



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

TOWN COUNCIL MEETING

May 15, 2025

6:00 pm

Councillors:

Craig Tamash
President
Precinct 4

Kris Clark
Vice President
Precinct 11

Gordon Starr
Precinct 1

Dr. Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew P. Levesque
Precinct 10

Paula Schnepf
Precinct 12

Felicia Penn
Precinct 13

Administrator:
Cynthia A. Lovell
Cynthia.lovell@town.barnstable.ma.us

The May 15, 2025 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd 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.

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel 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/TownCouncil/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://townofbarnstable-us.zoom.us/j/88109358711> Meeting ID: 881 0935 8711
US Toll-free 1-888-475-4499

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 (Pre-Recorded and available on the Town website)

7. MINUTES

- **ACT ON PUBLIC SESSION MINUTES: May 01, 2025**

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

Presentations from Ad Hoc Committees: Discussion with Council regarding next steps

- Committee to Assess and Recommend Strategies for Housing Creation Within the Town: Rick Presbrey, Chair
- Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements: Bob Schulte, Chair

9. ORDERS OF THE DAY

A. Old Business

Presentation from Mark Milne, Director of Finance, Fiscal Year 2026 Operating Budget

B. New Business

10. ADJOURNMENT

NEXT REGULAR MEETING: June 05, 2025

ITEM NO.	INDEX TITLE	PAGE
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A. OLD BUSINESS

2025-060	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to revise the definition of Accessory Dwelling Unit (ADU) and to revise use and dimensional requirements, floor area definition, and clarify parking restrictions and no owner-occupancy requirement for ADU's (Public Hearing) (Roll Call Majority Vote Full Council)	5-11
2025-062	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by repealing the Zoning Overlay District known as the "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Zoning Overlay District" and creating a new Overlay District known as the "Cannabis Overlay District" and expanding the existing Medical Marijuana Overlay District, in the form as submitted by petition of ten registered voters (Public Hearing) (Roll Call 2/3 Full Council)	12-19
2025-143	Order approving amendments to the Town Council Rules (May be acted upon) (Majority Vote)	20-67
2025-148	Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Nile Morin, Inc for 9 new Market Rate Residential Rental Units located at 50 Main Street, Hyannis, MA (May be acted upon) (Majority Vote)	68-79
2025-149	Authorization of a Housing Development Program Tax Increment Exemption Agreement between the Town of Barnstable and 94 Stevens Street, LLC for 36 new Market Rate Residential Rental Units located at located at 94 Stevens Street, Hyannis, MA (May be acted upon) (Majority Vote)	80-92

Presentation from Mark Milne, Director of Finance, Fiscal Year 2026 Operating Budget

CONSENT AGENDA:

Proposed Vote: To refer Items 2025-157 through 2025-179, as written, to individual public hearings to be held on each item at the Town Council meeting on June 05, 2025.

B. NEW BUSINESS

2025-157	Appropriation Order in the amount of \$93,622,700 For the purpose of funding the Town's Fiscal Year 2026 Barnstable Public School Department Budget (Refer to Public Hearing 06/05/2025)	93
2025-158	Appropriation Order in the amount of \$12,508,718 for the purpose of funding the Town's Fiscal Year 2026 Airport Enterprise Fund Budget (Refer to Public Hearing 06/05/2025)	94
2025-159	Appropriation Order in the amount of \$19,774,938 for the purpose of funding the Town's Fiscal Year 2026 Barnstable Police Department Budget (Refer to Public Hearing 06/05/2025)	95
2025-160	Appropriation Order in the amount of \$2,416,092 for the purpose of funding the Town's Fiscal Year 2026 Planning and Development Department Budget (Refer to Public Hearing 06/05/2025)	96
2025-161	Appropriation Order in the amount of \$2,933,824 for the purpose of funding the Town's Fiscal Year 2026 Community Services Department General Fund Budget (Refer to Public Hearing 06/05/2025)	97

2025-162	Appropriation Order in the amount of \$3,903,566 for the purpose of funding the Town's Fiscal Year 2026 Golf Course Enterprise Fund Budget (Refer to Public Hearing 06/05/2025)	98
2025-163	Appropriation Order in the amount of \$4,045,476 for the purpose of funding the Town's Fiscal Year 2026 Hyannis Youth and Community Center Enterprise Fund Budget (Refer to Public Hearing 06/05/2025).....	99
2025-164	Appropriation Order in the amount of 1,697,514 for the purpose of funding the Town's Fiscal Year 2026 Marine & Environmental Affairs Department General Fund Budget (Refer to Public Hearing 06/05/2025).....	100
2025-165	Appropriation Order in the amount of \$803,433 for the purpose of funding the Town's Fiscal Year 2026 Marina Enterprise Fund Budget (Refer to Public Hearing 06/05/2025).....	101
2025-166	Appropriation Order in the amount of \$1,165,364 for the purpose of funding the Town's Fiscal Year 2026 Sandy Neck Park Enterprise Fund Budget (Refer to Public Hearing 06/05/2025).....	102
2025-167	Appropriation Order in the amount of \$2,800,183 for the purpose of funding the Town's Fiscal Year 2026 Inspectional Services Department Budget (Refer to Public Hearing 06/05/2025)	103
2025-168	Appropriation Order in the amount of \$12,264,116 for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works General Fund Budget (Refer to Public Hearing 06/05/2025).....	104
2025-169	Appropriation Order in the amount of \$4,434,258 for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works Solid Waste Enterprise Fund Budget (Refer to Public Hearing 06/05/2025).....	105
2025-170	Appropriation Order in the amount of \$11,519,790 for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works Water Pollution Control Enterprise Fund Budget (Refer to Public Hearing 06/05/2025)	106
2025-171	Appropriation Order in the amount of \$9,553,729 for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works Water Supply Enterprise Fund Budget (Refer to Public Hearing 06/05/2025).....	107
2025-172	Appropriation Order in the amount of \$269,870 for the purpose of funding the Town's Fiscal Year 2026 Town Council Budget (Refer to Public Hearing 06/05/2025)	108
2025-173	Appropriation Order in the amount of \$1,400,109 for the purpose of funding the Town's Fiscal Year 2026 Town Manager Budget (Refer to Public Hearing 06/05/2025).....	109
2025-174	Appropriation Order in the amount of \$981,237 for the purpose of funding the Town's Fiscal Year 2026 Public, Education & Government (PEG) Access Channels Enterprise Fund Budget (Refer to Public Hearing 06/05/2025).....	110
2025-175	Appropriation Order in the amount of \$8,727,744 for the purpose of funding the Town's Fiscal Year 2026 Administrative Services Department Budget (Refer to Public Hearing 06/05/2025).....	111
2025-176	Appropriation Order in the amount of \$250,000 for the purpose of funding the Town Council's Fiscal Year 2026 Reserve Fund (Refer to Public Hearing 06/05/2025).....	112
2025-177	Appropriation Order in the amount of \$59,717,232 for the purpose of funding the Town's Fiscal Year 2026 Other Requirements Budget (Refer to Public Hearing 06/05/2025)	113
2025-178	Appropriation Order in the amount of \$5,299,662 for the Community Preservation Fund Program set-asides and administrative expenses (Refer to Public Hearing 06/05/2025).....	114
2025-179	Appropriation Order in the amount of \$91,340 for the purpose of paying the Fiscal Year 2026 Community Preservation Fund Debt Service Requirement (Refer to Public Hearing 06/05/2025)	115

- 2025-180 Fiscal Year 2026 Spending Limitations: Senior Services Classroom Education Fund - **\$100,000**; Recreation Program Fund - **\$325,000**; Shellfish Propagation Fund - **\$200,000**; Consumer Protection Fund - **\$600,000**; Geographical Information Technology Fund - **\$10,000**; Arts and Culture Program Fund - **\$50,000**; Asset Management Fund - **\$500,000 (First Read) (Refer to Second Reading 06/05/2025)**..... 116
- 2025-184 Appropriation Order in the amount of **\$2,900,000** for preservation and restoration work at the Hyannis Armory located at 225 South Street in Hyannis **(Refer to Public Hearing 06/05/2025)** 117-118
- 2025-185 Appropriation and Loan Order in the amount of **\$1,404,000** for the purpose of funding the design and construction of aircraft hardstands on the terminal apron at the Cape Cod Gateway Airport **(Refer to Public Hearing 06/05/2025)** 119-120
- 2025-186 Order Revoking the Town’s Acceptance of the Provisions of Chapter 31 of the General Laws (Civil Service Law) as to the Police Department **(First Read) (Refer to Second Reading 06/05/2025)** 121-122
- 2025-187 Order to petition the General Court of the Commonwealth to enact Special Legislation authorizing the Town to use red lights on certain emergency response vehicles **(May be acted upon) (Majority Vote)**..... 123-124

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 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 Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-060

INTRO: 12/05/2024, 02/06/2025, 03/06/2025, 03/20/2025, 04/03/2025, 05/15/2025

2025-060 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING TO REVISE THE DEFINITION OF ACCESSORY DWELLING UNIT (ADU) AND TO REVISE USE AND DIMENSIONAL REQUIREMENTS, FLOOR AREA DEFINITION, AND CLARIFY PARKING RESTRICTIONS AND NO OWNER-OCCUPANCY REQUIREMENT FOR ADUS

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

SECTION 1

By amending Article XIV, Section 240-128 by deleting the definition of “Accessory Dwelling Unit (ADU)” in its entirety and inserting the following new definition in its place:

ACCESSORY DWELLING UNIT (ADU)

An accessory dwelling unit (ADU) is a self-contained dwelling unit that provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitization, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum gross floor area that is not larger than 1/2 of the gross floor area of the principal single-family dwelling unit (exclusive of floor area that was converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of § 240-47.2C (4) with regard to square footage.

SECTION 2

By amending Article V Accessory Uses, Section 240-47.2 Accessory Dwelling Units (ADUs), by deleting subsection (C)(1) in its entirety and inserting the following new subsection (C)(1) in its place:

“(1) A Special Permit is required if an applicant is seeking more than one ADU in a single-family residential zoning district.”

SECTION 3

By further amending said Section 240-47.2 by inserting the following sentence after the second sentence in subsection (C)(3):

“The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress.”

SECTION 4

By further amending said Section 240-47.2 by deleting the word “habitable” wherever it appears in Subsection (C)(4) and replacing it with the word “gross” in each instance.

SECTION 5

By further amending said Section 240-47.2 by adding the following sentence at the end of Subsection (C)(7):

“No more than one additional parking space per ADU shall be required, provided that no additional parking shall be required when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station.”

SECTION 6

By further amending said Section 240-47.2 by inserting the following new Subsection (C)(12) and by renumbering the existing Subsection (C)(12) as Subsection (C)(13):

“(12) The use of land or structures for an accessory dwelling unit shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling.”

SPONSOR: Craig Tamash, Town Council President, upon recommendation of the Planning Board

DATE	ACTION TAKEN
<u>12/05/2024</u>	<u>Referred to Planning Board</u>
<u>02/06/2025</u>	<u>Item pulled from 02/06 Agenda to readvertise for 03/06/2025 Agenda</u>
<u>03/06/2025</u>	<u>Public Hearing continued to 3/20/2025</u>
<u>03/20/2025</u>	<u>Continue Public Hearing 04/03/2025</u>
<u>04/03/2025</u>	<u>Continue Public Hearing 05/15/2025</u>

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2024-060

INTRO: 12/05/2024, 02/06/2025, 03/06/2025, 03/20/2025, 04/03/2025, 05/15/2025

TO: Town Council
FROM: Craig Tamash, Town Council President
THROUGH: James Kupfer, Director, Planning & Development Department
DATE: December 05, 2024
SUBJECT: Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to Revise the Definition of Accessory Dwelling Unit (ADU) and to Revise Use and Dimensional Requirements, Floor Area Definition, and Clarify Parking Restrictions and No Owner Occupancy Requirement for ADUs

RATIONALE: These items propose to amend the Town's Zoning Ordinance to address recent revisions to Chapter 40A of the General Laws, the State Zoning Act, as set forth in the Affordable Homes Act, which was signed into law on August 6, 2024, as Chapter 150 of the Acts of 2024. The Affordable Homes Act permits Accessory Dwelling Units (ADUs) to be built by-right in single family zoning districts. Barnstable already has an ADU Ordinance, but because certain of its provisions as currently written are now inconsistent with state law, those provisions need to be revised to bring them into conformance. The ADU changes to the State Zoning Act will supersede any inconsistent local ADU ordinance when the changes go into effect on February 2, 2025.

The Affordable Homes Act changes the definition of an ADU under Section 1A of Chapter 40A of the General Laws to clarify that the maximum size of an ADU is no more than half of the gross floor area of the principal dwelling, or 900 square feet, whichever is smaller; and that the ADU must maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress.

Section 3 of Chapter 40A was also amended to prohibit owner-occupancy requirements and to require that no more than one (1) additional parking space shall be required for an ADU. This section was further amended to require that no additional parking space shall be required for an ADU located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station. Finally, Section 3 provides that a Special Permit shall be required for more than one (1) accessory dwelling unit in a single-family residential zoning district. This item amends the ADU provisions in Barnstable's Zoning Ordinance to make them consistent with these changes to state law. The proposed changes are reflected in the red-lined changes to the Town's Zoning Ordinance attached to this memo.

FISCAL IMPACT: There is no significant fiscal impact associated with this item.

STAFF SUPPORT: James Kupfer, Director of Planning and Development; Corey Pacheco, Senior Planner; Brian Florence, Building Commissioner; Karen L. Nober, Town Attorney; Kathleen Connolly, Assistant Town Attorney

§ 240-128. Definitions.

In the interpretation of this chapter, the following words and terms are to be used and interpreted as defined herein unless the context otherwise requires:

ACCESSORY DWELLING UNIT (ADU) ~~An accessory dwelling unit (ADU) is a self-contained dwelling unit that provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitation, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum gross floor area that is not larger than 1/2 of the gross floor area of the principal single-family dwelling unit (exclusive of floor area that was converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of § 240-47.2C (4) with regard to square footage. Added 07/15/2021 by Order No. 2021-174; amended 07/15/2021 by Order No. 2021-175.~~ An accessory dwelling unit (ADU) is a self-contained dwelling unit that provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitation, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum gross floor area that is not larger than 1/2 of the gross floor area of the principal single-family dwelling unit (exclusive of floor area that was converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of § 240-47.2C (4) with regard to square footage.

§ 240-47.2. Accessory dwelling units (ADUs).

Purpose and intent. The intent of permitting accessory dwelling units (ADUs) is to: (1) Increase the number of dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;

(2) Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;

(3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and

(4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and

(5) Provide homeowners with a means of obtaining rental income to defray housing costs.

Procedural requirements. (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single-family dwelling use, except that no ADU shall be permitted on a lot at the same time either an affordable accessory apartment exists on that lot pursuant to Chapter 9, Article II, §§ 9-12 through 9-16, of the General Ordinances of the Code of the Town of Barnstable or as a family apartment exists on that lot pursuant to § 240-47.1.

(2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.

(3) The construction of any accessory dwelling unit must be in conformity with the federal, state, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

Use and dimensional requirements. The Building Commissioner may issue a building permit authorizing the installation and use of an accessory dwelling unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

(1) ~~No more than one ADU may be created per lot. This provision is not subject to variance. A Special Permit is required if an applicant is seeking more than one ADU in a single-family residential zoning district.~~

(2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

(3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property. Any addition or new construction shall be consistent in design with the principal single-family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals.

Town of Barnstable, MA
Downloaded from <https://ecode360.com/BA2043> on 2025-02-14

(4) The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum **gross habitable** floor area that is not larger than 1/2 of the **gross habitable** floor area of the principal single-family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms and/or a maximum **gross habitable** floor area greater than 900 square feet may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

(5) Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.

(6) Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.

(7) All parking for the ADU shall be off street. No more than one additional parking space per ADU shall be required, provided that no additional parking shall be required when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station.

(8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.

(9) The rights and requirements of this section hereby transfer upon the sale of a property containing an ADU built under the provisions of this section.

(10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.

(11) An ADU shall be used only as a rental, except that the owner of the property may reside in the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be

shorter than 12 consecutive months. Either the principal dwelling or ADU, but not both, may be rented at any given time.

~~(11)~~(12) [The use of land or structures for an accessory dwelling unit shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling.](#)

~~(12)~~(13) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

A. OLD BUSINESS (Public Hearing) (Roll Call Two-Thirds Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-062
INTRO: 12/12/2024, 4/17/2025, 05/15/2025

2025-062 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING OVERLAY DISTRICT KNOWN AS THE “REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES ZONING OVERLAY DISTRICT” AND CREATING A NEW OVERLAY DISTRICT KNOWN AS THE “CANNABIS OVERLAY DISTRICT” AND EXPANDING THE EXISTING MEDICAL MARIJUANA OVERLAY DISTRICT, IN THE FORM AS SUBMITTED BY PETITION OF TEN REGISTERED VOTERS

ORDERED: That the Town Council does hereby approve the amendments to the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, as set forth in Attachment 1 of the petition submitted to the Town Council on December 2, 2024, by ten registered voters in accordance with MG.L. c. 40A, § 5 and attached hereto.

SPONSOR: Mark S. Ells, Town Manager, upon the petition of ten (10) registered voters

DATE	ACTION TAKEN
<u>12/12/2024</u>	<u>Refer to Planning Board</u>
<u>04/17/2025</u>	<u>Open and continue to 5-15-2025</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2025-062

INTRO: 12/12/2024, 4/17/2025, 05/15/2025

SUMMARY

TO: Town Council
FROM: Mark S. Eells, Town Manager
THROUGH: James S. Kupfer, Director of Planning and Development
DATE: April 17, 2025
SUBJECT: Amending the Code of the Town of Barnstable, Part 1 General Ordinances, Chapter 240 Zoning by repealing the zoning overlay district known as the “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Zoning Overlay District” and creating a new overlay district known as “Cannabis Overlay District” and expanding the existing Medical Marijuana Overlay District, in the form as submitted by petition of ten registered voters.

BACKGROUND: On December 2, 2024, a resident of the Town submitted a proposed amendment to the Town’s zoning ordinance addressed to the Town Council, along with the signatures of at least ten registered voters of the Town. Section 5 of M.G.L. c. 40A, the state Zoning Act, provides that “[a]doption or change of zoning ordinances or by-laws may be initiated by the submission to the city council ... of a proposed zoning ordinance ... by ten registered voters in a city” Section 5 further provides that the City Council “shall within fourteen days of receipt of such zoning ordinance amendment ... submit it to the planning board for review.”

On December 2, 2024, the Town Clerk certified that the petition was signed by ten certified registered voters of the Town. In accordance with G.L. c. 40A, section 5, the Town Council on December 12, 2024, voted to refer the proposal to the Planning Board.

This proposal seeks to establish a new zoning overlay district where recreational marijuana retail would be permitted by special permit. This district would include the existing Medical Marijuana Overlay District, the existing Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, and the B Business District. Furthermore, the proposal seeks to expand the existing medical marijuana overlay district to be consistent with the new overlay district.

Under the Town’s current zoning, medical marijuana establishments are permitted by special permit in the Medical Marijuana Overlay District. Recreational marijuana establishments are prohibited.

Further in accordance with G.L. c. 40A, section 5, the Planning Board reviewed the petition at their meeting on February 10, 2025, and voted 4-0 to not recommend its adoption.

FISCAL IMPACT: Under state law, Marijuana Establishments (ME) and Medical Marijuana Treatment Centers (MTC) are required to execute Host Community Agreements (HCAs) with the municipalities in which they plan to operate. The town may elect to incorporate a community impact fee into the terms of the HCA. A municipality that elects to incorporate a community impact fee may collect a figure that represents no more than 3% of the annual gross sales of the ME or MTC. Such impact fees must be reasonably related to the actual operations of an ME/MTC. In addition, the State Department of Revenue empowers a municipality to impose an additional tax, referred to as the local tax option, of 3% on retail transactions for Marijuana or Marijuana Products. The amount of revenue that could be generated is unknown at this time.

STAFF ASSISTANCE: James S. Kupfer, Director of Planning and Development; Kate Connolly, Assistant Town Attorney

7 FEB 10 10:03 AM
BARNSTABLE TOWN

The Commonwealth of Massachusetts

DATE and TIME this paper received
by Registrar.

PETITION

TOWN OF BARNSTABLE

SUBJECT OR SUBJECTS REQUESTED

(To be filled in by petitioners. If space is insufficient, attach additional page of description to each petition form before signatures are gathered.)

PETITION FOR AN ORDINANCE CHANGE AND ZONING PROPOSAL TO ESTABLISH A CANNABIS DISTRICT OVERLAY AND EXPAND THE EXISTING MEDICAL MARIJUANA DISTRICT

To the Honorable Members of the Barnstable Town Council:

We, the undersigned residents of the Town of Barnstable, hereby submit this petition for a zoning map amendment and text amendment to regulate and manage the placement of marijuana establishments within our town. We respectfully request that the Town Council consider the following proposal:

1. Establish a Cannabis Overlay District

We propose that the Town of Barnstable adopt a Cannabis Overlay District regulating the siting of adult-use and medical marijuana establishments. This district will overlay the following areas:

- a. The existing Medical Marijuana Overlay District;
- b. The existing Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District; and
- c. The B Business District.

The Cannabis Overlay District will permit the controlled and responsible placement of marijuana cultivators, research facilities, testing laboratories, marijuana product manufacturers, and retail marijuana establishments. The overlay will ensure that these businesses operate in locations that are appropriate and away from sensitive uses such as schools and residential areas, while maintaining access to key commercial areas.

2. Expand the Existing Medical Marijuana Overlay District

In conjunction with the establishment of the Cannabis Overlay District, we propose the expansion of the areas in which Medical Marijuana establishment can be located to include the same areas designated within the Cannabis Overlay District. This expansion will allow for a unified approach to the siting of medical and adult-use marijuana establishments within Barnstable.

By expanding the Medical Marijuana Overlay District, the Town will benefit from a streamlined zoning framework that encompasses both medical and adult-use marijuana establishments, ensuring consistent regulation and enforcement across all cannabis-related businesses.

**SIGNER
INFORMATION**

INSTRUCTIONS TO SIGNERS

For your signature to be valid, you must be a registered voter in the town and your signature should be written substantially as registered. Do NOT sign more than one petition for the same subject.

If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

If you have NOT moved since January 1 of this year, you need complete only columns I and II.

If you HAVE moved since January 1 of this year, you must complete columns I, II and III.

SIGNER'S STATEMENT

We, the undersigned, are qualified voters of the Town of Barnstable, and in accordance with the provisions of law, request a special town meeting for the purposes above.

Attachment 1: Proposed Text Change

AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING OVERLAY DISTRICT KNOWN AS THE "REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES OVERLAY DISTRICT" AND CREATING A NEW OVERLAY DISTRICT KNOWN AS THE "CANNABIS OVERLAY DISTRICT" AND EXPANDING THE EXISTING MEDICAL MARIJUANA OVERLAY DISTRICT

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 "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District" and "Medical Marijuana Overlay District" and create a "Cannabis Overlay District" as shown on maps dated October 1, 2024, prepared by the Town of Barnstable Geographical Information System Unit, and entitled: proposed amendment to the town zoning map.

SECTION 2

A. By amending Article II, Section 240-5, Establishment of districts, by deleting: "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District" under the heading "Overlay Districts" and inserting: "COD Cannabis Overlay District."

SECTION 3.

By amending Article XVI Amendment; Definition; Moratorium to add:

CRAFT MARIJUANA COOPERATIVE — A marijuana cultivator composed of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to marijuana establishments, but not to consumers.

INDEPENDENT TESTING LABORATORY — A laboratory that is licensed by the Cannabis Control Commission and is:

(a) Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;

(b) Independent financially from any medical marijuana treatment center (RMD), marijuana establishment or licensee for which it conducts a test; and

(c) Qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

MARIJUANA COURIER — An entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that

allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

MARIJUANA CULTIVATOR — An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A craft marijuana cooperative is a type of marijuana cultivator.

MARIJUANA ESTABLISHMENT (ME) — A marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, independent testing laboratory, marijuana research facility, marijuana transporter, marijuana courier, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

MARIJUANA MICROBUSINESS — A co-located marijuana establishment that can be either a Tier 1 marijuana cultivator or product manufacturer or both, in compliance with the operating procedures for each license. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

MARIJUANA PRODUCT MANUFACTURER — An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other marijuana establishments, but not to consumers.

MARIJUANA RESEARCH FACILITY — An entity licensed to engage in research projects by the Cannabis Control Commission.

MARIJUANA RETAILER — An entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment. An entity licensed to purchase and transport cannabis or marijuana products from marijuana establishments and to sell or otherwise transfer this product to marijuana establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers, and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a marijuana establishment.

MARIJUANA TRANSPORTER — An entity, not otherwise licensed by the Cannabis Control Commission, which is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers. Marijuana transporters may be an existing licensee transporter or third-party transporter.

SECTION 4.

By amending Article III District regulations to repeal Section 240-31 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District and replace it with:

§ 240-31 Cannabis Overlay District.

A. District established. A Cannabis Overlay District is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.

Use. Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, Marijuana Establishments shall be allowed within the Cannabis Overlay District upon the granting of a special permit, subject to the requirements set forth in this section. Within the Cannabis Overlay District, and only within the Cannabis Overlay District, Marijuana Establishments may be permitted, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the following standards and conditions.

C. Purposes.

- (1) To provide for the placement of marijuana establishments in appropriate places and under strict conditions in accordance with MGL c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, and the Cannabis Control Commission regulations promulgated thereunder, 935 CMR 500.000.
- (2) To minimize the adverse effects of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of marijuana establishments.

D. Applicability.

- (1) No ME shall be established except in compliance with the provisions of this section.
- (2) Pursuant to MGL c. 94G, §3(a)(2), the number of Marijuana Retailers shall be limited to fewer than 20 percent of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of Chapter 138.
- (3) Nothing in this bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

E. General requirements for marijuana establishments.

- (1) A ME shall be contained within a building or structure, except open-air marijuana cultivators which may be allowed in accordance with § 164-13, Schedule of use regulations. Marijuana plants, products, and paraphernalia shall not be clearly visible to a person from the exterior of a ME.
- (2) No ME shall be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the ME is or will be located.
- (3) The hours of operation of a Marijuana Retailer shall not exceed the Alcoholic Beverages Control Commission (ABCC) maximum hours of operation for liquor licenses.
- (4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a ME.
- (5) A ME shall provide the Zoning Board of Appeals with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated

with the establishment. The applicant shall also provide a statement from the Barnstable Police Department verifying completion of background checks by the Cannabis Control Commission.

(6) Special permits shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

(7) Special permits shall be valid for a period of three (3) years from the date of the decision. A special permit shall be renewed for successive three-year periods provided that a written request for renewal is made to the Board of Appeals not less than three (3) months prior to the expiration of the then-existing three-year period. Publication of notice of said request shall be made in the same manner as would be required for an original application for a special permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then-existing permit, a written objection to the renewal, stating reasons, is received by the Board of Appeals. In the event of such an objection, a hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original permit application. The special permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the special permit renewal, including the outcome of any appeal under MGL c. 40A, § 17. In granting the renewal, the Board of Appeals may impose additional conditions, including, without limiting the foregoing, time limits to correct violations and hours of operation, upon which a specific lapse of time without correction or compliance shall result in a denial of the renewal.

F. Special permit requirements.

(1) A ME shall only be allowed by special permit from the Zoning Board of Appeals in accordance with M.G.L. c. 40A, § 9, and §240-125 herein, subject to the following statements, regulations, requirements, conditions and limitations.

(2) A special permit application for a ME shall include the following:

- a. The name and address of each owner of the ME;
- b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the marijuana establishment;
- c. Evidence of the applicant's right to use the site of the ME for the ME use, such as a deed, or lease;
- d. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of each such entity until the disclosure contains the names and addresses of individuals;
- e. Proposed security measures for the ME, including lighting, fencing, gates and alarms, surveillance cameras, etc., to ensure safety and security from theft or fire. Such measures shall be sent by the applicant to the Police and Fire Chiefs for review and comment.

G. Mandatory findings.

(1) The Zoning Board of Appeals shall not issue a special permit for a ME unless it finds that:

a. The facility is designed to address any environmental, visual, noise, odor, traffic or economic impacts on abutters and other "parties in interest," as defined in M.G.L. c. 40A, § 11;

b. The facility demonstrates that it has met all the permitting requirements; and

c. The applicant has satisfied all of the general and special permit requirements of this section and § 164-44.

H. Severability.

The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-143

INTRO: 03/06/2025, 03/20/2025, 04/03/2025, 05/15/2025

2025-143 ORDER APPROVING AMENDMENTS TO THE TOWN COUNCIL RULES

ORDERED: That the Town Council does hereby amend the Town Council Rules, as most recently amended on October 3, 2019, by striking the Rules in their entirety and inserting the Town Council Rules of Procedure, dated February 10, 2025, attached hereto, in place thereof.

SPONSORS: Councilors Kris Clark, Craig Tamash, Seth Burdick, Betty Ludtke and Kristin Terkelsen, as Chair and members, respectively, of the Town Council Ad Hoc Committee to Review Town Council Rules and the Town Code

DATE	ACTION TAKEN
<u>03/06/2025</u>	<u>Referred to a Second Reading on 3/20/2025</u>
<u>03/20/2025</u>	<u>Continue to 04/03/2025</u>
<u>04/03/2025</u>	<u>Continue to 05/15/2025</u>

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-143

INTRO: 03/06/2025, 03/20/2025, 04/03/2025, 05/15/2025

SUMMARY

TO: Town Council
FROM: Kris Clark, Chair, Ad Hoc Committee to Review Town Council Rules and Town Code
DATE: March 06, 2025
SUBJECT: Order Approving Amendments to the Town Council Rules

BACKGROUND: The Ad Hoc Committee to Review Town Council Rules and Town Code has been meeting regularly since June 4, 2024 and is recommending for Town Council approval a number of changes to the current version of the Town Council Rules. In addition to substantive changes, certain sections and headings have been reorganized and renamed for clarity. While not an exhaustive list of every proposed change, the following is a summary of the key substantive changes that are being proposed:

- At the beginning of the Rules (now referred to as the Town Council Rules of Procedure), there is a new Subsection A, which sets forth a “Councilor Code of Conduct” and a new Subsection B, which addresses the use of Town phones and Town emails for the conduct of Town business by Councilors.
- While the Rules explicitly acknowledge that all meetings of the Town Council and Town Council committees are subject to the state Open Meeting Law (OML), the portion of the existing Rules which repeated verbatim the executive session provisions of the OML has been removed.
- A new rule (Rule 5C) has been added to address attendance and remote participation in Town Council meetings. The recently adopted Town Council Policy on Remote Participation is referenced in Rule 5C and will be included as an attachment to but not an integral part of the Rules, which will allow that policy to be amended separately without requiring an amendment to the Rules. Rule 5C addresses how technical problems will be handled if they affect the ability of a Councilor to participate remotely in a meeting.
- Rule 5E – “Agenda Setting” incorporates, as a goal, the current practice of posting the agenda for a Thursday Town Council meeting by the preceding Friday.
- Rule 5F – “Consent Agenda” is a newly added rule.
- The Rule addressing Public Comment (Rule 5H) has been revised to include a statement to be made by the presiding officer at the beginning of the public comment portion of the meeting.
- Rule 6D – “Order of Motions” was revised to include information on each motion.
- Under the current Rule on Reconsideration, a Councilor who voted with the prevailing side may make a motion for reconsideration at the meeting at which the vote was taken or may give notice at that meeting that a motion for reconsideration will be made at the next regular meeting. If no such notice was given, the Rule would need to be suspended to allow a motion for reconsideration at the next meeting. As revised, the Rule on Reconsideration (Rule 6G) allows a Councilor to give notice at the next meeting that he or she plans to make a motion for reconsideration at the following meeting without any need for suspending the Rules.
- Rule 8A – “Votes” was rewritten to include a discussion of recusals.
- Rule 11A – “Committee Guidelines and Parameters” retains the rule that the Council President and Vice President shall not serve as chair or vice-chair of any committee but permits a

Councilor who is already serving as chair or vice-chair of an Ad-Hoc Committee to continue in that role if subsequently elected President or Vice-President of the Council. Similarly, Rule 11A retains the rule that the President shall be an ex-officio member of all committees of the Council, while explicitly clarifying that the President shall be a non-voting member but provides that the President may continue to be a voting member of any Ad-Hoc Committee on which he or she serves if such service pre-dates his or her election as President. These changes are intended to prevent any disruption to the work of such committees, since these committees are time-limited in nature.

- Rule 11B – “Ad-Hoc Committees” sets forth the process for ad-hoc committees and retains the current rule which provides that the Town Council President designates the members of such committees that are established by vote of the Council. Rule 11B provides that such committees shall include Councilors and may include registered voters. The Rule provides that the chair of any such committee shall be selected by vote of the committee, but notes that the Council vote creating the committee may impose additional requirements for the selection of a chair (e.g., the Council may wish to require that a chair of a particular committee be a Councilor). In recognition of the staff resources needed to assist ad-hoc committees, Rule 11B limits the number of ad-hoc committees that may exist and meet during any given period to no more than 2 but allows the Council to override this rule to create up to 2 additional committees.
- Rule 12 – “Liaisons to Boards, Committees and Commissions of the Town” sets forth the role of Council liaisons.
- Rule 17 – “Suspension of Rules” was amended to require a 2/3 vote of the Councilors present and voting to suspend a Town Council rule (currently, suspending the rules may be done by majority vote), and clarifies that the Council may suspend a provision of a Town ordinance by the same process that would be required to amend such ordinance.

Finally, it should be noted that, although discussed by the committee, no change was recommended to the provision of the existing Rules which states that, in matters of parliamentary procedure not explicitly addressed elsewhere, particular emphasis shall be given to Mason’s Manual of Legislative Procedure (see Rule 6A “Parliamentary Guidelines”). The Council may wish to discuss whether Robert’s Rules of Order should replace Mason’s as its primary reference guide.

To assist you in your review, attached is the current version of the Town Council Rules, a clean version of the proposed Rules of Procedure (Updated 02/10/2025), and a redlined version showing the changes made from the current version to the proposed version.

FISCAL IMPACT:None

STAFF ASSISTANCE: Karen L. Nober, Town Attorney; Allison Cogliano, Assistant Town Attorney

TOWN COUNCIL RULES OF PROCEDURE (Updated 02/10/2025)

These Town Council Rules of Procedure (“Rules” or “Town Council Rules”) are adopted pursuant to Section 2.6(c) of the Town of Barnstable Home Rule Charter (“Charter” or “Town Charter”). Amending or repealing these Rules shall require two readings and a majority vote of the full Council.

A. COUNCILOR CODE OF CONDUCT

Councilors shall conduct themselves in a professional and peaceable manner during Town Council meetings. Discourse shall be marked by civility, openness and respect, even in the face of disagreement. Councilors shall not make comments that are personal in nature and shall not use insulting, threatening or abusive language. Councilors should conduct themselves in a manner that respects the orderly procedure of the meeting to assure the business of the Town is attended to as expeditiously as the deliberative process allows. To that end, discussion and debate shall focus on the agenda item being discussed or voted on until a decision is made or the discussion is postponed to a later time. Councilors shall not engage in private conversations during Council meetings, including texting or emailing each other during a meeting. Cell phones shall be silenced during Council meetings.

Councilors shall strive for openness and transparency in the performance of their duties. Councilors shall comply with the state Conflict of Interest Law, M.G.L. c. 268A, and comply with and complete the conflict of interest law education and training requirements. Councilors shall comply with the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and shall certify, as required, receipt of copies of the Open Meeting Law, the regulations and the Open Meeting Law Guide prepared by the Attorney General’s Office.

B. USE OF TOWN PHONES AND EMAIL

Upon election, all Town Councilors shall be assigned a Town cellphone and provided with a Town email account, and Councilors shall use the Town cellphone and Town email to conduct Town business to facilitate compliance with the state public records law. No Town resources shall be used for political purposes.

C. TOWN COUNCIL RULES

RULE 1 ELECTION OF COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, Councilors shall nominate a President and a Vice President, election of which shall take place at the next regular meeting. At the meeting at which the election takes place, time shall be allotted for speeches by each candidate, limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each Councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

RULE 2 ROLE OF COUNCIL PRESIDENT

Except as set forth in Rule 11A, the President shall serve as a non-voting ex-officio member of all standing and ad-hoc committees of the Council. The President and Vice President shall designate

Councilors to serve as liaisons between the Council and Town boards, committees and commissions. (See Rule 11D.) The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes and may designate other Councilors to serve in this ceremonial capacity.

RULE 3 PRESIDING OFFICER

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a Councilor to serve as presiding officer in rotating precinct order.

RULE 4 DUTIES OF THE PRESIDING OFFICER (OR “CHAIR”)

The presiding officer shall take the chair at the hour at which the Council is to meet and call the meeting to order.

The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: “Shall the decision of the chair stand as the judgment of the Council?” The vote shall be a roll call, and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the presiding officer, without further debate upon the question, shall require a roll call vote.

The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto.

The presiding officer may state facts, ask questions (without commenting or giving an opinion) and give opinions upon questions of order without leaving the chair. The presiding officer also may explain his or her vote. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding officer in rotating precinct order.

RULE 5 MEETINGS OF THE COUNCIL

RULE 5A TIME AND PLACE OF MEETINGS; MEETING REQUIREMENTS

The time and place of regular meetings shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once a month. The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings (see Chapter 220 of the Town Code).

No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5B – Regular Meeting Schedule, and Chapter 220 of the Town Code.)

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice will include the meeting agenda,

including all agenda items and supporting documents, which will be delivered to the Town Clerk and to each Councilor at least forty-eight (48) hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday. The meeting notice for a special meeting of the Town Council shall be posted in accordance with the requirements of the Open Meeting Law.

Open Meeting Law: All meetings of the Town Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: The Council may enter Executive Session only after the Council has first convened in Public Session, provided that notice of the Executive Session has been appropriately posted in accordance with the Open Meeting Law. The presiding officer shall make the motion to go into Executive Session, citing the reason for going into Executive Session and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a reason permitted under the Open Meeting Law.

RULE 5B REGULAR MEETING SCHEDULE

The Barnstable Town Council shall meet on two Thursdays each month, with every effort made to schedule those meetings on the first and third Thursdays, except in the months of July and August when only one meeting will be held on the third Thursday. Meetings shall conclude at 11:00 P.M, except that the subject at hand may be finished if it was ongoing at 11:00 P.M. Thereafter, the meeting may continue after 11:00 P.M. with a two-thirds vote of the Councilors present and voting. If a regular meeting date falls on a solemn or legal holiday, the President shall make every effort to reschedule such meeting to another Thursday but may choose another day if necessary and warranted by the circumstances. In addition, regular meetings may be rescheduled by the President if necessary and warranted by the circumstances, including, for example, lack of quorum on the scheduled meeting date. Every effort shall be made to reschedule any such meeting to another Thursday, but another date may be chosen if necessary and warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5C ATTENDANCE; REMOTE PARTICIPATION

Except in emergencies, Councilors shall notify the Council President and the Council Administrator in advance if they will be absent from a Town Council meeting. At the beginning of the meeting, the presiding officer shall announce the names of any absent Councilors. Councilors shall make every effort to notify the Council President and Council Administrator if they anticipate that they will arrive late to a Council meeting. The presiding officer shall note the arrival of any Councilor who joins the meeting late. Any Councilor who is leaving the meeting early shall announce their departure, and the presiding officer shall note the Councilor's departure for the record.

To the extent permitted by state law, Councilors may participate remotely in Town Council meetings in accordance with the Town Council Policy on Remote Participation then in effect, subject to any amendment or revocation of that policy as may occur; provided that any such amendment or revocation shall not require an amendment of these Rules. (A copy of the Town Council Policy on Remote

Participation approved by the Council at its February 15, 2024 meeting (Item No. 2024-162) shall be attached to these Rules for informational purposes as Attachment A, but such Policy shall not be deemed to be an integral part of these Rules, and such attachment shall be removed, updated or replaced, as appropriate.)

If technical problems interrupt or prevent remote participation, the presiding officer will wait up to five (5) minutes to allow for the connection or reconnection prior to beginning or resuming the meeting. After waiting five minutes, the meeting shall continue even if the technical problems have not been resolved, but, at the discretion of the presiding officer, the meeting may be delayed for an additional reasonable period to allow for a further attempt to try to resolve the problems or the meeting may resume. In such case, the presiding officer may choose to skip certain agenda items while an attempt is made to resolve the problems. If the Councilor is disconnected, the fact and time shall be noted in the minutes. If the Councilor reconnects, the fact and time shall be noted in the minutes.

RULE 5D INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the Town Charter. Every measure or non-measure appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURE: A “measure” is any matter coming before the Council that is inherently legislative in nature, including, but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council), and eminent domain authorizations.

Measures require 2 readings.

NON-MEASURE: A “non-Measure” shall include any matter to come before the Council which is not specified to be a “measure” under the Charter, such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, but not limited to, appointments, resolutions, proclamations, tax classification votes, contract approvals that are not measures and petitions to the General Court.

RULE 5E AGENDA SETTING

The Council President, after consultation with the sponsoring Councilor and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council President shall set deadlines for the submission of agenda items by other Councilors, by the Town Manager, and by Town staff through the Town Manager, with the goal of posting the agenda for a Thursday meeting by the preceding Friday. The Council agenda, including the Town Manager’s Report, complete with documentation, shall be delivered to the Town Councilors and posted in accordance with the Open Meeting Law no later than 48 hours prior to the regular meeting of the Council.

RULE 5F CONSENT AGENDA

A Consent Agenda may be used to approve a grouping of agenda items with one vote and no discussion; provided that upon objection by any Councilor to the inclusion of one or more items in any particular Consent Agenda, the item or items shall be removed from the Consent Agenda for separate deliberation and vote by the Town Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

RULE 5G ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows; provided that matters may be taken out of order at the meeting at the discretion of the presiding officer:

1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Report (which may be pre-recorded)
7. Act on Public Session Minutes
8. Communications from Elected Officials, Boards, Committees and Commissions, and Staff, Correspondence and Announcements
9. Orders of the Day
 - A. Old Business
 - B. New Business
10. Adjournment

RULE 5H PUBLIC COMMENT

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public who wishes to participate in public comment shall be recognized by the presiding officer and shall be asked to state his/her name and, if a resident of Barnstable, asked to state the village in which they reside (if not a resident of Barnstable, they shall be asked to state their town of residence) for the record. Generally, public comment will be limited to three minutes for each individual speaking, but additional time may be granted at the discretion of the presiding officer. All remarks and questions shall be addressed to the Council as a whole, through the presiding officer, and not to any individual member. No member of the public may speak at a Council meeting without first being recognized by the presiding officer. The purpose of the public comment period is for the Council to hear comments from

the public, and not for the public to engage in discussions or debate with the Council or with any member of the audience. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (see Open Meeting Law). At the beginning of public comment, a statement shall be read by the presiding officer or his or her designee substantially in the form set forth below:

I wish to remind everyone that no member of the public may speak without first being recognized by the Council President (or presiding officer). The public will have an opportunity to speak during the public comment portion of the meeting and during any public hearing on an agenda item.

You are free to express your thoughts, opinions and criticisms during public comment. However, your comments must be directed to the Council as a body, through the President of the Council (or presiding officer). You may not speak directly to any individual Councilor. You also should not be addressing your comments to anyone else in this room – not to Town staff and not to another member of the audience. Public comment is to be directed to the Council.

We also ask that the members of the public refrain from making audible comments during the meeting unless they have been recognized to speak by the Council President (or presiding officer). The Council President (or presiding officer) will request silence in the chamber if anyone ignores this rule.

RULE 6 PROCEDURAL MATTERS

RULE 6A PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity and efficiency, in that order. In determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE 6B QUORUM

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member Council is nine (9).

RULE 6C ORDER OF SPEAKING; LENGTH OF SPEAKING

Councilors shall not speak without being recognized by the presiding officer except to call the previous question or to doubt the presence of a quorum. When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than once until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

RULE 6D ORDER OF MOTIONS

(Note: See Rule 8A regarding quantum of votes.)

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess (not debatable)
3. To lay on the table (not debatable)
4. For previous question (not debatable)
5. To limit or extend limits of debate (not debatable)
6. To postpone to certain date (debatable, but just the motion, not the main question) (may be amended but only as to the date)
7. To refer (to committee) (debatable; may be amended only as to the committee)
8. To amend (motion to amend a debatable question is debatable; motion to amend a question that is not debatable is not itself debatable)
9. To postpone indefinitely (motion is debatable and opens the main question to debate; has the effect of rejecting the main motion)
10. Leave to withdraw (not debatable; may be made at any time before voting has commenced; request for leave to withdraw, presiding officer asks if any objection, if none, motion is withdrawn; if there is an objection, then motion for leave to withdraw and vote on that motion)

RULE 6E PREVIOUS QUESTION

The previous question shall be put as follows: "I call the previous question" or "I move the question." All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote of the Councilors present and voting. If the motion to move the question passes, the Council shall immediately take a vote on the main question.

RULE 6F REFERRAL TO COMMITTEE

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad-hoc committee or standing committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a standing committee, commission or board of the Town with appropriate jurisdiction for advice sought by the Town Council upon motion and a majority vote of the Council.

RULE 6G RECONSIDERATION

At any meeting at which a vote has been taken, it shall be in order for any Councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the Council. In addition, any Councilor who has voted with the prevailing side may make a motion for reconsideration at the next regular meeting of the Council following the vote; provided, that if such motion for reconsideration was not noticed on that next regular meeting's agenda, then any such Councilor shall give notice that a motion for reconsideration shall take place at the following regular meeting of the Council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote

RULE 7 MATTERS REDUCED TO WRITING

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

RULE 8 VOTING

RULE 8A VOTES

Except as otherwise provided by the General Laws of the Commonwealth, the Town Charter, Town ordinance (or these Town Council Rules, which are established pursuant to Section 2-6(c) of the Town Charter), any action taken by the Town Council requiring a vote shall be by a majority of the Councilors present and voting.

No vote shall take place unless a quorum of the Council is present (abstentions count toward the quorum but are not considered votes; recusals do not count towards the quorum).

Councilors who need to recuse themselves should announce that they are recusing themselves and leave the room during the discussion and until the vote has been taken. If participating remotely, Councilors who need to recuse should announce their recusal, turn off their cameras and mute themselves during the discussion and until the vote has been taken.

RULE 8B ROLL CALL

As required by the Town Charter, all final votes of the Town Council on ordinances, appropriation orders and loan authorizations shall be taken by roll call vote and shall be duly recorded by the Clerk of the Council. On other matters requiring a vote, a roll call may be requested by any Councilor. The order of the roll call voting shall be alphabetical and rotated after each vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the presiding officer, without further debate upon the question, shall require a roll call vote. All votes taken in Executive Session shall be roll call votes. All votes taken in meetings in which any Councilor is participating remotely shall be roll call votes.

When the question is put to a vote, every Councilor present shall vote yes, no, abstain, or pass. If a Councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the

announcement of the results of the roll call vote, any Councilor, at their request, may have his/her name called again to record him/her differently.

RULE 9 REJECTED MEASURES

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present and voting, or as otherwise provided by the Charter.

RULE 10 RECORD-KEEPING

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk of the Council at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Barnstable Home Rule Charter, by ordinance, or other Council vote. The Council Administrator shall prepare the meeting agenda and give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public in accordance with the Open Meeting Law. Communications staff shall make best efforts to record on video all Public Sessions of Council meetings and post said video recordings on the Town website. The Town Council Administrator shall be the clerk of Town Council committee meetings.

RULE 11 COMMITTEES OF THE COUNCIL

RULE 11A COMMITTEE GUIDELINES AND PARAMETERS

After the organization of the Council, the President, subject to approval by the Council, may appoint members to standing committees of the Town Council. Appointments of Councilors to the Appointments Standing Committee shall be made in accordance with Section 37-3 of the Town Code. All Standing and Ad-Hoc Committees of the Council shall be advisory to the Town Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrator, who will notify the Council President and post as required with the Town Clerk. The President and Vice President of the Council shall not serve as a chair or vice-chair of any committee of the Council, except that a Councilor already serving as chair or vice-chair of an Ad-Hoc Committee may continue in that role if subsequently elected as President or Vice-President of the Council.

The President shall be a non-voting ex-officio member of all committees of the Council, except that the President may continue to be a voting member of any Ad-Hoc Committee on which he or she serves if such service pre-dates his or her election as President. Meetings of committees may be called by the chair or upon the written request of two members of the committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk by the Council Administrator, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, the Town Charter, the General Laws of the Commonwealth, or as otherwise voted by the Town Council. All new standing committees, boards and

commissions of the Town Council will be evaluated at the end of the first year, at which time a decision will be made by the Town Council whether to continue, disband, or change the entity.

RULE 11B AD-HOC COMMITTEES

The President of the Town Council may designate the members of ad-hoc committees that are established by vote of the Council, the members of which shall include Councilors and may include registered voters in the Town of Barnstable, as is deemed necessary. The chair of any such ad-hoc committee shall be selected by vote of the committee, except that the Council vote creating the committee may impose additional requirements. At the discretion of the committee, a vice-chair may be selected by vote of the committee. Ad-hoc committees shall be comprised of an odd number of members. The period of existence for an ad-hoc committee, as specified by the Town Council vote creating the committee, shall commence from the date of the first meeting of the committee. The Town Council shall limit the number of ad-hoc committees in existence and meeting during any given period to no more than two (2); provided, however, that the Town Council by majority vote of its members may override this rule and allow for the creation of up to two (2) additional ad-hoc committees.

The chair shall organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. The Town Council Administrator shall record the minutes. Ad-hoc Committees shall have access to the Council Administrator under the direction of the Council President. Ad-hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.

RULE 11C STANDING COMMITTEES

Standing committees shall select a chair who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes.

RULE 12 LIAISONS TO BOARDS, COMMITTEES AND COMMISSIONS OF THE TOWN

In accordance with Section 241-8 of the Town Administrative Code, the President and Vice President shall designate each Councilor as the Council liaison to one or more of the multiple-member bodies of the Town. As set forth in said Section 241-8, each Council liaison shall meet with the chair of the board, committee or commission to which they serve as liaison to discuss and define an appropriate reporting relationship.

Council liaisons shall not participate in the deliberations or votes, nor shall they participate in or attend any executive session, of such board, committee or commission. Liaisons shall sit where the public are seated. Liaisons who wish to express a personal opinion shall do so during the public comment portion of the meeting in the same manner as other members of the public and shall state that they are speaking in their personal capacity. When recognized by the Chair, liaisons may ask questions and make comments during discussion and shall identify themselves as liaisons prior to the first instance of speaking, unless speaking in their personal capacity during public comment. Liaisons shall not commit the Council to a course of action and are not to speak on behalf of the Council.

Liaisons shall receive meeting postings, agendas, reports, and minutes from the other body. Liaisons shall attend or watch the meetings of the other body, as they deem appropriate, and should be familiar with the materials provided as above and maintain contact with the other body's Chair.

RULE 13 APPOINTMENTS - (Nominations by the Appointments Committee)

Appointments require 2 readings. Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented to the Council as a first read.

RULE 14 VACANCY IN OFFICE OF PRESIDENT OR VICE PRESIDENT

In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, either because the Vice President can no longer serve or because the Vice President has assumed the powers and duties of the President, as set forth in the preceding sentence, the Council shall elect a new Vice President from among its members. The election of a new Vice President shall occur as soon as practicable but with the goal of ensuring that no office of the Council shall remain vacant for more than two regular meetings. The nomination and election process shall conform with the process set forth in Rule 1 above.

RULE 15 INQUIRIES AND INVESTIGATIONS

In accordance with and as set forth in Section 2-10 of the Town Charter, the Town Council may conduct inquiries or investigations.

INQUIRIES:

An inquiry may be called for by a majority vote of those present at a regular Council meeting. An inquiry shall be made through the Town Manager if it concerns areas under the Town Manager's authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of authority, the Council may require such persons as described in Section 2-10 of the Charter to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council, or the Council may call for further information so that its questions may be answered.

INVESTIGATIONS:

If the Manager or other person(s) requested to make a report shall fail to do so, or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board or commission or their members, or if the Council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an

investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of a majority of the full Council, establish a three-person committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the committee's work, subject to review at the request of the committee. If the committee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council.

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its committee shall be held in accordance with the Open Meeting Law.

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.

8. The proceedings of all public sessions of the committee meetings shall be recorded on video and provided to the full Council along with a copy of committee findings.

9. The committee will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The Council, by an affirmative vote of a majority of the full Council, will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Town Charter, Town ordinances, collective bargaining agreements and personnel rules and regulations.

RULE 16 AGENDA ITEMS

The following agenda items may be acted upon at a first reading:

Proclamations; Individual and Group Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable, including amendments to or repeal of the Town Council Rules of Procedure; Loan Authorizations; Supplemental Appropriations; and any other measures.

No debate shall take place at the first reading of any item requiring a second reading.

Certain items require public hearings, including, but not limited to, budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances.

RULE 17 SUSPENSION OF RULES

Upon a motion and an affirmative vote of two-thirds of the Councilors present and voting, any rule set forth in these Rules may be suspended in relation to a particular agenda item or for the duration of the Council meeting at which such vote is taken, provided that any requirement imposed by the Town Charter or the General Laws may not be suspended. The Council may suspend a provision of a Town ordinance by the same process that would be required to amend said ordinance.

ATTACHMENT A

[Attach Town Council Policy on Remote Participation then in effect]

TOWN COUNCIL RULES (Updated 10/3/19)

RULE 1 COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, the Council shall nominate a President and a Vice President, election of which shall take place on or before the next regular meeting. Time should be allotted for nomination speeches which would be limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

RULE 2 ROLE OF COUNCIL PRESIDENT

The President shall serve as ex-officio member of all Council Committees. The President may also be designated by the Council to be its representative to all boards and commissions. The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council. The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes, and may designate other councilors to serve in this ceremonial capacity. (In accordance with Rule 11B)

RULE 3 PRESIDING OFFICER

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a presiding chair in rotating precinct order. In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings.

RULE 4 DUTIES OF THE PRESIDING OFFICER

The presiding officer shall take the chair at the hour at which the Council is to meet, and call the members to order. The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the chair, without further debate upon the question, shall require a roll call vote. No decision shall be declared unless a quorum of the Council shall have voted. The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto. The presiding officer may state facts and give

opinions upon questions of order without leaving the chair. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding chair in rotating precinct order.

RULE 5 MEETINGS

The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings.

RULE 5A MEETING DEFINITIONS

Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. (See Rule 5B) Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any five or more members, by written notice. [online code reads 220-2Special meetings.

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice shall include agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each Councilor at least 48 hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.

Said notice will include relevant agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each councilor's residence at least forty-eight hours in advance of the time set. Executive session may be entered only after the council has first convened in open session for which notice has been appropriately posted. The presiding officer cites the reason for going into executive session and calls for a roll call vote of the Council. The vote of each member is entered into the minutes, with a majority necessary to initiate an executive session.

Purposes Warranting Executive Session:

1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights.

(a) To be present at such executive session during discussions or considerations which involving that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) To speak in his own behalf.

2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) To be present at such executive session during discussions or considerations involving that individual.

(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.

(c) To speak in his own behalf. 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

4. To discuss the deployment of security personnel or devises.

5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

6. To consider the purpose, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

7. To comply with the provisions of any general or special law or federal grant-in-aid requirements.

8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.

9: To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:

9(a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.

(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 39 Section 23B.)

RULE 5B MEETING SCHEDULE

The Barnstable Town Council shall meet on the first and third Thursdays of each month except in the months of July and August when meetings will be held on the third Thursday only. Meetings shall conclude at 11:00 P.M. The subject at hand could be finished if it was ongoing at 11:00 P.M. and the meeting could continue with a 2/3's vote of the council after 11 P.M. If a regular meeting date falls on a solemn or legal holiday, the president shall reschedule such meeting to the Thursday of the following week. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5C INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the home rule charter. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURES: All matters to come before the Council that are inherently legislative in nature, including ordinances, charter amendments, appropriations, loan orders, lease approvals and eminent domain authorizations.

NON-MEASURES: Non-Measures shall include all matters to come before the council which are not specified to be measures such as any matter which is executive, administrative or ministerial, or quasi-judicial, including, without limitation, appointments, resolutions, proclamations, tax classification votes, contract approvals, and petitions to the General Court.

RULE 5D FILING DEADLINES FOR REGULAR MEETINGS

Any of the above items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to the Administrative Assistant no later than 10:00 am, seven days, exclusive of Saturday and Sunday preceding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadline. The Council President in consultation with the sponsoring councilor, Council Administrative Assistant and Town Manager shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council agenda, including the Town Manager's Communication, complete with documentation shall be delivered to the Town Councilors no later than 48 hours prior to the regular meeting of the Council.

RULE 5E ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business shall be as follows:

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(Includes Executive Sessions)
 8. Communication from Elected Officials, Boards and Commissions and Staff, Correspondence, Announcements and Committee Reports
 9. Orders of the Day
 - A. Old Business
 - B. New Business
 10. Adjournment

(Adopted by Town Council Item 2006-010, 08/18/05)

(Adopted by Town Council 2007-067, 02/01/07)

(Adopted by the Town Council 2015-027, 11/06/14)

RULE 5F PUBLIC COMMENT

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public desiring to address the Council may reserve a place on the agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting. Each person on the public comment docket shall be recognized by the chair, and shall state his/her name and address for the record. Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part, public comment will be limited to three minutes for each individual speaking. All remarks and questions shall be addressed to the Council as a whole through the chair and not to any member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the Council without permission of the presiding officer. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (in accordance with MGL CH. 39, S. 23C).

RULE 6 PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order.

Indetermining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE 6A QUORUM

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member council shall be eight (9).

RULE 6B ORDER OF SPEAKING; LENGTH OF SPEAKING

When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than twice until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

RULE 6C ORDER OF MOTIONS

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess
3. To lay on the table
4. For previous question
5. To limit or extend limits of debate
6. To postpone to certain date
7. To refer
8. To amend
9. To postpone indefinitely
10. Leave to withdraw

RULE 6D PREVIOUS QUESTION

The previous question shall be put as follows: "I call the previous question." All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote.

RULE 6E REFERRAL TO COMMITTEE

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad hoc committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a committee, commission or board for advice sought by Town Council.

RULE 6F RECONSIDERATION

At any meeting which vote has been taken, it shall be in order for any councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote.

RULE 7 MATTERS REDUCED TO WRITING

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

RULE 8 VOTES

All action taken by the Town Council requiring a vote will be by a majority unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council.

RULE 8A ROLL CALL

All final votes of the Town Council on ordinances, appropriation orders, or loan authorizations shall be taken by roll call vote, and shall be duly recorded by the town clerk. On other matters requiring a vote, a roll call may be requested by any councilor. The order of the roll call voting shall be alphabetical, and rotated after each vote.

Every councilor present when the question is put shall vote yes, no, abstention, or pass. If a councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the roll call vote, any councilor may have his/her name called again to record him/her differently.”

RULE 9 REJECTED MEASURES

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present, or as otherwise provided by the charter.

RULE 10 RECORD KEEPING

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Barnstable Home Rule Charter, by ordinance, or other council vote. The Council Administrative Assistant shall give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public. Said Administrative Assistant shall also audio tape record all meetings and file said tapes with the Clerk of the Council. Said assistant shall coordinate with the Town Manager and/or any other committee currently in charge of the videotaping, to make sure that all meetings of the Town Council are videotaped. The Council Administrative Assistant shall be the clerk of workshops held by the Town Council. A transcription of a regular meeting, public hearing or debate, or any portion thereof may be requested through the Council Administrative Assistant, who shall arrange for the preparation of requested transcripts from tape recordings of meetings, hearings or debates.

RULES 11 COUNCIL COMMITTEES

After the organization of the Council, the President, subject to approval by the full Council, may appoint members to standing committees.

RULE 11A AD-HOC COMMITTEES

The President of the Town Council may designate such ad-hoc committees comprised of councilors or registered voters in the Town of Barnstable, as is deemed necessary.

RULE 11B COMMITTEE PARAMETERS AND GUIDELINES

All Committees shall be advisory to the Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrative Assistant, who will notify the Council President and post as required with the Town Clerk. Standing committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any standing committee. Ad hoc committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any ad hoc committee. Ad Hoc Committees shall have access to the Council's Administrative Assistant under the direction of the Council officers. Ad Hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort. The President shall be an ex-officio member of all committees. Meetings of committees may be called by the chairperson or upon the written request of two members of the

committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk and the Council Administrative Assistant, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, Barnstable Home Rule charter, MGL, or otherwise voted by the Town Council. All new committees, boards and commissions, will be evaluated at the end of the first year; at which time a decision will be made by the Town Council to continue, disband, or change the entity.

RULE 12 APPOINTMENTS - (Nominations by the appointments committee)

Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented.

RULE 13 COUNCIL VACANCY

A vacancy on the Council and or vacancy of an office on the Council shall be filled in accordance with Town Charter Section 2-5, and Council Rule 3.

RULE 14 INQUIRIES AND INVESTIGATIONS

Section 2-10 of the Charter gives the Town Council the authority to conduct inquiries or investigations: Section 2-10 - Inquiries and Investigations: The Town Council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The Town Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made; to any person it shall require to appear before it under this section. The Town Council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.

INQUIRIES:

An inquiry may be called for by a majority vote of those present at a regular council meeting. An inquiry shall be made through the Town Manager, if it concerns areas under his authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of authority, the Council may require such persons as mentioned in Section 2-10 to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council or the Council may call for further information so that its questions may be answered.

INVESTIGATIONS:

If the Manager or other person(s) requested to make a report shall fail to do so; or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board, or commission or its members; or if the council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of the full council, establish a three-person Committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the subcommittee's work, subject to review at the request of the subcommittee. If the subcommittee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. 14 of 15 Amended TC Rules 11/06/14 cap

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its subcommittee shall be held in accordance with the Open Meeting Law, MGL C. 39, S. 23B.

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.

8. The proceedings of the meetings shall be recorded and transcribed verbatim and provided to the full Council along with a copy of subcommittee findings. Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.

9. The subcommittee will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The full Council will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Charter, collective bargaining agreements and personnel rules and regulations.

RULE 15 AGENDA ITEMS

The following agenda items may be acted upon at a first reading:

Proclamations; Free Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable; Group Petitions; Loan Authorizations; Supplemental Appropriations; and other measures.

No debate shall take place at the first reading of any item requiring a second reading

TOWN COUNCIL RULES OF PROCEDURE (Updated 02/10/3/192025)

These Town Council Rules of Procedure (“Rules” or “Town Council Rules”) are adopted pursuant to Section 2.6(c) of the Town of Barnstable Home Rule Charter (“Charter” or “Town Charter”). Amending or repealing these Rules shall require two readings and a majority vote of the full Council.

A. COUNCILOR CODE OF CONDUCT

Councilors shall conduct themselves in a professional and peaceable manner during Town Council meetings. Discourse shall be marked by civility, openness and respect, even in the face of disagreement. Councilors shall not make comments that are personal in nature and shall not use insulting, threatening or abusive language. Councilors should conduct themselves in a manner that respects the orderly procedure of the meeting to assure the business of the Town is attended to as expeditiously as the deliberative process allows. To that end, discussion and debate shall focus on the agenda item being discussed or voted on until a decision is made or the discussion is postponed to a later time. Councilors shall not engage in private conversations during Council meetings, including texting or emailing each other during a meeting. Cell phones shall be silenced during Council meetings.

Councilors shall strive for openness and transparency in the performance of their duties. Councilors shall comply with the state Conflict of Interest Law, M.G.L. c. 268A, and comply with and complete the conflict of interest law education and training requirements. Councilors shall comply with the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and shall certify, as required, receipt of copies of the Open Meeting Law, the regulations and the Open Meeting Law Guide prepared by the Attorney General’s Office.

B. USE OF TOWN PHONES AND EMAIL

Upon election, all Town Councilors shall be assigned a Town cellphone and provided with a Town email account, and Councilors shall use the Town cellphone and Town email to conduct Town business to facilitate compliance with the state public records law. No Town resources shall be used for political purposes.

C. TOWN COUNCIL RULES

RULE 1 ELECTION OF COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, ~~the Council~~ Councilors shall nominate a President and a Vice President, election of which shall

take place ~~on or before~~ the next regular meeting. ~~Time should~~ At the meeting at which the election takes place, time shall be allotted for ~~nomination~~ speeches ~~which would be by each candidate~~, limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each ~~councilor~~ Councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

RULE 2 ROLE OF COUNCIL PRESIDENT

~~The~~ Except as set forth in Rule 11A, the President shall serve as a non-voting ex-officio member of all standing and ad-hoc committees of the Council. ~~Committees~~. The President ~~may also be designated by~~ and Vice President shall designate Councilors to serve as liaisons between the Council ~~to be its representative to all~~ and Town boards, committees and commissions. ~~The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council. (See Rule 11D.)~~ The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes; and may designate other ~~councilors~~ Councilors to serve in this ceremonial capacity. ~~(In accordance with Rule 11B)~~

RULE 3 PRESIDING OFFICER

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a presiding chair in rotating precinct order. ~~In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings.~~

Councilor to serve as presiding officer in rotating precinct order.

RULE 4 DUTIES OF THE PRESIDING OFFICER (OR "CHAIR")

The presiding officer shall take the chair at the hour at which the Council is to meet; and call the ~~members~~ meeting to order.

The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call, and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the ~~chair~~ presiding officer, without further debate upon the question, shall require a roll call vote. ~~No decision shall be declared unless a quorum of the Council shall have voted.~~

The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto.

The presiding officer may state facts, ask questions (without commenting or giving an opinion) and give opinions upon questions of order without leaving the chair. The presiding officer also may explain his or her vote. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding ~~chair~~officer in rotating precinct order.

RULE 5- MEETINGS OF THE COUNCIL

RULE 5A TIME AND PLACE OF MEETINGS; MEETING REQUIREMENTS

The time and place of regular meetings shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once a month. The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings- (see Chapter 220 of the Town Code).

RULE 5A MEETING DEFINITIONS

~~Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. (See Rule 5B) Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any five or more members, by written notice. [online code reads 220-2Special meetings.~~

No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5B – Regular Meeting Schedule, and Chapter 220 of the Town Code.)

Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice ~~shall~~will include the meeting agenda, including all agenda items and pertinent supporting documents pertaining to those items, which will be delivered to the Town Clerk and to each Councilor at least forty-eight (48) hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday. The meeting notice for a special meeting of the Town Council shall be posted in accordance with the requirements of the Open Meeting Law.

~~Said notice will include relevant agenda items and pertinent documents pertaining to those items which will be delivered to~~ Open Meeting Law: All meetings of the Town Clerk Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and to each councilor's residence at least forty-eight hours in advance of the time set. Executive session the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: The Council may be entered enter Executive Session only after the ~~council~~Council has first convened in ~~open session for which notice~~Public Session, provided that

notice of the Executive Session has been appropriately posted ~~in accordance with the Open Meeting Law.~~ The presiding officer ~~either~~ shall make the motion to go into Executive Session, citing the reason for going into executive session and calls for Executive Session and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote of the Council. The vote of each member is entered into the minutes, with, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a majority necessary to initiate an executive session. reason permitted under the Open Meeting Law.

Purposes Warranting Executive Session:

~~1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations which involving that individual.~~

~~(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.~~

~~(c) To speak in his own behalf.~~

~~2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty eight hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations involving that individual.~~

~~(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.~~

~~(c) To speak in his own behalf.~~ 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for

~~negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.~~

~~4. To discuss the deployment of security personnel or devices.~~

~~5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.~~

~~6. To consider the purpose, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.~~

~~7. To comply with the provisions of any general or special law or federal grant-in-aid requirements.~~

~~8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.~~

~~9. To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:~~

~~(a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and~~

~~(b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.~~

~~(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 29 Section 23B.)~~

RULE 5B REGULAR MEETING SCHEDULE

The Barnstable Town Council shall meet on two Thursdays each month, with every effort made to schedule those meetings on the first and third Thursdays of each month, except in the months of July and August when ~~meetings~~ only one meeting will be held on the third Thursday ~~only~~. Meetings shall conclude at 11:00 P.M. ~~The, except that the~~ subject at hand ~~could~~ may be finished if it was ongoing at 11:00 P.M. ~~and Thereafter,~~ the meeting ~~could~~ may continue after 11:00 P.M. with a 2/3rd two-thirds vote of the ~~council after 11 P.M.~~ Councilors present and voting. If a regular meeting date falls on a solemn or legal holiday, the ~~president shall reschedule such meeting to the Thursday of the following week.~~ President shall make every effort to reschedule such meeting to another Thursday but may choose another day if necessary and warranted by the circumstances. In addition, regular meetings may be rescheduled by the President if necessary and warranted by the circumstances, including, for example, lack of quorum on the scheduled meeting date. Every effort shall be made to reschedule any such meeting to another Thursday, but another date may be chosen if necessary and warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5C ATTENDANCE; REMOTE PARTICIPATION

Except in emergencies, Councilors shall notify the Council President and the Council Administrator in advance if they will be absent from a Town Council meeting. At the beginning of the meeting, the presiding officer shall announce the names of any absent Councilors. Councilors shall make every effort to notify the Council President and Council Administrator if they anticipate that they will arrive late to a Council meeting. The presiding officer shall note the arrival of any Councilor who joins the meeting late. Any Councilor who is leaving the meeting early shall announce their departure, and the presiding officer shall note the Councilor's departure for the record.

To the extent permitted by state law, Councilors may participate remotely in Town Council meetings in accordance with the Town Council Policy on Remote Participation then in effect, subject to any amendment or revocation of that policy as may occur, provided that any such amendment or revocation shall not require an amendment of these Rules. (A copy of the Town Council Policy on Remote Participation approved by the Council at its February 15, 2024 meeting (Item No. 2024-162) shall be attached to these Rules for informational purposes as Attachment A, but such Policy shall not be deemed to be an integral part of these Rules, and such attachment shall be removed, updated or replaced, as appropriate.)

If technical problems interrupt or prevent remote participation, the presiding officer will wait up to five (5) minutes to allow for the connection or reconnection prior to beginning or resuming the meeting. After waiting five minutes, the meeting shall continue even if the technical problems have not been resolved, but, at the discretion of the presiding officer, the meeting may be delayed for an additional reasonable period to allow for a further attempt to try to resolve the problems or the meeting may resume. In such case, the presiding officer may choose to skip

certain agenda items while an attempt is made to resolve the problems. If the Councilor is disconnected, the fact and time shall be noted in the minutes. If the Councilor reconnects, the fact and time shall be noted in the minutes.

RULE 5D INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the ~~home-rule charter~~ Town Charter. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

~~MEASURES: All matters to come~~ MEASURE: A "measure" is any matter coming before the Council that ~~are~~ is inherently legislative in nature, including but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council), and eminent domain authorizations.

~~NON MEASURES: Non-Measures~~ require 2 readings.

NON-MEASURE: A "non-Measure" shall include all matters ~~any matter~~ to come before the ~~council~~ Council which ~~are~~ is not specified to be ~~measures~~ a "measure" under the Charter, such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, ~~without limitation~~ but not limited to, appointments, resolutions, proclamations, tax classification votes, contract approvals, ~~that are not measures~~ and petitions to the General Court.

RULE 5D — FILING DEADLINES FOR REGULAR MEETINGS

~~Any of the above items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to the Administrative Assistant no later than 10:00 am, seven days, exclusive of Saturday and Sunday preceding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadline. The Council President in~~ RULE 5E AGENDA SETTING

~~The Council President, after consultation with the sponsoring~~ councilor, Council Administrative Assistant ~~Councilor~~ and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council President shall set deadlines for the submission of agenda items by other Councilors, by the Town Manager, and by Town staff through the Town Manager, with the goal of posting the agenda for a Thursday meeting by the preceding Friday. The Council agenda, including the Town ~~Manager's~~ Communication ~~Manager's Report~~, complete with documentation, shall be delivered to the Town Councilors and posted in accordance with the Open Meeting Law no later than 48 hours prior to the regular meeting of the Council.

RULE 5E5F CONSENT AGENDA

A Consent Agenda may be used to approve a grouping of agenda items with one vote and no discussion; provided that upon objection by any Councilor to the inclusion of one or more items in any particular Consent Agenda, the item or items shall be removed from the Consent Agenda for separate deliberation and vote by the Town Council; and provided, further, that separate public hearings and votes shall be held for agenda items requiring a public hearing.

RULE 5G ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows: provided that matters may be taken out of order at the meeting at the discretion of the presiding officer:

- 1. Roll Call
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager ~~Communications Report~~ (which may be pre-recorded)
7. Act on Public Session Minutes ~~(Includes Executive Sessions)~~
8. ~~Communication~~ Communications from Elected Officials, Boards, Committees and Commissions, and Staff, Correspondence, and Announcements ~~and Committee Reports~~
9. Orders of the Day
 - A. Old Business
 - B. New Business
10. Adjournment

~~(Adopted by Town Council Item 2006-010, 08/18/05)~~

~~(Adopted by Town Council 2007-067, 02/01/07)~~

~~(Adopted by the Town Council 2015-027, 11/06/14)~~

RULE 5E5H PUBLIC COMMENT

-At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public ~~desiring who wishes~~ to ~~address the Council may reserve a place on the~~

~~agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting. Each person on the docket shall be recognized by the chair presiding officer and shall be asked to state his/her name and address, if a resident of Barnstable, asked to state the village in which they reside (if not a resident of Barnstable, they shall be asked to state their town of residence) for the record. Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part~~ Generally, public comment will be limited to three minutes for each individual speaking, but additional time may be granted at the discretion of the presiding officer. All remarks and questions shall be addressed to the Council as a whole, through the chair presiding officer, and not to any individual member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the public may speak at a Council meeting without permission first being recognized by the presiding officer. The purpose of the presiding officer-public comment period is for the Council to hear comments from the public, and not for the public to engage in discussions or debate with the Council or with any member of the audience. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (in accordance with MGL CH. 39, S. 23C) see Open Meeting Law. At the beginning of public comment, a statement shall be read by the presiding officer or his or her designee substantially in the form set forth below:

I wish to remind everyone that no member of the public may speak without first being recognized by the Council President (or presiding officer). The public will have an opportunity to speak during the public comment portion of the meeting and during any public hearing on an agenda item.

You are free to express your thoughts, opinions and criticisms during public comment. However, your comments must be directed to the Council as a body, through the President of the Council (or presiding officer). You may not speak directly to any individual Councilor. You also should not be addressing your comments to anyone else in this room – not to Town staff and not to another member of the audience. Public comment is to be directed to the Council.

We also ask that the members of the public refrain from making audible comments during the meeting unless they have been recognized to speak by the Council President (or presiding officer). The Council President (or presiding officer) will request silence in the chamber if anyone ignores this rule.

RULE 6 PROCEDURAL MATTERS

RULE 6A PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order.

~~Indetermining~~In determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on ~~Mason's~~Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE ~~6A6B~~ QUORUM

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member ~~council shall be eight~~Council is nine (9).

RULE ~~6B6C~~ ORDER OF SPEAKING; LENGTH OF SPEAKING

Councilors shall not speak without being recognized by the presiding officer except to call the previous question or to doubt the presence of a quorum. When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than ~~twice~~once until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

RULE ~~6C6D~~ ORDER OF MOTIONS

(Note: See Rule 8A regarding quantum of votes.)

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess (not debatable)
3. To lay on the table (not debatable)
4. For previous question (not debatable)
5. To limit or extend limits of debate (not debatable)
6. To postpone to certain date (debatable, but just the motion, not the main question) (may be amended but only as to the date)
7. To refer (to committee) (debatable; may be amended only as to the committee)
- ~~8. To amend~~
8. To amend (motion to amend a debatable question is debatable; motion to amend a question that is not debatable is not itself debatable)

9. To postpone indefinitely (motion is debatable and opens the main question to debate; has the effect of rejecting the main motion)

~~10. Leave to withdraw~~

10. Leave to withdraw (not debatable; may be made at any time before voting has commenced; request for leave to withdraw, presiding officer asks if any objection, if none, motion is withdrawn; if there is an objection, then motion for leave to withdraw and vote on that motion)

RULE ~~6D~~6E PREVIOUS QUESTION

The previous question shall be put as follows: “I call the previous question—” or “I move the question.” All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote of the Councilors present and voting. If the motion to move the question passes, the Council shall immediately take a vote on the main question.

RULE ~~6E~~6F REFERRAL TO COMMITTEE

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad-hoc committee or standing committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a standing committee, commission or board of the Town with appropriate jurisdiction for advice sought by ~~Town~~the Town Council upon motion and a majority vote of the Council.

RULE ~~6F~~6G RECONSIDERATION

At any meeting at which a vote has been taken, it shall be in order for any ~~councilor~~Councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the ~~council~~Council. In addition, any Councilor who has voted with the prevailing side may make a motion for reconsideration at the next regular meeting of the Council following the vote; provided, that if such motion for reconsideration was not noticed on that next regular meeting's agenda, then any such Councilor shall give notice that a motion for reconsideration shall take place at the following regular meeting of the Council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote.

RULE 7 MATTERS REDUCED TO WRITING

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

RULE 8 VOTING

RULE 8A VOTES

~~All~~Except as otherwise provided by the General Laws of the Commonwealth, the Town Charter, Town ordinance (or these Town Council Rules, which are established pursuant to Section 2-6(c) of the Town Charter), any action taken by the Town Council requiring a vote ~~will~~shall be by a majority of the Councilors present and voting.

~~No vote shall take place unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council. a~~No vote shall take place unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council. a quorum of the Council is present (abstentions count toward the quorum but are not considered votes; recusals do not count towards the quorum).

Councilors who need to recuse themselves should announce that they are recusing themselves and leave the room during the discussion and until the vote has been taken. If participating remotely, Councilors who need to recuse should announce their recusal, turn off their cameras and mute themselves during the discussion and until the vote has been taken.

RULE ~~8A~~8B ROLL CALL

~~All~~As required by the Town Charter, all final votes of the Town Council on ordinances, appropriation orders, ~~or and~~ loan authorizations shall be taken by roll call vote, and shall be duly recorded by the ~~town clerk~~Clerk of the Council. On other matters requiring a vote, a roll call may be requested by any ~~councilor~~Councilor. The order of the roll call voting shall be alphabetical, and rotated after each vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the presiding officer, without further debate upon the question, shall require a roll call vote. All votes taken in Executive Session shall be roll call votes. All votes taken in meetings in which any Councilor is participating remotely shall be roll call votes.

~~Every councilor present when~~

When the question is put to a vote, every Councilor present shall vote yes, no, ~~abstention~~abstain, or pass. If a ~~councilor~~Councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the results of the roll call vote, any ~~councilor~~Councilor, at their request, may have his/her name called again to record him/her differently²³.

RULE 9 REJECTED MEASURES

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present and voting, or as otherwise provided by the ~~charter~~Charter.

RULE 10 RECORD-KEEPING

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk of the Council at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Barnstable Home Rule Charter, by ordinance, or other ~~council~~Council vote. The Council ~~Administrative Assistant~~Administrator shall prepare the meeting agenda and give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public. ~~Said Administrative Assistant shall also audio tape record all meetings and file said tapes with the Clerk of the Council. Said assistant shall coordinate with the Town Manager and/or any other committee currently in charge of the videotaping, to make sure that all meetings of the Town Council are videotaped. The Council Administrative Assistant shall be the clerk of workshops held by the Town Council. A transcription of a regular meeting, public hearing or debate, or any portion thereof may be requested through the Council Administrative Assistant, who shall arrange for the preparation of requested transcripts from tape recordings of meetings, hearings or debates in accordance with the Open Meeting Law. Communications staff shall make best efforts to record on video all Public Sessions of Council meetings and post said video recordings on the Town website. The Town Council Administrator shall be the clerk of Town Council committee meetings.~~

RULE 11—COUNCIL COMMITTEES OF THE COUNCIL

RULE 11A COMMITTEE GUIDELINES AND PARAMETERS

After the organization of the Council, the President, subject to approval by the ~~full~~ Council, may appoint members to standing committees.

RULE 11A—AD-HOC COMMITTEES

~~The President of the Town Council may designate such ad-hoc committees comprised of councilors or registered voters. Councilors to the Appointments Standing Committee shall be made in accordance with Section 37-3 of the Town of Barnstable, as is deemed necessary.~~

RULE 11B—COMMITTEE PARAMETERS AND GUIDELINES

Code. All Standing and Ad-Hoc Committees of the Council shall be advisory to the Town Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council ~~Administrative Assistant~~Administrator, who will notify the Council President and post as required with the Town Clerk. ~~Standing committees~~

~~shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson chair or vice-chair of any standing committee. Ad hoc committees shall select a chairperson who will organize of the committee and be responsible for the conduct Council, except that a Councilor already serving as chair or vice-chair of the committee and shall be the spokesperson for the committee in matters with the Council. A clerk shall be appointed from the committee to record the minutes. The an Ad-Hoc Committee may continue in that role if subsequently elected as President and/or Vice-President of the Council shall not serve as a chairperson of any ad hoc committee. Ad Hoc Committees shall have access to the Council's Administrative Assistant under the direction of the Council officers. Ad Hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.~~

The President shall be ~~an~~ non-voting ex-officio member of all committees ~~of the Council, except that the President may continue to be a voting member of any Ad-Hoc Committee on which he or she serves if such service pre-dates his or her election as President.~~ Meetings of committees may be called by the ~~chairperson~~ chair or upon the written request of two members of the committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk ~~and~~ by the Council ~~Administrative Assistant~~ Administrator, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, ~~Barnstable Home Rule charter, MGL~~ the Town Charter, the General Laws of the Commonwealth, or as otherwise voted by the Town Council. All new standing committees, boards and commissions ~~of the Town Council~~ will be evaluated at the end of the first year, at which time a decision will be made by the Town Council whether to continue, disband, or change the entity.

RULE 11B AD-HOC COMMITTEES

The President of the Town Council may designate the members of ad-hoc committees that are established by vote of the Council, the members of which shall include Councilors and may include registered voters in the Town of Barnstable, as is deemed necessary. The chair of any such ad-hoc committee shall be selected by vote of the committee, except that the Council vote creating the committee may impose additional requirements. At the discretion of the committee, a vice-chair may be selected by vote of the committee. Ad-hoc committees shall be comprised of an odd number of members. The period of existence for an ad-hoc committee, as specified by the Town Council vote creating the committee, shall commence from the date of the first

meeting of the committee. The Town Council shall limit the number of ad-hoc committees in existence and meeting during any given period to no more than two (2); provided, however, that the Town Council by majority vote of its members may override this rule and allow for the creation of up to two (2) additional ad-hoc committees.

The chair shall organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. The Town Council Administrator shall record the minutes. Ad-hoc Committees shall have access to the Council Administrator under the direction of the Council President. Ad-hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort.

RULE 11C STANDING COMMITTEES

Standing committees shall select a chair who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes.

RULE 12 LIAISONS TO BOARDS, COMMITTEES AND COMMISSIONS OF THE TOWN

In accordance with Section 241-8 of the Town Administrative Code, the President and Vice President shall designate each Councilor as the Council liaison to one or more of the multiple-member bodies of the Town. As set forth in said Section 241-8, each Council liaison shall meet with the chair of the board, committee or commission to which they serve as liaison to discuss and define an appropriate reporting relationship.

Council liaisons shall not participate in the deliberations or votes, nor shall they participate in or attend any executive session, of such board, committee or commission. Liaisons shall sit where the public are seated. Liaisons who wish to express a personal opinion shall do so during the public comment portion of the meeting in the same manner as other members of the public and shall state that they are speaking in their personal capacity. When recognized by the Chair, liaisons may ask questions and make comments during discussion and shall identify themselves as liaisons prior to the first instance of speaking, unless speaking in their personal capacity during public comment. Liaisons shall not commit the Council to a course of action and are not to speak on behalf of the Council.

Liaisons shall receive meeting postings, agendas, reports, and minutes from the other body. Liaisons shall attend or watch the meetings of the other body, as they deem appropriate, and should be familiar with the materials provided as above and maintain contact with the other body's Chair.

RULE 13 APPOINTMENTS - (Nominations by the ~~appointments committee~~Appointments Committee)

Appointments require 2 readings. Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented to the Council as a first read.

RULE 14 VACANCY IN OFFICE OF PRESIDENT OR VICE PRESIDENT

~~In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President.~~ **RULE 13 COUNCIL VACANCY**

~~A vacancy on the Council and or vacancy of an office on the Council shall be filled in accordance with Town Charter Section 2-5, and Council Rule 3.~~

~~**RULE 14**If a vacancy occurs in the office of Vice President, either because the Vice President can no longer serve or because the Vice President has assumed the powers and duties of the President, as set forth in the preceding sentence, the Council shall elect a new Vice President from among its members. The election of a new Vice President shall occur as soon as practicable but with the goal of ensuring that no office of the Council shall remain vacant for more than two regular meetings. The nomination and election process shall conform with the process set forth in Rule 1 above.~~

RULE 15 INQUIRIES AND INVESTIGATIONS

~~Section 2-10 of the Charter gives the Town Council the authority to conduct inquiries or investigations: Section 2-10 – Inquiries and Investigations: The Town Council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The Town Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made; to any person it shall require to appear before it under this section. The Town Council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.~~

In accordance with and as set forth in Section 2-10 of the Town Charter, the Town Council may conduct inquiries or investigations.

INQUIRIES:

An inquiry may be called for by a majority vote of those present at a regular ~~council~~Council meeting. An inquiry shall be made through the Town Manager; if it concerns areas under ~~his~~the Town Manager's authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of

authority, the Council may require such persons as ~~mentioned~~described in Section 2-10 of the Charter to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council, or the Council may call for further information so that its questions may be answered.

INVESTIGATIONS:

If the Manager or other person(s) requested to make a report shall fail to do so, or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board, or commission or ~~its~~ their members, or if the ~~council~~ Council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of a majority of the full ~~council~~ Council, establish a three-person ~~Committee~~ committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the ~~subcommittee's~~ committee's work, subject to review at the request of the ~~subcommittee~~ committee. If the ~~subcommittee~~ committee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. ~~14 of 15 Amended TC Rules 11/06/14 cap~~

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its ~~subcommittee~~ committee shall be held in accordance with the Open Meeting Law, ~~MGL C. 39, S. 23B.~~

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.

8. The proceedings of all public sessions of the committee meetings shall be recorded ~~and transcribed verbatim on video~~ and provided to the full Council along with a copy of ~~subcommittee committee~~ findings. ~~Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.~~

9. The ~~subcommittee committee~~ will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The Council, by an affirmative vote of a majority of the full Council, will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Town Charter, Town ordinances, collective bargaining agreements and personnel rules and regulations.

RULE 1516 AGENDA ITEMS

The following agenda items may be acted upon at a first reading:

Proclamations; ~~Free~~Individual and Group Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

-Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable; ~~Group Petitions, including amendments to or repeal of the Town Council Rules of Procedure;~~ Loan Authorizations; Supplemental Appropriations; and any other measures.

No debate shall take place at the first reading of any item requiring a second reading.

Certain items require public hearings, including, but not limited to, budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances.

RULE 17 SUSPENSION OF RULES

Upon a motion and an affirmative vote of two-thirds of the Councilors present and voting, any rule set forth in these Rules may be suspended in relation to a particular agenda item or for the duration of the Council meeting at which such vote is taken, provided that any requirement imposed by the Town Charter or the General Laws may not be suspended. The Council may suspend a provision of a Town ordinance by the same process that would be required to amend said ordinance.

ATTACHMENT A

[Attach Town Council Policy on Remote Participation then in effect]

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A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-148
INTRO: 04/3/2025, 05/15/2025

2025-148 AUTHORIZATION OF A HOUSING DEVELOPMENT INCENTIVE PROGRAM TAX INCREMENT EXEMPTION AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND NILE MORIN, INC FOR 9 NEW MARKET RATE RESIDENTIAL RENTAL UNITS LOCATED AT 50 MAIN STREET, HYANNIS, MA

ORDERED: That the Town Council hereby authorizes a Tax Increment Exemption (TIE) Agreement between the Town of Barnstable and Nile Morin, Inc. pursuant to the Housing Development Incentive Program, M.G.L. c. 40V, and the regulations promulgated thereunder at 760 CMR 66.00, for nine (9) market rate residential units located at 50 Main Street, Hyannis, substantially in the form presented to the Town Council at this meeting, and further authorizes the Town Manager to execute the TIE Agreement and submit it to the Massachusetts Executive Office of Housing and Livable Communities for approval.

SPONSORS: Town Council Tax Incentive Committee: Councilor John R. Crow, Precinct 5; Councilor Paul C. Neary, Precinct 6; Councilor Paula K. Schnepf, Precinct 12

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Second Reading 05/15/2025</u>

- ____ Read Item
- ____ Rationale
- ____ Council Discussion
- ____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-148
INTRO: 04/3/2025, 05/15/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development
DATE: April 03, 2025
SUBJECT: Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Nile Morin, Inc for 9 new Market Rate Residential Rental Units located at 50 Main Street, Hyannis, MA

RATIONALE: The Tax Incentive Committee of the Town Council recommends approval of the Housing Development Incentive Program Tax Increment Exemption request from developer Nile Morin, Inc. for the property located at 50 Main Street, Hyannis. The project will create nine (9) market rate units, and one (1) deed restricted affordable unit for a total of ten (10) units.

In January 2018, the Town Council approved the proposed Downtown Hyannis HD Zone and Plan and in March 2018 the Town received approval of its Zone from the Department of Housing and Community Development (now EOHLIC). Approval of this Zone allows the Town to enter into Tax Increment Exemption Agreements with property owners within the Zone.

The goals of the Housing Development Incentive Program, which authorizes Tax Increment Exemption Agreements, is to increase residential growth, expand diversity of housing supply, support economic development and promote neighborhood stabilization.

The Housing Development Program (HDIP) staff review committee, and the Town Council Tax Incentive Committee reviewed the application from Nile Morin, Inc. and found it to be complete and that the development meets the objectives of the HDIP Plan including increasing residential stock and diversity of housing choice. The Operating Pro Forma is reasonable and in line with industry standards. Based on limited availability of comparable development in the HDIP Zone, the proposed rents, at \$2,750 per month for a 2-bedroom unit, are priced consistently with prevailing rents. The development will have a positive impact on housing supply and, in turn, support economic development

The TIE Agreement is a contract between the property owner and the municipality which sets forth the amount of the tax exemption and the duration of the benefits. The Sponsor has requested, and the Tax Incentive Committee recommends a 100% Tax Exemption for years 1-5, 75% Tax Exemption for years 6-10 and 50% Tax Exemption for years 11-15 on increased value of the market rate units anticipated to be \$ 2,353,858.00.

FISCAL IMPACT: The estimated assessed value of the property when developed as proposed is \$3,196,600 resulting in an increase of \$2,353,858 in assessed value subject to TIE. As proposed, the total estimated value of the TIE is \$220,097.08. This includes an estimated \$213,686.48 in property tax savings and \$6,410.59 in Community Preservation Tax savings for the developer. By approving the TIE Agreement, the Town agrees to forgo this estimated tax revenue over 15 years in exchange for the

If approved by the Town, this project and TIE Agreement must also be approved by the State Executive Office of Housing and Livable Communities.

redevelopment of this property that creates nine (9) new year-round Market Rate rental housing units and one (1) affordable unit deed restricted to 65% Area Median Income.

STAFF ASSISTANCE: Mark Milne, Finance Director; John Curran, Director of Assessing; Corey Pacheco, Senior Planner, Planning and Development; Arden Cadrin, Consultant.

HOUSING DEVELOPMENT INCENTIVE PROGRAM

TAX INCREMENT EXEMPTION (TIE) AGREEMENT

between
Town of Barnstable
and
Nile Morin Inc.

This AGREEMENT is made this day of , 2025 by and between the Town of Barnstable (“Municipality”) and Nile Morin. Inc., a Massachusetts Corporation (“Sponsor”) with an address at 19 Appaloosa Way, Marstons Mills, MA 02648.

Section 1 – Agreement

The Municipality and the Sponsor, for good and valuable consideration and in consideration of the covenants and agreements herein contained, hereby make this agreement regarding a tax increment exemption pursuant to the Housing Development (HD) Incentive Program, M.G.L. c. 40V and the regulations promulgated thereunder at 760 CMR 66.00 (HD TIE), with respect to the Property as herein defined.

Section 2 – Definitions

Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

- Act: M.G.L. c. 40V as may be amended from time to time.
- Completion: Certificates of occupancy have been issued for the entire Project.
- DHCD: Department of Housing and Community Development
- EOHLC: Executive Office of Housing and Livable Communities
- Event of Default: An “Event of Default” as defined in Section 5 below.
- Final Certification: Determination by EOHLC that the Sponsor has completed the new construction or substantial rehabilitation of the Property, consistent with the New Construction or Rehabilitation Plans, including the creation of MRRUs, as set forth in the Act and the Regulations.
- Fiscal Year: An annual period of July 1 through June 30.
- HD Project: A Certified Housing Development Project as defined in the Act and the Regulations.
- HD Zone: The Housing Development Zone adopted by the Town of Barnstable on January 18, 2018 and approved by EOHLC (formerly DHCD) as evidenced by a Certificate of Approval dated March 9, 2018 and recorded with Barnstable County Registry of Deeds, Book 32702, Page 1. The Zone was amended on January 21, 2021 and approved by EOHLC as evidenced by a Certificate of Approval dated March 2, 2021 and recorded with Barnstable County Registry of Deeds Book 3652, Page 251.

MRRU: Market Rate Residential Unit(s) as defined at Section 3.B.1.

Property: 50 Main Street (Parcel 342026), as shown in Exhibit 1, “Map of Property” and further described in Exhibit 2, “Legal Description of Property”.

Regulations: 760 CMR 66.00.

New Construction or Rehabilitation Plans: The material submitted for Conditional Certification pursuant to 760 CMR 66.05(3)(a) and approved by EOHL.

Sponsor: Nile Morin, Inc., a Massachusetts Corporation, with an address at 19 Appaloosa Way, Marstons Mills, MA 02648, its successors and assigns.

Section 3 – Sponsor’s Covenants

New Construction or Substantial Rehabilitation of the Property. Sponsor will undertake the new construction or substantial rehabilitation of the Property in accordance with the work and schedule set forth in the New Construction or Rehabilitation Plans.

Market Rate Residential Units.

There shall be a total of nine (9) residential market rate rental units, as well as one (1) affordable deed restricted units at 65% AMI created in the Project. For the market rate units there will be nine (9) 2-bedroom units; and for the affordable units there will be one (1) 2-bedrooms unit. The monthly rent for such units shall be priced consistently with prevailing rents or sale prices in the Municipality as determined based on criteria established by the Department, as set forth in Exhibit 3, “Market Rate Residential Units – Pricing Plan”.

Sponsor shall use good faith efforts to maintain the units as MRRUs for a minimum of 20 years.

Marketing. Sponsor shall cause the MRRU to be marketed in a manner that is consistent with the strategies, implementation plan and affirmative fair housing efforts set out in the New Construction or Rehabilitation Plans.

HD Project Certification. Sponsor shall take all actions reasonably necessary to obtain Final Certification of the Property as an HD Project including but not limited to submitting applications to EOHL for Conditional Certification and Final Certification consistent with the requirements of the Act and the Regulations.

Section 4 – Tax Increment Exemption

Municipality agrees to grant Sponsor an exemption to the real property taxes due on the Property pursuant to G.L. c.59 according to the following terms.

- A. Base Value. Consistent with 760 CMR 66.06(1)(c), the Base Value is equal to the assessed value (or aggregate thereof) of the parcel(s) that comprise the property as of the fiscal year in which a HD Tax Increment Exemption Agreement is executed by the Sponsor and the Municipality with respect to the parcel or parcels, as the case may be, and prior to the start of any new construction or Substantial Rehabilitation activities, including demolition, minus the assessed value attributable to any portion of the property that was assessed as other than residential in the applicable fiscal year and remains non-residential after completion of new construction or Substantial Rehabilitation.

At the time of execution, the base value of this property is expected to be \$523,100. This value is subject to change and will be re-confirmed at the time the exemption percentage is applied starting on the effective date of the agreement.

- B. MRRU Percentage. 90%. The MRRU Percentage shall be confirmed as required in paragraph F, below.
- C. Exemption Percentage. Commencing on the Effective Date which shall be Fiscal Year 1: 100% Years 1-5; 75% Years 6-10; 50% Years 11-15
- D. The Increment. As defined at 760 CMR 66.06(1)(b)(1).
- E. Calculation. For each Fiscal Year during the term of this Agreement, the HD TIE shall be determined by applying the Exemption Percentage to the property tax on the Increment.
- F. Confirmation or Amendment of Calculation. Upon Completion, and prior to applying for Final Certification of the Project, the Sponsor and Municipality shall file a "Tax Increment Exemption – Confirmation of Calculation" in the form attached as Exhibit 4 ("TIE Confirmation"). To the extent that the dates or figures in the TIE Confirmation differ from those set forth in this Agreement, the contents of the TIE Confirmation shall control and shall be deemed to have amended this Agreement.

Section 5 – Default

Event of Default. An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following events:

§240-24.0 Breach of Covenant Prior to Final Certification. Subject to the limitations set forth in the Regulations at section 66.05(4)(b), Sponsor defaults in the observance or performance of any material covenant, condition or agreement to be observed or performed by Sponsor pursuant to the terms of this Agreement, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

1) Breach of Covenant Subsequent to Final Certification. Sponsor's conduct is materially at variance with the representations made in its New Construction or Rehabilitation Plans; such variance is found to frustrate the public purposes that Final Certification was intended to advance, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

2) Misrepresentation. Any representation made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

Rights on Default.

Prior to Final Certification. Upon the occurrence of an Event of Default prior to Final Certification, then this

Agreement shall become null and void.

- 1) Subsequent to Final Certification. Upon the occurrence of an Event of Default subsequent to Final Certification, then:
 - a. Revocation of Certification. Pursuant to the terms of the Act, the Municipality, may, at its sole discretion, request that EOHLIC revoke the Final Certification of the Project, such revocation to take effect on the first day of the fiscal year in which EOHLIC determines that a material variance commenced.
 - b. Termination of Agreement. Upon revocation of certification, this Agreement shall become null and void as of the effective date of such revocation.
 - c. Recoupment of Economic Benefit. Upon revocation of certification, the Municipality may bring a cause of action against Sponsor for the value of any economic benefit received by Sponsor prior to or subsequent to such revocation.
- 2) Other Remedies. The Municipality's rights upon the occurrence of an Event of Default are in addition to those granted to EOHLIC and the Massachusetts Commissioner of Revenue under the terms of the Act.

Section 6 – Miscellaneous

- A. Effective Date. The effective date of the HD TIE shall be July 1st of the first Fiscal Year following EOHLIC's Final Certification of the HD Project pursuant to the requirements of the Act and the Regulations. The Effective Date shall be confirmed as required under Section 4.F above.
- B. Term of Agreement. This Agreement shall expire upon the Municipality's acceptance of the annual report, as required below, for the final Fiscal Year for which the Municipality is granting the TIE.
- C. Reporting. Sponsor shall submit reports to the Municipality not later than thirty (30) days after June 30 of each Fiscal Year for the term of this Agreement. Each report shall contain the following information:
 - 1) Until Completion, the status of construction in relation to the schedule contained in the New Construction or Rehabilitation Plan;
 - 2) Until Completion, the status of marketing in relation to the New Construction or Rehabilitation Plans; and
 - 3) For each MRRU, the number of bedrooms in the unit, whether it was leased as of the end of the most recent fiscal year and the monthly rent charged.

Assignment. The Sponsor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without the prior written consent of the Municipality, which approval shall not be unreasonably withheld or delayed. The foregoing notwithstanding, the rights and obligations of this Agreement shall inure to the benefit of any entity succeeding to the interests of the Sponsor by merger.

Notices. In conjunction with concurrent electronic submission as provided for below or, if reasonable efforts can determine that such information is no longer current, otherwise reasonably obtainable and verifiable electronic contact information, any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier,

receipt confirmed or sent by certified or registered mail, postage prepaid, as follows, and, unless general measures for electronic receipt as a substitute are in place at such time or can otherwise be reasonably assumed due to publicized or immediately foreseeable remote working conditions, shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified or registered mail, three (3) days after the day on which mailed or, if sent by overnight courier, on the day after delivered to such courier.

Municipality: Town Manager

Town of Barnstable
367 Main Street
Hyannis, MA 02601

Sponsor:

Nile Morin, Inc.

19 Appaloosa Way
Marstons Mills, MA 02648

nile@soldcapecod.com

Copy to EOHLC: All such notices shall be copied to EOHLC at:

HDIP Program Coordinator
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114
eohlchdip@mass.gov

Change of Address. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice.

Modifications. No modification or waiver of any provision of this Agreement, nor consent to any departure by the Sponsor therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of Municipality in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

IN WITNESS WHEREOF, the Sponsor has caused this Agreement to be duly executed in its name and behalf and its seal affixed by its duly authorized representative, and the Municipality has caused this Agreement to be executed in its name and behalf and its seal duly affixed by its Town Manager as of the day and year first above written.

MUNICIPALITY SPONSOR
TOWN OF BARNSTABLE

Nile Morin, Inc.

EXHIBIT 1

MAP OF PROPERTY

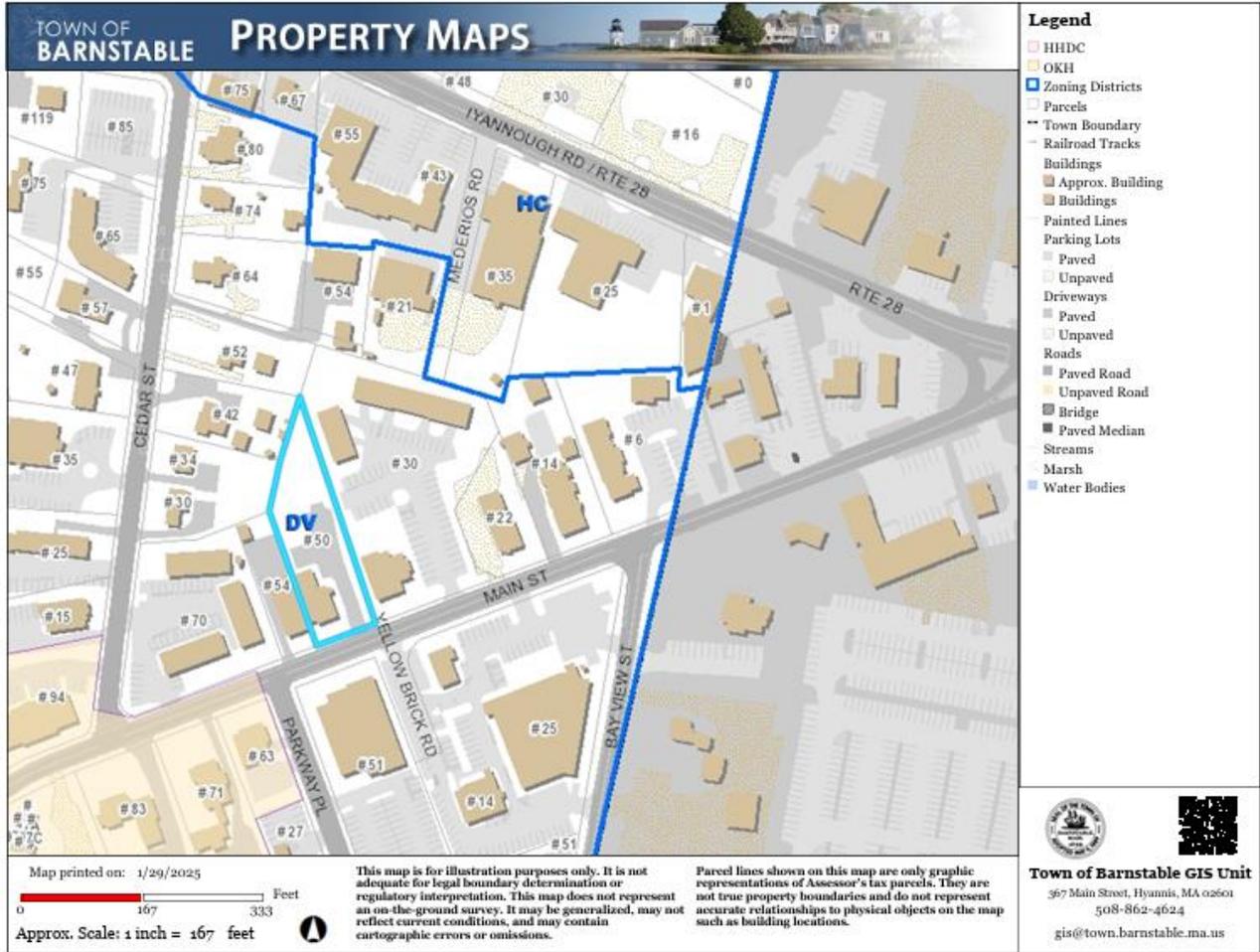


EXHIBIT 2 DESCRIPTION OF PROPERTY

EXHIBIT 3

MARKET RATE RESIDENTIAL UNITS – PRICING PLAN

Monthly Rent(s)*: \$2,750 (2-BR)

*units shall be priced in compliance with EOHLC's HDIP Guidelines and 760 CMR 66.04(2)(f)

EXHIBIT 4

TAX INCREMENT EXEMPTION – CONFIRMATION OF CALCULATION

[FORM TO REMAIN BLANK UNTIL PROJECT COMPLETED AND ELIGIBLE FOR FINAL CERTIFICATION]

In connection with the Tax Increment Exemption Agreement dated _____, 2025 by and between the Town of Barnstable, and Nile Morin Inc., a Massachusetts Limited Liability Corporation (“Sponsor”) with an address at 19 Appaloosa Way, Marstons Mills, MA 02648, with respect to the property at 50 Main Street, Hyannis, MA 02601 (the “Agreement”), the parties hereby confirm the following elements of the Agreement. Unless otherwise stated, capitalized terms have the meaning set forth in the Agreement.

The effective date of the Agreement is:

The MRRU Percentage is:

The assessed value of the residential portion of the Property upon Completion is:

To the extent that the dates or figures in this “Tax Increment Exemption – Confirmation of Calculation” differ from those set forth in the Agreement, the contents of this document shall control and shall be deemed to have amended the Agreement.

MUNICIPALITYSPONSOR

By: Mark S. Ells, Town Manager

By: Nile Morin, President and Treasurer

Dated: _____

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-149
INTRO: 04/03/2025, 05/15/2025

2025-149 AUTHORIZATION OF A HOUSING DEVELOPMENT INCENTIVE PROGRAM TAX INCREMENT EXEMPTION AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND 94 STEVENS STREET, LLC FOR 36 NEW MARKET RATE RESIDENTIAL RENTAL UNITS LOCATED AT 94 STEVENS STREET, HYANNIS, MA

ORDERED: That the Town Council hereby authorizes a Tax Increment Exemption (TIE) Agreement between the Town of Barnstable and 94 Stevens Street, LLC pursuant to the Housing Development Incentive Program, M.G.L. c. 40V, and the regulations promulgated thereunder at 760 CMR 66.00, for thirty-six (36) market rate residential units located at 94 Stevens Street, Hyannis, substantially in the form presented to the Town Council at this meeting, and further authorizes the Town Manager to execute the TIE Agreement and submit it to the Massachusetts Executive Office of Housing and Livable Communities for approval.

SPONSORS: Town Council Tax Incentive Committee: Councilor Paula K. Schnepf, Precinct 12; Councilor John R. Crow, Precinct 5; Councilor Paul C. Neary, Precinct 6

DATE	ACTION TAKEN
<u>04/03/2025</u>	<u>Refer to Second Reading 05/15/2025</u>

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-149
INTRO: 04/03/2025, 05/15/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development
DATE: April 03, 2025
SUBJECT: Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and 94 Stevens Street, LLC for 36 new Market Rate Residential Rental Units located at located at 94 Stevens Street, Hyannis, MA

RATIONALE: The Tax Incentive Committee of the Town Council recommends approval of the Housing Development Incentive Program Tax Increment Exemption request from developer 94 Stevens Street, LLC for the property located at 94 Stevens Street, Hyannis. In addition to the thirty-six (36) market rate units, four (4) units are proposed to be permanently deed-restricted and affordable; the project has a total of forty units (40) units.

In January 2018, the Town Council approved the proposed Downtown Hyannis HD Zone and Plan and in March 2018 the Town received approval of its Zone from the Department of Housing and Community Development (now EOHLC). Approval of this Zone allows the Town to enter into Tax Increment Exemption Agreements with property owners within the Zone.

The goals of the Housing Development Incentive Program, which authorizes Tax Increment Exemption Agreements, is to increase residential growth, expand diversity of housing supply, support economic development and promote neighborhood stabilization.

The Housing Development Program (HDIP) staff review committee, and the Town Council Tax Incentive Committee reviewed the application from 94 Stevens Street, LLC and found it to be complete and that the development meets the objectives of the HDIP Plan including increasing residential stock and diversity of housing choice. The Operating Pro Forma is reasonable and in line with industry standards. Based on limited availability of comparable development in the HDIP Zone, the proposed rents, at \$2,100 per month for a 1-bedroom unit; \$2,400 per month for a 2-bedroom unit; \$2,600 per month for a 3-bedroom unit, are priced consistently with prevailing rents. The development will have a positive impact on housing supply and, in turn, support economic development.

The TIE Agreement is a contract between the property owner and the municipality which sets forth the amount of tax exemption and the duration of the benefits. The Sponsor has requested, and the Tax Incentive Committee recommends a 100% Tax Exemption for years 1-4, 75% Tax Exemption for years 5-7 and 50% Tax Exemption on years 8-10 on increased value anticipated to be \$10,680,600 which excludes the value of the four (4) affordable units.

If approved by the Town, this project and TIE Agreement must also be approved by the State Executive Office of Housing and Livable Communities.

FISCAL IMPACT: The estimated total assessed value of the property when developed as proposed is \$13,010,000 resulting in an increase of \$11,709,000 in assessed value for the Market Rate Units with an increase in value subject to TIE at \$10,680,600. As proposed, the total estimated value of the TIE is

\$650,986.79. Which includes an estimated \$632,026.01 in property tax savings and \$18,960.78 in Community Preservation Tax savings for the developer. By approving the TIE Agreement, the Town agrees to forgo this estimated tax revenue over 10 years in exchange for the redevelopment of this property that creates thirty-six (36) new year-round Market Rate rental housing units, and four (4) affordable units at 65% of Area Median Income.

STAFF ASSISTANCE: Mark Milne, Director of Finance; John Curran, Director of Assessing; Corey Pacheco, Senior Planner, Planning and Development; Arden Cadrin, Consultant.

HOUSING DEVELOPMENT INCENTIVE PROGRAM

TAX INCREMENT EXEMPTION (TIE) AGREEMENT

between

Town of Barnstable

and

94 Stevens Street LLC

This AGREEMENT is made this _____ day of _____, 2025 by and between the Town of Barnstable (“Municipality”) and 94 Stevens Street, LLC, a Massachusetts Limited Liability Corporation (“Sponsor”) with an address at 67 Willow Avenue, Unit A, Hyannis, MA 02601,

Section 1 – Agreement

The Municipality and the Sponsor, for good and valuable consideration and in consideration of the covenants and agreements herein contained, hereby make this agreement regarding a tax increment exemption pursuant to the Housing Development (HD) Incentive Program, M.G.L. c. 40V and the regulations promulgated thereunder at 760 CMR 66.00 (HD TIE), with respect to the Property as herein defined.

Section 2 – Definitions

Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

Act:	M.G.L. c. 40V as may be amended from time to time.
Completion:	Certificates of occupancy have been issued for the entire Project.
DHCD:	Department of Housing and Community Development
EOHLC:	Executive Office of Housing and Livable Communities
Event of Default:	An “Event of Default” as defined in Section 5 below.
Final Certification:	Determination by EOHLC that the Sponsor has completed the new construction or substantial rehabilitation of the Property, consistent with the New Construction or Rehabilitation Plans, including the creation of MRRUs, as set forth in the Act and the Regulations.
Fiscal Year:	An annual period of July 1 through June 30.
HD Project:	A Certified Housing Development Project as defined in the Act and the Regulations.
HD Zone:	The Housing Development Zone adopted by the Town of Barnstable on January 18, 2018 and approved by EOHLC (formerly DHCD) as evidenced by a Certificate of Approval dated March 9, 2018 and recorded with Barnstable County Registry of Deeds, Book 32702, Page 1. The Zone was amended on January 21, 2021 and approved by EOHLC as evidenced by a Certificate of Approval dated March 2, 2021 and recorded with Barnstable County Registry of Deeds Book 3652, Page 251.

MRRU: Market Rate Residential Unit(s) as defined at Section 3.B.1.

Property: 94 Stevens Street (parcel 000309-000231) as shown in Exhibit 1, "Map of Property" and further described in Exhibit 2, "Legal Description of Property".

Regulations: 760 CMR 66.00.

New Construction or Rehabilitation Plans: The material submitted for Conditional Certification pursuant to 760 CMR 66.05(3)(a) and approved by EOHLIC.

Sponsor: 94 Stevens Street, LLC, a Massachusetts Limited Liability Corporation, with an address at 67 Willow Avenue, Unit A, Hyannis, MA 02601, its successors and assigns.

Section 3 – Sponsor’s Covenants

New Construction or Substantial Rehabilitation of the Property. Sponsor will undertake the new construction or substantial rehabilitation of the Property in accordance with the work and schedule set forth in the New Construction or Rehabilitation Plans.

Market Rate Residential Units

The subject property is the proposed new construction development totaling 40 residential units. The unit mix is comprised of four affordable units: 2 one-bedroom units and 2 two-bedroom units restricted to residents at 65% Area Median Income (AMI); six(6) one-bedroom, twenty eight (28) two-bedroom, and two three-bedroom market rate units. The month rents for the market rate units will be priced consistently with prevailing rents.

Sponsor shall use good faith efforts to maintain the units as MRRUs for a minimum of 20 years.

Marketing. Sponsor shall cause the MRRU to be marketed in a manner that is consistent with the strategies, implementation plan and affirmative fair housing efforts set out in the New Construction or Rehabilitation Plans.

HD Project Certification. Sponsor shall take all actions reasonably necessary to obtain Final Certification of the Property as an HD Project including but not limited to submitting applications to EOHLIC for Conditional Certification and Final Certification consistent with the requirements of the Act and the Regulations.

Section 4 – Tax Increment Exemption

Municipality agrees to grant Sponsor an exemption to the real property taxes due on the Property pursuant to G.L. c.59 according to the following terms.

- G. Base Value. Consistent with 760 CMR 66.06(1)(c), the Base Value is equal to the assessed value (or aggregate thereof) of the parcel(s) that comprise the property as of the fiscal year in which a HD Tax Increment Exemption Agreement is executed by the Sponsor and the Municipality with respect to the parcel or parcels, as the case may be, and prior to the start of any new construction or Substantial Rehabilitation activities, including demolition, minus the assessed value attributable to any portion of the property that was assessed as other than residential in the applicable fiscal year and remains non-residential after completion of new construction or Substantial Rehabilitation.

At the time of execution, the base value of this property is expected to be \$1,028,400. This value is subject to change and will be re-confirmed at the time the exemption percentage is applied starting on the effective date of the agreement.

- H. MRRU Percentage. 90%. The MRRU Percentage shall be confirmed as required in paragraph F, below.
- I. Exemption Percentage. Commencing on the Effective Date which shall be Fiscal Year 1: 100% Years 1-4; 75% Years 5-7; 50% Years 8-10
- J. The Increment. As defined at 760 CMR 66.06(1)(b)(1).
- K. Calculation. For each Fiscal Year during the term of this Agreement, the HD TIE shall be determined by applying the Exemption Percentage to the property tax on the Increment.
- L. Confirmation or Amendment of Calculation. Upon Completion, and prior to applying for Final Certification of the Project, the Sponsor and Municipality shall file a "Tax Increment Exemption – Confirmation of Calculation" in the form attached as Exhibit 4 ("TIE Confirmation"). To the extent that the dates or figures in the TIE Confirmation differ from those set forth in this Agreement, the contents of the TIE Confirmation shall control and shall be deemed to have amended this Agreement.

Section 5 – Default

Event of Default. An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following events:

§240-24.3 Breach of Covenant Prior to Final Certification. Subject to the limitations set forth in the Regulations at section 66.05(4)(b), Sponsor defaults in the observance or performance of any material covenant, condition or agreement to be observed or performed by Sponsor pursuant to the terms of this Agreement, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

4) Breach of Covenant Subsequent to Final Certification. Sponsor's conduct is materially at variance with the representations made in its New Construction or Rehabilitation Plans; such variance is found to frustrate the public purposes that Final Certification was intended to advance, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

5) Misrepresentation. Any representation made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

Rights on Default.

Prior to Final Certification. Upon the occurrence of an Event of Default prior to Final Certification, then this Agreement shall become null and void.

- 1) Subsequent to Final Certification. Upon the occurrence of an Event of Default subsequent to Final Certification, then:
 - a. Revocation of Certification. Pursuant to the terms of the Act, the Municipality, may, at its sole discretion, request that EOHLIC revoke the Final Certification of the Project, such revocation to take effect on the first day of the fiscal year in which EOHLIC determines that a material variance commenced.
 - b. Termination of Agreement. Upon revocation of certification, this Agreement shall become null and void as of the effective date of such revocation.
 - c. Recoupment of Economic Benefit. Upon revocation of certification, the Municipality may bring a cause of action against Sponsor for the value of any economic benefit received by Sponsor prior to or subsequent to such revocation.

- 2) Other Remedies. The Municipality's rights upon the occurrence of an Event of Default are in addition to those granted to EOHLIC and the Massachusetts Commissioner of Revenue under the terms of the Act.

Section 6 – Miscellaneous

- A. Effective Date. The effective date of the HD TIE shall be July 1st of the first Fiscal Year following EOHLIC's Final Certification of the HD Project pursuant to the requirements of the Act and the Regulations. The Effective Date shall be confirmed as required under Section 4.F above.

- B. Term of Agreement. This Agreement shall expire upon the Municipality's acceptance of the annual report, as required below, for the final Fiscal Year for which the Municipality is granting the TIE.

- C. Reporting. Sponsor shall submit reports to the Municipality not later than thirty (30) days after June 30 of each Fiscal Year for the term of this Agreement. Each report shall contain the following information:
 - 1) Until Completion, the status of construction in relation to the schedule contained in the New Construction or Rehabilitation Plan;

 - 2) Until Completion, the status of marketing in relation to the New Construction or Rehabilitation Plans; and

 - 3) For each MRRU, the number of bedrooms in the unit, whether it was leased as of the end of the most recent fiscal year and the monthly rent charged.

Assignment. The Sponsor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without the prior written consent of the Municipality, which approval shall not be unreasonably withheld or delayed. The foregoing notwithstanding, the rights and obligations of this Agreement shall inure to the benefit of any entity succeeding to the interests of the Sponsor by merger.

Notices. In conjunction with concurrent electronic submission as provided for below or, if reasonable efforts can determine that such information is no longer current, otherwise reasonably obtainable and verifiable

electronic contact information, any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified or registered mail, postage prepaid, as follows, and, unless general measures for electronic receipt as a substitute are in place at such time or can otherwise be reasonably assumed due to publicized or immediately foreseeable remote working conditions, shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified or registered mail, three (3) days after the day on which mailed or, if sent by overnight courier, on the day after delivered to such courier.

Municipality: Town Manager

Town of Barnstable
367 Main Street
Hyannis, MA 02601

Sponsor: 94 Stevens Street LLC

67 Willow Avenue, Unit A
Hyannis, MA 02601
roberto@starbuckcapecod.com

Copy to EOHLIC: All such notices shall be copied to EOHLIC at:

HDIP Program Coordinator
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114
eohlchdip@mass.gov

Change of Address. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice.

Modifications. No modification or waiver of any provision of this Agreement, nor consent to any departure by the Sponsor therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of Municipality in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

IN WITNESS WHEREOF, the Sponsor has caused this Agreement to be duly executed in its name and behalf and its seal affixed by its duly authorized representative, and the Municipality has caused this Agreement to be executed in its name and behalf and its seal duly affixed by its Town Manager as of the day and year first above written.

MUNICIPALITY
TOWN OF BARNSTABLE

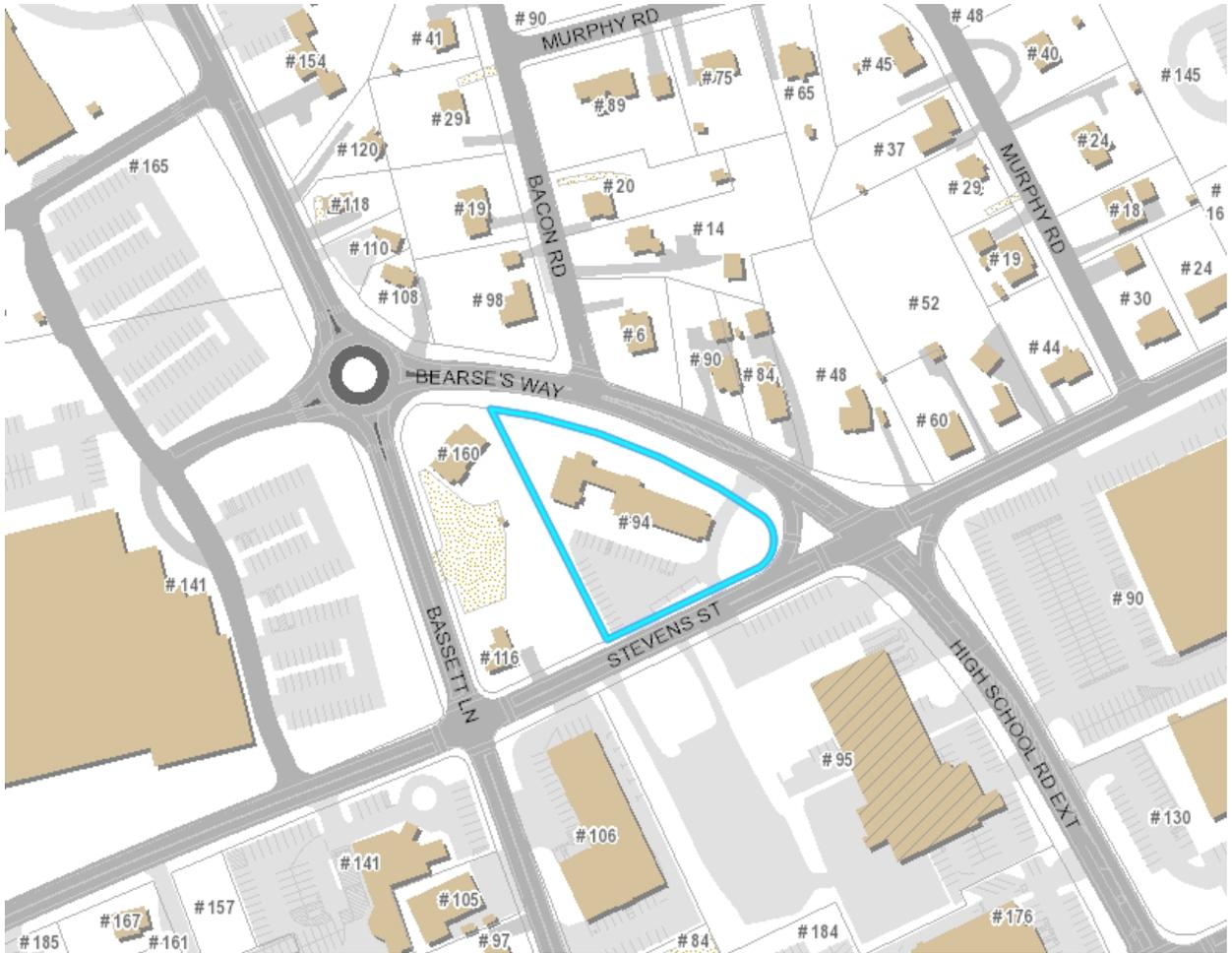
SPONSOR
94 Stevens Street, LLC

By: Mark S. Ells, Town Manager

Roberto Maia Junior, Manager

EXHIBIT 1

MAP OF PROPERTY



**EXHIBIT 2
DESCRIPTION OF PROPERTY**

Doc: 1,485,396 08-02-2023 3:27
Ctf#: 233602

QUITCLAIM DEED

FIRST CHURCH OF CHRIST, SCIENTIST, also known as FIRST CHURCH OF CHRIST, SCIENTIST, HYANNIS, MASSACHUSETTS, a Massachusetts religious corporation, with an address of 94 Stevens Street, Hyannis, Massachusetts 02601,

for consideration of Nine Hundred Ninety-five Thousand and 00/100 (\$995,000.00) Dollars paid, grant to

94 STEVENS ST LLC, a Massachusetts limited liability company, of 67 Willow Avenue, Hyannis, Massachusetts 02601,

with Quitclaim Covenants,

the land, together with the buildings thereon, situated in Barnstable (Hyannis), Barnstable County, Massachusetts, more particularly described as follows:

Northeasterly	by	Bearses Way, three hundred twenty and 04/100 (320.04) feet;
Easterly	by	the junction of said Bearses Way and Stevens Street, measuring on the westerly curving line thereof ninety-seven and 08/100 (97.08) feet;
Southeasterly	by	said Stevens Street, one hundred eighty and 11/100 (180.11) feet; and
Southwesterly	by	land now or formerly of Louise M. Forsmark, two hundred ninety-seven and 69/100 (297.69) feet.

Being the land shown on Land Court Plan No. 22287-A.

PROPERTY ADDRESS: 94 Stevens Street, Hyannis, Massachusetts 02601.

For title, see Certificate of Title No. 14488.

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE LAND COURT REGISTRY
Date: 08-02-2023 @ 03:27pm
Ctl#: 540
Fee: \$3,402.90 Cons: \$995,000.00

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE LAND COURT REGISTRY
Date: 08-02-2023 @ 03:27pm
Ctl#: 540
Fee: \$3,044.70 Cons: \$995,000.00

EXHIBIT 3

MARKET RATE RESIDENTIAL UNITS – PRICING PLAN

Proposed Initial
Monthly Rent(s)*: \$2,100 (1-BR)
 \$2,400 (2-BR)
 \$2,600 (3-BR)

*units shall be priced in compliance with EOHLA's HDIP Guidelines and 760 CMR 66.04(2)(f)

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-157
INTRO: 05/15/2025**

2025-157 APPROPRIATION ORDER IN THE AMOUNT OF \$93,622,700 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 BARNSTABLE PUBLIC SCHOOL DEPARTMENT BUDGET

ORDERED: That the sum of **\$93,622,700** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Barnstable Public School Department Budget, and to meet this appropriation that **\$89,896,868** be raised from current year revenues and **\$3,725,832** be provided from the General Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-158
INTRO: 05/15/2025**

2025-158 APPROPRIATION ORDER IN THE AMOUNT OF \$12,508,718 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 AIRPORT ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$12,508,718** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Airport Enterprise Fund Budget, and to meet such appropriation that **\$12,508,718** be raised from current year revenues by the Airport Enterprise Fund, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-159
INTRO: 05/15/2025**

2025-159 APPROPRIATION ORDER IN THE AMOUNT OF \$19,774,938 FOR THE PURPOSE OF FUNDING THE TOWN'S FY 2026 BARNSTABLE POLICE DEPARTMENT BUDGET

ORDERED: That the sum of **\$19,774,938** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Barnstable Police Department budget; and to meet such appropriation that **\$19,484,169** be raised from current year revenues, that **\$50,000** be provided the Embarkation Fee Special Revenue Fund, and that **\$240,769** be provided from the General Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-160
INTRO: 05/15/2025**

2025-160 APPROPRIATION ORDER IN THE AMOUNT OF \$2,416,092 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 PLANNING AND DEVELOPMENT DEPARTMENT BUDGET

ORDERED: That the sum of **\$2,416,092** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Planning and Development Department budget, and to meet this appropriation that **\$2,119,638** be raised from current year revenues, that **\$55,000** be provided from the Wetlands Protection Special Revenue Fund, that **\$183,660** be provided from the Bismore Park Special Revenue Fund, and **\$57,794** be provided from the General Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-161
INTRO: 05/15/2025**

2025-161 APPROPRIATION ORDER IN THE AMOUNT OF \$2,933,824 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 COMMUNITY SERVICES DEPARTMENT GENERAL FUND BUDGET

ORDERED: That the sum of **\$2,933,824** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Community Services Department General Fund budget; and to meet such appropriation that **\$2,856,131** be raised from current year revenues, and that **\$77,693** be provided from the General Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-162
INTRO: 05/15/2025**

2025-162 APPROPRIATION ORDER IN THE AMOUNT OF \$3,903,566 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 GOLF COURSE ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$3,903,566** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Golf Course Enterprise Fund budget; and to meet such appropriation that **\$3,696,848** be raised from Enterprise Fund revenues, and that **\$206,718** be provided from the Golf Course Enterprise Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-163
INTRO: 05/15/2025**

2025-163 APPROPRIATION ORDER IN THE AMOUNT OF \$4,045,476 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 HYANNIS YOUTH AND COMMUNITY CENTER ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$4,045,476** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Hyannis Youth and Community Center Enterprise Fund budget; and to meet such appropriation that **\$625,718** be raised from Enterprise Fund revenues, that **\$1,493,639** be raised in the General Fund, that **\$1,403,225** be transferred from the Capital Trust Fund, and that **\$522,894** be provided from the Hyannis Youth and Community Center Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-164
INTRO: 05/15/2025**

2025-164 APPROPRIATION ORDER IN THE AMOUNT OF 1,697,514 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 MARINE & ENVIRONMENTAL AFFAIRS DEPARTMENT GENERAL FUND BUDGET

ORDERED: That the sum of **\$1,697,514** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Marine & Environmental Affairs Department General Fund budget, and to meet such appropriation, that **\$1,214,478** be raised from current year revenue, that **\$450,000** be provided from the Waterways Special Revenue Fund, and that **\$33,036** be provided from the General Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-165
INTRO: 05/15/2025**

2025-165 APPROPRIATION ORDER IN THE AMOUNT OF \$803,433 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 MARINA ENTERPRISE FUND BUDGET

ORDERED: That the sum of **803,433** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Marina Enterprise Fund budget; and to meet such appropriation that **\$711,902** be raised from Enterprise Fund revenues, that **\$36,350** be provided from the Capital Trust Fund, that **\$30,000** be raised in the General Fund, and that **\$25,181** be provided from the Marina Enterprise Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-166
INTRO: 05/15/2025**

**2025-166 APPROPRIATION ORDER IN THE AMOUNT OF \$1,165,364 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 SANDY NECK
PARK ENTERPRISE FUND BUDGET**

ORDERED: That the sum of **\$1,165,364** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Sandy Neck Park Enterprise Fund budget; and to meet such appropriation that **\$1,039,691** be raised from Enterprise Fund revenues, and that **\$125,673** be provided from the Sandy Neck Enterprise Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-167
INTRO: 05/15/2025**

**2025-167 APPROPRIATION ORDER IN THE AMOUNT OF \$2,800,183 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 INSPECTIONAL
SERVICES DEPARTMENT BUDGET**

ORDERED: That the sum of **\$2,800,183** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Inspectional Services Department Budget, and to meet such appropriation, that **\$2,726,029** be raised from current year revenues, and that **\$74,154** be provided from the General Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-168
INTRO: 05/15/2025**

2025-168 APPROPRIATION ORDER IN THE AMOUNT OF \$12,264,116 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 DEPARTMENT OF PUBLIC WORKS GENERAL FUND BUDGET

ORDERED: That the sum of **\$12,264,116** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works General Fund Budget, and to meet such appropriation, that **\$11,353,069** be raised from current year revenue, that **\$125,000** be provided from the Embarkation Fee Special Revenue Fund, that **\$66,340** be provided from the Bismore Special Revenue Fund, and that **\$719,707** be provided from the General Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-169
INTRO: 05/15/2025**

2025-169 APPROPRIATION ORDER IN THE AMOUNT OF \$4,434,258 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 DEPARTMENT OF PUBLIC WORKS SOLID WASTE ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$4,434,258** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works Solid Waste Enterprise Fund Budget, and to meet such appropriation that **\$4,007,734** be raised from the Enterprise Fund Revenues, and that **\$426,524** be provided from the Solid Waste Enterprise Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-170
INTRO: 05/15/2025**

2025-170 APPROPRIATION ORDER IN THE AMOUNT OF \$11,519,790 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 DEPARTMENT OF PUBLIC WORKS WATER POLLUTION CONTROL ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$11,519,790** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works Water Pollution Control Enterprise Fund Budget, and to meet such appropriation that **\$5,575,940** be raised from the Enterprise Fund Revenues, and that **\$5,943,850** be provided from the Sewer Construction and Private Road Maintenance and Improvement Special Revenue Fund, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-171
INTRO: 05/15/2025**

2025-171 APPROPRIATION ORDER IN THE AMOUNT OF \$9,553,729 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 DEPARTMENT OF PUBLIC WORKS WATER SUPPLY ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$9,553,729** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Department of Public Works Water Supply Enterprise Fund Budget, and to meet such appropriation that **\$8,616,229** be raised from the Enterprise Fund Revenues, that **\$900,000** be provided from the Water Stabilization Fund, and that **\$37,500** be provided from the Capital Trust Fund, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-172
INTRO: 05/15/2025**

**2025-172 APPROPRIATION ORDER IN THE AMOUNT OF \$269,870 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 TOWN COUNCIL
BUDGET**

ORDERED: That the sum of **\$269,870** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Town Council Budget and to meet such appropriation, that **\$269,870** be raised from current year revenue, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-173
INTRO: 05/15/2025**

**2025-173 APPROPRIATION ORDER IN THE AMOUNT OF \$1,400,109 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 TOWN
MANAGER BUDGET**

ORDERED: That the sum of **\$1,400,109** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Town Manager Budget and to meet such appropriation, that **\$1,363,032** be raised from current year revenues, and that **\$37,077** be provided from the General Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-174
INTRO: 05/15/2025**

2025-174 APPROPRIATION ORDER IN THE AMOUNT OF \$981,237 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 PUBLIC, EDUCATION & GOVERNMENT (PEG) ACCESS CHANNELS ENTERPRISE FUND BUDGET

ORDERED: That the sum of **\$981,237** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Public, Education & Government (PEG) Access Channels Enterprise Fund budget, and to meet such appropriation, that **\$864,430** be raised from the PEG Enterprise Fund revenues, and that **\$116,807** be provided from the PEG Enterprise Fund reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-175
INTRO: 05/15/2025**

**2025-175 APPROPRIATION ORDER IN THE AMOUNT OF \$8,727,744 FOR THE
PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026
ADMINISTRATIVE SERVICES DEPARTMENT BUDGET**

ORDERED:

That the sum of **\$8,727,744** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Administrative Services Department Budget, and to meet such appropriation, that **\$8,538,119** be raised from current year revenue, and that **\$189,625** be provided from the General Fund Reserves, as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-176
INTRO: 05/15/2025**

**2025-176 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE
PURPOSE OF FUNDING THE TOWN COUNCIL'S FISCAL YEAR 2026
RESERVE FUND**

ORDERED: That the sum of **\$250,000** be appropriated for the purpose of funding the Town Council's Fiscal Year 2026 Reserve Fund and to meet such appropriation, that **\$250,000** be provided from the General Fund Reserves.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-177
INTRO: 05/15/2025**

2025-177 APPROPRIATION ORDER IN THE AMOUNT OF \$59,717,232 FOR THE PURPOSE OF FUNDING THE TOWN'S FISCAL YEAR 2026 OTHER REQUIREMENTS BUDGET

ORDERED: That the sum of **\$59,717,232** be appropriated for the purpose of funding the Town's Fiscal Year 2026 Other Requirements Budget, and to meet such appropriation, that **\$56,537,232** be raised from current year revenue, that **\$180,000** be provided from the Pension Reserve Trust Fund, and that **\$3,000,000** be provided from the General Fund Reserves, all for the purpose of funding the Town's Fiscal Year 2026 General Fund Other Requirements Budget as presented to the Town Council by the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-178
INTRO: 05/15/2025**

2025-178 APPROPRIATION ORDER IN THE AMOUNT OF \$5,299,662 COMMUNITY PRESERVATION FUND PROGRAM SET-ASIDES AND ADMINISTRATIVE EXPENSES

ORDERED: That, pursuant to the provisions of General Law Chapter 44B Section 6, for the fiscal year beginning July 1, 2025, the following sums of the annual revenues of the Community Preservation Fund be set aside for further appropriation and expenditure for the following purposes: **\$532,335** for Open Space and Recreation; **\$532,335** for Historic Resources; **\$532,335** for Community Housing; **\$3,452,657** for a Budget Reserve, and that the sum of **\$250,000** be appropriated from the annual revenues of the Community Preservation Fund for the administrative expenses of the Community Preservation Committee, to be expended under the direction of the Town Manager or the Community Preservation Committee with the prior approval of the Town Manager.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-179
INTRO: 05/15/2025**

2025-179 APPROPRIATION ORDER IN THE AMOUNT OF \$91,340 FOR THE PURPOSE OF PAYING THE FISCAL YEAR 2026 COMMUNITY PRESERVATION FUND DEBT SERVICE REQUIREMENTS

ORDERED: That the sum of **\$91,340** be appropriated for the purpose of paying the Fiscal Year 2026 Community Preservation Fund Debt Service Requirements, and to meet such appropriation, that **\$23,690** be provided from current year revenues of the Community Preservation Fund and that **\$67,650** be provided from the reserves for the Historic Preservation Program within the Community Preservation Fund.

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-180
INTRO: 05/15/2025**

2025-180 FISCAL YEAR 2026 SPENDING LIMITATIONS

RESOLVED: That the Town Council hereby authorizes the following spending limitations for fiscal year 2026 revolving funds:

- Senior Services Classroom Education Fund - **\$100,000**
- Recreation Program Fund - **\$325,000**
- Shellfish Propagation Fund - **\$200,000**
- Consumer Protection Fund - **\$600,000**
- Geographical Information Technology Fund - **\$10,000**
- Arts and Culture Program Fund - **\$50,000**
- Asset Management Fund - **\$500,000**

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

B. NEW BUSINESS (Refer to Public Hearing 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-184
INTRO: 05/15/2025**

**2025-184 APPROPRIATION ORDER IN THE AMOUNT OF \$2,900,000 FOR
PRESERVATION AND RESTORATION WORK AT THE HYANNIS
ARMORY LOCATED AT 225 SOUTH STREET IN HYANNIS**

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of **\$2,900,000** shall be appropriated first from the Historic Preservation Fund within the Community Preservation Fund and second from the Community Preservation Undesignated Fund for preservation and restoration work at the Hyannis Armory building located at 225 South Street in Hyannis; and 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 TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2025-184
INTRO: 05/15/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: June 05, 2025
SUBJECT: Appropriation Order in the amount of **\$2,900,000** for preservation and restoration work at the Hyannis Armory located at 225 South Street in Hyannis

BACKGROUND: At the April 28, 2025, Community Preservation Committee (CPC) meeting, the six committee members present voted unanimously to recommend to the Town Council, through the Town Manager, the Department of Public Work's (DPW) application for \$2,900,000 in Community Preservation Act (CPA) funds to begin revitalization work on the Hyannis Armory building, which is owned by the Town. DPW plans on undertaking work on the exterior building envelope, including addressing masonry repairs, windows, doors, ornamental wall-mounted flagpoles and signage, as well as the necessary abatement of hazardous materials such as asbestos found in many building materials like window caulking. The DPW plans on using \$867,175 in previously appropriated Town funds (Item No. 2018-063, passed March 1, 2018, and Item No. 2018-096 passed on April 26, 2018) that would partially match the \$2,900,000. The work on this cultural resource will address the most critical needs of the building, including making the building weather tight. This funding request represents a portion of the total estimated building restoration cost of roughly \$10,000,000.

ANALYSIS: The Hyannis Armory is listed on the State Register of Historic Places (BRN.1738; Hyannis Army National Guard Armory – Building D). The Armory holds a significant place in American history: President-elect John F. Kennedy delivered his acceptance speech here following the 1960 Presidential election. The present work will preserve the existing building envelope, as part of a larger effort to revitalize the property.

FISCAL IMPACT: The \$2,900,000 appropriation recommended by the CPC shall be provided first from the Historic Preservation Fund within the Community Preservation Fund and second from the Community Preservation Undesignated Fund. The current available balances in these funds are \$239,212 and \$10,493,919, respectfully.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

B. NEW BUSINESS (Refer to Public Hearing on 06/05/2025)

BARNSTABLE TOWN COUNCIL

**INTRO: 05/15/2025
ITEM# 2025-185**

2025-185 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,404,000 FOR THE PURPOSE OF FUNDING THE DESIGN AND CONSTRUCTION OF AIRCRAFT HARDSTANDS ON THE TERMINAL APRON AT THE CAPE COD GATEWAY AIRPORT

ORDERED: That the amount of **\$1,404,000** be appropriated for the purpose of funding the design and construction of aircraft hardstands on the terminal apron, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$42,120** be provided from the Airport Enterprise Fund surplus that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,361,880** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that the Cape Cod Gateway Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

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

INTRO: 05/15/2025
ITEM# 2025-185

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Michael Nelson, Interim Manager, Cape Cod Gateway Airport
DATE: May 15, 2025
SUBJECT: Appropriation and Loan Order in the amount of **\$1,404,000** for the purpose of funding the design and construction of aircraft hardstands on the terminal apron at the Cape Cod Gateway Airport

BACKGROUND: As part of the increased operations by JetBlue and American Airlines, Cape Cod Gateway Airport's main terminal ramp is seeing depressions in the pavement caused by the heavy aircraft. The airlines currently use and/or intend to use the following aircraft soon; Airbus A320 and A220, and the Embraer E190, and E175. The aircraft wheel loads are causing excessive rutting of the apron pavement, especially at their parking positions.

To eliminate the rutting caused by the heavy wheel loads at the parking positions, the airport desires to construct Cement Concrete Pavement (hardstands) at two parking positions. The terminal ramp is experiencing depressions on the pavement caused by these heavy aircraft. The pavement in this area is about 4" thick and should be 9" in depth for the size aircraft using the facility. This apron was installed in 2014. As an initial fix, the Airport proposes to place hardstands within the typical layout of the wheelbase for the parking areas that these aircraft use, rather than reconstruct the entire apron.

ANALYSIS: The pavement in this area will continue to deteriorate, especially with increased operation expected for the summer of 2025 as American Airlines adds to their daily service (LGA and DCA started in the 2024 season and PHL and ORD are planned to be added in the 2025 season). There are concerns that if left alone, the aircraft could further sink into the pavement on hot summer days and cause significant damage to the aircraft. Previous bids for this project greatly exceeded the original cost estimates due to the volatile market. The project was scaled down from three hardstands to two hardstands and the "Replace Snow Removal Equipment (SRE) 10-Wheeler – Airport #47" under Town Council order 2023-122 was never acted upon so that we could redirect grant funding to this project. The appropriation and borrowing authorization under 2023-122 will be rescinded. With approval, would move the \$383,000 from the SRE project to the hardstand project.

FINANCIAL IMPACT: Ninety-seven percent (97%) of this project's cost is expected to be covered with grant funding from the Federal Aviation Administration (85%) and the Massachusetts Department of Transportation (12%). The town anticipates rescinding the borrowing authorization under this agenda item once the project is complete and the grant funding has been received. The local share of \$42,120 will be provided from the airport enterprise fund's reserves which were last certified at \$13,032,900. In addition, Town Council order 2023-122 will be rescinded so that the federal and state funding originally intended for snow removal equipment will be redirected to this project which is a higher priority.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this Appropriation and Loan Order.

STAFF ASSISTANCE: Michael Nelson, Interim Manager, Cape Cod Gateway Airport, Mark A. Milne, Director of Finance

B. NEW BUSINESS (Refer to Second Reading 06/05/2025)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-186
INTRO: 05/15/2025**

2025-186 ORDER REVOKING THE TOWN’S ACCEPTANCE OF THE PROVISIONS OF CHAPTER 31 OF THE GENERAL LAWS (CIVIL SERVICE LAW) AS TO THE POLICE DEPARTMENT

ORDERED:That the Town Council does hereby revoke the Town’s acceptance of Section 48 of Chapter 31 of the Massachusetts General Laws as to its regular police force, as voted at the Town Meeting of March 2, 1937, accepting the same, such that such positions in the Barnstable Police Department shall be exempt from Chapter 31 of the General Laws; provided that this Order shall not impair the civil service status of any person holding a position subject to said Chapter 31 as of the effective date of this Order; and provided further, that the Deputy Chief eligible promotional list, established on January 15, 2025, the Lieutenant eligible promotional list established on February 20, 2024, and the Sergeant eligible promotional list, established on January 15, 2025, pursuant to said Chapter 31, shall remain valid until their respective expiration dates, as determined by Civil Service.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-186
INTRO: 05/15/2025

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: May 15, 2025
SUBJECT: Order Revoking the Town's Acceptance of the Provisions of Chapter 31 of the General Laws (Civil Service Law) as to the Police Department

BACKGROUND: In 1937, the Barnstable Town Meeting voted to accept certain provisions of the Massachusetts General Laws placing the Police Department and Police Chief under the Commonwealth of Massachusetts Civil Service Program. Pursuant to the Town Charter adopted in 1989 changing the Town's form of government, special legislation was filed with and enacted by the Legislature which provided that civil service coverage was not extended beyond the coverage already in place. Upon petition from the Town, a special act, Chapter 227 of the Acts of 2024, was approved on October 31, 2024, removing the Barnstable Police Chief from civil service.

In February 2024, the Town Council appropriated funds to cover the costs of the creation of internal Police Department working groups. These working groups were tasked with developing new policies and procedures to replace the rules and regulations of Massachusetts Civil Service. The working groups have completed their task, and both Police Unions have ratified memorandums of agreement. The next step in the process is to seek a vote of the Town Council since, under state law, the way to get out of civil service is the same way you got in. The regular police force of the Town was brought under civil service by vote of Town Meeting, which was the legislative body of the Town in 1937. As the Town Council is now the Town's legislative body, a vote of the Council is needed to rescind the Town's acceptance of the provisions of law that placed the police force under civil service.

If the Town Council votes to approve this Order, the Town will notify the state's Human Resources Division within the Executive Office for Administration and Finance.

FISCAL IMPACT: The negotiated agreement with the police unions will have the following fiscal impact:

Fiscal Year 2026	\$60,000
Fiscal Year 2027	\$100,000
Fiscal Year 2028	\$120,000

The Fiscal Year 2026 Operating Budget for the Police Department includes funding for the Fiscal Year 26 fiscal impact.

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

STAFF SUPPORT: Karen L. Nober, Town Attorney; William Cole, Director of Human Resources

B. NEW BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-187
INTRO: 05/15/2025**

2025-187 ORDER TO PETITION THE GENERAL COURT OF THE COMMONWEALTH TO ENACT SPECIAL LEGISLATION AUTHORIZING THE TOWN TO USE RED LIGHTS ON CERTAIN EMERGENCY RESPONSE VEHICLES

ORDERED: That the Town Council hereby directs the Town Manager to submit a petition to the General Court of the Commonwealth for a special act authorizing the use of red lights on certain Town emergency response vehicles, as follows:

“AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF BARNSTABLE TO USE RED LIGHTS ON CERTAIN EMERGENCY RESPONSE VEHICLES

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, including section 7E of chapter 90 of the General Laws, the town manager of the city known as the town of Barnstable may designate in writing specific town-owned vehicles authorized to mount, display and operate a flashing, rotating or oscillating red light in any direction, provided the red lights are operated solely by the town’s director of marine and environmental affairs, harbormaster and harbormaster staff while proceeding to an emergency or in response to an alarm in the performance of their official duties, and at no other time. No such red light shall be mounted or displayed until an application has been made to the registrar of motor vehicles and a written permit has been issued and delivered to the town manager. The town manager shall maintain an inventory of the specific vehicles, including by registration number, which are authorized to mount and display the red lights.

SECTION 2. This act shall take effect upon its passage.”

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-187
INTRO: 05/15/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen Nober, Town Attorney
DATE: May 15, 2025
SUBJECT: Order to petition the General Court of the Commonwealth to enact Special Legislation authorizing the Town to use red lights on certain emergency response vehicles

BACKGROUND: Marine and Environmental Affairs (MEA), through its Harbormaster's Office, engages in emergency response activities and needs to respond quickly to emergencies at or on the Town's north- or south-side waters. MEA reports that emergency response times are hampered due to challenges with getting through road traffic during the busier months. Police officers can move quickly through traffic in an emergency because they may use flashing "blue" lights that signal the public to pull over and allow them to pass. Likewise, Fire Department and ambulance operators may use flashing "red" lights for the same objective. All other publicly owned vehicles and certain authorized private vehicles, such as tow trucks and roadside assistance, are restricted to using flashing "amber" lights. MEA believes that the public will not pull over, at least not with any urgency, when a vehicle with flashing amber lights approaches from behind, as they would if the vehicle were flashing blue or red lights. Because state law only allows MEA to display an amber light, special legislation would be needed from the General Court (the State Legislature) to authorize use of either blue or red lights. The Town therefore seeks special legislation that would allow the Town Manager to authorize certain MEA vehicles to mount a flashing red light for use by the Director of MEA, the Harbormaster and Harbormaster staff when proceeding to an emergency or responding to an alarm, and at no other time. The Town prefers to request the use of red lights because they indicate an emergency response, while blue lights could incorrectly suggest police activity or that the driver is supposed to pull over for a traffic stop.

ANALYSIS: M.G.L. c. 90, § 7E, narrowly controls what vehicles may display flashing, rotating or oscillating lights. The statute prohibits the use of these lights, except for "blue" lights being used by police vehicles and certain police-related vehicles and "red" lights being used by fire departments and certain fire-related and emergency medical response vehicles. The statute also authorizes the Registrar of Motor Vehicles to make rules and regulations governing or prohibiting the display of other lights on vehicles. The Registrar has promulgated regulations allowing for the use of "amber" lights by public vehicles that do not qualify for blue or red lights and by certain private vehicles, such as tow trucks. The proposed special legislation would allow the use of red lights by MEA vehicles only when responding to an emergency. The public should benefit from this authorization because it would allow for faster emergency response times through traffic, and the time saved could be critical for those in need of an emergency response at or on the Town's waters. This Order would direct the Town Manager to submit a Home Rule petition (a bill) to the Legislature to enact the proposed special legislation. If approved by the Council, the Town Manager would work with local legislators to file the bill with the Legislature. Once filed, the Town would track the progress of the bill in the Legislature.

FISCAL IMPACT: N/A

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

STAFF ASSISTANCE: Karen L. Nober, Town Attorney; Thomas J. LaRosa, First Assistant Town Attorney; Allison Cogliano, Assistant Town Attorney; Derek Lawson, Director of Marine and Environmental Affairs; Brian W. Taylor, Harbormaster