



# Town of Barnstable

## Town Council

367 Main Street, Village of Hyannis MA 02601

508.862.4734 • Fax 508.862.4770

E-mail: [council@town.barnstable.ma.us](mailto:council@town.barnstable.ma.us)

[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)



### Councilors:

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James M. Tinsley, Jr.  
Harold E. Tobey

Administrator:  
Donald M. Grissom

Administrative  
Assistant:  
Barbara A. Ford

## **TOWN COUNCIL MEETING AGENDA**

**November 20, 2008**

**7:00 PM**

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
  - **Wequaquet Lake Protective Association, Inc.--  
\$2,200 gift presentation for the new herring run gate**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS,  
BOARDS, COMMISSIONS, STAFF,  
CORRESPONDENCE, ANNOUNCEMENTS AND  
COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
  - A. OLD BUSINESS**
  - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

**NEXT MEETING: December 4<sup>th</sup>**

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2009-040	Approve an amendment to the Conover/Barnstable Land Trust conservation restriction by including an additional 1.79 acres located at #350 & #370 (at the end of Carriage Road), Map 070 Parcels 022 and 017-003 in the village of Grand Island, Osterville <b>(Second Reading) (May be acted upon)</b> .....	9 - 11
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Minutes – October 16, 2008 & November 6, 2008

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**Please Note:** It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda.

**A. OLD BUSINESS**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-033**

**INTRO: 10/16/08, 11/06/08, 11/20/08**

**2009-033 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$2,704,862.00 FOR THE PURPOSE OF ACQUIRING REAL PROPERTY CONSISTING OF 65,608 SQUARE FEET OF LAND, MORE OR LESS, IN BARNSTABLE SHOWN ON ASSESSORS MAP 312 AS PARCEL 011 TO BE ASSOCIATED WITH THE CONSTRUCTION OF A NEW ACCESS ROAD INTO THE AIRPORT**

**ORDERED:** that the Town Council hereby ratifies and confirms the its votes passed on November 6, 2008 authorizing the Town Manager to purchase, take by eminent domain under chapter 79 of the General Laws of Massachusetts, or otherwise acquire for airport, transportation, parking and highway purposes a parcel of land located at 191 Airport Road, Barnstable (Hyannis) Massachusetts, described as Town of Barnstable Assessors' Parcel No. 312011, and further described as Lots 1, 2, 3, and 4, containing 65,608 square feet of land, more or less, as shown on a plan of land entitled "Plan of Land in Hyannis, Barnstable, Mass. for Cape Investment Trust" by Charles N. Savery, Inc., Registered Engineers and Surveyors, dated January 16, 1972, recorded with Barnstable County Registry of Deeds in Plan Book 271, Page 33, a copy of which is filed with the Town Clerk, and to appropriate a total sum of \$2,704,862.00 for these purposes and other related expenses, and to meet this appropriation, that \$2,094,862 be transferred from Project # 0191A, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$610,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and to accept any grants or gifts in relation thereto.

**SPONSOR:** Town Manager John C. Klimm at the request of the Airport Commission

**BARNSTABLE TOWN COUNCIL**  
**APPROPRIATION & LOAN ORDER--**  
**AIRPORT ENTERPRISE FUND CAPITAL IMPROVEMENT PLAN**

**ITEM# 2009-033**  
**INTRO: 10/16/08, 11/06/08, 11/20/08**

**SUMMARY**

**TO:** Town Council  
**FROM:** Frank Sanchez, Asst. Airport Manager  
**DATE:** November 14, 2008  
**SUBJECT:** Purchase or eminent domain land taking: Airport Enterprise Fund Capital Improvement Plan

**PRIOR TOWN COUNCIL ACTION:** This item was approved by the Town Council at its meeting of November 6, 2008. Subsequently, a question was raised about the taking of the vote, and there was discussion of resolving the issue by placing the item on the next Town Council agenda for ratifying the vote.

**BACKGROUND:** Council order 2005-086 appropriated \$4 million for land acquisition to construct the new access road at the Barnstable Municipal Airport. A total of \$1,905,138 of this appropriation was used towards the purchase of the former Blackburn Auto Salvage property leaving a balance of \$2,094,862. The balance of these funds resides in MUNIS project 0191A and it is proposed that these funds be used for this land acquisition. The total anticipated cost for this land acquisition; including associated expenses, is \$2,704,762 requiring \$610,000 more in additional spending authorization. Ninety five percent of the eligible land acquisition costs will be reimbursable under the FAA Airport Improvement Program and airport funds will be used to pay the balance.

**ANALYSIS:** The acquisition of a parcel of land located at 191 Airport Road, Barnstable (Hyannis), Massachusetts, is the next step necessary to proceed with the entire Barnstable Municipal Airport Commission Terminal Construction Project. The acquisition, either by purchase or eminent domain, needs to be completed, the tenants moved, and the property cleared by the spring of 2009 at the latest to maintain the project schedule. The Barnstable Municipal Airport Commission, through O.R. Colan Associates and other consultants, has followed the FAA protocols for the acquisition of real property.

**FISCAL IMPACT:** Ninety five percent of the eligible land acquisition cost is eligible for Federal reimbursement under the FAA Airport Improvement Grant Program. The unreimbursed amount will be paid from the airport's surplus funds. The borrowing authorization associated with this project will subsequently be rescinded once the federal grant reimbursements are received. It is anticipated that the Federal Aviation Administration will reimburse the airport in FY09 for the land acquisitions.

**STAFF ASSISTANCE:** Frank Sanchez, Asst. Airport Manager

**A. OLD BUSINESS (Second reading) (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-035  
INTRO: 11/06/08, 11/20/08**

**2009-035 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town appoint the following individuals to a multiple-member board/committee/commission:

**BARNSTABLE ECONOMIC DEVELOPMENT COMMISSION**

Andrew P. Maker, 2715 Main Street, Barnstable, 02630 as a member to a term expiring 06/30/2010

**BARNSTABLE HOUSING COMMITTEE**

Merrill Blum, 94 Water View Circle, Centerville, 02632 as a member to a term expiring 06/30/2010

**STEAMSHIP AUTHORITY**

Robert O'Brien, 41 Deacon Court, Barnstable, 02630 representing the Town of Barnstable, to a term expiring 12/31/2009

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**A. OLD BUSINESS (Second reading) (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-039**

**INTRO: 11/06/08, 11/20/08**

**2009-039 APPROVE THE CONSERVATION RESTRICTION BETWEEN THE MCCOWAN COTUIT TRUST-1992 (GRANTOR) AND THE BARNSTABLE LAND TRUST, INC. (GRANTEE)**

**RESOLVED**, that the Town Council approve the conservation restriction between McCowan Cotuit Trust-1992, grantor, and Barnstable Land Trust, Inc., grantee, over 1.57 acres of land located at 1372 Main Street, Map 33 Parcel 46 in Cotuit, Massachusetts for the purpose of preserving open space.

**SPONSOR:** Council President Janet S. Joakim, upon the approvals from the Legal Department and the Barnstable Conservation Commission

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **MCCOWAN CONSERVATION RESTRICTION AS GRANTED TO THE BARNSTABLE LAND TRUST, INC.**

**ITEM# 2009-039**  
**INTRO: 11/06/08, 11/20/08**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** October 22, 2008  
**SUBJECT:** McCowan/BLT Conservation Restriction

Property Location: 1372 Main Street, Cotuit  
Map/ Parcel: 033/046  
Total Acreage: 1.56 acres with barn  
Boundaries: East – Nantucket Sound  
West – Main Street, Cotuit (a designated scenic road)  
North and South – Residential

**SUMMARY:** This item has been placed on the agenda for the Council’s approval of a perpetual conservation restriction to be given by the McCowan Cotuit Trust –1992, to be held by the Barnstable Land Trust, Inc. (BLT) covering 1.57 acres, more or less, as recited in the instrument, at 1372 Main Street in Cotuit.

**BACKGROUND:** A conservation restriction (CR) in perpetuity restricts future development of land to protect a resource important to the public. The donation of a CR preserves open space without any exchange of Community Preservation Act or other Town funds or private funds, and without incurring maintenance and monitoring costs by the Town. In addition to the Council’s approval, the Town Manager’s and the Secretary of Energy & Environmental Affairs’ approvals will also be required to give the restriction the broadest legal effect.

In the summer of 2008, Barnstable Land Trust was approached about a possible conservation restriction on 1.57 acres in Cotuit, which is the site of an historic barn. For over 100 years, the family has owned the barn, and adjacent captain’s house known as the “Red House.” Both house and barn were once part of larger holdings owned by the Morse family. Lucy Morse, their great, great grandmother, is locally famous for her captivating silhouettes.

The family summers in Cotuit. As non-residents, they have seen their taxes rise dramatically in recent years. Both the barn lot and Red House lot are grandfathered as separate building lots. To reduce the taxes, the family could merge the two lots, creating one 2.46-acre waterfront lot. Instead, the family wishes to place a CR on the barn lot to ensure that it will remain essentially as it is. They are giving up the right to ever build close to the water and the barn lot will never contain a habitable dwelling.

**ANALYSIS:** This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which “encouraged...grants of conservation restrictions” which yielded

“benefits to the Town.” Specifically, the McCowan Conservation Restriction offers the following public benefits and will:

- preserve a scenic view,
- protect marine water quality,
- preserve and protect a shoreline,
- limit construction on land of natural resource value,
- prevent disturbance of wetlands,
- preserve open space, and
- preserve important natural habitats of fish, wildlife or plants.

Conservation Values of the McCowan Conservation Restriction:

- 1) lies within a Town of Barnstable Resource Protection Overlay District
- 2) partially lies within an MNHESP Priority Habitat for Rare Species;
- 3) encompasses almost 200 linear feet of shoreline on Nantucket Sound;
- 4) contains mature pine woodland, providing a bordering upland buffer to the coastal bank, dune and beach habitats of the Premises;
- 5) has approximately 70 feet of frontage on Main Street in Cotuit, a Town of Barnstable designated Scenic Road,
- 6) contains a wooden barn, dating back to at least 1880;
- 7) encompasses a scenic view visible from the waters of Nantucket Sound;
- 8) is identified in the 2002 Regional Policy Plan as lying within a watershed (Three Bays System Subwatershed) where critical nutrient load has been determined or where there are documented water quality problems (the McCowan CR removes the potential for one 4 bedroom house with attendant septic system and lawn);
- 9) is located within a Town of Barnstable primary area of archaeological sensitivity, defined as an area within 1000 feet of a marine or marine related ecosystem and which has a high probability of containing prehistoric archaeological sites; and,
- 10) is a substantial contributing element to the overall scenic and historic character of the area by adding to and maintaining the land predominantly in its natural condition.

**TOWN OF BARNSTABLE TAX CONSEQUENCES:** Effectively None

The McCowan Conservation Restriction will retire one waterfront building lot. Since the family could achieve similar tax relief by simply merging the two lots, Town Assessor Jeffrey Rudziak agrees that the effect of the conservation restriction from a property tax perspective is effectively no different than merging the two lots.



**A. OLD BUSINESS (Second reading) (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-040**  
**INTRO: 11/06/08, 11/20/08**

**2009-040 APPROVE THE SECOND AMENDMENT TO THE CONSERVATION RESTRICTION BETWEEN CATHERINE M. CONOVER (GRANTOR) AND THE BARNSTABLE LAND TRUST, INC. (GRANTEE)**

**RESOLVED**, that the Town Council approve the second amendment to the conservation restriction between Catherine M. Conover grantor, and Barnstable Land Trust, Inc., grantee, over land at 350 and 370 Carriage Lane in Osterville, Massachusetts the intent of which is to retire the “Limited Building Site B and Managed Landscape Area B” within the approved conservation restriction as recorded on 12-27-2000 as Document: 820,583 in the Barnstable Land Court Registry. Said land is located along Great Cove and West Bay, is a portion of the land shown on Barnstable Assessor’s Records as Map 070 Parcels 022 and 017-003, and is intended to remain in its natural undeveloped state.

**SPONSOR:** Council President Janet S. Joakim, upon the approvals from the Legal Department, Land Acquisition and Preservation Committee and the Conservation Commission.

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_\_\_ Read item
- \_\_\_\_\_ Rationale
- \_\_\_\_\_ Council discussion
- \_\_\_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **APPROVE A SECOND AMENDMENT TO THE CONOVER CONSERVATION RESTRICTION**

**ITEM# 2009-040**

**INTRO: 11/06/08, 11/20/08**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**DATE:** October 24, 2008  
**SUBJECT:** Conover/BLT conservation restriction

Property Location: #350 & #370 (at the end of Carriage Road), Grand Island, Osterville  
Parcels: Map 070 Parcels 022 and 017-003  
Total Acreage: The entirety of the 26.97-acre property is covered by a conservation restriction approved and recorded in December 2000. The .92-acre “building envelope” and the .87-acre “managed landscaped area” included within that CR are both being retired.  
Boundaries: East – West Bay and shellfish grant  
West and South – Great Cove  
North - Residential

**BACKGROUND AND ANALYSIS:** In 2000, Catherine Conover placed a conservation restriction on 26.97 acres surrounding Great Cove (just inside the Osterville Cut) on Grand Island, Osterville. Within that restriction was a .92-acre building envelope called “Limited Building Site B” and attendant to that was a .87 acre “Managed Landscape Area B” along the shore of West Bay. Mrs. Conover has now decided to remove the potential for the building site and the landscaped area. In so doing, these 1.79 acres of land will remain essentially, as it is today – a wooded lot surrounded by wetland, sand, and shellfish beds.

This proposed conservation restriction conforms to the Open Space Policy of the Town, adopted in 1981, which “encouraged...grants of conservation restrictions” which yielded “benefits to the Town.” Specifically, the Conover Conservation Restriction offers the following public benefits and will:

- preserve a scenic view,
- prevent disturbance of wetlands,
- preserve open space,
- preserve important natural habitats of fish, wildlife or plants,
- protect marine water quality,
- preserve and protect a shoreline; and,
- limit or prevent construction on land of natural resource value.

- 1) Conservation Values of the Conover Conservation Restriction:
- 2) is situated in the West Bay Estuary of the village of Osterville and further preserves the water quality of the saltwater cove known as Great Cove;
- 3) will reduce nitrogen loading upgradient of shellfish beds by removing the potential for one

- septic system and attendant lawn within the Resource Protection Overlay District;
- 4) contains mature oak/pine woodland, providing a bordering upland buffer to the coastal bank, dune and beach habitats of the Premises;
  - 5) encompasses almost 600 linear feet of shoreline on West Bay, and is partially within FEMA Zone A;
  - 6) Is a dominant feature of the public scenic vista for motorists from Seaview Avenue Landing and for recreational boaters on West Bay;
  - 7) partially lies within an MNHESP Priority Habitat for Rare Species;
  - 8) has approximately 70 feet of frontage on Main Street in Cotuit, a Town of Barnstable designated Scenic Road, and encompasses a scenic view visible from the waters of Nantucket Sound;
  - 9) is identified in the 2002 Regional Policy Plan as lying within a watershed (Three Bays System Subwatershed) where critical nutrient load has been determined or where there are documented water quality problems;
  - 10) lies within a Town of Barnstable Resource Protection Overlay District; and
  - 11) is a substantial contributing element to the overall scenic and historic character of the area by adding to and maintaining the land predominantly in its natural condition.

**A. OLD BUSINESS (Second reading) (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-041**  
**INTRO: 11/06/08, 11/20/08**

**2009-041 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town Council appoint the following individual to a multiple-member board/committee/commission:

**HUMAN SERVICES COMMITTEE**

Roy Richardson, CHIP's Homes, 9 Park Avenue, Centerville 02632, to a term expiring 06/30/2011

**SPONSOR:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Council discussion
- \_\_\_ Move/vote

**B. NEW BUSINESS (First Reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-043  
INTRO: 11/20/08**

**2009-043 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town appoint the following individuals to a multiple-member board/committee/commission:

**COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE**

Stanley Hodkinson, 123 Ensign Road, Centerville, to a term expiring 06/30/2009

**BARNSTABLE HOUSING COMMITTEE**

Hilary V. Greene, 18 Valley Brook Road, Centerville, to a term expiring 06/30/2009

**STEAMSHIP AUTHORITY PORT COUNCIL**

Robert R. Jones, 65 Pinewood Road, Hyannis, as the Town of Barnstable representative to a term expiring 12/31/2010

**SPONSOR:** Appointments Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

- Read item
- Council discussion
- Move/vote

**B. NEW BUSINESS (Refer to Public Hearing 12/04/08) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-044  
INTRO: 11/20/08**

**2009-044 AMEND GENERAL CODE, CHAPTER 1, ARTICLE 1, NON-CRIMINAL ENFORCEMENT OF VIOLATIONS**

**ORDERED** that:

Section1. That the General Code, Chapter 1, Article 1, Section 1-2 Enforcing Officials designated is hereby amended by deleting (8) and inserting in its place, (8) The Director of Regulatory Services and his designees;

Section 2. That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 1, Article 1, be amended by striking out section 1-4 and substitute the following,  
“§ 1-4 Fines for violations of Health regulations

Offense	Fine
Violation of Board of Health Regulations	\$100.00
Violation of 105CMR 410 STATE SANITARY CODE CHAPTER 2 MINIMUM STANDARDS FOR FITNESS FOR HUMAN HABITATION	\$100.00

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **AMEND GENERAL CODE – NON-CRIMINAL ENFORCEMENT OF VIOLATIONS**

**ITEM# 2009-044**  
**INTRO: 11/20/08**

### **SUMMARY**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Director of Regulatory Services Department Thomas F. Geiler  
**DATE:** November 10, 2008  
**SUBJECT:** Amend General Code, Chapter 1, Article 1, Non-Criminal Enforcement of Violations

**BACKGROUND:** This involves two proposed amendments to the Town of Barnstable General Code (Ordinances). The first is a house keeping correction to replace the reference to the Director of the Department of Health Safety and Environmental Services with the current title of the function, Director of the Department of Regulatory Services.

The Seconded proposed amendment is to add language to recognize the state sanitary code (105 CMR 410) and establish a non-criminal fine for (\$100.00) violations thereof.

**ANALYSIS:** The purpose of the first amendment is to recognize the change of position title from Health Safety and Environmental Service Director to Regulatory Service Director in this section of the Code. This change took place a few years back. The proposed change would be a corrective update. The seconded proposed change would provide an alternative method of enforcement of violations of Board of Health Regulations relating to Minimum Standards for Fitness for Human Habitation.

**RATIONALE:** The first proposed change is a housekeeping issue. The second proposed change is an attempt to improve the public health inspection process, reduce costs for the town and for the property owners and agencies offering rental housing and or lodging. This code contains minimum statewide standards for human habitation. Every community in the state through their local Board of Health and Public Health Divisions enforces it. Currently local Health Departments are left with two enforcement alternatives for dealing with violations. They may use the District Court System to prosecute violations as a criminal offense with fines up to \$500.00 and or an administrative hearing before the Board of Health that can issue sanctions including license suspensions and revocations.

This proposal, if adopted, would allow a third option of non-criminal citations as an alternative. The fine for this violation is proposed as \$100.00.

**B. NEW BUSINESS (Public Hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-045  
INTRO: 11/20/08**

**2009-045 ALLOCATION OF TAX LEVY FY09 TAX FACTOR**

**RESOLVED**, that the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the fiscal year 2009.

Board of Assessors recommends a tax factor of 1.

**SPONSOR:** Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote



# **BARNSTABLE TOWN COUNCIL**

## **ALLOCATION OF TAX LEVY FY09 TAX FACTOR**

**ITEM# 2009-045  
INTRO: 11/20/08**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Town of Barnstable Board of Assessors  
**DATE:** November 13, 2008  
**SUBJECT:** Allocation of Tax Levy FY09 – Tax Factor

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The residential factor commonly referred to as the “Split Tax Rate” allows the Town Council to create separate tax rates; one for residential property owners and a separate one for commercial, industrial and personal property owners, (CIP owners). Under a residential “Factor of 1”, all property owners would pay taxes at the same rate per \$1,000 of valuation. The maximum permissible shift would increase the CIP tax rate by 150%, a CIP factor of 1.5. If the maximum 1.5 shift is adopted by the Council, the corresponding rate for the residential class would be .943. This means if the maximum shift is adopted that the average residential property owner would pay 6.4 percent less in taxes and all CIP property owners would pay 150 percent more in taxes. Through 2005, the Town Council’s policy has been to select a Residential Factor of “1”. In FY2006, the Town Council elected to adopt a split tax rate using a tax factor of 1.15. In FY2007 and FY2008, the Town Council decided not to adopt a split tax rate. Please see tax factor information handouts provided on 11/12/2008.

**B. NEW BUSINESS (Public Hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-046**

**INTRO: 11/20/08**

**2009-046 ALLOCATION OF TAX LEVY FY09 – RESIDENTIAL EXEMPTION**

**RESOLVED**, that the Town Council hereby votes to adopt a Residential Exemption and a percentage of up to 20% for fiscal year 2009.

Board of Assessors recommends that the residential exemption not be adopted.

**SPONSOR:** Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **ALLOCATION OF TAX LEVY FY09 RESIDENTIAL EXEMPTION**

**ITEM# 2009-046  
INTRO: 11/20/08**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Town of Barnstable Board of Assessors  
**DATE:** November 13, 2008  
**SUBJECT:** Allocation of Tax Levy FY09 – Residential Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The Town Council can choose to adopt a “residential exemption”. The maximum exemption allowed is 20% of the average assessed value of all Class One (or Residential) parcels. This exemption would be applied to residential parcels, which are the principal residence of the taxpayer. Principal residence is a taxpayer’s domicile, that is, their fixed place of habitation, permanent home, and legal residence, as used for federal and state income tax purposes. This option shifts property taxes between residential taxpayers only and does not affect the CIP class of taxpayers. Residential taxpayers whose principal residence is in the Town of Barnstable will receive a tax reduction as long as their property assessment is approximately less than \$893,500. The tax savings these property owners realize will be shifted to all non-resident property owners and residential property owners whose assessments are greater than approximately \$893,500. Under this option, property tax savings are greater as the assessed value of the property declines. See the tax factor informational handouts provided on 11/12/2008 for analysis. The town council has voted to adopt a 20% residential exemption for the fiscal years 2006, 2007 and 2008.

**B. NEW BUSINESS (Public Hearing) (Roll-call)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2009-047  
INTRO: 11/20/08**

**2009-047 ALLOCATION OF TAX LEVY FY09 – SMALL COMMERCIAL EXEMPTION**

**RESOLVED**, that the Town Council hereby votes not to adopt a Small Commercial Exemption for fiscal year 2009.

Board of Assessors recommends that the small commercial exemption not be adopted.

**SPONSOR:** Board of Assessors

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close public hearing
- \_\_\_ Council discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **ALLOCATION OF TAX LEVY FY09 SMALL COMMERCIAL EXEMPTION**

**ITEM# 2009-047  
INTRO: 11/20/08**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Town of Barnstable Board of Assessors  
**DATE:** November 13, 2008  
**SUBJECT:** Allocation of Tax Levy FY09 – Small Commercial Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the allocation of local property taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes.

The Town Council has the option of granting up to a 10% exemption to the owner of commercial property, which is occupied by qualified small businesses. This option shifts property taxes between commercial and industrial property owners only. It does not impact residential or personal property taxpayers. Qualifying property must be commercial, assessed under \$1,000,000 and be totally occupied by businesses with less than 10 employees. In FY 2008, the Town council voted not to adopt the small business exemption.