



# Town of Barnstable Town Council

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## MEETING AGENDA TOWN HALL HEARING ROOM December 21, 2017 7:00 PM

### Councilors:

Eric R. Steinhilber  
President  
Precinct 2

James H. Crocker Jr.  
Vice President  
Precinct 5

John G. Flores  
Precinct 1

Paul Hebert  
Precinct 3

Britt Beedenbender  
Precinct 4

Paul Neary  
Precinct 6

Jessica Rapp Grassetti  
Precinct 7

Debra S. Dagwan  
Precinct 8

James M. Tinsley  
Precinct 9

Matthew Levesque  
Precinct 10

Philip N. Wallace  
Precinct 11

Paula Schnepf  
Precinct 12

Jennifer L. Cullum  
Precinct 13

Administrator:  
Cynthia A. Lovell

Administrative  
Assistant:  
Kelly Crahan

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. TOWN MANAGER COMMUNICATIONS**
- 7. ACT ON MINUTES (Including Executive Session)**
- 8. COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements**
  - **Legislative Update Senator Julian Cyr**
- 9. ORDERS OF THE DAY**
  - A. Old Business**
  - B. New Business**
  - **Approval of 2018 Town Council Calendar of Meetings**
- 10. ADJOURNMENT**

Original posted on  
12/19/17@1:56pm; Updated on  
12/20/17 to add Appointments to a  
Board Committee Commission;  
Reappointments to a Board  
Committee Commission. Updated on  
12/21/17@ 10:16am to Include Item #  
2018-053

**NEXT REGULAR MEETING: January 4, 2018**

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**A. OLD BUSINESS**

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**B. NEW BUSINESS**

2018-049	Resolve Barnstable Hyannis Fire District Intermunicipal Dispatch Agreement <b>(May be acted upon) (Majority vote)</b> .....	5-6
2018-050	Appointments to a Board/Committee/Commission: <b>Hyannis Main Street Waterfront Historic District Appeals Committee:</b> Kevin Bennett, as a Hyannis business community representative member to a term expiring 06/60/18; Sara Colvin, as a resident of Hyannis representative member to a term expiring 06/30/18; Alison Alessi, as an architectural representative member to a term expiring 06/30/18 <b>(First Reading)</b> .....	7
2018-051	Appointments to a Board/Committee/Commissions: <b>Zoning Board of Appeals:</b> Paul Pinard, Osterville, as an associate member to a term expiring 6/30/18; <b>Hyannis Main Street Waterfront Historic District Committee:</b> David Dumont, as a regular member representing the Hyannis business district to a term expiring 06/30/20; Elizabeth Young, Hyannis, as an alternate member representing the Hyannis business district to a term expiring 06/30/19 <b>(First Reading)</b> .....	8
2018-052	Reappointments to a Board/Committee/Commission: <b>Shellfish Committee:</b> Albert Surprenant as a regular member to a term expiring 6/30/20; <b>Board of Governors of the Steamship Authority:</b> Robert R. Jones, as a representative member of Barnstable, to a term expiring 12/31/2021 <b>(First Reading)</b> .....	9
2018-053	Amending Article V, Chapter 240, Sections 47.1 and Section 128 of the Zoning Ordinance to revise regulations for Family Apartments <b>(Refer to Planning Board)</b> .....	10-13

Approve Minutes –November 16, 2017

Town Council President’s announcement on the review and determinations regarding the following Executive Session minutes: 9/12/13, 9/19/13 and 10/17/13-Marty v. Town of Barnstable; 9/12/13, 3/20/2014; 5/22/2014- Cape Wind; 12/17/15-AIDS Support Group; 04/21/16-Hempel Open Meeting Law Complaint; 06/16/16, 09/15/16;01/5/17; 06/15/17-Barnstable v. Barnstable County; 09/15/16-Beaty Open Meeting Law Complaint; 10/20/16-, Lopez Open Meeting Law Complaint; 1/19/17-purchase of land or lease for water supply.

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

**A. OLD BUSINESS (May be acted upon) (Majority vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2018-048**  
**INTRO: 12/07/17, 12/21/17**

**2018-048 RESOLVE IN SUPPORT OF AN INTERMUNICIPAL AGREEMENT BETWEEN BARNSTABLE, SANDWICH, AND MASHPEE FOR THE PURPOSE OF POPPONNESSET BAY WATERSHED PERMITTING**

**RESOLVED:** That the Town Council approves the execution and delivery by the Town Manager on behalf of the Town of an Intermunicipal Agreement to include a maximum duration of twenty-five years between the Towns of Barnstable, Sandwich and Mashpee to jointly apply for a permit for the Popponnesset Bay system pursuant to the 208 Plan update and Chapter 259 of the Acts of 2014 and any future requirement pursuant to 315 C.M.R. 5.00

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

DATE	ACTION TAKEN
<u>12/07/17</u>	<u>First Reading</u>
_____	_____

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

# BARNSTABLE TOWN COUNCIL

ITEM # 2017-048

INTRO: 12/07/17, 12/21/17

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**DATE:** December 5, 2017  
**SUBJECT:** Resolve in support of an Intermunicipal Agreement between Barnstable, Sandwich, and Mashpee for the purpose of Popponesset Bay watershed permitting

**BACKGROUND:** Pursuant to Section 208 of the federal Clean Water Act, in 2015, the Cape Cod Commission submitted the updated Cape Cod Water Quality Management Plan (208 Plan) to the USEPA. In conjunction with development of the 208 Plan, the Commonwealth of Massachusetts in Section 2A of Chapter 258 of the Acts of 2014 requires MassDEP to develop a watershed permitting approach to address and optimize nitrogen management measures intended to restore water quality to meet applicable water quality standards in watersheds included in an area-wide nitrogen management plan.

**ANALYSIS:** Of the six watersheds in Barnstable, four are shared with neighboring Towns. Under DEPs nascent watershed permitting approach, a single permit will be developed for an entire watershed, which in the case of shared watersheds; will necessarily involve all of the included towns. For the past year the Town of Barnstable has been working with the Towns of Sandwich and Mashpee to develop an Intermunicipal Agreement which will guide the development of a Watershed Permit for the Popponesset Bay Watershed. The Intermunicipal Agreement sets out the structure of how the Towns intend to work together to develop, apply for, and implement the Watershed Permit. The Agreement establishes respective responsibilities based on a nitrogen allocation formula, since each town contributes nitrogen based on their area within the watershed and density and character of development. The Agreement establishes a working group, and addresses matters such as nitrogen trading, term of agreement and dispute resolution; as well as documenting each party's progress on Comprehensive Wastewater Management Planning efforts.

**FISCAL IMPACT:** There is no direct fiscal impact resulting from the Intermunicipal Agreement. The Town will continue to plan for and implement wastewater projects in compliance with regulations through the normal budgeting process. The aim of the Intermunicipal Agreement is to work collaboratively with neighboring towns, which will result in an efficient and cost-effective approach to addressing wastewater needs.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends approval of the Town Council Resolve.

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2018-049  
INTRO: 12/21/17**

**2018-049 RESOLVE BARNSTABLE HYANNIS FIRE DISTRICT INTERMUNICIPAL  
DISPATCH AGREEMENT**

**RESOLVED:** That the Town Council approves the execution and delivery by the Town Manager on behalf of the Town of an Intermunicipal Agreement to include a maximum duration of 15 years between the Town of Barnstable and the Hyannis Fire District for joint fire, emergency medical and police call answer and dispatch by the Barnstable Police Department and accept any gifts in relation thereto.

**SPONSOR:** Councilor Debra Dagwan, Councilor James Tinsley

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# BARNSTABLE TOWN COUNCIL

ITEM # 2018-049

INTRO: 12/21/17

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Paul MacDonald, Chief of Police  
**DATE:** December 21, 2017  
**SUBJECT:** Approval for a Town of Barnstable/Hyannis Fire District Intermunicipal Dispatch Agreement

**BACKGROUND:** The Barnstable Police Department and the Hyannis Fire Department propose to establish a coordinated public safety communications center to be known as the “Barnstable Police Public Safety Communications Center” (hereinafter “Center”) for the purpose of providing improved and effective communications for Emergency Medical Dispatch, 911/PSAP, and efficient dispatching of and responses by Police, Fire, and additional resources.

**ANALYSIS:** This resolve approves the execution and delivery by the Town Manager on behalf of the Town of an Intermunicipal Agreement to include a maximum duration of 15 years between the Town of Barnstable and the Hyannis Fire District to create a joint public safety communications center. The Center will be under the direction of and be housed at the Town of Barnstable Police Department (hereinafter “Police Department”) and will render emergency dispatch, communications, and operations services as appropriate to the joint and respective needs of the Police Department and the Hyannis Fire Department (hereinafter “Fire Department”). The Center will endeavor to coordinate public safety communication operations, improve service, increase levels of effectiveness and efficiency, share costs, and reduce the duplication of roles and resources.

**FISCAL IMPACT:** Hyannis agrees to pay Barnstable for Center services at the fully burdened rate for the final three (3) Telecommunications Specialists hired by Barnstable upon the effective date of this Agreement, and/or any replacement hired for those individuals thereafter. Payments shall be made by Hyannis to Barnstable on a monthly basis. Payments will be due within 30 days of the invoice date. Failure to pay the invoice in a timely manner could result in Barnstable withholding the amount due from the Hyannis tax receipts collected by the Town Collector. Barnstable will bill the Hyannis by the 10<sup>th</sup> day of the month for the most recent month ending. The Fire Department will provide the technology, equipment and infrastructure specifically required to dispatch fire apparatus prior to the commencement of the joint services and any subsequent changes or replacements in such technology, equipment and infrastructure.

**TOWN MANAGER RECOMMENDATION:** Town Manager, Mark S. Ells recommends approval for the execution and delivery by the Town Manager on behalf of the Town of an Intermunicipal Agreement between the Town of Barnstable and the Hyannis Fire District for joint fire, emergency medical and police call answer and dispatch by the Barnstable Police Department

**STAFF ASSISTANCE:** Paul B. MacDonald, Chief of Police; Sgt. Gretchen Allen, Barnstable Police

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

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2018-050**  
**INTRO: 12/21/17**

**2018-050 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Hyannis Main Street Waterfront Historic District Appeals Committee:** Kevin Bennett, as a Hyannis business community representative member to a term expiring 06/60/18; Sara Colvin, as a resident of Hyannis representative member to a term expiring 06/30/18; Alison Alessi, as an architectural representative member to a term expiring 06/30/18

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2018-051  
INTRO: 12/21/17**

**2018-051 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Zoning Board of Appeals:** Paul Pinard, Osterville, as a regular member to a term expiring 6/30/18; Todd Walantis, Marstons Mills, as an associate member to a term expiring 6/30/18; **Hyannis Main Street Waterfront Historic District Committee:** David Dumont, as a regular member representing the Hyannis business district to a term expiring 06/30/20; Elizabeth Young, Hyannis, as an alternate member representing the Hyannis business district to a term expiring 06/30/19

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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



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

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2018-052**  
**INTRO: 12/21/17**

**2018-052 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Shellfish Committee:** Albert Surprenant as a regular member to a term expiring 6/30/20; **Board of Governors of the Steamship Authority:** Robert R. Jones, as a representative member of Barnstable, to a term expiring 12/31/2021

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

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

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2018-053  
INTRO: 12/21/17**

**2018-053 AMENDING ARTICLE V, CHAPTER 240, SECTIONS 47.1 AND 128 OF THE ZONING ORDINANCE TO REVISE REGULATIONS FOR FAMILY APARTMENTS**

**ORDERED:**

**Section 1.**

That Chapter 240, Article V, Section 240-47.1 of the Zoning Ordinance, is hereby amended by striking the existing Section 240-47.1 Family apartments in its entirety and substituting in its place the following:

**“§ 240-47.1. Family apartments.**

The intent of this section is to allow within all residential zoning districts one temporary family apartment occupied only by the property owner or a member(s) of the property owner's family as accessory to a single-family residence to provide families the ability to live together as a family unit, but not to allow for a separate dwelling for rental purposes to non-family members. A family apartment may be permitted, provided there is compliance with all the criteria, conditions and procedural requirements herein.

A. As of Right. A family apartment shall be allowed as of right provided that it complies with Section C below and satisfies the following criteria:

- (1) The apartment unit shall not exceed 50% of the square footage of the existing single-family dwelling and shall be limited to no more than two bedrooms.
- (2) Occupancy of the apartment shall not exceed two family members; occupancy limitations shall not apply to children ages 18 and under.
- (3) The family apartment shall be located within a single-family dwelling or connected to the single-family dwelling in such a manner as to allow for internal access between the units. The apartment must comply with all applicable zoning requirements for the zoning district in which it is located.

B. By Special Permit. The Zoning Board of Appeals may allow by Special Permit, subject to the provisions of §240-125C herein, the following waivers from the requirements of Section A above:

- (1) A family apartment unit greater than 50% of the square footage of the dwelling.
- (2) A family apartment unit with more than two bedrooms.
- (3) Occupancy of a family apartment unit by greater than two adult family members.
- (4) A family apartment unit within a detached structure, with a finding that the single-family nature of the property and of the accessory nature of the detached structure are preserved

- C. Conditions and Procedural Requirements. Prior to the creation of a family apartment, the owner of the property shall make application for a building permit with the Building Commissioner providing any and all information deemed necessary to assure compliance with this section including, but not limited to, scaled plans of any proposed remodeling or addition to accommodate the apartment, signed and recorded affidavits reciting the names and family relationship among the parties, and a signed family apartment accessory use restriction document.
- (1) Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.
  - (2) Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
  - (3) At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
  - (4) When the family apartment is vacated, or upon noncompliance with any condition or representation made including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.”

## **Section 2.**

That Section 240-128 of the Zoning Ordinance is hereby amended as follows:

By amending the definition of APARTMENT UNIT by adding the phrase “single-family dwelling or a” before the words multi-family dwelling and striking the phrase “and containing one kitchen” so the definition reads:

APARTMENT UNIT — That portion of the floor area of a single-family dwelling or a multifamily dwelling designed for occupancy by a single family.

By amending the definition of DWELLING, SINGLE-FAMILY by adding the phrase “and providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.” so the definition reads:

DWELLING, SINGLE-FAMILY – A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation

And by striking the definition of FAMILY APARTMENT and replacing it with “An Apartment Unit within a single-family dwelling intended to be occupied only by family members of the property owner and which provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitization.”

**SPONSOR:** James Crocker, Town Council Vice President, Precinct 5

DATE ACTION TAKEN

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2018-053**  
**INTRO: 12/21/17**

## SUMMARY

**TO:** Town Council  
**THROUGH:** Mark S. Ells, Town Manager  
**FROM:** Elizabeth S. Jenkins, Planning & Development Director  
**DATE:** December 21, 2017  
**SUBJECT:** Amending Article V, Chapter 240, Sections 47.1 and Section 128 of the Zoning Ordinance to revise regulations for Family Apartments

**RATIONALE:** The current family apartment regulations require year-round occupancy of the main dwelling and family apartment. The proposed amendment would remove the requirements for year-round occupancy of the dwelling and apartment, allowing additional flexibility for owners. New language to strengthen the intent that neither the house nor the family apartment shall be rented to non-family members is proposed.

The proposed amendment also revises the conditions of establishing a family apartment unit by allowing more flexibility for owners and reducing what must be reviewed by the Zoning Board of Appeals by Special Permit or Variance. The 800 square foot limitation on family apartments is eliminated in favor of the existing limitation that units not exceed 50% of the square footage of the principal dwelling. The proposal would also allow detached family apartments to be considered by Special Permit, where they were previously prohibited, but often requested and granted by Variance. The revised conditions would also allow expanded options for the owner and Building Commissioner related to removal of an apartment, allowing multiple possibilities to incorporate a former unit back into the principal dwelling.

Finally, associated definitions are proposed to be clarified to support the above changes and reinforce regulatory intent.

**STAFF ASSISTANCE:** Ruth Weil, Town Attorney, David Houghton, Assistant Town Attorney  
Brian Florence, Building Commissioner