

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

## TOWN COUNCIL MEETING AGENDA

December 01, 2022

7:00 PM

The December 01, 2022 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2<sup>nd</sup> Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

Councillors:

Matthew Levesque  
President  
Precinct 10

Paula Schnepf  
Vice President  
Precinct 12

Gordon Starr  
Precinct 1

Eric R. Steinhilber  
Precinct 2

Betty Ludtke  
Precinct 3

Nikolas Atsalis  
Precinct 4

Paul Cusack  
Precinct 5

Paul C. Neary  
Precinct 6

Jessica Rapp Grasseti  
Precinct 7

Jeffrey Mendes  
Precinct 8

Tracy Shaughnessy  
Precinct 9

Kristine Clark  
Precinct 11

Jennifer L. Cullum  
Precinct 13

Administrator:  
Cynthia A. Lovell  
[Cynthia.Lovell@town.barnstable.ma.us](mailto:Cynthia.Lovell@town.barnstable.ma.us)

**1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 live stream on the Town of Barnstable's website:**  
<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

**2. Written Comments may be submitted to:**  
[https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town\\_Council/Agenda-Comment.asp](https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp)

**3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:**

**Join Zoom Meeting** <https://zoom.us/j/95251975953> Meeting ID: 952 5197 5953  
**US Toll-free 888 475 4499**

### PUBLIC SESSION

#### 1. ROLL CALL

#### 2. PLEDGE OF ALLEGIANCE

#### 3. MOMENT OF SILENCE

#### 4. PUBLIC COMMENT

#### 5. COUNCIL RESPONSE TO PUBLIC COMMENT

#### 6. TOWN MANAGER COMMUNICATIONS

- Update on the Barnstable Local Comprehensive Plan  
Elizabeth Jenkins, Director, Planning and Development

#### 7. ACT ON PUBLIC SESSION MINUTES

- Approve Strategic Planning Session Minutes: October 13, 2022
- Approve Public Session Minutes: November 17, 2022

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

## **9. ORDERS OF THE DAY**

- A. Old Business**
- B. New Business**

- Town Council Nominations of 2023 Officers

President  
Vice President

### **EXECUTIVE SESSION**

The Town Council will enter executive session pursuant to G.L. c. 30A, § 21(a)(3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect on the litigating position of the Town and Town Council. Specifically, the Council will discuss a lawsuit filed against the Town by TJA Clean Energy, LLC regarding claims under G.L. c. 40A, § 3(9).

## **10. ADJOURNMENT**

**NEXT REGULAR MEETING: December 15, 2022**

ITEM NO.	INDEX TITLE	PAGE
<b>A. OLD BUSINESS</b>		
2022-144	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by repealing the Zoning Districts known as the “Hyannis Village Zoning Districts” and replacing them with revised and updated districts collectively known as the “Downtown Hyannis Zoning Districts” <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	5-46
2022-145	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article VII Sign Regulations to amend regulations to be consistent with proposed new district regulations <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	47-50
2022-146	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by moving and renumbering section 240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories into a new overlay Zoning District and repealing sections 240-129 and 240-129.1 expired temporary moratorium for Marijuana uses <b>(Public Hearing) (Roll Call 2/3 Full Council)</b> .....	51-55
2023-023	Amending the Code of the Town of Barnstable, Part I, General Ordinances, Article III, §240-39 by repealing and replacing the Shopping Center Redevelopment Overlay District <b>(Public Hearing) (Roll call 2/3 Full Council)</b> .....	56-86
2023-058	Appropriation Order in the amount of <b>\$45,000</b> for the Golf Enterprise Fund for the purpose of funding the acquisition of a utility tractor for the Golf Maintenance Operations <b>(Public Hearing) (Majority Full Council)</b> .....	87-88
2023-061	Appropriation Order in the amount of <b>\$3,811,500</b> for the Fiscal Year 2023 Airport Enterprise Fund Operating Expense Budget for the purpose of purchasing Aviation Jet Fuel for resale <b>(Public Hearing) (Majority Full Council)</b> .....	89-91
<b>B. NEW BUSINESS</b>		
2023-063	Appointments to a Board/Committee/Commission: <b>Comprehensive Financial Advisory Committee:</b> Jacky Johnson, as a regular member to a term expiring 06/30/2024; Neil Kleinfeld, as a regular member to a term expiring 06/30/2025; <b>Disability Commission:</b> Lori Gillen, as a regular member to a term expiring 06/30/2024; <b>Hyannis Main Street Waterfront Historic District Commission:</b> Laura Cronin, as a regular member to a term expiring 06/30/2025; <b>Licensing Authority:</b> Max Mitrokostas as an associate member, to a term expiring 06/30/2025; <b>Recreation Commission:</b> Alyssa Chase, as a regular member to a term expiring 06/30/2025; <b>Zoning Board of Appeals:</b> Aaron Webb from associate member to a regular member to a term expiring 06/30/2023 <b>(First Reading) (Refer to Second Reading 12/15/2022)</b> .....	92
2023-064	Appropriation Order in the amount of <b>\$1,337,890</b> for the purpose of funding the restoration work to the Zion Union Historic Museum and Original Chapel, 296 North Street, Hyannis, MA <b>(Refer to Public Hearing 12/15/2022)</b> .....	93-95
2023-065	Authorization to expend a Fiscal Year 2023 Recycling Dividends Program Grant in the amount of <b>\$11,700</b> from the Commonwealth of Massachusetts, Department of Environmental Protection for the purpose of enhancing the Town’s Waste Reduction Programs <b>(May be acted upon) (Majority vote)</b> .....	96-97
2023-066	Order waiving fees for construction work by the Barnstable Fire District for a new Fire District Water Treatment Plant off Breeds Hill Road to treat the District’s Wells 2 & 5 <b>(Refer to Public Hearing 12/15/2022)</b> .....	98-99

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-144**

**INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022**

**2022-144 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING DISTRICTS KNOWN AS THE “HYANNIS VILLAGE ZONING DISTRICTS” AND REPLACING THEM WITH REVISED AND UPDATED DISTRICTS COLLECTIVELY KNOWN AS THE “DOWNTOWN HYANNIS ZONING DISTRICTS”**

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

**SECTION 1:** By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to repeal the districts collectively known as the “Hyannis Village Zoning Districts” and replace them with seven (7) new districts collectively known as the “Downtown Hyannis Zoning Districts”, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Hyannis Zoning Map Re-Zoning Downtown Hyannis
- Proposed Amendment to the Town Zoning Map Re-Zoning Downtown Hyannis

**SECTION 2**

A. By amending Article II, Section 240-5, Establishment of districts, by deleting:  
**“Hyannis Village Zoning Districts”**

HVB	Hyannis Village Business District
MS	Medical Services District
SF	Single Family Residential District
OM	Office/Multi-Family Residential District
HD	Harbor District
HG	Hyannis Gateway District
TD	Transportation Hub District
GM	Gateway Medical District”

and inserting in its place:

**“Downtown Hyannis Zoning Districts”**

DMS	Downtown Main Street
DV	Downtown Village
DN	Downtown Neighborhood

HH	Hyannis Harbor
TC	Transportation Center
HC	Highway Commercial
DH	Downtown Hospital”

- B. By further amending said Section 240-5 by deleting “Hyannis Parking Overlay District” as it appears under the heading “Overlay Districts”.

**SECTION 3**

By amending Article III District Regulations to repeal Sections 240-24.1 through 240-24.1.13 and replace them with the following new Sections 240-24.1.1 through 240-24.1.13:

**“§240-24.1.1 Downtown Hyannis Zoning Districts”**

**§240-24.1.2 Title**

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

**§240-24.1.3 General Provisions**

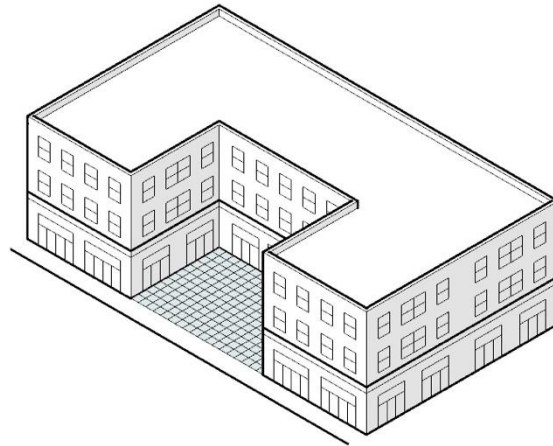
- A. Applicability
  - 1. Where the provisions of Sections 240-24.1.1 through 240-24.1.13 conflict with those found elsewhere in the Barnstable Zoning Ordinance, the provisions of this Section shall apply.
  - 2. The provisions of the Barnstable Zoning Ordinance § 240-6.C (3) shall not apply within the Downtown Hyannis Zoning Districts.
- B. Development Review
  - 1. The Planning Board is the Special Permit Granting Authority (SPGA) for all development within the Downtown Hyannis Zoning Districts.
  - 2. Development within the Downtown Hyannis Zoning Districts, excluding single-family residences, must comply with Article IX, §240-103, site development standards, and the Design and Infrastructure Plan.
    - (a) The Planning Board shall establish a Design and Infrastructure Plan (DIP) which shall be adopted after a public hearing.
  - 3. The use of land or occupancy of floor space is permitted as specified by §240-24.1.5.B Use Provisions.
- C. Compliance
  - 1. Any modification to an existing structure that results in greater conformance to this Ordinance is permitted.
  - 2. Any modification to an existing structure that increases an existing nonconformity or creates a new nonconformity is prohibited.

**§240-24.1.4 Definitions**

- A. General
  - 1. The following defined words, phrases, and terms are applicable for real property within the Downtown Hyannis Zoning Districts.

Accessory Parking	Motor vehicle parking spaces that are incidental but supportive of (a) principal building(s).
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Building Component	A structural projection from the main massing or roof of a building that increases habitable square footage or enhances the usefulness of floor area.
Commercial Parking	A surface parking lot or structured parking facility providing short- or long-term parking service for a fee.
Commercial Service	The provision of various services, entertainment, or recreational opportunities to individuals, groups, or businesses including animal care, assembly & entertainment, banking & financial services, building & home repair, business support, day care & education, maintenance & repair of consumer goods, personal services, gyms & health clubs, and recreational services.
Cultural Services	The provision of social or cultural services to individuals or groups including membership based social organizations and the production, manufacture, publishing, rehearsal, performance, broadcast, selling, or teaching of the arts.
Development	The platting of any lot, construction of any structure, or establishment of any parking lot that did not exist prior to the adoption of the Downtown Hyannis Zoning Districts.
Façade.	Any exterior wall of a principal building oriented toward a front lot line.
Fenestration	The openings in the façade of a building, including windows and doors.
Food & Beverage Services	The provision of food or beverages for on- or off-site sale or consumption.
Forecourt	An open space between the forward projecting wings of a building.



Frontage Area	The area of a lot between the façade of a principal building and any front lot line(s), projected to the side lines of the lot.
Frontage Type	A distinct combination of façade and frontage area design features.
Health Care Clinic	The provision of health care services to patients or clients excluding inpatient or overnight care.
Hospital	A facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health under MGL c. 111, §51.
Lot Coverage	The ratio or percentage of a lot that is covered by principal buildings, outbuildings, accessory structures, and impervious paved surfaces including driveways, parking lots and sidewalks.
Modification	The alteration or structural change of an existing structure and any change to the parking capacity of an existing parking lot.
Office	The administrative, professional, or clerical operations of a business and the provision of outpatient health services to patients or clients by appointment.
Outbuilding	A free-standing, fully enclosed structure for an accessory use or for activities customary to the principal use of land or a principal building.
Principal Building	The primary building on a lot.

Principal Entrance	The addressed entrance to a building or commercial space.
Recreational Facility	The provision of public recreational services including bowling and billiards, and video arcades.
Research & Development	The analysis, testing, and development of ideas and technology including computer software, information technology, communications systems, transportation, and multi-media technology where the construction of prototypes may be an ancillary activity.
Residential	The provision of living accommodations.
Retail Sales	The sale, lease, or rental of new or used goods to the ultimate consumer.
Shrub, Large	A multi-stemmed, woody plant with an expected mature height of six (6) feet.
Shrub, Medium	A multi-stemmed, woody plant with an expected mature height of four (4) feet.
Shrub, Small	A multi-stemmed, woody plant with an expected mature height of two (2) feet.
Story	The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above.
Story, Ground	The lowest story of a building with a finished floor at or above the finished ground level next to a building at the facade.
Story, Upper	Any story above the ground story of a building.
Through Lot	A lot fronting on two (2) or more improved ways, excluding a corner lot.
Tree, Canopy	A deciduous tree with an expected mature height of thirty (30) feet or more.
Tree, Evergreen	An evergreen tree (conifer) with an expected mature height of twenty (20) feet or more.
Tree, Understory	A deciduous tree with an expected mature height of twenty (20) feet or more.
Visitor Accommodations	The provision of temporary lodging in guest rooms or guest units for a fee.

## **§240-24.1.9 Standards for all Districts**

### **B. Building Standards**

1. Frontage types.
  - (a) Buildings must have at least one (1) frontage type except if otherwise specified. Buildings on corner lots must have two (2) frontage types, one (1) for each frontage.
  - (b) Frontage types are permitted as specified by Table 11.
  - (c) Multiple frontage types may exist for buildings that have more than one (1) principal entrance.
2. Buildings must have at least one (1) principal entrance located on the façade.
  - (a) Multi-story buildings with ground floor commercial space(s) must have one (1) principal entrance for each commercial space in addition to any principal entrance(s) necessary for any upper stories.
3. Buildings may not exceed the maximum number of stories as specified for each district.
  - (a) Each individual story of a building must comply with the minimum and maximum story height specified for each district.
  - (b) Story height is measured vertically from the surface of the finished floor to the surface of the finished floor above. When there is no floor above, story height is measured from the surface of the finished floor to the top of the structural beam or joists above or the top of the wall plate, whichever is more.
  - (c) The ground story is always counted as one (1) story, except that a single ground story over eighteen (18) feet in height is counted as two (2) stories.
  - (d) Each upper story is counted as one (1) additional story, except that any upper story over sixteen (16) feet is counted as two (2) stories.



- (e) Basements are not counted as one (1) story unless the finished floor of the ground story is five (5) feet or more above the average ground level of the lot.
- (f) Habitable space located directly under a pitched roof is counted as a half (0.5) story.
  - (i) The roof rafters of a half story must intersect the wall plate or top of wall frame of the exterior walls at a height no more than (2) feet above the finished floor of the half story.
- (g) Non-habitable attic space located under a pitched roof is not counted a half story.
- (h) Pitched roofs with a slope greater than 12:12 require a Special Permit.
- 4. Buildings may not exceed the maximum building height specified for each district, as applicable.
  - (a) Building height is measured as the vertical distance from the average finished ground level to the top of the structural beam or joists of the upper most story.
- 5. Non-habitable architectural features including, but not limited to, mechanical & stairwell penthouses; vents or exhausts; solar panels or skylights; belfries, chimneys, cupolas, parapets, spires, and steeples are not included in any building height or story calculations and are permitted on roofs.
- 6. Building components are permitted as specified by Table 12.
- 7. Facades must have fenestration as specified for each district, as applicable.
  - (a) Fenestration is calculated as a percentage of the area of a façade.
  - (b) For buildings with ground story commercial spaces, ground story fenestration is measured between two (2) feet and twelve (12) feet above the finished floor of the ground story.
  - (c) For all other buildings and all other building stories, fenestration is measured independently for each story, corresponding with the top of a finished floor to the top of the finished floor above.
- 8. Fenestration enclosed with glass may be included in the calculation if it meets the following criteria:
  - (a) For ground story fenestration, glazing must have a minimum sixty percent (60%) Visible Light Transmittance (VLT) and no more than fifteen percent (15%) Visible Light Reflectance (VLR) as indicated by the manufacturer.
  - (b) For upper story fenestration, glazing must have a minimum of forty percent (40%) VLT and no more than fifteen percent (15%) VLR as indicated by the manufacturer.

## C. Use Provisions

### 1. General

- (a) The use of real property is permitted as specified by Table 1.
  - (i) Table 1 is organized by broad use categories and specific uses that may be regulated differently than other uses from the same category.
  - (ii) Use categories are intended to include uses with similar functional, product, or physical characteristics; the type and amount of activity; the manner of tenancy; the conduct of customers; how goods or services are sold or delivered; and the likely impacts on surrounding properties.
  - (iii) Where Table 1 identifies a category followed by “except as follows” any use that meets the definition of that use category is permitted by right, while the specific uses identified in the list under that category are either not permitted, are permitted with limitations, or require a special permit despite belonging to the same use category.
  - (iv) Where Table 1 identifies a category followed by “as specified below” the specific uses listed under the category are the only land uses permitted from that use category.
- (b) The Building Commissioner shall classify the actual use of land or structures using the defined use categories specified on Table 1. Also see §240-24.1.4 Definitions.
  - (i) Real property may have one (1) or more principal use(s).
  - (ii) Once classified into a use category, the use of land or structures in the same manner cannot also be classified into another use category.
  - (iii) The use of land or structures in a manner that is inconsistent with a permitted use category or specific use type specified on Table 1 is prohibited.

- (iv) Unless classified as a specific use that is not permitted in a zoning district, an existing nonconforming use may be changed to another nonconforming use that is from the same use category as the existing nonconforming use by Special Permit.
- (v) A nonconforming use may not change to a different nonconforming use that is from a different use category than the existing nonconforming use.

Use Category Specific Use	DMS	DV	DN	HH	TC	HC	DH
Commercial Services (except as follows)	P	P	N	P	P	P	P
Automobile Maintenance & Repair	N	N	N	N	N	N	N
Boat Storage	N	N	N	N	N	N	N
Contractor Services	N	N	N	N	N	N	N
Funeral Services	N	N	N	N	N	N	N
Marina	N	N	N	SP	N	N	N
Commercial Parking	N	N	N	N	P	SP	N
Public Transportation Maintenance	N	N	N	N	SP	N	N
Recreational Facility	SP	SP	N	SP	SP	SP	SP
Self-Storage Facility	N	N	N	N	N	SP	N
Veterinary Services	N	N	N	N	N	P	N
Cultural Services (as specified below)	--	--	--	--	--	--	--
Arts & Culture Establishments	P	P	N	P	P	P	N
Fraternal & Social Organizations	P	P	N	P	P	P	N
Performing Arts & Theaters	P	P	N	P	P	P	N
Artist Live/Work	P	P	P	P	P	N	N
Food & Beverage Services (except as follows)	L	L	N	L	P	P	P
Brewery/Distillery	L	N	N	N	N	N	N
Hospital	N	N	N	N	N	N	P
Office (except as follows)	P	P	L	P	P	P	P
Health Care Clinic	P	P	L	P	N	P	P
Research & Development	P	P	N	P	N	P	P
Residential (as specified below)	--	--	--	--	--	--	--
Multi-Unit Dwelling	L	L	N	L	L	N	N
Two-Unit Dwelling	P	P	L	N	N	N	N
Single Unit Dwelling	N	P	P	N	N	N	N
Retail Sales (except as follows)	L	L	N	L	P	P	P
Boat Sales	N	N	N	SP	N	N	N
Gasoline Sales	N	N	N	N	N	N	N
Motor Vehicle Sales	N	N	N	N	N	N	N
Visitor Accommodations (as specified below)	--	--	--	--	--	--	--
Hotel/Motel	P	N	N	P	N	P	N
Bed & Breakfast	N	P	P	P	N	N	N

P – Permitted By-Right  
SP – Special Permit  
N – Not Permitted  
L – Permitted with Limitations (see district)

## D. Parking Standards

### 2. Applicability

- (a) Parking is required based on the intended use of floor area within a building at construction permitting and not for the subsequent establishment, change, or expansion of any permitted use; or the renovation of any existing principal building.

### 3. General

- (a) Accessory parking must be provided as specified by Table 2 and is calculated as the sum of all required spaces, including any adjustment specified for on-site shared parking.
  - (i) Commercial Parking uses are exempt from Table 2.
- (b) Relief from the parking requirements of Table 2 requires a Special Permit.
- (c) In its discretion to approve or deny a Special Permit authorizing relief from the minimum parking requirements of Table 2, the Planning Board shall consider conditioning the Special Permit upon one or more of the following:
  - (i) Elimination or reduction of existing curb cuts and driveway aprons
  - (ii) Establishment of a shared driveway or cross-access connection between abutting parking lots with a binding easement and joint maintenance agreement defining the responsibilities of abutting property owners sharing access.

### 4. Location

- (a) Accessory parking spaces must be located on the same lot as the building they support and may be provided within a principal building or outbuilding or as surface parking.
- (b) Motor vehicle parking of any type is prohibited within the frontage area of a lot and any required landscape buffer.
  - (i) Real property in the Highway Commercial (HC) district or in the Downtown Hospital (DH) district is exempt.

Table 2. Minimum Required Accessory Parking Spaces

Use Category	DMS	DV	DN	DH	HH	TC	HC	On Site Shared Parking Adjustment <sup>1</sup>
Commercial Services (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Cultural Services (per 1,000 sf)	0	4	4	4	N/A	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Food & Beverage Services (per 1,000 sf)	0	4	N/A	4	4	4	4	--
Hospital (per 3 beds)	N/A	N/A	N/A	1	N/A	N/A	N/A	--
Office (per 1,000 sf)	3	3	3	3	3	3	3	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Residential or Artist Live/Work (per DU)	1	1	1	N/A	1	1	N/A	--
Retail Sales (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Visitor Accommodations (per room)	1.25	1.25	1.25	N/A	1.25	N/A	1.25	--

<sup>1</sup> Rounded up to the nearest whole number

## E. Site Standards

### 1. Forecourts

- (a) Driveways and passenger drop-offs are permitted in forecourts by Special Permit.
  - (ii) Real property fronting Main Street or in the Downtown Hospital (DH) district is exempt.
- (b) Garage entrances, parking spaces, loading and service areas, exhaust vents, mechanical equipment, and refuse or recycling storage are not permitted in forecourts.

### 2. Landscaping

- (a) Lot area uncovered by structures or impermeable surfaces must be landscaped.
- (b) New canopy trees must be at least fourteen (14) feet in height or three (3) inches in caliper when planted.
- (c) New understory trees must be at least ten (10) feet in height or one and a half (1.5) inches in caliper when planted.
- (d) New evergreen trees must be at least six (6) feet in height when planted.
- (e) Vegetation must be low water use and low maintenance plant species that are indigenous to Cape Cod. Plant species should be capable of withstanding seasonably wet conditions and provide habitat value for wildlife.
- (f) Landscaped areas must be maintained, irrigated, and fertilized. Vegetation should be organically maintained to every extent practicable.
- (g) Vegetation may not obscure any driveways, vehicular entrances, or roadway intersections.
- (h) Mulch may not be placed in a manner that will wash into catch basins or drainage pipes.
- (i) All Site Plan and Special Permit applications must submit a Landscape Plan(s) signed and stamped by a MA registered Landscape Architect unless waived/exempt by the Building Commissioner.
- (j) The Building Commissioner shall not issue a Certificate of Occupancy until the landscaping has been installed in accordance with the approved plans unless the property owner posts security to the Town of Barnstable for one hundred and fifty percent (150%) of the estimated cost of installation of the landscaping.
- (k) Any fractional value required for plant materials is rounded up to the next whole number.

### 3. Stormwater Management

- (a) Rain gardens should be used to the maximum extent practicable. Rain gardens are defined as landscaped areas designed to absorb and filter stormwater runoff from impervious surfaces.

### 4. Signs

- (a) All development shall comply with the applicable signage requirements contained in Article VII, Sign Regulations, at §240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance. Internally illuminated signs are prohibited in the Downtown Hyannis Zoning Districts.

### 5. Outdoor Lighting

- (a) All outdoor lighting must be directed only on site.
  - (i) The trespass of light at any lot line may not exceed 0.1 of a footcandle, except that the trespass of light at any lot line abutting a lot in Downtown Neighborhood (DN) district may not exceed 0.05 footcandle.
  - (ii) At driveways, lighting may be up to 0.5 of a footcandle at the front lot line.
  - (iii) Outdoor lighting may not cause glare that impacts motorists, pedestrians, or neighboring premises.
- (b) Light fixtures must have a total cutoff of all light at less than ninety degrees (90°) and a beam cutoff of less than seventy-five degrees (75°). Attached building or wall pack lighting should be screened by the building's architectural features or contain a forty-five-degree cutoff shield.
- (c) Electrical service for lighting on posts or poles must be located underground.

## 6. Fences

- (a) Fences greater than four (4) feet in height in the frontage area and seven (7) feet in height in all other locations at any point along their length require a Special Permit except that where fencing that is higher than seven (7) feet is needed to screen mechanical equipment, the Building Commissioner may allow a greater height as determined through the Site Plan Review process.
- (b) Fences may be no more than fifty percent (50%) open.
- (c) Fence posts and supporting rails must face inward toward the property being fenced and the finished face must be oriented towards the abutting lot.

## 7. Vehicular Access

- (a) Driveways, vehicular entrances to parking lots or structures, and curb cuts must comply with the minimum or maximum width specified for each district.
- (b) Drive throughs require a Special Permit and are only permitted for the following uses:
  - (i) Banks (a specific use of the Commercial Service use category)
  - (ii) Pharmacies (a specific use of the Retail Sales use category)
- (c) All new curb cuts require a Special Permit.
- (d) The interior width of a curb cut (between the curb stones or flares) may be no wider than the driveway, vehicular entrance, or loading facility it serves, unless a greater width is determined to be appropriate by the Building Commissioner during the Site Plan Review process based upon unique operational requirements of the proposed use.
- (e) A driveway apron may be installed within a sidewalk of an improved way, but the grade, cross slope, and clear width of the pedestrian walkway must be maintained between the driveway apron and the abutting driveway.
- (f) The appearance of the pedestrian walkway (i.e. scoring pattern or paving material) must indicate that, although a vehicle may cross to enter a property, the area traversed by a vehicle remains part of the sidewalk.

## 8. Utilities

- (a) All mechanical equipment must be screened from view from adjacent lots and public rights-of-way and integrated into or compatible with the architectural design of the building.

## F. Surface Parking Lot Design Standards

### 5. Applicability

- (a) This section is applicable to the construction of any new surface parking lot and the expansion or modification of an existing surface parking lot containing twenty-one (21) or more parking spaces that increases the number of parking spaces by five (5) or more.

### 6. General

- (a) To reduce traffic congestion and increasing convenience for customers, employees, and residents, development is encouraged to provide direct vehicular connections between abutting parking lots so that motor vehicles can move between properties without re-entering the public street.
- (b) To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to provide access to rear parking lots via driveways that are shared between abutting properties or multiple properties on the same block face.

### 7. Surface Parking Lot Landscaping

- (a) One (1) three (3) inch minimum caliper low-water-use, low-maintenance tree must be provided for every five (5) parking spaces and must be located within ten (10) feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least fifty (50) square feet of permeable area. Existing trees located in the interior of parking lots are credited toward this requirement.

- (b) A front landscaped buffer at least ten (10) feet wide must be provided between any parking lot and any lot line abutting an improved way and must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Five (5) medium shrubs and five (5) small shrubs or a fence or wall a maximum of four (4) feet in height.
- (c) A side/rear landscaped buffer at least six (6) feet wide must be provided between any side or rear lot line and any parking lot with five (5) or more parking spaces, excluding any vehicular connections to abutting parking lots and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Three (3) large shrubs and five (5) small shrubs or a fence or wall at least six (6) feet in height.
- (d) A landscaped buffer at least ten (10) feet wide must be provided between any building and any parking lot with ten (10) or more parking spaces, excluding building entrances, service and loading areas, and utility locations, and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Four (4) medium shrubs
  - (iii) Six (6) small shrubs
- (e) At least ten percent (10%) of any parking lot with ten (10) or more parking spaces must be landscaped. Lot area required as a landscape buffer is excluded from the calculation of the parking lot area.
- (f) Landscape islands abutting a single row of parking spaces must be at least six (6) feet in width and the same length as the parking spaces. Each island must include one (1) three (3) inch minimum caliper, low-water-use, low-maintenance tree.
- (g) Landscape islands abutting a double row of parking spaces must be at least eight (8) feet in width and the same length as the parking spaces. Each island must include two (2) three (3) inch minimum caliper, low-water-use, low-maintenance trees.

**§240-24.1.10 Downtown Main Street District (DMS)**

**A. Intent**

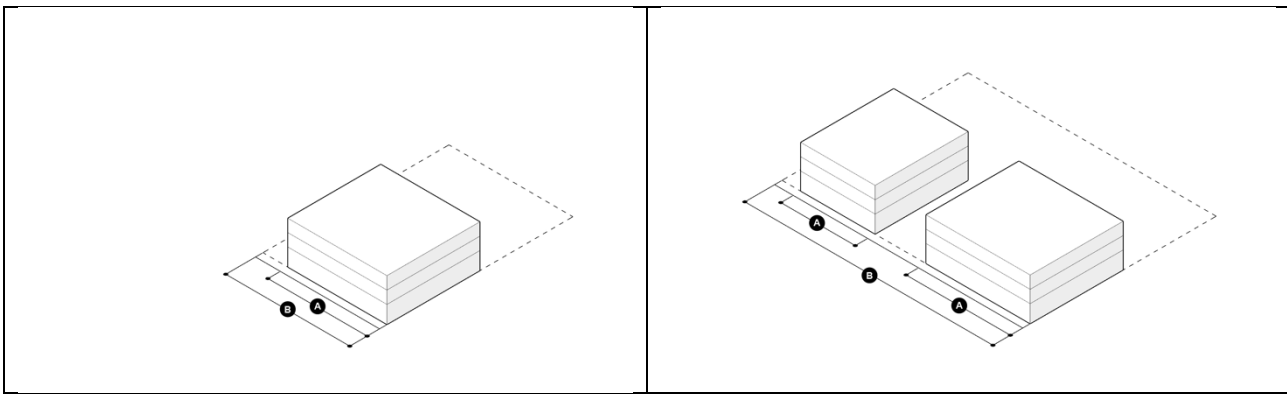
1. The Downtown Main Street District is intended to promote the continuation of a walkable, pedestrian-oriented downtown environment with continuous active streetscape. Development is characterized by mid-rise mixed-use buildings, continuous street walls and variety of materials with parking visually minimized. Land uses are mixed residential and active commercial, including retail, restaurant, office, hospitality, cultural and institutional.

**B. Lot Standards**

1. Newly platted lots must be dimensioned as specified by Table 3.
2. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the façade build out by Table 3.
  - (a) Façade build out is calculated by dividing the total width of all facades by the lot width and may be cumulatively calculated by multiple buildings.
  - (b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and façade build out.
  - (c) The SPGA may provide relief from the façade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

**Façade Build Out**



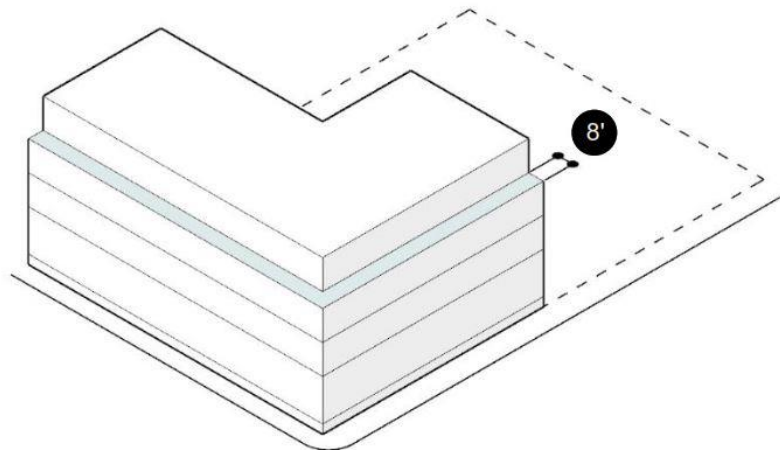


Single Building per Lot =  $A \div B$

Multiple Buildings per Lot =  $(A+A) \div B$

C. Building Standards

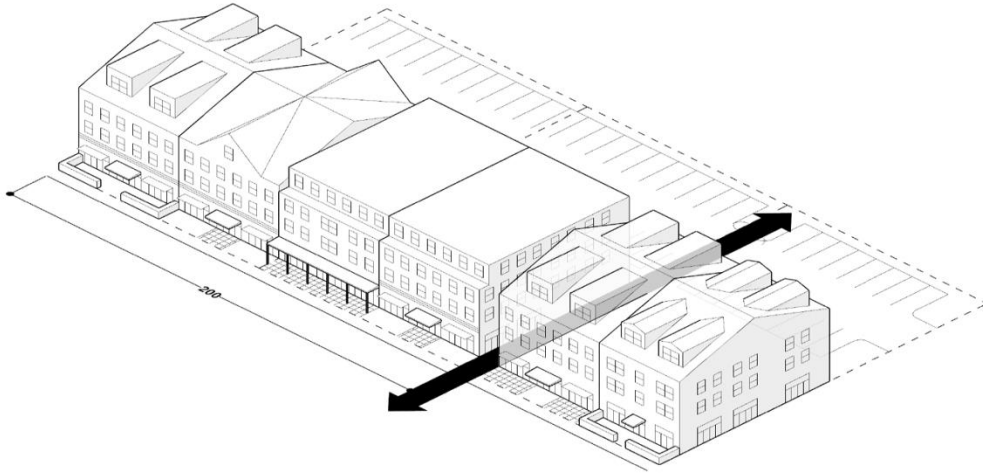
1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 3.
  - (a) Additional principal buildings are exempt from the required maximum front setback.
3. Principal building façade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.
4. Any building contributing toward the frontage buildout for any lot fronting Main Street between Ocean Street and Sea Street must provide ground story commercial space that is at least twenty (20) feet in depth for one hundred percent (100%) of the total width of the building, excluding lobby entrances and other means of egress associated with the use of upper stories.
5. Awnings, canopies, signs, balconies, and non-habitable architectural features of a building may project over the public sidewalk but must provide at least eight (8) feet of clearance and a license from the Town Manager in accordance with Barnstable General Ordinances, Part 1, Chapter 121, § 121-6J is required.
6. The fourth (4<sup>th</sup>) story of any building must be recessed (“stepped back”) from the façade of the stories below at least eight (8) feet.



7. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.
8. Facades may not have any blank wall areas without fenestration or architectural surface relief greater than twenty (20) feet measured both vertically and horizontally for all stories of a building for any facade.
9. Loading and service areas may not be visible from any public sidewalk of Main Street.

#### D. Design Guidelines

1. The development of any new principal building should include a pedestrian passage connecting the sidewalk at the front of the property to any parking areas to the rear of the building, to every extent practicable, where no such pedestrian passage exists within two hundred (200) linear feet of the building's principal entrance.



2. When provided, pedestrian passages may be designed as an open-air passage between buildings, a covered atrium providing continuous protection from the elements, or as an up to two (2) story passage through a building.

#### E. Use Provisions

##### 1. Limitations

- (a) Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.
- (b) The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

#### F. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

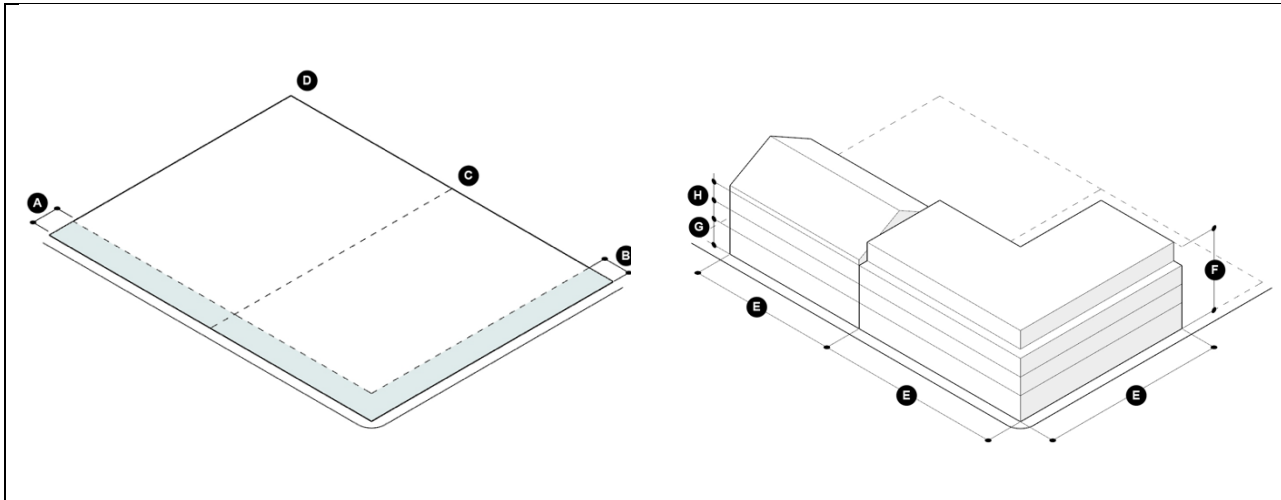
#### G. Landscape Standards

1. A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one (1) canopy tree to be planted every thirty (30) feet of frontage of the property.
2. A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Three (5) medium shrubs and three (3) small shrubs or a fence or wall at least six (6) feet in height.

#### H. Parking Standards

1. For development on any through lot fronting Main Street, parking access must be provided from the non-Main Street frontage.

Table 3. DMS Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	180' max
Lot Coverage	100% max	F - Number of Stories	3.5 or 4 max <sup>2</sup>
Façade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
Secondary Frontage	40% min	Residential	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	<b>BUILDING FEATURES</b>	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	60% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

<sup>2</sup> See 240-24.1.6.C.6 (4<sup>th</sup> Story Step-back)

## §240-24.1.11 Downtown Village District (DV)

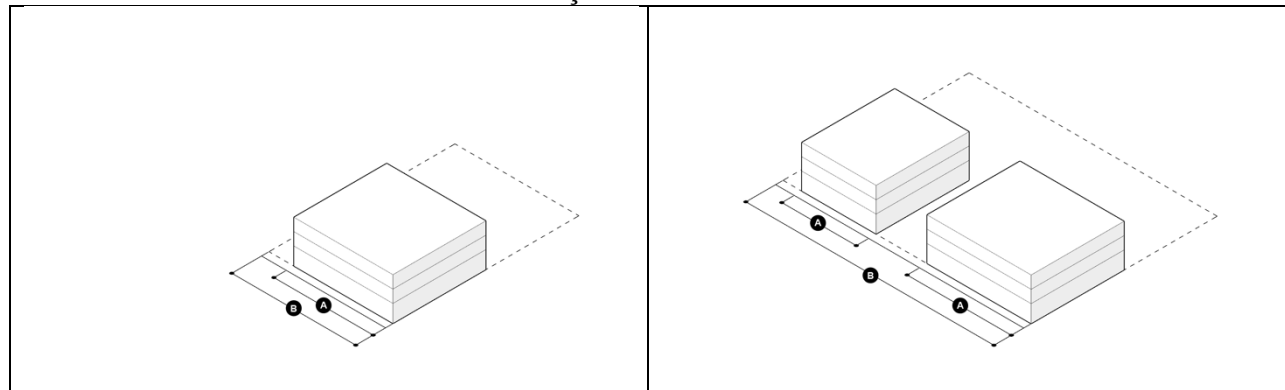
### A. Intent

1. The Downtown Village District is intended to promote mixed land uses that support the downtown core and reestablish or preserve traditional neighborhood forms and pedestrian orientation. Development is characterized by mid-rise single-use buildings and detached and semi-detached residential buildings.

### B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 4.
2. Lot coverage may not exceed the maximum specified by Table 4.
3. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the façade build out on Table 4.
  - (a) Façade build out is calculated by dividing the total width of all facades at or forward of the maximum front setback by the lot width and may be cumulatively calculated by multiple buildings.
  - (b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and façade build out.
  - (c) The SPGA may provide relief from the façade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

### Façade Build Out



Single Building per Lot =  $A \div B$

Multiple Buildings per Lot =  $(A+A) \div B$

### C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 4.
  - (a) Additional principal buildings are exempt from the required maximum front setback.
3. Principal building façade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.
4. The fourth (4<sup>th</sup>) story of any building must be recessed (“stepped back”) from the façade of the stories below at least eight (8) feet.
5. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### D. Use Provisions

1. Limitations

- (a) Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.
- (b) The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

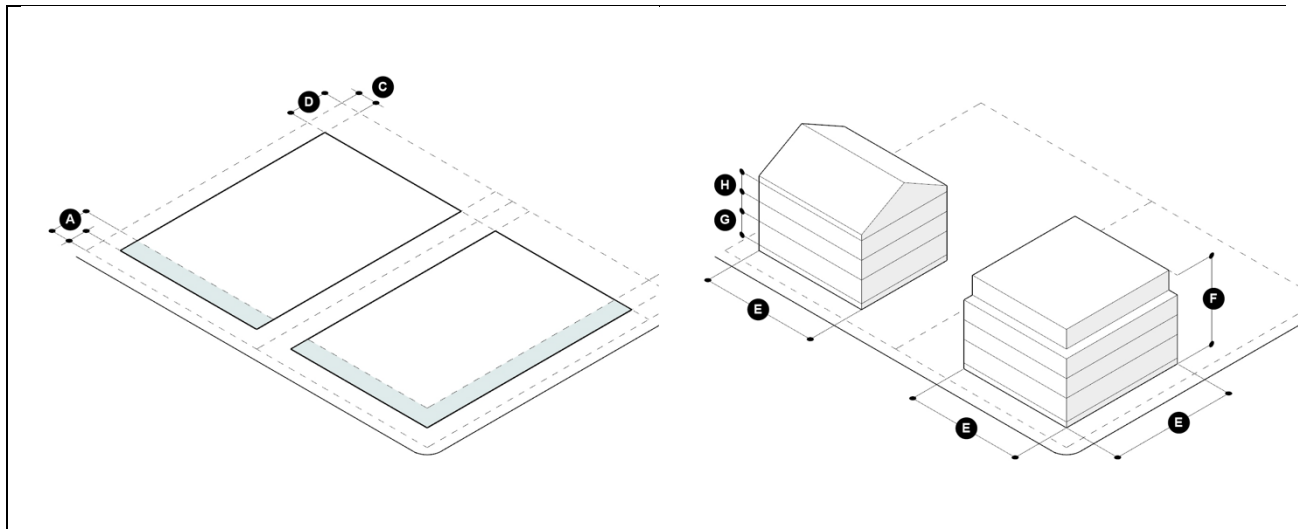
E. Site Standards

- 1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

F. Landscape Standards

- 1. A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one (1) canopy tree to be planted every thirty (30) feet of frontage of the property.

Table 4. DV Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	120' max
Lot Coverage	80% max	F - Number of Stories	3.5 or 4 max <sup>3</sup>
Façade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
		Residential	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	<b>BUILDING FEATURES</b>	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	15% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

<sup>3</sup> See 240-24.1.7.C.4 (4<sup>th</sup> Story Step-back)

## **§240-24.1.12Downtown Neighborhood District (DN)**

### **A. Intent**

1. The Downtown Neighborhood District is intended to promote the traditional uses and form of the neighborhoods adjacent to downtown that are characterized by a variety of 19<sup>th</sup> and 20<sup>th</sup> Century detached and semi-detached residential building types.

### **B. Lot Standards**

1. Newly platted lots must be dimensioned as specified by Table 5.
2. Lot coverage may not exceed the maximum specified by Table 5.

### **C. Building Standards**

1. One (1) principal building and multiple outbuildings are permitted per lot.
2. Principal buildings and outbuildings are permitted as specified by Table 5.
  - (a) The third story in a single-family or two-family dwelling can only occur within habitable attic space.

### **D. Use Provisions**

#### **1. Limitations**

- (b) Office and Health Care Clinic uses are permitted only for lots fronting South Street or High School Road.
- (c) Two-Unit dwellings are prohibited for lots fronting only Brookshire Road or King's Way.

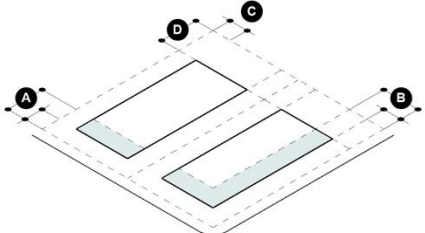
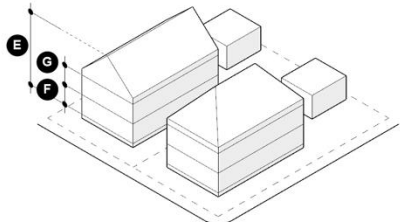
### **E. Site Development**

1. Development on corner lots must comply with the provisions of § 240-41 of the Barnstable Zoning Ordinance.
2. Curb cuts may be no wider than twelve (12) feet.
3. Outdoor lighting must be shielded and provide total cut off of all light at the boundaries of the lot under development.
4. Fences greater than four (4) feet in height in the frontage area and seven (7) feet in height in all other locations at any point along their length require a Special Permit.

### **F. Landscape Standards**

- (i) A perimeter green space of not less than ten (10) feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.

Table 5. DN Dimensional Standards

			
LOT		BUILDING FORM	
Lot Width	20' min	E - Number of Stories	3 max <sup>4</sup>
Lot Coverage	50% max	F - Ground Story Height	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		G - Upper Story Height	10' min
A - Primary Front Setback	10' min 20' max		
B - Secondary Front Setback	10' min 20' max		
C - Side Setback	10' min		
D - Rear Setback	20' min		
<b>SETBACKS - OUTBUILDINGS</b>			
Front Setback	60' min		
Side Setback	3' min		
Rear Setback	3' min		

**§240-24.1.13 Downtown Hospital District (DH)**

**A. Intent**

1. The Downtown Hospital District is intended to maintain an area of Hyannis for a large-scale Health Care Services institution and is characterized by moderate to large floor plate, multi-story buildings arranged in a campus-like setting, with clear pedestrian and vehicular connections to downtown and the region.

**B. Lot Standards**

<sup>4</sup> See 240-24.1.8.C.2(a)



1. Newly platted lots must be dimensioned as specified by Table 6.
2. Lot coverage may not exceed the maximum specified by Table 6.

C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 6.
3. Buildings are exempt from 240-24.1.5.A.1 frontage types and 240-24.1.5.A.3 provisions for calculating building stories. Buildings must comply with the maximum number of stories and maximum building height defined within Table 6.

D. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet except that wider widths may be allowed by the Building Commissioner during the Site Plan Review process if additional width is needed to provide emergency access.

E. Landscape Standards

1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Four (4) medium shrubs
  - (iv) Six (6) small shrubs

Table 6. DH Dimensional Standards

LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories	6 max
Lot Coverage	100% max	Building Height	85' max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

## §240-24.1.14 Hyannis Harbor District (HH)

### A. Intent

1. The Hyannis Harbor District is intended to maintain an area near Hyannis Inner Harbor for maritime activities and water-related uses, and is characterized by a mix of commercial, maritime industrial, and residential development and the presence of the commercial ferry services.

### B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 7.
2. Lot coverage may not exceed the maximum specified by Table 7.

### C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 7.
  - (a) To support water-dependent uses on the harbor, the maximum building height permitted for existing structures used as a Marina or a Commercial Service use for constructing, selling, renting, or repairing boats is forty-five (45) feet.
3. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### D. Use Provisions

#### 1. Limitations

- (a) The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

### E. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

### F. Landscape Standards

1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Four (4) medium shrubs
  - (iv) Six (6) small shrubs
2. A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Five (5) medium shrubs and three (3) small shrubs or a fence or wall at least six (6) feet in height.

Table 7. HH Dimensional Standards

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<b>LOT</b>		<b>BUILDING FORM</b>	
Lot Width	20' min	Number of Stories	2.5 max
Lot Coverage	90% max	Building Height	35 ft max <sup>5</sup>
<b>SETBACKS – PRINCIPAL BUILDINGS</b>			
Primary Front Setback	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

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<sup>5</sup> See 240-24.1.10.C.2(a)

## §240-24.1.15 Transportation Center District (TC)

### A. Intent

1. The Transportation District is intended to accommodate transportation related-uses serving the downtown, harbor and the region and is characterized by functional buildings and parking areas screened and not highly visible from surrounding roadways.

### B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 8.
2. Lot coverage may not exceed the maximum specified by Table 8.

### C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 8.
3. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### D. Use Provisions

#### 1. Limitations

- (a) Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.
- (b) The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

### E. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

### F. Landscape Standards

1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Four (4) medium shrubs
  - (iv) Six (6) small shrubs
2. A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) understory or evergreen trees
  - (ii) Three (3) large shrubs and three (3) medium shrubs or a fence or wall at least six (6) feet in height.

Table 8. TC Dimensional Standards

LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories	3 max
Lot Coverage	65% max	Building Height	40 ft max
<b>SETBACKS – PRINCIPAL BUILDINGS</b>			
Primary Front Setback	--		
Lots fronting Route 28	50' min		
All other Lots	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

## §240-24.1.16 Highway Commercial District (HC)

### A. Intent

1. The Highway Commercial District is intended to maintain an area for larger-scale commercial land uses, with private parking appropriately screened, on a regional roadway and promote in the long-term transformation of the area into a cohesive gateway corridor into Hyannis. The area is characterized by detached low- and mid-rise commercial structures.

### B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 9.
2. Lot coverage may not exceed the maximum specified by Table 9.

### C. Building Standards

1. Multiple principal buildings are permitted per lot.
2. Principal buildings are permitted as specified by Table 9.
  - (a) The third story can only occur within habitable attic space.
3. Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### D. Site Standards

1. Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

### E. Landscape Standards

1. A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:
  - (i) One (1) canopy tree
  - (ii) One (1) understory or evergreen tree
  - (iii) Four (4) large shrubs
  - (iv) Two (2) small shrubs
1. A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:
  - (i) Two (2) canopy trees
  - (ii) Three (3) large shrubs and three (3) medium shrubs or a fence or wall at least six (6) feet in height.

### F. Parking Standards

1. To reduce traffic congestion and increase convenience for customers, employees, and residents, development is encouraged to provide direct vehicular connections between abutting parking lots so that motor vehicles can move between properties without re-entering the public street.
2. To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to:
  - (a) Provide only the minimum number of driveways or vehicular entrances to parking lots necessary to accommodate the number of parking spaces provided
  - (b) Share driveways between abutting properties or multiple properties fronting the same street
  - (c) Relocate any existing frontage area parking spaces to the side or rear of buildings.
3. Establishment of a new curb cut on Route 28 or Barnstable Road must consult the Director of Public Works regarding access prior to applying for a state highway access

permit from the Massachusetts Department of Transportation and work with the Town and other authorizing agencies on a transportation access plan prior to site plan approval.

4. New construction, modification of an existing principal building, and the establishment, change, or expansion of any use of real property abutting Engine House Road must provide vehicular access only from the Engine House Road frontage.
5. Parking is highly discouraged within the frontage area and should be limited to a single row of parking stalls and associated drive aisle where necessary.



Table 9. HC Dimensional Standards

LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories (max)	3 max <sup>6</sup>
Lot Coverage	80% max	Building Height	40 ft max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	60' max		
Lots fronting Route 28	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

<sup>6</sup> See 240-24.1.12.C.2(a)

§240-24.1.17 Tables

Table 10. Dimensional Standards Summary Table

	DMS	DV	DN	DH	HH	TC	HC
<b>A. Lot</b>							
Lot Width	30' min	30' min	20' min	50' min	20' min	50' min	50' min
Lot Coverage	100% max	80% max	50% max	100% max	90% max	65% max	80% max
Façade Build Out	--	--	--	--	--	--	--
Primary Frontage	80% min	80% min	--	--	--	--	--
Secondary Frontage	40% min		--	--	--	--	--
<b>B. Setbacks – Principal Building</b>							
Primary Front Setback	0' min 15' max	0' min 15' max	10' min 20' max	20' min	20' min	20' min	60' max
Lots fronting Route 28	--	--	--	--	--	50' min	20' min
Secondary Front Setback	0' min 15' max	0' min 15' max	10' min 20' max	20' min	20' min	20' min	20' min
Side Setback	0' min	0' min	10' min	10' min	10' min	10' min	10' min
Rear Setback	0' min	0' min	20' min	10' min	10' min	10' min	10' min
<b>C. Setbacks - Outbuilding</b>							
Primary Front Setback	--	--	60' min	--	--	--	--
Secondary Front Setback	--	--	--	--	--	--	--
Side Setback	--	--	3' min	--	--	--	--
Rear Setback	--	--	3' min	--	--	--	--
<b>D. Building Form</b>							
Building Width	180' max	120' max	--	--	--	--	--
Number of Stories	--	--	--	--	--	--	--
Principal Building	3.5 or 4 max <sup>7</sup>	3.5 or 4 max <sup>8</sup>	3 max <sup>9</sup>	6 max	2.5 max	3 max	3 max <sup>10</sup>
Outbuilding	--	--	--	--	--	--	--
Ground Story Height	--	--	10' min	--	--	--	--
Commercial	14' min	14' min	--	--	--	--	--
Residential	10' min	10' min	--	--	--	--	--
Upper Story Height	10' min	10' min	10' min	--	--	--	--
Building Height	--	--	--	85' max	35' max <sup>11</sup>	40' max	40' max
<b>E. Building Features</b>							
Ground Story Fenestration	--	--	--	--	--	--	--
Primary Frontage	60% min	15% min	--	--	--	--	--
Secondary Frontage	15% min	15% min	--	--	--	--	--
Upper Story Fenestration	15% min	15% min	--	--	--	--	--
Blank Wall	20' max	20' max	--	--	--	--	--
Commercial Space Depth	20' min	20' min					

<sup>7</sup> See 240-24.1.6.C.6 (4<sup>th</sup> Story Step-back)

<sup>8</sup> See 240-24.1.7.C.4 (4<sup>th</sup> Story Step-back)

<sup>9</sup> See 240-24.1.8.C.2(a)

<sup>10</sup> See 240-24.1.12.C.2(a)

<sup>11</sup> See 240-24.1.10.C.2(a)

Table 11. Frontage Types

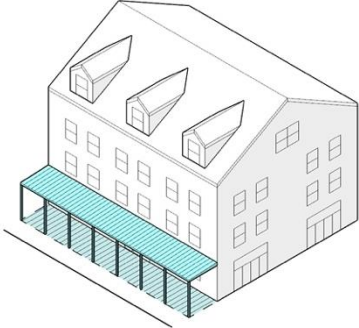
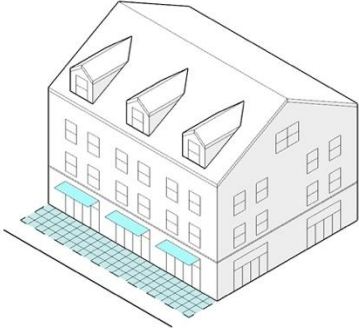
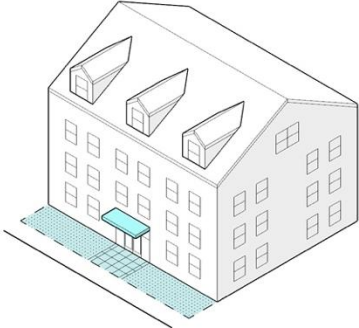
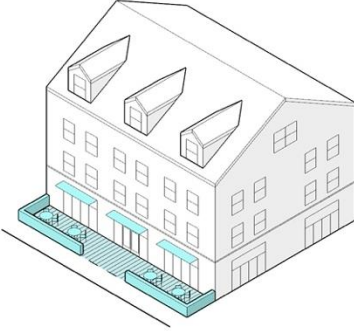
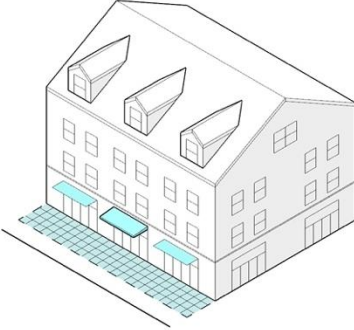
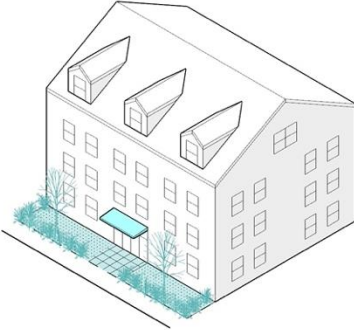
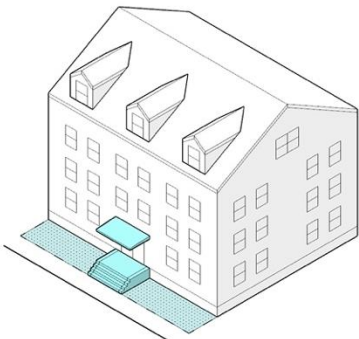
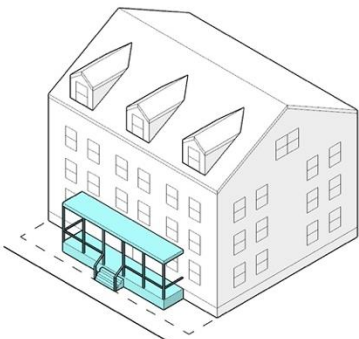
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Gallery</p>  <p>A frontage type consisting of a storefront(s) and an attached colonnade with a roof, open pergola, or balcony overhanging a paved sidewalk. A gallery may wrap around the corner of a building to create a veranda-like gallery.</p>	P	P	N	N/A	P	P	P
<p>Storefront</p>  <p>A frontage type consisting of an assembly of commercial entry doors and display windows providing access and light to a commercial space and a place to display goods, services, and signs.</p>	P	P	N	N/A	P	P	P
<p>Common Lobby</p>  <p>A frontage type consisting of an assembly of entry doors and windows providing access and light to the lobby of a building. A common lobby may be combined with an entry plaza or front garden frontage type.</p>	P	P	N	N/A	P	P	P

Table 11. Frontage Types

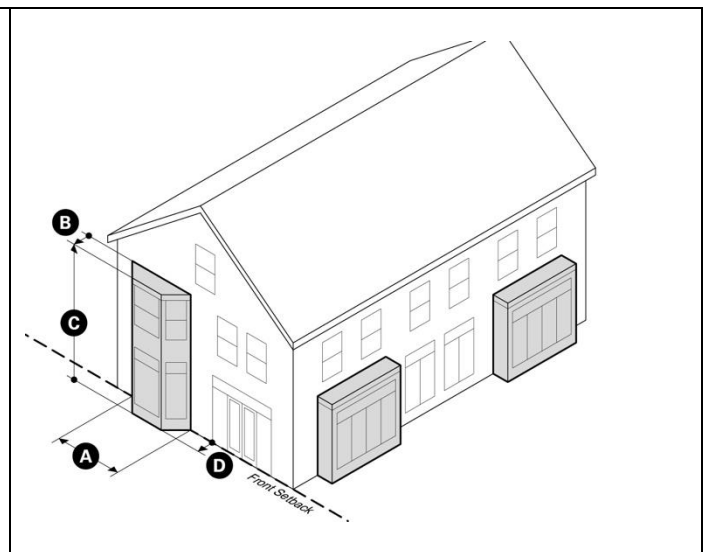
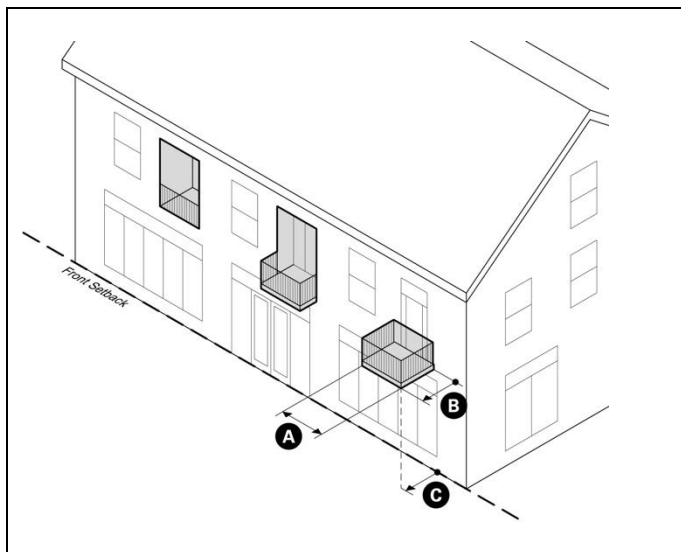
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Dining Patio</p>  <p>A frontage type consisting of a storefront(s) and outdoor café seating in the frontage area.</p>	P	P	N	N/A	P	P	P
<p>Entry Plaza</p>  <p>A frontage type consisting of a storefront(s) and a highly paved frontage area. An entry plaza may be combined with a common lobby frontage type.</p>	P	P	N	N/A	P	P	P
<p>Front Garden</p>  <p>A frontage type consisting of a highly landscaped frontage area. A front garden may be combined with a common lobby, dooryard or stoop, or porch frontage type.</p>	N	P	P	N/A	N	N	N

**Table 11. Frontage Types**

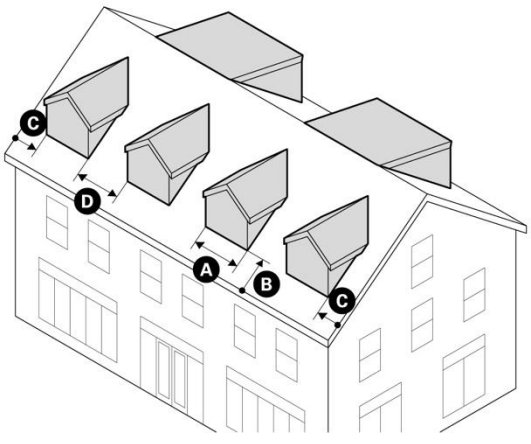
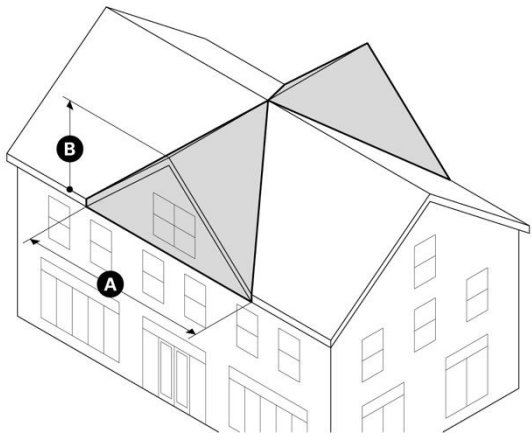
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p><b>Dooryard or Stoop</b></p>  <p>A frontage type consisting of a zero-step entrance or a set of stairs with a landing that provides access to the entrance of a building. A dooryard or stoop may be combined with a front garden frontage type.</p>	N	P	P	N/A	N	N	N
<p><b>Porch</b></p>  <p>A frontage type consisting of a raised platform with a roof supported by columns, piers, or posts; an area for seating; and an optional set of stairs with a landing that provides access to the entrance of a building. A porch may be combined with a front garden frontage type</p>	N	P	P	N/A	N	N	N

**Table 12. Building Components**

A. Balcony	B. Bay or Oriel Window
------------	------------------------



A	Width (min)	5 ft	A	Single Bay Width (max)	16 ft
B	Depth (min)	4 ft		Cumulative Bay Width (max)	50% of the width of the exterior wall from which the bays project
	Area (min)	20 sf	B	Projection (max)	3 ft
C	Front Setback Encroachment (max)	5 ft	C	Stories (max)	Same as the principal building
			D	Front Setback Encroachment (max)	3 ft
	<p>Design Standards:</p> <p>Balconies may attach to any exterior wall of a principal building.</p> <p>Balconies may be recessed, projecting, a combination of the two, or terraced as part of the roof of a permitted building component.</p>			<p>Design Standards:</p> <p>Bays may attach to any exterior wall of a principal building.</p> <p>A bay window may have a flat roof.</p>	

C. Dormer			D. Cross Gable		
					
A	Cumulative Width of all Dormers (max)	50% of the roof eave	A	Width (max)	50% of the roof eave below
B	Exterior Wall Setback (min)	--	B	Height (min)	Equal to the height of the roof of the attached primary massing
	Roof with Eave	0 ft	Design Standards:  The roof ridge of a cross gable must be perpendicular to the main roof ridge of the principal building.  The rakes and ridge of the roof of the cross gable must be structurally integrated into the eave and ridge of roof of the attached primary massing.		
	Roof without Eave	1 ft			
C	Setback from Gable (min)	3 ft			
D	Separation from another Dormer (min)	50% of dormer width			
	Design Standards:  The face wall of a dormer window may not project beyond the exterior wall of the building and may not interrupt the eave of the roof.				

E. Projecting Gable		
A	Width (max)	Equal to the shortest side of the attached primary massing
B	Projection (max)	6 ft
C	Height (min)	Height of Building in Stories
D	Front Setback Encroachment (max)	6 ft
<p>Design Standards:</p> <p>A projecting gable may attach only the façade of a principal building.</p> <p>The roof ridge of a projecting gable must be perpendicular to the main roof ridge of the principal building.</p>		

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

DATE

ACTION TAKEN

03/03/2022

Due to lack of quorum this Item was referred to 03/17/2022

03/17/2022

Referred to Planning Board

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



# BARNSTABLE TOWN COUNCIL

ITEM# 2022-144

INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by repealing the Zoning Districts known as the “Hyannis Village Zoning Districts” and replacing them with revised and updated districts collectively known as the “Downtown Hyannis Zoning Districts”

**RATIONALE:** This item proposes a comprehensive revision of the zoning districts in Downtown Hyannis, replacing the “Hyannis Village Zoning Districts” first adopted in 2005 with seven new districts collectively known as the “Downtown Hyannis Zoning Districts”. The purpose of updating the zoning in Downtown Hyannis is to: address housing goals, including increasing housing supply and diversity in areas with infrastructure and community activity and away from open spaces and areas with critical natural resource value; improve the urban fabric of downtown Hyannis in a manner consistent with its historic and maritime character and existing development patterns; improve the ease of use of the zoning ordinance for the public and for businesses and developers; and to encourage housing production and mixed use development at human-scale density, and create predictable outcomes in urban form.

The subject of these amendments is downtown Hyannis, in an area with the same boundary as the Downtown Hyannis Growth Incentive Zone (GIZ) and the existing “Hyannis Village Zoning Districts”. This area is currently served by public sewer and water. Hyannis is the regional commercial and transportation hub of the Cape. Achieving a greater density of jobs and housing within the GIZ supports the community’s vision of a vibrant, livable, mixed-use, walkable regional center. Compact housing options within buildings that respond to Hyannis’ unique character can support a mix of housing choices for all ages and incomes while encouraging healthier and more sustainable lifestyles.

These proposed amendments are supported by past planning initiatives including the 2010 Local Comprehensive Plan, the 2016 Housing Production Plan (HPP), and the 2018 Growth Incentive Zone Strategic Plan (GIZ). All of these plans encourage new investment in areas with infrastructure and community and business activity, promoting infill and redevelopment over the development of open spaces and sensitive natural resources. The HPP and the GIZ specifically recognize that zoning changes are necessary to achieve housing and revitalizations goals.

### *Existing Conditions*

The GIZ and the current zoning districts provide some opportunity for streamlined permitting and as-of-right multi-family development, but the regulatory structure has not been effective in broadly attracting residential development to the area. In the first 10 years of the initial GIZ designation, only 110 new residential units were built. The residential densities allowed by zoning do not respond to the high costs of land and construction. Requiring a developer to permit projects through a lengthy and unpredictable process only further increases project costs. This dis-incentivizes investment and raises the costs of housing in projects that do move forward.

Additionally, the current conventional methods of zoning do not adequately address most physical characteristics that contribute to the sense of place or sufficiently address the aesthetic character of our community. An examination of the property in the GIZ shows a diversity of lot sizes that range from small residential lots around 4,000 square feet to large commercial lots upwards of 70,000 square feet. This condition makes current multi-family residential standards that use ratio-based zoning metrics (dwelling units/acre) problematic, unaligned with housing goals; unintended consequences result, such as regulatory agreement review for small housing projects.

### *Background & Study*

The focus of this effort is to create a predictable regulatory framework that encourages compact residential development, compatible with traditional development patterns, meeting a range of housing needs. The proposed zoning revisions benefit from input received during the Community Resiliency by Design process. This process studied ways to address the need for additional housing options while also respecting the existing historic and maritime character of downtown Hyannis. This report considered community input on preferred types and styles of building massing, scale, character, and composition and considered the unique land use patterns in Hyannis. It presented a framework for revitalization and increased housing supply that included strategies such as retrofitting existing structures (including top-of-shop housing and conversion of underutilized space), redeveloping underutilized property, and infilling underutilized lots.

This zoning amendment is also supported by the Cape Cod Commission's Form Based Code Framework which advocates for the use of form-based and hybrid zoning to help deliver context-appropriate densities in forms that respect existing historic development patterns.

### *Summary of Proposed Zoning Ordinance*

The proposed zoning is organized into six (6) sections. The 'Title' and 'General Provisions' sections introduce the ordinance and designates the Planning Board as the Special Permit Granting Authority. The 'Definitions' section provides direction on the meaning of terms used to regulate uses, dimensional and building standards, and landscape materials. The section 'Standards for All Districts' includes the use table (establishing permitted, prohibited, and special permit uses); parking standards; and landscaping, lighting, access, and surface parking lot standards. Next are 'Standards for Specific Districts' which include dimensional requirements, building standards, use standards, and site standards specific to each of the seven (7) districts proposed to be established. Finally, in 'Tables' there is a summary dimensional table and standards for frontage types and building components.

### *Districts*

The Downtown Main Street and Downtown Village districts incorporate new "form-based" standards, in addition to regulating land uses.

- The Downtown Main Street (DMS) district seeks to maintain, reinforce, and extend the character and mixed use development pattern of Main Street. Active ground floor commercial use on Main Street between Ocean Street and Sea Street continue to be required. In addition to setback requirements, new form standards include standards to build out a percentage of the lots primary and secondary frontage, modified fenestration requirements, standards for story height (ground and upper), and roof pitch. Building height in this district is proposed to increase from three (3) stories to three and a half (3.5) stories or four stories, if that story is recessed at least eight (8) feet to limit its visibility.
- The Downtown Village district encompasses areas immediately north and east of the Main Street, formerly zoned "Office/Multi-Family" and "Medical Services". This district also incorporates the new form-based standards outlined above, ensuring future buildings are pulled up to the street and parking areas are set back, and allows for the same height/number of stories in the DMS; building massing standards (frontage buildout and setbacks) are reduced from the DMS in this transitional district.

A wide range of commercial uses are proposed to be permitted in both the DMS and DV Districts, with the limitation that any one commercial use that exceeds 5,000 square feet requires a special permit.

The remaining five districts remain largely consistent with the provision in the current zoning ordinance.

- The Downtown Neighborhood District (formerly Single Family) maintains the same use requirements, but now permits two-family dwellings on South Street, Ridgewood Street, and Spring Street.
- The Downtown Hospital District consolidates the provisions called out specifically for the regional hospital formerly in the Medical Services District in the current zoning into one district. Development in this district is exempt from a number of site standards in recognition of the specific use and development type.
- The Hyannis Harbor District is limited to parcels south of South Street and maintains most current use and dimensional standards. Multi-family residential use is allowed, and the marine supportive uses continued to be allowed, with the exception of boat storage as a principal use.
- The Transportation District maintains its purpose of supporting regional transportation-related uses.

- Multi-family use is proposed to be permitted, in support of potential transit-oriented development.
- The Highway Commercial District consolidates the two current districts along Route 28 and includes new dimensional requirements and enhanced landscaping requirements.

In all districts, landscaping and landscape buffer standards are enhanced, with new requirements for number and size of required plant materials to enhance streetscapes and screening between commercial and residential uses.

#### *Parking*

The proposed ordinance defines parking requirements for each category of permitted use in each zoning district. Shared parking is encouraged and flexibility in meeting requirements is promoted through the availability of special permit relief. Parking requirements in the DMS only are reduced to zero for retail, service, and food service uses in recognition of the built-out conditions of Main Street and availability of public parking. All other districts maintain traditional parking requirements for all uses. Parking requirements for dwelling units is proposed to be a minimum of one space per unit.

The Downtown Hyannis Parking Study and Hyannis Growth Incentive Zone strategic plan emphasize the importance of encouraging shared parking downtown. When land uses with different parking demands share parking, it allows for more housing at a lower cost, requires less land be dedicated to parking, and reduces impervious surface. The proposed parking requirements for multi-family residential dwellings (one space per unit) are minimums consistent with the Commonwealth's Housing Choice efforts that seek to encourage new housing production, and, support the viability of top-of-shop and small scale infill development.

#### *Hyannis Parking Overlay District*

This proposed amendment repeals the Hyannis Parking Overlay District, an overlay district established to address zoning for commercial parking lots. This zoning ordinance was appealed and struck down in Land Court on procedural grounds. This amendment accomplishes the necessary housekeeping associated with that ruling.

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

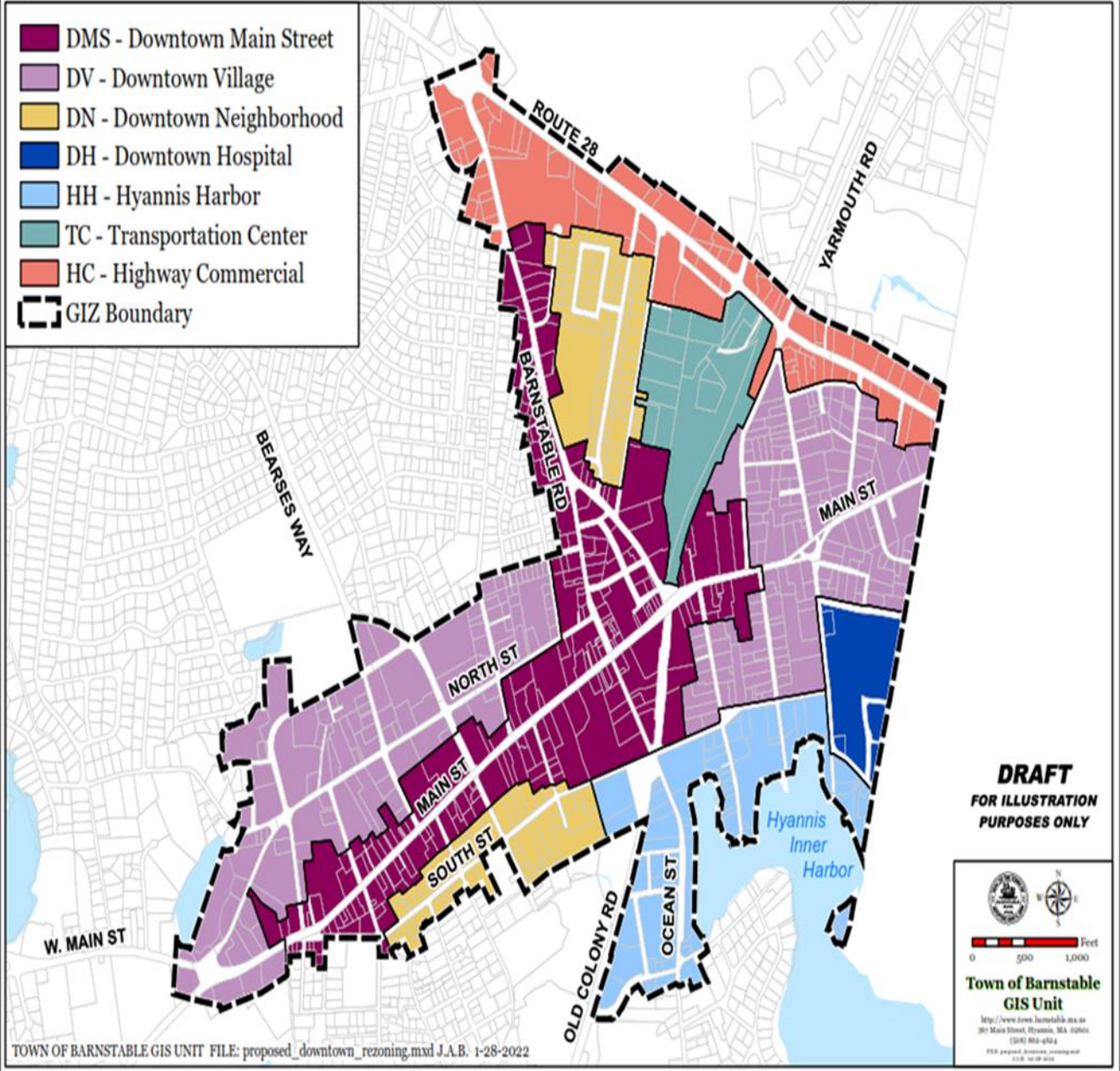
**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

**STAFF SUPPORT:** Elizabeth Jenkins, Director, Planning & Development; Kate Maldonado, Assistant Director, Planning & Development; Gloria McPherson, Planning & Economic Development Coordinator; Jim Kupfer, Senior Planner; Ryan Bennett, Housing Coordinator; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Kate Connolly, Assistant Town Attorney



# Downtown Hyannis Zoning Districts

January 21, 2022



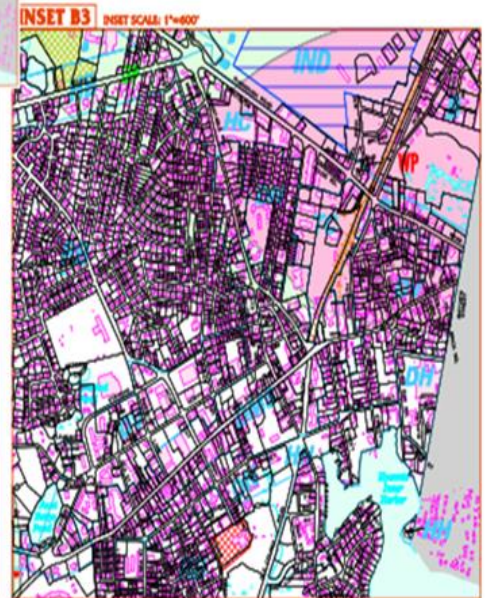
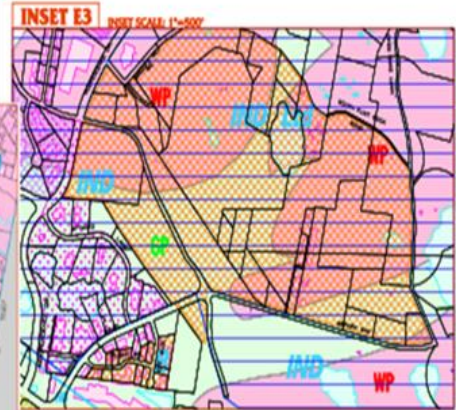
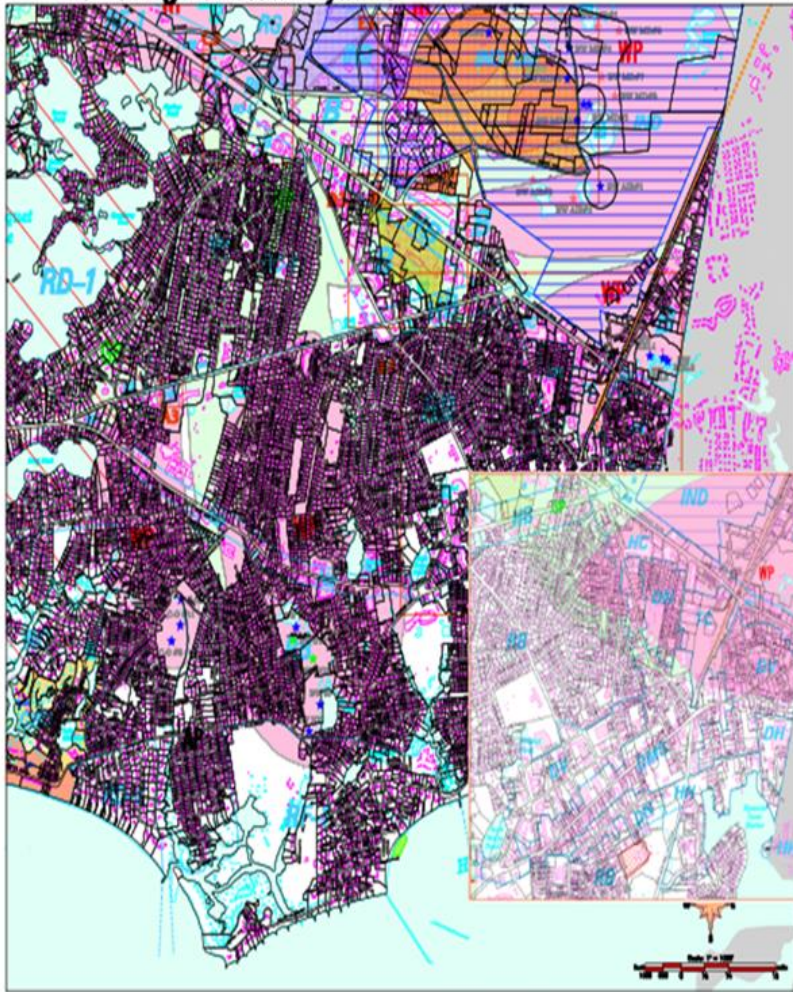




# PROPOSED AMENDMENT to the HYANNIS ZONING MAP Re-Zoning Downtown Hyannis

JANUARY 21, 2023

HYANNIS - SHEET 3 OF 7



Map Legend	
	Existing District
	Walden Protection Overlay District
	Crosswater Protection Overlay District
	Agulhas Protection Overlay District
	Adult Use Overlay District
	Deck and Pier Overlay District
	Former Grade II School Planned Unit Development Overlay District
	Medical Services Overlay District
	Seawater Protection Overlay District
	Shopping Center Redevelopment Overlay District
	Strip Through Redevelopment Sub-Zone of the Shopping Center Redevelopment Overlay District
	Senior Centering Care Treatment Community - RC0200 2006-1
	Recreational Buffer/Air and Shellfish Safety Area Zone 1, Pier Overlay District
	General Nonresidential Professional Overlay District
	Medical Marijuana Overlay District
	Ortipella Village Neighborhood Overlay
	Long / Short Beach Neighborhood Overlay
	Ortipella Beach Neighborhood Overlay
	Generally Slow North Beach Neighborhood Overlay
	Existing Public Vial Site
	Former Future Public Vial Site
	Proposed Future Public Vial Site
	Permit Lines (FY 2022)
	Buildings
	Railroad Track
	Town Boundary Line
	Marsh Area
	Stream / Edge of Water
	Casualty Bay



HYANNIS ZONING MAP - SHEET 3 OF 7

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-145**

**INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022**

**2022-145 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY AMENDING ARTICLE VII SIGN REGULATIONS**

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

**SECTION 1**

By amending Article VII, Section 240-64 as follows:

- A. By striking the words “Signs in Medical Services District” from the section heading and inserting “**Signs in Downtown Hospital District**” in their place.
- B. In subsection A, by striking the words “in a professional residential zone”, so that the revised Section shall read:
  - “§ 240-64 **Signs in Downtown Hospital District.**
  - A. One sign giving the name of the occupant or other identification of a permitted use may be permitted. Such signs shall be no more than 12 square feet in area and shall not extend more than eight feet above the ground.
- C. Any illuminated sign must comply with the provisions of § **240-63** herein.”

**SECTION 2**

By amending Article VII, Section 240-65 by adding the word “and” after “S&D,” in the section heading and striking “and GM”, so that the revised section heading shall read:

“§ 240-65 **Signs in B, UB, HB, HO, S&D, and SD-1 Districts.**”

**SECTION 3**

By amending Article VII, Section 240-67 by striking “OM, HG, TD” from the section heading and inserting “HC, TC” in their place, so that the revised section heading shall read:

“§240-67 **Signs in CVD, HC, TC, VB-A, WBVBD and MMV Districts.**”

**SECTION 4**

By amending Article VII, Section 240-68 by striking “HD” from the section heading and inserting “HH” in its place, so that the revised section heading shall read:

“§ 240-68 **Signs in MB-A1, MB-A2, MB-B and HH Districts.**”

**SECTION 5**

- A. By amending Article VII, Section 240-71 by striking “HVB” from the section heading and inserting “DMS” in its place, so that the revised section heading shall read:

**“§ 240-71 Signs DMS District.”**

- B. By amending Article VII, Section 240-71, Subsection A by inserting after the words “eight feet” the phrase “, except that the Building Commissioner may allow signs up to 14 feet in height on buildings if he finds that such height is necessary for the façade and is compatible with the appearance, scale and character of the area”, so that the revised Subsection shall read:

“The maximum allowable height of all signs on buildings shall be 12 feet, and the maximum height of a freestanding sign shall be eight feet, except that the Building Commissioner may allow signs up to 14 feet in height on buildings if he finds that such height is necessary for the façade and is compatible with the appearance, scale and character of the area.”

- C. By amending Article VII, Section 240-71, Subsection D by striking the words “HVB Business” and inserting in their place “DMS” so that the revised Subsection shall read:

“Temporary street banners may be permitted in the DMS District only, for the purpose of informing the general public of community events and activities, with approval of the Town Manager. Street banners shall be hung in prescribed locations, securely fastened to buildings, maintain a minimum height of 16 feet above the street, be constructed of durable materials, used solely for community events in the district, and remain in place for no more than three weeks prior to the event and be removed within one week after the event.”

**SECTION 6**

By amending Article VII by adding the following new Section 240-71.1:

**“§ 240-71.1 Signs in Downtown Village (DV) District.**

- A. Each business establishment may be allowed a maximum of two signs. The allowed signage types are: wall signs; projecting signs, which may be double sided and considered a single sign; and signage as part of a freestanding sign serving businesses on the lot.
- B. One freestanding sign may be allowed on a lot. A freestanding sign may contain signage for multiple businesses on the lot.
- C. The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade that contains the establishment's primary customer entrance or 32 square feet, whichever is the lesser amount.
- D. The total area of a wall sign shall not exceed 24 square feet.
- E. The total area of a projecting sign shall not exceed 15 square feet.
- F. The maximum height of any freestanding sign shall not exceed 8 feet in height and 12 square feet in area, except that the Building Commissioner may allow signs to be up to 24 square feet in area if the sign will include more than one business establishment and it is determined that the additional area 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.
- G. Any illuminated sign must comply with the provisions of § 240-63 herein.”



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

DATE	ACTION TAKEN
<u>03/03/2022</u>	<u>Due to lack of quorum this Item was referred to 03/17/2022</u>
<u>03/17/2022</u>	<u>Referred to Planning Board</u>
<u>11/03/2022</u>	<u>Due to lack of quorum this Item was referred to 12/01/2022</u>

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-145

INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article VII Sign Regulations to amend regulations to be consistent with proposed new district regulations

**RATIONALE:** This item is a companion to Item 2022-144 which comprehensively updates the zoning regulations within the area designated as the Downtown Hyannis Growth Incentive Zone. The zoning amendments proposed create seven new zoning districts. This item updates the signage regulations in Article VII of the Zoning Code to reflect the proposed new district names. The allowable size, number, and height of signs in most cases is not proposed to be altered. For the consolidated Hyannis Gateway and Gateway Medical Districts, proposed as Highway Commercial, the more generous signage allow was incorporated. For the new Downtown Village District, provisions of the former districts were combined and redrafted with the intent of allowing appropriate signage for the wide variety of business and commercial properties, but respecting the smaller scale of many of the lots.

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

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

**STAFF SUPPORT:** Elizabeth Jenkins, Director of Planning & Development; Kate Maldonado, Assistant Director of Planning & Development; Gloria McPherson, Planning & Economic Development Coordinator; Karen Nober, Town Attorney; Kate Connolly, Assistant Town Attorney

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2022-146**

**INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022**

**2022-146 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY MOVING AND RENUMBERING SECTION 240-122.1 REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES INTO A NEW OVERLAY ZONING DISTRICT AND REPEALING SECTIONS 240-129 AND 240-129.1 EXPIRED TEMPORARY MORATORIAM FOR MARIJUANA USES**

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

**SECTION 1**

By amending the Zoning Map of Barnstable, Mass., dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add a Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District
- Proposed Amendment to the Hyannis Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District

**SECTION 2**

By amending Article II, Section 240-5, Establishment of districts, by inserting “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District” immediately below the “Medical Marijuana Overlay District” as it appears under the heading “Overlay Districts”.

**SECTION 3**

- C. By striking the words “Article XII. Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories” and inserting “Article XII. (Reserved)” in their place.
- D. By moving Section 240-122.1, Registered recreational marijuana cultivators, research facilities and testing laboratories, in its entirety from Article XII to Article III and inserting and renumbering said section as Section 240-31.

**SECTION 4**

By amending said Article III, Chapter 240-31 as follows:

- A. In Subsection A(1), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(1) shall read:

“Purpose. To provide for the location of registered recreational marijuana cultivators, research facilities and independent testing laboratories, as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of marijuana Act. M.G.L. c.94C, App. § 1-1, et. seq., as amended by Chapter 55 of the Acts of 2017, M.G.L. c.94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, and Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of marijuana, in locations within the Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District suitable for lawful marijuana cultivation, research and Independent Testing and to minimize adverse impacts of marijuana cultivation, research facilities and independent

testing laboratories on adjacent properties, residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of marijuana cultivators, research facilities and independent testing laboratories.”

- B. By amending Subsection A (3) by striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”.
- C. By further amending Subsection A(3) by striking out the words “and § 240-24.1.2E”, so that revised Section 240-31 A(3) shall read:

“Use. Within the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, a licensed marijuana cultivator, research facility or independent testing laboratory may be permitted as a conditional use, provided a special permit is first obtained from the Planning Board. All special permits granted under this article shall be subject to the provisions of § 240-125C herein and subject to all additional standards and conditions of this article.”

- D. In Subsection A(4), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(4) shall read:

“Prohibition of all other non-medical marijuana establishments. Except for licensed marijuana cultivators, research facilities and independent testing laboratories permitted as a conditional use in the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, subject to all the requirements of this article, all other types of non-medical "marijuana establishments" as defined in M.G.L. c.94G § 1, including marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses are prohibited.”

- E. In Subsection G, striking out “Article XII, § 240-122.1,” and substituting in its place “Article **III**, § **240-31**” so that revised Section 240-31 G shall read:

“Severability. The provisions of Article **III**, § **240-31**, are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.”

#### **SECTION 4**

By deleting Article XIV, Section 240-129 in its entirety.

#### **SECTION 5**

By deleting Article XIV, Section 240-129.1 in its entirety.

#### **SPONSOR:**

<b>DATE</b>	<b>ACTION TAKEN</b>
<u>03/03/2022</u>	<u>Due to lack of quorum this Item was referred to 03/17/2022</u>
<u>03/17/2022</u>	<u>Referred to Planning Board</u>
<u>11/03/2022</u>	<u>Due to lack of quorum this Item was referred to 12/01/2022</u>

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-146

INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth S. Jenkins, Planning & Development Director  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by moving and renumbering section 240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories into a new overlay Zoning District and repealing sections 240-129 and 240-129.1 expired temporary moratorium for Marijuana uses

**RATIONALE:** This proposed zoning ordinance amendment is a corollary amendment to the proposed new Downtown Hyannis Zoning.

Adult use registered recreational marijuana cultivators, research facilities, and testing laboratories are currently allowed within the Medical Services (MS) Zoning District and the Gateway Medical (GM) Zoning District. The new Downtown Hyannis Zoning will create a total of seven zoning districts, where there are currently eight, and the boundaries of the MS and GM Zoning Districts will be changed with the redrawing of the zoning district lines.

In order to maintain the current configuration and extent of the allowed recreational marijuana uses, we have created an overlay district that mirrors the current MS and GM zoning districts. By doing so, every lot that currently allows for recreational marijuana uses will continue to do so, and every lot that currently does not allow for recreational marijuana uses will continue to not allow them.

There are no changes proposed to the current allowed location of recreational marijuana uses; there are no changes proposed to the recreational marijuana use regulations themselves.

There is also a corollary zoning map amendment, which shows the new “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay Zoning District.”

This amendment also repeals two expired temporary zoning moratoria on marijuana uses. Section 240-129 was a temporary moratorium on medical marijuana treatment centers. This moratorium expired on January 1, 2014. Section 240-129.1 was a temporary moratorium on recreational marijuana establishments and marijuana retailers. This moratorium expired on December 31, 2018.

Collectively, these amendments clean up and consolidate all provisions related to recreational adult-use marijuana and medical marijuana and make them consistent with the proposed new Downtown Hyannis Zoning without changing any of the current regulatory provisions.

**STAFF ASSISTANCE:** Gloria McPherson, Planning & Economic Development Coordinator; Kate Connolly, Assistant Town Attorney

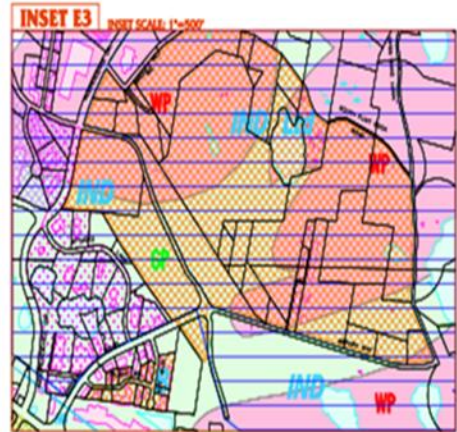
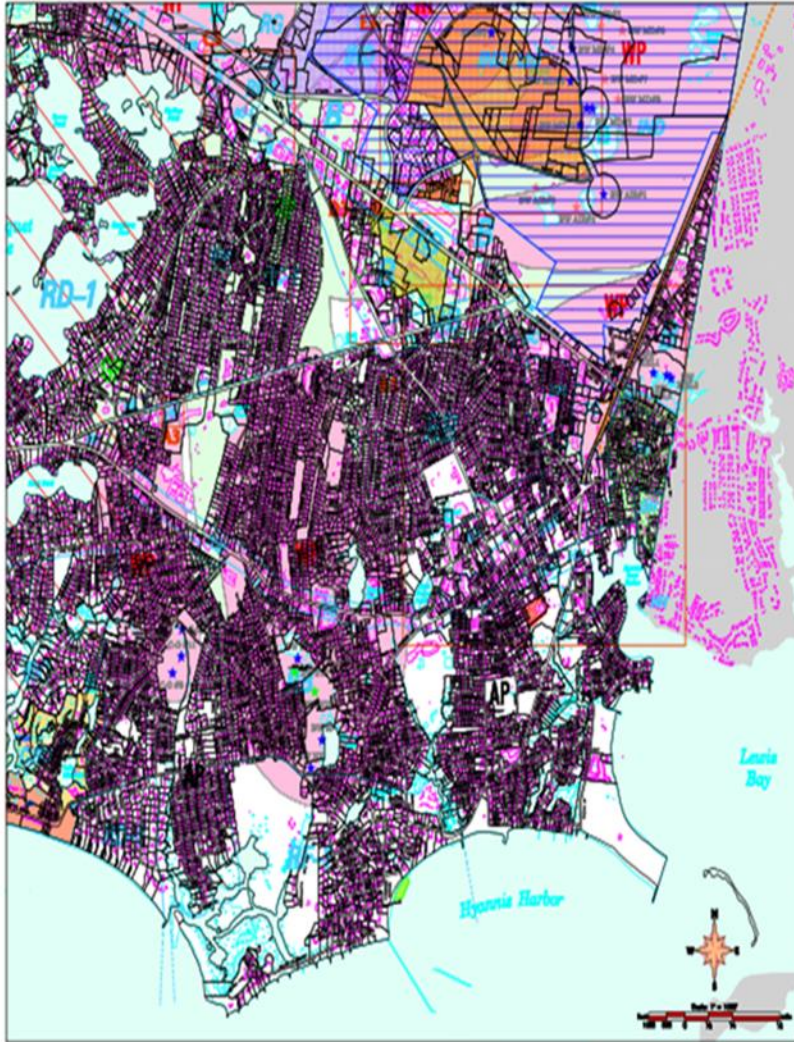




**PROPOSED AMENDMENT to the HYANNIS ZONING MAP Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District**

JANUARY 21, 2023

HYANNIS - SHEET 3 OF 7



**Map Legend**

Existing District	Long / Short Beach Neighborhood Overlay
Wetland Protection Overlay District	Outer Cape Beach Neighborhood Overlay
Groundwater Protection Overlay District	Outer Cape New North Beach Neighborhood Overlay
Aquifer Protection Overlay District	Existing Public Vial Site
<b>AP</b>	Future Future Public Vial Site
<b>Adult Use Overlay District</b>	Proposed Future Public Vial Site
Dock and Pier Overlay District	Fossil Lines (FY 2022)
Future Goals 3 School Planned Use Development Overlay District	Railroad
Medical Services Overlay District	Railroad Track
Seawater Protection Overlay District	Town Boundary Line
Shopping Center Redevelopment Overlay District	Marsh Area
State Through Transport Sub-Zone of the Shopping Center Redevelopment Overlay Dist.	Stream / Edge of Water
Senior Continuing Care Retirement Community - R/C/CCOD 2006-I	
International Shopping Area and Shopping Valley Area Small L Use Overlay District	
Coastal Residential Solar Photovoltaic Overlay District	
Medical Marijuana Overlay District	
Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District	
Outer Cape Village Neighborhood Overlay	

ALL USES OF THESE MAPS ARE SUBJECT TO THE TOWN OF HYANNIS ZONING MAP. THIS MAP IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE TOWN OF HYANNIS.

Map uses are subject to change without notice. The Town of Hyannis reserves the right to amend this map at any time without notice. The Town of Hyannis is not responsible for any errors or omissions in this map.



MAP 21-000000-01A 000 100 Hyannis\_proposed\_Zoning\_Map\_Sheet\_3\_of\_7 1/21/2023

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-023**  
**INTRO: 09/01/2022, 12/01/2022**

**2023-023 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, ARTICLE III, §240-39 BY REPEALING AND REPLACING THE SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT**

ORDERED: That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning, Article III, § 240-39 Shopping Center Redevelopment Overlay District be amended by deleting § 240-39 in its entirety and inserting the following new § 240-39 in its place:

“§ 240-39. Shopping Center Redevelopment Overlay District.

A. Purposes.

The purpose of this § 240-39 is to permit the renovation and redevelopment of a large-scale integrated retail shopping and mixed-use center on a large site with convenient highway access. The Shopping Center Redevelopment Overlay District is established as a special district which overlays another nonresidential zoning district or districts (including a Groundwater Protection Overlay District).

The Shopping Center Redevelopment Overlay District permits the redevelopment and expansion of a shopping center subject to the specific regulations and requirements contained in this § 240-39. If there is an inconsistency between the provisions of this Overlay District Section 240-39 and the underlying zoning district, even where the Overlay District provisions are less stringent than provisions of the underlying zoning district, the provisions of this Overlay District section 240-39 shall govern. The regulations of this § 240-39 relating to use, building and lot dimensions, development intensity, parking, signage and advisory site plan review shall apply only to a regional shopping center, and not to any other use that is allowed or permitted in the underlying zoning district.

The provisions of this § 240-39 are designed to assure that all development activities associated with a regional shopping center will be carried out so as to provide for and maintain:

Protection of neighboring properties against harmful effects of uses on the development site;

Protection of neighboring properties against harmful effects of uses on the development site;

Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;

Satisfactory methods of stormwater management and groundwater recharge shall be provided with due regard to the protection of the Town's groundwater resources;

Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishments on the development site;



Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishments on the development site;

Adequate off-street parking and traffic mitigation measures that will enhance the efficiency of the transportation system taking into consideration the overall Town traffic needs.

Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site; and

Attractive and functional design with due regard to the existing conditions of the development site and the use thereof for a regional shopping center, in order to promote the interests of the community.

B. Location. The boundary of the Shopping Center Redevelopment Overlay District is shown on a map of land entitled "Shopping Center Redevelopment Overlay Zoning District" filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this chapter.

C. Relationship to underlying districts and regulations.

(1) The Shopping Center Redevelopment Overlay District shall overlay all underlying districts so that any parcel of land lying in a Shopping Center Redevelopment Overlay District shall also lie in the zoning district or districts in which it is otherwise classified by this chapter.

(2) All regulations of the underlying zoning district(s) shall apply within the Shopping Center Redevelopment Overlay District to the extent that they are not inconsistent with the specific provisions of this § 240-39. To the extent the provisions of this § 240-39 are in conflict with or are inconsistent with other provisions of this chapter, the provisions of this § 240-39 shall govern and prevail even if such other provisions are more restrictive than those set forth in this § 240-39.

D. Definitions. The following definitions shall be applicable to land and its use within the Shopping Center Redevelopment Overlay District:

**ADVISORY SITE PLAN REVIEW** - The process set forth in § 240-39L of this chapter, and shall not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto.

**AMUSEMENT USES** -The principal use of stores or common areas in a regional shopping center for the operation of a coin-operated video arcade, game room, indoor playground, bowling alley or similar use (but restaurant and theater uses and amusement uses that are accessory to retail uses shall not constitute amusement uses).

**GROSS FLOOR AREA** - The meaning set forth in § 240-128 of this chapter.

**GROSS LEASABLE AREA** - Gross floor area, exclusive of mall areas, stairs, escalators, elevators, utility, storage and equipment rooms, mall offices, exit and service corridors, toilet rooms, maintenance areas, and mezzanine areas not used for the public sale or display of goods or services.

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

**INITIAL REDEVELOPMENT** The expansion of existing improvements within the Shopping Center Redevelopment Overlay District which increases the gross floor area of all buildings within the district above that which is in existence on January 1, 1996, by 50,000 square feet of gross floor area or more in the aggregate pursuant to a special permit issued under § 240-39N hereof. 12

**MEZZANINE(S)** - An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than 10% of the gross floor area of the store or area of the building in which the level or levels are located. Mezzanines which are not used for the public sale or display of goods shall not be treated as an additional story for purposes of calculating maximum building height. Mezzanine space may be used for storage and for backroom office functions incident to the operation of gross floor area within the regional shopping center, but shall not be rented for such purposes to persons not operating gross floor area within the regional shopping center. Mezzanines which are used for the public sale or display of goods shall be treated as gross leasable area.

**MULTIFAMILY DWELLING** - A structure containing three or more dwelling units offered for sale or rent, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the families residing there.

**OFFICE** – Includes professional, business, dental and/or medical offices, which are defined as a room, or group of rooms used for conducting the affairs of a business, service industry, or government entity.

**REDEVELOPMENT AREA** - Land within the boundaries of the Shopping Center Redevelopment Overlay District, which is used or proposed for use as part of a regional shopping center, and encompassing one or more individual lots on which the regional shopping center will be situated.

**REGIONAL SHOPPING CENTER** - A concentration of stores and establishments devoted to retail shopping center uses and amusement uses including an enclosed structure (which may consist of several buildings) containing a total of not less than 500,000 square feet of gross floor area and located on a redevelopment area, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. A regional shopping center may also contain offices, hotels, and multifamily dwellings. A regional shopping center may consist of one or more lots and one or more buildings under separate ownership provided that:

- (1) The lots and buildings are subject to an operating agreement or leasehold arrangements, provided that the areas used in common, including the central enclosed mall area, the parking structures and the exterior parking and circulation areas, will be under integrated management; and
- (2) The separate lots and buildings are developed with a unified approach to architectural and landscape design, pedestrian ingress and egress, parking, truck loading, vehicular entrances and exits, drainage, groundwater recharge and utilities.

**RETAIL SHOPPING CENTER USES** — A concentration of retail stores and service establishments, including restaurants, movie theaters and such other uses as are customarily found in a regional shopping center, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. Retail shopping center uses may include one area devoted to outdoor, tent-type sales of home and garden goods, provided that any such area is operated incident to a retail store having not less than 40,000 square feet of gross floor area and occupies not more than 5,000 square feet of area.

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12 Editor's Note: The former definition of "major store," which immediately followed this definition, was repealed  
1-17-2019 by Order No. 2019-064.

E. Application of requirements.

- (1) A redevelopment area may consist of more than a single building lot, and in such event the requirements of this chapter shall not be applied to individual building lots, but shall be applied to the entire redevelopment area as if the redevelopment area were a single building lot notwithstanding the fact that the building lots within the redevelopment area may be in different ownership.
- (2) The regional shopping center and other improvements within the redevelopment area may be developed in phases and may be developed and occupied under one or more building permits and occupancy permits.
- (3) The provisions of this § 240-39 shall not apply to any expansion of existing improvements within the Shopping Center Redevelopment Overlay District until the exercise of rights under a special permit issued under § 240-39N with respect to the initial redevelopment, and any such expansion which does not constitute the initial redevelopment shall be subject to all of the requirements of the underlying zoning district(s) including, without limitation, the requirement of a special permit for certain uses and structures within the district. Following the exercise of rights under a special permit issued under § 240-39N with respect to the initial redevelopment, this § 240-39 shall apply to all improvements thereafter constructed within the Shopping Center Redevelopment Overlay District.

F. Permitted and prohibited uses.

The following uses are permitted by right in the Shopping Center Redevelopment Overlay District:

Retail Shopping Center Uses.

Office.

Hotels.

Multifamily Dwellings.

Amusement uses, provided that no more than 75,000 square feet of gross leasable area in a regional shopping center shall be devoted to amusement uses unless a special permit is issued therefor by the Zoning Board of Appeals.

- (2) The following uses are prohibited in the Shopping Center Redevelopment Overlay District:
  - (a) All uses prohibited in § 240-35F (2) [GP Groundwater Protection Overlay District] of this chapter.
  - (b) Parking and/or storage of transport vehicles for fuel, including but not limited to oil, coal and gas.
  - (c) Parking and/or storage of transport vehicles for toxic and/or hazardous substances.
  - (d) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the underlying Highway Business District, subject to the special permit provisions of § 240-39N and a drive-through restaurant may be permitted only on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone" as shown on the map entitled "Shopping Center Redevelopment Overlay District Amendment,"<sup>13</sup> dated February 20, 2015, subject to the special permit provisions of § 240-39N.
  - (e) Gasoline and oil filling stations.

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<sup>13</sup> Editor's Note: The map is on file in the office of the Town Clerk.

(f) Casinos and other gambling establishments (other than the incidental sale of lottery tickets as part of a use otherwise permitted in the Shopping Center Overlay District).

G. Bulk and dimensional regulations.

(1) Land located within the Shopping Center Redevelopment Overlay District and used for a regional shopping center shall be subject to the dimensional controls set forth below:

- (a) Minimum area of redevelopment area: 50 acres.
- (b) Minimum lot size (individual building lots): none.
- (c) Minimum lot frontage (individual building lots): 20 feet.
- (d) Minimum side, front and rear yards (other than at the perimeter of the redevelopment area): none.
- (e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet.

[1] One hundred feet along Iyannough Road/Route 132 Road except 50 feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone."

[2] Within 100 feet of Route 28/Falmouth Road, the minimum setback shall be 20 feet, but there shall be a maximum setback of 50 feet.

- (f) Minimum side and rear yards (at perimeter of redevelopment area): 30 feet.
- (g) Maximum lot coverage as percentage of lot area of redevelopment area: 50%.
- (h) Maximum building height:

The maximum building height for retail shopping center uses shall be 42.5 feet or two stories, whichever is lesser.

The maximum building height for hotel and multifamily dwelling uses shall be 55 feet or four stories, whichever is lesser.

The maximum building height may be increased by special permit issued by the Zoning Board of Appeals under § 240-39N.

(2) Except as specifically stated to the contrary in Subsection G(1), the bulk and dimensional requirements set forth therein shall be applied to a redevelopment lot as if it were one lot, even though it may be comprised of several lots in different ownerships. More than one building may be located on a single lot within the Shopping Center Redevelopment Overlay District.

(3) Skylights, mechanical penthouses, rooftop mechanical features, and architectural features not designed for human occupancy (collectively, the "special features") shall be excluded in determining the height of any building within a regional shopping center. However, in no case shall such special features exceed ten (10) feet above the height of the building absent special permit relief issued pursuant to § 240-39N.

H. Maximum increase in gross leasable area. Retail shopping center uses within a regional shopping center shall not exceed 1,200,000 square feet of gross floor area within the redevelopment area, measured on an aggregate basis, unless the Zoning Board of Appeals has issued a special permit in accordance with the provisions of this § 240-39N. The maximum gross floor area of 1,200,000 square feet set forth above shall be reduced by 20,000 square feet of gross floor area for every acre by which the total area of the redevelopment area is less than 59 acres. For purposes of this § 240-39, the floor area of parking structures shall not be treated as gross floor area or gross leasable area.

I. Limitation on impervious surfaces; outdoor recreational areas; buffer strip landscaping.

(1) Impervious Surfaces. No more than 70% of the total redevelopment area shall be rendered impervious by the installation of buildings, structures and paved surfaces, measured on an aggregate basis, unless groundwater mitigation land is provided at a one-to-one ratio for any overage of impervious cover in the redevelopment area. Groundwater mitigation land shall mean land located within the same or a more restrictive Groundwater Protection District in a zone of contribution to the well fields operated as of January 1, 1996 by the Barnstable Water Company and/or the Barnstable Fire District which land is permanently restricted by or on behalf of the owners of the redevelopment area to be left in an open and natural state. However, even with the dedication of groundwater mitigation land, no more than 82.7% of the total redevelopment area shall be so rendered impervious. Rooftop and surface water drainage systems shall be designed and maintained in accordance with the standards set forth in § 240-39L(4)(j). For purposes of this § 240-39I, roadways (other than interior access drives) built in accordance with municipal specifications (as the same may be modified or waived by the Planning Board) and used as public way(s) or private way(s) shall not be treated as impervious surfaces and shall not be treated as part of the area of the district for purpose of such calculation.

(2) Outdoor Recreational Areas. Any new development or redevelopment within the Shopping Center Redevelopment Overlay District that proposes a hotel or multi-family use shall include an outdoor recreational area for use by hotel guests or multi-family residents and visitors. Outdoor recreational areas should consist of a contiguous space containing a minimum width of 15 feet and a minimum tree canopy of 10%.

(3) Landscaped Buffer. As a part of the portion of the redevelopment area to be maintained in pervious condition, a landscaped buffer strip of variable width shall be provided and maintained along the redevelopment area's frontage on Route 28, Route 132 and any extension of Enterprise Road which is laid out in conjunction with the redevelopment. Said landscaped buffer strip shall be a minimum of 15 feet in depth from the property line. The design of this buffer strip may include sidewalks/bike paths, berms, indigenous planting materials and other ground cover. Cross over access drives and signs provided for herein shall be permitted in the landscaped buffer strip, but parking areas are prohibited. All other roadway frontages shall have a landscaped buffer strip of at least 10 feet.

J. Parking and loading. Uses within the Shopping Center Redevelopment Overlay District shall be subject to the following minimum off-street parking and loading requirements:

Required off-street parking for retail shopping center uses within a regional shopping center shall be provided at a ratio of not less than 4.0 parking spaces for each 1,000 square feet of gross leasable area.

Required off-street parking for office uses within a regional shopping center shall be provided at a ratio of not less than 1.0 parking space for each 300 square feet of gross leasable area plus 1.0 parking space per separate suite.

Required off-street parking for hotel uses within a regional shopping center shall be provided at a ratio of not less than .75 parking spaces per guest unit.

Required off-street parking for multifamily dwellings within a regional shopping center shall be provided at a ratio of not less than 1.5 parking space per dwelling unit.

The foregoing parking requirements may be reduced by Special Permit from the Zoning Board of Appeals if lesser off-street parking is shown to be adequate given such special circumstance as:

Use of a common parking area by different uses having different peak hours of demand.

Habits or other characteristics of occupants which result in reduced auto usage.

Characteristics of use invalidating normal methods of calculating parking demand.

Supplementary parking provided off premises.

Demonstrated measures to lower parking demand to the regional shopping center.

All off-street parking spaces required by this § 240-39J shall be located within the redevelopment area, except that parking spaces may be located outside of the redevelopment area on another non-residentially zoned lot provided (a) such other lot is located within 300 feet of the redevelopment area on which the use for which such spaces are required is located, and (b) such lot is in common ownership with, or subject to a long term lease or easement for the benefit of, all or a portion of the redevelopment area. In addition, parking spaces may be located at such other locations as may be approved by the Zoning Board of Appeals as part of any Traffic Demand Management Plan which shall be incorporated as part of the special permit issued under § 240-39N hereof.

Each off-street parking space shall have minimum dimensions of nine by 18 feet, excluding the driveway to such space. Parking stalls within the Shopping Center Redevelopment Overlay District which are designed at 90° shall have the following minimum dimensions:

(a) Ninety-degree parking dimensions:

Stall width: nine feet, zero inches.

Stall length: 18 feet, zero inches.

Aisle width: 24 feet, zero inches.

Bay width: 60 feet, zero inches.

(b) All parking stalls which are designed at angles other than 90° shall comply with the minimum parking space dimensions set forth in § 240-104 of this chapter.

#### Parking Lot Landscaping

**Application.** This section shall apply to any new development or redevelopment within the Shopping Center Redevelopment Overlay District in which the limit of work exceeds one (1) acre (43,560 square feet). This section shall not apply to ordinary maintenance or repairs to buildings or parking areas within the Shopping Center Redevelopment Overlay District.

**Procedure.** Any project that satisfies the triggering requirements set forth in Subsection (a) above shall delineate on the accompanying plans the proposed limit of work. Only parking and loading areas within the limit of work shown on the plans shall be subject to the minimum requirements set forth below.

The surfaced area of a parking lot and all entrance and exit drives shall be set back from the side and rear lot lines, by a landscaped side and rear yard buffer at least five (5) feet in width.

A ten-foot minimum, landscaped perimeter buffer shall be maintained between a building and the surfaced area of a parking lot or drive, except at entrances, building loading and utility locations. A walkway may be located within the landscaped perimeter buffer, provided that the landscape area is not reduced to less than 40% of the area of the perimeter buffer.

At least 7% of the interior of a parking lot with 21 or more parking spaces shall be landscaped. Planting along the perimeter of a parking area shall not be considered as part of the 7% interior landscaping. Interior landscaped islands shall be distributed throughout the parking lot. At least one tree with a minimum 2.5-inch caliper or larger shall be provided per twelve spaces or any portion thereof, located

within interior landscaped islands. Existing naturally occurring trees in good condition located in landscaped islands shall be credited towards this requirement only in those areas where the existing trees are located. No landscaped island shall have an overall width of less than six feet. A walkway may be located within an interior landscaped island, provided that the walkway is separated from the surfaced area of the drive or parking lot by a minimum of four feet of landscaped area. These interior landscape requirements shall not apply to interior parking spaces, parking garages, or parking lots used for sale and/or display of motor vehicles.

Where landscaped setbacks to parking areas, landscaped buffers to buildings, and landscaped islands within parking areas are required in Subsections (c) through (e) above, the following requirements shall apply:

Existing natural trees and shrubs shall be retained within landscaped islands, and side and rear yard landscaped buffers to parking lots and drives wherever possible and supplemented with other landscape materials, in accordance with accepted landscape practices. Specimen trees shall be retained and, if practical, relocated within the site where necessary. Where natural vegetation cannot be retained, these areas shall be landscaped with a combination of low-maintenance grasses, trees and shrubs commonly found on Cape Cod. A list of recommended plant materials is on file with the Town Clerk and may also be obtained from the Planning Department. Plant materials shall be of sufficient size and density to create an attractive appearance. Brick or stone mulch shall not be used in place of ground covers in landscaped islands. Where mulch is used, it shall be in such a manner that it will not wash into leaching catch basins located in a parking lot, or adjacent roadway.

All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX. No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except that the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.

Landscape buffers and islands may be reduced by an amount sufficient to ensure the creation of a functional, attractive parking lot, subject to approval of site plan review.

K. Signs in the Shopping Center Redevelopment Overlay District. Only the following types of signs shall be permitted in the Shopping Center Redevelopment Overlay District:

(1) Large freestanding exterior signs:

(a) Maximum number: three signs.

(b) Maximum height: not to exceed 22 feet above grade.

(c) Maximum area: not to exceed 170 square feet per side exclusive of structures holding the sign. Reasonable efforts shall be exercised to minimize the size of any such supporting structures.

(2) Wall signs identifying uses permitted by right in the Shopping Center Redevelopment Overlay District having gross leasable area of greater than 25,000 square feet or having exterior public entrances; the food court; and the regional shopping center, provided that no wall sign shall extend higher than the top of the parapet wall:

(a) Maximum letter height: five feet for signs accessory to anchor and major stores, and four feet for other such signs. This letter height restriction shall not apply to emblems, logos, or other designs associated with the sign display.

(b) Maximum area:

[1] Anchor stores (for each tenant with a gross leasable area of 45,000 square feet or more): The maximum sign area for any one display shall not exceed 200 square feet for the first sign; the maximum sign area for any additional display shall be 150 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 30 square feet shall be provided for entrance door and awning signs.

[2] Major stores (for each tenant with a gross leasable area of 12,000 square feet or more): The maximum sign area for any one display shall not exceed 120 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 15 square feet shall be provided for entrance door and awning signs.

[3] In-line store (for each tenant with an exterior entrance): The maximum sign area for any one display shall not exceed 50 square feet for tenants with storefronts less than 50 linear feet in length. An additional square foot of sign area shall be allowed for each linear foot of storefront above 50; the maximum sign area for any one display shall not exceed 75 square feet. There shall only be one sign display per tenant. An additional sign allowance of 10 square feet shall be provided for entrance door and awning signs.

[4] Mall entrances: The maximum sign area for any one display shall not exceed 50 square feet. There shall only be one sign per each eligible mall entrance.

(3) Wall signs designating loading areas, service courts, employee entrances and similar areas:

(a) Maximum number: no limit.

(b) Maximum mounting height above ground: eight feet.

(c) Maximum area: six square feet.

(4) Freestanding directional signs indicating access and egress to the site, as well as direction to department stores, services or other areas within the regional shopping center:

(a) Maximum number: three times the total number of vehicular entrances.

(b) Maximum height to top of sign above ground: seven feet.

(c) Maximum area: 16 square feet per side.

(5) Hanging parking structure signs at vehicular entrances to parking structures:

(a) Maximum number: one per vehicle ramp access point to parking structures.

(b) Maximum height: one foot, six inches.

(c) Maximum area: 16 square feet per side.

(d) In addition, directional and parking area identification signs shall be permitted within the parking structures, and safety/height limitation markings shall be permitted on the exterior of the parking structures.

(6) Parking lot identification signs.



(a) Maximum number: one per light post.

(b) Maximum size: three square feet per side.

(7) 14Banners which do not advertise particular stores or articles for sale shall be permitted.

(8) In addition to the signs otherwise permitted under this § 240-39K, wall signs for freestanding buildings, including hotels, multifamily dwellings, and movie theaters (meaning buildings which are not physically connected to the enclosed mall of the regional shopping center) which are otherwise permitted in the underlying zoning district under this chapter shall be permitted in the Shopping Center Redevelopment Overlay District.

(9) In addition to the wall signs permitted under § 240-39K(2), one exterior wall sign for each movie theater, hotel, and multifamily dwelling located within a regional shopping center shall be permitted with a size of up to 150 square feet.

(10) In addition to the signs permitted under § 240-39K(1) hereof, up to two freestanding exterior signs for each movie theater, hotel, and multifamily dwelling located within a regional shopping center shall be permitted as follows:

(a) Maximum number: two.

(b) Maximum height: 14 feet above grade.

(c) Maximum area: not to exceed 175 square feet per side, exclusive of structures holding the sign.

(11) In addition to the signs permitted under § 240-39K (1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone," provided that the maximum height of freestanding signs does not exceed 12 feet above grade and the maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign.

(12) No special permit shall be required for signs that are in conformance with the standards set forth above.

L. Advisory site plan review and provisions.

(1) Findings. Owing to their physical characteristic and the nature of their operations, a regional shopping center may affect neighboring properties and adjacent sidewalks and streets. It is in the interest of the community to promote functional and aesthetic design, construction and maintenance of a regional shopping center and to minimize any harmful effects on surrounding areas.

(2) Purposes. The provisions of this section are designed to assure that all development activities associated with a regional shopping center will be carried out in furtherance

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14 Editor's Note: Former Subsection K(7), pertaining to electronic reader boards, which immediately preceded his subsection, was repealed 1-17-2019 by Order No. 2019-064. This order also provided for the redesignation of former Subsection K (8) through (13) as Subsection K (7) through (12).

of the purposes articulated in § 240-39A, taking into account the existing condition of the redevelopment area, the large-scale character of developments such as the regional shopping center, the customary site layout of regional shopping centers, and the necessity to permit natural light to illuminate the common areas of the regional shopping center (hereinafter referred to as the "design constraints").

(3) Advisory site plan review/when required. The provisions of this § 240-39L shall apply to development within the Shopping Center Redevelopment Overlay District in lieu of the site plan review provisions of Article IX of this chapter. At least 60 days prior to filing any DRI application with the Cape Cod Commission, the proponent of a regional shopping center shall make an informal filing with the Building Commissioner, in draft form, of such plans and materials relating to the DRI application as the proponent intends to file with the Commission with its DRI application and such relevant plans and materials relating to the MEPA process as are then available. Within 30 days following such informal submission, the Building Commissioner and other members of the Site Plan Review Committee established under Article IX of this chapter and such other Town staff as may be designated by the Building Commissioner shall review, comment upon and make recommendations with respect to the plans and materials so submitted, provided that the Building Commissioner shall have the right to extend such thirty-day period by an additional 30 days at the request of the Site Plan Review Committee. In conducting its review the Site Plan Review Committee shall consider the consistency of such plans and materials with the site development standards set forth in Subsection L(4) hereof. The informal filing and review described in this Subsection L (3) requires no approval and therefore does not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto; however, the Cape Cod Commission shall be invited to have representatives participate in the advisory site plan review process.

(4) Site development standards.

(a) A reasonable effort shall be made to improve, conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.

(b) Slopes which exceed 10% shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.

(c) The placement of buildings, structures, fences, lighting and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.

(d) At any driveway, a visibility triangle shall be provided in which nothing shall be erected, placed, planted or allowed to grow so as to materially impede vision from within motor vehicles between a height of three feet and eight feet above the average center-line grades of the intersecting street and driveway, said triangle being bounded by the intersection of the street line and the edges of a driveway in a line joining points along said lines 20 feet distant from their projected intersection.

(e) Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to interfere with traffic beyond the perimeter of the site.

(f) All areas designed for vehicular use shall be paved with a minimum of either 2 1/2 inches bituminous asphalt concrete, a six-inch portland cement concrete pavement, or other surface, such as brick or cobblestone, as approved by the Town Engineer.

(g) All parking spaces shall be arranged and clearly marked in accordance with the parking lot design standards contained in § 240-39J herein. Signs and pavement markings shall be used as appropriate to control approved traffic patterns.

(h) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground. Electric, telephone, cable TV, and other such utilities shall be underground, except for transformers, electric switching boxes or similar equipment and gas meters, which may be above ground.

(i) All surface water runoff from structures and impervious surfaces shall be disposed of on site, but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies (except for drainage structures in place as of the effective date of this § 240-39). All drainage systems shall be designed to minimize the discharge of pollutants by maximizing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration (with due regard to the design constraints). Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Subject to ambient surcharge conditions, roof runoff shall be recharged to the ground via a system of dry wells and/or infiltration systems. Nontoxic roof materials shall be used to minimize the leaching of toxic materials to the groundwater. To minimize water utilization, all new plumbing fixtures shall be designed to meet water conservation measures as required under the State Building and Plumbing Codes. All such drainage structures shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants. All calculations shall be for a twenty-five-year storm and shall be reviewed by the Town Engineer. The materials submitted shall include provision for an appropriate maintenance program for such drainage structures to be implemented and maintained by the proponent. The materials submitted shall show adequate measures to mitigate pollution of surface or groundwater to minimize erosion and sedimentation. All drainage shall be designed so that all runoff shall be disposed of on site, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

(j) The materials submitted shall describe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow showing adequate access to and from the site and adequate circulation within the site. The proponent of a regional shopping center will include in such materials reasonable measures to lower traffic demand to the regional shopping center such as, by way of example only, working with other major retailers along the 132 corridor to promote bus and shuttle bus activity, encouraging carpooling among employees, and/or similar measures, which materials shall be referred to as the "Traffic Demand Management Plan." Reasonable efforts shall be made to provide vehicular and pedestrian connections within the redevelopment area to adjoining properties devoted to retail use.

M. Affordable Housing Units. Notwithstanding any other provisions as may be set forth in this Zoning Ordinance, any multifamily dwelling development in the Shopping Center Redevelopment Overlay District shall comply with either subsection (1) or (2) below, whichever calculation results in a greater number of restricted units. If the total number of restricted units is the same under subsection (1) and subsection (2), then the subsection with the greater number of deed restricted affordable units for individuals and families with the lowest percentage of Area Median Income (AMI) shall be required. The determination as to which calculation applies shall be made at the time that development permits are sought for a proposed multifamily development.

(1) The provisions of the Town of Barnstable Code, Chapter 9, Inclusionary Affordable Housing Requirements in effect at the time development approvals are sought for any multifamily dwelling development within the SCROD; or

(2) Ten percent (10%) of the multifamily dwelling units shall be deed restricted as affordable units for individuals and families earning up to 65% of the area median income and an additional three percent (3%) of the multifamily dwelling units shall be deed restricted as affordable housing units for individuals and families earning up to 80% of the median income for the Town of Barnstable, as determined annually by the Department of Housing and Urban Development. The affordable units shall

conform to all Department of Housing and Community Development (DHCD) standards that must be met to qualify these units for inclusion in the DHCD Subsidized Housing Inventory (SHI) as Local Initiative Program units.

(3) No certificate of occupancy permit shall be issued until recordation of the Regulatory Agreement and Declaration of Restrictive Covenants.

N. Special permit provisions.

(1) Special permit for regional shopping center.

(a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39N. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this § 240-39N.

(b) A special permit may provide for phased development (and, if applicable, a projected phasing plan shall be provided to the Zoning Board of Appeals as part of the special permit process under § 240-39N). A special permit shall become void two years from the date of issue unless any construction work contemplated thereby (or first phase thereof, if applicable) shall commence and proceed in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the use authorized thereby is commenced.

(c) Any work done in deviation from a special permit granted pursuant to this § 240-39N shall be a violation of this chapter, unless such deviation is approved in writing by the Zoning Board of Appeals. However, a special permit may be granted based upon plans showing one or more permissible building areas and/or permissible parking structure areas, in which buildings and other structures are to be located, rather than with the locations of the buildings and other structures finally established. Provided the boundaries of such permissible building areas and/or permissible parking structure areas are approved by the Zoning Board of Appeals in connection with the special permit, once the special permit is granted, no separate approval of the Zoning Board of Appeals will be required for the actual location of the buildings or improvements within such permissible building areas and/or permissible parking structure areas [provided that no material change to the design or materials described in § 240-39N(2)(a) shall be made without the approval of the Zoning Board of Appeals.] The Zoning Board of Appeals may amend or modify a special permit upon the application of the developer of a regional shopping center and, if the Zoning Board of Appeals determines that such amendment or modification is minor in nature, such amendment or modification may be approved without a hearing upon the submission of plans and information that may, in the discretion of the Zoning Board of Appeals, be less extensive than the plans and information required in this § 240-39N. Amendments or modifications determined by the Zoning Board of Appeals not to be minor in nature shall require a public hearing.

(d) The purpose of the special permit for a regional shopping center is to assure that the development of a regional shopping center is carried out in a manner which is (1) consistent with the purposes set forth in § 240-39A hereof and the site development standards set forth in § 240-39L(4) hereof,

(2) consistent with the terms and conditions of any DRI permit issued by the Cape Cod Commission and the certificate of the Secretary of Environmental Affairs on the final environmental impact report, (3) with due regard given to the Design Guidelines for Cape Cod prepared by the Cape Cod Commission in

light of the design constraints, and (4) consistent with such additional reasonable conditions as may be imposed by the Zoning Board of Appeals as are not inconsistent with the foregoing. The Zoning Board of Appeals shall grant a special permit for a regional shopping center upon its determination that the standards for the issuance of such special permit set forth in this Subsection M(1)(d) have been complied with, giving due regard to the design constraints.

(2) Required contents of special permit application. The application for a special permit under this § 240-39N shall include:

(a) Building elevation plans for all exterior facades of buildings and structures, at a scale of 1/16 inch equals one foot, or such scale as may be required by the Zoning Board of Appeals for detail drawings, indicating surface materials and colors, together with not less than three representative cross sections.

(b) A tabulation of the areas of the proposed site elements, including buildings (footprints and gross leasable area and gross floor area), parking structures and surface parking areas (square footage and number of parking spaces), stormwater management facilities, and landscaped areas (square footage, number of trees and other plantings).

(c) Updated versions of the materials submitted to the Building Commissioner in connection with the advisory site plan review process described in § 240-39L above.

(d) Any request for gross leasable area in excess of the use limitations set forth in § 240-39F (1) (e).

(e) Any request to permit the structure to exceed the maximum height limitation set forth in § 240-39G (1) (h).

(f) Any request to permit rooftop features to exceed the rooftop feature height limitation set forth in § 240-39G (3) (b).

(g) Any request to exceed the maximum allowable 1,200,000 square feet of gross leasable area for retail shopping center uses set forth in § 240-39H.

(h) Any request to permit a reduction in the required parking ratios under § 240-39J (5).

(i) All materials relating to any request to permit off-site parking under § 240-39J(6).

(j) A description of the operating agreement and/or leasehold agreements contemplated in the definition of "regional shopping center."

(k) Additional information as may be required by the Zoning Board of Appeals as reasonably necessary to making the determinations required by this section.

(3) Required procedures for special permit.

(a) At least two copies are required of all plans, drawings and written information. Copies of application materials shall also be submitted to the Zoning Board of Appeals electronically.

(b) The Zoning Board of Appeals may solicit the advice of any other Town agency or department it deems necessary to properly make the determinations required by this section.

(c) In issuing a special permit under this § 240-39N, the Zoning Board of Appeals shall give due regard to and shall not be inconsistent with the decisions and recommendations of the Cape Cod Commission as set forth in any DRI permit or similar approval.

(d) The Zoning Board of Appeals shall also include as a condition of its special permit the performance of any written commitments made by the developer of a regional shopping center to the Zoning Board of Appeals, the Planning Board or the Town Council intended to reduce or limit the impacts, financial or otherwise, of the regional shopping center on the Town. Such conditions shall be based on the written information furnished to the Zoning Board of Appeals by the Planning Board and Town Council. Such conditions shall be binding on the applicant for such special permit provided they are consistent with the provisions of Section 15 of Chapter 716 of the Acts of 1989 (the Cape Cod Commission Act).

(e) The Zoning Board of Appeals may include as a condition of its special permit that, prior to the issuance of a certificate of occupancy for the regional shopping center, the Building Commissioner shall be provided with evidence that the operating agreement and/or leasehold arrangements contemplated in the definition of "regional shopping center" are in place.

(f) If the proposed improvements which are the subject of an application for a special permit under this § 240-39N have not been subject to the review of the Cape Cod Commission because at the time of such application the Cape Cod Commission or the DRI process has been abolished, then the proposed improvements shall be subject to site plan review under Article IX of this chapter.”

**SPONSOR:** Councilor Jeffrey Mendes, Council Precinct 8

DATE

ACTION TAKEN

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2023-023  
INTRO: 09/01/2022, 12/01/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** September 01, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I, General Ordinances, Article III, §240-39 by repealing and replacing the Shopping Center Redevelopment Overlay District.

**BACKGROUND:** Retail focused real estate requires constant evolution to meet ever changing market demands. Rapid changes in technology, resulting in the creation of e-commerce and online shopping, have intensified the significance of fundamental industry dynamics and presented an opportunity for embracing change. Shopping centers across the country are changing with the times to meet evolving customer needs. One major industry trend has focused on creating mixed use environments: incorporating varied uses within a traditional retail setting.

Cape Cod Mall has been evaluating how it can best adapt and update its spaces and strategies in this ever-changing retail environment. As part of that process, and in consultation with Town Planning and Development Staff, amendments are proposed to the Shopping Center Redevelopment Overlay District regulations. Collectively, the amendments would authorize a broader range of uses, ease parking requirements to allow for a more productive use of the property, create a more pleasant visitor experience with improvements to landscaping and pedestrian access, and promote the creation of new affordable housing.

**RATIONALE:** The Shopping Center Redevelopment Overlay District (SCROD) was created in 1996, when shopping malls consisted primarily of retail and restaurants. In its current form, the SCROD provisions prohibit both hotels/motels and multi-family dwellings. Given the Cape Cod Mall's desire to create a more mixed-use environment, one of the main goals of the proposed amendment is to expand the allowable uses within the SCROD to include multi-family dwellings, hotel uses and office uses, as defined in the proposed amendments. To accommodate the new, additional uses, the proposed amendment would increase the allowable building height for hotel and multi-family dwelling uses to four stories or 55 feet, whichever is lesser.

The proposed amendment also seeks to redefine the parking demand requirements. Currently, many of the parking spaces at Cape Cod Mall are underutilized and those areas could be redeveloped and put to a more productive use. Accordingly, the proposed amendment addresses the parking requirement for each of the proposed allowable uses and creates a special permit mechanism by which the requirement may be reduced upon meeting defined criteria.

Additionally, the proposed amendment modernizes the current landscape requirements. Modeled after Section 240-53 of the Ordinance, the proposed landscape provisions would apply to any new development or redevelopment within the SCROD in which the limit of work exceeds one acre. Thus, as the Mall is redeveloped, those portions would comply with the proposed parking lot landscape and buffer requirements.

Finally, the proposed amendment would require that any multifamily dwelling development within the SCROD would comply with: (i.) the Town of Barnstable Code, Chapter 9, Inclusionary Housing Requirements in effect at the time multifamily development is proposed or (ii) provide 10% of the units restricted to individuals or families at 65% of AMI and an additional 3% restricted to individuals or families at 80% AMI, whichever calculation method results in more restricted units. As the Town begins to evaluate the inclusionary ordinance and to make recommendations for possible amendments, the proposed language in the zoning amendment requires compliance with the ordinance as drafted (10% at 65% AMI and an additional 3% at 80% AMI) or the inclusionary ordinance that is in effect at the time of filing development permits, whichever is greater.

**FISCAL IMPACT:** Mayflower Cape Cod, LLC, owner of the Cape Cod Mall properties, is one of the largest taxpayers in the Town of Barnstable. In addition, the Cape Cod Mall is a major employer with nearly 1,000 individuals employed at the mall. The proposed amendment modernizes the SCROD zoning overlay language, allowing complementary uses and encouraging development of under-utilized portions of the property which will result in positive fiscal impact.

**STAFF SUPPORT:** Elizabeth Jenkins, Director of Planning & Development; Kate Maldonado, Assistant Director of Planning & Development, Jim Kupfer, Senior Planner



§ 240-39. Shopping Center Redevelopment Overlay District. [Added 4-24-1996]

A. Purposes.

1. The purpose of this § 240-39 is to permit the renovation and redevelopment of a largescale integrated retail shopping **and mixed-use** center on a large site with convenient highway access. The Shopping Center Redevelopment Overlay District is established as a special district which overlays another nonresidential zoning district or districts (including a Groundwater Protection Overlay District).

2. The Shopping Center Redevelopment Overlay District permits the redevelopment and expansion of a shopping center subject to the specific regulations and requirements contained in this § 240-39,. **If there is an inconsistency between the provisions of this Overlay District Section 240-39 and the underlying zoning district, even where the Overlay District provisions are less stringent than provisions of the underlying zoning district, the provisions of this Overlay District section 240-39 shall govern which regulations and requirements shall govern even where they are inconsistent with or less restrictive than the other requirements of this chapter.** The regulations of this § 240-39 relating to use, building and lot dimensions, development intensity, parking, signage and advisory site plan review shall apply only to a regional shopping center, and not to any other use that is allowed or permitted in the underlying zoning district

3. The provisions of this § 240-39 are designed to assure that all development activities associated with a regional shopping center will be carried out so as to provide for and maintain:

(a) Protection of neighboring properties against harmful effects of uses on the development site;

(b) Protection of neighboring properties against harmful effects of uses on the development site;

(c) Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;

(d) Satisfactory methods of stormwater management and groundwater recharge shall be provided with due regard to the protection of the Town's groundwater resources;

(e) Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishments on the development site;

(f) Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishments on the development site;

(g) Adequate off-street parking and traffic mitigation measures that will enhance the efficiency of the transportation system taking into consideration the overall Town traffic needs. **Identified in the Barnstable/Yarmouth Transportation Study prepared by the Town in conjunction with the Town Local Comprehensive Plan;**

(h) Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site; and

(i) Attractive and functional design with due regard to the existing conditions of the development site and the use thereof for a regional shopping center, in order to promote the interests of the community.

B. Location. The boundary of the Shopping Center Redevelopment Overlay District is shown on a map of land entitled "Shopping Center Redevelopment Overlay Zoning District" filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this chapter.

C. Relationship to underlying districts and regulations.

(1) The Shopping Center Redevelopment Overlay District shall overlay all underlying districts so that any parcel of land lying in a Shopping Center Redevelopment Overlay District shall also lie in the zoning district or districts in which it is otherwise classified by this chapter.

(2) All regulations of the underlying zoning district(s) shall apply within the Shopping Center Redevelopment Overlay District to the extent that they are not inconsistent with the specific provisions of this § 240-39. To the extent the provisions of this § 240-39 are in conflict with or are inconsistent with other provisions of this chapter, the provisions of this § 240-39 shall govern and prevail even if such other provisions are more restrictive than those set forth in this § 240-39.

D. Definitions. The following definitions shall be applicable to land and its use within the Shopping Center Redevelopment Overlay District:

ADVISORY SITE PLAN REVIEW - The process set forth in § 240-39L of this chapter, and shall not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto.

AMUSEMENT USES -The principal use of stores or common areas in a regional shopping center for the operation of a coin-operated video arcade, game room, indoor playground, bowling alley or similar use (but restaurant and theater uses and amusement uses that are accessory to retail uses shall not constitute amusement uses).

GROSS FLOOR AREA - The meaning set forth in § 240-128 of this chapter.

GROSS LEASABLE AREA - Gross floor area, exclusive of mall areas, stairs, escalators, elevators, utility, storage and equipment rooms, mall offices, exit and service corridors, toilet rooms, maintenance areas, and mezzanine areas not used for the public sale or display of goods or services.

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

INITIAL REDEVELOPMENT The expansion of existing improvements within the Shopping Center Redevelopment Overlay District which increases the gross floor area of all buildings within the district above that which is in existence on January 1, 1996, by 50,000 square feet of gross floor area or more in the aggregate pursuant to a special permit issued under § 240-39M 39N hereof. 1

MEZZANINE(S) - An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than 10% of the gross floor area of the store or area of the building in which the level or levels are located. Mezzanines which are not used for the public sale or display of goods shall not be treated as an additional story for purposes of calculating maximum building height. Mezzanine space may be used for storage and for backroom office functions incident to the operation of gross floor area within the regional shopping center, but shall not be rented for such purposes to persons not operating gross floor area within the regional shopping center. Mezzanines which are used for the public sale or display of goods shall be treated as gross leasable area.

**MULTIFAMILY DWELLING** - A structure containing three or more dwelling units offered for sale or rent, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the families residing there.

**OFFICE** – Includes professional, business, dental and/or medical offices, which are defined as a room, or group of rooms used for conducting the affairs of a business, service industry, or government entity.

**REDEVELOPMENT AREA** - Land within the boundaries of the Shopping Center Redevelopment Overlay District, which is used or proposed for use as part of a regional shopping center, and encompassing one or more individual lots on which the regional shopping center will be situated.

**REGIONAL SHOPPING CENTER** - A concentration of stores and establishments devoted to retail shopping center uses and amusement uses including an enclosed structure (which may consist of several buildings) containing a total of not less than 500,000 square feet of gross floor area and located on a redevelopment area, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. **A regional shopping center may also contain offices, hotels, and multifamily dwellings.** A regional shopping center may consist of one or more lots and one or more buildings under separate ownership, provided that:

- (1) The lots and buildings are subject to an operating agreement or leasehold arrangements, provided that the areas used in common, including the central enclosed mall area, the parking structures and the exterior parking and circulation areas, will be under integrated management; and
- (2) The separate lots and buildings are developed with a unified approach to architectural and landscape design, pedestrian ingress and egress, parking, truck loading, vehicular entrances and exits, drainage, groundwater recharge and utilities.

**RETAIL SHOPPING CENTER USES** — A concentration of retail stores and service establishments, including restaurants, movie theaters and such other uses as are customarily found in a regional shopping center, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. **Regional Retail** shopping center uses may include one area devoted to outdoor, tent-type sales of home and garden goods, provided that any such area is operated incident to a retail store having not less than 40,000 square feet of gross floor area and occupies not more than 5,000 square feet of area.

1 Editor's Note: The former definition of "major store," which immediately followed this definition, was repealed  
1-17-2019 by Order No. 2019-064.

#### E. Application of requirements.

- (1) A redevelopment area may consist of more than a single building lot, and in such event the requirements of this chapter shall not be applied to individual building lots, but shall be applied to the entire redevelopment area as if the redevelopment area were a single building lot notwithstanding the fact that the building lots within the redevelopment area may be in different ownership.
- (2) The regional shopping center and other improvements within the redevelopment area may be developed in phases and may be developed and occupied under one or more building permits and occupancy permits.
- (3) The provisions of this § 240-39 shall not apply to any expansion of existing improvements within the Shopping Center Redevelopment Overlay District until the exercise of rights under a special permit issued under § 240-39M39N with respect to the initial redevelopment, and any such expansion which

does not constitute the initial redevelopment shall be subject to all of the requirements of the underlying zoning district(s) including, without limitation, the requirement of a special permit for certain uses and structures within the district.

Following the exercise of rights under a special permit issued under § 240-39M39N with respect to the initial redevelopment, this § 240- 39 shall apply to all improvements thereafter constructed within the Shopping Center

Redevelopment Overlay District.

F. Permitted and prohibited uses.

(1) The following uses are permitted by right in the Shopping Center Redevelopment Overlay District:

(a) Retail Shopping Center Uses.

(b) Office Uses.

(c) Hotels.

(d) Multifamily Dwellings.

(e) Amusement uses, provided that no more than 25% of the gross leasable area within the regional shopping center shall be devoted to uses other than retail shopping center uses, and not more than 75,000 square feet of gross leasable area in a regional shopping center shall be devoted to amusement uses unless a special permit is issued therefor by the Zoning Board of Appeals.

(2) The following uses are prohibited in the Shopping Center Redevelopment Overlay District:

(a) All uses prohibited in § 240-35F(2) [GP Groundwater Protection Overlay District] of this chapter.

(b) Parking and/or storage of transport vehicles for fuel, including but not limited to oil, coal and gas.

(c) Parking and/or storage of transport vehicles for toxic and/or hazardous substances.

(d) Hotel/motel.

(e) Multifamily dwellings.

(df) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the underlying Highway Business District, subject to the special permit provisions of § 240-39M39N and a drive-through restaurant may be permitted only on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone" as shown on the map entitled "Shopping Center Redevelopment Overlay District Amendment," 2 dated February 20, 2015, subject to the special permit provisions of § 240-39M39N. [Amended 9-18-2008 by Order No. 2009-08; 5-7- 2015 by Order No. 2015-071]

(eg) Gasoline and oil filling stations (other than a tire, battery and auto accessories store which is operated incident to a retail store having not less than 40,000 square feet of gross floor area in the regional shopping center and which does not provide for the changing of oil or lubrication of motor vehicles).

(fh) Casinos and other gambling establishments (other than the incidental sale of lottery tickets as part of a use otherwise permitted in the Shopping Center Overlay District).

G. Bulk and dimensional regulations.

- (1) Land located within the Shopping Center Redevelopment Overlay District and used for a regional shopping center shall be subject to the dimensional controls set forth below:
- (a) Minimum area of redevelopment area: 50 acres.
  - (b) Minimum lot size (individual building lots): none.
  - (c) Minimum lot frontage (individual building lots): 20 feet.
  - (d) Minimum side, front and rear yards (other than at the perimeter of the redevelopment area): none.
  - (e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet. [Amended 9-18-2008 by Order No. 2009-08]

[1] One hundred feet along Iyannough Road/Route 132 Road except 50 feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone."

[2] One hundred feet along the easterly side of the roadway which would be created if Independence Drive were extended from its existing terminus on the northerly side of Route 132 along its current trajectory across Route 132 and the redevelopment area.

[3] [2] Within 100 feet of Route 28/Falmouth Road, the minimum setback shall be 20 feet, but there shall be a maximum setback of 50 feet.

(f) Minimum side and rear yards (at perimeter of redevelopment area): 30 feet.

2 Editor's Note: The map is on file in the office of the Town Clerk.

(g) Maximum lot coverage as percentage of lot area of redevelopment area: 50%.

(h) Maximum building height:

(1) The maximum building height for retail shopping center uses shall be 42.5 feet or two stories, whichever is lesser.

(2) The maximum building height for hotel and multifamily dwelling uses shall be 60.5 feet or three four stories, whichever is lesser.

(3) The maximum building height [ for hotel and multifamily uses] may be increased by special permit issued by the Zoning Board of Appeals under §240-39M39N.

(2) Except as specifically stated to the contrary in Subsection G(1), the bulk and dimensional requirements set forth therein shall be applied to a redevelopment lot as if it were one lot, even though it may be comprised of several lots in different ownerships. More than one building may be located on a single lot within the Shopping Center Redevelopment Overlay District.

(3) Skylights, mechanical penthouses, rooftop mechanical features, and architectural features not designed for human occupancy (collectively, the "special features") shall be excluded in determining the height of any building within a regional shopping center. However, in no case shall such special features shall exceed ten (10) feet above the height of the building absent special permit relief issued pursuant to § 240-39N. be subject to the following restrictions and limitations:

(a) Provided the same are approved in the special permit issued pursuant to § 240-39M hereof, architectural features shall be permitted above each entrance to the regional shopping center in excess of the maximum building height, provided such architectural features do not exceed 60 feet in height, and the length of the architectural features over any single entrance shall not extend over more than 25% of the entire length of the building wall above which such architectural features are located (measured on a building-by-building basis); and

(b) Rooftop mechanical features (such as heating and air-conditioning units, vents, stacks and mechanical penthouses), rooftop screening elements and skylight features over the food court and over the enclosed mall (collectively, the "rooftop features") shall be permitted to exceed the maximum building height, provided that they remain within the rooftop feature height limitation. A rooftop feature shall be considered to remain within the rooftop feature height limitation if it falls below a sight line running 10° above the horizontal starting from a height of 42.5 feet. Rooftop features may exceed the rooftop feature height limitation only if the special permit described in § 240-39M so provides. In no case shall a rooftop feature exceed 60 feet in height. Rooftop mechanical features (such as heating and air-conditioning units, vents, stacks and mechanical penthouses) shall in any event be screened by use of parapet walls or similar elements if necessary. [Amended 1-20-2005 by Order No. 2005-038]

H. Maximum increase in gross leasable area. **Retail shopping center uses within a No** regional shopping center shall **result not exceeding more than** 1,200,000 square feet of gross floor area within the redevelopment area, measured on an aggregate basis, **unless the Zoning Board of Appeals has issued a special permit in accordance with the provisions of this § 240-39M39N.** The maximum gross floor area of 1,200,000 square feet set forth above shall be reduced by 20,000 square feet of gross floor area for every acre by which the total area of the redevelopment area is less than 59 acres. For purposes of this § 240-39, the floor area of parking structures shall not be treated as gross floor area or gross leasable area.

I. Limitation on impervious surfaces; **outdoor recreational areas**; buffer strip landscaping.

(1) **Impervious Surfaces.** No more than 70% of the total redevelopment area shall be rendered impervious by the installation of buildings, structures and paved surfaces, measured on an aggregate basis, unless groundwater mitigation land is provided at a one to- one ratio for any overage of impervious cover in the redevelopment area. Groundwater mitigation land shall mean land located within the same or a more restrictive Groundwater Protection District in a zone of contribution to the well fields operated as of January 1, 1996 by the Barnstable Water Company and/or the Barnstable Fire District which land is permanently restricted by or on behalf of the owners of the redevelopment area to be left in an open and natural state. However, even with the dedication of groundwater mitigation land, no more than 82.7% of the total redevelopment area shall be so rendered impervious. Rooftop and surface water drainage systems shall be designed and maintained in accordance with the standards set forth in § 240-39L(4)(j). For purposes of this § 240- 39I, roadways (other than interior access drives) built in accordance with municipal specifications (as the same may be modified or waived by the Planning Board) and used as public way(s) or private way(s) shall not be treated as impervious surfaces and shall not be treated as part of the area of the district for purpose of such calculation.

(2) **Outdoor Recreational Areas.** Any new development or redevelopment within the Shopping Center Redevelopment Overlay District that proposes a hotel or multi-family use shall include an outdoor recreational area for use by hotel guests or multi-family residents and visitors. Outdoor recreational areas should consist of a contiguous space containing a minimum width of 15 feet and a minimum tree canopy of 10%.

(3) **Landscaped Buffer.** As a part of the portion of the redevelopment area to be maintained in pervious condition, a landscaped buffer strip of variable width shall be provided and maintained along the redevelopment area's frontage on Route 28, Route 132 and any extension of Enterprise Road which is laid out in conjunction with the redevelopment. Said landscaped buffer strip shall be a minimum of 15 feet in depth from the property line **and contain at least 2.5% of the total redevelopment area.** The design of this buffer strip may include sidewalks/bikepaths, berms, indigenous planting materials and other ground cover. Cross over access drives and signs provided for herein shall be permitted in the landscaped buffer strip, but parking areas are prohibited. All other roadway frontages shall have a landscaped buffer strip of at least 10 feet.

J. Parking and loading. A regional shopping center uses within the Shopping Center Redevelopment Overlay District shall be subject to the following minimum off-street parking and loading requirements:

(1) (1) Required off-street parking for retail shopping center uses within a regional shopping center shall be provided at a ratio of not less than 4.3 0 parking spaces for each 1,000 square feet of gross leasable area.

(2) Required off-street parking for office uses within a regional shopping center shall be provided at a ratio of not less than 1.0 parking space for each 1,300 square feet of gross leasable area plus 1.0 parking space per separate suite.

(3) Required off-street parking for hotel uses within a regional shopping center shall be provided at a ratio of not less than .75 parking spaces per guest unit.

(4) Required off-street parking for multifamily dwellings within a regional shopping center shall be provided at a ratio of not less than 1.5 parking space per dwelling unit.

(5) of all buildings located in the regional shopping center. The foregoing parking requirements may be reduced by Special Permit from the Zoning Board of Appeals if lesser off-street parking is shown to be adequate given such special circumstance as:

(a) Use of a common parking area by different uses having different peak hours of demand

(b) Habits or other characteristics of occupants which result in reduced auto usage

(c) Characteristics of use invalidating normal methods of calculating parking demand.

(d) Supplementary parking provided off premises.

(e) Demonstrated measures to lower parking demand to the regional shopping center.

shall be calculated without regard to the multiple uses that may be contained in the regional shopping center.

(6) All off-street parking spaces required by this § 240-39J shall be located within the redevelopment area, except that parking spaces may be located outside of the redevelopment area on another non-residentially zoned lot provided (a) such other lot is located within 300 feet of the redevelopment area on which the use for which such spaces are required is located, and (b) such lot is in common ownership with, or subject to a long term lease or easement for the benefit of, all or a portion of the redevelopment area. In addition, parking spaces may be located at such other locations as may be approved by the Zoning Board of Appeals as part of any Traffic Demand Management Plan which shall be incorporated as part of the special permit issued under § 240- 39M39N hereof.

(7) Each off-street parking space shall have minimum dimensions of nine by 18 feet, excluding the driveway to such space. Parking stalls within the Shopping Center Redevelopment Overlay District which are designed at 90° shall have the following minimum dimensions:

(a) Ninety-degree parking dimensions:

Stall width: nine feet, zero inches.

Stall length: 18 feet, zero inches.

Aisle width: 24 feet, zero inches.

Bay width: 60 feet, zero inches.

(b) All parking stalls which are designed at angles other than 90% 90° shall comply with the minimum parking space dimensions set forth in § 240-104 of this chapter.

(8) Parking Lot Landscaping

(a) Application. This section shall apply to any new development or redevelopment within the Shopping Center Redevelopment Overlay District in which the limit of work exceeds one (1) acre (43,560 square feet). This section shall not apply to ordinary maintenance or repairs to buildings or parking areas within the Shopping Center Redevelopment Overlay District.

(b) Procedure. Any project that satisfies the triggering requirements set forth in Subsection (a) above shall delineate on the accompanying plans the proposed limit of work. Only parking and loading areas within the limit of work shown on the plans shall be subject to the minimum requirements set forth below.

(c) The surfaced area of a parking lot and all entrance and exit drives shall be set back from the side and rear lot lines, by a landscaped side and rear yard buffer at least five (5) feet in width.

(d) A ten-foot minimum, landscaped perimeter buffer shall be maintained between a building and the surfaced area of a parking lot or drive, except at entrances, building loading and utility locations. A walkway may be located within the landscaped perimeter buffer, provided that the landscape area is not reduced to less than 40% of the area of the perimeter buffer.

(e) At least 7% of the interior of a parking lot with 21 or more parking spaces shall be landscaped. Planting along the perimeter of a parking area shall not be considered as part of the 7% interior landscaping. Interior landscaped islands shall be distributed throughout the parking lot. At least one tree with a minimum 2.5-inch caliper or larger shall be provided per twelve spaces or any portion thereof, located within interior landscaped islands. Existing naturally occurring trees in good condition located in landscaped islands shall be credited towards this requirement only in those areas where the existing trees are located. No landscaped island shall have an overall width of less than six feet. A walkway may be located within an interior landscaped island, provided that the walkway is separated from the surfaced area of the drive or parking lot by a minimum of four feet of landscaped area. These interior landscape requirements shall not apply to interior parking spaces, parking garages, or parking lots used for sale and/or display of motor vehicles.

(f) Where landscaped setbacks to parking areas, landscaped buffers to buildings, and landscaped islands within parking areas are required in Subsections (c) through (e) above, the following requirements shall apply:

i. Existing natural trees and shrubs shall be retained within landscaped islands, and side and rear yard landscaped buffers to parking lots and drives wherever possible and supplemented with other landscape materials, in accordance with accepted landscape practices. Specimen trees shall be retained and, if practical, relocated within the site where necessary. Where natural vegetation cannot be retained, these areas shall be landscaped with a combination of low maintenance grasses, trees and shrubs commonly found on Cape Cod. A list of recommended plant materials is on file with the Town Clerk and may also be obtained from the Planning Department. Plant materials shall be of sufficient size and density to create an attractive appearance. Brick or stone mulch shall not be used in place of ground covers in landscaped islands. Where mulch is used, it shall be in such a manner that it will not wash into leaching catch basins located in a parking lot, or adjacent roadway.

ii. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX. No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except that the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.

(g) Landscape buffers and islands may be reduced sufficient to ensure the creation of a functional, attractive parking lot, subject to approval of site plan review. Landscaping shall be provided at the rate of one tree of three-inch caliper per eight spaces, and such trees shall be located within the parking area. Such parking area landscaping areas shall constitute not less than 5% of the land area devoted to grade-level parking fields. Above-grade parking structures shall be designed so as to provide a visual screen to shield, to the extent practicable, cars parked on the upper level from the view of pedestrians.

**K. Signs in the Shopping Center Redevelopment Overlay District. Only the following types of signs shall be permitted in the Shopping Center Redevelopment Overlay District:**



(1) Large freestanding exterior signs:

- (a) Maximum number: three signs.
- (b) Maximum height: not to exceed 22 feet above grade.
- (c) Maximum area: not to exceed 170 square feet per side exclusive of structures holding the sign. Reasonable efforts shall be exercised to minimize the size of any such supporting structures. [Amended 1-17-2019 by Order No. 2019-064]

(2) Wall signs identifying **retail stores or restaurants uses permitted by right in the Shopping Center Redevelopment Overlay District** having gross leasable area of greater than 25,000 square feet or having exterior public entrances; the food court; and the regional shopping center, provided that no wall sign shall extend higher than the top of the parapet wall:

(a) Maximum letter height: five feet for signs accessory to anchor and major stores, and four feet for other such signs. This letter height restriction shall not apply to emblems, logos, or other designs associated with the sign display.

(b) Maximum area:

[1] Anchor stores (for each tenant with a gross leasable area of 45,000 square feet or more): The maximum sign area for any one display shall not exceed 200 square feet for the first sign; the maximum sign area for any additional display shall be 150 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 30 square feet shall be provided for entrance door and awning signs.

[2] Major stores (for each tenant with a gross leasable area of 12,000 square feet or more): The maximum sign area for any one display shall not exceed 120 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 15 square feet shall be provided for entrance door and awning signs.

[3] In-line store (for each tenant with an exterior entrance): The maximum sign area for any one display shall not exceed 50 square feet for tenants with storefronts less than 50 linear feet in length. An additional square foot of sign area shall be allowed for each linear foot of storefront above 50; the maximum sign area for any one display shall not exceed 75 square feet. There shall only be one sign display per tenant. An additional sign allowance of 10 square feet shall be provided for entrance door and awning signs.

[4] Mall entrances: The maximum sign area for any one display shall not exceed 50 square feet. There shall only be one sign per each eligible mall entrance.

(3) Wall signs designating loading areas, service courts, employee entrances and similar areas:

(a) Maximum number: no limit.

(b) Maximum mounting height above ground: eight feet.

(c) Maximum area: six square feet.

(4) Freestanding directional signs indicating access and egress to the site, as well as direction to department stores, services or other areas within the regional shopping center:

(a) Maximum number: three times the total number of vehicular entrances.

(b) Maximum height to top of sign above ground: seven feet.

(c) Maximum area: 16 square feet per side.

(5) Hanging parking structure signs at vehicular entrances to parking structures:

(a) Maximum number: one per vehicle ramp access point to parking structures.

(b) Maximum height: one foot, six inches.

(c) Maximum area: 16 square feet per side.

(d) In addition, directional and parking area identification signs shall be permitted within the parking structures, and safety/height limitation markings shall be permitted on the exterior of the parking structures.

(6) Parking lot identification signs.

(a) Maximum number: one per light post.

(b) Maximum size: three square feet per side.

(7) 3Banners which do not advertise particular stores or articles for sale shall be permitted.

(8) In addition to the signs otherwise permitted under this § 240-39KJ, wall signs for freestanding buildings, **including hotels, multifamily dwellings**, and movie theaters (meaning buildings and movie theaters which are not physically connected to the enclosed mall of the regional shopping center) which are otherwise permitted in the underlying zoning district under this chapter shall be permitted in the Shopping Center Redevelopment Overlay District. **In addition, for so long as fewer than two of the freestanding signs described in Subsection K(11) are installed, one freestanding exterior sign shall be permitted for freestanding movie theaters, which sign shall have dimensions which meet the size requirements of the underlying zoning district.**

*3. Editor's Note: Former Subsection K(7), pertaining to electronic reader boards, which immediately preceded his subsection, was repealed 1-17-2019 by Order No. 2019-064. This order also provided for the re-designation of former Subsection K (8) through (13) as Subsection K (7) through (12).*

(9) In addition to the wall signs permitted under § 240-39K(2), one exterior **marquee** wall sign for **each** movie theaters, **hotels, and multifamily dwellings** located within a regional shopping center shall be permitted with a size of up to 150 square feet.

(10) In addition to the signs permitted under § 240-39K(1) hereof, up to two freestanding exterior signs for **each** movie theaters, **hotels, and multifamily dwellings** located within a regional shopping center shall be permitted as follows:

(a) Maximum number: two.

(b) Maximum height: 14 feet above grade.

(c) Maximum area: not to exceed 175 square feet per side, exclusive of structures holding the sign.

(11) In addition to the signs permitted under § 240-39K (1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone," provided that the maximum height of freestanding signs does not exceed 12 feet above grade and the maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign. [Added 5-7-2015 by Order No. 2015-0714]

(12) No special permit shall be required for signs that are in conformance with the standards set forth above.

L. Advisory site plan review and provisions.

(1) Findings. Owing to their physical characteristic and the nature of their operations, a regional shopping center may affect neighboring properties and adjacent sidewalks and streets. It is in the interest of the community to promote functional and aesthetic design, construction and maintenance of a regional shopping center and to minimize any harmful **e**ffects on surrounding areas.

(2) Purposes. The provisions of this section are designed to assure that all development activities associated with a regional shopping center will be carried out in furtherance of the purposes articulated in § 240-39A, taking into account the existing condition of the redevelopment area, the large-scale character of developments such as the regional shopping center, the customary site layout of regional shopping centers, and the necessity to permit natural light to illuminate the common areas of the regional shopping center (hereinafter referred to as the "design constraints").

(3) Advisory site plan review/when required. The provisions of this § 240-39L shall apply to development within the Shopping Center Redevelopment Overlay District in lieu of the site plan review provisions of Article IX of this chapter. At least 60 days prior to filing any DRI application with the

Cape Cod Commission, the proponent of a regional shopping center shall make an informal filing with the Building Commissioner, in draft form, of such plans and materials relating to the DRI application as the proponent intends to file with the Commission with its DRI application and such relevant plans and materials relating to the MEPA process as are then available. Within 30 days following such informal submission, the Building Commissioner and other members of the Site Plan Review Committee established under

4 Editor's Note: This order also renumbered former Subsection K (12) as Subsection K (13). Article IX of this chapter and such other Town staff as may be designated by the Building Commissioner shall review, comment upon and make recommendations with respect to the plans and materials so submitted, provided that the Building Commissioner shall have the right to extend such thirty-day period by an additional 30 days at the request of the Site Plan Review Committee. In conducting its review the Site Plan Review Committee shall consider the consistency of such plans and materials with the site development standards set forth in Subsection L (4) hereof. The informal filing and review described in this Subsection L (3) requires no approval and therefore does not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto; however, the Cape Cod Commission shall be invited to have representatives participate in the advisory site plan review process.

(4) Site development standards.

(a) A reasonable effort shall be made to improve, conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.

(b) Slopes which exceed 10% shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.

(c) The placement of buildings, structures, fences, lighting and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.

(d) At any driveway, a visibility triangle shall be provided in which nothing shall be erected, placed, planted or allowed to grow so as to materially impede vision from within motor vehicles between a height of three feet and eight feet above the average center-line grades of the intersecting street and driveway, said triangle being bounded by the intersection of the street line and the edges of a driveway in a line joining points along said lines 20 feet distant from their projected intersection.

(e) Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to interfere with traffic beyond the perimeter of the site.

(f) All areas designed for vehicular use shall be paved with a minimum of either a 2 ½ inches bituminous asphalt concrete, a six-inch portland cement concrete pavement, or other surface, such as brick or cobblestone, as approved by the Town Engineer.

(g) All parking spaces shall be arranged and clearly marked in accordance with the parking lot design standards contained in § 240-39J herein. Signs and pavement markings shall be used as appropriate to control approved traffic patterns.

**(h) The provisions of § 240-52 of this chapter shall not apply to land within the Shopping Center Redevelopment Overlay District. Instead, exterior landscaping of a regional shopping center shall be subject to review in connection with the advisory site plan review process described herein.**

(ih) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground. Electric, telephone, cable TV, and other such utilities shall be underground, except for transformers, electric switching boxes or similar equipment and gas meters, which may be above ground.

(ji) All surface water runoff from structures and impervious surfaces shall be disposed of on site, but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies (except for drainage structures in

place as of the effective date of this § 240-39). All drainage systems shall be designed to minimize the discharge of pollutants by maximizing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration (with due regard to the design constraints). Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Subject to ambient surcharge conditions, roof runoff shall be recharged to the ground via a system of dry wells and/or infiltration systems. Nontoxic roof materials shall be used to minimize the leaching of toxic materials to the groundwater. To minimize water utilization, all new plumbing fixtures shall be designed to meet water conservation measures as required under the State Building and Plumbing Codes. All such drainage structures shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants. All calculations shall be for a twenty-five-year storm and shall be reviewed by the Town Engineer. The materials submitted shall include provision for an appropriate maintenance program for such drainage structures to be implemented and maintained by the proponent. The materials submitted shall show adequate measures to mitigate pollution of surface or groundwater to minimize erosion and sedimentation. All drainage shall be designed so that all runoff shall be disposed of on site, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

(kj) The materials submitted shall describe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow showing adequate access to and from the site and adequate circulation within the site **taking into account the Barnstable/Yarmouth Transportation Study**. The proponent of a regional shopping center will include in such materials reasonable measures to lower traffic demand to the regional shopping center such as, by way of example only, working with other major retailers along the 132 corridor to promote bus and shuttle bus activity, encouraging carpooling among employees, and/or similar measures, which materials shall be referred to as the "Traffic Demand Management Plan." Reasonable efforts shall be made to provide vehicular and pedestrian connections within the redevelopment area to adjoining properties devoted to retail use.

**M. Affordable Housing Units. Notwithstanding any other provisions as may be set forth in this Zoning Ordinance, any multifamily dwelling development in the Shopping Center Redevelopment Overlay District shall comply with either subsection (1) or (2) below, whichever calculation results in a greater number of restricted units. If the total number of restricted units is the same under subsection (1) and subsection (2), then the subsection with the greater number of deed restricted affordable units for individuals and families with the lowest percentage of Area Median Income (AMI) shall be required. The determination as to which calculation applies shall be made at the time that development permits are sought for a proposed multifamily development.**

**(1) The provisions of the Town of Barnstable Code, Chapter 9, Inclusionary Affordable Housing Requirements in effect at the time development approvals are sought for any multifamily dwelling development within the SCROD; or**

**(2) Ten percent (10%) of the multifamily dwelling units shall be deed restricted as affordable units for individuals and families earning up to 65% of the area median income and an additional three percent (3%) of the multifamily dwelling units shall be deed restricted as affordable housing units for individuals and families earning up to 80% of the median income for the Town of Barnstable, as determined annually by the Department of Housing and Urban Development. The affordable units shall conform to all Department of Housing and Community Development (DHCD) standards that must be met to qualify these units for inclusion in the DHCD Subsidized Housing Inventory (SHI) as Local Initiative Program units.**

**(3) No certificate of occupancy permit shall be issued until recordation of the Regulatory Agreement and Declaration of Restrictive Covenants.**

**N. Special permit provisions.**

**(1) Special permit for regional shopping center.**

**(a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the**

effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39M39N. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this § 240-39M39N. [Amended 9-18-2008 by Order No. 2009-08; 5-7-2015 by Order No. 2015-071]

(b) A special permit for a regional shopping center may provide for phased development (and, if applicable, a projected phasing plan shall be provided to the Zoning Board of Appeals as part of the special permit process under § 240-39M39N). A special permit for a regional shopping center shall become void two years from the date of issue unless any construction work contemplated thereby (or first phase thereof, if applicable) shall commence and proceed in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the use authorized thereby is commenced.

(c) Any work done in deviation from a special permit granted pursuant to this § 240-39M39N shall be a violation of this chapter, unless such deviation is approved in writing by the Zoning Board of Appeals. However, a special permit may be granted based upon plans showing one or more permissible building areas and/or permissible parking structure areas, in which buildings and other structures are to be located, rather than with the locations of the buildings and other structures finally established. Provided the boundaries of such permissible building areas and/or permissible parking structure areas are approved by the Zoning Board of Appeals in connection with the special permit, once the special permit is granted, no separate approval of the Zoning Board of Appeals will be required for the actual location of the buildings or improvements within such permissible building areas and/or permissible parking structure areas [provided that no material change to the design or materials described in § 240 39M39N

(2)(a) shall be made without the approval of the Zoning Board of Appeals.] The Zoning Board of Appeals may amend or modify a special permit upon the application of the developer of a regional shopping center and, if the Zoning Board of Appeals determines that such amendment or modification is minor in nature, such amendment or modification may be approved without a hearing upon the submission of plans and information that may, in the discretion of the Zoning Board of Appeals, be less extensive than the plans and information required in this § 240-39M39N. Amendments or modifications determined by the Zoning Board of Appeals not to be minor in nature shall require a public hearing.

(d) The purpose of the special permit for a regional shopping center is to assure that the development of a regional shopping center is carried out in a manner which is (1) consistent with the purposes set forth in § 240-39A hereof and the site development standards set forth in § 240-39L(4) hereof, (2) consistent with the terms and conditions of any DRI permit issued by the Cape Cod Commission and the certificate of the Secretary of Environmental Affairs on the final environmental impact report, (3) with due regard given to the Design Guidelines for Cape Cod prepared by the Cape Cod Commission in light of the design constraints, and (4) consistent with such additional reasonable conditions as may be imposed by the Zoning Board of Appeals as are not inconsistent with the foregoing. The Zoning Board of Appeals shall grant a special permit for a regional shopping center upon its determination that the standards for the issuance of such special permit set forth in this Subsection M(1)(d) have been complied with, giving due regard to the design constraints.

(2) Required contents of special permit application. The application for a special permit under this § 240-39M39N shall include:

(a) Building elevation plans for all exterior facades of buildings and structures, at a scale of 1/16 inch equals one foot, or such scale as may be required by the Zoning Board of Appeals for detail drawings, indicating surface materials and colors, together with not less than three representative cross sections.

- (b) A tabulation of the areas of the proposed site elements, including buildings (footprints and gross leasable area and gross floor area), parking structures and surface parking areas (square footage and number of parking spaces), stormwater management facilities, and landscaped areas (square footage, number of trees and other plantings).
- (c) Updated versions of the materials submitted to the Building Commissioner in connection with the advisory site plan review process described in § 240-39L above.
- (d) Any request for gross leasable area in excess of the use limitations set forth in § 240-39F
- (1)(e) applicable to retail shopping center uses.
- (e) Any request to permit the structure to exceed the maximum height limitation set forth in § 240-39G (1) (h).
- (ef) Any request to permit rooftop features to exceed the rooftop feature height limitation set forth in § 240-39G (3) (b).
- (g) Any request to exceed the maximum allowable 1,200,000 square feet of gross Leasable area for retail shopping center uses set forth in § 240-39H.
- (h) Any request to permit a reduction in the required parking ratios under § 240-39J (5).
- (fi) All materials relating to any request to permit off-site parking under § 240-39J (26).
- (gj) A description of the operating agreement and/or leasehold agreements contemplated in the definition of "regional shopping center."
- (hk) Additional information as may be required by the Zoning Board of Appeals as reasonably necessary to making the determinations required by this section.
- (3) Required procedures for special permit.
- (a) At least **two six** copies are required of all plans, drawings and written information. **Submissions Copies of application materials** shall **also** be **delivered submitted** to the Zoning Board of Appeals **electronically**.
- (b) The Zoning Board of Appeals may solicit the advice of any other Town agency or department it deems necessary to properly make the determinations required by this section.
- (c) In issuing a special permit under this § 240-39M39N, the Zoning Board of Appeals shall give due regard to, and shall not be inconsistent with the decisions and recommendations of the Cape Cod Commission as set forth in any DRI permit or similar approval.
- (d) The Zoning Board of Appeals shall also include as a condition of its special permit the performance of any written commitments made by the developer of a regional shopping center to the Zoning Board of Appeals, the Planning Board or the Town Council intended to reduce or limit the impacts, financial or otherwise, of the regional shopping center on the Town. Such conditions shall be based on the written information furnished to the Zoning Board of Appeals by the Planning Board and Town Council. Such conditions shall be binding on the applicant for such special permit provided they are consistent with the provisions of Section 15 of Chapter 716 of the Acts of 1989 (the Cape Cod Commission Act).
- (e) The Zoning Board of Appeals may include as a condition of its special permit that, prior to the issuance of a certificate of occupancy for the regional shopping center, the Building Commissioner shall be provided with evidence that the operating agreement and/or leasehold arrangements contemplated in the definition of "regional shopping center" are in place.
- (f) If the proposed improvements which are the subject of an application for a special permit under this § 240-39M39N have not been subject to the review of the Cape Cod Commission because at the time of such application the Cape Cod Commission or the DRI process has been abolished, then the proposed improvements shall be subject to site plan review under Article IX of this chapter.

**A. OLD BUSINESS (Public Hearing) (Majority Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-058**  
**INTRO: 11/17/2022, 12/01/2022**

**2023-058 APPROPRIATION ORDER IN THE AMOUNT OF \$45,000 FOR THE GOLF ENTERPRISE FUND FOR THE PURPOSE OF FUNDING THE ACQUISITION OF A UTILITY TRACTOR FOR THE GOLF MAINTENANCE OPERATIONS**

**ORDERED:** That the amount of **\$45,000** be appropriated and transferred from the Golf Enterprise Fund surplus for the purpose of funding expenses related to the acquisition of a utility tractor for the Golf Maintenance Operations.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2023-058  
INTRO: 11/17/2022, 12/01/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Madeline Noonan, Director of Community Services  
**DATE:** November 17, 2022  
**SUBJECT:** Appropriation Order in the amount of **\$45,000** for the Golf Enterprise Fund for the purpose of funding the acquisition of a utility tractor for the Golf Maintenance Operations

**BACKGROUND:** Due to supply chain issues, the current lead time to receive most golf maintenance equipment is over fourteen (14) months from the time a purchase agreement has been executed. We are requesting approval to purchase the tractor so we can obtain the equipment in time for specific cultural practices that are necessary and seasonal in nature.

The number of golf rounds at both facilities has increased dramatically causing more compaction, requiring additional cultural practices to relieve compaction and create a more favorable growing medium. We have also implemented additional maintenance techniques including: annual slice seeding, aerovating, verticutting, and numerous approaches that require the use of a tractor. These cultural practices are an integral part of our environmentally sustainable land management plan. We have also experienced unprecedented drought conditions causing watering restrictions that have further declined the health of turf. These conditions require additional practices to aid in the recovery of turf stands and establishment of new seedlings.

**FISCAL IMPACT:** The Golf Enterprise Fund surplus was recently certified by the Department of Revenue at \$2,326,507. Approval of the purchase of the tractor using golf surplus funds will allow the golf operations to continue to meet the level of conditions expected from golfers while maintaining an adequate reserve level. We can perform necessary cultural practices more efficiently, thus reducing closing of facilities which would result in lost revenue.

**STAFF ASSISTANCE:** Chris Gonnella, Assistant Director of Community Services; Jesse Schechtman, Director of Golf; James Bentley, Director of Golf Maintenance



**A. OLD BUSINESS (Public Hearing) (Majority Full Council)**

**BARNSTABLE TOWN COUNCIL**

**ITEM#2023-061**

**INTRO: 11/17/2022, 12/01/2022**

**2023-061 APPROPRIATION ORDER IN THE AMOUNT OF \$3,811,500 FOR THE FISCAL YEAR 2023 AIRPORT ENTERPRISE FUND OPERATING EXPENSE BUDGET FOR THE PURPOSE OF PURCHASING AVIATION JET FUEL FOR RESALE**

**ORDERED:** That the amount of **\$3,811,500** be appropriated and provided from the Airport Enterprise Fund surplus for the purpose of funding the purchase of aviation jet fuel for resale.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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

**BARNSTABLE TOWN COUNCIL**

**ITEM#2023-061**

**INTRO: 11/17/2022, 12/01/2022**

**SUMMARY**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Katie R. Servis, Airport Manager  
**DATE:** November 17, 2022  
**SUBJECT:** Appropriation Order in the amount of **\$3,811,500** for the Fiscal Year 2023 Airport Enterprise Fund Operating Expense Budget for the purpose of purchasing Aviation Jet Fuel for resale

**SUMMARY:** Cape Cod Gateway Airport is requesting an increase in the Fiscal Year 2023 Operating Expense Budget to cover the cost of jet fuel purchases through the end of the Fiscal Year. This request is the result of an increase in the projected fuel sales.

The Airport tracks year-over-year and month-over-month the average fuel loads purchased and sold. This tracking allows the operation to identify the number of fuel loads typically needed year-over-year and month-over-month and is used for forecasting purposes. With the onset of COVID-19, there has been an increase in aviation jet fuel sales with more corporate aircraft utilizing the facility and purchasing fuel in Fiscal Year 2021 and Fiscal Year 2022. We are starting to normalize our sales in Fiscal Year 2023 but the cost of fuel has doubled. Because of this cost increase, by the end of the first quarter and into the second quarter of Fiscal Year 2023, the airport had surpassed the fuel budget for Fiscal Year 2023.

The Fiscal Year 2023 budget anticipated the sale of 1,250,000 gallons of fuel at the rate of \$2.80 per gallon (cost not retail) or \$3,500,000. As of October 2022, the Airport has purchased over 823,000 gallons this season. The issue is not that the Airport is selling more fuel per say (in fact we are selling slightly less) but the cost to buy fuel, which has nearly doubled; with the average rate per gallons costing \$4.30 per gallon rather than the \$2.80 anticipated. The table below identifies the cost thus far for Fiscal Year 2023.

Month	Actual Gallons Purchased	Average Cost per Gallon	Total Fuel Cost
JULY	257,335	\$4.37	\$ 1,124,616.32
AUGUST	296,921	\$4.07	\$ 1,209,722.94
SEPTEMBER	139,167	\$4.06	\$ 565,004.90
OCTOBER	129,741	\$4.71	\$ 611,123.68
NOVEMBER			
DECEMBER			
JANUARY			
FEBRUARY			
MARCH			
APRIL			
MAY			
JUNE			
<b>TOTALS</b>	823,164		\$ 3,510,467.84

The table below compares the month-to-month sales for Fiscal Year 2022 and Fiscal Year 2023.

GALLONS SOLD			
MONTH	FY2022	FY2023	FY23 vs FY22
JULY	257,418	222,786	-34,632
AUGUST	292,353	264,002	-28,351
SEPTEMBER	166,126	155,922	-10,204
OCTOBER	125,851	128,394	2,543
NOVEMBER	109,134		-109,134
DECEMBER	74,230		-74,230
JANUARY	46,124		-46,124
FEBRUARY	38,352		-38,352
MARCH	49,282		-49,282
APRIL	46,820		-46,820
MAY	111,488		-111,488
JUNE	172,350		-172,350
TOTALS	1,489,528	771,104	-718,424

From November through June, the Airport has historically have purchased 75 fuel loads. The historic average purchase of fuel is outlined below.

ANALYSIS OF HISTORICAL GALLONS SOLD/MONTH			
MONTH	Average Load Purchased/Month	Average Gallons/Load	Total Gallons/Month
NOVEMBER	10	9900	99,000
DECEMBER	10	9900	99,000
JANUARY	6	9900	59,400
FEBRUARY	5	9900	49,500
MARCH	6	9900	59,400
APRIL	6	9900	59,400
MAY	12	9900	118,800
JUNE	20	9900	198,000
TOTALS	75	-	742,500

The cost of this fuel is determined as follows:

- We will assume the average cost per load is \$5.00 to allow for increases that are likely or currently \$49,500
- 75 loads x \$49,500 = \$3,712,500.
- Fuel budget remaining as of November 2022 is \$0
- Two additional loads to be conservative and as a buffer = \$99,000
- **Appropriation Request = \$3,811,500.**

Any funds remaining at the end of the fiscal year will be returned to the Airport Enterprise Fund reserves.

**FISCAL IMPACT:** The sale of jet fuel will replenish the Airport’s reserves used to fund this appropriation for fuel. The Airport’s reserve fund was certified on of July 1, 2022 at \$8,878,844.

**STAFF ASSISTANCE:** Katie R. Servis, Airport Manager; Mark A. Milne, Director of Finance

**B. NEW BUSINESS (First Reading) (Refer to second Reading 12/15/2022)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-063  
INTRO: 12/01/2022**

**2023-063 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Comprehensive Financial Advisory Committee:** Jacky Johnson, as a regular member to a term expiring 06/30/2024; Neil Kleinfeld, as a regular member to a term expiring 06/30/2025; **Disability Commission:** Lori Gillen, as a regular member to a term expiring 06/30/2024; **Hyannis Main Street Waterfront Historic District Commission:** Laura Cronin, as a regular member to a term expiring 06/30/2025; **Licensing Authority:** Max Mitrokostas as an associate member, to a term expiring 06/30/2025; **Recreation Commission:** Alyssa Chase, as a regular member to a term expiring 06/30/2025; **Zoning Board of Appeals:** Aaron Webb from associate member to a regular member to a term expiring 06/30/2023

**SPONSOR:** Appointment Committee Members

DATE	ACTION TAKEN
_____	_____
_____	_____

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

**B. NEW BUSINESS (Refer to Public Hearing 12/15/2022)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-064  
INTRO: 12/01/2022**

**2023-064 APPROPRIATION ORDER IN THE AMOUNT OF \$1,337,890 FOR THE PURPOSE OF FUNDING THE RESTORATION WORK TO THE ZION UNION HISTORIC MUSEUM AND ORIGINAL CHAPEL, 296 NORTH STREET, HYANNIS, MA**

**ORDERED:** That the amount of **\$1,337,890** be appropriated for the purpose of funding the restoration and rehabilitation work to the Zion Union Historic Museum and original chapel located at 296 North Street, Hyannis MA, Map 308, Parcel 029, and to fund this appropriation that **\$457,390** be provided from the Capital Trust Fund, and that, pursuant to the provisions of G.L. c. 44B, the Community Preservation Act, **\$261,778** be transferred from the amount set aside for Historic Preservation within the Community Preservation Fund and **\$618,722** be transferred from the Undesignated Fund Balance within the Community Preservation Fund. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

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

DATE	ACTION
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

ITEM# 2023-064  
INTRO: 12/01/2022

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Lindsey Counsell, Chair, Community Preservation Committee  
**DATE:** December 01, 2022  
**SUBJECT:** Appropriation Order in the amount of **\$1,337,890** for the purpose of funding the restoration work to the Zion Union Historic Museum and Original Chapel, located at 296 North Street, Hyannis, MA

**BACKGROUND:** At the July 18, 2022, Community Preservation Committee (CPC) meeting, the six members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager, the Department of Public Works' request as presented for \$261,778 in Community Preservation Historic Preservation funds; and \$618,722 in Community Preservation Undesignated Funds, totaling \$880,500 in Community Preservation Funds. This funding request represents a portion of the total project cost of \$1,337,890, with \$457,390 to be provided from Capital Trust Funds. This funding request is for restoration and rehabilitation work for the Zion Union Historic Museum and original chapel including siding, roofing, windows, doors, ADA accessibility improvements, interior water damage repair, mechanical equipment replacement, and site work.

The Zion Mission was established in 1909 and became the first church on Cape Cod to serve the Black and Cape Verdean community. In 2007, the Town of Barnstable purchased the property in partnership with Lyndon and Paul Louse Foundation with Community Preservation Act funds and has become the steward of maintaining this important cultural asset.

This appropriation is requested in support of a Town-owned historic structure that is currently leased to the Zion Union Heritage Museum. The property was purchased by the Town subject to an existing 99-year lease, which ends in September 2106. The terms of the lease provide that the Museum, as Lessee, is responsible for repairs and maintenance, but is not obligated to make capital improvements to the property. Accordingly, those responsibilities remain with the Town as the Lessor and owner of the property. The Capital Trust Fund monies will be used primarily for replacement of failed building components and machinery and code compliance issues, and not for ordinary repairs and maintenance.

**ANALYSIS:** The property is listed with the Massachusetts Historical Commission as a Massachusetts Cultural Resource for its significant architecture, education, and ethnic heritage. The ca.1920 building is currently home to the Zion Union Heritage Museum which opened on May 1, 2008 and is a popular destination with over eighty bus tours visiting per season.

The following is an explanation of fund expenditure by funding source.

	CPC Portion	Capital Portion
Replacement of failed building components		
Office flood repair – insulation, sheetrock, paint		\$ 8,000
Storage room flood repair – insulate, sheetrock, paint		\$ 3,000
Furnace / HVAC replacement		\$ 50,000
Water heater / piping		\$ 30,000

	CPC Portion	Capital Portion
Attic Insulation		\$ 20,000
Clean and repair stairwell drain and pump		\$ 2,000
Compliance upgrades to meet code		
Basement egress stair, new stair and handrail		\$ 25,000
Guard rail at top of bulkhead	\$ 10,000	\$ 10,000
Demolition of non-compliant h'cap ramp	\$ 8,000	
ADA compliant ramp	\$ 80,000	
ADA compliant ramp handrails	\$ 5,000	
ADA compliant restrooms		\$ 85,000
ADA compliant door hardware	\$ 6,000	
Historic restoration / rehabilitation		
Glass entry doors	\$ 9,000	
Replace side doors	\$ 12,500	
Replace siding – White Cedar Shingle	\$ 30,000	
Replace siding – Clapboard & trim	\$163,800	
Restore / replace windows (14)	\$ 63,000	
Replace failed gutters		\$ 4,500
Exterior paint	\$ 33,400	
Replace roof	\$ 50,000	\$ 30,000
Soft Cost and Contingency	\$229,313	\$ 107.71

**FISCAL IMPACT:** This appropriation will be provided from available reserves within the Community Preservation Fund and Capital Trust Fund. There is no impact on the General Fund Operating Budget.

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

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-065  
INTRO: 12/01/2022**

**2023-065 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 RECYCLING DIVIDENDS PROGRAM GRANT IN THE AMOUNT OF \$11,700 FROM THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURPOSE OF ENHANCING THE TOWN'S WASTE REDUCTION PROGRAMS**

**ORDERED:** That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 Recycling Dividends Program Grant in the amount of **\$11,700** from the Commonwealth of Massachusetts, Department of Environmental Protection to enhance the Town's waste reduction programs through the acquisition of recycling containers, recycling carts and recycling bins, waste reduction and/or recycling outreach and education materials, and other related expenses authorized in the Recycling Dividends Program contract.

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

DATE	ACTION TAKEN
_____	_____
_____	_____

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



# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-065**  
**INTRO: 12/01/2022**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director, Department of Public Works  
**DATE:** December 01, 2022  
**SUBJECT:** Authorization to expend a Fiscal Year 2023 Recycling Dividends Program Grant in the amount of **\$11,700** from the Commonwealth of Massachusetts, Department of Environmental Protection for the purpose of enhancing the Town's Waste Reduction Programs

**BACKGROUND:** The Town has been awarded a \$11,700 grant from the Massachusetts Department of Environmental Protection under the Recycling Dividends Program (RDP). The grant award was made because of specific programs and policies the Town has implemented to maximize reuse, recycling and waste reduction.

**ANALYSIS:** The acceptance of this grant will allow the Solid Waste Division and the Town to enhance its waste reduction programs through the acquisition of recycling containers, recycling carts and recycling bins, waste reduction and/or recycling outreach and education materials, and other related expenses authorized in the Recycling Dividends Program (RDP) contract.

**FISCAL IMPACT:** No funding match is required for this grant and there is no Operating Budget impact.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, requests favorable action by the Town Council.

**STAFF ASSISTANCE:** Daniel W. Santos, P.E., Director Department of Public Works; Tracy Regazio, Supervisor, Solid Waste Division

**B. NEW BUSINESS (Refer to Public Hearing 12/15/2022)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2023-066  
INTRO: 12/01/2022**

**2023-066 ORDER WAIVING FEES FOR CONSTRUCTION WORK BY THE  
BARNSTABLE FIRE DISTRICT FOR A NEW FIRE DISTRICT WATER  
TREATMENT PLANT OFF BREEDS HILL ROAD TO TREAT THE  
DISTRICT’S WELLS 2 & 5**

**ORDERED:** Notwithstanding the provisions of any ordinance of the Town regarding schedules of fees, the construction project for the construction of a new water treatment plant off Breeds Hill Road by the Barnstable Fire District (the “Project”) shall hereby be exempt from payment of such fees; provided that if the Town is required to hire outside inspectors with special expertise to inspect any aspect of the Project, the Barnstable Fire District will pay those costs; and provided further, that this Order shall not become effective until a Memorandum of Agreement between the Town of Barnstable and the Barnstable Fire District is executed and filed with the Barnstable Town Clerk in which the Barnstable Fire District agrees to pay any such costs for outside inspectors.

**SPONSORS:** Gordon Starr, Councilor, Precinct 1; Kris Clark, Councilor, Precinct 11

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Vote

# BARNSTABLE TOWN COUNCIL

**ITEM# 2023-066**  
**INTRO: 12/01/2022**

## SUMMARY

**TO:** Town Council  
**FROM:** Karen L. Nober, Town Attorney  
**THROUGH:** Mark S. Ells, Town Manager  
**DATE:** December 01, 2022  
**SUBJECT:** Order waiving fees for construction work by the Barnstable Fire District for a new Fire District Water Treatment Plant off Breeds Hill Road to treat the District's Wells 2 & 5

**BACKGROUND:** At the Spring 2022 Barnstable Fire District's Meeting, approval was granted for the borrowing article proposing to construct a new water treatment plant off Breeds Hill Road to treat the District's Wells 2 & 5 for removal of per- and polyfluoroalkyl substances, known as PFAS.

Because all residents of the villages of Cummaquid and Barnstable will benefit from the construction of this new water treatment plant, the Barnstable Fire District has requested that the Town of Barnstable waive any fees associated with the project, which the Fire District estimates will be potentially in the range of \$200,000.

The Town Council has previously voted to waive such fees. In October 2016, the Town Council voted to approve Item #2017-014 for a waiver of fees for construction work on the new Hyannis Fire District Fire Station located at 95 High School Road, Hyannis, MA.

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

**STAFF ASSISTANCE:** Karen L. Nober, Town Attorney; Charles S. McLaughlin, Jr., Senior Counsel