

Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
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08/29/2025@1:30pm.
Updated on
09/02/2025 @ 2:49pm
to add Items 2026-028
and 2026-029 and
2026-030

TOWN COUNCIL MEETING

September 04, 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

The September 04, 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/Town Council/Agenda-Comment.asp>

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

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/88446017900> Meeting ID: 884 4601 7900
US Toll-free • 888 475 4499

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS (Pre-Recorded and available on Video on Demand on the Town website)

7. MINUTES

• ACT ON PUBLIC SESSION MINUTES: August 21, 2025

8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements (will be taken up after the Orders of the Day)

9. DELEGATION OF OPEN MEETING LAW COMPLAINT

Proposed Vote: To delegate to the Town Attorney responsibility for responding to the Open Meeting Law Complaint submitted by Ronald Beaty to the Town Council President and Town Clerk on August 28, 2025.

Proposed Vote: To delegate to the Town Attorney responsibility for responding to the Open Meeting Law Complaint submitted by Nathan Herschler to the Town Council President and Town Clerk on August 28, 2025.

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

EXECUTIVE SESSION
(total estimated time: 45 minutes, actual time may differ)

The Town Council will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a)(3) to discuss strategy with respect to potential litigation related to federal grant conditions since a discussion in open session may have a detrimental effect on the litigating position of the Town and Town Council.

PUBLIC SESSION

10. ORDERS OF THE DAY

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

11. ADJOURNMENT

NEXT REGULAR MEETING: September 18, 2025

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2025-198	Appropriation and Transfer Order in the amount of \$2,500,000 in Community Preservation Act Funds to increase the number and availability of community housing units in the Town of Barnstable (Public Hearing) (Roll Call Majority Vote Full Council)	7-8
2025-202	Resolve approving and adopting the Town of Barnstable 2025 Local Comprehensive Plan dated June 9, 2025 (Public Hearing) (Majority Vote)	9-11
2026-002	Order authorizing the grant of an easement for electric facilities on town-owned land at 382 Falmouth Road in Hyannis (May be acted upon) (Majority Vote)	12-14
2026-004	Order waiving fees for construction work by the Cotuit Fire District for the expansion and renovation of the Fire Station at 64 and 56 High Street, Cotuit (Public Hearing) (Roll Call Majority Vote)	15-18
2026-013	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Noncriminal Enforcement of Violations, to increase fines for zoning violations (Public Hearing) (Roll Call Majority Vote Full Council)	19-21
2026-015	Appointments to a Board/Committee/Commission: Licensing Authority: Nancy Karlson-Lidman from an associate position to a full member position to a term expiring 06/30/2028; Mike Trovato, as an associate member to a term expiring 06/30/2026; Shellfish Committee: James Weiler, as a member holding a family permit to a term expiring 06/30/2028 (May be acted upon) (Majority Vote)	22
2026-016	Reappointments to a Board/Committee/Commission: Council on Aging: Charles Coyle, as a regular member to a term expiring 06/30/2028 (May be acted upon) (Majority Vote)	23
2026-019	Appropriation and Loan Order in the amount of \$1,716,000 for the purpose of funding the design and construction of aircraft hardstands on the terminal apron at the Cape Cod Gateway Airport (Public Hearing) (Roll Call 2/3 Full Council)	24-26
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B.	NEW BUSINESS	
2026-014	Amending the Code of the Town of Barnstable, Part I General Ordinances, to insert a new Chapter 48 Stretch Code (First Reading) (Refer to Public Hearing 10/09/2025)	38-40
2026-023	Transfer Order in the amount of \$175,000 for the purpose of paying outside counsel expenses of the Legal Department (May be acted upon) (Majority Vote)	41-42
2026-024	Resolve approving two fish weir applications from Cape Cod Artisanal Fisheries, LLC (May be acted upon) (Majority Vote)	43-44

2026-025	Transfer Order in the amount of \$587,527 for the Barnstable High School Tennis Court Project (May be acted upon) (Majority Vote).....	45-46
2026-026	Acceptance of Fiscal Year 2026 Massachusetts Dredging Program Grant from the Executive Office of Economic Development in the amount of \$519,000 for the purpose of funding the Barnstable Harbor Entrance Channel and Blish Point Boat Ramp Dredging Project (May be acted upon) (Majority Vote)	47-48
2026-027	Order authorizing an amendment to the Intergovernmental Agreement between the Town of Barnstable and the University of Massachusetts Dartmouth to increase the contract amount and extend the term (May be acted upon) (Majority Vote)	49-50
2026-028	Vote on the merits of a group petition requesting that the town take action to acquire and preserve the home of Eugenia Fortes at 23 Pleasant Hill Lane and establish a permanent Wetlands Conservancy at 32 Pleasant Hill Lane (Refer to Public Hearing on 09/18/2025)	51-52
2026-029	Resolve approving and adopting the Town of Barnstable 2025 Housing Production Plan dated May 12, 2025 (Refer to Public Hearing on 09/18/2025)	53-55
2026-030	Resolve directing the Town Manager to nominate the Downtown Hyannis Growth Incentive Zone for consideration as a District of Critical Planning Concern to the Cape Cod Commission	56-59

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# 2025-184
INTRO: 05/15/2025, 06/05/2025, 09/04/2025

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
<u>05/15/2025</u>	<u>Refer to Public Hearing 06/05/2025</u>
<u>06/05/2025</u>	<u>Continue Public Hearing to 09/04/2025</u>

_____	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, 06/05/2025, 09/04/2025

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

A. OLD BUSINESS (Public Hearing) (Roll Call Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-198
INTRO: 06/26/2025, 07/17/2025, 08/21/2025, 09/04/2025

2025-198 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$2,500,000 IN COMMUNITY PRESERVATION ACT FUNDS FOR THE PURPOSE OF INCREASING THE NUMBER AND AVAILABILITY OF COMMUNITY HOUSING UNITS IN THE TOWN OF BARNSTABLE

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of **\$2,500,000** be appropriated and transferred from the funds set aside for Community Housing Funds within the Community Preservation Fund and secondly from the Community Preservation Undesignated Fund for the purpose of the Affordable Housing/Growth & Development Trust Fund, and that the Affordable Housing/Growth & Development Trust Fund Board is authorized to contract for and expend the total appropriation of Two Million Five Hundred Thousand Dollars (**\$2,500,000**) to increase the number and availability of community housing units within the Town of Barnstable by both funding and initiating projects and programs for that purpose, subject to the oversight by the Community Preservation Committee.

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

DATE	ACTION TAKEN
<u>06/26/2025</u>	<u>Refer to Public Hearing 07/17/2025</u>
<u>07/17/2025</u>	<u>No action taken, readvertised for 9/04/2025 Public Hearing</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2025-198

INTRO: 06/26/2025, 07/17/2025, 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: June 26, 2025
SUBJECT: Appropriation and Transfer Order in the amount of **\$2,500,000** in Community Preservation Act Funds to increase the number and availability of community housing units in the Town of Barnstable

BACKGROUND: At the June 2, 2025, Community Preservation Committee (CPC) meeting, the seven Committee members present voted unanimously to recommend to the Town Council, through the Town Manager, the Affordable Housing Growth & Development Trust Board's (Trust) request for \$795,821 in Community Preservation Community Housing and \$1,704,179 in Community Preservation Undesignated Funds. This amount represents an additional \$2.5 million in Community Preservation Act (CPA) Funds to be transferred to and administered by the Trust to continue to utilize the Trust's unique statutory flexibility to create, acquire, preserve, and support community housing.

Following positive recommendations from the CPC in 2020, 2021, and October 2023, the Town Council voted unanimously to appropriate a total of \$2.5 million each year for the purpose of increasing the number and availability of affordable community housing units within the Town of Barnstable. Since the CPA funds became available, the Trust has expended \$1,402,266 and committed \$5,145,000 to address the Town's community housing needs with additional projects under consideration. There currently remains an uncommitted balance of \$952,734 in CPA sourced funds and \$53,977 in other Trust funds. In response to the heightened and ongoing housing affordability crisis, the Trust is seeking additional funds to continue incentives for construction, preservation, and production of community housing, as well as expanding efforts to support and supplement aid to prevent homelessness and bring stability to households facing housing insecurity.

FISCAL IMPACT: This appropriation has no impact on the General Fund since the entire amount is appropriated and transferred from the Community Preservation Fund. \$795,821 of this request will be provided from the set-aside in the Community Preservation Fund for Community Housing, and \$1,704,179 will be provided from the Community Preservation Fund's undesignated reserve, which has a current available balance of \$10,488,734.

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

STAFF ASSISTANCE: Mark A. Milne, Director of Finance

VOLUNTEER STAFF ASSISTANCE: Lindsey Counsell, Chair, Community Preservation

A. OLD BUSINESS (Public Hearing) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-202

INTRO: 06/26/2025, 07/17/2025, 08/21/2025, 09/04/2025

**2025-202 RESOLVE APPROVING AND ADOPTING THE TOWN OF BARNSTABLE
2025 LOCAL COMPREHENSIVE PLAN DATED JUNE 9, 2025**

WHEREAS, in accordance with the Cape Cod Commission Act (Chapter 716 of the Acts of 1989, as amended) and the Local Comprehensive Plan Regulations promulgated thereunder, the Town of Barnstable 2025 Local Comprehensive Plan contains a comprehensive existing conditions report, community vision statement, topic and location specific goals and actions and implementation strategies to achieve the Plan's goals over the next 10 or so years in the Town of Barnstable; and

WHEREAS, the Town of Barnstable 2025 Local Comprehensive Plan was presented in draft form to the Town Planning Board at a duly noticed public meeting held on June 9, 2025; and

WHEREAS, at its June 9, 2025 meeting, the Planning Board unanimously voted to recommend approval of the Local Comprehensive Plan to the Town Council;

NOW, THEREFORE, BE IT RESOLVED: That the Town Council hereby approves and adopts the Town of Barnstable 2025 Local Comprehensive Plan dated June 9, 2025, in the form as provided to the Town Council and presented at this meeting, and directs and authorizes the Town Clerk to submit the Local Comprehensive Plan to the Cape Cod Commission for certification that it is in compliance with the regional policy plan prepared by the Cape Cod Commission.

SPONSOR: Mark S. Ells, Town Manager, upon recommendation of the Local Comprehensive Planning Committee

DATE	ACTION TAKEN
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<u>06/26/2025</u>	<u>Refer to Public Hearing 07/17/2025</u>
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<u>07/17/2025</u>	<u>No action taken</u>
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<u>08/21/2025</u>	<u>Refer to Public Hearing 09/04/2025</u>
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_____	Read Item
_____	Rationale
_____	Public Hearing
_____	Close Public Hearing
_____	Council Discussion
_____	Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-202

INTRO: 06/26/2025, 07/17/2025, 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Jim Kupfer, Director of Planning and Development
THROUGH: Mark S. Ells, Town Manager
DATE: June 26, 2025
SUBJECT: Resolve approving and adopting the Town of Barnstable 2025 Local Comprehensive Plan dated June 9, 2025

BACKGROUND: A Local Comprehensive Plan (LCP) defines a long-term vision and growth policy that guides the future of a Town, for an established duration, generally over the course of 10 to 20 years, that anticipates and guides development, land use, infrastructure, and resource protection ultimately defining a targeted action plan for future work and resource allocation with respect to the community's vision, values and expectations. The 2025 Barnstable Local Comprehensive Plan (LCP) serves as a guide and resource for elected officials, board members, and residents when considering future decisions including policies related to development, infrastructure, the economy, and resource protection.

The Local Comprehensive Plan process was steered by the Local Comprehensive Planning Committee (LCPC). The LCPC was made up of volunteer residents of the community that were appointed by the Town Manager and ratified by Town Council to better facilitate and communicate the planning process, to assure the long-term land use plan reflected the community's needs and to support a robust inclusive engagement of the greater community for this important planning effort. This three-year effort involved a collaborative public process to identify a vision, define key issues, and develop actionable steps to guide decision making over the next 10 years.

The Local Comprehensive Plan was completed in two phases. Phase I commenced with coordination and amassing Existing Conditions with narrative and data for the current status of the Town through detailed data analysis and interviews with stakeholders and town departments. The community Vision Statement was developed through community engagement and in reflection of existing conditions. Phase II built upon the foundation of information coordinated under the initial phase to focus on specific topic issues and needs for Land Use, Housing, Natural Resources, Infrastructure, Facilities, Economic Development and Culture, Heritage and Design. Building upon the Town's Current Land Use Map, Future Land Use Maps were developed. The Regulatory Areas Map identifies future land use types geographically across Town and the Study Areas Map identifies four areas for further land use study. Ultimately, the Targeted Action Plan was developed with topic and location specific land use goal and actions to be achieved over the next 10 years. The Plan Implementation defines a process for which the goals and actions defined within the Plan can be coordinated by the Town Council in collaboration with Town Boards, Committees, Commissions, Town Departments, and other Town organizations.

The Local Comprehensive Plan was presented to the Town of Barnstable Planning Board at a duly noticed public meeting held on June 9, 2025, at which the Planning Board unanimously voted to recommend approval of the Local Comprehensive Plan to the Barnstable Town Council.

Although this item is a resolve that could be approved with one reading, we are providing more process than what is required by adding a second reading and a public hearing to provide additional notice to the public as well as to give the public an opportunity to provide comments to the Council.

If approved by the Barnstable Town Council, the plan will be forwarded to the Cape Cod Commission by the Town Clerk for review and certification that it is consistent with the Commission's regional policy plan. The Cape Cod Commission will review the Town's plan for approval to confirm that it satisfies the requirements detailed in the Cape Cod Commission's Local Comprehensive Plan Regulations as authorized under Sections 4 and 9 of the Cape Cod Commission Act (Act), Chapter 716 of the Acts of 1989, as amended.

FINANCIAL IMPACT: There is no fiscal impact of this resolution.

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

STAFF SUPPORT: Jim Kupfer, Director of Planning and Development; Kyle Pedicini, Assistant Director of Planning & Development; Kate Maldonado, Senior Planner of Planning & Development

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-002

INTRO: 07/17/2025, 08/21/2025, 09/04/2025

2026-002 ORDER AUTHORIZING THE GRANT OF AN EASEMENT FOR ELECTRIC FACILITIES ON TOWN-OWNED LAND AT 382 FALMOUTH ROAD IN HYANNIS

ORDERED: That the Town Council hereby authorizes the Town Manager, on behalf of the Town, as part of a negotiated transaction and for nominal monetary consideration, to grant a perpetual easement to NSTAR Electric Company, doing business as Eversource Energy, or one of its related entities for the installation and operation of an underground line for the distribution of electricity, related lines for control, relay and communication purposes, and associated at-grade appurtenances, including manholes, to serve the Town-owned land located at 382 Falmouth Road in Hyannis, shown as Assessor Parcel 293-001, and described in an order of taking recorded at the Barnstable County Registry of Deeds in Book 511, Page 242. The easement area consists of 5,700± square feet located on the Town-owned land and is shown as “15’ Wide Utility Easement” on a plan captioned “Electric Easement Exhibit Plan” “382 Falmouth Road - Hyannis Village – Barnstable, MA”, prepared by the Town of Barnstable, Department of Public Works, dated July 1, 2025, and attached hereto. The Town Manager is authorized to negotiate, accept, sign, deliver and record any documents, and may make minor modifications to the easement area and the plan as necessary to effectuate this Order and complete this transaction.

SPONSOR: Mark S. Ells, Town Manager

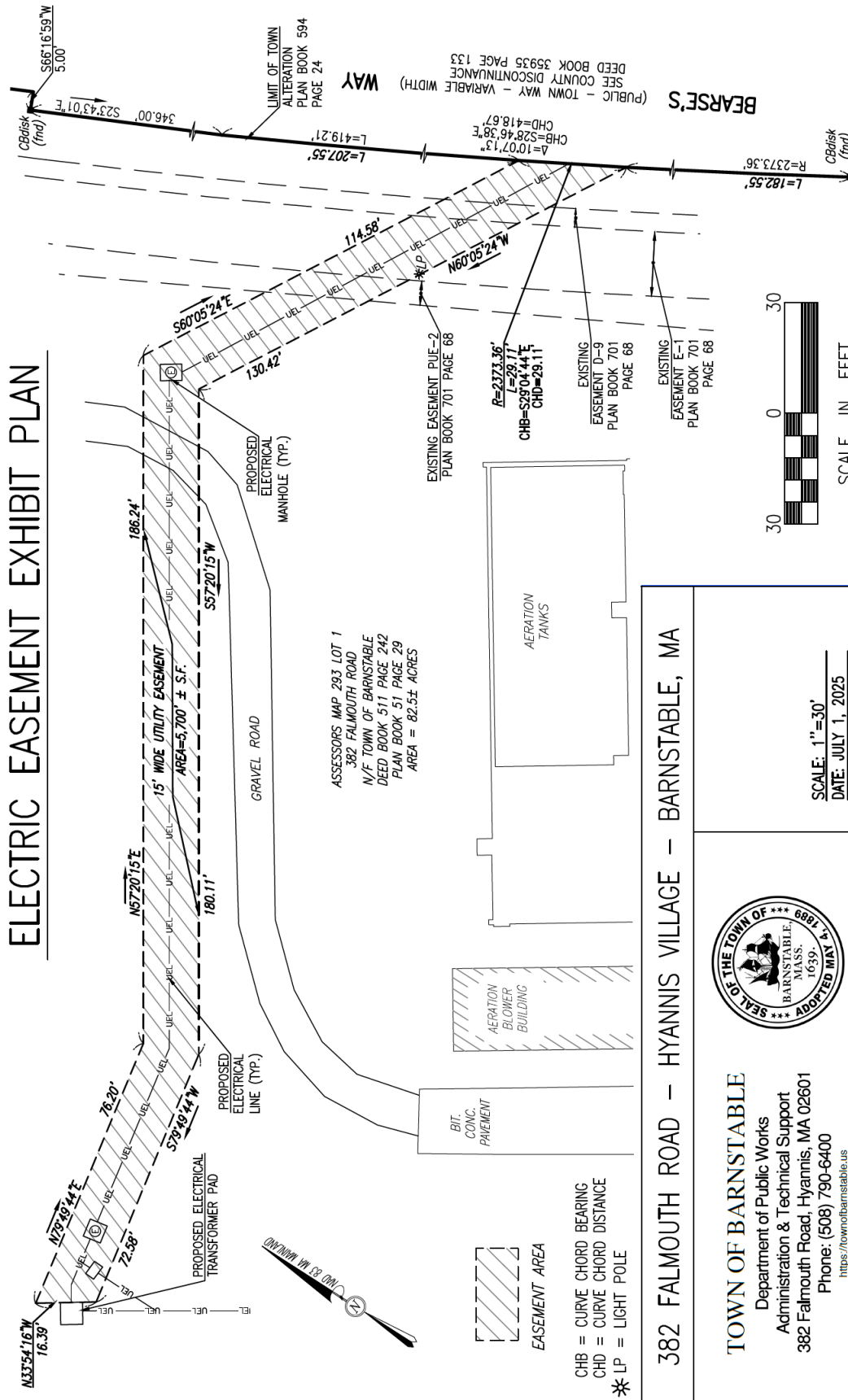
DATE	ACTION TAKEN
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<u>07/17/2025</u>	<u>No action taken</u>
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<u>08/21/2025</u>	<u>First Read referred to Second Reading on 09/04/2025</u>
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_____	Read Item
_____	Rationale
_____	Council Discussion
_____	Vote

ELECTRIC EASEMENT EXHIBIT PLAN



BARNSTABLE TOWN COUNCIL

ITEM# 2026-002

INTRO: 07/17/2025, 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Thomas J. LaRosa, First Assistant Town Attorney
THROUGH: Mark S. Ells, Town Manager
DATE: July 17, 2025
SUBJECT: Order authorizing the grant of an easement for electric facilities on town-owned land at 382 Falmouth Road in Hyannis

BACKGROUND: As part of the improvements planned at the Water Pollution Control Facility, the Town's Department of Public Works ("DPW") requires the installation of a new underground electric service. Prior to installing an electric service, NSTAR Electric Company, doing business as Eversource Energy, requires that their customer grant an easement to NSTAR Electric Company, which would provide them with the right to install and maintain their electric service on the customer's property. The authorization requested from the Town Council would allow the Town to grant such an easement to NSTAR Electric Company or one of their related entities.

The easement area consists of 5,700± square feet and is shown as "15' Wide Utility Easement" on the attached plan captioned "Electric Easement Exhibit Plan" "382 Falmouth Road - Hyannis Village – Barnstable, MA", prepared by the Town of Barnstable, Department of Public Works, and dated July 1, 2025. The Council's vote would authorize the Town Manager to make minor changes to the plan and easement area, which could be needed based on the final requirements of Eversource.

After the easement is finalized, the DPW would coordinate with Eversource on the installation of the underground electric service.

ANALYSIS: The grant of the easement to NSTAR Electric Company or one its related entities will allow for the installation of a new electric service at the Water Pollution Control Facility located at 382 Falmouth Road in Hyannis. The electric service is required as part of the DPW's planned improvements at the facility.

FINANCIAL IMPACT: The Town would receive nominal monetary consideration (\$1.00) for granting the easement.

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

STAFF ASSISTANCE: Thomas J. LaRosa, First Assistant Town Attorney; Griffin Beaudoin, P.E., Town Engineer; Shane Brenner, Town Surveyor

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-004

INTRO: 07/17/2025, 08/21/2025, 09/04/2025

2026-004 ORDER WAIVING FEES FOR CONSTRUCTION WORK BY THE COTUIT FIRE DISTRICT FOR THE EXPANSION AND RENOVATION OF THE FIRE STATION AT 64 AND 56 HIGH STREET, COTUIT

ORDERED: Notwithstanding the provisions of any ordinance of the Town regarding schedules of fees, the construction project for the expansion and renovation of the Fire Station at 64 and 56 High Street in Cotuit by the Cotuit Fire District (the “Project”) shall hereby be exempt from payment of such fees; provided that if the Town is required to hire outside inspectors with special expertise to inspect any aspect of the Project, the Cotuit Fire District will pay those costs; and provided further, that this Order shall not become effective until a Memorandum of Agreement between the Town of Barnstable and the Cotuit Fire District substantially in the form attached hereto is executed and filed with the Barnstable Town Clerk in which the Cotuit Fire District agrees to pay any such costs for outside inspectors.

SPONSOR: Councilor Seth Burdick, Precinct 7

DATE	ACTION TAKEN
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<u>07/17/2025</u>	<u>No action taken</u>
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<u>08/21/2025</u>	<u>Refer to Public Hearing 09/04/2025</u>
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☐	Read Item
☐	Rationale
☐	Public Hearing
☐	Close Public Hearing
☐	Council Discussion
☐	Vote

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“Agreement”) is entered into as of the ____ day of _____, 2025, by and between the Town of Barnstable (“Town”) and the Cotuit Fire District (“District”). This Agreement relates to Town Council Item 2026-XXX, a copy of which is attached hereto and incorporated by reference herein.

WHEREAS, the Town Council, in approving Town Council Item 2026-XXX, voted to waive, *inter alia*, any building inspectional services fees for inspections conducted in-house and which did not require any special expertise not available within the Town’s Inspectional Services Department; and

WHEREAS, the Town Council, in approving Item 2026-XXX, required the execution of a Memorandum of Agreement between the Town and the District in which the District agrees to pay any costs incurred by the Town for the hiring of outside inspectors with special expertise;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the District agree as follows:

1. Upon the determination of the Building Commissioner that an outside inspector with special expertise is required to be hired for the Project at the District’s expense, s/he shall serve a notice upon the District by hand delivery or by certified mail, return receipt requested, stating that s/he intends to hire an outside inspector with special expertise at the District’s expense, the reason that said outside inspector needs to be hired and the estimated fee for the services of that outside inspector. The notice shall state that the District has seven (7) business days of receipt to file any objection to the hiring of the outside inspector at its expense. A copy of said notice shall be sent to the Town Manager by the Building Commissioner.
2. In the event that the District objects to the hiring of an outside inspector and/or the estimated costs, the District shall file its objection with the Director of Inspectional Services within the time specified in paragraph 1 above. A representative from the District and the Director of Inspectional Services or his or her designee shall meet to try to resolve the objections. A written determination of the results of that meeting shall be served in hand to the District or sent by the Director of Inspectional Services to the District by certified mail, return receipt requested, with a copy to the Town Manager.
3. The District may appeal in writing the determination by the Director of Inspectional Services to the Barnstable Town Manager within seven (7) business days of its receipt of the determination. Said appeal may be delivered in hand or sent by certified mail, return receipt requested. The decision of the Town Manager regarding the District’s appeal shall be final with no further rights of appeal.
4. If no objection is filed by the District within seven business days after receiving notice of the Town’s intention to hire an outside inspector at its expense, or if an objection is withdrawn and/or resolved, or if the Town Manager approves the hiring of an outside inspector following an appeal filed by the District, the Building Commissioner shall be authorized to hire the outside inspector at the District’s expense and the District shall be invoiced for the services of said outside inspector and shall pay for the services of said outside inspector within thirty (30) days of receipt of said invoice.
5. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when either hand delivered or delivered by certified mail, return receipt to the parties hereto to the addresses set forth below:

Cotuit Fire District
[address]
Cotuit, MA 02630

Town Manager
Town of Barnstable
367 Main Street
Hyannis, MA 02601

Director of Inspectional Services
200 Main Street
Hyannis, MA 02601

This Memorandum of Agreement is entered into by the duly authorized signatories set forth below of the District and the Town, respectively, as of the date first set forth above:

COTUIT FIRE DISTRICTTOWN OF BARNSTABLE

By its Board of Fire Commissioners: By its Town Manager:

BY: _____ BY: _____
[name], Chair Mark S. Ells, Town Manager

BY: _____
[name], Vice Chair

BY: _____
[name], Commissioner

BY: _____
[name], Commissioner

BY: _____
[name], Commissioner

BARNSTABLE TOWN COUNCIL

ITEM# 2026-004

INTRO: 07/17/2025, 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Councilor Seth Burdick
DATE: July 17, 2025
SUBJECT: Order waiving fees for construction work by the Cotuit Fire District for the expansion and renovation of the Fire Station located at 64 and 56 High Street, Cotuit

BACKGROUND: The Cotuit Fire District has requested that the Town of Barnstable waive any fees associated with the expansion and renovation of the Fire Station located at 64 and 56 High Street in Cotuit, which the Fire District estimates will be \$122,000. According to the Fire District, this project is a critical piece of public safety infrastructure that will significantly enhance emergency response capabilities by enabling personnel to respond more quickly and effectively to emergencies, ultimately saving lives and protecting property.

The Town Council has previously voted to waive such fees. In October 2016, the Town Council voted to approve Item # 2017-014 for a waiver of fees for construction work on the new Hyannis Fire District Fire Station located at 95 High School Road in Hyannis, and in December 2022, the Town Council voted to approve Item # 2023-066 for a waiver of fees for construction work on the Barnstable Fire District's new Water Treatment Plant off Breeds Hill Road. In addition, Item # 2025-201, which proposes a waiver of fees for construction work by the Barnstable Fire District for a new Fire Station located at 1841 Phinney's Lane, Barnstable, is on the July 17, 2025 agenda.

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

STAFF ASSISTANCE: Karen L. Nober, Town Attorney

A.

BARNSTABLE TOWN COUNCIL

ITEM# 2026-013

INTRO: 08/21/2025, 09/04/2025

2026-013

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Noncriminal Enforcement of Violations, Section 1-3, is hereby amended by deleting the fine of \$100 for a Zoning violation and inserting a graduated fine structure of a warning for a first offense, a \$100 fine for a second offense, a \$200 fine for a third offense and a \$300 fine for a fourth and subsequent offenses, so that, as amended, it reads as follows:

“Ch. 240Zoning

First Offense	Warning
Second Offense	\$100
Third Offense	\$200
Fourth and Each Subsequent Offense	\$300

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
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08/21/2025 Refer to Second Reading 09/04/2025

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-013

INTRO: 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Brian Florence, Director of Inspectional Services
DATE: August 21, 2025
SUBJECT: Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 1 General Provisions, Article I Noncriminal Enforcement of Violations, to increase fines for Zoning Violations

RATIONALE: The current fine structure under Chapter 1, Article 1 Noncriminal Enforcement of Violations, which sets zoning offense fines at a flat \$100 per offense, fails to create sufficient incentive for repeat offenders to comply with the ordinance. While the intent of the statute is to provide a civil, non-criminal enforcement mechanism, the uniform fine amount does not adequately differentiate between a first-time, possibly inadvertent violation and repeated, willful disregard of the law.

1. Limited Deterrent Effect of Current Fine

For many individuals and businesses, a \$100 fine represents a manageable cost of doing business rather than a meaningful deterrent. Repeat offenders may choose to ignore compliance requirements, calculating that the penalty is a minor and predictable expense compared to the effort or cost of corrective action.

2. Progressive Penalties Encourage Voluntary Compliance

A graduated penalty schedule—beginning with a warning for the first offense, escalating to \$100 for the second, \$200 for the third, and \$300 for each subsequent offense—aligns the financial consequence with the severity and persistence of the violation. This structure:

- Encourages voluntary compliance after the first warning, reducing the need for future enforcement.
- Maintains fairness for first-time violators who may not be aware of the regulation.
- Escalates consequences for chronic offenders, increasing the deterrent effect.

3. Alignment with Principles of Proportional Enforcement

Progressive fines reflect a proportional response: minor or unintentional violations are treated with leniency, while repeated noncompliance receives stronger enforcement. This approach is consistent with modern municipal code enforcement strategies, which emphasize education and cooperation first, followed by graduated penalties for continued violations.

4. Reduction in Enforcement Costs

By motivating compliance earlier in the process, a progressive fine schedule can reduce repeated enforcement actions, administrative workload, and related costs to the municipality. Chronic offenders are more likely to comply when the financial consequences grow significantly with each offense.

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

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, supports this item.

STAFF SUPPORT: Brian Florence, Building Commissioner

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-015

INTRO: 08/21/2025, 09/04/2025

2026-015 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Licensing Authority:** Nancy Karlson-Lidman from an associate position to a full member position to a term expiring 06/30/2028; Mike Trovato, as an associate member to a term expiring 06/30/2026; **Shellfish Committee:** James Weiler, as a member holding a family permit to a term expiring 06/30/2028

SPONSOR: Appointments Committee Members: Councilor Kristin Terkelsen, (Chair); Councilor Jeffrey Mendes; Councilor John Crow; Councilor Charles Bloom; and Councilor Seth Burdick

DATE

ACTION TAKEN

08/21/2025

Referred to Second Reading 09/04/2025

____ Read Item
____ Rationale
____ Council Discussion
____ Vote

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-016

INTRO: 08/21/2025, 09/04/2025

2026-016 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Council on Aging:** Charles Coyle, as a regular member to a term expiring 06/30/2028

SPONSOR: Appointments Committee Members: Councilor Kristin Terkelsen, (Chair); Councilor Jeffrey Mendes; Councilor John Crow; Councilor Charles Bloom; and Councilor Seth Burdick

DATE

ACTION TAKEN

08/21/2025

Referred to Second Reading 09/04/2025

____ Read Item

____ Rationale

____ Council Discussion

____ Vote

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-019
INTRO: 08/21/2025, 09/04/2025

2026-019 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,716,000 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 **\$1,716,000** 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 the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,716,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that 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
<u>08/21/2025</u>	<u>Refer to Public Hearing 09/04/2025</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-019

INTRO: 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Michael Nelson, Manager, Cape Cod Gateway Airport
DATE: August 21, 2025
SUBJECT: Appropriation and Loan Order 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. 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 summers of 2025 and 2026 as American Airlines adds to their daily service (LaGuardia Airport and Ronald Reagan Washington National Airport started in the 2024 season and Philadelphia National Airport and Chicago O'Hare International Airport 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. The project needs to be done to ensure the integrity of the tarmac surface, which wasn't designed to handle larger aircraft that park and deplane there. Not completing this project by spring of 2026 will continue to damage the surface and increase potential liability and increase costs due to inflation. If the grant offer letter isn't acceptable, the airport will either borrow the money to complete the project or request to use airport reserves. 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-six percent (96%) of this project's cost is expected to be covered with grant funding from the Federal Aviation Administration (84%) and the Massachusetts Department of Transportation (12%). The town anticipates rescinding the borrowing authorization under this agenda item if the new grant assurances are acceptable. The local share will be provided from the airport enterprise fund's reserves which are anticipated to be certified at over \$15 million. 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, Manager, Cape Cod Gateway Airport; Mark A. Milne, Director of Finance

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

BARNSTABLE TOWN COUNCIL

ITEM#2026-020

INTRO: 08/21/2025, 09/04/2025

**2026-020 AUTHORIZATION FOR THE TOWN MANAGER TO EXECUTE A HOST
COMMUNITY AGREEMENT WITH HOLISTIC HEALTH GROUP, INC., A
MEDICAL MARIJUANA TREATMENT CENTER**

ORDERED: That the Town Council does hereby authorize the Town Manager to execute the attached Host Community Agreement with Holistic Health Group, Inc., a medical marijuana treatment center, pursuant to Massachusetts General Laws c. 94G, s. 3(d)(1) and 935 CMR 501.180(2)(a).

SPONSOR: Mark S. Ells, Town Manager

DATE

ACTION TAKEN

____ Read Item
____ Rationale
____ Council Discussion
____ Vote

BARNSTABLE TOWN COUNCIL

ITEM#2026-020

INTRO: 08/21/2025, 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
DATE: August 21, 2025
SUBJECT: Authorization for the Town Manager to execute a Host Community Agreement (HCA) with Holistic Health Group, Inc., a Medical Marijuana Treatment Center

BACKGROUND: Section 240-30 of the Town Code, which establishes the Town of Barnstable's Medical Marijuana Overlay District, allows Medical Marijuana Treatment Centers (MTCs) by special permit within the Town of Barnstable. The Town has received a request from Holistic Health Group, Inc. to open a medical marijuana treatment center at 120 Airport Road in Hyannis. In order for Holistic Health Group and other MTCs to obtain state licensure through the Cannabis Control Commission (CCC), they must first either negotiate and execute a Host Community Agreement (HCA) with the municipality in which it plans to operate its MTC or obtain an HCA waiver pursuant to Massachusetts General Laws c. 94G sec. 3(d)(1) and 935 CMR 501.180(2)(a).

The attached HCA is substantially in the form of the CCC's standard form agreement, which has been adopted and utilized by many other municipalities to further simplify the licensing process and ensure acceptance by the CCC. It identifies the MTC's operations and location authorized by the municipality. The HCA requires the MTC operator to comply with all CCC regulations and state law related to MTCs as well as the Town's zoning and general ordinances. Under the HCA, the Town reserves the right to charge an MTC a Community Impact Fee (CIF) for costs incurred by the Town if those costs are documented and reasonably related to the MTC and its operations. The HCA, in accordance with the CCC regulations, specifies the steps required to collect such fees. If the Town waives the HCA, it also waives its right to collect CIFs. Once executed, the HCA must be sent to the CCC for its review and approval.

Neither M.G.L. c. 94G, sec. 3(d)(1) nor 935 CMR 501.180(2)(a) specifies which municipal body or official has the authority to execute HCAs with MTCs. Therefore, the Town Manager is seeking authorization from the Town Council to execute this HCA.

FISCAL IMPACT: There may be additional expenses and impacts including but not limited to impacts on the Town's infrastructure systems, law enforcement, and fire protection services, as well as unforeseen expenses and impacts on the Town that are reasonably related to the operation of the MTC. To mitigate reasonably related expenses and impacts, the Company shall pay a Community Impact Fee to the Town. A Community Impact Fee shall not exceed three percent (3%) of the gross sales of the Company.

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

STAFF ASSISTANCE: Kyle Pedicini, Assistant Director of Planning; Karen L. Nober, Town Attorney; Allison Cogliano, Assistant Town Attorney

HOST COMMUNITY AGREEMENT

By and Between
Town of Barnstable
and
Holistic Health Group, Inc.

This Host Community Agreement (the “Agreement”) is entered into this ____ day of _____ 2025 (the “Effective Date”), by and between the Town of Barnstable, a Massachusetts municipal corporation with a principal address of 367 Main Street, Hyannis, MA (the “Town” or “Host Community”), and Holistic Health Group, Inc., a business entity registered with the Office of the Secretary of the Commonwealth with a business address of 477 Wareham Street, Middleborough, MA 02346 (the “Company”). The Town and the Company are collectively referred to herein as the “Parties”.

WHEREAS, the Company is applying for a license and/or is currently licensed by the Cannabis Control Commission (the “Commission” or “CCC”) as a Medical Marijuana Treatment Center and is located within or plans to locate within the Town;

WHEREAS, in order for a Marijuana Treatment Center to be licensed by the Commission, the Marijuana Treatment Center must execute a Host Community Agreement (“HCA”) with the Town in which it intends to be located; and

WHEREAS, the Parties intend, by executing this Agreement, to comply with and satisfy the provisions of G.L. c. 94G, § 3(d), as applicable to the licensed operation of the Medical Marijuana Treatment Center, with such operations to be conducted in accordance with applicable zoning and other ordinances of the Town;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. TERMS

The following terms shall have the same meaning and definitions as defined by the Commission in 935 CMR 500.000 *et seq.* and 935 CMR 501.000 *et seq.*, as applicable:

- a. Medical Marijuana Treatment Center (“MTC”) means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.
- b. Final License means a certificate of final licensure issued by the Commission pursuant to its authority under G.L. c. 94G.

- c. Fiscal Year means the time period beginning July 1st, and ending the following June 30th.
- d. Community Impact Fee (“CIF”) means impact fee(s) claimed by the Town which have been certified by the Commission or ruled upon by a court of competent jurisdiction as being Reasonably Related to the actual costs imposed by the Company.
- e. Claimed Community Impact Fee (“Claimed CIF”) means impact fee(s) claimed by the Town which have not been certified by the Commission or ruled upon by a court of competent jurisdiction as being Reasonably Related to the actual costs imposed by the Company.
- f. Reasonably Related means a demonstrable nexus between the actual operations of an MTC and an enhanced need for a Town’s goods or services in order to offset the impact of operations. Fees customarily imposed on other non-marijuana businesses operating in a Town shall not be considered Reasonably Related.

Should there be a conflict between these definitions and those contained in 935 CMR 500.000 et seq. and/or 935 CMR 501.000 et seq., the Commission’s regulations shall control. Additionally, any term used in this Agreement but not identified and defined in this section shall hold the same meaning and definition as so defined in the Commission’s regulations.

2. AUTHORIZED OPERATIONS

The Parties stipulate that this Agreement provides permission for the Company to apply for, obtain, and operate the following license type within the Town:

Medical Marijuana Treatment Center

Commission License Number(s): RMD-1566 & TBD _____

3. LOCATION

The location for the licensed operations of the MTC is 120 Airport Road in Hyannis, MA 02601. The Parties acknowledge and agree that the location of the licensed operations is an essential element of the Agreement set forth herein. Any proposed change of location shall not be permitted without the express written approval by the Town, such approval to be granted by the Town at its sole discretion.

4. COMPLIANCE

The Parties shall comply with all laws and regulations governing the operation of the license type set forth in Section 2 above, as applicable, including, but not limited to:

- a. The Town’s local zoning and other ordinances and regulations applicable to the operation of MTCs.

- b. The Company shall be responsible for obtaining from the Commission and the Town all licenses, permits, and approvals required for the operation of the license covered by the Agreement.
- c. The obligations of the Parties are contingent on the Company:
 - 1) Obtaining a Final License from the Commission for operation in the Town of the license type set forth above in Section 2 above and maintaining such license; and
 - 2) The Company's receipt of any and all necessary local permits and approvals to locate, occupy, and operate in the Town the license type set forth in Section 2 above, inclusive of zoning compliance and maintaining compliance with all conditions of said approvals.
- d. Unless the Company submits an annual update to the Town as to its progress to becoming operational, this Agreement shall become voidable under the following circumstances:
 - 1) If the Company is unable to obtain a Final License from the Commission; or
 - 2) If such local permits and approvals are not granted for any reason.
- e. This Agreement does not affect the authority of the Town to issue or deny permits, licenses, or other approvals under the statutes and regulations of the Commonwealth, or the local ordinances and regulations of the Town. Nor does this Agreement affect the Town's ability to enforce any applicable law.
- f. The Parties to this Agreement shall work in good faith to effectuate the purposes of this Agreement.

5. ANNUAL PAYMENT RESPONSIBILITIES

The Parties agree to the following provisions regarding annual payment responsibilities:

- a. CIF
 - 1) There may be additional expenses and impacts including but not limited to impacts on the Town's infrastructure systems, law enforcement, and fire protection services, as well as unforeseen expenses and impacts on the Town that are Reasonably Related to the operation of the MTC.
 - 2) To mitigate Reasonably Related expenses and impacts, the Company shall pay a CIF to the Town.
 - 3) The Town shall not explicitly or implicitly require the Company to make a promise of upfront or future monetary payments, in-kind contributions, or charitable contributions to the Town, notwithstanding the CIF payment provision allowed under 935 CMR 501.180(4).
 - 4) A Claimed CIF or CIF shall not exceed three percent (3%) of the gross sales of the Company, nor be calculated on a certain percentage of the Company's sales.

- 5) The Town shall not attempt to collect Claimed CIFs or CIFs relating to any operations occurring prior to the date the Company is granted a Final License by the Commission for any MTC license covered under this Agreement.
- 6) The Town shall not attempt to collect Claimed CIFs or CIFs from the Company that has held a Final License for more than nine (9) years for a particular MTC.
- 7) The Company shall notify the Town within five (5) business days of the issuance of a Final License to the Company by the Commission for any license covered under this Agreement. Additionally, the Company shall notify the Town within five (5) business days of the issuance of a renewal of a license to the Company by the Commission for any license covered under this Agreement.
- 8) The Town shall provide an annual itemized invoice of Claimed CIFs claimed by the Town that are Reasonably Related to the operations of the Company within one (1) month of the anniversary of the date the Company receives or received a Final License from the Commission for each license held by the Company located within the Town, if more than one. All subsequent, one-year invoice periods shall be consistent with the anniversary of the Company's Final License date(s). Failure to provide said invoice within the prescribed time shall result in the Town forfeiting any Claimed CIF or CIF it may have been entitled to for the applicable year of the Company's operation.
- 9) The Town's itemized invoice shall specifically describe how the Claimed CIFs were spent, including a line item for each good or service charged, and a statement of its cost, purpose, and relation to the Company's particular operations.
- 10) The Company shall annually pay any undisputed Claimed CIF or CIF no later than the end of the current Fiscal Year or within 90 days of the date of the Commission's certification of the CIF, whichever is later.
- 11) The Company shall not be required to pay a Claimed CIF or CIF while the Claimed CIF or CIF is the subject of a nonfrivolous legal dispute either through the Commission's administrative hearing process or before a court of competent jurisdiction.

b. Waivers of CIF

A Town may choose to not assess Claimed CIFs or CIFs or may choose to not collect either in a particular year. Any such election shall not operate as a waiver of the Town's rights under this Agreement to assess or collect a CIF in subsequent years.

c. Generally Occurring Fees

Generally occurring fees are those fees customarily imposed by the Town on non-cannabis businesses operating within its confines and shall not be considered a CIF.

d. Local Taxes

Property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable taxes for that property shall be paid directly by the appropriate property owner.

e. Other Taxes

Notwithstanding any previously identified provisions, the Company acknowledges and affirms its obligation to pay any and all fees associated with sales tax, excise tax on Marijuana and Marijuana Products, or other taxes or fees otherwise provided for in G.L. c. 94G, G.L. c. 64H, and G.L. c. 64N.

6. SECURITY

- a. The Company shall maintain security at its MTC in accordance with the security plan presented to the Town. In addition, the Company shall at all times comply with all applicable laws and regulations regarding the operations of MTCs, as applicable, and the security thereof.
- b. The Company shall comply with all Commission and Town security requirements as promulgated by state law, regulation, and local ordinances and regulations.

7. AREAS OF DISPROPORTIONATE IMPACT AND LOCAL OPPORTUNITIES

- a. The Company shall, consistent with applicable laws and regulations, make good faith efforts to hire municipal residents for employment, supplier services, and/or vendor services.
- b. Subject to and to the extent permitted by applicable law, the Company shall have goals, programs, and metrics, and make progress towards those goals to hire individuals/businesses for employment, supplier services, and/or vendor services from areas defined as Areas of Disproportionate Impact by the Commission.

8. EFFECTIVE DATE, TERM, AND TERMINATION

- a. This Agreement shall be in full force and effect for a term of 1 year beginning on _____, 2025, and terminating on _____, 2026.
- b. At the conclusion of the term of this Agreement, if the MTC is in good standing with the CCC, the Parties may negotiate a new Agreement in accordance with the current regulations and laws then in effect, as such regulations and laws may be amended or replaced. Alternatively, the Parties may negotiate and execute an HCA Waiver.
- c. If the MTC violates any provision of this Agreement, the Town may terminate this Agreement with thirty (30) days' written notice and/or report such violations to the CCC or take such other action as the Town deems appropriate.
- d. This Agreement shall be void in the event that the Company ceases operations of its Marijuana Establishment in the Town for a period of greater than sixty (60) days without

substantial action to reopen or relocate such operations outside of the Town. The Company shall provide notice to the Town no less than ninety (90) days prior to cessation or relocation of operations.

9. GOVERNING LAW AND SEVERABILITY

This Agreement shall be governed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict of laws principles. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby, unless one or both Parties would be substantially or materially prejudiced.

10. PUBLIC RECORDS

The Parties acknowledge and understand that all records in the possession of the Town are governed by G.L. c. 66, § 10, the Public Records Law.

11. AMENDMENTS/WAIVER

The Parties may make amendments to this Agreement or waive its terms only by a mutually executed written agreement in accordance with the current prevailing regulations and laws as such regulations and laws may be amended or replaced.

12. SUCCESSORS/ASSIGNEES

This Agreement is binding upon the Parties hereto, their successors, assignees and legal representatives. The Company shall not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this Agreement, in whole or in part, without the prior written consent from the Town.

13. COUNTERPARTS

This Agreement may be signed in any number of counterparts all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument, and any Party hereto may execute this Agreement by signing one or more counterparts.

14. SIGNATURES

Facsimile and electronic signatures affixed to this Agreement shall have the same weight and authority as an original signature. The individuals signing below have full authority to do so by the entity on whose behalf they have signed.

15. NOTICES

Except as otherwise provided herein, any notices, consents, demands, requests, approvals, or other communications required or permitted under this Agreement shall be made both electronically and by mail to the address(es) identified below for the respective Parties.

If to the Town: If to the Company:

Attn: Town Manager

Town Manager's OfficeAttn: Tim McNamara

367 Main StreetHolistic Health Group, Inc

Barnstable, MA 02601477 Wareham Street

Middleborough, MA 02346

With a copy to:tmcnamara@hhgma.com

Attn: Town Attorney

Town Attorney's Office
367 Main Street, 3rd floor
Barnstable, MA 02601

[Signatures on next page]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Host Community Agreement on the day and year first written above.

Town of Barnstable Holistic Health Group, Inc.

Mark S. Ells, Town Manager

Dated:

Name: Tim McNamara, Esq.

Dated:

Title: President & General Counsel

Approved As to Form:

Karen L. Nober, Town Attorney

**B. NEW BUSINESS (First Reading) (Refer to Public Hearing
10/09/2025)**

BARNSTABLE TOWN COUNCIL

**ITEM# 2026-014
INTRO: 09/04/2025**

**2026-014 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I
GENERAL ORDINANCES, TO INSERT A NEW CHAPTER 48 STRETCH
ENERGY CODE**

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, is hereby amended by inserting after Chapter 47 the following new Chapter 48 Stretch Energy Code:

**“Chapter 48 Stretch Energy Code
§ 48-1. Purpose and Intent.**

The purpose of the Stretch Energy Code is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 48-2. Definitions.

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

Base Energy Code – The baseline energy conservation requirements of the Massachusetts State Building Code, 780 CMR, are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

International Energy Conservation Code (IECC) – The International Energy Conservation Code is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency and is updated on a three-year cycle.

Stretch Energy Code – Codified by the combination of 225 CMR 22 and 23, not including the Appendices RC and CC, and including any future editions, amendments or modifications, the Stretch Energy Code is a comprehensive set of amendments to the IECC seeking to achieve all lifecycle cost-effective energy efficiency in accordance with Chapter 169 of the Acts of 2008, the Massachusetts Green Communities Act, as well as to reduce the climate impacts of buildings built to this code.

§ 48-3. Applicability.

The Stretch Energy Code applies to residential and commercial buildings in the Town of Barnstable and is enforceable by the Building Commissioner.

§ 48-4. Effective Date.

The Stretch Energy Code is effective as of January 1, 2026.”

SPONSOR: Councilor Gordon Starr, Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-014
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director of Planning and Development
DATE: August 12, 2025
SUBJECT: Amending the Code of the Town of Barnstable, Part I General Ordinances, to insert a new Chapter 48 Stretch Code

RATIONALE: As part of the Green Communities Act of 2008, the State of Massachusetts is required to update its building code every three years to be consistent with the most recent version of the International Energy Conservation Code (IECC) to ensure that new buildings are designed and constructed with energy efficiency in mind. In 2009, Massachusetts adopted the "Stretch Code" to provide a more energy efficient alternative to the base energy code for new buildings. The Stretch Code increases the energy efficiency requirements for new construction and major renovations of residential and commercial buildings, including certain additions and alterations. The Town of Barnstable has not adopted the Massachusetts Stretch Code to date.

The Town of Barnstable has discussed becoming a Designated Green Community. To become a Designated Green Community the Town must complete five criteria, defined by the State. Criterion 1 is met by a municipality passing zoning in designated locations for the as-of-right siting of renewable or alternative energy generating facilities. Criterion 2 is met by a municipality adopting an expedited process and permitting of one year at most, under which facilities interested in locating their facility in a designated renewable zone may be sited within the municipality. Criterion 3 is that a municipality must establish an energy use baseline inventory for municipal buildings and facilities, street and traffic lighting, and vehicles; and adopt an Energy Reduction Plan demonstrating a reduction of 20 percent of energy use after five years of implementation. Criterion 4 requires all departments within a Green Community to purchase fuel-efficient vehicles for municipal use, whenever such vehicles are commercially available and practicable. Lastly, criterion 5, a municipality shall adopt the Stretch Code.

The Town of Barnstable has achieved all the requirements stated above, except for the adoption of the Stretch Code. Buildings constructed to the Stretch Code use less energy than buildings built to other current and previous building codes. However, time to construct and cost to construct are likely to increase to adhere to the higher energy efficiency standards.

Some State listed benefits of becoming a Designated Green Communities is that the Town of Barnstable could cut municipal energy costs; have access to grants for clean affordable and resilient energy projects; reduce greenhouse gas emissions; and promote energy-efficient building construction that drives the market for better built homes.

FISCAL IMPACT: The adoption of the stretch code has no direct financial impact on fees collected by the Town of Barnstable. If the Stretch code is passed, which has been the traditional hurdle for Barnstable to becoming a Green Community, and if the application was successful, it would open the door to future grant money that could be applied to energy related projects or initiatives, saving tax dollars through lower utility bills for municipal accounts.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, supports this item.

STAFF SUPPORT: James Kupfer, Director of Planning and Development; David Anthony, Director of Asset Management, Karen L. Nober, Town Attorney, Sean Hogan, Environmental Sustainability Manager

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-023
INTRO: 09/04/2025

2026-023 TRANSFER ORDER IN THE AMOUNT OF \$175,000 FOR THE PURPOSE OF FUNDING OUTSIDE COUNSEL EXPENSES OF THE LEGAL DEPARTMENT

ORDERED: That the amount of **\$175,000** be transferred from the Fiscal Year 2026 Town Council Reserve Fund to the Fiscal Year 2026 Administrative Services Department Operating Expense Budget for the purpose of paying Legal Department expenses for the services of the law firm of Anderson & Kreiger in its capacity as outside counsel to the Town with respect to the lawsuit filed against the Town by the Conservation Law Foundation.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____
_____	Read Item
_____	Rationale
_____	Council Discussion
_____	Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2026-023
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: September 09, 2025
SUBJECT: Transfer Order in the amount of **\$175,000** for the purpose of paying outside counsel expenses of the Legal Department

BACKGROUND: In February 2021, the Conservation Law Foundation (“CLF”) filed a lawsuit against the Town of Barnstable alleging violation of the federal Clean Water Act for operating the Town’s wastewater treatment facility without obtaining a National Pollutant Discharge Elimination System permit for discharges from the facility to groundwater. In October 2021, the Town filed a motion to dismiss the Clean Water Act lawsuit, and in July 2022, U.S. District Court Judge Burroughs granted the Town’s motion and issued an Order of Dismissal. CLF then filed a motion for reconsideration, which Judge Burroughs denied in January 2023. However, she amended her Order of Dismissal to be a dismissal without prejudice, meaning that CLF could file a new lawsuit against the Town.

In February 2023, CLF filed a new Notice of Intent to Sue, and on July 2024, filed a new suit in federal district court against the Town for alleged violations of the Clean Water Act. The Town filed a motion to dismiss, and on June 5, 2025, the Town’s motion was granted in part and denied in part. On July 31, 2025, Judge Burroughs denied the Town’s motion for an interlocutory appeal to refer to the federal Appeals Court the question of whether travel time of 4.4 years could constitute the functional equivalent of a direct discharge. The lawsuit will now move into the discovery phase. The funding in this requested transfer order would be used to pay the anticipated costs for this next phase of legal work.

FISCAL IMPACT: The relief and penalties sought by CLF under the Clean Water Act would have a potentially substantial financial impact on the Town, and it is therefore critically important that the Town continue to have the benefit of representation by counsel with significant experience and expertise in these types of matters. The Fiscal Year 2026 Town Council Reserve Fund was budgeted for \$250,000. If this transfer is approved, a balance of \$75,000 would be available for the remainder of the fiscal year.

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

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-024
INTRO: 09/04/2025

2026-024 RESOLVE APPROVING TWO FISH WEIR APPLICATIONS FROM CAPE COD ARTISANAL FISHERIES, LLC

RESOLVED: Pursuant to M.G.L. c. 130, section 29, the Barnstable Town Council does hereby approve two applications of Cape Cod Artisanal Fisheries, LLC (Jacob Angelo, a resident of West Barnstable), for two (2) separate fish weirs sites (Hyannis Port and Wianno) in the coastal waters of the Town of Barnstable in Nantucket Sound, each for a period of five (5) years from September (after Labor Day) through November of each year, subject to the following conditions for each weir:

- 1. Notice to mariners (start and finish of installation each year);
- 2. Installation of four (4) radar reflectors;
- 3. One (1) United States Coast Guard permitted “Danger” buoy at each weir;
- 4. Three (3) United States Coast Guard permitted lights for each end and the middle of each weir.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-024
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Brian Taylor, Harbormaster
DATE: September 04, 2025
RE: Resolve approving two fish weir applications from Cape Cod Artisanal Fisheries, LLC

BACKGROUND: Cape Cod Artisanal Fisheries LLC (Mr. Jacob Angelo), 46 Meadow Lane, West Barnstable 02668 has requested two (2) State of Massachusetts “Application for Weirs, Pound Nets or fish Traps” in Nantucket Sound. The fish weir locations on the applications are the same locations as last year; Hyannis Port and Wianno. The requested dates for operation are September (after Labor Day) through November. As this was a new time of year for the weirs, the previous permit was issued for one (1) year as a trial run.

This request was originally presented to the Waterways Committee in June 2025 and July 2025. The Committee made a motion to accept the application and recommend it for Town Manager / Town Council for approval for a period of five (5) years. Revised applications were submitted with a revised start date of 2026.

ANALYSIS: The Marine and Environmental Affairs Department supports the request of the applicant to construct and maintain fish weirs for a period of five (5) years with the following conditions:

1. Notice to Mariners (start and finish of installation each year).
2. Installation of four (4) radar reflectors.
3. One (1) United States Coast Guard permitted “Danger” buoy at each weir.
4. Three (3) United State Coast Guard permitted lights for each end and the middle of the weir.

FISCAL IMPACT: There is a fifty dollar fee (\$50.00) per Fish Weir that goes toward the General Fund.

COMMITTEE RECOMMENDATION: The Waterways Committee recommends approval of this item.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of the permits for a term of five years.

STAFF ASSISTANCE: Derek Lawson, Marine & Environmental Affairs Director; Brian Taylor, Harbormaster; Jay Horn, Deputy Harbormaster

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-025
INTRO: 09/04/2025

2026-025 TRANSFER ORDER IN THE AMOUNT OF \$587,527 FOR THE BARNSTABLE HIGH SCHOOL TENNIS COURT PROJECT

ORDERED: That the amount of **\$118,225** from Town Council Order 2019-093 Barnstable High School Sports Field Upgrade, the amount of **\$127,724** from Town Council Order 2021-086 Barnstable High School Synthetic Turf Replacement, and the amount of **\$341,578** from Town Council Order 2023-116 Knight Hall Chiller Replacement, for a total sum of **\$587,527**, be transferred to Town Council Order 2022-124 for the purpose of funding the Barnstable High School Tennis Court project, including the payment of costs incidental or related thereto, and that the School Committee is authorized to contract for and expend the funds made available for these purposes and be authorized 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

ITEM# 2026-025
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Sara Ahern, Superintendent, Barnstable Public Schools
DATE: September 04, 2025
SUBJECT: Transfer Order in the amount of **\$587,527** for the Barnstable High School Tennis Court Project

BACKGROUND: An invitation for bid for the Barnstable High School Tennis Court project was issued on June 4, 2025, with two bids received. The lowest responsible and eligible bidder's cost was \$2,036,167. This project was originally budgeted at \$1,622,000 as part of the Fiscal Year 2023 Capital Improvement Plan.

ANALYSIS:

Project cost \$ 2,036,167

Original Appropriation \$ 1,473,082

Transfer Request (*includes contingency*) \$ 587,527

Total Funds Available \$ 2,060,609

The additional \$24,442 within the transfer request will be used as a contingency to cover potential change order or unforeseen cost increases that may arise during the project.

FISCAL IMPACT: None. The BHS Sports Field Upgrade, BHS Synthetic Turf Replacement, and Knight Hall Chiller Replacement projects, from which funds are being transferred, have been completed and can be closed out.

STAFF ASSISTANCE: Chris Dwelley, Deputy Finance Director for School Operations; Doug Boulanger, Director of School Facilities

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-026
INTRO: 09/04/2025

2026-026 ACCEPTANCE OF FISCAL YEAR 2026 MASSACHUSETTS DREDGING PROGRAM GRANT FROM THE EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT IN THE AMOUNT OF \$519,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HARBOR ENTRANCE CHANNEL AND BLISH POINT BOAT RAMP DREDGING PROJECT

RESOLVED: That the Town Council does hereby accept a Fiscal Year 2026 Massachusetts Dredging Program Grant from the Commonwealth of Massachusetts, Executive Office of Economic Development in the amount of **\$519,000** for the purpose of funding the Barnstable Harbor Entrance Channel and Blish Point Boat Ramp Dredging Project, and that the Town Manager be authorized to contract for and expend the grant funds for such purpose.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-026
INTRO: 09/04/2025

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, Director, Department of Public Works
DATE: September 04, 2025
SUBJECT: Acceptance of Fiscal Year 2026 Massachusetts Dredging Program Grant from the Executive Office of Economic Development in the amount of **\$519,000** for the purpose of funding the Barnstable Harbor Entrance Channel and Blish Point Boat Ramp Dredging Project

BACKGROUND: The Massachusetts Dredging Program provides a grant opportunity for coastal municipalities for saltwater dredging. The purpose of this grant program is to fund projects that will support the economic vitality, vibrant waterfronts, maritime safety, and ecosystem health of Massachusetts's harbors.

ANALYSIS: The Town of Barnstable has been awarded a \$519,000 grant to support the dredging of the Barnstable Harbor Entrance Channel and Blish Point Boat Ramp to ensure continued safe navigation, commercial fishing and shellfishing, recreational boating, ecosystem benefits, and access within Commonwealth waters.

FISCAL IMPACT: This grant is a reimbursement grant in the amount of \$519,000. The Town must expend and request reimbursement of the costs. All costs associated with this grant must be expended prior to June 30, 2026. The town is required to provide a 55% match which will be provided from an existing capital appropriation.

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

STAFF ASSISTANCE: Daniel W. Santos, Director, Department of Public Works

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-027
INTRO: 09/04/2025

2026-027 ORDER AUTHORIZING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND THE UNIVERSITY OF MASSACHUSETTS DARTMOUTH TO INCREASE THE CONTRACT AMOUNT AND EXTEND THE TERM

ORDERED: Subject to appropriation, the Town Council does hereby authorize the execution and delivery by the Town Manager of an amendment to the Intergovernmental Agreement previously authorized through Town Council Order 2024-212 on May 2, 2024 between the Town of Barnstable (the “Town”) and the University of Massachusetts Dartmouth (“UMass”) for the provision by UMass to the Town of technical support of the Town’s Water Quality Monitoring and Wastewater Planning and Estuary Water Quality Sampling Programs. Such amendment shall increase the previously authorized contract amount of One Million One Hundred Twenty-Two Thousand One Hundred Thirty-Six Dollars (\$1,122,136) by One Hundred Ninety-One Thousand One Hundred Eighty-Six Dollars (\$191,186), for a total amended amount of One Million Three Hundred Thirteen Thousand Three Hundred Twenty-Two Dollars (\$1,313,322), and shall extend the term of the agreement for an additional year ending December 31, 2026; provided that any future amendments to said agreement shall be undertaken pursuant to the exemption from Chapter 30B of the General Laws for transactions with the Commonwealth and shall not require further Town Council approval.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-027
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: September 04, 2025
SUBJECT: Order authorizing an amendment to the Intergovernmental Agreement between the Town of Barnstable and the University of Massachusetts Dartmouth to increase the contract amount and extend the term

BACKGROUND: The UMass Dartmouth School for Marine Science and Technology (“UMass”) has provided Water Quality Monitoring and Wastewater Planning Technical Services to the Town of Barnstable for over 20 years. UMass is retained for estuary water quality sampling analytical services, pond and lake sampling analytical services, development of pond and lake management plans, and wastewater planning efforts. Utilizing UMass has ensured that the Town’s wastewater planning efforts are consistent with the methodologies and models used to develop the nitrogen Total Maximum Daily Loads (TMDLs) for Lewis Bay, Halls Creek, Centerville River, Three Bays, Popponessett Bay, and Barnstable Harbor that have been approved by the Massachusetts Department of Environmental Protection. Utilizing UMass Dartmouth has allowed the Town to plan for and adapt the Comprehensive Wastewater Management Plan, develop Pond and Lake Management Plans, and continue tracking the water quality of our ponds, lakes, and estuaries. The current agreement with UMass was entered into in 2020 and has been amended to extend the term and to increase the compensation for development of Shubael Pond, Long Pond Marstons Mills, Lovells Pond, Wequaquet Lake, Bearse’s Pond, Gooseberry Pond, and Long Pond Centerville Monitoring and Management Plans, estuaries and pond and lake sample analysis from 2020-2024, and various other water quality management tasks. This amendment would increase the contract amount by adding an additional \$191,186 and extend the term of the agreement to December 31, 2026, for the completion of the Hamblin Pond Management Plan, 2025 estuaries and pond and lakes sample analysis.

Although this agreement was previously styled as an Intergovernmental Agreement under G.L. c. 40, sec. 4A, upon further review, the Legal Department has determined that because this is a contract for services that would otherwise be subject to the procurement requirements of G.L. c. 30B, it is more appropriate to utilize the applicable exemption from Chapter 30B for transactions with the Commonwealth rather than the Intergovernmental Agreement statute. Accordingly, any future amendments will be undertaken pursuant to said exemption from 30B and will not require further Town Council approval.

FINANCIAL IMPACT: This request represents an increase of \$191,186 to the existing Intergovernmental Agreement. Funding for this increase will be from a combination of previously appropriated Capital Improvement Project funds and DPW Operating Budget Funds.

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

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

B. NEW BUSINESS (Refer to a Public Hearing on September 18, 2025)

BARNSTABLE TOWN COUNCIL

ITEM # 2026-028
INTRO: 09/04/2025

2026-028 VOTE ON THE MERITS OF A GROUP PETITION REQUESTING THAT THE TOWN TAKE ACTION TO ACQUIRE AND PRESERVE THE HOME OF EUGENIA FORTES AT 23 PLEASANT HILL LANE AND ESTABLISH A PERMANENT WETLANDS CONSERVANCY AT 32 PLEASANT HILL LANE

RESOLVED: That the Town Council does hereby vote to find that the group petition submitted to it on June 27, 2025, requesting that the Town take action to acquire and preserve the home of Eugenia Fortes at 23 Pleasant Hill Lane and establish a permanent wetlands conservancy at 32 Pleasant Hill Lane, as more specifically set forth in the petition attached hereto and incorporated herein, has merit.

SPONSOR: Craig R. Tamash, Town Council President

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2026-028
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Karen L. Nober, Town Attorney
DATE: September 4, 2025
SUBJECT: Vote on the merits of a group petition requesting that the town take action to acquire and preserve the home of Eugenia Fortes at 23 Pleasant Hill Lane and establish a permanent Wetlands Conservancy at 32 Pleasant Hill Lane

BACKGROUND: On June 27, 2025, Lisa DaLuz submitted to the Town Clerk a Group Petition pursuant to Section 8-7(b) of the Town Charter, requesting that the Town take action to acquire and preserve the home of Eugenia Fortes at 23 Pleasant Hill Lane and establish a permanent wetlands conservancy at 32 Pleasant Hill Lane, as more specifically set forth in the petition attached hereto.

The Town Clerk has certified that the petition contains the signatures of at least 150 registered voters of the Town, as required by the Charter.

As set forth in the Charter, the action to be taken by the Council is simply a vote on whether the request has merit. It is not a vote to approve the request as written. If the Council concludes that the request has merit, then it will be up to Council leadership and the full Council to consider what, if any, actions it may wish to take. To ensure compliance with the Open Meeting Law, any action by the Council, other than the vote on the merits, should take place at a future Town Council meeting so that it may be properly noticed on that meeting's agenda.

STAFF SUPPORT: Karen L. Nober, Town Attorney; Thomas J. LaRosa, First Assistant Town Attorney

B. NEW BUSINESS (Refer to Public Hearing on 09/18/2025)

BARNSTABLE TOWN COUNCIL

ITEM# 2026-029
INTRO: 09/04/2025

2026-029 RESOLVE APPROVING AND ADOPTING THE TOWN OF BARNSTABLE 2025 HOUSING PRODUCTION PLAN DATED MAY 12, 2025

WHEREAS, the Town of Barnstable 2025 Housing Production Plan contains a comprehensive housing needs assessment, affordable housing goals and implementation strategies to achieve the Plan’s goals and develop affordable housing in the Town of Barnstable; and

WHEREAS, a draft of the Housing Production Plan has been made available for public review on the Town website since June 6, 2024; and

WHEREAS, the Town of Barnstable draft Housing Production Plan was presented to the Town of Barnstable Planning Board at duly noticed public meetings held on June 24, 2024, October 28, 2024, and November 25, 2024; and

WHEREAS, at its November 25, 2024 meeting, the Planning Board unanimously voted to recommend approval of the Housing Production Plan to the Barnstable Town Council; and

WHEREAS, at its February 27, 2025 meeting, the Town Council voted to recommend further community outreach; and

WHEREAS, a draft of the Housing Production Plan was made available for public review on the Town website following the February 27, 2025 meeting of Town Council, and additional community meetings were held on April 7, 2025 and April 10, 2025; and

WHEREAS, the draft Housing Production Plan was updated to reflect public comment and new available data; and

WHEREAS, the draft Housing Production Plan date has been updated to May 12, 2025; and

WHEREAS, the draft Housing Production Plan dated May 12, 2025 was presented to the Town of Barnstable Planning Board at a duly noticed public meeting held July 28, 2025; and

WHEREAS, at its July 28, 2025 meeting, the Planning Board unanimously voted to recommend approval of the Housing Production Plan dated May 12, 2025 to the Barnstable Town Council;

NOW, THEREFORE, BE IT RESOLVED: That the Barnstable Town Council hereby approves and adopts the Town of Barnstable 2025 Housing Production Plan dated May 12, 2025, in the form as provided to the Town Council and presented at this meeting, and authorizes the Town Manager to submit the Housing Production Plan to the Executive Office of Housing and Livable Communities for approval.

SPONSOR: Councilor Paula Schnepf, Precinct 12

DATE	ACTION TAKEN
_____	_____
_____	_____

____ Read Item
____ Rationale
____ Council Discussion
____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2026-029
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development Department
DATE: September 04, 2025
SUBJECT: Resolve approving and adopting the Town of Barnstable 2025 Housing Production Plan dated May 12, 2025

A Housing Production Plan (HPP), as defined by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC), is designed to be a proactive strategy for planning and developing affordable housing. The HPP shall follow the strict requirements of 760 CMR 56.03(4). EOHLC has confirmed in writing that only Planning Board and Town Council approvals are required for the HPP.

Per the requirements, the HPP shall contain at a minimum the following elements, covering a time period of five years: 1. Comprehensive housing needs assessment; 2. Affordable housing goals; and 3. Implementation strategies.

The Town of Barnstable has developed the Housing Production Plan to identify these requirements including goals, strategies, and potential actions to identify ways in which the Town of Barnstable may support affordable housing and to build upon the efforts first outlined in the draft 2016 HPP. Additionally, this plan provides updated demographic data as well as an analysis of local housing conditions. The plan also outlines the Town's development constraints and limitations, and local and regional capacity to create and preserve affordable and mixed-income housing in the community.

The Housing Production Plan was presented to the Town of Barnstable Planning Board at duly noticed public meetings held on June 24, 2024, October 28, 2024, and November 25, 2024. On November 25, 2024, the Planning Board unanimously voted to recommend approval of the Housing Production Plan to the Barnstable Town Council.

At the Town Council's February 27, 2025 meeting, the Town Council voted not to recommend approval of the plan but to recommend further community outreach. A draft of the Housing Production Plan has been made available for public review on the Town website following the February 27, 2025 meeting of Town Council in addition, two community meetings were held on April 7, 2025 and April 10, 2025 to seek further public comment. The draft Housing Production Plan was updated to reflect public comment and new available data.

The Housing Production Plan was presented to the Town of Barnstable Planning Board at a duly noticed public meeting held on July 28, 2025. At that meeting, the Planning Board unanimously voted to recommend approval of the Housing Production Plan to the Barnstable Town Council.

Although this item is a resolve that could be approved with one reading, we are providing more process than what is required by adding a second reading and a public hearing to provide additional notice to the public as well as to give the public an opportunity to provide comment to the Council.

If approved by the Barnstable Town Council, the plan will be forwarded to the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) for review and approval. EOHLC will review the Town's plan for approval to confirm it satisfies the requirements detailed in regulations 760 CMR 56.03(4).

FISCAL IMPACT: Approving the plan will make the Town of Barnstable eligible for a number of state and federal grants to address housing.

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

STAFF SUPPORT: James Kupfer, Director, Planning & Development Department

**B. NEW BUSINESS (First Reading) (Refer to Public Hearing
09/18/2025)**

BARNSTABLE TOWN COUNCIL

**ITEM# 2026-030
INTRO: 09/04/2025**

**2026-030 RESOLVE DIRECTING THE TOWN MANAGER TO NOMINATE THE
DOWNTOWN HYANNIS GROWTH INCENTIVE ZONE FOR
CONSIDERATION AS A DISTRICT OF CRITICAL PLANNING CONCERN TO
THE CAPE COD COMMISSION**

RESOLVED: To direct the Town Manager to nominate the area currently designated as the Downtown Hyannis Growth Incentive Zone (GIZ) for consideration as a District of Critical Planning Concern (DCPC) to the Cape Cod Commission in accordance with the Cape Cod Commission Act and the process set forth in Chapter E of the Cape Cod Commission DCPC Regulations, based on the following rationale: that the GIZ is a geographic area of critical value to Barnstable County that must be preserved and maintained due to the presence of significant cultural, historic and economic resources or values of regional, state-wide or national significance; provided that, before submitting such nomination to the Cape Cod Commission, the Town Manager shall provide the nomination in draft form to the Council for review and approval.

SPONSOR: Councilor Felicia R. Penn, Precinct 13

BARNSTABLE TOWN COUNCIL

ITEM# 2026-030
INTRO: 09/04/2025

SUMMARY

TO: Town Council
FROM: Councilor Felicia Penn
THROUGH: Jim Kupfer, AICP, MPA, Director of Planning and Development
DATE: September 04, 2025
SUBJECT: Resolve directing the Town Manager to nominate the Downtown Hyannis Growth Incentive Zone for consideration as a District of Critical Planning Concern to the Cape Cod Commission

SPONSOR SUMMARY: The village of Hyannis has served as the economic hub of not only the town of Barnstable, but of Barnstable County since at least the 1800's. The Cape Cod Commission designated the downtown commercial area as a Growth Incentive Zone (GIZ) in 2006, and it was redesignated by the Commission in 2018. In 2023, zoning within the GIZ underwent a makeover that allowed for an increase in building height, a reduction in minimum parking, the potential for increased density as well as new exterior design standards. Many residents of the village object to the current zoning and have requested that zoning within the GIZ be revised so that the cultural history and architectural nuances of the village may be preserved, while maximizing its economic advantages. They fear that Downtown Hyannis will turn into Anyplace, USA. The Council's ad hoc committee on zoning made tremendous strides and suggested numerous changes to the existing zoning, some of which will be before us soon. However, there is much more work to be done, and the committee has been sunsetted. Nominating the area as a District of Critical Planning Concern (DCPC) has the following advantages: within the time frames afforded the County and the Cape Cod Commission under the Cape Cod Commission Act, Chapter 716 of the Acts of 1990, as amended (the "Act"), and the Commission's DCPC regulations, Chapter E of Barnstable County Ordinance 90-15, as amended, all optimal zoning changes identified in the DCPC process, any changes that will protect the village's residential neighborhoods, and a total amount of new commercial square footage may be determined. Additionally, a major advantage is that during this time, no new building permits will be issued within the GIZ, except for those specifically exempt under the Act and any additional classes and types of projects exempted by the Commission following a request by the Town in its DCPC nomination form and approval by the Commission. Ultimately, the village of Hyannis will be better preserved to handle the future and retain its character, as fewer buildings will be demolished, and new ones will be built to scale. It's highly unusual for a downtown to be nominated for a District of Critical Planning Concern, but in this case, the history, character, and past successful economic formulas of the village of Hyannis need to be protected and preserved in order for the area to succeed in the future. Also, a DCPC is forever. To summarize: The Town prepares the contents of the DCPC nomination form, and the changes happen in the time frames set forth in the Act and DCPC regulations, which are discussed in more detail below, without being pressured by developers.

Example of what happens if no DCPC and town works on putting through major zoning changes: ask Yarmouth. Yarmouth created zoning in the 80's that prohibited motels from being built on Rte 28. They were working to diversify the economy of the area. They wanted to upgrade wages and move toward more opportunities for tech-based businesses to call Yarmouth home. The minute word got out that the town was going to ban motels on Route 28, town hall was flooded with plans and permit requests for motels. Had Yarmouth nominated Rte 28 for a DCPC, this would not have happened, and they would have had the zoning they wanted and a diversified economy.

STAFF SUMMARY: Under the Cape Cod Commission Act, the Barnstable County government is charged with the designation of Districts of Critical Planning Concern ("DCPC") for geographic areas on Cape Cod "which are of critical value to Barnstable County" that "must be preserved and maintained due to one or more of the following factors; (1) the presence of significant natural, coastal, scientific, cultural, architectural, archaeological, historic, economic or recreational resources or values of regional, state-wide or national significance; or (2) the

presence of substantial areas of sensitive ecological conditions which render the area unsuitable for development; or (3) the presence or proposed establishment of a major capital public facility or area of public investment.”

The Town of Barnstable may nominate a certain area of land for the County’s consideration as a DCPC. Relying on the factors stated above, the Town is responsible for providing the County with its rationale as to: why the area is of critical value to Barnstable County, why it must be preserved and maintained due to one or more of the previously mentioned factors, and why special regulations and planning are needed to protect the district from development inconsistent with the proposed designation (including documentation of community concern).

A DCPC nomination is a serious endeavor. At the onset, the Town will be providing to the County a rationale as to why the Town’s existing ordinances are not satisfactory, examples of “appropriate” development that would be consistent with the proposed district, and classes and types of projects that the Town seeks to exempt from this process (subject to approval by the Commission). Planning and Development would like to offer support and have a transparent, robust public process to identify the answer to these nomination questions and fully engage the public.

Upon submission of a nomination form and the Commission’s public notification, all projects within the proposed DCPC could not receive a building or other development permit needed for commencement or completion of construction (i.e., a moratorium would exist). The Commission has 45 days to accept or reject the proposed nomination. If the Commission rejects the nomination, the building moratorium will cease, and the process ends.

If the Commission accepts the nomination, the building moratorium will continue but its scope could be limited if the Town, in its nomination form, specially identified classes and types of projects and requested that the Commission exempt those classes and types from the building moratorium. Under section 11(c)(1) of the Act, as a prerequisite to exempting any classes or types of projects, the Commission must certify in its acceptance of the nomination that the type or class of proposed development is not substantially detrimental to public health, safety or general welfare and does not contravene the purposes of this act and a development by-law or by-laws had been in effect immediately prior to the nomination of such area and development permits could have been granted under the by-laws

In addition to the specially identified classes and types of projects found to be exempt by the Commission, under Section 22(c) of the Act, the building moratorium would not apply at any time to the repair, upgrade, change, alteration or extension of a single-family dwelling or an associated accessory structure, septic system or water well, if such dwelling existed on July 1, 1989, and provided the proposed work would be no greater than 25% of the floor area of the dwelling. State permits for the local override process under M.G.L. c. 40B, Comprehensive Permits, would be exempt from the building moratorium.

Once the nomination form is submitted to the County through the Cape Cod Commission, the Commission is required to render a decision on the proposed designation within 60 days of accepting a nomination, unless the Commission provides a written explanation for a delay to the nominating party, after which the Commission will have a total of 120 days to issue its decision. The Commission’s decision on the proposed designation must specify its reasons to either designate or refuse to designate the DCPC. If the Commission proposes to designate the DCPC, the Commission’s decision shall “specify guidelines for development in the proposed district based upon its findings relating to the critical concerns in the area.” The Commission’s decision will include development regulations, which, as required by the Act, the Town is required to implement through the adoption of a Town ordinance or ordinances. The Commission would then forward the decision to the County Assembly of Delegates for adoption as a County ordinance. The Assembly would hold a public hearing to consider the designation and render a decision within 60 days by either approving the designation by ordinance or returning the decision to the Commission for restudy and redrafting. The County ordinance would need to be approved by the County Commissioners. While the Town would fully participate in this process and offer its recommendations, the Town has no control over this decision and its content.

Once the County ordinance is approved, the Town now has 12 months, with a possible 90-day extension, to implement the County regulations, most likely through an amendment to the Town’s Zoning Ordinance. A Zoning Ordinance amendment will require a two-thirds vote of the Council. Until the ordinance is adopted, the development moratorium remains in effect.

If the Town does not enact the ordinance within 12 months (or does not seek a 90-day extension), either because the Council does not act or cannot achieve the requisite vote, the Cape Cod Commission is required to propose applicable regulations, and the County shall adopt those DCPC regulations through a County ordinance. If this happens, zoning requirements in the area of the DCPC will be codified, at least in part, at the County level by the County, rather than by the Town within the Town Code.

The Town Council cannot change the ordinance, or adopt inconsistent ordinances, without Commission approval. Any changes to the ordinance(s) must be submitted to the Commission for their approval and must follow the process under the Act. Accordingly, as stated at length above, within the DCPC, once a DCPC nomination is accepted by the Commission, the Town Council would be ceding its legislative authority to the County, particularly regarding zoning matters.

This is counter to the purposes of the GIZ. The GIZ – a Growth Incentive Zone - was authorized by the County approximately twenty years ago and reauthorized in 2018 to target growth and new investment in an area that otherwise did not see investment. The Town requested local control. The GIZ incentivizes growth by not requiring Cape Cod Commission approval. The GIZ is authorized through 2028. A DCPC would not alter the GIZ or its boundaries, although it is unclear, as a practical matter, how a GIZ and a DCPC would co-exist.

Lastly, the Town of Barnstable, through the Town Council, established an ad hoc committee on zoning in 2024. The committee conducted a nearly one-year review working alongside staff and receiving public input along the way. The committee recommended a number of zoning amendments for the Town Council to consider to the Town's zoning within the GIZ. These amendments would not require the intervention of the County and the Cape Cod Commission. The Town of Barnstable would retain its local control to shape downtown Hyannis in deciding whether to adopt these amendments in whole or in part.

FINANCIAL IMPACT: A building moratorium within the area of the GIZ would have a negative financial impact on new growth dollars as well as base valuations. The financial impact from a moratorium or resulting ordinance from the County, while potentially significant, is unknown at this time.

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