding building orientation.
 - (c) The reconstruction or repair will not constitute an expansion or intensification of any use.
 - (d) In the case of any use in which it would otherwise be required, the site plan review process has been followed.
 - (e) Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction, the design guidelines in this chapter do not apply. If the structure is in the floodplain, any design or architectural changes associated solely with

floodproofing the reconstructed structure shall not require compliance with the design guidelines.

- (2) Any previously established use or structure which no longer complies with the provisions of the CBD shall be discontinued unless a building permit has been applied for within two years from the date of damage or destruction, and construction is continuously pursued to completion.
- G. Voluntary demolition and reconstruction of single-family residences. Lawfully established single-family residences may be demolished and reconstructed in accordance with § 240-131.4F.

§ 240-131.5. Dimensional, bulk, and other requirements. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

The following requirements apply to all development and redevelopment in the Craigville Beach Zoning District:

- A. For all legally created vacant lots, the frontage and area in existence as of November 6, 2009, and/or legally developed lots that were in existence as of November 6, 2009, and conformed to the existing zoning when legally created, the existing lot area, lot frontage, front, side and rear setbacks and building height dimensions may be used in lieu of the following dimensional requirements in § 240-131.5B, except where stated otherwise.
- B. Requirements table.

Requirements	Neighborhood Overlays			
	Village Craigville	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Minimum lot area (square feet)	87,120	87,120	87,120	87,120
Minimum lot frontage (feet)	75	100	125	125
Minimum Front yard setback (feet)	15	20	20	20
Minimum Side yard setback (feet)	10	15	15 ⁴	15
Minimum Rear yard setback (feet)	10	15	15	15
Maximum building height ^{1,2,3}	30	26	30	30

Neighborhood Overlays

Requirements	Village Craigville	Craigville Beach	Long Beach/ Short Beach	Centerville River North Bank
Maximum number of stories ³	2	2	2	2
Maximum building coverage		See § 240-131.6.		
Maximum lot coverage		See § 240-131.6.		

Dimensional Table Notes:

¹ Maximum building height allowances vary depending upon the roof pitch of the structure, with gable roofs having a slope of 7/12 or greater allowed the maximum building height; hip and other sloped roofs with a slope of 4/12 or greater are allowed five feet less than the maximum building height; and flat roofs prohibited except on one-story additions totaling less than 300 square feet per parcel. For the purposes of determining building height, no more than 50% of the roof slope used in the calculation may be altered by dormers and other roof changes.

² Buildings in the floodplain that existed prior to November 6, 2009, may be elevated two feet above BFE or as required by the applicable law, provided that the building complied with building height regulations at the time of its construction.

³ The second story must be set back at least two feet from the facade line of the floor below on two of the building's facades, and the second story floor area shall not exceed 80% area of the floor area immediately below it.

⁴ In the Long Beach/Short Beach Neighborhood, to preserve and enhance views of Craigville Beach and the Centerville River, a view corridor shall be preserved using 20 feet of either side setback or, where side yard setbacks are less than 20 feet, the greater of either side yard setback existing on November 6, 2009. The view corridor shall remain free of view-obstructing buildings, structures, site improvements or landscaping other than low-growing plant material or existing natural vegetation for the entire depth of the property from the street to the river or beach.

§ 240-131.6. Coverage limitations. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

The following limitations apply to all development and redevelopment in the Craigville Beach Zoning District.

Lot Size (square feet)	Maximum Building Coverage (Footprint) Allowance (square feet)	Maximum Lot Coverage Allowance
1,300 to 4,999	1,100, plus 10.8% of lot area over 1,300	50%
5,000 to 7,499	1,500, plus 6% of lot area over 5,000	50%, but no more than 3,200 square feet
7,500 to 9,999	1,650, plus 6% of lot area over 7,500	3,200 square feet
10,000 to 14,999	1,800, plus 4% of lot area over 10,000	3,300 square feet
15,000 to 19,999	2,000, plus 6% of lot area over 15,000	3,400 square feet
20,000 to 34,999	2,300, plus 4% of lot area over 20,000	3,600 square feet
35,000 to 44,999	2,900, plus 4% of lot area over 35,000	3,600 square feet or 10%, whichever is greater
45,000 and above	3,300, plus 3% of lot area over 45,000	10%

§ 240-131.7. Neighborhood Overlay regulations. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

- A. Purpose. The Neighborhood Overlay regulations establish uses, dimensional requirements and design guidelines to preserve the distinctive character; allow continued use and enjoyment of properties and structures; make provisions for changes and expansions; protect and preserve scenic views and vistas; protect and improve natural resources; and limit damage from periodic flood events for each neighborhood within the Craigville Beach District.
- B. Historic and community character. These regulations will ensure that development and redevelopment in the CBD contribute to and do not detract from the historic character of the Craigville Beach area; that any proposed additions to historic structures shall be consistent with the historic structure and shall be consistent with the character of the surrounding neighborhood, including elements such as building height,

mass and orientation; and preserve views and ways to the water from public spaces, streets and ways.

- C. Applicability. Development and redevelopment shall be subject to the following additional requirements and regulations based upon the applicable Neighborhood Overlay.
- D. General performance standards.
- (1) The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it unless relief has been granted by the SPGA in accordance with § 240-131.4D and E.
 - (2) The development complies with the height limitations set forth herein.
 - (3) Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials.
 - (4) Stormwater management and erosion control for nonresidential uses comply with best management practices through low-impact development or other adaptive management practice.
 - (5) Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within.
 - (6) All new non-water-dependent development shall be set back at least 50 feet from the top of the coastal bank resource area. Change, alteration, or expansion of existing structures shall not be sited closer to the top of the coastal bank resource area than the existing development to the maximum extent feasible.
 - (7) Existing natural vegetation within the fifty-foot buffer area to salt marsh and undisturbed buffer areas 50 feet landward of the mean high-water mark of coastal water bodies shall be preserved to the maximum extent feasible.
 - (8) No direct untreated stormwater discharges shall be permitted into any coastal waters or wetlands, including discharges above or below the mean high water level. Stormwater discharge shall be located and treated the farthest practicable distance from wetlands and water bodies and shall be located a minimum of 50 feet from wetlands or water bodies.
- E. Long Beach/Short Beach Neighborhood.

- (1) Permitted principal uses: The following principal uses are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the performance standards listed below.
 - (a) Single-family residence.
- (2) Permitted accessory uses: Customary and incidental uses and structures are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in § 240-131.7D.
- (3) Neighborhood performance standards. All development and redevelopment shall meet the following standards:
 - (a) No development or redevelopment shall be permitted within V Zones, except that existing structures may be changed or altered, provided that there is no increase in gross floor area, footprint, or intensity of use (including but not limited to increases in wastewater flow and impervious area) within the V Zone. This provision shall not be construed to include duly permitted docks and piers.
 - (b) New septic systems shall be prohibited in V Zones except to upgrade existing failed systems where such systems pose a demonstrated threat to public health, water quality, or natural resources.
 - (c) Any activity or development in a V Zone that creates an adverse effect by increasing elevation or velocity of floodwaters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. Any proposed activity shall not result in flood damage due to filling which causes lateral displacement of floodwaters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rests with the applicant and shall require certification by a professional engineer.
 - (d) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member two feet above the BFE in V Zones and one foot above BFE in A Zones. For all new construction and substantial improvements within the V Zones, the space below the lowest floor must either be free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

F. Craigville Beach Neighborhood.

- (1) Permitted principal uses. The following principal uses are permitted in the Craigville Beach Neighborhood Overlay area subject to the performance standards listed below.
 - (a) Single-family residence.
 - (b) Small-scale food service.
 - (c) Beach club.
 - (d) Cottage colony.
 - (e) Hotel or motel in existence as of July 16, 2008, that is lawfully established.
- (2) Permitted accessory uses. Customary and incidental uses and structures are permitted in the Craigville Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in § 240-131.7D.
- (3) Neighborhood performance standards. All development and redevelopment shall meet the following standards:
 - (a) No development or redevelopment shall be permitted within V Zones, except that existing structures may be changed or altered, provided there is no increase in gross floor area, footprint, or intensity of use (including but not limited to increases in wastewater flow and impervious area) within the V Zone.
 - (b) New septic systems shall be prohibited in V Zones except to upgrade existing failed systems where such systems pose a demonstrated threat to public health, water quality, or natural resources.
 - (c) Any activity or development in a V Zone that creates an adverse effect by increasing elevation or velocity of floodwaters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of floodwaters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rests with the applicant and shall require certification by a professional engineer.
 - (d) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member two feet above the BFE in V Zones and one foot above BFE in A Zones. For all new construction and substantial improvements within the V Zones, the space below the lowest floor must either be free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or

insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) Beach club design guidelines.

- (a) Purpose: to maintain public views to the water and to maintain the neighborhood's existing character with small-scale building masses and natural or traditional building materials.
- (b) Building height and massing. New construction on beach club properties shall have modest massings to relate to the small scale of most structures in the beachfront neighborhood. Any structure with a footprint of 3,000 square feet or more shall incorporate significant changes in massing to break up the facade and should integrate one-story massings into the design to relate the building to the surrounding smaller structures.
- (c) Building orientation. Buildings shall be oriented with the narrow end facing the street and the water to maximize public views of the water across the site. New buildings or complexes should not extend over more than 150 feet of the lot frontage, and efforts should be made to limit the expansion of existing buildings.
- (d) Maintaining views to water. Multiple buildings on one lot should be clustered close together to limit obstructed views of the water, or shall be separated from each other by 100 feet or more of road frontage to allow broad unobstructed views across the lot to the water.
- (e) Fences. Fences shall be of open construction and low profile (such as split rail and low picket fencing) to maintain public views to the water. Fences over three feet in height should be limited to screening loading and delivery areas adjacent to buildings, or modest trash collection areas. Screening fences should not extend farther than necessary beyond the building footprint to maintain public views.
- (f) Building materials. Exterior building materials shall be those traditionally used in the region or other naturally weathering materials, such as wood shingle, wood clapboard, or board and batten siding.

G. Centerville River North Bank Neighborhood.

- (1) Permitted principal uses. The following principal uses are permitted in the Centerville River North Bank Neighborhood Overlay area subject to the performance standards listed below:
 - (a) Single-family residence.

- (2) Permitted accessory uses. Customary and incidental uses and structures are permitted in the Centerville River North Neighborhood Overlay area subject to the use limitations and performance standards listed in § 240-131.7D.
- (3) Neighborhood performance standards. All development and redevelopment shall meet the following standards:
 - (a) Tree removal or vista pruning shall not interrupt the treeline as viewed from the south looking northward to the treeline.
 - (b) No development or redevelopment shall be permitted within V Zones, except that existing structures may be changed or altered, provided that there is no increase in gross floor area, footprint, or intensity of use (including but not limited to increases in wastewater flow and impervious area) within the V Zone.
 - (c) Any activity or development in a V Zone that creates an adverse effect by increasing elevation or velocity of floodwaters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of floodwaters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rests with the applicant and shall require certification by a professional engineer.
 - (d) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member two feet above the BFE in V Zones and one foot above BFE in A Zones. For all new construction and substantial improvements within the V Zones, the space below the lowest floor must either be free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

H. Craigville Village Neighborhood.

- (1) Permitted principal uses. The following principal uses are permitted in the Craigville Village Neighborhood Overlay area subject to the performance standards listed below.
 - (a) Single-family residence.
 - (b) Conference center.

- (2) Permitted accessory uses. Customary and incidental uses and structures are permitted in the Craigville Village Neighborhood Overlay area subject to the use limitations and performance standards listed in § 240-131.7D.
- (3) Neighborhood performance standards. All development and redevelopment shall meet the following design guidelines:
 - (a) Purpose. Most buildings in the Craigville Village Neighborhood date from the late 1800s and early 1900s when the neighborhood developed as a Christian Camp Meeting Association. The neighborhood is still defined by its historic structures and their configuration around a central green, small street grid, and communal paths.
 - (b) Objectives.
 - [1] To preserve the character-defining features of the original camp meeting neighborhood, including its small lots, modest-scale structures, and orientation of buildings to public areas.
 - [2] To ensure that additions and alterations to structures are compatible with the existing scale and character of the building and preserve the original massing and unique architectural features of its historic buildings.
 - (c) Application. The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of §§ 240-131 through 240-131.8, but shall apply to all new development, to any additions to existing structures, and to all reconstruction projects except as provided for in § 240-131.4F(1)(e).
 - (d) Building design. The guidelines shall apply to construction of new structures and expansions and alterations of existing structures.
 - [1] Preserve the original massing of historic structures (pre-1945).
 - [2] Additions should be attached to secondary or less prominent facades of the building (the side or rear facades), and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.
 - [3] Work with modest massings. Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline

than the original structure to maintain the prominence of the original building, though some additions may be slightly taller than the original structure if attached to the original structure with a smaller connecting mass.

- [4] Roof forms. The roof pitch on new construction and additions should complement the roof pitch of the original historic structure and should maintain a pitch of at least six over 12.
- [5] Retain original architectural details and unique forms. Additions should be placed so as to limit the removal of distinctive architectural trim and features that are unique to the building. Additions and alterations should not interfere with character-defining features, such as open porches, steeply pitched roof forms, unique windows, and carpenter gothic trim along eaves and entries. Siding materials used on the original structure should be retained, though other regional siding materials may be appropriate on additions.

§ 240-131.8. Additional provisions. [Adopted 1-19-2011 by Ord. No. 11-01 of the Barnstable County Assembly of Delegates pursuant to Ch. 716 of the Acts of 1989 (Cape Cod Commission Act)]

- A. Other regulations. The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7, Application of district regulations; § 240-9C and D; § 240-10, Prohibited uses; § 240-34, Floodplain District; § 240-43, Accessory uses; § 240-46A and B, Home occupations; Article VI, Off-Street Parking, §§ 240-52, 240-53B through F, as delimited only in the Craigville Beach neighborhood; and sign regulations, §§ 240-59 through 240-63; Article XI, Growth Management, §§ 240-110 through 240-122; Article IX, Site Plan Review; Article XII Administration and Enforcement §§ 240-123 and 240-124; and § 240-125C, Special permit provisions, as these provisions of the Barnstable Code cited in this section may be amended from time to time. **[Amended 5-22-2014 by Order No. 2014-126]**
- B. Conflicts. Unless otherwise stated, the requirements of the Craigville Beach District shall apply to uses and structures within the Craigville Beach District. In the event of a conflict, these regulations shall apply.
- C. Severability. The provisions of §§ 240-131 through 240-131.8 are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

Chapter 801
SUBDIVISION REGULATIONS

GENERAL REFERENCES

Building construction — See Ch. 47.

Trees — See Ch. 221.

Wetlands protection — See Ch. 237.

On-site sewage disposal systems — See Ch. 360.

Wells — See Ch. 397.

Sewer connections — See Ch. 901.

ARTICLE I
Authority and Purpose

§ 801-1. Authority.

Under the authority vested in the Barnstable Planning Board, or its legally constituted successor, by § 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Barnstable. Such rules and regulations shall supersede and replace any previously adopted Subdivision Control Law Rules and Regulations; and may be amended in accordance with the provisions of § 81-Q of Chapter 41 of the General Laws.

§ 801-2. Purpose.

- A. The Subdivision Control Law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town by regulating the laying out and construction of ways in subdivisions providing access to the lots therein, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas.
- B. The powers of the Board under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for ensuring compliance with the applicable zoning ordinances; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, street lighting, and other similar municipal equipment and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions.

ARTICLE II
General Provisions

§ 801-3. Definitions and abbreviations.

For the purposes of these regulations, the following words and phrases shall have the meanings given in the following clauses, unless a contrary intention clearly appears.

AASHO — Latest revisions of Standard Specifications for Highway Materials and Methods of Sampling Testing adopted by the American Association of State Highway Officials.

ACI — Latest revisions of the Manuals of Concrete Practice published by the American Concrete Institute.

APPLICANT — Includes an owner, agent, representative, or assign so entrusted to propose and/or develop the proposed subdivision.

ASSHTO — Latest revisions of the Policy on Geometric Design of Highways and Streets by the American Association of State Highways and Transportation Officials.

ASTM — Latest revisions of Standard Specifications published by the American Society for Testing and Materials.

BOARD — The Planning Board of the Town of Barnstable.

DEFINITIVE PLAN — The plan of a subdivision as submitted (with appropriate application) to the Board for approval, to be recorded in the Registry of Deeds or filed with the Recorder of the Land Court when approved by the Board, and such plan when approved and recorded or filed. The requirements and content of the definitive plan shall be as specified hereinafter.

DEPARTMENT SPECIFICATIONS — "The Town of Barnstable, Department of Public Works, Construction Specifications" and the "Standard Specifications for Highways and Bridges of the Massachusetts Department of Public Works," as applicable, including all revisions thereto. In the case of any conflict, the Town of Barnstable Department of Public Works specifications shall govern.

ENGINEER — A professional civil engineer registered in the Commonwealth of Massachusetts.

FRONTAGE — The distance between the side boundaries of a lot, measured along the exterior line of whatever way or street serves as legal and practical access to the buildable portion of the lot.

GENERAL LAWS — The Commonwealth of Massachusetts General Laws, with all additions and amendments. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.

LAND SURVEYOR — A land surveyor registered in the Commonwealth of Massachusetts.

LOT — An area of land delineated by lot boundary lines in one ownership and not divided by a public or private way.

OWNER — As applied to real estate, the person (as hereinafter defined) holding the ultimate fee simple title to a parcel, tract or lot of land, as shown by the record in the appropriate Land Registration Office, Registry of Deeds or Registry of Probate.

PERSON — An individual, or two or more individuals or a group or association of individuals, a trust, a partnership or a corporation having common or undivided interests in a tract of land.

PLANNING BOARD ENGINEER — A registered professional engineer so designated by the Board to act as its agent in that capacity.

PRELIMINARY PLAN — A plan of a proposed subdivision or a resubdivision of land submitted for discussion and consideration by the Board prior to the preparation of a definitive plan. Requirements and contents shall be as specified hereinafter.

PRINT — A blue-line or black-line print.

ROADWAY — That portion of a way which is designed and prepared for vehicular travel.

SCENIC ROADS — As designated by the Town of Barnstable pursuant to Chapter 40, § 15C, of Massachusetts General Laws.

STREET, MAJOR — A street which, in the opinion of the Board, is being used or will be used as a thoroughfare between different portions of the Town, or which will be the principal access to a business or industrial subdivision.

STREET, SECONDARY — A street intercepting several minor streets and which, in the opinion of the Board, may carry traffic from such minor streets to a major street or community facility, including the principal access streets or principal circulation streets of residential subdivisions, and including all streets, except those designated as major streets, of a business or industrial subdivision.

STREET, MINOR A — A street which, in the opinion of the Board, is being used or will be used primarily to provide access to abutting residential lots, and which is not intended for use by through traffic.

STREET, MINOR B — A residential street which, in the opinion of the Board, may not be used for access to land as yet undeveloped, is less than 500 feet in length, is access to four or fewer single-family lots and is not a portion of a piece of land which has been subdivided into 10 or more lots within the preceding 10 years.

SUBDIVISION — The division or resubdivision of a tract of land into two or more lots; or to the process of a subdivision; or to the land or territory subdivided. The division of a tract of land into two or more lots shall not constitute a subdivision if, at the time it is made, every lot within said tract has frontage in compliance with the Zoning Ordinance,¹ on:

1. Editor's Note: See Ch. 240, Zoning.

- A. A public way which the Town Clerk certifies is maintained and used as a public way;
- B. A way shown on a plan previously approved and endorsed under the Subdivision Control Law which has been fully constructed in compliance with the Subdivision Rules and Regulations in effect at that time; or
- C. A way in existence when the Subdivision Control Law became effective which meets the standards of adequate access established by § 801-12B of these rules and regulations.

SUBDIVISION CONTROL LAW — Sections 81K through 81GG, inclusive, of Chapter 41, Massachusetts General Laws, as now in force, and any acts in amendment thereof.

UTILITIES — Sewers, surface water drains, water pipes, gas pipes, electric lines, telephone lines, fire alarm lines, cablevision lines and their respective appurtenances and other like services.

VEHICLE TRIP — A single or one-direction vehicle movement.

WAY — The full strip of land separate from adjoining lots, designated as a way or street as distinguished from the roadway.

WETLANDS — Resource areas subject to regulation under MGL Ch. 131, § 40; 310 CMR 10.00; and to Chapter 237, Wetlands Protection, of the Code of the Town of Barnstable.

§ 801-4. Definitive plan required prior to sale of lots or clearing of land.

- A. Plan requirement. No person shall make a subdivision of any land within the Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of utilities therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Board.
- B. Clearing. No clearing of vegetation or grading for the development of ways or building sites shall commence until an approved and endorsed definitive plan has been recorded and evidence of recordation returned to the Planning Board office. This shall not apply to limited clearing for the purpose of surveying. Selective removal of trees for the purpose of soil testing may be undertaken with written permission of the Planning Board.

§ 801-5. Waivers.

- A. Waiver criteria.
 - (1) As provided in § 81-R of Chapter 41, Massachusetts General Laws, the Board may waive strict compliance with these requirements when, in its judgment, such action is in the public interest and not inconsistent with the intent or purposes of the Subdivision Control

Law. In making this determination the Board shall consult with other agencies as the Board may deem necessary.

- (2) If the development is not consistent with the Subdivision Rules and Regulations, the written waivers granted thereto and the conditions of approval, the applicant shall be responsible for bringing the subdivision into compliance.
- B. Waivers from construction standards to maintain rural character.
- (1) In order to maintain the rural character of an area, the Board may grant waivers for a residential subdivision plan which is designed in keeping with the rural character of the surrounding area, based on the following findings by the Board:
 - (a) The granting of the waiver is in the best interest of the citizens of the Town.
 - (b) That the plan is well designed, and in keeping with the general design principles set forth in Article VI of these regulations.
 - (c) That there is adequate access to the lots for the uses intended thereon.
 - (d) That the plan is in keeping with the character of the surrounding area.
 - (2) In order to apply for waivers under this section, the applicant shall submit a preliminary subdivision plan to the Board.
- C. Waiver requests. Applicants seeking waivers from the requirements of the Subdivision Control Rules and Regulations of the Subdivision Control Law shall submit at the time of filing of an application for approval of a preliminary or definitive subdivision plan, a separate written request for waivers. The written request shall specify by section and paragraph the requirement(s) of the Subdivision Rules and Regulations from which waivers are requested. A waiver request shall provide a concise statement of the nature and extent of the waiver(s) requested and the reason(s) for the request. Such waiver requests are required as part of the submission procedures as outlined in §§ 801-23B and 801-24A(1) of the Barnstable Subdivision Rules and Regulations.
- D. Responsibility for maintenance. Where the Board approves waivers from these regulations pursuant to Subsection B above, the owners of all the land within the subdivision shall be responsible for the maintenance and repair of the street(s), including snow plowing. The Town will not accept a street as a public way that does not meet the construction standards contained herein. To provide notice to future landowners of responsibility for maintenance and repair, the applicant shall execute the S Form, contained in the Appendix, at the Registry of Deeds, and return the recorded document to the Planning Board office.

§ 801-6. Inspection.

All work required by these rules and regulations shall be under the inspection of and with the approval of the respective Town departments and utility companies involved hereunder. Also see § 801-61 of these rules and regulations regarding inspections by the applicant's engineer.

§ 801-7. Responsibility.

- A. Applicant's responsibility. All work performed under these rules and regulations shall be the responsibility of the owner and/or applicant.
- B. Inspection by Town. The purpose of inspection by the Town is to assure that good practices are followed in constructing the project in accordance with the designs and specifications, and not to establish these practices.
- C. Quality control. The owner shall employ a quality control program through the services of a professional engineer.

§ 801-8. Severability.

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged and the remainder of these regulations shall be deemed valid and effective.

§ 801-9. Amendments.

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board after a public hearing on its own motion or by petition.

ARTICLE III
Requirements for Submission and Approval of Plans

§ 801-10. Applicant.

- A. The applicant shall be the owner of all the land shown on the plan application, or be authorized to act upon behalf of the owner. Evidence of such authorization shall be provided to the Board with the application.
- B. The applicant shall file with the Planning Board proof of ownership of the land and, if a nonowner applicant, proof in writing of authority to act for the owner. A copy of the most recently recorded deed and the most recent real estate bill or certification of assessment to the owner from the Board of Assessors shall be submitted with all plan applications. Evidence of payment of all property taxes for each parcel shown on the plan shall also be submitted.

§ 801-11. Certification of plans.

All plans submitted to the Board shall include a certification as to their conformance with these rules and regulations and as to the validity of their content executed by a land surveyor or professional engineer, or both, as required by the Board. The Board suggests that the owner be represented at any meeting with the Board by the person responsible for the design of the subdivision and the preparation of the plans.

§ 801-12. Adequacy of access.

- A. General. No plan shall be endorsed as not requiring approval under the Subdivision Control Law, and no subdivision plan shall be approved unless each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, Chapter 41, General Laws, §§ 81-K through 81-GG.
- B. Standards of adequacy. Streets within a subdivision shall have adequate access if they comply with the standards established in Articles VI and VII of this regulation. Existing ways providing access to the streets within a subdivision, or providing access to lots said not to be within a subdivision, shall be considered to provide adequate access only if there is assurance that prior to construction on any lots, access will be in compliance with the following:

Standards of Adequacy for Existing Ways

Total No. of Dwelling Units	1-4**	5-10	11-49	50+	Business District
Minimum ROW width (feet)	33	33	40	50	60
Surface type****	3 inches bit. con.	3 inches bit. con.	4 inches bit. con.	4 inches bit. con.	4 inches bit. con.
Surface width* (feet)	***	18	22	24	24

Standards of Adequacy for Existing Ways

Total No. of Dwelling Units	1-4**	5-10	11-49	50+	Business District
Minimum sight distance (feet)	250	250	250	350	250
Maximum grade	10%	10%	8%	6%	6%

- * Over the entire width of the way, including curbing and berms, if any.
- ** No further access; see definition of a "street, minor B."
- *** For residential lots: 14 feet wide for two lots; 16 feet wide for three lots; and 18 feet wide for four lots.
- **** With adequate road base in the opinion of the Board's engineer.

- C. Obligations. The Board may require, as a condition of its approval of a subdivision plan, that the applicant dedicate or acquire and dedicate a strip of land for the purpose of widening accessways and/or intersections to land shown on a subdivision plan, and providing access to that subdivision, to a width as required above, and that the applicant either make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.
- D. Access roads. The Planning Board may require that ways in a proposed subdivision be connected to more than one access road adjoining the subdivision, depending on the existing or proposed road network, the topography and the size of the subdivision.
- E. Conditions. In any case in which the Board deems ways are not adequate, it may approve a subdivision plan with conditions limiting the lots upon which buildings may be erected and the number of buildings that may be erected on particular lots without further consent by the Board to the access provided and in each case such conditions shall be endorsed on the plan to which they relate.
- F. Access over road frontage.
 - (1) Access to a lot created by an approval not required plan or by a subdivision plan shall be from the frontage that meets the legal requirements of the Zoning Ordinance,³ unless otherwise authorized by the Planning Board and so notated on the plan.
 - (2) Where such frontage and access is located along a private way, the applicant shall submit evidence to the Board, satisfactory to the Board, that the applicant has right of access over the private way.

§ 801-13. Sight distances at road intersections.

3. Editor's Note: See Ch. 240, Zoning.

- A. Sight distances at road intersections shall be measured at an eye height of 3.5 feet and an object height of 4.25 feet above the pavement, from the center of the right lane, at the intersection with the pavement of the existing street.
- B. Site distances shall be measured according to posted speeds as follows:

Posted Speed on Existing Road	Required Site Distance
(mph)	(feet)
30	350
35	415
40	475
45	540
50	600

- C. Where speeds are not posted, the following standards shall apply:

Area Description	Design Speed	Required Site Distance
	(mph)	(feet)
Thickly settled and/or buildings less than 200 feet apart	30	350
Outside a thickly settled or business district	40	475
On a highway outside a thickly settled or business district	50	600

§ 801-14. Boundaries of wetlands.

The applicant shall flag the boundaries of any wetlands within a subdivision. The flagged boundary shall be delineated on the plan.

§ 801-15. Tree map.⁴

In special instances where subdivision construction could result in excessive removal of large trees, the Planning Board may require a tree map showing the size, species and location of all trees over six inches in diameter.

§ 801-16. Submission requirements for all plans.

- A. Plans shall not be deemed to have been submitted until all the requirements of these regulations regarding form, content and procedure have been met.

4. Editor's Note: See Ch. 221, Trees.

- B. The applicant shall endeavor to ensure that a completed application is made at the time of submission, in order to allow the staff and the public opportunity to review the application in its entirety, prior to the public hearing. The Planning Board may deny incomplete applications and plans that do not meet the requirements of these regulations.
- C. Where the Board finds at a duly noticed public meeting that the application is incomplete, the Board may deny approval of the application as the first order of business at the public hearing, without a grant of leave to amend.

§ 801-17. Submission procedure.

One copy of the application for plan approval or endorsement shall be submitted to the Planning Board. Notice of the application shall be submitted to the Town Clerk by delivery or registered mail.

§ 801-18. Environmental analysis form.

- A. When required. The applicant shall submit an environmental analysis (EA) on the EA Form ⁵ for any subdivision which:
 - (1) Provides access to 10 or more dwelling units; and/or
 - (2) Provides access to four or more acres of nonresidentially zoned land; and/or
 - (3) Is a multifamily or nonresidential subdivision with access to or located within 500 feet of Route 132, Route 28 or Route 6A.
 - (4) If the Board determines it appropriate in light of special circumstances, based upon recommendations from the Planning Department and/or the Department of Public Works.
- B. Waivers from the environmental analysis (EA). Based upon recommendation(s) from the Planning Department and the Department of Public Works, Engineering Division, the Planning Board may waive any or all sections of the EA upon receipt of a written request by the applicant. It is strongly recommended that the applicant seek the determination prior to the submission of any plans.
- C. Submission. It is recommended that the EA Form be submitted providing appropriate detail with the preliminary plan in order to avoid errors or extra commitments which waste valuable time and resources. The completed form shall be filed with the definitive plan or a waiver obtained. Questions should be directed to the Planning Department.
- D. Mitigation of impacts. Subdivisions plans shall be designed so as to mitigate impacts upon natural resources and the Town's infrastructure.

5. Editor's Note: Form EA is included at the end of this chapter.

ARTICLE IV
Approval Not Required Plans

§ 801-19. Applicant procedure.

- A. Anyone who seeks endorsement that a plan does not require approval under the Subdivision Control Law shall submit the following to the Planning Board office:
- (1) The original drawing, at a scale of one inch equals 20 feet or other suitable scale acceptable to the Board, and eight prints.
 - (2) Title block containing Fire District and location, the owner(s) and applicant(s) name(s), date, scale, bar scale.
 - (3) The name and address of the firm responsible for the plan; an original seal on the original plan and all full-size copies, with signature and date provided by the responsible professional, registered land surveyor. Revisions shall be clearly noted near the title block with reference number, date, description and initials of the person responsible for the revisions.
 - (4) Ten copies of the overall plan at a reduced scale of one inch equals 100 feet, or other suitable scale for distribution.
 - (5) A properly executed Form A and Form A Checklist, date stamped by the Town Clerk. ⁶
 - (6) The filing fee.
 - (7) A compatible electronic file of the plan shall be submitted in accordance with the file format and coordinate system specifications listed in Appendix A for accurately inputting plan information into the Town's geographic information system.
 - (8) A copy of the most recently recorded deed and a copy of the most recent tax bill.
 - (9) Evidence that all property taxes have been paid on each parcel shown on the plan.
 - (10) If the applicant is not the owner, evidence of authorization to apply on behalf of the owner.
 - (11) Evidence of right of access over a private way that provides access and frontage.
- B. Notice of application to the Planning Board shall be filed by delivery, registered or certified mail, to the Town Clerk. The plan shall not be deemed to have been submitted until all the requirements of these regulations regarding the form, contents and procedure have been met.

6. Editor's Note: Form A and the Form A Checklist are included at the end of this chapter.

- C. The Planning Board may deny incomplete applications and/or plans that do not meet requirements of these regulations.

§ 801-20. Plan contents.

Plan sheets shall be 24 inches wide and 36 inches long with a three-fourths-inch border and contain the following information:

- A. A key map at a scale of one inch equals 2,000 feet, and beneath the locus, the Assessor's map and parcel number, the zoning district, any zoning overlay district, the minimum lot size, frontage, yard and width requirements.
- B. A North arrow.
- C. The present owner of the land and any remaining adjoining land owned by the present owner or by the authorized applicant. The frontage of any remaining adjoining land.
- D. The location of any existing building on the land shown on the plan, including setback and side or rear yard distances and street address.
- E. The location and width of any street easement or way, its legal status, name (if any), the width of the traveled way and the nature of its surface. The legal status of a way shall be as determined by the Town Clerk and/or Town Engineer.
- F. Wetlands shall be shown on any buildable lot.
- G. The size of each lot shall be shown in square feet and acres and on lots which are to be separate building lots; lot shape factor calculations shall be shown. Lots which are created for conveyance purposes and which are not separate building lots shall be so noted on the plan.
- H. The plan shall contain a note: "No determination as to compliance with the Zoning Ordinance requirements has been made or intended by the above endorsement."
- I. The plan shall contain a certification clause signed by the preparer that the plan conforms to the requirements of the Registry of Deeds or the Land Court.
- J. Except for a plan to be registered with the Land Court, the plan shall contain a three-and-one-half-inch square labeled "FOR REGISTRY USE."
- K. The words "Barnstable Planning Board Approval under the Subdivision Control Law Not Required" and suitable space for the Planning Board's signature and date.
- L. Property corners shall be tied into the Massachusetts Plane Coordinate System when required by the Town of Barnstable Engineering Division of the DPW.

§ 801-21. Board actions.

The Board shall, within 21 days from the date of submission, at a meeting, either endorse the plan as one not requiring its approval under the Subdivision Control Law, or find that said plan requires the Board's approval as a subdivision. The Town Clerk shall be notified of the Board's decision in writing. If the Board determines that the plan requires its approval as a subdivision, the applicant shall be notified by certified mail.

ARTICLE V
Subdivision Plans

§ 801-22. Informal review of subdivision plans.

Before submitting a preliminary or definitive plan, the applicant is encouraged to submit a sketch plan to the Barnstable Planning Department for an informal staff review before formal application is made. This step does not require a formal application, fee or filing of a plan with the Planning Board.

§ 801-23. Preliminary plan.

- A. General provisions. The purpose of the submission of a preliminary plan will be to enable the applicant, the Board and other municipal agencies to discuss and clarify the problems of such subdivision before a definitive plan is prepared. In the case of a subdivision showing lots in a residential zone, any person, before submitting a definitive plan for approval, may submit a preliminary plan to the Planning Board and to the Board of Health. In the case of a nonresidential subdivision, any person before submitting a definitive plan for approval shall submit a preliminary plan to the Planning Board and the Board of Health. Prior to submitting a plan, the applicant shall contact the Planning Board office and shall be assigned a subdivision number which shall appear on the plan. During discussions of the preliminary plan, information required for the definitive plan will be developed.
- B. Submission procedure.
- (1) The following materials shall be submitted to the Planning Board office:
- (a) One copy of the properly executed Form B and Form B Checklist.⁷
 - (b) Copy of the most recently recorded deed and tax bill for each parcel of land. Evidence of payment of all taxes.
 - (c) Written authorization to submit the application on behalf of the owner, if the applicant is not the owner of all the land shown on the Subdivision Plan.
 - (d) The required filing fee.
 - (e) Eight prints of the preliminary plan.
 - (f) Ten copies of the plan at a reduced scale of one inch equals 100 feet, or other suitable scale for distribution.
 - (g) If the applicant proposes to seek a waiver of strict compliance with these rules and regulations, a written general description

7. **Editor's Note: Form B and the Form B Checklist are included at the end of this chapter.**

of such waiver request(s) shall be submitted with the preliminary plan in accordance with § 801-5.

- (h) It is recommended that nine copies of the completed Environmental Analysis Form be submitted with the preliminary plan, if required, or a waiver requested.
 - (2) The preliminary plan shall not be deemed to have been submitted to the Board until the application, checklist, plans and filing fee have been delivered to the Planning Board and are fully completed in accordance with these rules and regulations. The Planning Board may deny plans that are incomplete and/or do not meet the submission requirements of these regulations.
 - (3) The applicant shall file by delivery or registered mail a copy of the completed application Form B with the Town Clerk stating the date of submission of the preliminary plan to the Planning Board.
- C. Contents of plan. The preliminary plan shall be submitted on tracing paper or a print thereof, and shall be drawn at a suitable scale. The plans shall show the following:
- (1) The subdivision name and number, North arrow, and the words "preliminary plan."
 - (2) A key map shall be included on the preliminary plan showing the locus of the property with adjacent streets sufficient to determine the actual location of the subdivision, at a scale of one inch equals 2,000 feet.
 - (3) A title block containing Fire District and location, the owner(s) and applicant(s) name(s), date, scale, bar scale.
 - (4) The name and address of the firm responsible for the plan; an original seal on the original plan and all full-size copies, with signature and date provided by the responsible professional engineer and/or registered land surveyor. Revisions shall be clearly noted near the title block with reference number, date, description and initials of the person responsible for the revisions.
 - (5) The Assessor's map and parcel number(s), zoning district(s) and zoning overlay district(s), zoning area, frontage, yard and width requirements. The total area of the subdivision shall be located directly below the key map.
 - (6) The boundaries of the subdivision and intersection of adjoining property lines with the names of all abutters as they appear on the most recent tax list.
 - (7) The existing and proposed lines of streets, ways, and their classification as a major, secondary, minor A or B street, easements, and any public areas, within or adjacent to the subdivision; with ownership status and existing pavement, if any, designated for

abutting ways. The legal status of a way shall be as determined by the Town Engineer and/or Town Clerk.

- (8) The top and toe of proposed slopes adjacent to the roadways.
- (9) Sight distances at intersections of subdivision roads with existing streets. Sight distances shall be measured in accordance with § 801-13.
- (10) The approximate boundary lines of lots with approximate areas and divisions; the approximate area of wetlands on each parcel. Lots shall be numbered consecutively.
- (11) The proposed and existing system of drainage, including adjacent existing natural waterways, in a general manner.
- (12) The topography of the land shown by contours. If survey information on topography is not available at the preliminary plan stage, topographic information shall be utilized from the Town's Information Technology Department, GIS Division, indicating contours at two-foot intervals.
- (13) Significant site features including:
 - (a) Wetlands, water bodies, flood zone boundaries, kettle holes and natural drainage patterns; and/or
 - (b) Existing building structures and stone walls.
- (14) Wetlands and water bodies within 200 feet of the perimeter of the subdivision.
- (15) Slopes in excess of 10%.
- (16) Existing water mains, sewers and utilities adjoining and within the subdivision. The location of any existing utility poles in or adjacent to the subdivision.
- (17) A plan showing in a general manner the proposed overall development of all contiguous land, if any, in the same ownership.
- (18) Location of the proposed subdivision with regard to:
 - (a) Historical District or other designation as an historically significant property.⁸
 - (b) Flood areas as depicted on the special FIA Flood Insurance Rate Maps.
 - (c) Areas of critical environmental concern as designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs.

8. Editor's Note: See Ch. 112, Historic Properties.

- (d) Designated scenic roads.
 - (e) Districts of Critical Planning Concern as designated by the Cape Cod Commission.
 - (f) Location within a critical habitat as designated by the 1990 APCC publication "Cape Cod Critical Habitats Atlas."
- D. Board actions. The Board shall, within 45 days after submission give such preliminary plan its approval with or without modification, or shall disapprove such plan stating its reasons. The applicant shall be notified by certified mail of the Board's decision and any conditions of approval. The Town Clerk shall be notified of the Board's decision in writing.

§ 801-24. Definitive plan.

A. General provisions.

- (1) Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file the following:
 - (a) With the Planning Board:
 - [1] An original drawing of the definitive plan and street plans and profiles and eight contact prints thereof. The original drawings will be returned after approval or disapproval;
 - [2] Ten copies of the plan at a reduced scale of one inch equals 100 feet or other scale suitable for distribution.
 - [3] A compatible electronic file of the plan shall be submitted in accordance with the file format and coordinate system specifications listed in Appendix A for accurately inputting plan information into the Town's geographic information system.
 - [4] One copy of properly executed Application Form C and the Form C Checklist;⁹
 - [5] A copy of the most recently recorded deed and tax bill for each parcel of land within the subdivision, unless submitted with a preliminary plan application, and there has been no change in ownership since that submission; evidence that taxes have been paid on all lots;
 - [6] A copy of a purchase and sales agreement or other evidence of authorization to apply on behalf of the owner(s) of all of the land shown on the plan, unless submitted with the preliminary plan;

9. Editor's Note: Form C and Form C Checklist are included at the end of this chapter.

- [7] Evidence of right of access from a private way that provides frontage and access to any lot shown on the subdivision plan;
- [8] The filing fee;
- [9] Where no preliminary plan has been submitted, the applicant shall contact the Planning Board Office and shall be assigned a subdivision number which shall appear on the plan;
- [10] A list of all abutters to the subdivision as shown on the definitive plan, together with the address of each as determined from the most recent tax list;
- [11] If the applicant seeks a waiver of strict compliance with these rules and regulations, a written description of such waiver requests as specified in § 801-5 shall be submitted together with the definitive plan;
- [12] The location of all soil test sites and a description of the soil depths, percolation rate, and composition and type of soil for each lot and any open space in the subdivision;
- [13] Boring logs and soil classifications performed by a registered professional engineer shall be taken at intervals sufficient to adequately map soil types and groundwater elevations. In general, borings will be required at the location of each manhole, catch basin, leaching system, retention basin, detention basin, and every 250 feet along the roadway unless otherwise approved by the Board's engineer. Depth to groundwater shall be recorded if encountered;
- [14] Two copies of calculations for the determination of all waterway openings to justify culvert and drain sizes as required by § 801-27C. Such calculations shall be prepared by a registered professional engineer;
- [15] A copy of all the drainage calculations;
- [16] Nine copies of the environmental analysis report, when required;
- [17] Engineer's report outlining projected maintenance needed for the subdivision roads and drainage system over the next 20 years;
- [18] A tree map in accordance with § 801-15; and
- [19] Report from the Cape Cod Commission, if any.

- (b) With the Town Clerk: The applicant shall file, by delivery or registered mail, a notice stating the date of submission to the Planning Board.
 - (c) With the Board of Health: four copies of all the plans and a copy of Application Form C.
 - (d) With the appropriate Fire Department and public water supply office, if any, one copy of all the plans and a copy of Application Form C.
- (2) The definitive plan shall not be deemed to have been submitted to the Board until the application, filing fee, and other information required under Article III, together with the definitive plan and prints, have been submitted and are fully complete in accordance with these rules and regulations. The Board may deny approval of plan applications that are incomplete and/or do not meet the submission requirements of these regulations.
- B. Contents of plan. The definitive plan and street plans and profiles shall be prepared by a registered professional civil engineer and a registered land surveyor. The plan shall be drawn to a scale of one inch equals 40 feet unless an alternative scale is approved by the Planning Board's engineer. The definitive plan shall meet the requirements of the Registry of Deeds or Land Court as applicable depending upon the method of recording. Plans shall also conform to the regulations of the Board of Professional Engineers and Land Surveyors, 250 CMR and its latest revisions thereto. Sheet size shall not exceed 24 inches by 36 inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision.
- (1) Sheet(s) A. The definitive plan shall show the following:
- (a) The subdivision name and number, North arrow, legend, Fire District and location, the owner(s) and applicant(s) name(s), date, scale, bar scale and the words "definitive plan."
 - (b) A key map with adjacent streets sufficient to determine the actual location of the subdivision, at a scale of one inch equals 2,000 feet. The Assessor's map and parcel number(s), total gross area of the subdivision and any wetlands, zoning district(s), zoning overlay district(s), zoning area, width, yard and frontage requirements, shall be located directly below the key map.
 - (c) Title block containing the name and address of the firm responsible for the plan; an original seal on the original plan and all full-size copies, with signature and date provided by the responsible professional engineer and/or registered land surveyor. Revisions shall be clearly noted near the title block with reference number, date, description and initials of the person responsible for the revisions.

- (d) The boundaries of the subdivision and intersection of adjoining property lines with the names of all abutters as they appear on the most recent tax list.
 - (e) Any zoning district, zoning overlay GP and WP Districts, or Fire District lines which pass through the property.
 - (f) Existing and proposed lines of streets and their classification as a major, secondary, minor A or B street, ways, lots, easements and public or common areas within the subdivision with ownership status and existing pavement, if any. The proposed names of proposed streets shall be shown in pencil until they have been approved by the Board's engineer.
 - (g) Sufficient data to determine readily the location, direction, and length of every street and way line, easements, lot line and boundary line, and to establish those lines on the ground.
 - (h) Location of all permanent monuments properly identified as to whether existing or proposed.
 - (i) The location of any existing buildings and stone walls.
 - (j) The location of wetlands and surface water bodies.
 - (k) Area of each lot in acres and square feet; net area of wetlands within each lot or parcel, in square feet; lot shape factor calculations noted on each lot.
 - (l) Plans to be approved with a covenant shall contain the following note: "Approval of this plan subject to compliance with covenant to be recorded herewith."
 - (m) Suitable space to record the action of the Board and the Town Clerk's certification of no appeal.
- (2) Sheet B. Separate reproducible copies of the definitive plan shall show the following:
- (a) Beneath the key map, the total number of linear feet, measured along the center line, for each street proposed on the plan. The gross area of roads and culs-de-sac in square feet and acres.
 - (b) Lot numbers and street numbers, if issued by the Town Engineer, enclosed in a square.
 - (c) The coordinates of all property corners, lot corners, and street line changes in direction. Coordinates shall be tied into the Massachusetts Plane Coordinate System where required by the Town of Barnstable Engineering Division of the DPW.
- (3) Sheet C. A separate reproducible copy of the definitive plan shall show the following:

- (a) Location, names, legal status, right-of-way widths and pavement widths of streets bounding, approaching or within reasonable proximity of the subdivision. Legal status of streets shall be as certified by the Town Clerk.
- (b) The top and toe of proposed slopes adjacent to the proposed roadway.
- (c) Slopes in excess of 10% and soils classified as having severe slope characteristics for building site development by the USDA, Soil Conservation Service, latest Soil Survey Report for Barnstable County.
- (d) Road center-line stationing, referenced to the street plans and profiles. Zero point for center-line stationing shall be the intersection of center lines.
- (e) Topography shall be shown by contour lines at a maximum interval of two feet. Existing contours shall be shown as dashed lines and proposed final contours as solid lines. Contours shall extend beyond the boundaries of the property a sufficient distance to indicate the effect of the subdivision on abutting property. A minimum of two benchmarks shall be indicated on the plan.
- (f) Sight distances at intersections of subdivision roads with existing streets. Sight distances shall be measured in accordance with § 801-13.
- (g) The complete drainage system including preexisting drainage patterns, proposed drainage components and the delineation of all watersheds including water entering and leaving the site.
- (h) Erosion and sediment control plan including temporary drainage facilities for use during construction.
- (i) Wetlands and surface water bodies within 200 feet of the perimeter of the subdivision.
- (j) Existing water mains, utilities and sewers adjoining and within the subdivision. The location of any existing utility poles in or adjacent to the subdivision.
- (k) Location of the proposed subdivision with regard to a:
 - [1] Historic District or other designation as an historically significant property.
 - [2] Flood areas as depicted on the special FIA Flood Insurance Rate Maps.

- [3] Areas of critical environmental concern (ACEC) as designated by the Commonwealth of Massachusetts, Executive Office of Environmental Affairs.
 - [4] Designated scenic roads.
 - [5] District of Critical Planning Concern as designated by the Cape Cod Commission.
 - [6] Location within a critical habitat as designated by the 1990 APCC publication "Cape Cod Critical Habitats Atlas."
- (4) Sheet D. A sketch plan showing the approximate layout of streets of any remaining adjoining land owned by the applicant or purchaser of the land, unless a subdivision plan of the remaining land has been filed with the Board.
- C. Road plans, profiles and cross sections. Two copies of separate plan and profiles of every street shall be submitted showing the following data:
- (1) A horizontal scale of one inch equals 40 feet. A vertical scale of one inch equals four feet.
 - (2) Existing center-line profile to be shown as alternating dotted and dashed black line. Existing center-line profile for intersecting streets to be shown for at least 100 feet each side of the intersection of street center lines. Zero point for center-line stationing shall be the intersection of center lines.
 - (3) Finished, designed profile to be full black line, with elevations shown every 50 feet, except where there is a vertical curve, the elevations shall be shown every 25 feet.
 - (4) Elevations referred to mean sea level datum as established by the U.S. Coast and Geodetic Survey.
 - (5) Plan, profile and cross section of proposed system of drainage including swales, retention basins, catch basins, manholes, and proposed inverts and pipe sizes. The location and dimensions of drainage easements and limits of any surface water body or wetland, and the height of groundwater, corrected to maximum elevation using the Frimpter correction method.
 - (6) All existing walks and driveways.
 - (7) Rates of gradient shown by figures for roadways and drainage.
 - (8) Location of existing and proposed gas, water, sewer, electric, telephone, cable and other utilities, in and adjacent to the subdivision, including utility poles; any conflict between existing utilities and proposed construction shall be shown. Utilities shall be shown in schematic fashion after consultation between the applicant and the utility company involved. Final plans of utilities

shall be submitted for approval to the Board's engineer prior to construction.

- (9) Two bench marks for each street.
 - (10) Cross sections of roadway at fifty-foot intervals. Cross sections shall show existing and proposed grades including top and toe of slopes, pavement thickness, pavement width, existing and proposed utilities and gravel base and proposed drainage.
 - (11) Spot elevations on gutters and center lines of corner roundings at street intersections and at culs-de-sac.
 - (12) Location and type of proposed traffic signage and markings designed in accordance with the manual on Uniform Traffic Control Devices by the Federal Highway Administration and state laws.
- D. Review by Board of Health as to suitability of land.
- (1) When a definitive plan of a subdivision is submitted to the Planning Board four copies thereof shall also be filed with the Board of Health. Such Health Board or officer shall report to the Planning Board in writing approval or disapproval of said plan, and in the event of disapproval shall make certain findings as to which, if any, of the lots shown within the subdivision cannot be used for building sites without injury to the public health, and include such specific findings and reasons therefor in such report, and, where possible, shall make recommendations for the adjustment thereof; provided, however, that if a municipal sewerage system will service the proposed subdivision, then failure of the Board to make such a report within 45 days after the plan is filed with their office shall be deemed approval by such Board or officer. Such Health Board or Officer shall send a copy of such report, if any, to the person who submitted such plan.
 - (2) Any lot so located that it cannot be served by a connection to a municipal sewer system shall be provided with on-site sewage disposal facilities satisfactory to the Board of Health and the Planning Board.¹⁰
- E. Review by other officials. Before approval of the definitive plan is given, the applicant shall provide certification that the proposed improvements shown on said plan are laid out to the satisfaction of the official and for the facilities listed below:
- (1) The Department of Public Works as to the design of the street system according to classification as a major, secondary, minor A or B street, location of easements, and design of the drainage system including appurtenances.

10. Editor's Note: See Ch. 360, On-Site Sewage Disposal Systems.

- (2) The Chief of the Fire Department as to the location of the hydrants and the layout of the fire alarm system, including location of boxes, if any, and to the adequacy of access for emergency vehicles into the proposed subdivision.
 - (3) The Tree Warden as to the location, size and species of street trees.
 - (4) The Department of Public Works as to the requirements for provision for connections to the sewer system, if available, and if required, the layout and design of the necessary connecting mains, laterals, manholes and stubs for such system.
 - (5) The manager of the water supplier as to the requirements and schematic location of the proposed water supply system.
 - (6) The manager of the electric company as to the requirements for electrical service and schematic location of the electrical services.
 - (7) The gas company as to the schematic location for the gas service.
 - (8) The telephone company as to the schematic location of the telephone lines.
 - (9) The cablevision company as to the schematic location of the cable vision lines.
 - (10) The Police Chief.
 - (11) The Superintendent of Schools.
 - (12) The Conservation Commission.
 - (13) Such other departments or officials deemed necessary.
- F. Public hearing. Before approval of the definitive plan is given, a public hearing shall be held by the Board at the time and place designated by the Board. Notice of the hearing shall be given by the Board in accordance with MGL Ch. 41, the Subdivision Control Law. A copy of said notice will be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list.
- G. Payment of taxes. All property taxes, for all parcels subject to the subdivision plan, shall be paid in full prior to approval of a definitive plan.
- H. Approval, modification or disapproval.
- (1) When a preliminary plan has been submitted and acted upon or when 45 days have elapsed since the submission of a preliminary plan, the Planning Board shall take final action, after a public hearing, within 90 days of submission of the completed definitive plan application.

- (2) When no preliminary plan has been submitted, the Planning Board shall take final action, after a public hearing, within 135 days of submission of the completed definitive plan application.
- (3) Upon receipt of a written request from the applicant, the time period for action upon a definitive plan may be extended. Notice of such extension of time shall be filed with the Town Clerk.
- (4) The Planning Board may vote to approve, approve with conditions, or disapprove such plan. If the Board disapproves a plan, it shall state in detail wherein the plan does not conform to the rules and regulations of the Planning Board, or the recommendations of the Board of Health, and shall so notify the applicant.

I. Development agreement.

- (1) Prior to the Planning Board's endorsement of approval of the subdivision plan, the applicant and the Planning Board shall enter into a development agreement by the Form Development Agreements in the Appendix, together with Exhibits 1 and 2, as required.¹¹
- (2) Exhibit 1, Conditions of Approval: Exhibit 1 shall contain all the Planning Board's conditions of approval of the subdivision plan and special permit for an open space subdivision, if any. Exhibit 1 shall be attached to and made a part of the development agreement, when applicable.
- (3) Exhibit 2, Grant of Waivers: In the event that a definitive subdivision plan of land is approved with waivers from the Subdivision Control Rules and Regulations, the applicant, as a condition of approval of the plan, shall submit a completed form, Exhibit 2, Grant of Waiver(s); Exhibit 2 shall be attached thereto and made a part thereof the development agreement. The Town of Barnstable Planning Board shall be named as the grantor and the owner(s) of the land shown on the subdivision plan shall be designated as the grantees. The grant shall specify the sections and paragraphs of the Subdivision Rules and Regulations being waived, and for each waiver being granted must contain a concise description of the nature and extent of such waiver. The grant of waivers shall also contain the following sentence: " The waivers that are specifically described herein are the only waivers that are acknowledged and approved by the Barnstable Planning Board on the date of endorsement of the above-referenced definitive subdivision plan".
- (4) The Planning Board shall vote to sign the fully completed development agreement together with Exhibits 1 and 2 at a duly advertised meeting of the Planning Board.

11. Editor's Note: The Development Agreements Form, with Exhibits 1 and 2, is included at the end of this chapter.

- (5) The development agreement shall be in full force and effect for 20 years from the date of execution of the agreement, or until the Planning Board finds that the subdivision is complete and fully executes Form M, the Certificate of Completion.¹²

J. Performance guarantee.

- (1) Recordation deposit. Prior to the Planning Board's endorsement of approval, the applicant shall deposit with the Planning Board a bond, cash or other negotiable security satisfactory to the Planning Board for \$1,000. This deposit will be refunded upon receipt of a copy of all recorded documents required in Subsection L below.

- (2) Security to ensure the completion of the subdivision. The Planning Board shall require, prior to endorsement of its approval of a definitive plan, that the construction of ways and the installation of utilities as outlined and specified in Articles VI and VII be secured by one, or in part by one and in part by the other, of the following methods which may from time to time be varied by the applicant:

(a) By a covenant.

[1] The applicant shall file a covenant on Form F,¹³ running with the land, whereby such improvements as shown on the definitive plan and as specified in Articles VI and VII and not covered by bond or other security under Subsection J(2)(b) below shall be provided to serve any lot before such lot may be built upon or conveyed, except as specified by Chapter 41, § 81U, of Massachusetts General Laws.

[2] The applicant shall submit to the Planning Board the fully executed covenant, prepared on Form F and attached thereto and made a part thereof the development agreement.

[3] Prior to the Board's approval of the covenant, the applicant's engineer or land surveyor shall place the following note on the plan: "Approval of this plan is subject to compliance with covenant to be recorded herewith."

[4] The Building Commissioner shall not issue any permit for the construction of a building, or a foundation for a building on any lot within a subdivision, without an authorized signature from the office of the Planning Board that the lot(s) are not subject to a covenant.

(b) By bonds, deposit of money or negotiable securities.

12. Editor's Note: Form M is included at the end of this chapter.

13. Editor's Note: Form F is included at the end of this chapter.

- [1] The applicant shall either file a proper bond or a deposit of money or negotiable securities in an amount determined by the Board, based upon the recommendation of the Board's engineer, sufficient to cover the cost of all the requirements of the Subdivision Rules and Regulations, in accordance with the decision of the Planning Board, and as specified under Articles VI and VII, and not covered under the covenant under Subsection J(2)(a) above. The amount of the bond or other security shall also include an amount sufficient to cover inflation, and administrative and engineering costs if the Board determines it necessary for the Town to complete the subdivision. The applicant shall complete Form O ¹⁴ and submit to the Board attached thereto and made a part thereof the development agreement.
- [2] Such bond or security, if filed or deposited, shall be approved as to form by the Town Attorney, and as to surety by the Town Treasurer, and shall be contingent on the completion of such improvements within 12 months of the date of the bond or surety.
- (3) At the discretion of the Board, a time extension for completion of the subdivision may be granted for a period not to exceed 12 months, provided that such an extension may be conditioned upon an increase in the amount of such bond or security as determined by the Board; and provided that a new bond or other security is filed with the Planning Board 30 days before any date of expiration. A request for a time extension of the bond or other security shall be accompanied by a written statement from the applicant's engineer describing the degree of completion of the improvements and the measures that have been taken to prevent soil and slope erosion and to protect drainage structures from sediments.
- (4) It shall be the responsibility of the applicant to maintain adequate security at all times, as determined by the Board, to ensure the completion of the subdivision. If at any time security fails, any unsold lots shall be considered to be under covenant, not to be conveyed or built upon; and the Town shall not issue building permits for such lots in the subdivision. The applicant shall forthwith forward to the Planning Board alternative security acceptable to the Planning Board.
- (5) Prior to the issuance of an occupancy permit, the road providing access to the proposed structure shall be paved with, at a minimum, a binder course of Class 1 bituminous concrete satisfactory to the Town Engineer, and a hydrant shall be in working condition satisfactory to the Fire Chief, within 500 feet of the proposed structure.

- (6) The applicant shall furnish the Planning Board with an itemized breakdown of the estimated construction costs at the time he requests the setting of the security amount and when he requests a reduction in security.
- K. Certificate of approval. The action of the Board in respect to said plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by registered mail to the applicant. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by Board members, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. In any case, approval of the definitive plan shall not constitute the laying out or acceptance by the Town of any ways within a subdivision.
- L. Recording of plan and documents.
 - (1) After the return to the applicant of the definitive plan, as approved and endorsed, the applicant shall cause to be recorded at the Barnstable Registry of Deeds and in the case of registered land, with the recorder of the Land Court, said plan with the following documents listed below, and shall pay all fees and costs related to the registry of the plan and documents:
 - (a) The fully executed development agreement, together with the following documents as required:
 - [1] Exhibit 1 of Development Agreement, Conditions of Approval of the Subdivision Plan and special permit, if any).
 - [2] Exhibit 2 of Development Agreement, Grant of Waivers.
 - [3] Form F, Covenant.
 - [4] Form O, Performance Security.
 - [5] Form 1A, Open Space Restrictions and Easement.
 - [6] Deed of open space to homeowners/other homeowners' association documents.
 - [7] Form S, when required.
 - (2) The original of the recorded Form 1A and the Planning Board covenant, and recorded copies of the development agreement and other documents required by the Planning Board shall be received by the Planning Board office within 30 days of the final endorsement of the definitive plan, or as otherwise extended by the Board. Failure to comply with this requirement shall result in automatic rescission of approval of the subdivision plan. Upon

receipt and acceptance by the Board of all the required recorded documents, the Board shall release the recordation deposit.

- M. Revision of definitive plan. No revision or change of the definitive plan can be made without the prior approval of the Planning Board. This includes any revision of any nature whatsoever of the definitive plan. If the applicant desires to make revisions due to field conditions or for any reason whatsoever, the applicant shall submit a print of the definitive plan or plans to be revised with a colored-pencil representation of the proposed changes. The Board will consider such change in the same manner as consideration of the original plan and approve, disapprove or modify the requested change with or without a public hearing as the Board may determine. The change as approved shall then be incorporated on the original definitive plan or a cloth reproduction thereof, and prints shall be filed as required of the original plan. Any request for waivers shall be submitted in accordance with §§ 801-5 and 801-24H(3).
- N. Evidence of satisfactory performance. Before the Board will release the interest of the Town in a performance bond or deposit or, in the case of approval with a covenant, issue a release of covenant:
- (1) As-built plans.
 - (a) The applicant shall be responsible for filing with the Planning Board two copies of as-built plans of the ways of the subdivision, clearly marked as such. The as-built plan shall include the profile plan and shall meet the requirements as to format and content as given in Subsections B and C of this section for definitive plans. The as-built plans may be cloth reproductions of the definitive plans. The as-built plans shall represent the as-built conditions of all work and appurtenances constructed as a requirement of the subdivision and shall show all utilities installed as part of the subdivision.
 - (b) The as-built plan shall be prepared by a registered professional land surveyor and shall meet the requirements of the Registry of Deeds or the Land Court as applicable depending upon the method of recording. Plans shall conform to the requirements of the Town Engineer and shall be suitable for recording the plan as a taking of the road by the Town. The plan shall include the location of the road layout, pavement, storm drain facilities, drainage easements, concrete bounds, driveways, fences, grades, and all other pertinent physical features within the road layout or drainage easements. A separate reproducible copy shall indicate below grade drainage facilities and utilities.
 - (c) A compatible electronic file of the plan shall be submitted in accordance with the file format and coordinate system specifications listed in Appendix A ¹⁵ for accurately inputting

plan information into the Town's geographic information system.

- (2) Certified inspection reports. The applicant shall furnish to the Board from the applicant's engineer, certified inspection reports in compliance with Article VIII, to the effect that all work required by these rules and regulations has been completed for each way in the subdivision (or way or ways serving the lots in question), and that the applicant's engineer has approved the methods of construction and the materials used in the performance of such work, at each stage of work.
 - (3) Other reports required. The applicant shall obtain and furnish statements to the Planning Board, that all utilities have been installed in compliance with all the requirements of the following agencies:
 - (a) From the Chief of the Fire Department a statement that the Chief has approved the installation of the hydrant system for each way in question and that the installation of the fire alarm cable and boxes has been approved by the Fire Chief.
 - (b) From the Water Superintendent (if any) a statement that the Superintendent has approved the installation of the public water supply system to the development.
 - (c) From the Tree Warden a statement that he has approved the location, size and species of street trees and that they have been planted.
 - (d) From the Department of Public Works a statement that they have approved the installation of the sewer system as required by them.
 - (e) From all other utilities a statement that they have approved the installation of the utilities as required by them.
- O. Release of performance guarantee.
- (1) Upon the completion of the improvements as shown on the plan and as required herein, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the applicant may request and agree on terms of release with the Board. The applicant shall send by registered mail to the Town Clerk and Planning Board a written statement in duplicate that the said construction or installation in connection with such bond, deposit or covenant has been completed in accordance with the requirements contained in these rules and regulations, such statement to contain the address of the applicant and the subdivision name and number.

- (2) If the Board determines that said improvements have been completed, and these rules and regulations have been complied with, it shall release the interest of the Town in such bond and return the bond or the deposit to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged, with a copy to the Building Commissioner. If the Board determines that said improvements have not been completed, and/or these rules and regulations have not been complied with, it shall specify in notice sent by certified mail to the applicant and the Town Clerk the details wherein said improvements fail to comply with its rules and regulations.
- P. Reduction of bond or surety. Upon written application of the applicant stating reasons therefor, the penal sum of any such bond, or the amount of any deposit held hereunder may, from time to time, be reduced at the discretion of the Board, and the obligations of the parties thereto released by said Board in part. If release is by reason or covenant, a new plan of the portion to be subject to the covenant may be required.
- Q. One-year retainage period to insure adequate work.
 - (1) At the time of the Board's release of the bond or the deposit to the person who furnished the same, the Board shall retain an amount not to exceed 10% of the total cost of the improvements to insure adequate construction and installation of the streets and utilities for 12 months, or until the streets are accepted by the Town, whichever comes first. The total cost of improvements shall be calculated by the Board's engineer. If the required improvements were secured by a covenant, at the time of the Board's release of the covenant the applicant shall post surety not to exceed 10% of the cost of improvements to insure adequate construction and installation of the streets and municipal services for the time period specified above.
 - (2) Approximately 60 days before the expiration of the 12 months, the Planning Board's engineer shall inspect said streets and municipal services to determine whether or not it should recommend the release of the final 10%.
- R. Time of completion.
 - (1) Every applicant shall state in the application and in the development agreement, the time within which the applicant agrees to complete the proposed ways, and to install the drainage system, water pipes, gas pipes and electric lines, and all other utilities as required by the Board. The Board shall decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the utilities aforesaid within eight years of the date of approval of the application, unless a phased development schedule is approved by the Planning Board and incorporated into the development agreement. For the purposes of

this section only, the one-year retainage period to ensure adequate work shall not be included in the eight-year completion time requirement.

- (2) The subdivision shall be completed and the as-built plans submitted within one year from the date of commencement of construction, unless a phased development schedule is approved by the Planning Board and incorporated into the development agreement. Construction is deemed to commence when clearing of vegetation within the proposed road layout begins.
 - (3) In the event the work is not completed within the time set forth, or as extended, the subdivision plan approval shall be considered null and void.
- S. Completion of the subdivision. The applicant shall maintain all the roads and utilities in the subdivision until the Planning Board finds that the subdivision is complete and executes Form M, the Certificate of Completion. ¹⁶

ARTICLE VI
Design Standards

§ 801-25. General provisions.

Existing contours shall be preserved insofar as it is practical. In any event no change shall be made in existing contours that adversely affects land abutting the proposed subdivision. Due consideration shall be given to the attractiveness of the layout and the preservation of natural features. Roads shall be located so as to minimize the amount of grading required. All work on the ground hereinafter specified shall be performed by the applicant in accordance with these rules and regulations, in conformity with approved definitive plans and specifications and other construction requirements of the Town agencies concerned, and the satisfaction of such agencies.

§ 801-26. Streets.

A. Location of streets.

- (1) The streets shall be designed and located so as, in the opinion of the Board, to be continuous and in alignment with existing streets; to provide adequate access to all lots in the subdivision; by streets that are safe and convenient for travel; to lessen congestion in such streets and adjacent public streets; to reduce danger from the operation of motor vehicles; to secure safety in case of fire, flood, panic and other emergency; to insure compliance with applicable Zoning Ordinance; to secure adequate provision for proper drainage and water, sewers and other utilities; and to coordinate the streets in the subdivision with each other and with the existing street system of the Town, and the streets in neighboring subdivisions.
- (2) The proposed streets shall be designed and located so as to conform to the Master Plan, if any, as adopted in whole or in part by the Board.
- (3) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property that is not yet subdivided.
- (4) Due consideration will be given by the Board to the attractiveness of the layout and to the conformance of the ways to the topography. Streets shall be laid out with curvilinear lines wherever possible.
- (5) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- (6) Where ways are extended to the property line forming stub streets for future tie, that way shall be paved to the property line.

- (7) Subdivisions shall be designed so as to minimize the length of roads.
- (8) Road layouts shall be located and designed so as to create easily accessed lots at or near grade level.
- (9) Subdivisions shall be designed so as to avoid creating lots with double frontage, except when one frontage is on a major street.
- (10) Where a subdivision borders on a major street, access to lots shall be provided from a parallel local street and access to the major road shall be minimized.
- (11) No road, with or without fill, shall be located within a velocity zone or within the one-hundred-year floodplain, as shown on the special Flood Insurance Rate Maps, and as further defined by the topographic information shown on the plan.
- (12) Where access to a subdivision crosses land in another municipality, the Board may require certification, from appropriate authorities, that such access is in accordance with the Master Plan and subdivision requirements of such municipality and that a legally adequate performance bond has been duly posted or that such access is adequately improved to handle prospective traffic.

B. Width, alignment and grades of streets.

- (1) The criteria contained in the Appendix, Design Standards, Typical Road Cross Section, and Guard Rail Warrant, shall be observed in the design of streets.¹⁷
- (2) Streets shall intersect with minimum center-line offsets of 150 feet unless otherwise specified by the Board.
- (3) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 75°.
- (4) Where the angle of intersection between two streets varies more than 10° from a right angle, the radius of the curve at the curblines at the obtuse angle shall be less and at the acute angle shall be correspondingly greater than the radius specified in the Appendix to the extent approved or required by the Board.
- (5) All changes in grade exceeding 2% shall be connected by vertical curves of the length indicated in the design standards table in these regulations.
- (6) No center-line gradient is to exceed 6% on any curve except when the curve is superelevated and the design is acceptable to the Board's engineer. All curves on a major road shall be superelevated

17. Editor's Note: These items are included at the end of this chapter.

in conformance with AASHTO Guidelines unless otherwise approved by the Planning Board's engineer. Superelevations shall not exceed $E = 0.06$.

- (7) No center-line gradient is to exceed 6% within 500 feet of a dead-end.
- (8) No street shall intersect another street at a gradient in excess of 2% for a distance of at least 40 feet from the intersection as measured from the edge of the right-of-way.
- (9) Way lines shall be parallel unless otherwise specified by the Planning Board.
- (10) Streets shall be designed in accordance with AASHTO Standards unless otherwise specified.

C. Dead-end streets.

- (1) Dead-end streets shall be not less than 100 feet long nor more than 750 feet. The length of the dead-end street shall be measured from the intersection with a street providing alternative access, to the beginning of the cul-de-sac or turnaround T. The Board may grant a waiver from the maximum length of the dead-end street if the Board determines that there is a reasonable expectation that the street will become an additional means of access or egress to a future street connection on adjacent, undeveloped land. No extension of a cul-de-sac or turnaround T to adjacent land shall be permitted where such extension will lengthen a dead-end street beyond the seven-hundred-fifty-foot maximum length.
- (2) Minor and secondary dead-end residential streets shall be provided at the closed end with a turnaround having an outside paved roadway diameter of 90 feet and a right-of-way diameter of 105 feet.
- (3) No major dead-end street and secondary nonresidential dead-end street shall be permitted, unless the Fire Department, DPW, and/or Police Department provide the Board with written determination that there will be no compromise to public safety of both pedestrian and vehicular traffic. Where the Board grants a waiver to allow a dead-end street, the street shall be provided at the closed end with a turnaround having an outside paved roadway diameter of not less than 94 feet, 30 feet of the pavement width on the cul-de-sac and with a right-of-way diameter of at least 110 feet. culs-de-sac shall be shaped in accordance with ASHTO standards for circular and circular offset culs-de-sac for single-unit trucks.
- (4) Dead-end streets shall be constructed all the way to the property line and shall be designed and located so as to allow them to continue to abutting property.

- (5) A minor road serving less than 10 lots may be constructed with a turnaround T or Y in lieu of a cul-de-sac at the discretion of the Planning Board. The turnaround T shall be designed according to the drawings in the appendix entitled "Paved Turnaround T" or shall be an alternative design approved by the Planning Board.
 - (6) Natural vegetation shall be retained in the center of the turnaround. Damaged areas shall be replanted with a combination of ground cover, shrubs and/or trees common to the Cape such as: bearberry, bayberry, inkberry, American holly, beach grape; Rugosa rose, beach gum, red cedar, juniper, red oak, thornless honey locust, American red maple, checkerberry, Shore juniper or sargent juniper, unless otherwise approved by the Planning Board.
 - (7) Upon construction of an extension of a dead-end street, the easement for the existing turnaround shall terminate in accordance with the provisions of Chapter 41 of the General Laws. The paved surface of the turnaround shall be removed so as to create a roadway of a uniform width. Drainage, road surface and road shoulders shall be repaired and/or reconstructed and revegetated in accordance with all the requirements of the Subdivision Rules and Regulations.
- D. Clearance above roads. Overhanging vegetation shall be cleared to a height of 15 feet above roads, to provide clearance for trucks including Fire Department ladder trucks.

§ 801-27. Drainage.

A. General provisions.

- (1) The subdivision shall be designed so that all drainage shall be contained and disposed of within the subdivision; no drainage shall be discharged on to adjoining property or on to the public right-of-way at a rate greater than existed prior to the construction of the subdivision. The applicant shall submit information as to pre- and post-development runoff volumes and peak flows during the ten-year and one-hundred-year storm. No drainage shall be discharged directly into any wetland or surface water body, or into any drain, ditch, culvert or retention pond that leads into wetlands or surface water bodies.
- (2) All drainage systems within the subdivision shall be designed in accordance with the soil conservation service method or an alternative system acceptable to the Board's engineer. Calculations shall be made from the source of drainage runoff using topographic maps for the entire drainage area, including those areas outside the subdivision. Copies of all drainage calculations shall be submitted with the definitive plan. Percolation tests may be required at the discretion of the Board.

- (3) Drainage systems shall be designed and installed so as to prevent stormwater runoff from becoming a hazard or a nuisance to the subdivision residents or the public at large. The applicant is ultimately responsible for the adequacy of the drainage system in reaching this end. Should the system not adequately achieve the goal, the applicant shall make whatever modifications are needed to ensure that the drainage system performs adequately in the opinion of the Planning Board. All modifications shall be acceptable to the Board's engineer.

B. Subsurface drains or subdrains.

- (1) In areas where the finished grade of the roadway is less than four feet above the water table or in areas where less than four feet of fill is placed above water in swampy places or any standing water, or in other areas, where in the opinion of the Board the subgrade must be drained, a system of subdrains shall be designed for such areas. The subdrain shall consist of a minimum of one longitudinal drain for each forty-foot width of roadway or fraction thereof.
- (2) In addition, laterals shall be required as directed by the Board in areas in which an undue amount of water could accumulate in the subgrade. The system of subdrains shall be discharged into the storm drainage system or otherwise disposed of in a manner satisfactory to the Board.
- (3) Subdrains shall also be required where test borings show an impervious layer of soil above a permeable layer of soil which is located at or above one foot below the proposed basement floor elevation.

C. Storm drains.

- (1) A complete storm drain system shall be designed for each street of the subdivision and, to the satisfaction of the Board, shall be so laid out to provide adequate drainage of all portions of the street system so that water does not accumulate thereon, to intercept stormwater runoff from the adjacent lots of the subdivision, and to eliminate undesirable or unnatural accumulation of water on any portion of the subdivision or surrounding property. Those conditions which result from a ten-, twenty-five- or fifty-year storm as required shall be assumed as a basis for design of the street drains. The storm drain system shall include gutters, catch basins, manholes, culverts, drain lines, headwalls, vegetated swales, detention ponds and such other items as may be required to complete the system to the satisfaction of the Board. Information regarding a procedure which may be utilized in drainage designs is available from the Town Engineering office.
- (2) The Soil Conservation Service drainage calculation methodology or an alternative systematic method acceptable to the Board's engineer shall be used in the design of the drainage systems.

- (3) Best management practices (BMPs) shall be utilized to treat the first one inch of rainfall, or 1/2 inch of runoff, whichever is greater. BMPs shall consist of grass-lined swales, grass-lined retention basins, or other treatment facilities acceptable to the Board's engineer.
- (4) Side slopes on BMPs shall not be steeper than four to one and generally should be much flatter. BMPs shall be distributed throughout a subdivision and not concentrated in any one location to better dilute the effects of any pollutants left untreated. For this reason, the use of swales in areas with relatively level terrain is desirable. The bottom of the BMPs should be four feet above the probable high groundwater. All BMPs shall be located within drainage easements or the road right-of-way.
- (5) Catch basins shall be located in pairs, one on each side of the roadway, at all low points or sag curves in the roadway, at intervals of not more than 300 feet on continuous grades of the roadway, and at or near the corners of the roadway at intersecting streets.
- (6) Manholes shall be located at all changes in direction, either horizontally or vertically, of a drain line or at the intersection of two or more drain lines, or so located that no drain line greater than 300 feet in length would exist without either a catch basin or manhole.
- (7) Culverts shall be designed on the assumption that the entire drainage area is built up to that density and in the manner which the applicable section of the Zoning Ordinance¹⁸ allows. The calculations (or a copy thereof) necessary to determine the size of any culvert which carries a brook, stream, river or other natural waterway shall be submitted to the Board for review. All culverts shall have a headwall at each end, and any culvert over 36 inches in diameter shall include at the upstream end additional protection, as approved by the Board, for the roadway side slopes.
- (8) All drains shall be a minimum of 12 inches in diameter and shall be laid on a slope of not less than 1/2 of 1%. The minimum design velocity shall be three feet per second and maximum design velocity shall be 10 feet per second. If the system is designed as a self-cleaning system, the Board may accept a lesser minimum slope for the drain lines. Pipe shall have a capacity 25% greater than required by the calculations. In such cases as it is deemed necessary and acceptable by the Board and its engineer, surface water may be disposed of by a leaching system of the proper size and design. Calculations for the design of such system shall be submitted with other drainage calculations for the subdivision and under the same provisions. Provision shall be made for the disposal of surface water intercepted or collected by the system in such

18. Editor's Note: See Ch. 240, Zoning, of the Code of the Town of Barnstable.

a manner that no flow is conducted over Town ways, or over the land of others unless a drainage easement is obtained or unless such flow, in essentially the same quantity, previously existed in the same location. Where adjacent property is not subdivided, provision shall be made for extensions of the system by continuing appropriate drains to the boundary of the subdivision at such size and grade as will allow their proper projection.

- (9) All recharge systems shall be designed with a fail-safe feature which will provide a safe, legal off-the-road overflow area for the runoff in the event that the catch basins overflow. The overflow areas shall be sized to accommodate a one-hundred-year storm. The overflow areas shall preferably be located in naturally vegetated shallow kettle holes or other depressions; however, if there are not any naturally occurring areas, then the shallow areas with gently sloping sides shall be excavated for stormwater storage. Overflow areas shall be located within drainage easements. Separate drainage lots are discouraged and will not be permitted without the permission of the Planning Board.
- (10) A headwall shall be provided at the outfall end of all drains where required.
- (11) All recharge infiltration type drainage systems shall be designed by the applicant's engineer to prevent stormwater from breaking out of any slopes. Breakout calculations shall be provided by the applicant's engineer.

§ 801-28. Easements.

- A. Easements for utilities. Easements for utilities shall be provided and recorded as required and centered on lot lines where practical.
- B. Stormwater and drainage easements. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourses, drainageway, channel or stream, and to provide for construction, maintenance, or other necessary purposes.
- C. Access easements. Access easements may be required where deemed necessary.
- D. Slope easements. Slope easements may be required where deemed necessary.
- E. Sight and scenic easements. Sight and/or scenic easements may be required where deemed necessary.

§ 801-29. Sidewalks.

- A. Where required. Sidewalks shall be installed on both sides of Major Streets.
- B. Sidewalks conditionally required. Sidewalks shall be installed on one or both sides of a secondary street and a minor A street, unless in the opinion of the Planning Board, pedestrian safety would not be substantially served by their construction. Where sidewalks are not required, the Board may require that the grading of the right-of-way be so executed as to make possible later additions of sidewalks without major regrading.
- C. Location of paved road surface. In order to accommodate a sidewalk and/or bicycle path, the Planning Board may require that the paved surface of the roadway be offset to one side of the right-of-way.
- D. Green strips. Sidewalks and/or bicycle paths shall be separated from the roadway by a strip of land loamed and seeded to the specifications of § 810-48, Grass plots. Sidewalks and/or bicycle paths shall be located as close as possible to the outside line of the right-of-way. Street trees shall be planted in the green strip.
- E. Sidewalk length. Sidewalks shall extend the full length of each side of the street.
- F. Sidewalk width. Sidewalks shall have a minimum width of five feet along major and secondary roads. All sidewalks shall conform to American Disabilities Act requirements and Massachusetts Architectural Access Board standards, 521 CMR, and as may be amended.

§ 801-30. Curbing and berms.

- A. All streets shall have bituminous concrete "Cape Cod berms," vertical granite or sloped granite curbing at the discretion of the Board. In the case where granite is used, the curbing shall extend along the entire circumference of curves plus six feet at all intersections. Vertical inlet curbing shall be used for all catch basins when vertical granite curbing is used.
- B. As a general guide bituminous concrete Cape-Cod-type berms placed at the time of paving are required on all roads regardless of slope. Roads located in or near urbanized village centers, commercial areas, industrial areas and other areas designated by the Planning Board will require the installation of granite curbing at the discretion of the Planning Board.

§ 801-31. Lots.

- A. All lots within the subdivision shall comply with the Zoning Ordinance of the Town,¹⁹ or with terms of any variance from such requirements

19. Editor's Note: See Ch. 240, Zoning.

which may have been specifically granted by the Board of Appeals. Percolation tests may be required on each lot at the discretion of the Board. Lot numbers as shown on the approved plan shall be conspicuously displayed with a suitable marker which shall be visible from the road layout.

- B. Lots shall be located and designed so as to provide building sites with positive drainage away from buildings.

§ 801-32. Open spaces.

Before approval of a plan, the Board may also, in proper cases, require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The Board may, by appropriate endorsement of the plan, require that no building be erected upon such park or parks for a period of not more than three years without its approval. These parks shall be offered for just compensation to the Town in the form of a deed, with the Town having the option of accepting or releasing these areas within the three-year period.

§ 801-33. Protection of natural features.

Regard shall be shown for all natural features, such as large trees, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

§ 801-34. Retaining walls.

Wherever retaining walls may be required, design and type of wall construction shall be submitted to the Board for approval prior to installation.

§ 801-35. Utilities.

- A. General requirements. The Board may require that the plan show utilities of the kinds existing in the public ways nearest to the subdivision, or which in the opinion of the Board are likely to be laid in such public ways within the reasonably near future and which will be necessary for the health, safety, or convenience of the prospective occupants of the subdivision.
- B. Location. The utilities and sleeves for house connections shall be located as shown on the typical road cross sections.²⁰ The number and type of sleeves for house connections will be directed by the Board.
- C. Sewer system design. The design of the sewer system, if required, shall be as directed and approved by the Department of Public Works. A functional sewer collection system complete with service connection to

20. Editor's Note: The typical road cross section diagrams are included at the end of this chapter.

the property line shall be required in areas that now have service or are scheduled for such service within three years.

- D. Public supply standards. The applicant shall work with the Fire District or water company and provide the Board with documentation of compliance with their water supply standards. Wherever feasible, water supply shall be provided from a public water supply system. Where any part of any lot is at elevation 100 feet (msl) or higher, the applicant shall submit calculations documenting supply adequacy.
- E. Private supply standards. Where connection to an adequate public water supply is infeasible, the Planning Board shall approve a subdivision only upon its determination, following consultation with the Fire Department, that reserved access to a fire pond or other provisions for water supply will adequately provide for fire safety.
- F. Design of water system. The design of the water system and provision for hydrant service shall be as directed or approved by the Fire District or water company in accordance with the typical road cross sections. In the case where sidewalks are to be constructed on one side of the roadway, the water and hydrants shall be on the opposite side of the roadway.
- G. Location of hydrants. The location and type of hydrants and size of pipe serving the hydrants shall be as directed or approved by the Fire District or water company, if required.
- H. Fire alarm boxes. The location and type of the fire alarm boxes and point of entry into the subdivision of the connecting fire alarm cable shall be as directed by the Fire Chief. The applicant shall furnish and install the necessary ducts, fire alarm boxes, and electric cable.
- I. Electric power system. The design and location of the electric power system shall be as directed by the electric company. The system shall be constructed to a standard which will enable the electric company to accept it as part of their system upon completion.
- J. Gas service. The applicant shall consult the gas company relative to coordination of the installation of gas pipes, if gas service is to be installed.
- K. Telephone service. The applicant shall consult with the telephone company relative to the installation of telephone service.
- L. Location of wires. All electrical, telephone, and other utility wires shall be placed below ground in every subdivision, unless the Board determines that such placement is not feasible or is not in the best interest of the Town.
- M. Utility service connections. All service connections for utilities shall be clearly marked at the lot line and shall be installed so that electric, telephone, sewer, and water services are located on the lot line

perpendicular to the street, and the gas service is located on the alternate lot line, and said service connection shall be installed prior to the completion of the fill.

ARTICLE VII

Specifications for Construction of Required Improvements**§ 801-36. General provisions.**

- A. All improvements specified or implied on the definitive plan shall be constructed or installed by the applicant in accordance with the provisions of this article of the rules and regulations or as directed by the Board. The applicant shall furnish all necessary materials, labor, and equipment which may be required to complete the work called for or implied on the definitive plan, including all related expenses. Items not specifically mentioned herein shall be constructed in accordance with the latest revision of the Standard Specification for Highways and Bridges of the Massachusetts Department of Public Works (hereinafter referred to as the "Department's specifications"); unless specifically directed otherwise by the Board.
- B. All work performed by the applicant as a consequence of these rules and regulations will be subject to the review and acceptance or approval of the Board. Therefore, the Board may employ a registered professional engineer to act as its agent for the inspection of the work. In order that the Board's engineer may properly inspect the work as it progresses, the applicant will keep the engineer informed of the progress of the work and shall, at any time, provide safe and convenient access to all parts of the work for inspection by members of the Board or its engineer or such persons as the Board may designate. No work will be approved which has been covered prior to inspection by subsequent work. Reference should be made to Article VIII for inspections required by the Board.

§ 801-37. Construction details and standards.

Construction details and specifications shall comply with the standards contained in the construction specifications and standards volume which is available from the Engineering Section of the Barnstable Department of Public Works for a nominal fee.

§ 801-38. Subdivision layout.

- A. The subdivision, including all way and lot lines and all drain lines and utilities shall be laid out as to line and grade by a registered land surveyor and a certificate filed with the Board to this effect. Stakes for line and grade, clearly marked with the proper station, shall be maintained throughout construction.
- B. Any work which, in the opinion of the Board, has not been properly laid out or does not conform to the plans may be checked by a registered land surveyor employed by the Board. If the Board determines that such work does not conform to the plan, the applicant shall pay all costs which the Board incurs as a consequence of checking the work. The

Board may require the removal and correct replacement of any work which has been incorrectly laid out.

§ 801-39. Clearing, grubbing and excavation.

- A. The entire area to be occupied by the roadway plus an additional four feet or extending outward to the toe of slopes in fill areas, whichever is greater, shall be excavated a minimum of 15 inches below finished grade in cut sections or as necessary to remove the topsoil in fill sections or such greater depth as may be required by the Board's engineer if soft or yielding material, clay, peat, silt, sand pockets, boulders or rocks, organic materials, or other material detrimental to the subgrade is encountered. All fill or undisturbed material shall be non-frost-susceptible and shall contain not more than 3% passing the No. 200 sieve for a minimum depth of three feet below the finished roadway grade.
- B. Trees intended to be preserved shall be protected from injury by suitable boxes or fenders, or wells if in fill.
- C. The Board's engineer will make an inspection when this phase of the work is completed.

§ 801-40. Erosion control measures.

The erosion control plan shall include the use of erosion control measures recommended by the Soil Conservation Service for use during and after construction.

- A. Erosion minimalization. Stripping of vegetation, soil removal and regrading shall be accomplished so as to minimize erosion.
- B. Duration of exposure. The duration of exposure of disturbed area shall be kept to a practical minimum.
- C. Temporary erosion control. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- D. Permanent erosion control installation. Permanent (final) vegetation and mechanical measures to stabilize the land surface and control erosion shall be installed as soon as practicable after construction ends.
- E. Protection of permanent drainage facilities. Until a disturbed area is stabilized, permanent drainage facilities, including but not limited to catch basins, pipes, retention basins, grass swales and infiltration devices, shall be protected from sediment in runoff water by the use of temporary drainage facilities such as debris basins, sediment basins, silt traps or other acceptable methods.
- F. Dust control. During grading operations, methods of dust control shall be employed wherever practicable.

§ 801-41. Drainage system.

- A. Conformance to department's specifications. The construction of the drainage system, including methods of construction and quality of materials shall conform to the applicable sections of the Department of Public Works specifications except as modified hereafter or as directed by the Board's engineer.
- B. Storm drains. Storm drains shall be constructed of reinforced Class V concrete pipe with removable rubber gasket joints and of a strength or class adequate to withstand the H-20 live loads and dead loads which the pipe will be subjected. All joints shall be securely mortared or clamped. The pipe shall be a minimum of 12 inches in diameter and shall be laid at a minimum pitch so as to maintain a velocity of three feet per second when flowing full.
- C. Catch basins. All catch basins shall be constructed of air-entrained cement concrete, and a standard square frame and grate, with square holes, and a granite mouth frame shall be furnished and set. All catch basins shall have an inside diameter of at least four feet, shall be constructed with a minimum depth of four feet below the invert of the outflow pipe or the bottom of the pipe trap, whichever is lower, and as otherwise shown in accordance with the latest revisions of the construction standards of the Department of Public Works.
- D. Manholes. All manholes shall be constructed of the same materials as permitted herein for catch basins except that a standard heavy twenty-six-inch diameter cover and frame shall be furnished and set, and all other details shall be as shown in the Department of Public Works standards for manholes.
- E. Subsurface drainage system. The subsurface drainage system as shown on the definitive plan or as ordered by the Board during construction shall be constructed of not less than six-inch diameter perforated polyvinyl chloride (Schedule 40) pipe with perforations turned up, and laid to line and grade.
- F. Headwalls. All drainage pipe shall end in an air-entrained cement concrete or air-entrained cement masonry headwall having dimensions as specified in the Department of Public Works standards and constructed in accordance with the Department's specifications.
- G. Compressive strength of concrete. The air-entrained cement concrete shall have a minimum compressive strength of 3,000 pounds per square inch after 28 days curing.
- H. Tide gates. All tide gates shall be of standard manufacture, of the same size as the outfall pipe, elastomer synthetic fabric type and subject to the approval of the engineer.

- I. Inspection required prior to backfilling. The engineer will inspect the completed drainage system or sections thereof prior to placing any backfill.
- J. Backfill specifications. All trench backfill for the storm and subsurface drains and other backfill within the limits of the way shall conform to the base course requirements and shall be deposited to required subgrade in not more than six-inch layers and compacted to 95% of the maximum dry density as determined by modified Proctor Test, in accordance with ASTM C-1557, Method D.

§ 801-42. Utilities.

- A. Responsibility. The applicant shall provide and install all necessary materials, appurtenances and equipment to complete the utilities as may be required by the definitive plan in a manner acceptable to the officials or agency having jurisdiction of each service as previously mentioned herein. All costs incurred by the applicant as a consequence of installing and maintaining such utilities as the Board required shall be paid by the applicant, including all costs which may be incurred for any reasons whatsoever. The Board will not take any action to have the applicant reimbursed for any costs so incurred.
- B. Submission of finalized utility plans. Prior to the beginning of construction of the road, the applicant shall submit to the Board's engineer for his approval finalized plans of the various utilities including water, sewer, electric, telephone, gas and cablevision. The finalized plans shall be approved in writing by an authorized representative of the utility company involved.
- C. Fire alarm system specifications. The fire alarm system connection will be made by the Fire District using materials which shall be furnished by the applicant as specified by the Fire District.
- D. Hydrant specifications. The type of hydrants and type and size of pipe serving the hydrants shall be as directed or approved by the Fire District.
- E. Water system specifications. The type and size of pipe, fittings and appurtenances for the water system shall be as directed or approved by the Fire District or water company.
- F. Sewer system specifications. All materials and work in connection with the sewer system shall be as directed and approved by the Department of Public Works.
- G. Electric power installation. All materials and work in connection with electric power service shall be as directed and approved by the manager of the electric company.
- H. Notification of backfill and paving. All work in connection with the utilities shall be left uncovered until such time as the Board's engineer

permits the backfill to be placed. The applicant shall notify all companies with utilities installed or to be installed within the ways as to the date and time the applicant intends to place the gravel base course and the paving so that such utility company may properly record the location of pertinent features of the system so that they will not be covered or lost as a result of the paving operation.

- I. Backfill specifications. All trench backfill material for the utilities within the way limits shall conform to the base course requirements and shall be deposited to required subgrade in not more than six-inch layers and thoroughly tamped, not puddled, to 95% of the maximum dry density as determined by modified Proctor Test, in accordance with ASTM-D-1557, Method D.

§ 801-43. Fill.

All fill material which may be required within the exterior lines of the way up to the twelve-inch gravel foundation shall be of clean gravel or other suitable material as approved by the engineer and compacted to 95% of the maximum dry density as determined by modified Proctor Test, in accordance with ASTM-1557, Method D. All utilities including but not limited to storm drains, subdrains and drainage structures and sewers if required within the way lines shall be installed prior to the completion of the fill. This shall include the installation of each service pipe, sleeve or conduit to the front lot line of each lot in the subdivision. Upon completion of the fill and the backfill of all service trenches, the work will be inspected by the Board's engineer. Subsequent work shall not commence until the engineer has approved the fill as acceptable for the application of the roadway foundation material.

§ 801-44. Roadway foundation.

- A. A minimum of 12 inches of clean gravel, as approved by the engineer, shall be deposited in not more than six-inch layers for the full width of the way so as to form a roadway foundation which shall be at all points parallel to the finished grade of the roadway surface. The gravel shall be compacted to 95% of the maximum dry density as determined by the Modified Proctor Test, in accordance with ASTM-D-1557, Method D. The gravel shall consist of processed gravel for subbase meeting the Massachusetts DPW Specification Number M1.03.1 to the following gradation:

Sieve Size	Percent Passing By Weight
3 inches	100
1 1/2 inches	70-100
3/4 inches	50-85
No. 4	30-60
No. 200	0-5

- B. The engineer will inspect the roadway foundation after the compaction of each six-inch layer and after the approval of the completed foundation.
- C. Where it is acceptable to both the applicant's engineer and the Planning Board's engineer, an alternate roadway foundation may be utilized consisting of a minimum of 12 inches of reclaimed pavement borrow material (reclaimed asphalt). In general the use of dense graded crushed stone will only be permitted where the underlying material is suitable, well draining, and structurally sound. The dense graded crushed stone shall conform to the following gradation:

Reclaimed Pavement Borrow Material	
Sieve Size	Percent Passing By Weight
2 inches	100
1 1/2 inches	70-100
3/4 inch	50-85
No. 4	30-55
No. 50	8-24
No. 200	3-10

- D. The subgrade and each six-inch layer of gravel shall each be compacted with a minimum of three passes of a vibratory roller. Additional passes shall be made as required to achieve the 95% density required.

§ 801-45. Roadway surface.

- A. General provisions. All roadways shall be paved to conform with the finished grade and width as specified with Class I bituminous concrete paving Mass. Type I-1 in accordance with the Department's specifications and subject to the approval of the engineer. The applicant shall submit a specification job-mix formula to the engineer for approval prior to starting the work, and a test report verifying that the minimum temperature of each load is 350° F.
- B. Binder and finish course requirements.
 - (1) Minimum depth requirements after compaction:

Type of Street	Binder Course (inches)	Finish Course (inches)
Major	4.0	2
Secondary	3.5	1.5
Minor	2.5	1.5

- (2) If the binder course is to be left without a topcoat over a winter when access is needed to properties along the road, then all utility

castings shall be no higher than the level of the binder course of mix to facilitate snow plowing. The castings shall then be raised to the grade of the finished topcoat just prior to placement of the topcoat.

§ 801-46. Sidewalks.

- A. Sidewalks shall have a finished grade in relation to the roadway as shown on ²¹ and shall be constructed of bituminous or portland cement concrete. The gravel foundation shall be a minimum of six inches in thickness and shall otherwise conform to the requirements of the roadway foundation.
- B. Sidewalks shall have transverse slopes or crowns of 3/8 of an inch per foot.
- C. Bituminous concrete sidewalks shall consist of one inch of Type I-1 binder course and one inch of Type I-1 surface course after compaction.
- D. Portland cement concrete sidewalks shall be four inches thick and constructed in accordance with the Department's specifications.
- E. Sidewalks constructed of all-weather materials other than bituminous concrete may be approved if they are deemed appropriate by the Planning Board.

§ 801-47. Curbing and berms.

- A. Requirements. Cape-Cod-type bituminous concrete berm shall be provided on all roadways unless otherwise approved by the Planning Board. In the following situations, vertical or sloped granite curbing shall be provided in place of bituminous concrete berms:
 - (1) In or adjacent to urbanized village centers.
 - (2) Along the side of the traveled way to protect sidewalks where there is less than a four-foot grass strip separating the traveled way from the sidewalk.
 - (3) Where adjacent streets have granite curbing and the Planning Board determines that the granite curbing shall be extended into the subdivision.
 - (4) To delineate traffic islands or where otherwise needed to improve traffic control.
 - (5) In commercial or industrial subdivisions where the Planning Board determines they are necessary to adequately channelize traffic.

21. Editor's Note: The diagrams of typical road cross sections are included at the end of this chapter.

- B. Specifications. Curbing and berm shall be of the following dimensions and types. Curbing and berm materials and installation shall conform to the applicable Department's specifications.

Description	Type	Width	Heights	Length
Bituminous Concrete	Cape Cod	1 foot	3 inches	Continuous
Vertical Granite	VB	5 inches	15 inches to 17 inches	3 feet to 10 feet
Sloped Granite	SB	11 inches to 13 inches	3 inches to 6 inches	2 feet to 6 feet

- C. Cape Cod berms. Cape Cod bituminous concrete berms shall be constructed monolithically with the bituminous binder and top courses. Berms shall be one foot in width. The berm shall be even with the gutter on the road side and three inches higher than the gutter on the shoulder side of the berm.

§ 801-48. Grass plots.

- A. Requirements. A grass plot shall be provided on each side of all roadways according to the typical road cross sections. (See Appendix.) The finished grade of the grass plot in relation to the finished grade of the roadway shall be as shown on the typical road cross section.
- B. Specifications. The top six inches of grass plots and side slopes (cut or fill) shall be good quality loam as approved by the engineer and shall be screened, raked and rolled with a hand roller to finished grade. The loam shall be of good quality that will support the growth of grass without requiring heavy use of pesticides or fertilizers. After installation of loam, the applicant's engineer shall submit test results of the organic content, pH and nutrient content of the loam. The loam shall be seeded with lawn grass seed applied in sufficient quantity to assure adequate coverage and establish growth. Grass seed shall consist of a seed mixture suitable for the location and containing a substantial proportion of fescue and perennial rye seed. The applicant shall perform sufficient cuttings and maintain the grass plot until such time as the street is accepted by the Town, or the Board finds that the subdivision is complete.

§ 801-49. Street trees.²²

Street trees, with a caliper of not less than 2 1/2 inches in diameter, and of a species approved by the Tree Warden, shall be planted on each side of every street in the subdivision wherever, in the opinion of the Planning Board, existing woodlands or individual trees are absent or not retained. Trees shall be located outside the exterior roadway lines unless located in green strips (see § 801-29D), at thirty-foot intervals unless otherwise specified by

22. Editor's Note: See Ch. 221, Trees.

the Tree Warden in accordance with general practice in the Town. At the discretion of the Board, an easement, of such width as requested, outside the exterior way lines may be required for the planting of trees.

§ 801-50. Side slopes.

The area outside the traveled way in cut areas shall be sloped at a rate not steeper than three to one until it intersects the finished grade of the abutting lots, except as may be required for sidewalks. All such slopes shall be loamed and seeded as previously required for grass plots.

§ 801-51. Guardrails.

Guardrails shall be installed where warranted as indicated on the figure in the Appendix and where required by the Board. Guardrails on major and secondary roads shall be steel beam highway guardrail Type SS in accordance with the Massachusetts Highway Department standards. On minor roads and in Historic Districts, steel-backed wood rail in accordance with the National Park Service either/or ASHTO standards may be used in the place of steel beam guardrails where permitted by the Board.

§ 801-52. Monuments.

Granite or reinforced concrete bounds shall be set at all street intersections at all points of change in direction or curvature of streets, at all front corners and at other points where, in the opinion of the Board permanent monuments are necessary, but in no case more than 500 feet apart. Monuments shall be at least five inches by five inches by 30 inches. The cap shall be as specified by the Board. The bounds shall otherwise conform to the Department's specifications and shall not be set until all construction which could disturb the monument is completed. After setting, the location of the bounds shall be certified by a licensed land surveyor.

§ 801-53. Street signs.

Street signs of the reflecting type specified by the Department of Public Works and bearing the names of the intersecting streets, as indicated on the definitive plan, shall be erected at all intersections of streets in the subdivision. Such signs shall be subject to the approval of the Board. Temporary wood signs with black letters stenciled on to a white background shall be installed on all roads in the subdivision at the beginning of clearing for construction of the road. Temporary signs shall be maintained and replaced as necessary until the permanent signs are installed. Permanent street signs must be installed after the road shoulders are loamed and seeded, and an acceptable stand of grass has grown.

§ 801-54. Cleaning up.

The entire area of the subdivision shall be cleaned up so as to leave, in the opinion of the Board, a neat and orderly appearance free from debris and other objectionable materials. All catch basins and manholes shall be

cleaned out. Following the completion of this and other items of work as required herein, a final inspection will be made.

§ 801-55. Maintenance.

If released from restrictions with regard to sale of lots or buildings on lots by the posting of a performance bond or other security, the applicant shall maintain the roadway for vehicular traffic in a manner satisfactory to the Board. Further, the applicant shall maintain the roadway in a subdivision in a condition which meets all the above requirements to the satisfaction of the Board either until acceptance of the way by vote of the Town, or for a period of one year from the date of release of the security. A retainage fee is required to cover this period of time. See § 801-24P.

ARTICLE VIII
Inspection

§ 801-56. Responsibility.

All work performed as a consequence of these rules and regulations shall be subject to the review of the Board which shall approve or reject each phase or portion of such work and at completion shall recommend the acceptance of all work or disapproval of the work with reasons therefor. The Board will employ a registered professional engineer to act as its agent in the inspection of the work to insure compliance with those rules and regulations and to report to the Board recommendations as to approval or disapproval of the work. The applicant will engage the services of a professional engineer throughout both the design and construction phases of the work who will act as agent with the Planning Board engineer or the Town Engineer and who will submit to the Planning Board a certified inspection report. Such engineer may make certain inspections as prescribed herein in order to check the adequacy of the work at various stages prior to such work being covered by subsequent work. However, the Board, its engineer, and such other persons as the Board may designate shall have the right to inspect the work at anytime. Therefore, the applicant shall at any time provide safe and convenient access to all parts of the work for inspection by the Board or its authorized agents.

§ 801-57. Removal or replacement of noncomplying work.

All work which has been disapproved or is not acceptable to the Board shall be removed and replaced or otherwise corrected to the point of complying with the requirements of the Board for acceptance. Any work which has been covered by subsequent work prior to acceptance or is otherwise not available or obscured to the point of rendering inspection of the work difficult shall be considered to be not acceptable to the Board. Such subsequent work shall be removed as directed by the Board's engineer to insure availability of the work to be inspected as required herein. The release of the performance guarantee shall depend upon the acceptance of all work prescribed herein and on the definitive plan and as directed by the Board.

§ 801-58. Engineer's inspection.

- A. At points indicated in Article VII and as further described hereinafter, the construction of the required improvements may be inspected by the Board's engineer or authorized agent, and unless approval of the work completed, including approval of materials used, to each such point has been given in writing, no further work shall be commenced. Such inspections may include the taking of certain samples for laboratory analysis or testing; in such cases, the applicant shall insure that the Board's engineer is in no way hindered or obstructed in the course of obtaining such samples. Where such samples are removed from the completed work, the applicant shall replace and restore such work, to

the satisfaction of the Board's engineer, to its condition prior to the taking of the sample.

- B. The Board's engineer may require certified copies of delivery receipt or bills of lading or other certification as to the description of materials used or incorporated in the work. The Board's engineer may also require a sample of any materials or supplies which may be incorporated in work; such samples shall be furnished at the expense of the applicant, and the applicant shall be liable for all costs and fees insured by the Board as a result of transporting and testing such materials.

§ 801-59. Notification to applicant's engineer.

- A. Applicant's procedure. After the approval of the definitive plan and subsequent to the receipt by the Board of the fees required in Article IX, the Board will notify the applicant of the name and address of the engineer, if other than the Board's engineer, designated as its representative to perform the inspections as required herein and otherwise act as the Board's agent to insure compliance with these rules and regulations. The applicant shall notify the Planning Board as to the engineer who will act as agent, and keep the Board's engineer fully informed as to the status and progress of the work and shall notify the Board's engineer directly in writing at least 48 hours in advance, that the work has progressed to a stage that an inspection is required. The applicant shall also submit samples for testing one week in advance of the date the test results are needed.
- B. Designation of alternate inspector. In the event that the Board's engineer is unable, for 48 hours after the work is ready, to make such inspection or examination the applicant shall notify the Chairman or Clerk of the Board to such effect, who will designate an alternate to make such inspection and shall notify the applicant.
- C. Engineer's procedure. In the event the Board's engineer makes an inspection of the work at the time designated and finds that such work is not at the proper state of completion or that the work has been covered or otherwise obscured, the Board's engineer shall notify the applicant and the Board as to the additional steps the applicant shall take to complete the work to the point required or to the extent the work shall be uncovered or exposed to full view. The applicant shall notify the Board's engineer again when the work is ready as prescribed in Subsection A.
- D. Liability. The applicant shall be liable for all costs and fees incurred by the Board as a result of requests by the applicant for an inspection of the work which, in the opinion of the Board, was not at an acceptable stage of completion for such inspection, said costs and fees to be in addition to those specified in Article IX.

§ 801-60. Lines and grades.

- A. Deviation from definitive plan. The applicant's engineer will advise the Board at any time during the construction if, in the applicant's engineer's opinion, the work has not been laid out to the lines and grades as shown on the definitive plan. In such cases, the Board will proceed as described in § 801-38.
- B. Responsibility. Any costs which, in the opinion of the Board, are the responsibility of the applicant as noted in § 801-38 shall be in addition to the fees required elsewhere herein.²³

§ 801-61. Inspection of required improvements.

The following inspections of the required improvements will be made by the applicant's engineer and may be verified by the Board's engineer. These inspections may be in addition to any other inspection the Board may make or cause to be made. All sampling and testing of materials shall be performed by qualified personnel acceptable to the Town and shall be at the applicant's expense. At the discretion of the Board's engineer or the applicant's engineer, additional sampling may be required.

- A. First inspection. An inspection will be made of the work upon completion of all clearing, grubbing and excavation and all work incidental thereto as may be required or implied in § 801-39. No fill shall have been placed at the time of this inspection.
- B. Second inspection.
 - (1) An inspection will be made of the completed drainage system (without backfill) as required or implied herein or on the definitive plan. At the same time, or such other time as the work may be available, an inspection will be made of the completed utilities (without backfill) as required on the definitive plan. The inspection of the required utilities will be made by the agency responsible for the particular service as well as by the applicant's engineer. The Board's engineer shall also be notified so that he or she may inspect the utilities prior to backfill. Each agency so involved will notify the Board's engineer of the approval of such work.
 - (2) Backfill of any portion of the drainage system or utilities shall not be made until after receipt of notification of approval or acceptance by the applicant's engineer or agency responsible.
 - (3) The inspection of the construction of the ways shall include the inspection of the backfilling and compaction of all utility trenches as may be installed by utility companies, and such work shall be performed in the manner as required by these rules and regulations. It shall be the applicant's responsibility to insure compliance with these requirements. If, in the opinion of the Planning Board, the backfilling and compaction of utility trenches

23. Editor's Note: See § 801-63.

and the patching of the pavement, if required, has not been performed in accordance with these rules and regulations, the Board's engineer may require compaction tests and the Planning Board may not release the bond or covenant applicable until such work has been performed to the satisfaction of the Planning Board.

- C. Third inspection. An inspection will be made of the compacted fill as specified in § 801-43 and as may be required to bring the roadways to their proposed grades. The applicant shall notify the Town and the applicant's engineer as to the source of gravel for fill as soon as such information is known, so that samples may be taken and analyzed by the Town and the applicant's engineer. The applicant is hereby advised not to proceed with the filling operation until such time as the Town and the applicant's engineer notifies the applicant that the gravel proposed for the fill is acceptable, if the applicant proceeds with the fill prior to such notice this act shall be at the applicant's own risk. The applicant shall not use a gravel source other than the one designated without prior notice to the Board and the applicant's engineer. Compaction tests shall be required and submitted to the Board's engineer.
- D. Fourth inspection. An inspection will be made of the first six inch layer of compacted roadway foundation as specified in § 801-44. A gravel sample or samples may be taken at the option of the applicant's engineer, in the same manner as prescribed for the third inspection. Compaction tests shall be required and submitted to the Board's engineer.
- E. Fifth inspection. An inspection will be made of the final six-inch layer of compacted roadway foundation (prior to the application of the asphalt penetration) as specified in § 801-44 and gravel samples may be taken by the Board's engineer. Compaction tests shall be required and submitted to the Board's engineer.
- F. Sixth inspection. An inspection of the binder course of mix during placement and following completion. If required, samples of the mix shall be taken by the applicant's engineer or the Board's engineer for the purposes of performing extraction tests, compaction tests or pavement thickness tests. Core drill samples may be required at the applicant's expense. Certified paving slips indicating bituminous concrete quantities shall be submitted to the applicant's engineer who will tabulate the quantities and check the correlation with the anticipated qualities and then forward the slips and a report to the Board's engineer.
- G. Seventh inspection. An inspection of the top course of mix before, during and following the placement of the mix shall be performed. A tack coat shall be applied to the binder course of mix prior to placement of the topcoat where required by the applicant's engineer or the Board's engineer. The requirements regarding sampling, testing and quantity slips indicated in Subsection F for binder course shall also apply to the top course.

- H. Eighth inspection. An inspection will be made of all work as required on sidewalks, curbing, grass plots, side slopes, monuments, bounds and street signs.
- I. Ninth inspection. A final inspection will be made of all subsequent work as required herein or on the definitive plan to include the final cleanup.

§ 801-62. Engineer's report.

- A. Certified report to Board. The applicant's engineer will submit a completed certified report to the Board for each way in a subdivision. Such report will be similar to that given herein and will be augmented by such additional information as the Board may require to describe any special problems or situations which may arise during the construction of the required improvements.
- B. Compliance with rules and regulations. The applicant's engineer will report to the Board that the work has been performed in accordance with these rules and regulations and the definitive plan, or the applicant's engineer will advise the Board that the work is not acceptable with the reasons therefor.
- C. Progress reports. At any time during the progress of the work, the applicant's engineer will advise the Board, immediately, of any factors which may adversely affect the progress of the work.

ARTICLE IX

Fees**§ 801-63. Fee schedule.**

The following fee schedule applies to submissions or requests to the Planning Board:

- A. Approval not required (ANR) plans: \$150.
- B. Preliminary plans: \$400, plus \$30 per lot. At the time of definitive plan application, \$400 of the subdivision plan costs will be credited to the definitive plan.
- C. Definitive plans:
 - (1) Application fees: \$475, plus \$55 per lot.
 - (2) Inspection fees: due prior to endorsement of the definitive plan.
 - (3) Gravel roads, four lots or fewer: \$400.
 - (4) All other roads: \$960, plus \$210 per lot.
- D. Lot leases; duplicates.
 - (1) Lot releases, reduction in security, security administration: \$225.
 - (2) Duplicate lot release: \$65.
- E. Rescission of plan: \$200.
- F. Modification of subdivision plan or special permit: \$220.
- G. Road name change: \$200.
- H. Scenic road fees.
 - (1) Stone wall removal: \$25.
 - (2) Tree removal, three trees or fewer: \$25.
 - (3) Four to 10 trees in the same general area: \$100; separate locations shall require separate applications and fees.

Chapter 901

SEWERS CONNECTIONS

GENERAL REFERENCES

Sewers — See Ch. 184.

Maintenance of private sewage systems — See Ch. 353, Art. II.

Wastewater discharge — See Ch. 232.

On-site sewage disposal systems — See Ch. 360.

§ 901-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANSI — American National Standards Institute

ASTM — American Society for Testing and Materials

BUILDING FLOOR DRAINS — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys the discharge to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER — The sewer extension from the building drain to the public sewer, or other place of wastewater disposal.

INDUSTRIAL — Any property on which an activity is carried which falls into any of the following Standard Industrial Classification codes.

SIC Code(s)	Industry Category
753 - 7549	Automotive repair and services
7231, 7241	Beauty shops, barbershops
7211 - 7219	Laundry cleaning and garment services
4911, 4925, 4931, 4939	Electric, gas services (power-generation gas production only)
4011 - 4581	Transportation (maintenance only)
8062 - 8069	Hospitals
2000 - 3999	Manufacturing
2000 - 2099	Food products
2100 - 2199	Tobacco products
2200 - 2299	Textile mill products
2300 - 2399	Apparel and other finished products made from fabrics and similar materials
2400 - 2499	Lumber and wood products, except furniture

SIC Code(s)	Industry Category
2500 - 2599	Furniture and fixtures
2600 - 2699	Paper and allied products
2700 - 2799	Printing, publishing and allied industries
2800 - 2899	Chemicals and allied products
2900 - 2999	Petroleum refining and related industries
3000 - 3099	Rubber and miscellaneous plastics
3100 - 3199	Leather tanning and finishing
3200 - 3299	Stone, clay, glass and concrete products
3300 - 3399	Primary metals industries
3400 - 3499	Fabricated metal products (except machinery and transportation equipment)
3500 - 3599	Industrial and commercial machinery and computer equipment
3600 - 3699	Electronics and other electrical equipment and components, except computer equipment
3700 - 3799	Transportation equipment
3800 - 3899	Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks
3900 - 3999	Miscellaneous manufacturing industries

PUBLIC SEWER — A sewer owned or controlled by the Town in which owners of abutting properties have rights.

RESIDENTIAL — Any property which is used exclusively for residential use and where the waste being generated contains sanitary sewage with no waste from any process or industrial trade or business activity.

SANITARY SEWER — A sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, commercial or industrial establishments and other facilities of public or private institutions, together with such groundwaters, surface waters and stormwaters as may be present.

SEWER — A pipe or conduit for carrying sewage.

SEWER SYSTEM — The combination of building sewers, associated collection and storage containers, valve pits, buffer tanks and pumping stations, and public sewers through and by means of which wastewater flows and is transported to the wastewater treatment plant.

TOWN — The Town of Barnstable.

WASTEWATER — A combination of liquid and water-carried wastes, whether treated or untreated, from residences, business buildings, industrial and manufacturing facilities, and facilities of private and public institutions, together with such groundwaters, surface waters and stormwaters as may be present, which is contributed into or permitted to enter the sewer system.

§ 901-2. Town sewer connection permit.

- A. No sewer connection, disconnection or alteration of a sewer connection to a municipal sewer shall be constructed prior to obtaining the appropriate sewer connection permit, and payment of the appropriate permit fee, from the Town of Barnstable Department of Public Works. The building sewer connection must be installed by a contractor who is licensed as a disposal works installer by the Town of Barnstable Board of Health or by a contractor who has been approved by the Town of Barnstable Department of Public Works. Failure of a licensed installer to secure a permit prior to beginning work on a connection, disconnection or alteration shall result in a ninety-day license suspension for the first offense, a one year suspension for the second offense and license revocation for the third offense. In order to avoid these penalties, the installer must apply and pay for the required permit no later than 72 hours after initiating work on the connection. Any work on a municipal sewer connection by anyone not licensed by the Department of Public Works shall be subject to a fine not to exceed \$500.
- B. All building sewer connections for industrial/commercial discharges shall submit a copy of their State sewer connection permit to the Town of Barnstable Department of Public Works for review.
- C. All industrial/commercial building sewer connections shall install any pretreatment equipment and meet all pretreatment discharge requirements, as determined to be necessary by the Town of Barnstable Department of Public Works Water Pollution Control Division.
- D. All sewer connection permits are valid for a period of 180 calendar days from the date of issue. Forty-eight hours must be given to the Engineering Division before beginning work on a sewer connection. No work shall be backfilled until approval for backfilling is given by Engineering Division personnel. Any work that has been backfilled without that approval shall be uncovered at the request of Engineering Division personnel.

§ 901-3. Contractor approval to connect building sewer; insurance requirements.

- A. Other contractors (plumbers, general contractors, excavation contractors, etc.) who wish to install or alter building sewer connections in the Town of Barnstable must submit to the Department of Public Works a company history, certificate(s) of insurance(s) or

bond(s), a list of references and any other information which the contractor believes may be pertinent. The information will be reviewed by the Town Engineer and a determination will be made.

- B. Insurance(s) and bond(s) must include the following:
- (1) Workmen's compensation: minimum limit of employer's liability of \$1,000,000.
 - (2) Commercial general liability insurance: covering the premises, operations, completed operations, contractual and protective hazards that may be presented by the work to be done, in an amount of \$1,000,000 each occurrence limit; a products-completed operations aggregate limit of \$2,000,000 and a general aggregate limit of \$2,000,000.
 - (3) Owned and nonowned automobile liability insurance: combined single limit in an amount of not less than \$1,000,000.

§ 901-4. State sewer connection permit.

The appropriate sewer connection/extension permit, when applicable, must be obtained from the Massachusetts Department of Environmental Protection, prior to applying for a sewer connection permit from the Town of Barnstable Department of Public Works.

§ 901-5. Other permits and forms.

- A. The property owner is responsible for obtaining all permits or license(s) from the Town of Barnstable Building Services Division; the Town of Barnstable Conservation Commission; Town of Barnstable Water Pollution Control Division; Massachusetts Highway Department; Massachusetts Department of Environmental Protection; and other federal, state or municipal regulatory agencies, when appropriate.
- B. The installer must obtain all appropriate permits necessary from the Town of Barnstable Board of Health, prior to performing the installation/disconnection of grease traps, waste interceptors or septic systems.
- C. A pretreatment survey from the Town of Barnstable Water Pollution Control Division must be filed for all industrial and commercial building sewer connections, and the property owner shall install any pretreatment equipment necessary to meet all pretreatment discharge requirements, as determined by the Town of Barnstable Department of Public Works.
- D. A grease trap installation permit obtained from the Town of Barnstable Department of Public Health must be provided to the Engineering Division prior to the issuance of a sewer connection permit.

- E. A permit to abandon the existing septic system must be obtained from the Town of Barnstable Department of Public Health.
- F. A road opening permit must be obtained from the Town of Barnstable Department of Public Works Engineering Division prior to any work being performed within the designated layout of a Town road or sidewalk. All road opening work must be performed by a contractor licensed to perform road opening work by the Town of Barnstable Department of Public Works Engineering Division.
- G. All industrial or commercial properties and any residential property whose flow is expected to exceed 2,000 gallons per day (7,500 liters per day), based on Title V quantity estimates, connecting to the municipal sewer must obtain and file a pretreatment survey with the Town of Barnstable Water Pollution Control Facility. All industrial building sewer connections shall install any pretreatment equipment and meet all pretreatment discharge requirements, as determined to be necessary by the Town of Barnstable Department of Public Works.

§ 901-6. Design submittal.

- A. All building sewer connections and alterations of an existing sewer connection shall be designed and installed in accordance with accepted engineering principles. A plan of the proposed building sewer connection or alteration must be submitted to the Department of Public Works Engineering Division as part of the sewer connection application for residential flows expected to exceed 2,000 gallons per day (7,500 liters per day), based on Title V quantity estimates, and for all commercial or industrial flows. This plan shall include a sketch of the lot and buildings to be served and the proposed layout, locations and depths of the sewer piping and other appurtenant structures (manholes, valve pits, buffer tanks, grease traps, cleanouts, etc.).
- B. The plan for a disconnection shall include a sketch of the lot and buildings located on the property, locations of existing sewer pipe and appurtenances. The disconnection shall be performed at the property line and the cut sewer line, and pipe end shall be capped and encased in concrete.

§ 901-7. Pipe material.

The building sewer shall be constructed of PVC SDR 35 pipe, Schedule 40 PVC or better, as acceptable to the Department of Public Works. The minimum size of the building sewer shall be four inches (100 mm) in diameter for residential connections and six inches (150 mm) in diameter for commercial or industrial connections. Upon approval from the Department of Public Works, larger diameter pipe may be installed. Pipe and fittings shall be uniform and homogeneous throughout and free from visible cracks, holes, foreign inclusions or other injurious defects. Pipe, fittings and other materials shall be examined prior to installation for any defects.

§ 901-8. Pipe joints.

All pipe joints of the building sewer shall be made watertight and protected against damage from roots, stones or other objects. Each length of pipe shall be laid to form a tight joint and to bring the inverts into a continuous line. All pipe shall be clean and free of dirt before laying and open ends shall be kept covered and free of dirt during construction. Where new pipes are to join existing piping, structures and appurtenances, extreme care shall be taken in cutting into the existing material and tight connections shall be made. Where new piping and construction is to join existing structures and appurtenances, care shall be taken so as to not interrupt existing service.

§ 901-9. Pipe bedding and cover.

- A. The building sewer shall be laid on a firm base. The subbase shall be compacted prior to placing the pipe bedding material. Material used for bedding and cover shall be free of large stones, frozen clumps of earth, masonry, stumps or any other deleterious materials. The bedding material shall be placed and compacted by manual or mechanical means to suit the material, and acceptable to the Department of Public Works, to minimize settlement or other movement of the piping and any appurtenant structures. Commercial or industrial connections and appurtenant structures shall be laid on a layer of crushed stone Type A, 3/4 inch (19 mm), and shall meet the following gradation requirements:

Sieve		Percent Passing (square openings)
1 inch	25 mm	100
3/4 inch	19 mm	90 - 100
1/2 inch	12.5 mm	10 - 50
3/8 inch	9.5 mm	0 - 20
No. 4	4.75 mm	0 - 5

- B. Cover for building sewer connections shall be a minimum of three feet (900 mm).
- C. For residential connections, suitable excavated material may be used as backfill for pipe bedding and cover.
- D. Each pipe shall be held firmly in position by carefully and thoroughly tamping backfill material around the barrel of the pipe. Tamping irons shall be used.
- E. The building sewer shall not be designed or constructed so as to pass over a water pipe or storm drainpipe. Sewer connections shall be installed with a minimum horizontal separation of 18 inches (450 mm) and a minimum vertical separation of 36 inches (900 mm) from a waterline or storm drain. If it is necessary to cross above a water utility or storm drainpipe, the building sewer shall be encased in concrete or

placed in a large diameter watertight sleeve for a distance of 10 feet (three meters) on both sides of the crossing.

§ 901-10. Slope and grade.

The building sewer shall be designed so as to provide a minimum flow velocity of two feet per second (0.6 meters per second), when flowing full. The building sewer shall be laid on a continuous grade and in a straight line. Allowable slope shall not be less than that listed on the following table:

Pipe Diameter		Minimum Slope	
		(foot/foot)	
		(meter/meter)	
4 inches	(100 mm)	0.0250	1/2 bubble
6 inches	(150 mm)	0.0125	1/4 bubble
8 inches	(200 mm)	0.004	
10 inches	(250 mm)	0.0035	
12 inches	(300 mm)	0.003	

§ 901-11. Cleanouts.

A cleanout tee shall be provided at the exterior wall of the building for all building sewer connections. Residential sewer connections shall include a cleanout tee upstream of all major bends. Where right-angle bends cannot be avoided, they shall be long sweeps or a series of bends of 45° with a short pipe length between each bend. Cleanout tees shall be sealed with a removable, reusable threaded screw-on cap. Cleanouts, or riser connections, shall be installed at or just below grade, for reasonable access and use. All cleanouts installed in areas subject to vehicular traffic must be constructed to withstand H-20 wheel loads.

§ 901-12. Vacuum sewer vent piping.

A minimum four-inch diameter vent pipe shall be provided at the exterior wall of the building for all sewer connections to valve pits or buffer tanks connected to the vacuum sewer system. All aboveground vent piping shall be Schedule 80 PVC and shall have a stainless steel bird screen. Vent piping shall be located a minimum of 20 linear feet away from the valve pit or buffer tank it is connected to. Bollards or similar Department of Public Works approved protective devices shall be installed to protect above-grade piping at all commercial and/or industrial sites. Protective devices for residential installations shall be required as determined by Department of Public Works Sewer Inspector.

§ 901-13. Sampling manhole/sampling station.

Commercial or industrial sewer connections shall include a sampling station, to be used for discharge sampling, located in the road layout at the property line.

§ 901-14. Manholes.

For commercial or industrial sewer connections manholes shall be used at all locations where pipe size, slope or direction changes. Distance between manholes shall not exceed 300 feet (90 meters). With prior approval from the Town of Barnstable Department of Public Works, minor direction changes may consist of long sweeps or a series of bends of 45° with a short pipe length between each bend. Manholes shall be constructed of pre-cast concrete. Pre-cast concrete manholes shall be commercially manufactured units of 3,000 psi (20 mpa) minimum, air-entrained concrete conforming to ASTM Standard C478. All joints between pre-cast sections shall be sealed with bitumastic sealant or other method acceptable to the Department of Public Works. Steps in pre-cast concrete manholes shall be aluminum or polypropylene. Polypropylene steps shall be steel reinforced and shall be embedded a minimum of three inches (75 mm) into the concrete. Joints between the manhole and pipes shall consist of cast-in-place flexible rubber sleeves with stainless steel clamps. Manholes shall be laid on a layer of crushed stone Type A, 3/4 inch (19 mm), meeting the gradation requirements listed above. The layer of bedding material for the manhole base shall be not less than six inches (150 mm) thick. Inverts may be cast of cement concrete or brick and mortar, and must be surfaced with cement or clay brick. Brick shall be laid in portland cement mortar composed of one part portland cement and two parts sand, measured by volume, to which not more than 10 pounds of lime shall be added for each bag of cement. Portland cement shall conform to ASTM Standard C150, Type II. Sand for the mortar shall be clean and sharp and contain no grains that will be retained on a mesh screen of 1/8 inch (3.125 mm). Backfill material shall consist of clean soil material and be free of large stones, frozen clumps of earth, masonry, stumps or any other deleterious materials. Backfill shall be uniformly placed, in six-inch layers around the structure and thoroughly compacted with hand tampers or mechanical equipment.

§ 901-15. Grease traps.

- A. The appropriate permits must be obtained from the Town of Barnstable Board of Health before installation of the grease trap and building sewer connection is started. The installation of the grease traps or waste interceptors shall be inspected and accepted by the Town of Barnstable Board of Health prior to being backfilled by the contractor.
- B. A waste interceptor or grease trap shall be installed for all facilities discharging other than domestic wastes, such as food handling/preparation facilities, laundromats, scientific/research facilities or facilities handling/storing petroleum products. Grease traps or waste

interceptors shall be constructed of pre-cast reinforced concrete or other prefabricated materials acceptable to the Department of Public Works. All joints between pre-cast sections shall be sealed with bitumastic sealant or other method acceptable to the Department of Public Works. The grease trap or waste interceptor shall be installed on a separate discharge line serving that part of the plumbing system into which the grease or waste will be discharged before flowing to the building sewer. Grease traps and interceptors shall have a minimum depth of four feet (1.2 meters) and a minimum capacity of 1,000 gallons (3,750 liters). The waste interceptor or grease trap shall have sufficient capacity to provide at least a twenty-four-hour detention period. Grease traps and interceptors shall be located so as to be accessible for cleaning and servicing. Records pertaining to the cleaning shall be delivered to the Town of Barnstable Board of Health.

§ 901-16. Building floor drains and oil/water separators.

Building floor drains may be connected to the Town sewer system, provided that an appropriately designed and constructed oil/water separator is installed between the floor drain(s) and the sewer connection. The amount of oil in the discharge effluent from the oil/water separator shall not exceed 10 parts per million. A description of the proposed oil/water separator must be submitted to the Department of Public Works with the sewer connection application. The description submittal shall include a list of materials that will be stored or utilized in or adjacent to the area of the floor drain(s). Additional treatment requirements, protection or surety may be required by the Town, after review of the sewer connection application, on a case-by-case basis. The oil/water separator shall be inspected monthly and cleaned in accordance with the manufacturer's recommendations or when the level of waste oil is 25% of the effective depth or at least every three months, whichever comes first.

§ 901-17. Force mains and low-pressure sewers.

PVC pipe for force mains or low-pressure sewers shall be Schedule 40 or SDR 21. Ductile iron pipe shall conform to ANSI Standards A21.50 and A21.51, Thickness Class 52, and shall have either mechanical joint or a type of joint which employs a single, elongated, grooved rubber gasket. Rubber gaskets shall be oil-resistant, conforming to ANSI Standard A21.11. In-line flushing connections shall be installed at terminus of pressure lines. Distance between cleanout/flushing connections shall not exceed 600 feet (180 meters). Air-release valves shall be installed at each high point on a force or pressure sewer.

§ 901-18. Vacuum valve pit and buffer tank connections.

- A. The building sewer connecting to a vacuum valve pit shall be constructed of Schedule 40 or SDR-21 PVC pipe. Pipe shall be connected to existing pipe stubs from the valve pit or buffer tank. The contractor shall field verify the invert elevation at each buffer tank

or valve pit to be connected. Valve pits are provided with four-inch stubs and will require the use of four-inch by six-inch reducers for commercial connections. Reducers shall be located within two feet of the valve pit for proper connection. Gravity piping to the valve pit or buffer tank shall be installed with proper slope and bedding as specified in this document. Pipe joints shall be as specified under § 901-8, Pipe joints.

- B. Only homes or apartments whose lower floor elevations are identical shall be connected to a common valve pit. Multiple-floor apartment complexes shall have each floor served by its own valve pit or shall be served by a buffer tank.
- C. The Department of Public Works shall be notified a minimum of seven days prior to making the final connection to any valve pit or buffer tank. Connections shall be scheduled with the Department of Public Works to allow for the installation of the vacuum valves. Vacuum valves shall only be installed following the installation of the vent pipe but prior to final connection to the building. Valve installation shall be performed by the Town during the hours of 8:00 a.m. to 1:00 p.m., Monday through Thursday, excluding all holidays.

§ 901-19. Connection of pressure sewers to vacuum valve pits or buffer tanks.

- A. Force main piping shall be as specified under § 901-17, Force main and low-pressure sewers, and gravity piping shall be constructed of SDR-21 PVC pipe. A minimum of 20 feet of gravity piping shall be provided at two-percent slope prior to entering the valve pit or buffer tank. The vent pipe on the force main connection line may be optional at the discretion of the Department of Public Works if one or more additional gravity vents are installed on gravity lines servicing the same valve pit or buffer tank. Force main and low-pressure sewer systems may only connect to a vacuum sewer system after approval from the Department of Public Works. Any force main and low pressure sewer systems allowed to connect to a vacuum sewer system shall not pump to a rate greater than that listed on the following table.

Vacuum Sewer Connection Via:	Maximum Allowable Pumping Flow Rate¹
Valve pit (1 valve)	15 gpm (maximum 50 gallons pumping volume per cycle)
Single valve buffer tank (1 valve)	15 gpm commercial; 30 gpm residential
Dual valve buffer tank (2 valves)	30 gpm commercial; 60 gpm residential
Dual buffer tank with splitter MH (4 valves)	60 gpm commercial; 120 gpm residential

¹Maximum allowable pumping flow rate for buffer tanks is the total of all connections to the buffer tank(s).

- B. With prior approval from the Department of Public Works, wastewater may be pumped up to a properly designed and constructed distribution box or sampling manhole prior to the valve pit or buffer tank and then connected to the valve pit or buffer tank by gravity as describe above. Flows shall not exceed those as shown on the table above. Distribution boxes and manholes shall be constructed of pre-cast reinforced concrete or other prefabricated materials acceptable to the Department of Public Works. A description of the proposed distribution box connection must be submitted to the Department of Public works with the sewer connection application.

§ 901-20. Pumping stations.

Pumps shall be either factory preassembled grinder pump(s) or nonclog centrifugal pump(s) capable of passing four-inch (100 mm) solids, appropriately sized for required capacity at design head. The pre-engineered pump station shall consist of either submersible pump(s) within a wet well or dry pit pump(s) housed separately from the wet well. Either shall have appropriate level controls within the wet well. A separate electrical control panel, with warning alarms connected from the wet well level controls shall be contained within a watertight enclosure or be located within a building. A red flashing alarm light shall be located on the exterior of the building at a location visible from the street. The pre-engineered pump station shall have a check valve and a gate valve along the discharge pipe, located outside the wet well and contained within a pre-cast pit for accessibility and servicing. Single-family residential sewer connections may be served by a simplex pump installation; all commercial or industrial sewer connections and multiple residential sewer connections shall install a duplex pump system.

§ 901-21. Manhole frames and covers.

- A. Manholes shall be topped with a cast-iron frame and cover. Manhole frames and covers shall be marked "SEWER." Frames and covers shall be of tough, gray cast iron conforming to ASTM Standard A48, Class 30. Cast-iron frames and covers shall be set in full mortar beds true to line and grade. Cement concrete collars shall be placed around the castings after the final setting.
- B. Adjustments to grade shall be accomplished by the use of a stackable frame riser ring. Frame and cover adjustments may not be obtained by brick and mortar under the flange of the casting.

§ 901-22. Saddling of existing pipelines.

- A. No direct sewer connections or repairs shall be made to a vacuum sewer, except by written permission of the Department of Public Works.

All proposed connections to a vacuum sewer shall be accompanied by a written request from the owner, and/or contractor, clearly identifying the proposed flow to be connected, to allow the Town to determine the impact on system capacity and allow for proper sizing of required valve pit or buffer tank. Only following verification of sufficient available capacity of the vacuum system shall the DPW issue approvals for connection.

- B. When a gravity sewer connection must be made into a sewer main, where a service connection is not available, the sewer connection shall be tied in using an appropriate tapping saddle or PVC wye. The tapping saddle shall be made of aluminum, stainless steel or other material acceptable to the Department of Public Works. The saddle shall be a wrap-around type with full-length internal gasket and multiple nut and bolt clamps. The sewer main shall be cleaned of all dirt and foreign matter and inspected for any scores, dents, pin-holes, small surface cracks or other injurious defects which may interfere with the proper installation or operation of the saddle. The saddle and tapping shall be installed according to the manufacturer's recommendations and in such a manner so as not allow any exfiltration of wastewater from the sewer main or infiltration of groundwater into the sewer main. The sewer main and service pipe shall be encased in concrete for a distance of 12 inches beyond the tapping saddle.
- C. For installation of a PVC wye tie-in, a suitable length of sewer main shall be cut out using a saw with a high speed rotating cutting blade. The sewer main pipe ends shall be wiped clean with a clean cloth. All rough edges and burrs shall be removed or smoothed. Any foreign material shall be removed from the sewer main prior to installation of the tie-in wye assembly.
- D. The sewer main tie-in assembly shall consist of an appropriately sized PVC wye, two short lengths of PVC transition pipe with spigot ends, and two PVC repair couplings (for PVC sewer main tie-ins) or two flexible couplings (for tie-ins to vitrified clay, AC transite, steel or other types of sewer main pipe).
- E. All couplings, pipe, wyes and other materials shall be examined, prior to installation, and shall be clean and free of any injurious defects. The PVC wye and repair coupling gaskets shall be free of any cuts, slices, abrasions or other defects which could interfere with a proper fit of all pieces. The flexible coupling gaskets shall be free of any cuts, slices, abrasions or other defects. The flexible coupling body shall be free of any cracks, inclusions, dents or other defects. The threads on the flexible coupling bolts and collar shall be free of cracks, burrs, rust or other defects which could interfere with the proper fit and function of the coupling and tie-in assembly.
- F. The tie-in assembly shall be installed and shall not allow any exfiltration of wastewater from the sewer main or infiltration of groundwater into the sewer main.

§ 901-23. Vehicular traffic.

When the building sewer connection or other appurtenant structures may be subject to vehicular traffic, the system should be designed and constructed to withstand H-20 wheel loads.

§ 901-24. Erosion control.

- A. During the construction project, soil erosion can be a major contributing factor to environmental pollution. In order to minimize the effect of sedimentation, washouts, etc., during construction activity, erosion control devices may need to be installed for the duration of the construction.
- B. The form and design of the controls will vary with the type of area that is to be protected and the anticipated cause of the environmental degradation. In most situations the type and location of controls can be determined during the design phase; however, field conditions may require a reevaluation of the controls needed during construction.
- C. Erosion control methods must be submitted to the Department of Public Works for review and approval.

§ 901-25. Gravity sewer limitations.

Gravity sewers may not be available to service a basement or other below-ground area. In such situations the sanitary sewage shall be lifted, by a pumping system or other approved means, and discharged to the building sewer. Before design is begun the Department of Public Works should be contacted to determine the availability of service for below-grade connections.

§ 901-26. Alternate designs and technologies.

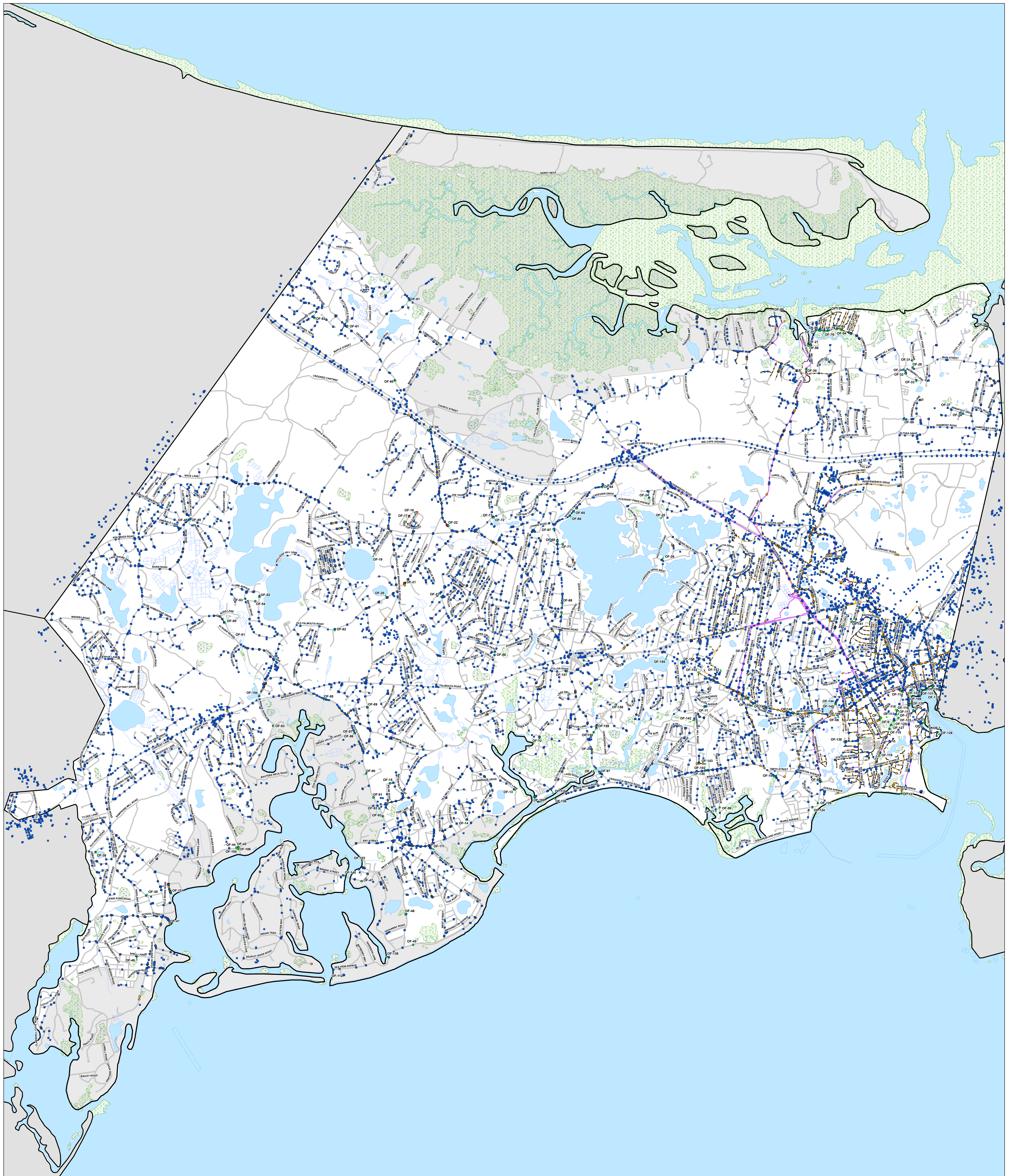
The preceding standards are based on known and accepted engineering practice and theory. The Town of Barnstable Department of Public Works will give reasonable consideration and review of alternate designs or technologies, which may be available, that transport and discharge sanitary sewage to a municipal sewer system and treatment facility.

Appendix D

Stormwater System Mapping

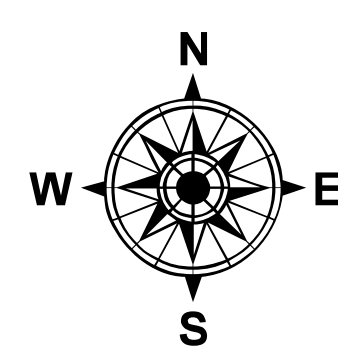
Mapping Status

Requirement Summary	Status
Phase I – Must be Complete by July 1, 2020	
1. Outfalls and receiving waters	Complete
2. Open channel conveyances	Complete (updates ongoing)
3. Interconnections with other MS4s	Minimally Complete
4. Municipally owned structural BMPs	Complete
5. Waterbody names and impairments	Complete
6. Initial catchment delineations by topography	Complete
Phase II – Must be Complete by July 1, 2028	
1. Outfalls with spatial accuracy +/-30 feet	Complete (updates ongoing)
2. Pipe connectivity	Complete (updates ongoing)
3. Manholes	Complete
4. Catch basins	Complete
5. Refined catchment delineations	Not started
6. Municipal sanitary system	Moderately Complete
7. Municipal combined sewer system	Not Applicable



Legend

- | | | |
|--------------------|-----------------------------|-------------------------|
| ▲ Outfalls | — Storm Water Gravity Drain | — Roads |
| ■ Stormwater BMP | — Swale | — Lake, Pond, Reservoir |
| ■ Catch Basin | ■ Pump Station | — Wetland, Marsh, Swamp |
| ● Drainage Manhole | — Sewer Force Main | — Stream, Brook |
| — Culvert | — Sewer Pipe | — Non-Urban Area |



**Stormwater Infrastructure Map
Barnstable, MA**

Comprehensive
Environmental
Incorporated



Data Sources: CEI, MassGIS, Town of Barnstable

Appendix E

Inventory of Town-Owned Property

Town-Owned Properties

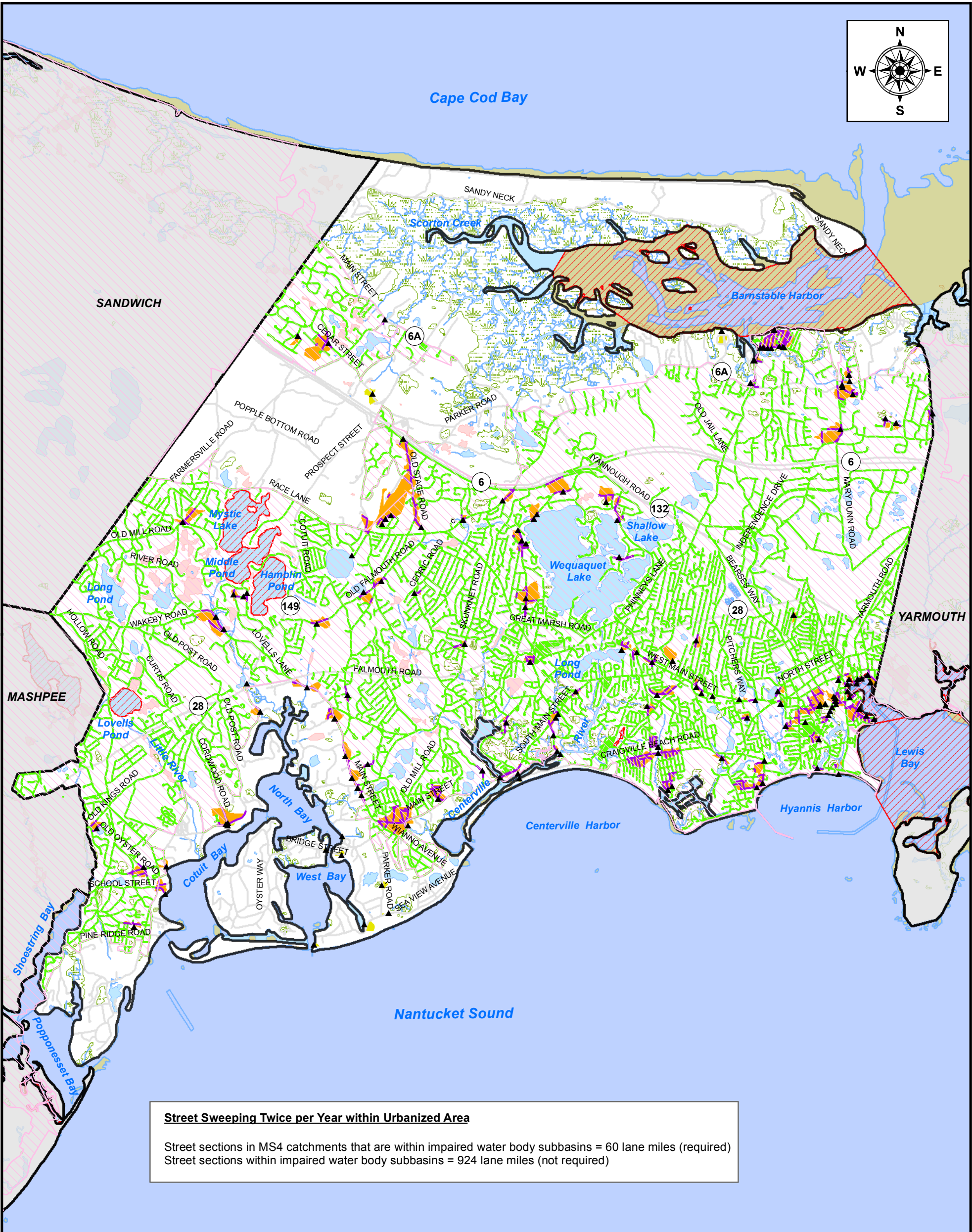
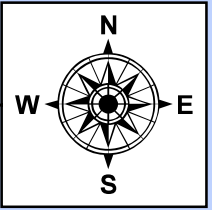
Site Name	Address
MUNICIPAL BUILDINGS	
Barnstable Government Offices (Animal Control, Harbor master, Natural Resources)	1189 Phinneys Lane
Barnstable Police Department	1200 Phinneys Lane
Barnstable Public Works Dept/ Highway Dept	382 Falmouth Road
Barnstable Recycling Center	45 Flint Street
Barnstable Stove Shop	2481 Meetinghouse Way
Barnstable Structures and Ground	800 Pitchers Way
Barnstable Town Hall	367 Main Street
Barnstable Town Offices	200 Main Street
Cape Cod Fuel	58 Willow Ave
Cape Cod Maritime Museum	135 South Street
Cape Cod Model Railroad Club	2461 Meetinghouse Way
Coast Guard Heritage Museum	3353 Main Street
Historic West Barnstable Station	2469 Meetinghouse Way
Zion Union Heritage Museum	296 North Street
SCHOOLS AND COMMUNITY BUILDINGS	
Barnstable High School	744 West Main Street, Hyannis
Barnstable Intermediate School	895 Falmouth Road/ Rte 28
Barnstable Senior Center	825 Falmouth Road
Barnstable United Elementary School	730 Osterville West Barnstable Road
Barnstable/West Barnstable Elementary School	2463 Main Street
Cape Cod Collaborative	418 Bumps River Road
Cape Cod YMCA	2245 Iyannough Road
Centerville Elementary School	658 Bay Lane
Hyannis Elementary East	165 Bearse's Way
Hyannis Youth and Community Center/Recreation Dept	141 Bassett Lane
HyArts Building	50 Pearl Street
Maki Monument Company	918 Main Street
Marstons Mills Elementary School	2095 Main Street, Marston Mills
New Classics Theater	250 South Street
The Old Village Store	2455 Meetinghouse Way
The Waldorf School of Cape Cod	140 Old Oyster Road, Cotuit
West Hyannis Elementary	529-549 West Main Street
OPEN SPACES	
Parks	
Barnstable Public Lands	104 Sandy Neck
Bismore Park	180 Ocean Street
Burgess Park	559 Rte 149, Marstons Mills
Centerville Playground	524 Main Street
CJ's Ranch	1445 Osterville West Barnstable Road
Empty grass lot/rotary	545 Iyannough Road
Hyannis Harbor/Park	182 Pleasant Street
Lombard Farms	2331 Meetinghouse Way
Luke's Love Boundless Playground	2377 Meetinghouse Way
McKeon Park/Unnamed Park	365 Old Colony Road
Cemeteries	
Barnstable Cemetery	280 Putnam Avenue

Town-Owned Properties

Site Name	Address
Beaches	
Cousins Cove	460 Shootflying Hill Road
Craigville Beach	997 Craigville Beach Road
Keyes Memorial Beach	465 Sea Street, Hyannis
Loop Beach	281 Oceanview Avenue
Millway Beach	399 Millway
Ropes Beach	85 Old Shore Road
Sandy Neck Beach	Sandy Neck Road
Veterans Park Beach	480 Ocean Street
Boat Ramps/Ways to Water	
Barnstable Marine Service	110-114 Freezer Road
Golf Courses	
Hyannis Golf Course	1800 Iyannough Road
Olde Barnstable Fairgrounds Golf Course	1500 Route 129
Airfields	
ARFF/SRE Airport	Mary Dunn Way
Marston Mills Airfield	1000 Race Lane

Appendix F

Street Sweeping Optimization Plan

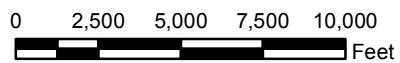


Street Sweeping Twice per Year within Urbanized Area

Street sections in MS4 catchments that are within impaired water body subbasins = 60 lane miles (required)
 Street sections within impaired water body subbasins = 924 lane miles (not required)

Legend

- ▲ MS4 Outfalls
- Urbanized Area - 2010
- 303d Water Bodies - Category 5**
- Impaired Lake, Pond
- Impaired River, Stream
- Hydrography**
- Bay, Ocean
- Lake, Pond, River
- Wetland, Marsh, Bog
- Tidal Flats, Shols
- Cranberry Bog
- Stream, Brook
- Outfall Catchments**
- Discharges to Impaired Water Body Subbasin within UA
- Catchment Outside of UA
- Street Sweeping Twice per Year, within UA**
- Within MS4 Catchment (required)
- Within Impaired Water Body Subbasins (not required)



Street Sweeping Map

Sweeping per Phase II Requirements

Barnstable, Massachusetts



Comprehensive Environmental Inc.

Appendix G

Catch Basin Optimization Plan

Plan for Optimizing Catch Basin Cleaning

Barnstable, MA

June 30, 2019

Prepared For:

Town of Barnstable
367 Main St,
Hyannis, MA 02601

Prepared by:

Comprehensive Environmental Inc.
41 Main Street
Bolton, MA 01740



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Plan for Optimizing Catch Basin Cleaning – Barnstable, MA

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- Appendix A. Map of Drainage Infrastructure
- Appendix B. Contractor’s Snow and Ice Control Manual
- Appendix C. Standard Operating Procedures for Catch Basin Cleaning and Inspection

1 Introduction

This Catch Basin Cleaning Optimization Plan has been prepared by Barnstable, MA to address the catch basin inspection, cleaning and maintenance requirements of the United States Environmental Protection Agency's (USEPA's) 2016 National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) in Massachusetts, hereafter referred to as the "2016 MS4 Permit."

The 2016 MS4 Permit requires the permittee to document its plan for optimizing catch basin cleaning, inspections, or its schedule for gathering information to develop the optimization plan. This plan documents the Town's existing catch basin cleaning program and its plans for gathering additional information to refine its program to meet the requirements of the permit.

2 Permit Requirements

This Catch Basin Cleaning Optimization Plan addresses Section 2.3.7.1.a.iii.2 of the 2016 MS4 Permit (Infrastructure Operations and Maintenance), which includes the following requirements:

- **Establish a schedule** with the goal that the frequency of routine cleaning will ensure that no catch basin at any time will be more than 50 percent full¹;
- **Prioritize** inspection and maintenance for catch basins:
 - located near construction activities². These should be cleaned more frequently if inspection and maintenance activities indicate excessive sediment or debris loadings;
 - discharging to impaired waters where the pollutant of concern is E. coli or enterococcus; and
 - with sumps more than 50% full during consecutive inspections.
- **Establish proper documentation** of catch basin inspections to include:
 - the location and total number of catch basins;
 - the location and total number of catch basins cleaned or inspected; and
 - the total volume or mass of material removed from catch basin
- **Develop an optimization plan** for catch basin cleaning, inspection plans, or a schedule for gathering information to develop the optimization plan in the first annual report and in the SWMP.

¹ A catch basin sump is more than 50 percent full if the contents within the sump exceed one half the distance between the bottom interior of the catch basin to the invert of the deepest outlet of the catch basin.

² Roadway construction; residential, commercial, or industrial development or redevelopment.

3 Existing Catch Basin Management Program

The Town has 5,140 catch basins to clean and maintain. Refer to the map in **Appendix A**. Given the large number of basins and expense of cleaning, approximately 1,500 catch basins are cleaned each year using an outside contractor, with a select number of “priority” basins inspected and cleaned more frequently. An inspector accompanies the contractor to verify and log the data from the catch basin cleanings into the Town’s Asset Management Program using a tablet or hardcopy forms. The Town uses the routes established in the 56 snow and ice quadrant maps to clean catch basins. Cleanings generally begin at Map 1 and the contractor continues through the maps until all are complete and then the process starts at the beginning again. Personnel follow Barnstable’s “Contractor’s Snow and Ice Control Manual” provided in **Appendix B** when performing work.

In addition to the catch basins cleaned using an outside contractor, DPW staff periodically clean catch basins that require more frequent cleaning, are located near sensitive areas, or that have issues. These catch basins are identified using a work order system.

The contractor is responsible for discarding of catch basin cleanings at a DEP Approved Dumping Site, however, the Town provides areas for temporary stockpiling at the Highway Barn located at 382 Falmouth Road, Hyannis and at the Barnstable Solid Waste Transfer Station located at 45 Flint Street, Marstons Mills. Once disposal arrangements are made by the contractor, Barnstable provides a front-end loader and operator for loading cleanings from the stockpiles.

4 Plans to Refine Catch Basin Cleaning Optimization

4.1 Optimization Methodology

Barnstable will continue to implement its existing catch basin cleaning schedule including more frequent cleaning of catch basins identified through the work order system. The Town will hire one to two outside catch basin cleaners with machines working in tandem to complete a catch basin cleaning contract. During the cleanings, Barnstable will have a Town inspector collect data on the sump depth and sediment depth in each catch basin before and after each cleaning. A spreadsheet will be used to track sediment depth at each location. The catch basin inspection form included with the standard operating procedure (SOP) in **Appendix C** will be used to document data collected during cleaning.

A minimum of four years of data will be collected and evaluated to determine the status of the catch basins and whether the sump was more than half full. The catch basins that are more than 50% full will be evaluated for potential factors that may have contributed to it being 50% full (i.e., smaller sump, nearby construction, surrounding land uses, location in town). The evaluation will be used to identify catch basins that require more frequent inspection and/or cleaning and to develop an optimization plan that prioritizes these structures accordingly.

4.2 Catch Basin Cleaning Standard Operation Procedure (SOP)

All catch basins will be inspected and cleaned following the standard operating procedures (SOP) provided in **Appendix C**.

4.3 Catch Basin Cleanings Storage and Disposal

Barnstable currently stores catch basin cleanings at either the Highway Barn located at 382 Falmouth Rd, Hyannis or the Barnstable Solid Waste Transfer Station located at 45 Flint St, Marstons Mills. The cleanings will eventually be disposed of at a DEP approved disposal site. The Town will explore possible beneficial uses for its collected catch basin cleanings.

Appendix A

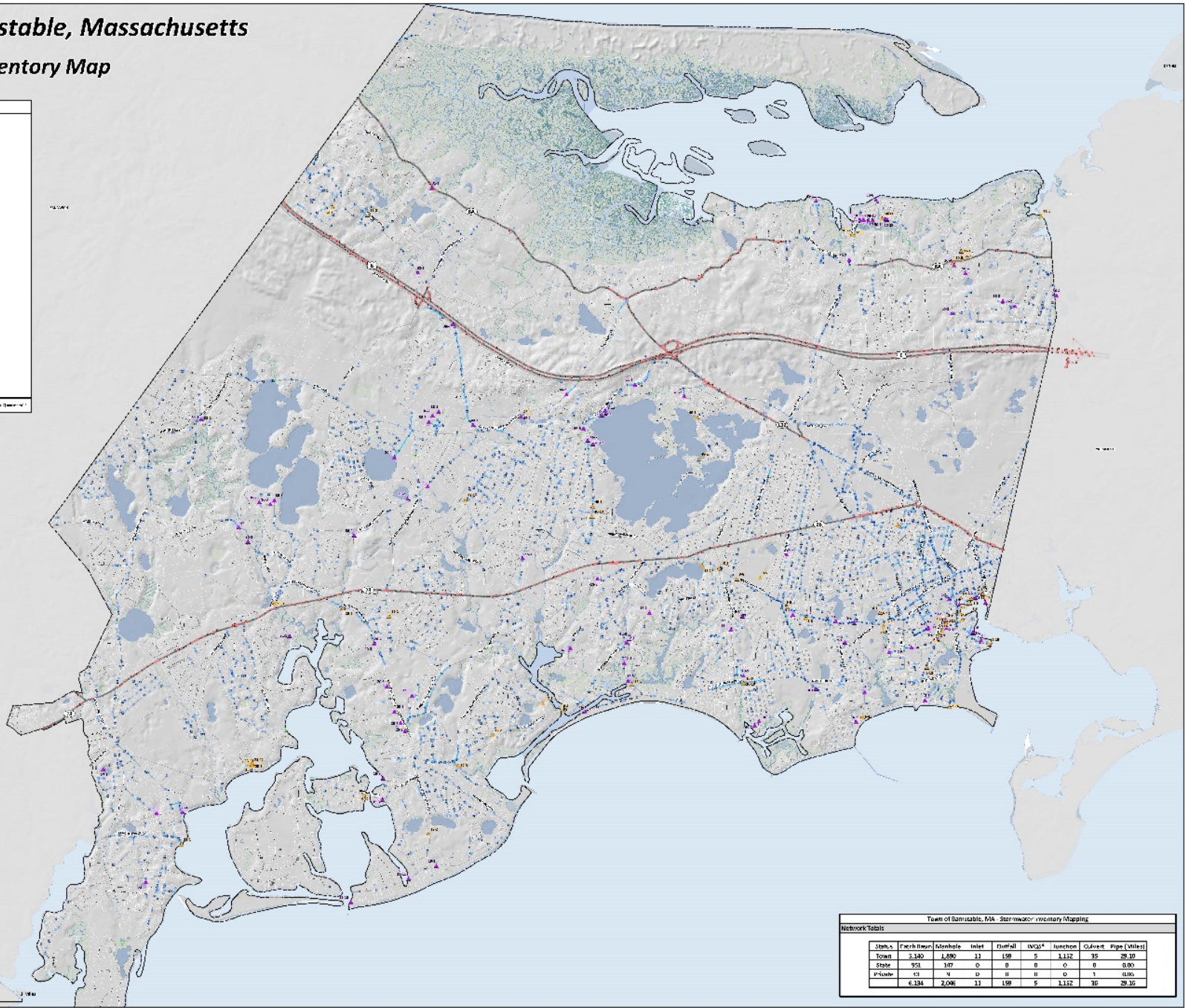
Map of Drainage Infrastructure

Town of Barnstable, Massachusetts

Stormwater Inventory Map

Map Legend

- Catch Basin Owner**
 - Town
 - State
 - Private
- Manhole Owner**
 - Town
 - State
 - Private
- Outfall Inventory - 159**
 - To River - 63
 - To Bays - 96
- Conveyance**
 - Type
 - Conduit
 - Swale
- Hydrography**
 - Hydrologic Connection
 - Open Water
 - Wetland
- Roadway Owner**
 - State
 - Town
 - Other
- Planimetric Data**
 - Parcel



DRAFT

Issue Date: March 27, 2017

This Map is Intended for Planning Purposes Only.



Town of Barnstable, MA Stormwater Inventory Mapping

Status	Catch Basin	Manhole	Inlet	Outfall	UDCA*	Junction	Conduit	Pipe (Miles)
Town	2,140	1,890	11	198	5	1,132	35	29.30
State	953	107	0	0	0	0	0	0.00
Private	53	4	0	0	0	0	1	0.00
Total	6,184	2,000	11	198	5	1,132	36	29.30

Appendix B

Contractor's Snow and Ice Control Manual

TOWN OF BARNSTABLE

DEPARTMENT OF PUBLIC WORKS

CONTRACTOR'S SNOW AND ICE CONTROL MANUAL

1.0 MISSION

During a Snow and Ice event, the Department of Public Works (DPW) is responsible for treating roads and removing the accumulated snow and ice from the town, county, and most private roads; municipal parking areas; and some sidewalks/bike paths as rapidly and efficiently as possible. The safety and mobility of the community is of the utmost importance. The DPW utilizes its own workforce and equipment, and contractor employees and equipment, to accomplish this task.

2.0 DEFINITION OF TERMS

Main Roads – A class of roads as defined by the DPW that requires larger plows and equipment. These roads tend to be wider, straighter, and have more traffic on them.

Secondary Roads – A class of roads as defined by the DPW that requires smaller plows and equipment. These roads tend to be narrower, curvy, and have less traffic on them.

Snow Plowing – to clear/remove snow via truck or machine from roads, parking areas, and sidewalks.

Snow Removal – to remove accumulated snow via mechanical means (loader/conveyor/blower into a truck) from DPW designated areas and trucking it to a separate DPW designated area.

Spreading – to evenly apply salt, sand, liquid de-icing chemicals, a mix of the same, or other substances directed by the DPW by mechanical means to roads, parking areas, and sidewalks.

3.0 SCOPE OF WORK

- A. Snow Plowing – plowing shall be conducted in DPW defined predetermined routes to the following standards:
 - a. All roads, parking areas, and sidewalks (both paved and unpaved) shall be cleared to their full width.

- b. All paved areas shall be free from any loose accumulation of snow. Plows or buckets will be lowered /angled to their fullest extent to create a scraping effect by the steel plow/bucket edge on the pavement during plowing operations. "Shoes" or other devices used to keep the plow's or bucket's edge above the paved surface are not allowed unless written permission from the D.P.W. is granted for certain situations I;e road surface conditions, route assignments for the present contact snow and ice season only. Snow blowers are allowed to have "shoes", but with no more than 1-2 inches of clearance between the bottom of the intake chute and the top of the pavement.
 - c. All unpaved areas shall be cleared by leaving the plow in a slightly raised position to avoid damage to the unpaved surface.
 - d. All intersections/corners shall be pushed back to their fullest extent possible, as defined by DPW inspectors.
 - e. All sidewalk routes must have clear access from snow being piled up around obstacle's i.e. telephone poles, walls, support cables etc. If a machine cannot clear the sidewalk around these obstacles, it is up to the contractor to remove the snow by other means such as walk behind snow blowers, shoveling etc...
- B. Spreading - spreading shall be conducted in DPW defined predetermined routes to the following standards:
- a. Spreading shall be conducted with DPW calibrated equipment.
 - b. Spreading shall be at a rate prescribed by the DPW. All materials will be applied at the proper rates to ensure adequate material was applied, while avoiding over-applying material.
 - c. There shall be an even application of the DPW prescribed materials to no less than within one foot of the edges of the road/sidewalk/parking lot. The Contractor will refrain from applying material outside of the limits of the road/sidewalk/parking lot.
 - d. Intersections, curves, round-a-bouts, traffic circles, etc. and their approaches will require special attention to assure proper material applications
- C. Snow Removal – snow removal will only be required upon the DPW's request. When requested, snow removal will be conducted to the following standards:
- a. Snow and its associated banks/drifts shall be completely removed from the full extent of designated roads (including associated parking stalls) and sidewalks.

4.0 EQUIPMENT SPECIFICATIONS AND REQUIREMENTS

- A. All equipment is required to be in good operating condition, and kept that way throughout the Snow and Ice Season. The DPW may require vehicle and equipment inspection to determine mechanical conditions of equipment. The DPW's judgment as to the condition of the units shall be final, conclusive and binding.
- B. All equipment must meet the requirements of the Registry of Motor Vehicles, Commonwealth of Massachusetts, for the type of equipment and Snow and Ice class route being applied for.
- C. All equipment must arrive at its specified meet point filled with fuel, in good working condition, and with all reimbursable accessories functioning properly. The DPW reserves the right to alter rates based on changed conditions.
- D. Communications Equipment - all contracted equipment must have an operable, reliable communication system.
 - a. Each of the contractor's operators shall have cellular phones to be able to communicate with the DPW inspectors/Emergency Response Center.
 - b. Contractors supplying multi pieces of plowing/spreading equipment will need a communication device for each piece of equipment.
- E. Plow Trucks/Machines – plow trucks and machines will have the following requirements:
 - a. Smaller trucks (1.5 ton or 5,500 and less) require Four wheel Drive
 - b. Machines (loaders, skid steers, snow blowers, etc.) – Contractors should note that machines can be used for plowing operations on roads in certain situations.
- F. Spreading Equipment - spreading equipment will have the following requirements:
 - a. The spreader must be able to be calibrated by DPW personnel, and capable of applying approximately 250-300 pounds of material per lane mile
 - b. The spreader shall have in cab operator metered controls for both its spinner and conveyor that can be adjusted by the operator while underway.
 - c. Spreader's capacity shall be appropriate for the size of the truck/route it serves as determined by DPW personnel

5.0 SAFETY REQUIREMENTS

- A. The Federal Highway Administration has regulations that require employers with drivers of commercial vehicles to have an alcohol and drug-testing program in place. The specific provisions of the regulations are highly detailed and legally complex. The DPW strongly urges you to review the regulations, which are cited as 49 CFR, part 382. (www.fmcsa.dot.gov/rulesregs/fmcsr/regs/382.htm).
- B. No Operator will be allowed to operate a vehicle or piece of equipment longer than 24 hours without a rest period. Contractors should make sure additional operators are available, or risk the vehicle being parked for a minimum of 6 hours while the Operator rests.
- C. Any contractor's operator who must exit or work outside their vehicle for any reason while being employee by the Town of Barnstable is required to wear a reflectorized ANSI Class II safety vest, or ANSI Class II outer clothing.
- D. All vehicles/machines shall comply with applicable Federal and State safety requirements.

6.0 GLOBAL POSITIONING SYSTEM (GPS)

- A. The DPW will issue GPS equipment (portable) to a Contractor. The GPS system will be utilized as a way to track vehicle location, manage the snow and ice events, and increase safety.
- B. The contractor will be required to have the portable GPS unit in the vehicle that is contracted by the Town at all times during a snow and ice operation, regardless of vehicle operator.
- C. If the contractor swaps vehicle during a storm due to breakdown, etc., the GPS unit will go with the new vehicle that is now working for the Town.
- D. If at any time, for reasons other than GPS unit failure, the contractor's vehicle(s) are not able to be tracked by the DPW, or not in their assigned route(s) (unless permission has been granted by their inspector) then the inspector will be notified to log that contractor's vehicle out, and the contractor will not be compensated for the period of time that the vehicle is out of the route or not tracked.

E. Upon the issuance of said GPS Equipment, the DPW shall further provide, under separate agreement to the Contractor the terms and conditions on the operational use and maintenance responsibility for said GPS equipment.

7.0 OBLIGATIONS OF DPW TO CONTRACTOR

- A. The DPW will assign routes to the successful contractors. All assignments will be effective for the length of the Snow and Ice Season However, the DPW reserves the right to reassign routes/contractors for reasons that include, but are not limited to, the following:
- a. The operational needs of the Town.
 - b. The DPW cannot reach the contractor in a timely way for whatever reason.
 - c. The contractor's equipment is not available or becomes disabled during the operation.
 - d. The DPW determines that the contractor is not making adequate progress during the operation.
 - e. The DPW determines the Contractor has left their route without permission from their inspector.
 - f. The DPW determines that the storm is of such intensity that additional equipment is required to maintain the route.
 - g. The DPW determines that the Contractor's operator needs to stop and rest.
 - h. The DPW determines that the route requires miscellaneous work during the operation or after the operation is completed by the contractor.
 - i. The DPW determines that the storm is minimal and can be handled by Town employees.
 - j. It is the DPW's opinion that is final and binding in these matters.
- B. The DPW will provide road maps and route descriptions to allow for the orderly completion of the Snow and Ice removal or treatment.
- C. The DPW will assign inspectors to assist the contractors and to insure the timely and satisfactory completion of the routes. The DPW Inspectors are the final arbiters regarding if the work is of adequate quality and has been properly completed.
- D. The DPW will supply ballast (salt and sand) to contractors as required. The vehicle's body must be clean of all other materials before ballast is loaded. Ballast shall be

returned to the DPW when plowing has been completed. Failure to return ballast shall result in a charge to contractors.

- E. The DPW will be the official timekeeper for all Snow and Ice removal activities. It is the responsibility of the contractor to finalize his/her time with their inspector at the conclusion of the snow and ice event.
- F. The DPW will process and tabulate all "Snow and Ice Work Orders" for each individual contractor and route. The work orders will be processed as soon after the activity as possible. All Snow and Ice inspector time sheets shall be final, conclusive and binding. Payments will be processed and mailed to the contractors within a 30 day period after the completion of the work orders.
- G. The DPW will try to leave assigned contractors in their assigned routes for the entire season. However, the DPW reserves the right to reassign routes/contractors for reasons that include, but are not limited to, the following:
 - a. The operational needs of the Town.
 - b. The DPW cannot reach the contractor in a timely way for whatever reason.
 - c. The contractor's equipment is not available or becomes disabled during the operation.
 - d. The DPW determines that the contractor is not making adequate progress during the operation.
 - e. The DPW determines the Contractor has left their route without permission from their inspector.
 - f. The DPW determines that the storm is of such intensity that additional equipment is required to maintain the route.
 - g. The DPW determines that the Contractor's operator needs to stop and rest.
 - h. The DPW determines that the route requires miscellaneous work during the operation or after the operation is completed by the contractor.
 - i. The DPW determines that the storm is minimal and can be handled by Town employees.
 - j. It is the DPW's opinion that is final and binding in these matters.

8.0 OBLIGATIONS OF CONTRACTOR TO TOWN.

- A. The Contractor agrees to be available for Snow and Ice operations, 24 hours a day, throughout the length of the Snow and Ice season as outlined in the contract.
- B. The contractor must be able to begin his/her assigned route within 1 hour of being contacted by the DPW.
- C. The contractor agrees to provide the required equipment, necessary repairs, fuel and operators to satisfactorily complete the assigned routes from November 15 to April 15.
- D. The contractor agrees NOT TO perform Snow and Ice removal for another person, municipality, entity, or business until being released from his/her assigned route per the DPW.
- E. The Contractor agrees to accept the hourly rates that have been established by the DPW.
- F. It is the responsibility of the contractor to notify the town when not available for plowing for any reason. Failure to do so may result in loss of plow route and the end of season stipend.
- G. The contractor must show by past performance that he/she is capable of performing Snow and Ice removal of this magnitude.
- H. The contractor is responsible for their assigned route and agrees not to sublet or assign his/her route in whole or in part.
- I. The Contractor shall have adequate operators available such that no one operator will be operating the truck/machine for longer than 24-hours. If the DPW finds that an operator has been operating the equipment for over 24 hours, the DPW reserves the right to force that operator to park the equipment and rest. The Contractor will not be compensated for this time if the equipment is parked.
- J. The contractor shall be responsible for damages they cause during an event. The contractor shall indemnify, defend and hold harmless the Town and their agents and employees against all suits, claims or liability of every name and nature and from all claims for things which the contractor is required to do under this contract and for or on account of any injuries to persons or damage to property or nuisances or trespasses, and specifically including death and consequential damages, arising out of or in consequence of the acts of the contractor in the performance of the work covered by the contract or failure to comply with the terms and conditions of the contract, whether by the contractor

or his agents, employees and whether or not such claims, demands, suits, or proceedings are just , unjust, groundless, false or fraudulent and the contractor shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits and proceedings. This section shall apply to all operations by the contractor in connection with Snow and Ice removal.

- K. The Contractor will return all ballast to the DPW after completing the Snow and Ice operation. The Contractor shall ensure that the their truck is completely empty prior to receiving ballast, and that the ballast is kept clean and free of foreign material that may damage sanding equipment. Failure to return ballast shall result in charge to contractor.
- L. The contractor's operators must have a cell phone at all times during an event to be able to communicate with the DPW Inspectors and the ERC.
- M. The Contractor will obey all traffic regulations, laws, rules of the road and requirements of this policy at all times during a snowplowing event.
- N. The Contractor must have a valid license (drivers, hoisting, etc.), without restriction, for the vehicle/equipment they are operating during a snow and ice event.
- O. The Contractor shall immediately notify the Department of any damage that he/she caused to public or private property during a snowplowing event, and complete the required forms.
- P. The Contractor or his/her operator must be able to communicate and receive oral instructions effectively with his/her inspector. Failure to be able to communicate effectively may result in the termination of the contract.
- Q. The Contractor agrees to have the assigned GPS Unit installed or plugged in in his/her equipment at all times during the snow and ice event. If at any time the contractor knows the unit is longer connected or unplugged, they must notify their inspector immediately.

9.0 COMPENSATION

- A. Rate of compensation is defined by the table included in Attachment A.
- B. The DPW, at their sole discretion, will notify, by telephone, contractors who are required for each Snow and Ice operation. Payment for the operation will begin when the inspector logs them in at the "meet point", and will cease when the route has been completed to the satisfaction of the DPW inspector and they release the contractor.

- C. The DPW will guarantee a minimum of 4 hours of compensation to contractors called for Snow and Ice operations. Contractors who are recalled to their routes to complete unsatisfactory work will not receive the guaranteed minimum compensation for the recall.

10.0 INSURANCE

- A. As insurance requirements change periodically, please refer to the DPW packet for the most up to date requirements.
- B. Contractors who employ other persons to operate their equipment must maintain Workman's Compensation Insurance for those employees.

11.0 HIRING AND TERMINATION

- A. The DPW will choose the most experienced, well-equipped, contractors who are Interested in providing quality Snow and Ice Control.
- B. All contractors who offer to provide Snow and Ice control will receive fair and equitable treatment.
- C. Contractors who perform successfully during the previous winter season will be given preference over new contractors, and will be given first pick of routes.
- D. If the services of the contractor are for any reason deemed unsatisfactory, the DPW will notify the contractor. If mutually agreeable arrangements cannot be achieved, the contractor will be terminated.

**APPENDIX A.
FY19 SNOW AND ICE RATE SHEET**

Vehicles	Hourly Rate	Early Sign-up Bonus¹	Total
3/4 to 1 Ton, 4x4, Truck with 8 Foot Plow	\$74.00	\$5.50	\$79.50
3/4 to 1 Ton, 4x4, Truck with 9 Foot Plow	\$79.00	\$5.50	\$84.50
1.5 Ton, 4x4, Truck with 9 Foot Plow	\$85.00	\$5.50	\$90.50
1.5 Ton, 4x4, Truck with 10 Foot Plow	\$92.00	\$5.50	\$97.50
6-Wheel Truck with 10 Foot Plow	\$109.00	\$5.50	\$114.50
6-Wheel Truck with 11 Foot Plow	\$113.00	\$5.50	\$118.50
10-Wheel Truck with 11 Foot Plow	\$118.50	\$5.50	\$124.00
10-Wheel Truck with 12 Foot Plow	\$123.00	\$5.50	\$128.50
Snow Removal - 6-Wheel Dump 6-8 Yds	\$75.00	\$0.00	\$75.00
Snow Removal - 10-Wheel Dump 10-14 Yds	\$85.00	\$0.00	\$85.00
Snow Removal - 18-Wheel Dump Trailer	\$100.00	\$0.00	\$100.00
Additional Vehicle Equipment Adder²	Hourly Rate	Early Sign-up Bonus¹	Total
Wing Plow 8 ft Cutting Edge, Hydraulically Controlled	\$21.50	\$0.00	\$21.50
Wing Plow 9 ft Cutting Edge, Hydraulically Controlled	\$23.50	\$0.00	\$23.50
Wing Plow 10 ft Cutting Edge, Hydraulically Controlled	\$27.00	\$0.00	\$27.00
Wing Plow 11 ft Cutting Edge, Hydraulically Controlled	\$35.00	\$0.00	\$35.00
1.0 - 5.99 CY Spreader Body	\$11.00	\$0.00	\$11.00
6.0 - 9.99 CY Spreader Body	\$31.00	\$0.00	\$31.00
10 CY or Greater Spreader Body	\$36.00	\$0.00	\$36.00
Machines	Hourly Rate	Early Sign-up Bonus¹	Total
Less than 2.0 CY Loader with AWD	\$81.50	\$5.50	\$87.00
2.0 - 3.99 CY Loader with AWD	\$120.00	\$5.50	\$125.50
4.0 - 5.99 CY Loader with AWD	\$145.00	\$5.50	\$150.50
Greater than 6.0 CY Loader with AWD	\$155.00	\$5.50	\$160.50
2.0 - 4.0 CY Backhoe with AWD	\$81.50	\$5.50	\$87.00
Skid Steer - Track	\$83.50	\$5.50	\$89.00
Skid Steer - AWD	\$70.00	\$5.50	\$75.50
Walk behind compact Utility loader (Dingo)	\$65.00	\$5.50	\$70.50
Additional Machine Equipment Adder²	Hourly Rate	Early Sign-up Bonus¹	Total
Plow Blade Attachment	\$10.00	\$0.00	\$10.00
Snow Blower Attachment	\$10.00	\$0.00	\$10.00
Box Plow Attachment	\$10.00	\$0.00	\$10.00
Notes:			
1. All required paperwork, properly submitted, by November 15th			
2. The DPW has the final say as to which pieces of additional equipment will be accepted			

Appendix C

Standard Operating Procedures for Catch Basin Cleaning and Inspection

Permit Requirements

As required by the 2016 MS4 Permit, catch basin inspection and cleaning requirements include the following:

- **Inspect and clean catch basins** to ensure that no catch basin is not more than 50 percent full;
- **Prioritize inspection and maintenance** for catch basins:
 - located near construction activities;
 - discharging to impaired waters; and
 - with sumps more than 50% full during consecutive inspections.
- **Establish proper documentation** of catch basin inspections; and
- **Develop an optimization plan** for catch basin cleaning and inspection.

Before Cleaning and/or Inspection

- **Notify residents and business** of catch basin cleaning schedule to restrict parking that could obstruct catch basin cleaning operations.
- **Gather** all required forms and maps.
 - Catch Basin Inspection Form; and
 - Maps of area to be cleaned/inspected

Cleaning and Inspection during Cleaning

1. Clean sediment and trash off of grate.
2. Remove grate.
3. Fill out **Catch Basin Inspection Form** with basin-specific information:
 - **Before cleaning:**
 - Do a visual inspection of outside of grate.
 - Do a visual inspection of the inside of the catch basin to determine cleaning needs and structural issues.
 - Measure depth from rim of catch basin to top of sediment.
 - Measure depth from rim of catch basin to the top of the outlet pipe.
 - Take photo of catch basin.
 - **Clean catch basin:**
 - For manual removal, place removed material in a location protected from potential runoff and place cleanings in a vehicle for transport to designated disposal area.
 - OR use a high-powered vac truck to remove sediment.
 - **After cleaning:**

- Measure depth from rim to bottom of catch basin.
 - Measure depth of sump (outlet pipe to bottom of catch basin).
 - Note if the catch basin is more than 50% full with sediment.
 - Note if the catch basin requires maintenance or if there are pollutants present.
 - Take photo of catch basin.
4. **Storage:** Bring cleanings to designated location at the Highway Barn located at 382 Falmouth Rd, Hyannis or the Barnstable Solid Waste Transfer Station located at 45 Flint St, Marstons Mills for storage and disposal.
 5. If any illicit discharges are observed or suspected, notify supervisor.

Interim Inspection between Cleaning Cycles

1. Clean sediment and trash off grate.
2. Remove grate.
3. Fill out **Catch Basin Inspection Form** with basin-specific information:
 - Do a visual inspection of outside of grate.
 - Do a visual inspection of the inside of the catch basin to determine cleaning needs and structural issues.
 - Measure depth from rim of catch basin to top of sediment.
 - Using sump depth collected during previous cleaning, note if the catch basin is more than 50% full with sediment.
 - Note if the catch basin requires maintenance or if there are pollutants present.
4. If any illicit discharges are observed or suspected, notify supervisor.

Catch Basin Inspection Form

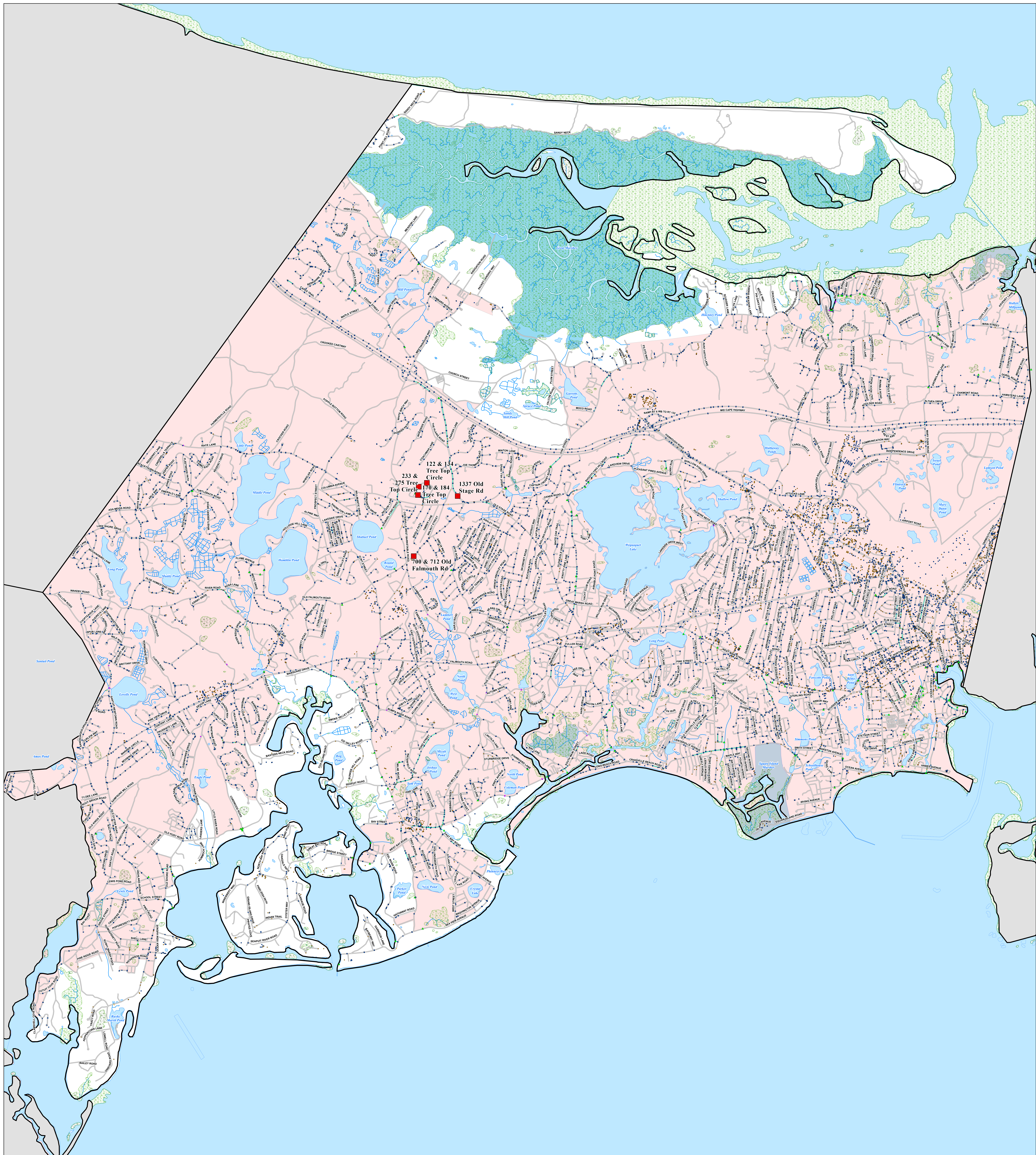
Inspection Information									
Catch Basin ID									
Street Location		GPS Location							
Inspector's Name									
Date of Inspection		Time of Inspection							
Weather (circle)	Dry	Light Rain	Heavy Rain Snow						
Catch Basin Information									
Location	Surface Type	Grate							
<input type="checkbox"/> Road/Curb <input type="checkbox"/> Alley <input type="checkbox"/> Ditch <input type="checkbox"/> Parking Lot <input type="checkbox"/> Driveway <input type="checkbox"/> Sidewalk Other: _____	<input type="checkbox"/> Asphalt <input type="checkbox"/> Gravel <input type="checkbox"/> Concrete <input type="checkbox"/> Grass/Dirt Other: _____	____ inches x ____ inches Material: _____ Shape: _____							
Catch Basin Condition									
CB Damage: No Yes	Comment:								
	Materials (circle)			Condition (circle)					
Grate	Cast Iron	Brick	Concrete	Aluminum	Fiberglass	Poor	Fair	Good	Excellent
Frame	Cast Iron	Brick	Concrete	Aluminum	Fiberglass	Poor	Fair	Good	Excellent
Chimney	Cast Iron	Brick	Concrete	Aluminum	Fiberglass	Poor	Fair	Good	Excellent
Walls	Cast Iron	Brick	Concrete	Aluminum	Fiberglass	Poor	Fair	Good	Excellent
Trap/Hood	Cast Iron	Brick	Concrete	Aluminum	Fiberglass	Poor	Fair	Good	Excellent
Sump	Cast Iron	Brick	Concrete	Aluminum	Fiberglass	Poor	Fair	Good	Excellent
Sediment Depth and IDDE (inches)									
A. Depth from Rim to Top of Sediment: _____						Check those Present:			
B. Depth from Rim to Bottom of Basin (after vac): _____						__ Sanitary Waste/Smell			
C. Sump Depth: _____						__ Excessive Sediment			
D. Depth of Sediment (B-A): _____						__ Oil Sheen			
E. More than 50% Full of Sediment? (D/C): _____						__ Floatables/Trash			
						__ Pet Waste:			
CB Cleaned? No Yes						Other: _____			
Suspected illicit discharge? No Yes						Potential Source: _____			

Appendix H

SWPPP Facilities

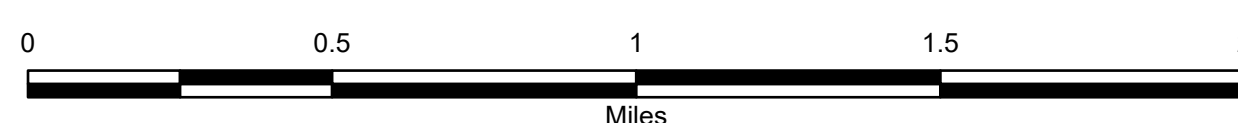
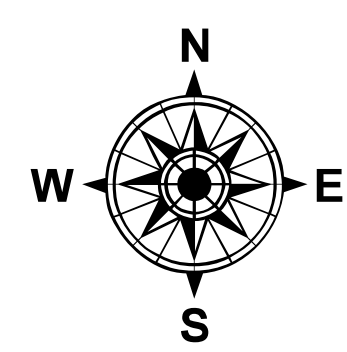
Appendix I

List of Stormwater BMPs



Legend

- Outfalls
- Stormwater BMP
- Catch Basin
- Drainage Manhole
- Culvert
- Storm Water Gravity Drain
- Swale
- Urbanized Area
- Lake, Pond, Reservoir
- Wetland, Marsh, Swamp
- Stream, Brook



**Storm Water BMPs
Barnstable, MA**

Comprehensive
Environmental
Incorporated



Data Sources: CEI, MassGIS, Town of Barnstable

Appendix J

Annual Reports