

The Town of Barnstable Town Council

367 Main Street, Village of Hyannis MA 02601

508-862-4602 • Fax 508-862-4770

email: council@town.barnstable.ma.us

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Vice-President

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TOWN COUNCIL AGENDA

October 17, 2002

7:00 PM

1. ROLL CALL
 2. PLEDGE OF ALLEGIANCE
 3. MOMENT OF SILENCE
 4. ACT ON MINUTES
 5. PUBLIC COMMENT (also encouraged at the end of meeting)
 6. COUNCIL RESPONSE TO PUBLIC COMMENT
 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS,
COMMISSIONS AND STAFF, CORRESPONDENCE,
ANNOUNCEMENTS AND COMMITTEE REPORTS
 8. PRESIDENT/VICE PRESIDENT COMMUNICATIONS
 9. TOWN MANAGER COMMUNICATIONS
 10. ORDERS OF THE DAY
 - A. OLD BUSINESS
 - B. NEW BUSINESS
-

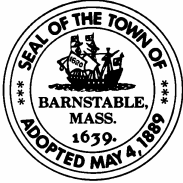
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A. OLD BUSINESS (JOINT PUBLIC HEARING)(MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

**2003-008 DOWNTOWN ZONING DISTRICTS, ZONING AMENDMENT
INTRO.: 9/19/02; 10/03/02; 10/17/02**



Town of Barnstable

Planning Board

200 Main Street, Hyannis, Massachusetts 02601
Tel: (508) 862-4786 Fax: (508) 862-4725

Thomas A. Broadrick, AICP
Director of Planning, Zoning,
& Historic Preservation

Gary Blazis, President
Barnstable Town Council
367 Main Street
Hyannis, MA 02601

**RE: PLANNING BOARD ADVISORY RECOMMENDATIONS TO THE TOWN
COUNCIL TC ITEM# 2003-008 DOWNTOWN ZONING DISTRICTS, ZONING
AMENDMENT**

Dear President Blazis

A sub-committee of the Planning Board met with members of the BID and Economic and Community Development, and reviewed proposed changes to the MA-1 Business District Zoning District. Below is a summary of our recommendations, followed by the text of the existing Zoning Ordinance showing our recommended changes.

Sincerely yours,

A. Roy Fogelgren, Chairman

SUMMARY OF Advisory Planning Board Recommendations on Changes to the Downtown Zoning, TC#2003-008

SECTION 1

Section 3-3.10 MA-1 Business Districts

Paragraph 1 A. (a) The Board recommends that the requirement for only 10 apartments as a permitted use, be retained, and that more than 10 apartments require a Special Permit (Paragraph 3. Special Permit Uses, sub-paragraph A)

The Board is of the opinion that the larger developments with more than 10 apartments should be subject to review through the Special Permit process.

Paragraph 1(A)(b) The Board agreed that the requirement for 2,000 sq ft of lot area per apartment be deleted.

Paragraph A. (d)(i) and (ii) The Board recommends that the size of apartments should not be reduced; nor should studio apartments be added at this time. The Board is concerned that apartments on Main Street, whether they are rental or condominium, be of high quality, attractive to people who can afford to shop and dine on Main Street, and thus support the business district.

A market analysis is being performed by a group hired by the Community and Economic Development Department, that should be complete by the beginning of the New Year. No change to the apartment section of the MA-1 Business District should be made until that work is complete, other than deletion of the 2,000 sq. ft. of the lot area per apartment.

Paragraph B Business and professional offices are presently permitted as Permitted Uses, above the ground floor. It is proposed however, that offices be permitted on the first floor, west of Sea Street and east of Barnstable Road.

Paragraph 1(E) Personal service business It is recommended that this paragraph be retained, with the following changes: i. strike dry cleaning services and ii. add a condition that Personal service businesses be permitted above the first floor.

Paragraph 1(L) Artist and photographers studios and galleries – the Board recommends that these uses be added.

SECTIONS 2, 3 and 4

The Board recommends that proposed changes in the OR Office District, B-1 Business District and MA-2 Business District be adopted.

PLANNING BOARD RECOMMENDATIONS:

2003-008 DOWNTOWN ZONING DISTRICTS, ZONING AMENDMENT

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:

ORDERED:

SECTION 1

That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by striking out Paragraph 1 Principal Permitted Uses, Paragraph 2 Accessory Uses and Paragraph 3 Special Permit Uses, inclusive, of Section 3-3.10 MA-1 Business District, and inserting in place thereof the following:

“1. Principal Permitted Uses: The following uses are permitted in the MA-1 Business District, provided that no drive-thru facilities are provided:

- A) Apartment or apartments subject to the following standards
 - a) The apartment or apartments shall be located above the ground floor story only.
 - ~~b) There shall be a minimum floor area of 2,000 square feet of lot area per apartment.~~
 - b) Apartments shall have a minimum gross floor area, and a minimum number of bedrooms as follows:
 - i. A one bedroom apartment shall contain not less than 800 square feet of gross floor area;
 - ii. A two bedroom apartment shall contain not less than 1,000 square feet of gross floor area; and
 - iii. Studio apartments and apartments with three or more apartments shall not be permitted.
 - iv. Apartments with three or more bedrooms shall not be permitted.
- B) Business and professional offices, not to include medical and dental offices, located above the ground floor story between Sea Street and Barnstable Road.
- C) Bank.
- D) Retail

- E) Personal service business including but not limited to the following: barber, beauty shop, ~~dry cleaning pick-up service~~, shoe repair, tailor dressmaker, not on the ground floor story or in the basement.
- F) Research and development facility, not on the ground floor story.
- G) Publishing and printing establishment.
- H) Food service establishment.
- I) Membership club for a health or athletic facility, not on the ground floor story.
- J) Movie picture and live theater.
- K) Repair and servicing of appliances, computers, electronic equipment, tools and other small machinery common to homes and businesses, not to include any appliance, tool or small machinery which is powered by hydrocarbon fuels.
- L) Trade or professional school, not on the ground floor story.
- M) Artist and photographer's studio and gallery."

2. Accessory Uses:

- A) Entertainment and/or dancing, as an accessory use to a full service, food service establishment, subject to the following requirements:
 - a) Food is served to customers at tables by waitpersons.
 - b) Bar seats and places do not exceed 20% of restaurant seats.
 - c) Any dance floor area shall not exceed 500 square feet, or 10% of the floor area of the restaurant, whichever is less.

3. Special Permit Uses: The following uses are permitted in the MA-1 Business District, provided a Special Permit is first obtained from the Zoning Board of Appeals subject to the provisions of Section 5-3.3 herein and subject to the following standards:

- A) Eleven(11) apartments or more, subject to all the requirements of Section 3-3.10(1)(A) above, sub paragraphs (a) and (b).
- B) Bed and breakfast subject to the following requirements:
 - a) The bed and breakfast operation shall be above the ground floor story only;

- b) No cooking facilities including but not limited to stoves, microwave ovens, toaster ovens and hot plates shall be available to guests, and no meals except breakfast shall be served to guests;
 - c) No more than six (6) total rooms shall be rented to no more than 12 total guests at any one time. For the purposes of this section, children under the age of twelve (12) years shall not be considered in the total number of guests.
 - d) Bed and breakfast operations shall be either owner-occupied or subject to the supervision of a manager resident upon the premises.
- C) The Zoning Board of Appeals may permit apartments which do not meet the minimum gross floor area size requirements of Section 3-3.10(1)(A)(b) above, provided that:
- a) The applicant demonstrates that the physical layout of any proposed or existing structure is such that the applicant cannot meet the minimum gross floor area requirements; and
 - b) 80% of the apartment units comply with the minimum size requirements of paragraph 3-3.10(1)(A)(b) above. This shall apply to five or more units. Where there are less than five units, all units shall comply with the minimum bedroom and gross floor area requirements of Section 3-3.10(1)(A)(b); and
 - c) The Zoning Board of Appeals finds that the development as proposed will not have a detrimental impact upon surrounding businesses and residential uses.
- D) Medical and dental offices, laboratory services, not on the ground floor story.
- E) Hotel and motel, subject to all the requirements of Section 3-3.1(6) above.
- F) Outdoor commercial recreational use, miniature golf subject to the Zoning Board of Appeals finding that:
- a) The use as proposed will not be detrimental to surrounding business or residential uses by reason of noise, excessive lighting, or flashing lights.
 - b) The proposed design of the facility is in keeping with the district and is harmonious with other, surrounding uses.
 - c) The facility is small in scale, and is not clustered with other such uses.
 - d) The Zoning Board of Appeals shall establish hours of operation for the facility.
- G) Research and development facility, by Special Permit on the ground floor story. In reviewing the application, the Zoning Board of Appeals should take into consideration

whether the use includes an active retail use or educational display along any Main Street frontage.

- H) Business and professional offices, not to include medical and dental offices, by Special Permit on the ground floor story between Sea Street and Barnstable Road.
- I) Bank Drive thru, provided that there is no access from Main Street
- J) Pool and billiards hall, amusement arcade and bowling alley
- K) Private club or lodge, operated not for profit, and for members only.
- L) Delivery service, provided there is no access or frontage on Main Street.

SECTION 2

That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by striking out 3-2.2 OR Office Residential District and inserting in place thereof the following:

“3-2.2 OR Office Residential District

1) Principal Permitted Uses: The following uses are permitted in the OR Office Residential District:

- A) Single-family residential (detached).

The following uses are permitted in a structure built prior to 1970, and any structural additions thereto:

- B) Business and professional office, not to include a medical or dental office.

2) Accessory Uses: The following uses are permitted as accessory uses in the OR Office Residential District:

The following uses are permitted within a structure constructed prior to 1970 and any structural additions thereto:

- A) Bed and Breakfast operation for no more than a total of six rooms rented to a total of no more than 12 guests at any one time, within an owner occupied single family residential structure, subject to the provisions of Section 3-1.1(3)(F), except paragraphs a) and b), and except that no Special Permit shall be required in the OR Office Residential District. For the purpose of this paragraph, children under the age of twelve shall not be considered in the total number of guests.
- B) Renting of rooms for not more than three (3) non-family members by the family residing in a single-family dwelling.
- C) An apartment, in addition to a principle permitted use, provided:

- D) Where accessory to a single-family residential structure, the floor area of an accessory apartment shall not to exceed 50% of the floor area of a single-family residential structure.
- E) Home Occupation, subject to all the requirements of Section 4-1.4(2), Home Occupation by Special Permit, except that no Special Permit shall be required in the OR Office Residential District.

~~**3) Conditional Uses:** The following uses are permitted as conditional uses in the OR Office Residential District, provided a Special Permit is first obtained from the Zoning Board of Appeals subject to the provisions of Section 5-3.3 herein and subject to the specific standards for such conditional uses as required in this section:~~

3) Special Permit Uses: The following uses are permitted In the OR Office Residential District, provided a Special Permit is first obtained from the Zoning Board of Appeals, subject to the provisions of Section 5-3.3 herein, and subject to the following requirements, and as follows:

The following uses are permitted in a structure built prior to 1970, and any structural additions thereto:

- A) Medical and dental office, laboratory services, subject to the Zoning Board of Appeals finding that:
 - a) The use has adequate parking and access;
 - b) That the use as proposed will not adversely affect surrounding business or residential uses; and
 - c) ~~Subject to the conditions of 3-2.2(1)(A) above.~~

4) (Reserved for future use)

5) Bulk Regulations:

Zoning Districts	Min. lot area in sq. ft.	Min. lot frontage in ft.	Min. lot width in ft.	Minimum yard setbacks in ft.			Maximum bldg height in ft.	Floor Area Ratio#
				FRONT	SIDE	REAR		
OR	10,000	50	100	30	10	20	30*	<u>0.3</u>

* Or two and one half (2-1/2) stories whichever is lesser.

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: 10 feet; 30 feet along South Street.

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 (3.0) 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 Section 4-7 herein.”

(Voted by roll call vote of Town Council on 7/19//01 as item 2001-037-38-39)

SECTION 3

That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by striking out 3-3.12 B-1 Business District and inserting in place thereof the following:

“3-3.12 B-1 Business District

1) Principal Permitted Uses: The following uses are permitted in the B-1 Business District:

- A. Retail.
- B. Medical, dental office, laboratory services.
- C. All other business and professional ~~government~~ offices.
- D. Bank.
- E. Personal Service business including but not limited to the following: barber, beauty shop, ~~dry-cleaning pick-up service~~, shoe repair, tailor and dressmaker.
- F. Restaurant.
- G. Research and development, technological and computer research, software development and data processing including computer operations services.
- H. Publishing and printing establishments.
- I. Hotel or motel subject to all the requirements of Section 3-3.1. (6).
- J. Apartments subject to Section 3-2.1(1)(J), not to include paragraph J(c).
- K. Packaging and delivery services.
- L. Gas station, not to include auto repair or bodywork.
- M. Dry-cleaner, laundry and laundromat.
- N. Caterer
- O. Artist and photographer’s studio and gallery.

2) Accessory Uses: The following uses are permitted as accessory uses in the B-1 Business District: (reserved for future use)

~~3) **Conditional Uses:** The following uses are permitted as conditional uses in the B-1 Business District, provided a Special Permit is first obtained from the Zoning Board of Appeals subject to the provisions of Section 5-3.3 herein and subject to the specific standards for such conditional uses as required in this section:~~

3) **Special Permit Uses:** The following uses are permitted as Special Permit uses in the B-1 Business District, provided a Special Permit is first obtained from the Zoning Board of Appeals, and as follows:

- A) Parking facility to serve a use or uses, located in this zoning district, or in a contiguous, non-residential District.
- B) Drive-in facilities, where such use is permitted in 3-3.11(1) above.

4) **Reserved for Future Use**

5) **Bulk Regulations:**

Zoning Districts	Min. lot area in sq. ft.	Min. lot frontage in ft.	Min. lot width in ft.	Minimum yard setbacks in ft. FRONT SIDE REAR			Maximum bldg height in ft.	Floor Area Ratio#
B-1	10,000	20	100	20	10	10	30*	0.4

* Or two and a half (2 1/2) stories whichever is lesser.

Floor Area Ratio (FAR) is the ratio of gross building square feet to lot area.

Landscaped Setback from the road right of way: 10 feet.

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 (3.0) 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 Section 4-7 herein.”

(This district was added by vote of the Town Council on 6/28/2001 as item 2001-036)

SECTION 4

That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by striking out 3-3.11 MA-2 Business District and inserting in place thereof the following:

“3-3.11 MA-2 Business District

1) **Principal Permitted Uses:** The following uses are permitted in the MA-2 Business District:

- A) Single-family residential (detached).

The following uses are permitted within a structure constructed prior to 1970 and any structural additions thereto.

- B) Retail.
- C) Business and professional ~~governmental~~ office, not to include medical office or dental office.
- D) Personal Service Business including but not limited to the following: barber, ~~photographers studio~~, beauty shop, shoe repair, tailor and dressmaker.
- E) Artist and photographer's studio and gallery.

2) Accessory Uses: The following uses are permitted as accessory uses in the MA-2 Business District:

- A) An apartment, in addition to the principal permitted uses, provided that:
 - a) Where it is accessory to a single-family residential structure, the floor area of an accessory apartment shall not to exceed 50% of the floor area of the single-family residential structure.
- B) Bed and Breakfast operation for no more than a total of six rooms rented to a total of no more than 12 guests at any one time, within an owner occupied single family residential structure, constructed prior to 1970, subject to the provisions of Section 3-1.1(3)(F), except paragraphs a) and b), and except that no Special Permit shall be required in the MA-2 Business District. For the purpose of this paragraph, children under the age of twelve shall not be considered in the total number of guests.

3. Special Permit Uses: The following uses are permitted as Special Permit uses in the MA-2 Business District, provided a Special Permit is first obtained from the Zoning Board of Appeals ~~Planning Board~~ and as follows: (Reserved for future use)

~~**3) Conditional Uses:** The following uses are permitted as conditional uses in the MA-2 Business District, provided a Special Permit is first obtained from the Zoning Board of Appeals subject to the provisions of Section 5-3.3 herein and subject to the specific standards for such conditional uses as required in this section:~~

4. (Reserved for future use)

5) Bulk Regulations:

Zoning District	Min. lot area in sq. ft.	Min. lot frontage in ft.	Min. lot width in ft.	Minimum yard setbacks in ft.			Maximum bldg height in ft.	Floor Area Ratio#
				FRONT	SIDE	REAR		
MA-2	7,500	50	-	20	10	20	30*	0.3

* Or two and one half (2-1/2) stories whichever is lesser.

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

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 (3.0) 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 Section 4-7 herein.”

(Roll call vote of Town Council on 7/19/01 in item 2001-037, 38, 39 – added above item)

SPONSOR: John C. Klimm, Town Manager

DATE

ACTION TAKEN

A. OLD BUSINESS – (JOINT PUBLIC HEARING WITH PLANNING BOARD) (MAY BE ACTED UPON)

BARNSTABLE TOWN COUNCIL

**2003-024 REVISIONS TO SECTION 4-3, SIGN REGULATION OF THE ZONING ORDINANCE,
INTRO.: 10/03/02; 10/17/02**

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:

ORDERED:

That Chapter III, Article III of the Ordinances, the Zoning Ordinance, be amended by striking out Section 4-3 Sign Regulation and inserting in place thereof the following:

4-3 Sign Regulations

4-3.1 Statement of Intent

The provisions of this Section 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.

4-3.2 Definitions

1. **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.
2. **Animated Sign:** Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.
3. **Area** (of a sign): (See Section 4-3.4 herein)
4. **Banner:** A sign made of fabric or any non-rigid material with no enclosing framework.
5. **Billboard:** (See "Off-Premises Sign")
6. **Building Commissioner:** The Building Commissioner of the Town of Barnstable or his designee.
7. **Building Sign:** A sign affixed to and wholly supported by an exterior wall of a building or structure.
8. **Business area signs:** An off-premise sign intended to direct the motoring public to specific commercial areas only, and not to include individual businesses.

9. **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.
10. **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.
11. **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.
12. **Direct Lighting:** Illumination by means of an external source.
13. **Directional/Information Sign:** An on-premise 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.
14. **Discontinued Sign:** (See "Abandoned Sign")
15. **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.
16. **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.
17. **Externally Illuminated Sign:** A sign whose illumination is derived entirely from an external artificial source.
18. **Facade:** The entire building front, including the parapet.
19. **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")
20. **Free Standing Sign:** A sign supported upon the ground by poles or braces and not attached to any building.
21. **Frontage:** The length of the property line of any one premises along a public right-of-way on which it borders.
22. **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.
23. **Height (of a Sign):** The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.
24. **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.

25. **Illegal Sign:** A sign which does not meet the requirements of this ordinance and which has not received legal non-conforming status.
26. **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.
27. **Internally Illuminated Sign:** Illumination by means of a light source completely enclosed by the sign panel(s).
28. **Intermittent Lighting:** (See "Flashing Sign")
29. **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.
30. **Menu Signs:** The menu normally presented at tableside. (Added by amendment of Town Council on 8/15/91)
31. **Multiple Faced Signs:** Signs containing more than two (2) faces or panels.
32. **Non-Conforming Sign:** A sign which was erected legally, but which does not comply with subsequently enacted regulations.
33. **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".
34. **On-Premise Sign:** A sign which pertains to the use of the premises on which it is located and maintained.
35. **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.
36. **Portable Sign:** Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.
37. **Private Way:** For the purposes of this section (Sec. 4-3), a private way shall be considered a public way. (See "Public Way")
38. **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.
39. **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.
40. **Public Way:** Any roadway over which everyone has rights to pass, including town ways and private ways.

41. **Real Estate Sign:** A temporary sign advertising real estate upon which the sign is located as being for rent, lease or sale.
42. **Roof Sign:** Any sign erected upon a roof and wholly or partially supported by the sign structure placed upon the roof.
43. **Rotating Sign:** Any sign or device which has any visible moving part, visible revolving part, or visible mechanical move movement but not including methods of changing copy.
44. **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.
45. **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.
46. **Street Banner Sign:** Any banner which is stretched across and hung over a public right-of-way.
47. **Subdivision Identification Sign:** A free-standing or wall sign identifying a recognized subdivision, condominium complex or residential development.
48. **Temporary Sign:** A sign not constructed or intended for long-term use.
49. **Under-Canopy Sign:** A directional sign suspended beneath a canopy, ceiling, roof or marquee.
50. **V-Shaped Sign:** A sign with two (2) faces or panels not supported by one common structural member and which faces are not back-to-back.
51. **Wall Sign:** A sign attached parallel to and extending not more than eighteen inches (18") from the wall of a building, including painted signs, individual lettered signs, cabinet signs and signs on a mansard.
52. **Window Sign:** A sign installed inside a window and intended to be viewed from the outside.

4-3.3 Prohibited Signs

The following signs shall be expressly prohibited in all zoning districts, contrary provisions of this ordinance notwithstanding:

1. Any sign, all or any portion of which is set in motion by movement, including pennants, banners or flags, except official flags of nations or administrative or political subdivisions thereof.
2. Any sign which incorporates any flashing, moving or intermittent lighting.
3. 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.

4. 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.
5. Any sign which infringes upon the area necessary for visibility on corner lots.
6. Any sign which obstructs any window, door, fire escape, stairway, ladder or other opening intended to provide light, air or egress from any building.
7. Any sign or lighting which casts direct light or glare upon any property in a residential or professional residential district.
8. Any portable sign, including any sign displayed on a stored vehicle, except for temporary political signs.
9. Any sign which obstructs the reasonable visibility of, or otherwise distracts attention from a sign maintained by a public authority.
10. Any sign or sign structure involving the use of motion pictures or projected photographic scenes or images.
11. Any sign attached to public or private utility poles, trees, signs or other appurtenances located within the right of way of a public way.
12. A sign painted upon or otherwise applied directly to the surface of a roof.
13. 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.
14. Signs on or over Town property, except as authorized by the Building Commissioner for temporary signs for non-profit, civic, educational, charitable and municipal agencies.
15. Signs that will obstruct the visibility of another sign which has the required permits and is otherwise in compliance with this ordinance.
16. Off-premises signs except for "Business Area Signs" as otherwise provided for herein.
17. 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.
(#17 was added by a 10 Yes 1 No - Roll Call vote of the Barnstable Town Council on 6/4/98 as part of item 98-064)

4-3.4 Determination of Area:

1. 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.

2. 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.
3. 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.
4. Only one side of a double-faced sign shall be counted in computing the area of that sign.
5. 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 ten feet (10') from the ground multiplied by the width of the building front.

4-3.5 Signs in Residential Districts:

In residential districts, only the following signs are permitted:

1. One sign displaying the street number and identifying the premises not to exceed two (2) 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.
2. One sign no larger than four (4) square feet in area shall be allowed which displays the name of the house or the name of the family residing therein.
3. One sign not to exceed two (2) 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.
4. One temporary sign not to exceed four (4) square feet in area advertising property for sale, lease or rent. Such signs must be removed within ten days of transfer of title or signing of lease or rental agreement.
5. Where a legal non-conforming business exists within a residential district, one (1) 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 (8) feet in height or eight (8) square feet in area.
6. 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.
7. One identification sign not to exceed twelve (12) square feet in area may be permitted at any public entrance to a subdivision or multi-family development.
8. 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.
9. One identifying sign for lodging houses, Bed and Breakfast or similar identification not to exceed four (4) square feet in area. (*Deleted old version inserted new by a 9 Yes 2 No vote of the Barnstable Town Council on Feb. 20, 1997*).

4-3.6 Signs in the PR Professional Residential District:

One (1) 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 twelve (12) square feet in area and shall not extend more than eight (8) feet above the ground.

Any illuminated sign must comply with the provisions of Section 4-3.5 herein.

Section 4-3.7 Signs in the B, BA and UB Business Districts, HB Business District, HO Highway Office District, S & D Service and Distribution District, and SD-1 Service and Distribution District, as follows:

(Amended by 9 yes vote of the Town Council on 7/15/99)

1. Each business may be allowed a total of two (2) signs.
2. The maximum height of any free-standing sign will be ten (10) feet, except that a height of up to twelve (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.
3. The total square footage for all signs of each business shall not exceed ten percent (10%) of the area of the building wall facing a public way or one hundred (100) square feet, whichever is the lesser amount.
4. Only one free-standing sign is allowed per business, which may not exceed half the allowable size as permitted in this section.
5. One projecting overhanging sign may be permitted per business in lieu of either a free-standing or wall sign provided that the sign does not exceed six (6) square feet in area, is no higher than ten (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.
6. 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 (4) square feet and is within the allowable maximum square footage permitted for each business.
7. When a business property is located on two or more public ways, the Building Commissioner may allow a second free-standing sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.
8. When two or more businesses are located on a single lot, only one free-standing 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 free-standing sign can include the names of all businesses on the lot.

9. One awning or canopy sign may be permitted per business in lieu of the allowable wall or free-standing sign, subject to approval by the Building Commissioner.
10. In addition to the allowable signs as specified in this section each restaurant may have a menu sign or board not to exceed three (3) square feet. *(Added by Town Council 8/15/1991)*
11. In lieu of a wall sign, one (1) roof sign shall be permitted per business, subject to the following requirements:
 - A. The roof sign shall be located above the eave, and shall not project below the eave, or above a point located two thirds of the distance from the eave to the ridge.
 - B. The roof sign shall be no higher than one fifth of its length (1/5).

4-3.8 Signs in Industrial Districts:

1. The provisions of Section 4-3.7 herein shall apply, except that the total square footage of all signs, while normally not to exceed one hundred (100) square feet, may be allowed up to two hundred (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.

4-3.9 Signs in VB-A, and VB-B Business Districts:

The provisions of Section 4-3.7 herein shall apply except that:

1. The maximum allowable height of all signs is eight (8) feet, except that the Building Commissioner may allow up to twelve (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.
2. The maximum square footage of all signs shall be fifty (50) square feet or ten percent (10%) of the building face, whichever is less.
3. The maximum size of any free-standing sign shall be ten (10) square feet, except that the Building Commissioner may grant up to twenty-four (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.

4-3.10 Signs in the MB-A1, MB-A2, MB-B and BL-B Business District:

The provisions of Section 4-3.7 herein shall apply except that:

1. The maximum allowable height of signs shall not exceed eight (8) feet.
2. Free-standing signs shall not exceed twenty-four (24) square feet in area.
3. The total square footage of all signs shall not exceed fifty (50) square feet.

4-3.11 Gasoline Station Signs :

1. In addition to the two allowable signs as specified in Section 4-3.7 herein each gas pump may have signage not to exceed 12 inches x 8 inches indicating the name or type of gasoline and its price and other information as may be required by Federal, State or Town regulation.
2. Each gas station or garage may divide the one allowable attached wall sign into no more than four (4) 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 Section 4-3.7 herein.
3. If the business is an approved inspection station, it may additionally have a sign indicating that fact as part of its permitted building or free-standing sign, except that the total square footage of all signs must not exceed the maximum permitted in Section 4-3.7 herein.
4. Temporary or portable signs of any and every type are specifically prohibited.

4-3.12 Shopping Center Signs:

1. Each business in a shopping center is allowed one attached building sign and one portion of a common free-standing sign. If the shopping center has two or more public entrances which are at least five hundred (500) feet apart, a second free-standing 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.

4-3.13 Signs in the MA-1 Business District, MA-2 Business District and OR Office Residential District:

The provisions of Section 4-3.7 herein shall apply except that:

1. The maximum allowable height of all signs on buildings shall be 12 feet, and the maximum height of a freestanding sign shall be eight (8) feet.
2. The maximum square footage of all signs shall be: fifty (50) square feet, or 10% of the building face, whichever is less.
3. The maximum size of any freestanding sign shall be twelve (12) square feet.
4. Temporary Street Banners may be permitted in the MA-1 Business District only, for the purpose of informing the general public of community events and activities, may be permitted 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 (3) weeks prior to the event and be removed within one (1) week after the event.

(Amended by Town Council vote on 11/15/01 in item 2002-029)

Section 4-3.14 Signs in the B-1 Business District and O-1, O-2 and O-3 Office Districts:

The provisions of Section 4-3.7 shall apply except that:

1. The maximum allowable height of all signs on buildings shall be 12 feet, and the maximum allowable height of a freestanding sign is eight (8) feet.
2. The maximum square footage of signs shall be: seventy-five (75) square feet; or 10% of the building face, whichever is less.
3. The maximum size of any freestanding sign shall be eighteen (18) square feet.
(Added by amendment of Town Council on June 28, 2001 – item 2001-036) (Amended by Town Council vote on 7/19/01 on items 2001-037, 38, 39)

4-3.15 Construction Signs:

1. 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.
2. No contractor or architect shall display more than one (1) sign on any building at any given time.
3. No sign shall be larger than twenty-four (24) square feet in area, nor more than five (5) feet tall.
4. The total area of all construction signs displayed at a site at any given time shall not exceed twenty-four (24) square feet.

4-3.16 Temporary Signs:

Temporary signs and special sale signs may be permitted in all districts subject to the following requirements:

1. The total area of all temporary signs allowed in this section shall not exceed twenty percent (20%) of the glass area of the window in which the sign is placed.

4-3.17 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:

2. Such signs shall not exceed one (1) square foot in area, nor be more than three (3) feet high.
3. No more than four (4) such signs will be allowed per site.
4. 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.

4-3.18 Business Area Signs

Business Area Signs may at the discretion of the Building Commissioner, be permitted off-premise 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 (8) square feet in area and shall identify the business area only, and not individual businesses.

4-3.19 Movie Houses and Places of Entertainment:

1. 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.
2. 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 (2) free-standing 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 Section 4-3.7 herein.

4-3.20 Illumination:

1. Illuminated signs will normally not exceed fifty (50) 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. Internally illuminated signs shall not be permitted in the following Zoning Districts:

MA-1 Business District
MA-2 Business District
OR Office District
O-1, O-2 and O-3 Office Districts

Within the B-1 Business District, internally illuminated signs are permitted along Barnstable Road only.

2. 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.
3. 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.

(Amended by Town Council vote on 11/15/01 on 2002-029)

4-3.21 Signs Within The Old King's Highway Historic District:

1. The dimensional requirements of these regulations shall apply to all portions of the Town.
2. 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.
3. 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.

4-3.22 Relocating Or Changing Signs:

1. Any sign that is moved to another location, either on the same or other premises shall require a permit.
2. 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.

4-3.23 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.

4-3.24 Protection of Subsequent Purchasers :

Any vendor or lessor who sells or leases any real property which includes a non-conforming 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.

4-3.25 Illegal Signs:

1. Illegal Signs: 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.
2. 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.

4-3.26 Abandoned Signs:

1. 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 fourteen (14) days from the date of the action that caused the sign to be considered abandoned.
2. 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.

3. New signs for a building or property on which an abandoned sign is located shall not be approved until the abandoned sign is removed.
4. 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.

4-3.27 Permits and Certificates of Approval:

1. All signs regulated by this ordinance require a permit from the Building Commissioner, with the exception of residential signs described in Section 4-3.5 subsections (1) and (2) herein, so long as the house number has been approved by the Engineering Department.
2. Failure to obtain a permit shall make the sign illegal and subject to the penalty provisions of Section 4-3.28 herein.
3. All signs regulated by this ordinance 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 Section 4-3.28 herein.

4-3.28 Penalties:

1. The Building Commissioner may issue citations for violations of these regulations.
2. A failure to respond to properly issued citations or the issuance of three (3) or more citations for a sign shall be construed as a major violation subject to a fine of not more than one hundred dollars (\$100.00). Each day that such violation continues shall constitute a separate offense.
3. Continued violation, even with payment of penalties, for a period of sixty (60) days, shall be grounds for removal of the sign(s) in question, following the procedures for illegal signs.
4. Applicants for signs who have previously had penalties for illegal signs may be required to post a deposit of not more than five hundred dollars (\$500.00) 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.

4-3.29 Safety and Maintenance:

1. 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.
2. Failure to comply with these provisions shall be grounds for a citation.
3. 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 fifty dollars (\$50.00). If public safety is involved, the Building Commissioner may take immediate action.

4-3.30 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.

4-3.31 Enforcement:

1. The provisions of these regulations shall be enforced by the Building Commissioner.
2. Citations, as specified in Section 4-3.27 may be issued by the Building Commissioner.

SPONSOR: Town Councilor Royden Richardson

DATE	ACTION TAKEN
_____	_____
_____	_____

**AGENDA ITEM SUMMARY
2003-024**

TO: Town Council, Gary Blazis, President
FROM: John C. Klimm, Town Manager
THROUGH: Thomas Broadrick , AICP, Planning Director
 Jacqueline Etsten, AICP, Principal Planner
DATE: September 12, 2002
SUBJECT: Revisions to Section 4-3, Sign Regulation of the Zoning Ordinance,

BACKGROUND: the Barnstable Sign code is a very comprehensive, well-structured Ordinance adopted in the early 1980's. The proposed revisions are relatively minor and do not affect the overall structure, and are based upon experience with the code over the years. Changes have also been made to reflect changes in State legislation directly affecting sign codes.

ANALYSIS: the changes in the code are summarized as follows:

1. **Business area signs** would be permitted for commercial areas in lieu of ladder signs. A business area sign would identify the area only, and not individual businesses. See Definition, Business Area Sign, and Section 4-3.18 Business Area Signs.
2. **Roof signs** which are presently prohibited, would be permitted subject to the following conditions:
 - A. The sign could not be painted upon, or otherwise applied directly to the roof. (*Definition of 4-3.2 Roof Sign, and Prohibited Signs 4-3.3*)

(*Section 4-3.7 Signs in Business Districts*)
 - B. Roof signs would be limited to one per business, in lieu of a wall sign.

- C. Roof signs would be located above the eave of the roof and in the lower two thirds of the roof.
 - D. A roof sign would be no higher than 1/5 of its length, i.e. long and narrow, rather than a square, boxy shape.
3. **Holiday lights:** Section 4-3.3 Prohibited Lights has been revised to permit temporary traditional holiday strings of small lights between November 15 and January 15 of the following year.
 4. **Section headings in 4-3.7, 4-3.9 and 4-3.10** have been revised to accurately reflect the correct names of each Zoning District
 5. **Section 4-3.7 Signs** in the various business districts, is revised to include business names, sale signs and other temporary signs within an area not to exceed four square feet.
 6. **Section 4-3.15 Signs on vehicles** has been stricken, because of concern for enforceability of signs on moving vehicles.
 7. **Section 4-3.16(2) political signs** has been stricken after discussion with the Town Attorney because of concern for enforcement issues.

In 1998, the Town Council adopted a resolve concerning political signs, printed below. If the Council has concern for the size and number of signs, particularly during the upcoming political season, the resolve could be broadened to include guidelines for the number and size of signs.

98-135A RESOLVE - CAMPAIGN SIGNS

RESOLVE: That the standard of community character for the Town of Barnstable shall reflect the policy that political signs are discouraged prior to 30 days before an election or referendum. *(Passed by the Barnstable Town Council on 8/20/98 by a 10 yes 0 No vote.)*

8. **Section 4-3.28 Permits etc,** states that the Town Council sets fees. After discussion with the Town Attorney, this was stricken as superfluous.
9. **Section 4-3.25 Illegal Signs etc.** has been changed to delete action against non-conforming signs because of a recent change in State Statutes. Until two years ago, although it was not explicitly clear, State Statutes did not appear to confer grandfathered rights to non-conforming signs, which could be required to come into conformance with the code. In 2000, legislation was passed that conferred grandfather rights to non-conforming signs. For this reason, after discussion with the Town Attorney, paragraphs requiring that signs be brought into conformance with the code when businesses change, have been deleted.

FISCAL IMPACT: these proposed revisions will have no impact on the town's budget.

TOWN MANAGER RECOMMENDATION: the Town Manager recommends that the proposed Ordinance be adopted after all issues raised at the Public Hearing have been satisfactorily addressed. *(To be verified.)*

STAFF ASSISTANCE: Jacqueline Etsten, Principal Planner, Planning Division

4-3 Sign Regulations

4-3.1 Statement of Intent

The provisions of this Section 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.

4-3.2 Definitions

1. **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.
2. **Animated Sign.** Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.
3. **Area** (of a sign). (See Section 4-3.4 herein)
4. **Banner.** A sign made of fabric or any non-rigid material with no enclosing framework.
5. **Billboard.** (See "Off-Premises Sign")
6. **Building Commissioner.** The Building Commissioner of the Town of Barnstable or his designee.
7. **Building Sign.** A sign affixed to and wholly supported by an exterior wall of a building or structure.
8. **Business area signs: An off-premise sign intended to direct the motoring public to specific commercial areas only and not to include individual businesses.**
9. **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.
10. **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.
11. **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.
12. **Direct Lighting.** Illumination by means of an external source.
13. **Directional/Information Sign.** An on-premise 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.

14. **Discontinued Sign.** (See "Abandoned Sign")
15. **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.
16. **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.
17. **Externally Illuminated Sign.** A sign whose illumination is derived entirely from an external artificial source.
18. **Facade.** The entire building front, including the parapet.
19. **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")
20. **Free Standing Sign.** A sign supported upon the ground by poles or braces and not attached to any building.
21. **Frontage.** The length of the property line of any one premises along a public right-of-way on which it borders.
22. **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.
23. **Height (of a Sign).** The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.
24. **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.
25. **Illegal Sign.** A sign which does not meet the requirements of this ordinance and which has not received legal non-conforming status.
26. **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.
27. **Internally Illuminated Sign.** Illumination by means of a light source completely enclosed by the sign panel(s).
28. **Intermittent Lighting.** (See "Flashing Sign")

- ~~29. **Ladder Sign.** An off-premise sign intended to direct the motoring public to businesses, services, activities or events; such signs to be used on a limited basis and installed in remote areas. (See Section 4-3.17 herein)~~
29. **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.
30. **Menu Signs** The menu normally presented at tableside. (Added by amendment of Town Council on 8/15/91)
31. **Multiple Faced Signs**. Signs containing more than two (2) faces or panels.
32. **Non-Conforming Sign**. A sign which was erected legally, but which does not comply with subsequently enacted regulations.
33. **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".
34. **On-Premise Sign**. A sign which pertains to the use of the premises on which it is located and maintained.
35. **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.
- ~~36. **Political Sign.** A temporary sign used in connection with a local, state or national election or referendum.~~
36. **Portable Sign**. Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.
37. **Private Way**. For the purposes of this section (Sec. 4-3), a private way shall be considered a public way. (See "Public Way")
38. **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.
39. **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.
40. **Public Way**. Any roadway over which everyone has rights to pass, including town ways and private ways.
41. **Real Estate Sign**. A temporary sign advertising real estate upon which the sign is located as being for rent, lease or sale.
42. **Roof Sign**. Any sign erected upon ~~or above a roof, or parapet wall of the building~~ and wholly or partially supported by such building the sign structure placed upon the roof.

43. **Rotating Sign.** Any sign or device which has any visible moving part, visible revolving part, or visible mechanical move movement but not including methods of changing copy.
44. **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.
45. **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.
46. **Street Banner Sign.** Any banner which is stretched across and hung over a public right-of-way.
47. **Subdivision Identification Sign.** A free-standing or wall sign identifying a recognized subdivision, condominium complex or residential development.
48. **Temporary Sign.** A sign not constructed or intended for long-term use.
49. **Under-Canopy Sign.** A directional sign suspended beneath a canopy, ceiling, roof or marquee.
50. **V-Shaped Sign.** A sign with two (2) faces or panels not supported by one common structural member and which faces are not back-to-back.
51. **Wall Sign.** A sign attached parallel to and extending not more than eighteen inches (18") from the wall of a building, including painted signs, individual lettered signs, cabinet signs and signs on a mansard.
52. **Window Sign.** A sign installed inside a window and intended to be viewed from the outside.

4-3.3 Prohibited Signs

The following signs shall be expressly prohibited in all zoning districts, contrary provisions of this ordinance notwithstanding:

1. Any sign, all or any portion of which is set in motion by movement, including pennants, banners or flags, except official flags of nations or administrative or political subdivisions thereof.
2. Any sign which incorporates any flashing, moving or intermittent lighting.
3. 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 decorations for religious or other recognized holidays. **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.**
4. 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.

5. Any sign which infringes upon the area necessary for visibility on corner lots.
6. Any sign which obstructs any window, door, fire escape, stairway, ladder or other opening intended to provide light, air or egress from any building.
7. Any sign or lighting which casts direct light or glare upon any property in a residential or professional residential district.
8. Any portable sign, including any sign displayed on a stored vehicle, except for temporary political signs.
9. Any sign which obstructs the reasonable visibility of, or otherwise distracts attention from a sign maintained by a public authority.
10. Any sign or sign structure involving the use of motion pictures or projected photographic scenes or images.
11. Any sign attached to public or private utility poles, trees, signs or other appurtenances located within the right of way of a public way.
12. ~~Roof signs.~~ **A sign painted upon or otherwise applied directly to the surface of a roof.**
13. 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.
14. Signs on or over Town property, except as authorized by the Building Commissioner for temporary signs for non-profit, civic, educational, charitable and municipal agencies.
15. Signs that will obstruct the visibility of another sign which has the required permits and is otherwise in compliance with this ordinance.
16. Off-premises signs except for "~~Ladder Signs~~" "**Business Area Signs**" as otherwise provided for herein.
17. 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.
(#17 was added by a 10 Yes 1 No - Roll Call vote of the Barnstable Town Council on 6/4/98 as part of item 98-064)

4-3.4 Determination of Area:

1. 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.

2. 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.
3. 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.
4. Only one side of a double-faced sign shall be counted in computing the area of that sign.
5. 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 ten feet (10') from the ground multiplied by the width of the building front.

4-3.5 Signs in Residential Districts:

In residential districts, only the following signs are permitted:

1. One sign displaying the street number and identifying the premises not to exceed two (2) 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.
2. One sign no larger than four (4) square feet in area shall be allowed which displays the name of the house or the name of the family residing therein.
3. One sign not to exceed two (2) 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.
4. One temporary sign not to exceed four (4) square feet in area advertising property for sale, lease or rent. Such signs must be removed within ten days of transfer of title or signing of lease or rental agreement.
5. Where a legal non-conforming business exists within a residential district, one (1) 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 (8) feet in height or eight (8) square feet in area.
6. 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.
7. One identification sign not to exceed twelve (12) square feet in area may be permitted at any public entrance to a subdivision or multi-family development.
8. 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.

9. One identifying sign for lodging houses, Bed and Breakfast or similar identification not to exceed four (4) square feet in area. (*Deleted old version inserted new by a 9 Yes 2 No vote of the Barnstable Town Council on Feb. 20, 1997*).

4-3.6 Signs in the PR Professional Residential District:

1. One (1) 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 twelve (12) square feet in area and shall not extend more than eight (8) feet above the ground.
2. Any illuminated sign must comply with the provisions of Section 4-3.5 herein.

~~4-3.7 Signs in Business, Limited Business, Highway Business, Urban Business and Service and Distribution Districts and the SD-1 Service and Distribution District:
(Amended by 9 yes vote of the Town Council on 7/15/99)~~

Section 4-3.7 Signs in the B, BA and UB Business Districts, HB Business District, HO Highway Office District, S & D Service and Distribution District, and SD-1 Service and Distribution District, as follows:

1. Each business may be allowed a total of two (2) signs.
2. The maximum height of any free-standing sign will be ten (10) feet, except that a height of up to twelve (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.
3. The total square footage for all signs of each business shall not exceed ten percent (10%) of the area of the building wall facing a public way or one hundred (100) square feet, whichever is the lesser amount.
4. Only one free-standing sign is allowed per business, which may not exceed half the allowable size as permitted in this section.
5. One projecting overhanging sign may be permitted per business in lieu of either a free-standing or wall sign provided that the sign does not exceed six (6) square feet in area, is no higher than ten (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.
6. Incidental business signs **indicating the business, indicating** hours of operation, credit cards accepted, business affiliations, **“sale” signs and other temporary signs** ~~the like, etc.,~~ shall be permitted so long as the total area of all such signs does not exceed four (4) square feet **and is within the allowable maximum square footage permitted for each business. for a single business does not exceed the provisions of this section.**

7. When a business property is located on two or more public ways, the Building Commissioner may allow a second free-standing sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.
8. When two or more businesses are located on a single lot, only one free-standing 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 free-standing sign can include the names of all businesses on the lot.
9. One awning or canopy sign may be permitted per business in lieu of the allowable wall or free-standing sign, subject to approval by the Building Commissioner.
- ~~10. Window signs indicating "sale" are permitted so long as the total area of all such signs does not exceed four (4) square feet and so long as no more than two (2) window signs exist per business. Window signs advertising products or prices are specifically prohibited.~~
10. In addition to the allowable signs as specified in this section each restaurant may have a menu sign or board not to exceed three (3) square feet.(Added by Town Council 8/15/1991)
- 11. In lieu of a wall sign, one (1) roof sign shall be permitted per business, subject to the following requirements:**
 - C. the roof sign shall be located above the eave, and shall not project below the eave, or above a point located two thirds of the distance from the eave to the ridge.**
 - D. the roof sign shall be no higher than one fifth of its length (1/5).**

4-3.8 Signs in Industrial Districts:

The provisions of Section 4-3.75 herein shall apply, except that the total square footage of all signs, while normally not to exceed one hundred (100) square feet, may be allowed up to two hundred (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.

4-3.9 Signs in VB-A, and VB-B Business Districts:

The provisions of Section 4-3.7 herein shall apply except that:

1. The maximum allowable height of all signs is eight (8) feet, except that the Building Commissioner may allow up to twelve (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.
2. The maximum square footage of all signs shall be fifty (50) square feet or ten percent (10%) of the building face, whichever is less.
3. The maximum size of any free-standing sign shall be ten (10) square feet, except that the Building Commissioner may grant up to twenty-four (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.

4-3.10 Signs in the MB-A1, MB-A2, MB-B and BL-B Business District,:

The provisions of Section 4-3.7 herein shall apply except that:

1. The maximum allowable height of signs shall not exceed eight (8) feet.
2. Free-standing signs shall not exceed twenty-four (24) square feet in area.
3. The total square footage of all signs shall not exceed fifty (50) square feet.

4-3.11 Gasoline Station Signs:

1. In addition to the two allowable signs as specified in Section 4-3.7 herein each gas pump may have signage not to exceed 12 inches x 8 inches indicating the name or type of gasoline and its price and other information as may be required by Federal, State or Town regulation.
2. Each gas station or garage may divide the one allowable attached wall sign into no more than four (4) 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 Section 4-3.7 herein.
3. If the business is an approved inspection station, it may additionally have a sign indicating that fact as part of its permitted building or free-standing sign, except that the total square footage of all signs must not exceed the maximum permitted in Section 4-3.7 herein.
4. Temporary or portable signs of any and every type are specifically prohibited.

4-3.12 Shopping Center Signs:

Each business in a shopping center is allowed one attached building sign and one portion of a common free-standing sign. If the shopping center has two or more public entrances which are at least five hundred (500) feet apart, a second free-standing 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.

4-3.13 Signs in the MA-1 Business District, MA-2 Business District and OR Office Residential District:

The provisions of Section 4-3.7 herein shall apply except that:

1. The maximum allowable height of all signs on buildings shall be 12 feet, and the maximum height of a freestanding sign shall be eight (8) feet.
2. The maximum square footage of all signs shall be: fifty (50) square feet, or 10% of the building face, whichever is less.
3. The maximum size of any freestanding sign shall be twelve (12) square feet.
4. Temporary Street Banners may be permitted in the MA-1 Business District only, for the purpose of informing the general public of community events and activities, may be permitted 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 (3) weeks prior to the event and be removed within one (1) week after the event.

(Amended by Town Council vote on 11/15/01 in item 2002-029)

Section 4-3.14 Signs in the B-1 Business District and O-1, O-2 and O-3 Office Districts:

1. The provisions of Section 4-3.7 shall apply except that:
 - A) The maximum allowable height of all signs on buildings shall be 12 feet, and the maximum allowable height of a freestanding sign is eight (8) feet.
 - B) The maximum square footage of signs shall be: seventy-five (75) square feet; or 10% of the building face, whichever is less.
 - C) The maximum size of any freestanding sign shall be eighteen (18) square feet.

(Added by amendment of Town Council on June 28, 2001 – item 2001-036) (Amended by Town Council vote on 7/19/01 on items 2001-037, 38, 39)

4-3.15 Signs on Vehicles:

~~Vehicles involved in the transportation of the public may be permitted to display advertising signs if approved by the Building Commissioner.~~

4-3.15 Construction Signs:

1. 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.
2. No contractor or architect shall display more than one (1) sign on any building at any given time.
3. No sign shall be larger than twenty-four (24) square feet in area, nor more than five (5) feet tall.
4. The total area of all construction signs displayed at a site at any given time shall not exceed twenty-four (24) square feet.

4-3.16 Temporary Signs:

Temporary signs, including ~~political signs and~~ special sale signs may be permitted in all districts subject to the following requirements:

1. The total area of all temporary signs allowed in this section shall not exceed twenty percent (20%) of the glass area of the window in which the sign is placed.
2. ~~Political signs shall not exceed four (4) square feet in area per sign and shall be erected on their own posts. All political signs shall be removed within three days after the election for which the signs were erected.~~

4-3.17 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.

1. Such signs shall not exceed one (1) square foot in area, nor be more than three (3) feet high.
2. No more than four (4) such signs will be allowed per site.
3. 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.

4-3.18 Ladder Signs-Business Area Signs

Business area signs, may at the discretion of the Building Commissioner, be permitted off-premise 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 ~~four (4)~~ **eight (8)** square feet in area ~~for each business included, and shall identify the business area only, and not individual businesses.~~ **provided that such signs shall not exceed four (4) feet in width and a maximum letter height of eight (8) inches.**

4-3.19 Movie Houses and Places of Entertainment:

1. 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.
2. 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 (2) free-standing 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 Section 4-3.7 herein.

4-3.20 Illumination:

- 1) Illuminated signs will normally not exceed fifty (50) 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. Internally illuminated signs shall not be permitted in the following Zoning Districts:

MA-1 Business District

MA-2 Business District

OR Office District

O-1, O-2 and O-3 Office Districts

Within the B-1 Business District, internally illuminated signs are permitted along Barnstable Road only.

- 2) 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.
- 3) 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.

(Amended by Town Council vote on 11/15/01 on 2002-029)

4-3.21 Signs Within The Old King's Highway Historic District:

1. The dimensional requirements of these regulations shall apply to all portions of the Town.
2. 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.
3. 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.

4-3.22 Relocating Or Changing Signs:

1. Any sign that is moved to another location, either on the same or other premises shall require a permit.
2. 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.

4-3.23 Illumination: *(NOTE, this section is relocated to 4-3.20 above)*

1. ~~Illuminated signs will normally not exceed fifty (50) 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. Internally illuminated signs shall not be permitted in the following Zoning Districts:
In the B-1 Business District, internally illuminated signs shall be permitted along Barnstable Road only.~~

(Amended June 28, 2001 by Town Council on item 2001-036)

2. ~~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.~~

- ~~3. 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.~~

4-3.23 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.

4-3.24 Protection of Subsequent Purchasers :

Any vendor or lessor who sells or leases any real property which includes a non-conforming 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.

4-3.25 Non-Conforming Signs and-Illegal Signs :

~~All signs erected prior to the passage of these regulations are classified into three categories: Conforming signs which comply with all the provisions of these regulations; non-conforming signs which do not meet the requirements of these regulations but which were legal under previous sign regulations of the Town; illegal signs which do not comply either with these regulations or with the previous regulations in effect at the time of passage of these regulations.~~

1. ~~Illegal Signs: 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.~~
2. ~~New Signs at Sites of Illegal or Non-Conforming 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 or non-conforming signs exist. until all signs on the building and/or lot are either removed or brought into conformance with these regulations.~~

4-3.26 Abandoned Signs :

1. ~~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 fourteen (14) days from the date of the action that caused the sign to be considered abandoned.~~
2. 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.
3. New signs for a building or property on which an abandoned sign is located shall not be approved until the abandoned sign is removed.
4. 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.

4-3.27 Permits and Certificates of Approval:

1. All signs regulated by this ordinance require a permit from the Building Commissioner, with the exception of residential signs described in Section 4-3.5 subsections (1) and (2) herein, so long as the house number has been approved by the Engineering Department.
2. Failure to obtain a permit shall make the sign illegal and subject to the penalty provisions of Section 4-3.278 herein.
3. All signs regulated by this ordinance 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 Section 4-3.278 herein.
4. ~~Fees for sign applications shall be established by Town Council.~~

4-3.28 Penalties:

1. The Building Commissioner may issue citations for violations of these regulations.
2. A failure to respond to properly issued citations or the issuance of three (3) or more citations for a sign shall be construed as a major violation subject to a fine of not more than one hundred dollars (\$100.00). Each day that such violation continues shall constitute a separate offense.
3. Continued violation, even with payment of penalties, for a period of sixty (60) days, shall be grounds for removal of the sign(s) in question, following the procedures for illegal signs.
4. Applicants for signs who have previously had penalties for illegal ~~or non-conforming signs~~ may be required to post a deposit of not more than five hundred dollars (\$500.00) 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.

4-3.29 Safety and Maintenance:

1. 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.
2. Failure to comply with these provisions shall be grounds for a citation.
3. 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 fifty dollars (\$50.00). If public safety is involved, the Building Commissioner may take immediate action.

4-3.30 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.

4-3.31 Enforcement:

1. The provisions of these regulations shall be enforced by the Building Commissioner.
2. Citations, as specified in Section 4-3.278 may be issued by the Building Commissioner.

11. PUBLIC COMMENT

12. ADJOURNMENT

NEXT MEETING IS NOVEMBER 7TH.



BARNSTABLE TOWN COUNCIL MINUTES
October 3, 2002

A quorum being duly present, Town Council President, Gary Blazis, called the meeting of the Barnstable Town Council to order at 7:00 pm, on October 3, 2002 at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Gary Blazis, Gary Brown, Richard Clark, Richard Elrick (7:30 p.m.), Janet Joakim, Robert Jones, Audrey Loughnane, Gregory Milne, Carl Riedell and Royden Richardson.

President Blazis lead the Council in the Pledge of Allegiance and a moment of silence.

Upon a motion duly made and seconded it was voted to accept the minutes of September 19, 2002 with the following corrections: page 69 top of the page it should read the stance of the Shellfish. Further on it should say it agrees with reconsideration of the dredging project. Next to last paragraph same page "Zielinski" is the correct spelling.

VOTE: Unanimous as amended

2003-008 DOWNTOWN ZONING DISTRICTS, ZONING AMENDMENT

President Blazis announced that the council would refer the Downtown Zoning ordinance 2003-008 to Oct. 17 if there were no objection. The reason was Tom Broadrick, Director of Planning and Roy Fogelgren; Chairman of the Planning Board need the extension to work on the ordinance.

VOTE: To refer – No objection, so moved.

PUBLIC COMMENT:

Eugenia Fortes needs the light fixed on Pitchers Way.

Frank Gibson stated that he had appeared before the council a number of times before regarding the issue of light pollution. He stated that Plymouth has an ordinance that addresses this issue and hopes the Town of Barnstable will also consider such an ordinance. People are concerned about the light pollution and various towns shield the lights so they don't shine up in the sky. A packet was given to the councilors that included numerous articles that had been written on it. He hopes they will look into it and consider the possibility of creating such an ordinance for Barnstable.

Michael Ford appeared as legal counsel for Stop & Shop. He sent a letter to each councilor asking the council not act on the resolution that was filed by Councilor Elrick re the Stop & Shop on Route 132. Stop & Shop normally meets with officials prior to development – they had a site plan review, and will now be working with the town over the next 18 months. Please give them the right to earn your support, he asked, as they review all the items that you addressed and more. Five buildings will be removed...many of which are in dire condition. He hopes that the council will consider this.

Paul Drouin of the Hyannis Civic Association stated that they are still opposed to the apartment section of the zoning change. A deal is a deal and we need to stay with it a while longer and make it work. It was not a housing initiative. No elevator was required for a rehab of a building. Stick with what we have. Listen to the committees.

Dominic Gautreau (possible spelling error – did not sign in) was present to answer inaccuracies from the last meeting. Some of the points he wanted to make regarding the Centerville River dredging were: It does serve many people; there are 213 moorings and over 300 launches per week. It has been scrutinized. It has gone through three managers, various councils and committees over 9 years. The county is in favor of keeping it open. Some people are saying why dredge when you could bus kids. You can't move capital funds over to the school for expenses. When the dredging takes place the sand will be put on Long Beach to rebuild the beach there. The council and manager have bent over backwards to bring out the stock for the future.

Felicia Penn spoke to the symbolic opposition of Stop & Shop. In light of the vision committee's work they are still in the middle of addressing the future impacts on Route 132. It would be putting the cart before the horse until the committee has made up its mind.

Hank Farnham representing the Hyannis Area of Chamber of Commerce had requested approval of downtown zoning. After analysis of the original ordinance a number of the committee members feel the original footage was not good and the economics would not work out. Hyrate looked at a lot of things and he said the chamber feels the changes make economic sense. Also we should not strike the 10 maximum apartments. He said 400 sq. feet is kind of small for living space, 500 sq. feet for living area would be better.

COUNCIL RESPONSE TO PUBLIC COMMENT:

Councilor Brown said Mr. Gibson mentioned lights from the top of the proposed windmills. Brown said the large crane at the hospital this week was 284 feet and a windmill would be almost twice as high. Hyannis is no longer a slum – people are coming in and saying how nice people are and things are looking better, we need a positive attitude.

Councilor Loughnane said she feels Gibson's remarks are timely. The sign ordinance is on the agenda and will be referred to Oct. 17. Maybe Mr. Gibson can hand the ordinance to the planning department, and they could include it in the section that deals with illumination.

Councilor Richardson was going to say something on that issue as well. He chaired the sign committee and would welcome improvement on the illumination part. This would be an appropriate time to take action.

Councilor Milne addressed Farnham's comments regarding the downtown zoning and his reference to the no more than 10 apartments issue. He said a lot of attention was paid to that clause. Maybe the planning director can explain why it should be removed.

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS

Roy Fogelgren, Chairman of the Planning Board and member of the Storage Trailer Committee said that they have met twice. They are working under the premise that the council wants the committee to allow trailers, if a building conceals them and if not, some screening would be required. They must meet with setbacks – there might be different standards for industrial zones vs downtown zoning, etc. They are considering different screening standards. Maybe no screening would be required if trailers were only used for 60 days. If they were there more than 60 days there might be a different standard. They

are considering limiting height to 8 – 9 feet. In other words the trailer would have no wheels; they would limit the number of trailers. One existing trailer has more sq. footage in the trailer than in the building and that is not right. How do we prevent people coming in and thinking that it is part of our standards – we don't want to encourage them, but we want to be able to use them? They have visited sites. Four trailers have been consistently used for 17 years. There are 52 sites in Hyannis alone and in Centerville and Cotuit there was at least 20 – 25 sites. Many are owned and not rented. Any concerns contact him.

Councilor Jones commented on Fogelgren's statement that the council was encouraging trailers. Jones said it was his thought that the council was in favor of discouraging trailers but to work out issues regarding trailers where necessary. It is a tough issue said Fogelgren, we don't want trailer city but some hardships are large. The goal is not to make it easy to have a trailer.

Councilor Milne said he represented the town at a birthday party for Mary Lester in the Capt. Eldridge House for her 103rd birthday and the town gave her some gifts.

Stuart Rapp on behalf of the Shellfish Committee urged the council to reconsider the dredging project in the Centerville River. If this is now a beach nourishment program it is not what the town should be looking at. The shellfish have not all been moved, but there are no more funds available to move them. He said dredge from Bumps River to the landing and not from Bumps River to East Bay.

Upon motion duly made and seconded Councilor Loughnane moved to freeze the endeavor to dredge Centerville River until there is another public hearing on the matter. (As an aside she said the 8-hour removal would be all right, this motion was just for dredging)

Manager John Klimm said it was no small task to get the dredge on site. Harbormaster Dan Horn does not know what the cost ramifications would be if we ceased the dredging project. Tom Mullen said in a contract like this the expense is moving the equipment to and from the site. There would be an expense to be paid on this. We are authorized to spend \$1.5 M. We expect to spend about \$500,000 on the first phase. The dredge will only have to be on site 2 weeks because they have already dredged to get out the shellfish. A great deal of the material has already been removed. It would be a hardship and they (county dredgers) are moving around the Cape in sequence and we would have to pay an extra \$25,000 plus to move to and from.

Mr. Gautreau said the shellfish constable has emailed his approval to the conservation commission to begin dredging, removing any aspect of a problem. There is not only an economic problem but there is a problem with conservation approval as well. To come at the last minute and hold up a project is not wise.

Attorney Robert Smith said we have a contract with the county – once you have a contract you are dealing with a different can of worms. The Constitution of the United States has protection for the sanctity of contracts. You could stop the project but if you were a private party you would be obliged to pay the full bill – we might have some special consideration and a rare exception.

Councilor Elrick asked if it would it be possible for concurrent harvesting at the same time dredging is going on. Dan Horn said it might be technically possible to use the mechanical harvester but the funding has not been approved for any more than what has been done. Elrick asked if monies could come forward to harvest additional shellfish. If it is technically possible to get as much out of there and if it is a relatively small cost, we should do it.

Manager Klimm said that this is where we as public officials run into problems looking at one project. We don't know if it is a priority, or how much it will cost. If this is your highest priority now that is one issue. However he said that this is not a new issue – this has been up before us in the past. We have a contract with a dredge on site ready to go. If it is the desire of the council to go forward on this, and if it is your priority, then we will look for the money. We have no consideration of what else the money might be spent on.

Councilor Barry moved the question (which was seconded.)

VOTE: On moving the question – 8 Yes, 3 No

On the motion by Councilor Loughnane to freeze the dredging project.

VOTE: 2 Yes 9 No

Councilor Elrick apologized for his tardiness. He was at Senior Center introducing Scott Harshbarger who was to speak on Ballot Question #3 and Clean Elections.

Councilor Riedell noted that President Blazis is doing wonderfully preparing for the Last Gasp road race. However, he did note that Blazis won't beat him to Provincetown. Riedell said that he has been working with Pr. 5 on a proposal for Osterville for affordable housing. They are doing a tremendous job of coming up with a proposal, which will be voted on Monday, and will then come to the council.

Councilor Richardson said he thinks it will go to the housing committee first before the council. Riedell agreed.

Councilor Milne sent letters out on the Gulf Station Committee, which will meet Oct. 10th at 7 p.m. at Town Hall. They are looking to make it a park. He thanked the town for the planting of the grass.

PRESIDENT/VICE PRESIDENT COMMUNICATIONS

President Blazis said the next council meeting will be Oct. 17. On that date they will host the Barnstable Assembly of Delegates and a discussion of services at 6 p.m.

ORDERS OF THE DAY:

A. OLD BUSINESS (PUBLIC HEARING)

Councilor Milne removed himself from the discussion and the room, since he was a recent applicant in the program.

Upon motion duly made and seconded the Town Council voted to go into a public hearing for the purpose of discussing 2003-019 Amnesty Affordable Housing Program.

VOTE: 10 yes

Manager Klimm said that the council had asked that we report on this program and make necessary recommendations on it. The housing committee has reviewed it and the package before you has the original ordinance and proposed changes. Attached and detached structures have been clarified. The changes would include apartments within detached structures. The new language would allow this.

In addition with attached structures (like a garage to be attached) possible consideration of an apartment would be given. Those are the major changes. Kevin Shea and Paulette McAuliffe were present to answer questions. Klimm is pleased overall. There was some skepticism in the community but this has resulted in a good program, which will be replicated in other communities.

Upon motion duly made and seconded it was voted by the Town Council to go out of a public hearing at: 8:07 p.m.

VOTE: 10 yes

Councilor Loughnane asked if a house can be built brand new with this addition or does it have to be added to existing structures. Attorney Smith said a new house could be built with space in it that could be adaptable to something like this. And if it was going to be used as an amnesty unit that could be done all at once. Loughnane said existing is always used in the ordinance; it does not refer to new.

Councilor Elrick said we were trying to figure out how many additional units have gone on line, and how many will these changes possibly bring forward. Shea said we have had about 10 inquiries that would fit into these latest rules.

Councilor Jones has concerns and wants to know if there are square footage requirements on the apartments? Shea said the accessory unit has to be 50% or less of the existing unit. Is this another name for creating a duplex, Jones asked? Shea said what we have had on the 45 units approved so far are one bedrooms and have averaged 500 –550 sq. feet. They are relatively small units.

Jones said the purpose of the program was to legitimize the apartments that were illegal and to help with affordable housing. It was also designed to bring up the specifications of the buildings to be in compliance with the law. Now we are getting into creating new units. I think the impact will be in Hyannis where we have sewerage. Now we are putting apartments on Main Street and this new ruling will also impact other areas of Hyannis. Now, we are increasing density for affordable housing – yet on the other hand we increased our minimum lot size to a 2-acre minimum and put on a building cap – he has a problem with this. The amnesty program awarded people for being illegal.

Klimm said we should remember that an important part of the cap was to set aside units for affordable housing. Within the cap was an allowance for the affordable units. The amnesty program is an integral part of the affordable housing program. As it relates to 2 ac. zoning, decisions were made in certain sections of town because of environmental concerns and those same concerns should come into play when amnesty units are approved. This is not a Hyannis only program. We have seen interest in all the villages. This is not for illegal units but deals with new units in existing structures. They have to come before the ZBA for a 40B.

Jones said the ZBA is hearing in-law apartments. When the in-laws go the owners are to remove the sinks etc. We know that there are guesthouses on big estates. He does not know if it is good to start to develop these types of apartments in residentially zoned areas.

Manager Klimm said the wisdom of the council created regular monitoring and updates on figures so that we can watch the program and make sure there aren't any problems. We are not here to advance a new program. This exists; we are trying to clarify in two areas where there is confusion. Whether the changes are made or not we will continue to monitor the program. The people renting the unit have to financially qualify. The housing people annually visit the properties. We are very sensitive to the concerns; we want a program that

works. We want to do 50 units a year. We don't know if we can handle more. The number of complaints have been remarkably low.

Councilor Riedell said this is helping him because it is clarifying points for him. Speaking of Osterville, he said that they have many garages that are detached that could have units in them. We have a winning solution here and he hopes that more units will be forthcoming from his area.

Councilor Barry thought this program was to make an illegal apartment legal. It appears that this will help us in our fight against development. He has an office with a detached garage and asked if the committee has looked at other than owner occupied situations. Shea said we have not up to now but possibly could in the future.

Clark said it was stated earlier that there was a 50% limitation on the square footage to the main dwelling. Where is it? He does not see it in the ordinance. He was told that it is in the manager's guidelines. Klimm said we were not going to put the whole program in the ordinance, but we have put more details in the regulations. Klimm said that has not changed. There are provisions in the regulations that could change the program. Clark asked if someone owned a single family, and the intent of an addition was to create an apartment within the addition, does the ordinance allow this to happen? Smith said yes. Any single family then could become a duplex said Clark. Smith said it would become not necessarily a duplex but a two-family.

Smith said the relationship that is implied by the "subordinateness" of the amnesty unit to the principle unit is not found in a duplex. A duplex could not exist here. They are then two living units, said Clark. Yes, the secondary could be legal.

Jan. 1, 2000 was the date for existence of the dwelling for eligibility in the amnesty program, and now you are allowing new construction, Clark stated. Smith said what started as the amnesty ordinance dealt with illegal apartments in existence as of that date. The date seems to be the threshold for units being allowed for the program. The new construction is not part of that so there are now 2 parts of this.

Ruth Weil said if you look at the redlined version, the changes are just clarifications. The new unit section comes directly from the family unit apartment section of the ordinances. We needed to clarify this. By using the family apartment language we did that.

Clark said this means any home could do this. Weil said there is a whole process that must be followed. This is a very regulated program. There have been environmental positives; there were septic systems upgraded and a lot of community benefits since this passed. Properties have been upgraded.

Richardson said one of the purposes of this program was to give people who were in the affordable category a chance to stay in their apartments because many had been closed down by the building department. So they had closed apartments before. It is important to remember that it is also a tool in order to help us meet the responsibility for affordable housing. It is one tool of many that we can use. We have a building cap and affordable units that can fall in it. He thinks it is a wonderful thing and economic development has done a wonderful job to put these things in effect.

Elrick said we are overstating the fear of proliferation of new units. Elrick said many will not want to go through with the deed restrictions, inspections etc. We have a win win situation here.

Riedell said, as a plumbing contractor, he has taken out at least 6 kitchens from units.

Loughnane is trying to get a comfort level over a new house. If you have and want to scrunch 5 or 6 new units on a lot can you do it? Will builders want to do this? Smith said regarding building a new building, it could be configured how you want it. You cannot regulate single-family use for what is within a structure. It could be adaptable for multi family use but you would need to go through the process. If you had the intent from the outset you could do it from the beginning.

Klimm said what is unique is the process. Any developer doing a 40B has to go to a government agency to get site approval. Then it comes to us. We can refuse them. If we do not want it we can just deny it. Loughnane has a problem with 6 on one lot – Smith said you could never do 6 on one lot. If you had 6 illegals that might be looked at – but there will never be six new ones on one lot.

2003-019 - AMNESTY AFFORDABLE HOUSING PROGRAM

Upon motion duly made and seconded it was

ORDERED: that Chapter III, Article III of the General Ordinances is hereby amended by striking out ARTICLE LXV - Comprehensive Permits for Pre-Existing and Unpermitted Dwelling Units and for New Dwelling Units in Existing Structures, and inserting in place thereof the following:

“ARTICLE LXV - Comprehensive Permits for Pre-Existing and Unpermitted Dwelling Units and for New Dwelling Units Accessory to Single Family Dwellings.

SECTION 1.0: INTENT AND PURPOSE.

1.1 The intent of this Ordinance is to provide an opportunity to bring into compliance many of the currently unpermitted accessory apartments and apartment units in the Town of Barnstable, as well as to allow the construction of new dwelling units accessory to existing single-family homes to create additional affordable housing.

1.2 This Ordinance recognizes that although unpermitted and unlawfully occupied, these dwelling units are filling a market demand for housing at rental costs typically below that of units which are and have been, lawfully constructed and occupied.

1.3 It is in the public interest and in concert with its obligations under state law, for the Town of Barnstable to offer a means by which so-called unpermitted and illegal dwelling units can achieve lawful status, but only in the manner described below.

1.4 It is the position of the Town of Barnstable that the most appropriate mechanism for allowing for the conversion of unlawful dwelling units to lawful units is found in GL c.40B, ss. 20-23, the so-called “Comprehensive Permit” program. This provision of state law encourages the development of low and moderate-income rental and owner occupied housing and provides a means for the Board of Appeals to remove local barriers to the creation of affordable housing units. These barriers include any local regulation such as

zoning and general ordinances that may be an impediment to affordable housing development.

1.5 The Local Comprehensive Plan states that the town should commit appropriate resources to support affordable housing initiatives. Under this ordinance, the town commits the following resources to support this affordable housing initiative:

- a. Waiver of fees for the inspection and monitoring of the properties identified under this ordinance;
- b. Designation of town staff to assist the property owner in navigating through the process established under this ordinance;
- c. To the extent allowable by law, the negative effect entailed by the deed restriction involved will be reflected in the property tax assessment, and
- d. To assist property owners in locating available municipal, state and federal funds for rehabilitating and upgrading the properties identified under this ordinance.

1.6 The Local Comprehensive Plan supports, in conjunction with a variety of other strategies, the conversion of existing structures for use as affordable housing.

1.7 Through the creation of a local Chapter 40B program, which uses state and federal subsidies, the town can create a mechanism to utilize existing structures and to construct new accessory structures for the creation of affordable housing units that is consistent with the town's identified housing needs.

SECTION 2.0: CREATION OF LOCAL CHAPTER 40B PROGRAM:

As part of the town's efforts to create the type of affordable housing that best meets the needs of the town and its residents, the town manager and staff designated by the town manager, shall establish a screening process and criteria for the preexisting and unpermitted units described herein, as well as for the construction of new units accessory to single-family homes, as part of a local Chapter 40B program which program will provide the state or federal subsidy necessary to establish standing under Chapter 40B for units being created and/or permitted.

SECTION 3:0: AMNESTY PROGRAM

Recognizing that the success of this Ordinance depends, in part, on the admission by real property owners that their property may be in violation of the zoning ordinances of the town, the town hereby establishes the following Amnesty Program:

3.1: The threshold criteria for units being considered as units potentially eligible for the Amnesty Program are:

a) Real property containing a dwelling unit or dwelling units for which there does not exist a validly issued variance, special permit or building permit, does not qualify as a lawful, non-conforming use or structure, for any or all the units, and that was in existence on a lot of record within the Town as of January 1, 2000; or

b) Real property containing a dwelling unit or dwelling units which was in existence as of January 1, 2000 and which has been cited by the Building Department as being in violation of the zoning ordinance and

(c) The property owner has the burden of demonstrating to the Building Commissioner that the criteria in either paragraphs (a) and/or (b) have been satisfied.

d) If any dwelling unit or units identified herein are occupied during the period of time when amnesty is in effect, said unit must be inspected by the entity designated by the town manager and found to be in conformance with the State Building Code and State Sanitary Code.

3.2: The procedure for qualifying units that meet the threshold criteria for the amnesty program is as follows:

a) The unit or units must either be a single unit accessory to an owner occupied single family dwelling or one or more units in a multifamily dwelling where there exists a legal multifamily use but one or more units are currently unpermitted;

b) The unit(s) must receive a site approval letter under the town's local chapter 40B program;

c) The property owner must agree that if s/he receives a comprehensive permit, the unit or units for which amnesty is sought will be rented to a person or family whose income is 80% or less of the Area Median Income (AMI) of Barnstable-Yarmouth Metropolitan Statistical Area (MSA) and shall further agree that rent (including utilities) shall not exceed the rents established by the Department of Housing and Urban Development (HUD) for a household whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area. In the event that utilities are separately metered, the utility allowance established by the Barnstable Housing Authority shall be deducted from HUD's rent level.

d) The property owner must agree, that if s/he receives a comprehensive permit, that s/he will execute a deed restriction for the unit or units for which amnesty is sought, prepared by the Town of Barnstable, which runs with the property so as to be binding on and enforceable against any person claiming an interest in the property and which restricts the use of one or more units as rental units to a person or family whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area (MSA).

e) Upon receiving the site approval letter under 3.2(b) above, the property owner shall within three (3) months file an application for a comprehensive permit under the local Chapter 40B program with the Barnstable Zoning Board of Appeals.

3.3: The procedure for obtaining amnesty is as follows:

a) No zoning enforcement shall be undertaken against any property owner who demonstrates that s/he meets the threshold criteria under section 3.1 and further demonstrates that s/he is proceeding in good faith to comply with the procedures under Section 3.2 to obtain a comprehensive permit.

b) Any protection from zoning enforcement under this ordinance shall terminate when: 1) A written determination is issued under the local Chapter 40B program that the criteria under Section 3.2 and the local Chapter 40B program cannot be satisfied; or 2) it is determined that the property owner is not proceeding diligently with his/her Chapter 40B application; or 3) the property owner's Chapter 40B application is denied. A person is deemed "not to be proceeding diligently" if s/he does not receive a comprehensive permit within twelve months from the date of issuance of the site approval letter under the local Chapter 40B program.

c) This amnesty program shall be reviewed by the town council no later than October 1, 2003.

SECTION 4.0: NEW UNITS ACCESSORY TO SINGLE FAMILY OWNER OCCUPIED DWELLINGS.

For a proposed new unit to be eligible for consideration under the local chapter 40B program, it must be a single unit, accessory to an owner occupied single-family dwelling, to be located within or attached to an existing residential structure or within an existing building located on the same lot as said residential structure and comply with the following:

a) The unit(s) must receive a site approval letter under the town's local chapter 40B program;

b) The property owner must agree that if s/he receives a comprehensive permit, the accessory dwelling unit will be rented to a person or family whose income is 80% or less of the Area Median Income (AMI) of Barnstable-Yarmouth Metropolitan Statistical Area (MSA) and shall further agree that rent (including utilities) shall not exceed the rents established by the Department of Housing and Urban Development (HUD) for a household whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area. In the event that utilities are separately metered, the utility allowance established by the Barnstable Housing Authority shall be deducted from HUD's rent level.

c) The property owner must agree, that if s/he receives a comprehensive permit, that s/he will execute a deed restriction for the unit, prepared by the Town of Barnstable, which runs with the property so as to be binding on and enforceable against any person claiming an interest in the property and which restricts the use of the one unit as a rental unit to a person or family whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area (MSA).

d) Upon receiving the site approval under 4(a) above, the property owner shall file an application for a comprehensive permit under the local Chapter 40B program with the Barnstable Zoning Board of Appeals.

SECTION 5.0: QUARTERLY REPORTING.

The Town Manager shall report to the Town Council no less than quarterly as to the use of this ordinance, paying particular regard to the level of participation.”

VOTE: 10 YES – ROLL CALL

2003-020 APPOINTMENTS

Upon motion duly made and seconded it was voted:

That the Barnstable Town Council appoints the following to a multiple member board:

COMPREHENSIVE FINANCIAL ADVISORY COMMITTEE

James Sproul, Main St., Centerville, MA, 02632, to serve until 6/30/2005

OLD KING’S HIGHWAY (Architect)

George Jessop, 863 Bumps River Road, Centerville, MA 02632, to serve until 6/30/2003

ROADS COMMITTEE

Philip McCartin, 20 Hollingsworth Road, Osterville, MA 02655, to serve until 6/30/2005

YOUTH COMMISSION

Hope Taylor, 86 Skating Rink Road, Hyannis, MA 02601, to serve until 6/30/2005

Stephanie Jeffers, 4 Mountain Ash Road, Marstons Mills, MA 02648, to serve until 6/30/2005

VOTE: 11 yes

2003-022 APPROPRIATION ORDER FOR FY 2003 MARINE & ENVIRONMENTAL SERVICES CAPITAL OUTLAY BUDGET

Upon motion duly made and seconded it was voted to move this item to a public hearing at 8:53 p.m.

VOTE: 11 Yes

Klimm said that the request is for funding for replacement of an outboard engine in the harbormaster’s 25’ Whaler. This was an emergency and unforeseen expenditure. We have the engine on the boat but it has not been paid. The bill needs to be paid.

Upon motion duly made and seconded it was voted to close the public hearing at 8:55 p.m.

VOTE: Unanimous

Upon motion duly made and seconded it was:

ORDERED: that the Town Council hereby appropriate \$16,500 from available funds for the purpose of funding the FY 2003 Marine & Environmental Services capital outlay budget.

VOTE: 11 yes – roll call

B. NEW BUSINESS

2003-024 REVISIONS TO SECTION 4-3, SIGN REGULATION OF THE ZONING ORDINANCE,

Upon motion duly made and seconded it was voted to move this item to a public hearing to be held on October 17, 2002.

VOTE: 11 yes

2003-025 ACCEPTANCE OF GIFT FROM PINNACLE TOWERS, INC. FOR IMPROVEMENTS TO RECREATION LAND

Manager Klimm said the town came to an agreement regarding cell towers and the monies collected were to be used for improvement to recreational lands. The Hagberg property was designated for recreational needs. We have tested the property and are planning to clear the land shortly and seed the fields this spring. Therefore the monies from the towers will be used for this.

Loughnane asked if the money will cover the design and whole project cost. Klimm said the project had been scaled back, no building will be erected and there are some parking alterations. The clearing of the land bids are out and we believe we can and we will try to stay within the budget. We might have to scale back again. Loughnane said as a reminder that in her precinct there is a sore spot about this money. They think it is rewarding bad behavior.

Richardson said we had considerable discussion about the settlement in terms of the action in order to avoid consequences that would have been detrimental to the town...the action that was taken was the only alternative we had.

Joakim asked if youth soccer is still involved. David Curley, Dir. of Recreation, said youth soccer is involved and will be a primary user. They will be contributing dollars and time and will follow the project. They will use it 70-75% of the time. She also wanted to know if a neighborhood committee will be developed. Curley said the recreation commission will deal with that and the oversight committee will come on board as well.

Upon motion duly made and seconded it was:

RESOLVED: that the Town Council, pursuant to the provisions of G.L. c. 44, §53A, hereby accepts a gift from Pinnacle Towers, Inc. in the amount of \$408,130 for improvements to recreation land, which gift was made under the terms of an agreement executed on August 18, 1999 and authorizes the expenditure of \$408,130 on recreational improvements at the former Hagberg land on Falmouth Road, Centerville, MA.

VOTE: 11 yes – roll call

2003-026 APPROPRIATION AND LOAN ORDER FOR ENGINEERING SERVICES AND CONSTRUCTION IMPROVEMENTS TO THE MARSTONS MILLS MIDDLE SCHOOL WASTEWATER TREATMENT FACILITY

Upon motion duly made and seconded it was voted to refer this item to a public hearing to be held on October 17, 2002.

VOTE: 11 yes

2003-027 RESOLVE TOWN COUNCIL OPPOSITION TO PROPOSED SUPER STOP AND SHOP EXPANSION

Councilor Elrick spoke on the resolve saying reasons for bringing this forward were many . He wants to continue to look at the impacts of commercial overdevelopment. We have spoken out on things that we do not feel are appropriate. He does not feel it is premature, some councilors have had discussions with people on this and given positive statements on this. The location chosen is a problem – over 4,000 additional trips through there would be generated daily. You can see the traffic impact with that and the additional buildings that are already in the works (Home Depot etc.) We should get out front early so the CCC hears loud and early that we have a problem with it.

Maybe the mitigation will be substantial. What does this bring us? There are not enough positives that will outweigh the negatives. It will decrease the quality of life for those of us who go up and down Route 132.

Councilor Richardson moved and it was seconded to table this item.

Richardson is not necessarily opposed to the resolve, he said Elrick used the word early. Richardson feels it is premature. The LCP talks to activity areas. He believes the Tishler report is faulty . It is his understanding that there might be substantial mitigation and there might be more highway improvements by Mass Highway. We have an obligation to ask the proponent to make its case. It is a rationale and not based on facts of what they want to do. We need to hear their side of the story. We need to be cautious of big retail development, but he still feels they should be allowed to state their case.

Clark said Elrick said opposition to the windfarm was not appropriate yet he brings this forward. Clark has great concerns about this location and whether it can handle it the additional traffic, but he does not think we should maneuver this early. There are things we should and should not be doing and he feels we should not be doing this.

Barry said that the average vehicle figures are 23-26,000 cars per day and about 4474 of trips per day will be added by Stop & Shop. It will cost the town money. Mass Highway will not double barrel this area for another couple of years. There is a medical service overlay district nearby. We need to decide what we want, what type of facilities and where do we want them. Barry said Stop & Shop in Marstons Mills has the traffic moving along fine in front of their facility, they did a good job, but it does bog down after that area. We have to decide what we want, retail or better jobs.

Milne concurs with Barry, he does not think that it is premature to discuss this issue. He does not think that we can compare this to a windfarm. We have seen super Stop & Shops everywhere. He said think of the presentations. They are going to be good presentations and it will look good. A lot of money can make a doghouse look good. Stop & Shop put a lease restriction on their old location on Main St and did not care about the people in downtown Hyannis. Shouldn't we have standards. We need to have a vision first. What do we need?

Riedell echoed Richardson. We have a responsibility to listen to what is said on this. This is a redevelopment – we already have buildings there – it is a redevelopable site. We need to fix what not is good; we will always have what is there. Stop & Shop has the ability to have money to help traffic and to develop the area as a whole. He would hate to see 7 units of 10,000 square feet each in that area. Let's listen to what they have to say . We don't know what we are saying we don't want.

Brown said we are already obese and now we want to build one bigger and bigger. We know Stop & Shop will still be coming back and back. We need to raise the ante. If we are not looking too favorably on their project how much will they be willing to give us to make us like them.

Jones said we need to hear them out before we up the ante. We had several forums before the council came out to oppose the windfarm so he would like to give Stop & Shop that same courtesy. It is successful because people like to shop there. We won't find a small group of investors who could correct that area like one large builder. We may still not like it and large box stores (although Home Depot is his favorite). It is going to be hard to pick the developments. If you have a seller and buyer you need to get the best out of it that you can. Hear them out.

Joakim said we did vote on the windfarm to send a message. She feels that this is the same intent . We already have a large Stop & Shop and more grocery stores; we don't need another shopping center.

Loughnane said Milne was eloquent on his statements and agreed with him and Elrick....it is a monster. It would be twice the size of Borders situated at the most complicated intersection in our town. What happens to the vacated building where they are now? Think of Home Depot. We see signs all over for help, companies cannot find help for the retail businesses. We said for years that we wanted it zoned for light clean industries. We need the community character and it is slipping away from us and we can't drive through the area now. You will need a nap to walk around the store. We have enough grocery stores. The pay scale is low and people need to work to support their families. She will vote not to table.

VOTE: To Table – 4 yes – 6 no – does not carry

Upon motion duly made and seconded it was voted to approve the following:

WHEREAS: The Local Comprehensive Plan for the Town of Barnstable states that Route 132 has only a low to moderate growth potential since substantial growth has already occurred, and

WHEREAS: The proposed substantial increase in size of the Super Stop and Shop will create greater traffic congestion caused by additional consumers coming from around the region, thereby reducing our residents' quality of life, and

WHEREAS: No substantial expansion should occur on Route 132 until infrastructure improvements are made and growth management strategies are implemented to better the existing unacceptable LOS, and

WHEREAS: The 2002 Town of Barnstable Community Citizen Survey stated that the number one reason people liked least about living in Barnstable was traffic congestion, and

WHEREAS: The just released Tischler Report states that large commercial retail developments such as the proposed Super Stop and Shop project are a net tax revenue drain.

NOW therefore, be it

RESOLVED: That the Barnstable Town Council hereby expresses its opposition to the proposed Super Stop and Shop expansion project for Route 132 in Hyannis. Further, that said opposition be communicated in writing forthwith to the Cape Cod Commission.

VOTE: 7 yes 4 no

PUBLIC COMMENT

Eugenia Fortes said as far as Stop & Shop, why did they move from Hyannis proper to Route 132. It is the worst road in the town. We need another grocery store in that end of town like a hole in the head. Why would you put a restriction here in Hyannis against a grocery store when we need a grocery store in downtown Hyannis for our housing. Don't put another housing unit in Hyannis if you aren't going to feed us. We need a community center in Hyannis and a grocery store – lift the restriction on the old Stop & Shop.

ADJOURNMENT: Upon motion duly made and seconded it was voted to adjourn.

Adjourned at: 9:40 p.m.

Respectfully submitted:

Linda E. Hutchenrider, CMC/AAE/CMMC
Town Clerk/Town of Barnstable

