



# Town of Barnstable Town Council

367 Main Street, 2<sup>nd</sup> floor,  
James H. Crocker, Jr. Hearing Room  
Village of Hyannis, MA 02601  
Office 508.862.4738 • Fax 508.862.4770  
E-mail: [council@town.barnstable.ma.us](mailto:council@town.barnstable.ma.us)

## MEETING AGENDA

August 20, 2020

7:00 PM

**The August 20, 2020 meeting of the Barnstable Town Council shall be physically closed to the public to avoid group congregation.**

### Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>
2. Real-time public comment can be addressed to the Barnstable Town Council utilizing the Zoom link or telephone number and access code for remote access below.  
Join Zoom Meeting <https://zoom.us/j/93192946119> Meeting ID: 931 9294 6119  
1- 888 475 4499 US Toll-free Meeting ID: 931 9294 6119

#### PUBLIC SESSION

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. MOMENT OF SILENCE
4. PUBLIC COMMENT (For Public Comment please call **508-862-4610**)
5. COUNCIL RESPONSE TO PUBLIC COMMENT
6. TOWN MANAGER COMMUNICATIONS
7. ACT ON MINUTES (Including Executive Session)
8. COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements
9. ORDERS OF THE DAY
  - A. Old Business
  - B. New Business

Original posted on 8/13/2020@3:21pm  
Updated on 8/18/2020@3:50 to add  
Rationale to 2021-011. Updated on  
8/19/2020@ 9:50am to add Appointments  
Committee recommendations

The Town Council may vote to go into executive session under M.G.L. c. 30A, § 21 (a)(2) to conduct a strategy session in preparation for negotiations with a nonunion employee, Mark S. Ells.

#### EXECUTIVE SESSION

10. Conduct a strategy session in preparation for negotiations with Mark Ells, a non-union employee.

#### 11. ADJOURNMENT

**NEXT REGULAR MEETING: September 3, 2020**

#### Councillors:

Paul Hebert  
President  
Precinct 3

Jessica Rapp Grassetti  
Vice President  
Precinct 7

Gordon Starr  
Precinct 1

Eric R. Steinhilber  
Precinct 2

VACANT  
Precinct 4

David W. Bogan  
Precinct 5

Paul C. Neary  
Precinct 6

Debra S. Dagwan  
Precinct 8

Tracy Shaughnessy  
Precinct 9

Matthew Levesque  
Precinct 10

Kristine Clark  
Precinct 11

Paula Schnepf  
Precinct 12

Jennifer L. Cullum  
Precinct 13

Administrator:  
Cynthia A. Lovell

Administrative  
Assistant:  
Kelly Crahan

**A. OLD BUSINESS**

|          |   |       |
|----------|---|-------|
| 2020-192 | Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties <b>(Public Hearing) (Roll Call Majority)</b> .....  | 4-12  |
| 2020-193 | Order amending Chapter 240 Zoning, Article II, Section 7 adding certain provisions pertaining to Short Term Rentals <b>(Public Hearing) (Roll Call 2/3)</b> .....   | 13-14 |
| 2021-003 | Appropriation and Transfer Order in the amount of <b>\$300,000</b> of Community Preservation Funds for the creation of two (2) moderate-income deed-restricted two-bedroom apartments at 255 Main Street Hyannis, MA <b>(Public Hearing) (Roll Call Majority)</b> ..... | 15-16 |

**B. NEW BUSINESS**

|          |   |       |
|----------|---|-------|
| 2021-006 | Appropriation and Transfer Order in the amount of <b>\$289,600</b> of Community Preservation Funds for the payment of Fiscal Year 2021 Debt Service on the acquisition of the Hyannis Golf Course <b>(Refer to Public Hearing 09/03/2020)</b> .....   | 17-18 |
| 2021-007 | Appointments to a Board/Committee/Commission:: <b>Board of Health:</b> FP Tom Lee, 1081 Old Putnam Ave, Cotuit, as a regular member to a term expiring 6/2023; Dan Luczkow MD, 16 Hill Creek Road, Centerville, as an alternate member to a term expiring 06/2022; <b>Comprehensive Financial Advisory Committee:</b> Wendy Soloman, 781 Old Post Road, Cotuit, as a regular member to a term expiring 6/2023; <b>Disability Commission:</b> Michael Hersey, 246 Stoney Cliff Road, Centerville, as a regular member to a term expiring 6/2021; <b>Land Acquisition and Preservation Committee:</b> Tracy Pratt, 8 Daniele Street, Cotuit, as a regular member to a term expiring 6/2021; <b>Old King’s Highway Historic District Committee:</b> Jeffrey Goldstein as an alternate member to a term expiring 6/2021 <b>Planning Board:</b> Robert Twiss, as a regular member to a term expiring 6/2022; ; <b>Sandy Neck Board:</b> Joe O’Brien, of the Recreation Commission as a Representative Member to the Sandy Neck Board, to a term expiring 6/2023; <b>Youth Commission:</b> Julianna O’Reilly, c/o Hyannis Youth and Community Center as a regular member to a term expiring 6/2021; Connor O’Reilly c/o Hyannis Youth and Community Center as a regular member to a term expiring 6/2021; <b>Zoning Board of Appeals:</b> Emanuel Alves, 1359 Falmouth Road, Centerville, as an associate member to a term expiring 06/2021;..... | 19    |
| 2021-008 | Grant acceptance in the amount of <b>\$63,600</b> for the purpose of funding the Department of Public Works Water Pollution Control Facility Asset Management Project <b>(May be acted upon) (Roll Call Majority)</b> .....   | 20-21 |
| 2021-009 | Appropriation and Loan Order in the amount of <b>\$8,500,000</b> for the purpose of funding the Solids Handling Upgrades Construction Project as outlined in the Fiscal Year 2021 Fiscal Year 2025 Capital Improvement Plan <b>(Refer to Public Hearing 09/03/2020)</b> .....   | 22-23 |
| 2021-010 | Zoning map amendment to expand the Multifamily Affordable Housing Zoning District to include Assessor’s Map/Parcel 250/160 at 3 Whitehall Way, Hyannis <b>(Refer to Planning Board)</b> .....   | 24-25 |
| 2021-011 | Resolve, that the Town Council petition the County Commissioners of Barnstable County to formally discontinue a section of county highway, namely that portion of Phinney’s Lane from Wequaquet Lane to Iyannough Road as described in an order of taking by the Barnstable County Commissioners recorded in the Barnstable County Registry of Deeds in Book 476, Page 38, and as shown on a Plan of Land entitled “County of Barnstable, Town of Barnstable, Plan of a County Way, Centerville to Barnstable as laid out by the County Commissioners dated July 17, 1930 <b>(May be acted upon) (Roll Call Majority)</b> .....   | 26-27 |

**Please Note:** The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda. Persons interested are advised, that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice. Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2020-192**

**INTRO: 06/18/2020, 07/16/2020, 08/20/2020**

**2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES**

**SECTION 1. ORDERED** that the Code of the Town of Barnstable be amended by adding the following Chapter 190, Short Term Rental Properties, to the General Ordinances:

**“CHAPTER 190 SHORT TERM RENTAL PROPERTIES**

**§ 190-1 Purpose**

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town’s housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

**§ 190-2 Definitions**

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

**BUILDING COMMISSIONER**

The Building Commissioner of the Town of Barnstable or his designee.

**COTTAGE COLONY**

A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

**DWELLING**

Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

**INSPECTIONAL SERVICES DEPARTMENT**

Consisting of Town Building and Health Divisions.

**OCCUPANCY**

The use or possession of or the right to use or possess a short term rental.

**OCCUPANT (GUEST)**

Any individual residing overnight in a short term rental.

**OPERATOR (HOST)**

Any individual operating a short term rental.

**OPERATOR'S AGENT**

An individual who, on behalf of an operator of a short term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

**OWNER**

Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

**PERSON**

An individual, partnership, trust or association, with or without transferable shares, joint-stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Barnstable or any of its agencies.

**SHORT TERM RENTAL**

A residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; and bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506.

**§ 190-3 Short Term Rental Registration****A. Registration Required**

No Owner shall rent, or offer to rent, any Short Term Rental prior to registering with the Inspectional Services Department. No tenant or lessee of an Owner shall let or sub-let a Short Term Rental under any circumstances.

**B. Limits on Number of Registrations per Owner**

A maximum of two (2) Short Term Rental registrations shall be issued per Owner; provided that Owners who have short term rentals registered with the Massachusetts Department of Revenue as of April 30, 2020, will be eligible to register those short term rentals with the Inspectional Services Department, notwithstanding the limit of two set forth herein.

**C. Compliance**

A dwelling used as a Short Term Rental shall be in compliance with the provisions of all state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the Inspectional Services Department prior to occupancy. Operators shall comply with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, Chapter 133 Noise, Chapter 353, Art. 1, Storage of Garbage and Refuse, the Fair Housing Act, G.L. c. 151B, and

local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

**D. Application Required**

The Owner of the dwelling shall be required to complete a short term rental registration application, the form and content of which shall be provided by the Inspectional Services Department.

**E. Registration Renewal**

Short term rental registrations shall be renewed biennially (every two years) after a satisfactory inspection by Inspectional Services and upon payment of the renewal fee.

**F. Fees**

The fee for a short term rental registration or a renewal of a registration shall be initially set at \$35 and thereafter may be modified by the Town Manager at a fee hearing.

**G. Non-Transferability**

Short term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

**§ 190-4 Publication of Registration Number**

The Town-issued registration number shall be included on any listing offering the Short Term Rental for rent.

**§ 190-5 Contact Information of Owner, Operator and/or Operator's Agent**

- A. An Owner of a Short Term Rental shall provide the Inspectional Services Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short Term Rental Registration in the Town of Barnstable has been issued or for which a Short Term Rental Registration application is pending.
- B. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
- C. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator's Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by Inspectional Services Department, Barnstable Police, or any Fire District to complaints regarding the condition or operation of the Short Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short Term Rental Registration and shall be posted conspicuously within the rental unit.

**§ 190-6 Good Neighbor Information**

Short term rental registrations will be published to the Inspectional Services page of the Town's website and shall include the contact information required in section 190-5(C) above. The website shall also include information about these short term rental regulations, and instructions and contact information to file a complaint.

### **§ 190-7 Posting of Notices**

The Town shall provide information to each registered Operator summarizing the regulations for short term rentals. For each Short Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the Application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The Operator shall:

- A. Provide occupants a copy of the provided information; and
- B. Post the information, along with the Short Term Rental Registration, in a conspicuous location within the Short Term Rental.

### **§ 190-8 Trash Removal**

The Short Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent, in addition to compliance with the requirements of Chapter 353, Art. 1, Storage of Garbage and Refuse.

### **§ 190-9 Occupancy Requirements**

Notwithstanding the provisions of Chapter 59-3, the maximum number of Occupants in a Short Term Rental shall be two per bedroom, plus an additional two.

### **§ 190-10 Smoke Detectors and Carbon Monoxide Alarms**

Each Short Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. Operators shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the Short Term Rental Registration. Any detector or alarm found to be defective shall be repaired or replaced forthwith. The Occupant(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the owner of the dwelling and, second, the Inspectional Services Department.

### **§ 190-11 Keeping of Register**

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years and shall be made available upon request to Inspectional Services Department staff, police, or other duly appointed or authorized code compliance staff of the Town of Barnstable.

### **§ 190-12 Ineligible Units**

The following are not eligible to be rented or offered to rent as Short Term Rentals:

1. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
2. Family Apartments or Accessory Affordable Apartments;
3. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short Term Rental;
4. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders;
5. Properties designated as Problem Properties under Chapter 160.

### **§ 190-13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal or District Taxes, Fees, Assessments, and Charges**

The privilege of receiving or holding a Short Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

#### **§ 190-14 Inspections**

Short term Rentals shall be subject to reasonable inspections by Town and District inspectional staff (“Inspectors”).

#### **§ 190-15 Complaint Process, Violations**

- A. Complaint. A complaint alleging that a Short Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Inspectional Services Department. The complaint must contain the Short Term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- B. Written notice of any violations of this chapter shall be treated as a complaint and may also be given by Inspectors. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- C. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short Term Rental Registration application then on file with the Inspectional Services Department. A written change-of-address notice signed by the Owner/s and delivered to the Inspectional Services Department may be filed at any time.
- D. Review of Complaint. The Commissioner or his designee shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short Term Rental. The Commissioner shall keep records of all complaints received and determinations made.
- E. Offering an Ineligible Unit as a Short Term Rental. Any person who offers a unit as a Short Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short Term Rental.
- F. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short Term Rental without a valid Short Term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

- G. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- H. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Inspectional Services Department shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Manager and shall occur no later than three (3) weeks after the date the Inspectional Services Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- I. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Inspectional Services Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- J. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Inspectors.
- K. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

### **§ 190-16 Registration Suspension, Modification and Revocation**

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Inspectional Services Department, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Inspectional Services Department, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

### **§ 190-17 Judicial Appeals**

Any person aggrieved by a final decision of the Hearing Officer and Inspectional Services Department with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

### **§ 190-18 Penalties**

- A. Any person who violates any provision of this chapter may be subject to a fine in accordance with the following:
- Warning 1st Offense
  - \$100 2nd Offense
  - \$200 3rd Offense
  - \$300 4th Offense – and each subsequent offense

Each day that a violation exists constitutes a separate offense.

**§ 190-19 Enforcement**

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

**§ 190-20 Regulations**

The Inspectional Services Department may adopt regulations, policies and procedures for the implementation of this chapter.

**§ 190-21 Severability**

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Ordinances, this chapter 190 shall control.”

SECTION 2. **ORDERED** that the Code of the Town of Barnstable, General Ordinances Chapter 170, Rental Properties, be amended as follows:

- A. By adding to § 170-2, Definitions, “Dwelling,” after the words “rooming houses,” the words “except any required to be registered pursuant to § 190-3 Short Term Rental Registration” of Chapter 190 Short Term Rental Properties.
- B. By adding to § 170-2, Definitions, “Licensed Facility,” after the words “registered under this chapter” the words “or Chapter 190 Short Term Rental Properties.”

**SPONSOR:** Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

| DATE              | ACTION TAKEN                              |
|-------------------|---|
| <u>06/18/2020</u> | <u>Refer to Public Hearing 07/16/2020</u> |
| <u>07/16/2020</u> | <u>Continue to 08/20/2020</u>             |

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2020-192

INTRO: 06/18/2020, 07/16/2020, 08/20/2020

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Town Council Committee to Review Zoning & Permitting Regulations  
**DATE:** June 18, 2020  
**SUBJECT:** Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties

**RATIONALE:** This proposed Short Term Rental General Ordinance aims to create enforceable standards for the operation and occupancy of Short Term Rentals that promote the safety of our residents and guests and provide a clear understanding of what is permitted in terms of renting a residential dwelling in the Town of Barnstable. Appropriate regulation of short term rentals will allow for varied accommodations and experiences for visitors, while retaining the quality of life in residential neighborhoods. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short term rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This ordinance defines Short Term Rentals in a manner consistent with the Commonwealth's Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions or dwellings that are rented out in advance for less than 31 days (including weekly rentals).

The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and regulate them by requiring that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize short-term rentals as an allowed use of a residential dwelling.

This item is the proposed general ordinance creating a registration process and associated requirements for the operation of Short Term Rentals. This process is separate and distinct from the current rental registration requirements of Chapter 170 to address the unique aspects of Short Term Rentals. The item establishes that all Short Term Rentals in the Town of Barnstable must be registered with the Inspectional Services Department, with registration renewals due every two years. Upon registration, owners of short term rentals must sign an affidavit attesting to compliance with pertinent health, safety, and other regulations. Registrations are not transferable to new owners. Upon registering, owners must provide their own contact information as well as contact information for someone who is available 24 hours a day and able to respond in-person to the Short Term Rental if necessary.

The proposed general ordinance limits the number of Short Term Rental registrations that may be issued to a single owner, as defined, to two. The intention of this limitation is to reduce the potential that multiple dwellings will be purchased exclusively for Short-Term Rentals use and is a measure to protect the Town's housing stock from this form of speculative investment. Limits on the number of licenses may incentivize the owners of multiple dwelling units to rent year-round, which can help both housing availability and affordability.

The proposed general ordinance establishes several provisions for Short Term Rentals to address potential health, safety, and community concerns, including measures to keep the public informed of short term rentals registered in their neighborhood. The Town will be obligated to maintain a website

with the address of all registered Short Term Rentals and corresponding contact information available for public view. The proposed general ordinance also commits the Town to providing template informational items that make clear the requirements of being both a host and a guest in a Short Term Rental in Barnstable.

There are requirements for regular trash removal and for the installation of smoke detectors and carbon monoxide alarms. Additionally, the proposed general ordinance proposes occupancy restrictions: a maximum of two occupants per bedroom, plus an additional two.

The proposed general ordinance establishes a process for filing complaints with the Inspectional Services Department and for violations, rights to a local hearing before a hearing officer, penalties and fines, and allowance for judicial appeals.

This proposed general ordinance was developed with the assistance of consultant groups who provided background research on Short Term Rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings.

A proposed General Ordinance requires introduction at a first reading before the Council, and must be considered at an advertised public hearing upon second reading, and requires a majority vote for passage.

**STAFF ASSISTANCE:** M. Andrew Clyburn, Assistant Town Manager, Karen Nober, Town Attorney, Charles McLaughlin, Assistant Town Attorney, Brian Florence, Building Commissioner, Elizabeth Jenkins, Planning & Development Director, Paul Wackrow, Senior Planner, Gloria McPherson, Planning & Economic Development Coordinator

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2020-193**

**INTRO: 06/18/2020, 07/16/2020, 08/20/2020**

**2020-193 ORDER AMENDING CHAPTER 240 ZONING, ARTICLE II, SECTION 7  
ADDING CERTAIN PROVISIONS PERTAINING TO SHORT TERM RENTALS**

**ORDERED** that the Code of the Town of Barnstable, Chapter 240 Zoning, Article II, Section 7, be amended by adding the following subparagraph (J) to Section 240-7:

“J. Short term rentals. Notwithstanding any provisions to the contrary in this Chapter 240, short term rentals shall be permitted within lawful dwelling units in all zoning districts. A short term rental shall be defined as a residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506. Cottage Colony shall be defined as a group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis. When a property is in use as a short term rental, on-site parking shall not be in any cultivated or landscaped area between a roadway and the part of the principal structure nearest to the roadway.”

**SPONSOR:** Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

| DATE              | ACTION TAKEN                   |
|-------------------|--------------------------------|
| <u>06/18/2020</u> | <u>Refer to Planning Board</u> |

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2020-193

INTRO: 06/18/2020, 07/16/2020, 08/20/2020

## SUMMARY

**TO:** Town Council  
**FROM:** Town Council Committee to Review Zoning & Permitting Regulations  
**DATE:** June 12, 2020  
**SUBJECT:** Order amending Chapter 240 Zoning, Article II, Section 7 adding certain provisions pertaining to Short Term Rentals

**RATIONALE:** This proposed amendment to Chapter 240, Zoning, aims to provide a clear understanding of what is permitted in terms of renting a residential dwelling as a Short Term Rental in the Town of Barnstable. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short Term Rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This proposed amendment to the Town's zoning ordinance defines Short Term Rentals in a manner consistent with the Commonwealth in the Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions or dwellings that are rented out in advance for less than 31 days (including weekly rentals). The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and require that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize Short Term Rentals as an allowed use of a residential dwelling.

This item is a proposed amendment to the Zoning Ordinance to recognize and define Short Term Rentals. Short Term Rentals are defined consistent with the Short-Term Rental Law, as noted above; the definition also includes exclusions, including historical cottage colonies. The amendment also establishes parking standards for the use. Parking is appropriately addressed through zoning, as opposed to a general ordinance.

This proposed amendment to the zoning ordinance was developed with the assistance of consultant groups who provided background research on short term rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings.

A proposed zoning amendment requires referral by the Council to the Planning Board, and a recommendation by the Planning Board to the Town Council. The amendment then must be considered by the Town Council at an advertised public hearing, and requires a two-thirds majority vote for passage.

**STAFF ASSISTANCE:** M. Andrew Clyburn, Assistant Town Manager, Karen Nober, Town Attorney, Charles McLaughlin, Assistant Town Attorney, Brian Florence, Building Commissioner, Elizabeth Jenkins, Planning & Development Director, Paul Wackrow, Senior Planner, Gloria McPherson, Planning & Economic Development Coordinator

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

**BARNSTABLE TOWN COUNCIL**

**ITEM: 2021-003**

**INTRO: 07/16/2020, 08/20/2020**

**2021-003 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$300,000 OF COMMUNITY PRESERVATION FUNDS FOR THE CREATION OF TWO (2) MODERATE-INCOME DEED-RESTRICTED TWO-BEDROOM APARTMENTS AT 255 MAIN STREET HYANNIS, MA**

**ORDERED:** That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the sum of Three Hundred Thousand Dollars and No/100 (\$300,000.00) be appropriated and transferred from the Undesignated Funds portion of the Community Preservation Fund and that the Town Manager is authorized to contract for and expend the amount appropriated and transferred for the purpose of creating community housing consisting of two (2) moderate income deed-restricted residential rental two-bedroom apartment units to be indexed at 100% Area Median Income (AMI) in perpetuity located within a mixed use redevelopment of an historically significant building at 255 Main Street, Hyannis, and that the Town Manager is further authorized to execute, deliver and record documents and restrictions for the stated purpose subject to restrictions as provided in G.L. c. 44B for the stated purpose and the oversight of the Community Preservation Committee.

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

| DATE              | ACTION TAKEN                              |
|-------------------|---|
| <u>07/16/2020</u> | <u>Refer to Public Hearing 08/20/2020</u> |

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

# BARNSTABLE TOWN COUNCIL

**ITEM: 2021-003**  
**INTRO: 07/16/2020, 08/20/2020**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lindsey Counsell, Chair Community Preservation Committee  
**DATE:** July 16, 2020  
**SUBJECT:** CapeBuilt 255 Main Street LLC, Community Preservation Application  
Community Housing - 255 Main Street, Hyannis – Map 327, Parcel 247  
\$300,000 in Community Preservation Unreserved Funds

**BACKGROUND:** At the June 15, 2020 Community Preservation Committee meeting, the seven members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager, CapeBuilt 255 Main Street LLC's request for \$300,000 in Community Preservation Undesignated funds in support of the creation of two (2) moderate income deed-restricted residential rental two- bedroom apartment units to be indexed at 100% Area Median Income (AMI). The two-bedroom units are located within a mixed use redevelopment of an historically significant building in the East End of Hyannis Main Street. The project is located at 255 Main Street, Hyannis, formally home to the Hyannis Board of Trade, and has received the support of the Hyannis Main Street Business Improvement District Commission and the Hyannis Civic Association. The mixed-use redevelopment includes construction of 8 additional one- bedroom apartments on the second and third floors; and the creation of two 2-bedroom apartments that will be deed restricted at 100% Area Median Income (AMI) in perpetuity. The moderate housing restriction will be approved as to form by the Town Attorney and an affirmative fair housing marketing plan comparable to the Massachusetts Department of Housing and Community Development (DHCD) guidelines will be approved by the Director of Planning and Development. This request for \$300,000 in Community Preservation Undesignated funds represents a portion of the total project budget of \$3,056,628.

**ANALYSIS:** 255 Main Street, Hyannis is located in the epicenter of three maps, both local and Federal, specifically designated to encourage growth. The project accomplishes two Community Preservation goals: creation of community housing; and preservation of an historic building and is also in line with the housing plan for Hyannis. It should be noted that the redevelopment and preservation of an historic building to include housing, costs nearly twice as much as new construction. Once complete, the project will create much needed workforce, year-round housing for local professionals, and will be a key piece of the economic development plan for the East End.

**FISCAL IMPACT:** This appropriation has no impact on the general fund since the entire amount is appropriated and transferred from the community preservation fund.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager recommends acceptance of this Appropriation and Transfer Order

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

**B. NEW BUSINESS (Refer to Public Hearing 09/03/2020)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2021-006  
INTRO: 08/20/2020**

**2021-006 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$289,600  
OF COMMUNITY PRESERVATION FUNDS FOR THE PAYMENT OF FISCAL  
YEAR 2021 DEBT SERVICE ON THE ACQUISITION OF THE HYANNIS GOLF  
COURSE**

**ORDERED:** That, pursuant to the provisions of the Community Preservation Act, G. L. c 44B, the sum of Two Hundred and Eighty Nine Thousand Six Hundred and No/100 (**\$289,600**) Dollars be appropriated and transferred from the undesignated fund balance in the Community Preservation Fund for the purpose of paying the Fiscal Year 2021 Debt Service Payment on the loan issued to acquire the Hyannis Golf Course.

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

| DATE  | ACTION TAKEN |
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- \_\_\_ Read Item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2021-006  
INTRO: 08/20/2020

**TO:** Town Council  
**FROM:** Town Manager on Behalf of Community Preservation Committee  
**DATE:** August 20, 2020  
**SUBJECT** Appropriation and Transfer Order in the amount of **\$289,600** of Community Preservation Funds for the payment of Fiscal Year 2021 Debt Service on the acquisition of the Hyannis Golf Course

**BACKGROUND:** At the May 18, 2020 Community Preservation Committee (CPC) meeting held remotely via Zoom, the nine members present voted by roll call vote, 7 yes, and 2 no for recommendation to the Town Council through the Town Manager, the Town Manager's request for \$1,449,000 in Community Preservation Undesignated Funds to be phased over a five-year period, for the assumption of the remaining debt associated with the acquisition of the Hyannis Golf Club subject to annual approval by the Town Council in the amounts depicted in the projected payment schedule provided. Existing Article 97 protections for active recreation will remain in place. The CPC meeting included a discussion about the possibility of adding affordable and workforce housing at some point in the future in the event that it is decided to change from the current use as a golf course, acknowledging that such a change in use would require an Article 97 vote of the Town Council and both bodies of the Legislature, as well as a vote of the Community Preservation Committee to seek to change the use. Such a change in use would also require committing a like acreage of land for water protection. Adding housing or additional recreational uses were not part of the CPC's present vote but the vote to fund the debt service was contingent upon any future change in use requiring a further CPC vote.

Funding for acquisition of the property was originally shared between the Land Bank and the Town. For 15 years, the golf course was able to finance this annual debt service payment of nearly \$300,000, however, competitive changes to the golf environment, now challenge the Hyannis Golf Club to continue making the debt service payments annually. In exchange for assumption of the remaining debt, the Community Preservation Committee will have authorization of any change of future uses if golf is no longer viable. Community Preservation would acquire a recreation interest for additional active recreation uses, such as an adventure course, as well as keeping the possibility of affordable housing as an option. With the assumption of the debt service payments through use of Community Preservation funds, the Hyannis Golf Club would be allowed the opportunity to invest in the existing infrastructure which in turn will attract more users to participate. The ancillary benefits of an active golf course are the rental of hotel rooms and visits to restaurants and shops.

**FISCAL IMPACT:** Approval of this item this item will provide the Golf Course Enterprise Fund financial relief in Fiscal Year 2021. Instead of having to cover the loan payment from user fees the Community Preservation Fund will make the payment. The Community Preservation Fund's undesignated fund balance is currently \$4,629,688.

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

**STAFF ASSISTANCE:** Kathleen Connolly, Assistant Town Attorney and Mark Milne, Director of Finance

**B. NEW BUSINESS (First Reading) (Refer to Second Reading 9/03/2020)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2021-007  
INTRO: 08/20/2020**

**2021-007 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Board of Health:** FP Tom Lee, 1081 Old Putnam Ave, Cotuit, as a regular member to a term expiring 6/2023; Dan Luczkow MD, 16 Hill Creek Road, Centerville, as an alternate member to a term expiring 06/2022; **Comprehensive Financial Advisory Committee:** Wendy Soloman, 781 Old Post Road, Cotuit, as a regular member to a term expiring 6/2023; **Disability Commission:** Michael Hersey, 246 Stoney Cliff Road, Centerville, as a regular member to a term expiring 6/2021; **Land Acquisition and Preservation Committee:** Tracy Pratt, 8 Daniele Street, Cotuit, as a regular member to a term expiring 6/2021; **Old King’s Highway Historic District Committee:** Jeffrey Goldstein as an alternate member to a term expiring 6/2021 **Planning Board:** Robert Twiss, as a regular member to a term expiring 6/2022; ; **Sandy Neck Board:** Joe O’Brien, of the Recreation Commission as a Representative Member to the Sandy Neck Board, to a term expiring 6/2023; **Youth Commission:** Julianna O’Reilly, c/o Hyannis Youth and Community Center as a regular member to a term expiring 6/2021; Connor O’Reilly c/o Hyannis Youth and Community Center as a regular member to a term expiring 6/2021; **Zoning Board of Appeals:** Emanuel Alves, 1359 Falmouth Road, Centerville, as an associate member to a term expiring 06/2021;

**SPONSOR:** Appointments Committee

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2021-008  
INTRO: 08/20/2020**

**2021-008 GRANT ACCEPTANCE IN THE AMOUNT OF \$63,600 FOR THE PURPOSE OF FUNDING THE DEPARTMENT OF PUBLIC WORKS - WATER POLLUTION CONTROL FACILITY ASSET MANAGEMENT PROJECT**

**RESOLVED:** That the Town Council hereby authorizes the Town Manager to contract for and expend a grant in the amount of \$63,600 from the Massachusetts Clean Water Trust for the purpose of funding the Water Pollution Control Facility Asset Management Project.

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

| DATE  | ACTION TAKEN |
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- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# BARNSTABLE TOWN COUNCIL

**ITEM # 2021-008**  
**INTRO: 08/20/2020**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director of Public Works  
**DATE:** August 12, 2020  
**SUBJECT:** Grant acceptance in the amount of **\$63,600** for the purpose of funding the Department of Public Works Water Pollution Control Facility Asset Management Project

**BACKGROUND:** In August of 2019, the Town of Barnstable submitted a project evaluation form for the Clean Water State Revolving Fund Asset Management Planning Grant Program. On April, 27, 2020 the Massachusetts Department of Environmental Protection issued the final 2020 Intended Use Plan for the State Revolving Fund and the Town's Water Pollution Control Facility Asset Management Project was an approved project in the plan. This program is unlike typical SRF funding as it is a reimbursable grant rather than a loan.

**ANALYSIS:** The Department of Public Works has proposed a model for the execution of the project to be completed by a combination of in-house staff and consultant support to prepare the final Asset Management report. The report will include the evaluation of existing buildings, tanks, and treatment process equipment currently in use at the WPCF. The report will also include a 5-year recommended action plan for asset renewal/replacement.

**FINANCIAL IMPACT:** The total cost of the project is estimated at \$106,000. Funding for this project will be provided through a cash match of \$21,200 from WPCD FY21 approved operating budget, "In-Kind" services (staff salary) estimated at \$21,200 and a reimbursement of \$63,600 through a grant from the Massachusetts Clean Water Trust. The grant has been approved by DEP and is on the 2020 Clean Water State Revolving Fund Intended Use Plan (CWSRF-6727).

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends acceptance of this grant.

**STAFF ASSISTANCE:** Daniel W. Santos, P.E., Director of Public Works; Griffin Beaudoin, P.E., Town Engineer

**B. NEW BUSINESS (Refer to Public Hearing 09/03/2020)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2021-009  
INTRO: 08/20/2020**

**2021-009 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$8,500,000 FOR THE PURPOSE OF FUNDING THE SOLIDS HANDLING UPGRADES CONSTRUCTION PROJECT AS OUTLINED IN THE FISCAL YEAR 2021 FISCAL YEAR 2025 CAPITAL IMPROVEMENT PLAN**

**ORDERED:** That the sum of **\$8,500,000** be appropriated for the purpose of funding the Solids Handling Upgrades Construction Project as outlined in the Fiscal Year 2021 – Fiscal Year 2025 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$8,500,000 under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

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

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

# BARNSTABLE TOWN COUNCIL

ITEM # 2021-009  
INTRO: 08/20/2020

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director of Public Works  
**DATE:** August 20, 2020  
**SUBJECT:** Appropriation and Loan Order in the amount of **\$8,500,000** for the purpose of funding the Solids Handling Upgrades Construction Project as outlined in the Fiscal Year 2021 Fiscal Year 2025 Capital Improvement Plan

**BACKGROUND:** The purpose of this project is to rehabilitate the solids handling building at the Barnstable Water Pollution Control Facility, as outlined in the 2019 Solids Handling Evaluation report. This project involves the demolition and replacement of septic and sludge processing equipment that is at or past the end of its design life. This includes gravity belt thickeners, polymer systems, chemical feed pumps, odor control systems, grit classifiers, sludge tank blowers, septic receiving station, instrumentation, controls, electrical panels, and all associated piping and valves. The septic waste receiving station will be rehabilitated and a new metering and billing system will be installed. The project addresses several safety and code deficiencies identified within the building. Instrumentation and automation will be updated, allowing for processing to occur for more hours per day which will increase the solids handling capacity of the facility. The project includes structural repairs to the building, including the sludge holding tanks.

**ANALYSIS:** The solids handling building was built in 1990 and has reached the end of its design life. The building, the associated processes, and thickened sludge disposal practices were evaluated as part of a 2014 CIP request. The project was put on hold to ensure that future flows identified in the Comprehensive Wastewater Management Plan would be accounted for while designing this project. Now complete, the evaluation recommends a full scale renovation of the building and equipment in order to extend the useful life on the facility by another 20 to 30 years. The solids handling building is critical to the wastewater treatment process, acting as the “guts” of the wastewater treatment facility by pumping and processing sludge from a variety of sources. The building handles up to 12,000,000 gallons of septage, 1,000,000 gallons of grease, and 11,000,000 of wastewater sludge per year. Because of the corrosive and abrasive nature of the work carried out in the building, the condition of the equipment in this building is degrading rapidly.

**FINANCIAL IMPACT:** General Obligation Bonds will be issued to fund this project. The repayment of the loan will be included in the Water Pollution Control Enterprise Fund annual operating budget. The first payment on the loan will be due in fiscal year 2022 and there will be no impact on the Fiscal Year 2021 budget. The estimated annual loan payment for a 20 year bond using a 2% interest rate is \$520,000. It is estimated that the annual loan repayment would impact rates by 12%.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager recommends approval of this appropriation order.

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2021-010  
INTRO: 08/20/2021**

**2021-010 AMENDMENT OF THE ZONING MAP OF THE TOWN OF BARNSTABLE TO EXPAND THE MULTIFAMILY AFFORDABLE HOUSING DISTRICT TO INCLUDE MAP/PARCEL 250/160 AT 3 WHITEHALL WAY, HYANNIS.**

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

**SECTION 1**

By amending Article II, Section 6, The Zoning Map of the Town of Barnstable to rezone property from the Residence C-1 Zoning District to the Multifamily Affordable Housing Zoning District as shown on maps entitled;

- “Proposed Amendment to the Town Zoning Map expanding the MAH District in Hyannis” and
- Proposed Amendment to the Hyannis Zoning Map expanding the MAH District in Hyannis – Sheet 3 of 7” and
- Proposed Amendment to the Centerville Zoning Map expanding the MAH District in Centerville – Sheet 4 of 7”

Dated August 6, 2020 as prepared by the Town of Barnstable GIS (Geographical Information System) Unit.

**SPONSOR:** Councilor Eric R. Steinhilber, Precinct 2

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2021-010**  
**INTRO: 08/20/2021**

## SUMMARY

**TO:** Town Council  
**FROM:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** August 20, 2020  
**SUBJECT:** Zoning map amendment to expand the Multifamily Affordable Housing Zoning District to include Assessor's Map/Parcel 250/160 at 3 Whitehall Way, Hyannis.

**BACKGROUND:** The Multifamily Affordable Housing (MAH) District was created by the Town in 2008 for the purpose of creating off-site inclusionary affordable housing in conjunction with a proposed continuing care retirement community. The District was amended in 2018 to provide added flexibility for stand-alone multifamily residential development. The site is the former location of the Whitehall Nursing Home and is now vacant. The MAH District currently allows, by Special Permit, for the development of multifamily residential units at 16 units per acre, with 25 percent of those units required to be deed restricted affordable for residents at 65% of the Area Median Income.

**RATIONALE:** The proposed Zoning Map Amendment would expand the MAH District to include the adjoining parcel at 3 Whitehall Way. The prospective developer of the MAH parcel purchased the property and has agreed to deed restrict it from development. The parcel would be utilized for the purpose of calculating density, setbacks, and compliance with open space requirements.

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

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

**STAFF SUPPORT:** Elizabeth Jenkins, Director of Planning & Development

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2021-011  
INTRO: 08/20/2021**

**2021-011 RESOLVED, THAT THE TOWN COUNCIL PETITION THE COUNTY COMMISSIONERS OF BARNSTABLE COUNTY TO FORMALLY DISCONTINUE A SECTION OF COUNTY HIGHWAY, NAMELY THAT PORTION OF PHINNEY’S LANE FROM WEQUAQUET LANE TO IYANNOUGH ROAD AS DESCRIBED IN AN ORDER OF TAKING BY THE BARNSTABLE COUNTY COMMISSIONERS RECORDED IN THE BARNSTABLE COUNTY REGISTRY OF DEEDS IN BOOK 476, PAGE 38, AND AS SHOWN ON A PLAN OF LAND ENTITLED “COUNTY OF BARNSTABLE, TOWN OF BARNSTABLE, PLAN OF A COUNTY WAY, CENTERVILLE TO BARNSTABLE AS LAID OUT BY THE COUNTY COMMISSIONERS DATED JULY 17, 1930**

**RESOLVED:** That pursuant to G.L. c. 82, § 5, the Town Council petition the County Commissioners of Barnstable County to formally discontinue a section of county highway, namely that portion of Phinney’s Lane from Wequaquet Lane to Iyannough Road as described in an order of taking by the Barnstable County Commissioners recorded in the Barnstable County Registry of Deeds in Book 476, Page 38, and as shown on a plan of land entitled “County of Barnstable, Town of Barnstable, Plan of a County Way, Centerville to Barnstable as Laid Out By the County Commissioners dated July 17, 1930, Scale 40 feet to an inch”, Sheets 1 – 10, which plan is on file with this ITEM in the Office of the Town Council, thereby rendering said section of county highway a town way by operation of G.L. c. 82, § 5, and further that pursuant to G.L. c. 82, § 5, said petition request that said discontinued section of county highway remain a public way, and that the Town Manager be authorized to execute any documents on behalf of the Town necessary to effectuate this resolve.

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

| DATE  | ACTION TAKEN |
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- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2021-011  
INTRO: 08/20/2021

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**DATE:** August 20, 2020  
**SUBJECT:** Resolved, that the Town Council petition the County Commissioners of Barnstable County to formally discontinue a section of county highway, namely that portion of Phinney's Lane from Wequaquet Lane to Iyannough Road as described in an order of taking by the Barnstable County Commissioners recorded in the Barnstable County Registry of Deeds in Book 476, Page 38, and as shown on a plan of land entitled "County of Barnstable, Town of Barnstable, Plan of a County Way, Centerville to Barnstable as laid out by the County Commissioners Dated July 17, 1930

**BACKGROUND:** The portion of Phinney's Lane between Wequaquet Lane and Iyannough Road (now, Route 132) was taken and laid out by the Barnstable County Commissioners in 1930, as evidenced by an order of taking recorded with the Barnstable Registry of Deeds (Book 476, Page 38). Both the Town Engineer and the County Administrator believe that this portion of Phinney's Lane was discontinued as a county road at some point in the past, and transferred to the Town. Indeed, the Town and its Department of Public Works currently operate on the belief that this portion of Phinney's Lane is a Town-owned public way. However, the 1930 order of taking, indicating ownership by the County, is the most recent documentation on file with the Registry of Deeds.

**ANALYSIS:** This portion of Phinney's Lane is a vital in-road route for sewer lines that will be installed by the town, perhaps in parallel with and at the same time as the Vineyard Wind cable installation, potentially enabling significant savings realized from common construction and installation. The apparent absence of a recorded instrument documenting the transfer of this portion of Phinney's Lane from the County to the Town must be corrected on the land records of the Barnstable County Registry of Deeds to establish that the Town is the record owner of this portion of the roadway. State statute, G.L. c. 82, § 5, establishes a clear procedure for obtaining this clarification, via petition by a town to a county requesting that the county discontinue a county way (or a section thereof). A county way discontinued by following this procedure automatically becomes a town way, and if requested, remains a public way.

**FISCAL IMPACT:** The Town already (1) operates and has operated for years in the belief that this portion of Phinney's Lane is owned by the Town, (2) maintains this portion of Phinney's as a public way, and (3) budgets accordingly. There is no impact on the general fund operating budget resulting from the legal formality of documenting a transfer from the County to the Town that both the County and Town believe has already occurred, or from petitioning that the way remain a public way.

**STAFF ASSISTANCE:** Attorney Charles McLaughlin