



# The Town of Barnstable

## Town Council

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Councilors:

Henry C. Farnham  
President

Janet S. Joakim  
Vice President

Richard G. Barry  
Janice L. Barton  
Gary R. Brown  
Ann A. Canedy  
Frederick Chirigotis  
James H. Crocker, Jr.  
Leah C. Curtis  
J. Gregory Milne  
James F. Munafo, Jr.  
Tom Rugo  
Harold E. Tobey

Administrator:  
Donald M. Grissom

Town Council  
Secretary:  
Cheryl A. Phillips

### TOWN COUNCIL AGENDA

October 5, 2006

7:00 PM

1. **ROLL CALL**
  2. **PLEDGE OF ALLEGIANCE**
  3. **MOMENT OF SILENCE**
  - **ZONING BOARD OF APPEALS**
  4. **PUBLIC COMMENT**
  5. **COUNCIL AND TOWN MANAGER RESPONSE TO PUBLIC COMMENT**
  6. **REPORTS FROM TOWN COUNCIL, BOARDS, AND COMMITTEES**
  7. **ACT ON MINUTES**
  8. **ORDERS OF THE DAY**
    - A. **OLD BUSINESS**
    - B. **NEW BUSINESS**
  9. **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE AND ANNOUNCEMENTS**
  10. **PRESIDENT/VICE PRESIDENT COMMUNICATIONS**
  11. **TOWN MANAGER COMMUNICATIONS**
  12. **PUBLIC COMMENT**
  13. **ADJOURNMENT.**
- NEXT MEETING OCTOBER 19TH.**
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Minutes of Barnstable Town Council Meeting of September 21, 2006.

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**Please Note:** It is possible, if it so votes, the Council may go into executive session.  
The council may act on items in a different order than they appear on this agenda.

**A. OLD BUSINESS (Joint Public Hearing with Planning Board May Be Acted Upon)  
(ROLL CALL 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2006-147 AMENDMENT OF THE ZONING ORDINANCE BY THE CREATION  
OF AN AFFORDABLE HOUSING OVERLAY DISTRICT (AHOD)  
INTRO.: 6/15/06; 07/20/06; 08/17/06; 09/07/06; 09/21/06; 10/05/06**

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE  
MASSACHUSETTS DO ORDAIN AS FOLLOWS:**

**ORDERED:**

**SECTION 1**

**AFFORDABLE HOUSING OVERLAY DISTRICT**

**1. Purpose.** The purpose of this Section is to establish an overlay district(s), in which a special permit process is created to encourage privately initiated affordable housing by for-profit and not-for-profit organizations that authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide a percentage of affordable housing as defined in Section 9 herein.

**2. Definitions.**

Affordable Housing Development (AHD) – A development of single-family (detached), duplex (two family detached) and/or multi-family (three or more dwelling units per building) residential dwellings, including required Affordable Units, and permissible accessory structures authorized by special permit from the Planning Board as set forth herein for parcels located in the AHOD.

Affordable Unit - A dwelling unit reserved in perpetuity for ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in 760 CMR 45.03(4), in order that such Affordable Units shall be included in the DHCD Subsidized Housing Inventory.

Applicant - The person or persons, including a corporation or other legal entity, who applies for approval of an Affordable Housing Development (AHD), hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed AHD, or have authority from the owner(s) to act for the owner (s) or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Building Height – Building height shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridge line.

Building story - The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Visitability – Shall mean that a residence has: a) no steps between the exterior walking surface and interior first floor level; b) at least one external door three (3) feet wide; c) all first floor passage doors at least 2 feet 8 inches wide; and d) at least one toilet room on first floor.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**3. Affordable Housing Overlay District.** The AHOD is an overlay district that may be superimposed on any parcel(s) in any zoning district. Where the AHOD authorizes uses not otherwise allowed in the underlying district, the provisions of the AHOD shall control.

**4. Location.** The AHOD is to be shown on the Official Zoning Map of the Town of Barnstable.

**5. Concept Plan.** Prior to the rezoning of any property for inclusion in the AHOD, and as part of the petition for such rezoning, a schematic plan, called for purposes of this Section, a "Concept Plan", shall be filed by the applicant with the Planning Board for review at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Board. The Planning Board and the Barnstable Housing Committee shall hold a joint public meeting on the Concept Plan. The Concept Plan shall be consistent with the provisions of this AHOD ordinance and the town of Barnstable Affordable Housing Plan. In deliberation on approval of a Concept Plan, the Planning Board shall give consideration to the Town of Barnstable Village Plans as appended to the Town of Barnstable Local Comprehensive Plan.

The Concept Plan shall include:

- A. A schematic site development plan showing in general, the location of all proposed buildings, general site grading, parking, landscaping, roads, walkways and access ways, open space, wetlands, lighting and signage;
- B. A general breakdown of building types, i.e. single family, two family, multi family (and number of bedrooms in each building type);
- C. A schematic subdivision plan(s), if applicable;
- D. The proposed level of affordability;
- E. Specific floor plans, building plans or other detailed construction documents are **not** required at the Concept Plan stage.

The Barnstable Planning Board and the Barnstable Housing Committee will notify the public of the time and date of the public meeting on the Concept Plan. Thereafter, the Barnstable Planning Board shall determine that (i) the Concept Plan has been approved; or (ii) the Concept Plan has been approved subject to modifications; or (iii) the Concept Plan has been disapproved. If the Barnstable Planning Board disapproves the Concept Plan, it shall provide to the applicant, in writing, the reasons for such disapproval. The determination of the Barnstable Planning Board on the Concept Plan shall be the basis for a recommendation to the Town Council for the rezoning petition.

**6. Map Amendment.** In order for approval of an AHD, the applicant must file a petition for the amendment of the Town of Barnstable Zoning Map for inclusion of the subject parcel(s) within the AHOD.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**7. Application for Special Permit in AHOD.** After successful re-zoning of an AHOD, an application for a special permit for an AHD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the following:

- A) Information pertaining to any association which the Applicant proposes to form for the private management of the AHD;
- B) Drawings showing floor plans, elevations, and sections as required to fully describe the proposed project;
- C) If a subdivision is proposed, then all documents as required for the subdivision, if any, shall be reviewed during the Special Permit process;
- D) Copies of proposed deed restrictions and monitoring agreements, drafted consistent with all requirements of 760 CMR 45 Local Initiative Program (LIP) and guidelines promulgated there under assuring the affordable units remain affordable in perpetuity, and assure the resale of Affordable Units at the restricted price, and providing a right of first refusal in favor of the Town;
- E) Special permits in the AHOD are exempt from Site Plan Review.

**8. Standards.** In order to be eligible for consideration for a special permit, the proposal must contain parcels included in the AHOD and shall meet all of the following standards:

A) Compliance with Applicable Regulations and Standards:

- 1) In the case of a subdivision, all plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.

B) Bulk Regulations – For all lots and building within the AHOD the following Bulk Regulations shall apply as long as the Planning Board determines such bulk regulation is consistent with Section 10 herein:

Density:	as proposed by applicant
Lot area:	as proposed by applicant
Minimum Lot frontage:	40 feet
Property line and Road Layout setbacks:	as proposed by applicant
Maximum Building Height in feet/# of Stories:	40 feet/3 stories
Minimum building separation:	zero

C) Parking - A minimum of two (2) on-site parking spaces per dwelling unit shall be provided.

D) Building Permit Cap - An applicant proposing an AHD under this Section shall be exempt from the terms and conditions of Article XI Growth Management, Section 240-114 Rate of Residential Development.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

E) Visitability – The applicant shall provide visitability for all or some of the dwelling units, if feasible.

**9. Affordable Units.** At least forty percent (40%) of the dwelling units shall be Affordable Units, subject to the following conditions:

A) The Affordable Unit(s) shall be affordable in perpetuity. A Deed Rider shall assure this condition. The Deed Rider shall be structured to survive any and all foreclosures;

B) The continuing enforcement of the Deed Rider through subsequent resale of the Affordable Units shall be the subject of a Monitoring Agreement;

C) The Deed Rider and the Monitoring Agreement shall be drafted in compliance with 760 CMR 45.00 Local Initiative Program and guidelines promulgated there under. The Deed Rider and the Monitoring Agreement shall be subject to review and approval by the Barnstable Housing Committee and approved as to form by Town Attorney prior to the issuance of a certificate of occupancy for any dwelling unit;

D) The Affordable Unit(s) shall conform to the standards of the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory;

E) A right of first refusal for such Affordable Unit(s) shall be granted to the Town or its designee for a period not less than 120 days after notice thereof;

F) The Affordable Unit(s) shall not be segregated within the AHD. The Affordable Unit(s) shall satisfy the design and construction standards of the Local Initiative Program, 760 CMR 45.00, with regard to distinguishability from market rate units. It is the intent of this ordinance that the Affordable Unit(s) shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units;

G) The Affordable Unit(s) shall be constructed, and occupancy permits issued at the rate of two (2) Affordable Units for every three (3) market rate units;

H) In computing the number of required Affordable Units, any fraction of a unit shall be rounded up and the result shall be the number of Affordable Units to be built within the AHD and not off site.

**10. Decision.** The Planning Board may grant a special permit for an AHD where it makes the following findings:

A) The proposed AHD complies with all applicable Subdivision Rules and Regulations, the Zoning Ordinances and the requirements of this section except as they may be waived by the Board;

B) The proposed AHD provides Affordable Units consistent with the requirements set forth herein;

C) The proposed AHD does not cause substantial detriment to the neighborhood.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**11. Expiration.** The provisions of this ordinance shall expire on XXXX XX, 200? (date 18 months hence). Any application for an affordable housing development duly filed prior to the above date may continue through the process for final determination by the Town Council for an AHOD and the Planning Board for a special permit.

Upon the expiration of this ordinance, the Planning Board shall report to the Town Council a recapitulation of applications received under this ordinance stating the final disposition of all applications including units created, both market rate and affordable.

After review of the Planning Board report, the Town Council shall reconsider extension of this ordinance after a duly publicized hearing.

**SPONSORS:** Councilor Ann Canedy and Councilor Leah Curtis upon recommendation of the Planning Board and the Housing Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
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_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2006-147**

**INTRO.: 06/15/06; 07/20/06; 08/17/06; 09/07/06; 09/21/06; 10/05/06**

**TO:** Town Council  
**FROM:** Thomas A. Broadrick, AICP, Director of Regulatory Review, Growth Management  
**DATE:** June 15, 2006  
**SUBJECT:** Zoning Ordinance amendment adding new Section 240-40.2 Affordable Housing Overlay District

**BACKGROUND:** A new Section 240-40.2 will establish an overlay district(s) in which a special permit process is created to encourage privately initiated affordable housing by for-profit and not-for-profit organizations which provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types; and authorizes an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide housing for persons of low or moderate income.

This agenda item was first referred to the Planning Board and Housing Committee by the Town Council July 14, 2005 for review. The Planning Board's Subcommittee on Zoning along with the Barnstable Housing Committee met numerous times since then and after several drafting and redrafting sessions produced the Proposed Text dated xx/xx/xx. Both the Planning Board and Housing Committee endorse the AHOD.

**ANALYSIS:** Opportunities exist for developing Chapter 40B housing using the Massachusetts General Laws but the ability of local government to provide alternative programs continues to be key in providing both affordable and workforce housing. The Town of Barnstable is unique with its amnesty and family apartment program, its inclusionary affordable housing general ordinance, and commitment to providing more affordable housing opportunities. The affordable housing overlay district allows development of additional affordable single-family, two-family, and multi-family housing after *significant* public input through the Concept Plan public meeting with the Planning Board; AHOD zoning joint public hearing with the Town Council and Planning Board; and finally through the Special Permit public hearing process again with the Planning Board leading to locally supported affordable development.

Attempts were made to address specific Council concerns. The proposed ordinance amendment now refers to creation of affordable housing compatible with the LCP and the Village plans. Moreover, the amendment includes a "sunset clause" which mandates a Council review after 18 months. At that time, the Planning Board with input from the Housing Committees will prepare a status report. The Council then can vote to continue, repeal or amend.

**FISCAL IMPACT:** Creating affordable housing units along with market rate housing means more request for government services but also provides for additional property tax revenue and more importantly provides home ownership to the workforce who are unable to secure housing, thus allowing them to remain in the community. The existence of affordable housing also potentially encourages smart business growth in the community, as well as supports existing business.

**BOARD/COMMITTEE/STAFF ASSISTANCE:** Planning Board Subcommittee on Zoning, Steve Shuman, Subcommittee Chair along with members of the Subcommittee; and Barnstable Housing Committee Chair Laura Shufelt along with members of the Housing Committee; and Ruth Weil, Director of GMD and Beth Dillen, GMD Special Projects Coordinator.



**A. OLD BUSINESS (SECOND READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-017 APPOINTMENTS**

**INTRO.: 09/21/06; 10/05/06**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**BOARD OF HEALTH APPOINTMENT:**

Amy Wallace, 89 Santuit-Newtown Road, Marstons Mills, MA 02648, term expires 06/30/2009

**COUNCIL ON AGING APPOINTMENTS:**

Bridget T. Burke, 98 Brant Way, Hyannis, MA 02601, term expires 06/30/2009

Robert M. Burke, 98 Brant Way, Hyannis, MA 02601, term expires 06/30/2009

Charlotte E. Saunders, 635 Lumbert Mill Road, Centerville, MA 02632, term expires 06/30/2009

**HOUSING COMMITTEE APPOINTMENT:**

Daniel Pulit, 65 Camp Opechee Road, Centerville, MA 02632, term expires 06/30/2009

**PERSONNEL ADVISORY BOARD APPOINTMENT:**

Susan Partridge, 80 Holder Lane, West Barnstable, MA 02668, term expires 06/30/2009

**PERSONNEL ADVISORY BOARD REAPPOINTMENT:**

Robert O'Brien, 41 Deacon Court, Barnstable, MA 02668, term expires 06/30/2009

**ZONING BOARD OF APPEALS (ALTERNATE) REAPPOINTMENT:**

Sheila Geiler, PO Box 771, Hyannis, MA 02601, term expires 06/30/2009

**SPONSORS:** Appointments Committee

**DATE**

**ACTION TAKEN**

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**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-030 COUNCIL REVIEW COMMITTEE TO STUDY AND REPORT ON SIZE,  
MAKE-UP AND POWERS AND DUTIES OF TOWN COUNCIL  
INTRO.: 10/05/06**

**ORDERED:** that the President of the Barnstable Town Council shall appoint a committee of no less than nine (9) members to review the powers and duties of the town council, the make-up of the council with regard to total number of members and the electoral process as it relates to membership of the council; including all of Part II of the charter, as well as any other provision of the charter relating to the Town Council.

The above committee, following appointment by the President of the Town Council, shall commence its review no later than November 1, 2006, and shall report to the Town Council no later than January 30, 2007.

**SPONSOR:** Town Councilor James H. Crocker, Jr.

<b>DATE</b>	<b>ACTION TAKEN</b>
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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-030  
INTRO.: 10/05/06**

**TO:** Town Council  
**FROM:** Town Councilor James H. Crocker, Jr.  
**DATE:** September 25, 2006  
**SUBJECT:** Council Review Committee

**BACKGROUND/RATIONALE:** In less than four years two more council elections will take place and the 2010 federal decennial census will occur. Given the town of Barnstable's substantial population increase the size of the Council may increase to a number which may be greater than appropriate for an efficient and effective legislative policy making body. In fact, a previous Town Council, prior to completion of a prior census, approved a charter amendment reducing precinct representation in order to reduce an increase in Council membership.

The Council review committee as envisaged in Item 2007-030 may address the above impending calculation in addition to the scenario of the inclusion of at-large representation as a complement to consideration of village based representation. These and other issues contain within Part II of Town Charter relative to the legislative branch may be included in the study.

The above suggestions are mindful of our town's increased growth and complexity and respectful of the always present town versus village based obligations and/or allegiances.

**B. NEW BUSINESS (To Be Referred To Public Hearing October 19th)**

**BARNSTABLE TOWN COUNCIL**

**2007-031 COMMUNITY PRESERVATION FUND APPROPRIATION FOR  
HISTORIC RECORDS PRESERVATION  
INTRO.: 10/05/06**

**ORDERED:** That, pursuant to the provisions of G. L. c. 44B, the sum of Five thousand and No/100 (\$5,000.00) Dollars be appropriated and transferred from the amount set aside in the Community Preservation Fund on June 15, 2006 under agenda item number 2006-144 for historic resources; and that the Town Clerk is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager in order to deacidify and bind in order to preserve ancient Town records.

**SPONSOR:** Town Manager upon recommendation of the Community Preservation Committee

**DATE**

**ACTION TAKEN**

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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-031  
INTRO.: 10/05/06**

**TO:** Town Council  
**FROM:** Community Preservation Committee  
**DATE:** September 25, 2006  
**SUBJECT:** Rationale for the Deacidification and Binding ancient records

**BACKGROUND:** The Community Preservation Committee (CPC) met on May 16, 2006 and has recommended that the town support the modified funding request of \$5,000.00 from the Town Clerk to Deacidify and Bind Ancient records.

**RATIONALE:** The project goal is to deacidify approximately 100 books that include the history, vital records and other important documents of the Town of Barnstable. Preserving these books will help preserve the character and save these resources that are currently threatened by acidity. The said volumes would also be repaired and rebound if necessary. This project is vital to the Town's character. It is the Town's job to preserve that history for all times, for the use of historians and genealogists. If they are not preserved, the history will be jeopardized. The Town Clerk will return to ask for an amount not to exceed \$15,000.00 - \$20,000.00 toward this goal so that the project can be completed over a 4 or 5 year time frame. This project is part one of a two project series.

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-032 ADMINISTRATIVE CODE AMENDMENT CHANGING A PORTION OF  
THE COMPOSITION OF THE HYANNIS WATER BOARD  
INTRO.: 10/05/06**

**ORDERED:** That section 241-38.A(A), Hyannis Water Board, of the Administrative Code, Code of the Town of Barnstable, is hereby amended by striking the first clause of the second sentence and substituting the following as the first clause: “Two members of said Board will be owners of Hyannis business property served by the Hyannis Water System with at least one of these members being a resident of the area served by the Hyannis Water System,” said second sentence as amended to read as follows.

“Two members of said Board will be owners of Hyannis business property served by the Hyannis Water System with at least one of these members being a resident of the area served by the Hyannis Water System, and three members of said Board shall be residents of Hyannis in the area served by Hyannis Water.”

**SPONSOR:** Town Manager upon recommendation of the Hyannis Water Board

<b>DATE</b>	<b>ACTION TAKEN</b>
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_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-032  
INTRO.: 10/05/06**

**TO:** Town Council  
**FROM:** Town Manager John C. Klimm  
**DATE:** September 25, 2006  
**SUBJECT:**

**BACKGROUND:** The Town Council, at the request of the Town Manager, has approved the creation of the Hyannis Water Board. The Board, under the able leadership of Deb Krau, has worked diligently to assist our DPW staff in managing our Water Division.

**RATIONALE:** We are requesting that a change be approved in the makeup of the Board. This item is the result of a collaborative effort of the town administration, Hyannis Civic Association, Hyannis Area Chamber of Commerce and the Hyannis Business Improvement District to assist the Town Manager in assembling a highly effective and representative Water Board.

**B. NEW BUSINESS (MAY BE ACTED UPON)**

**BARNSTABLE TOWN COUNCIL**

**2007-033 TOWN OF BARNSTABLE GENERAL ORDINANCES TO CORRECT MINOR  
ERROR RE: COMPREHENSIVE OCCUPANCY AND RENTAL REGISTRATION  
ORDINANCE  
INTRO.: 10/05/06**

**ORDERED:** that

SECTION 1. The definition of bedroom contained in Section 59-2 of the General Ordinances is hereby amended by changing the designation of clause (d) to clause (c) and the designation of clause (e) to clause (d).

SECTION 2. The general ordinances are hereby amended to by deleting from Chapter 76-4 the fee for Chapter 170, Section 8, Rental Registration and inserting the fee in Chapter 76-6.

**SPONSOR:** Town Manager John C. Klimm

**DATE**

**ACTION TAKEN**

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**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-033  
INTRO.: 10/05/06**

**TO:** Town Council  
**FROM:** John C. Klimm, Town Manager  
**THROUGH:** Ruth Weil, Director, Growth Management Dept.  
**DATE:** September 25, 2006  
**SUBJECT:** General Ordinances Amendments - Comprehensive Occupancy and  
Amendments to Fee for Rental Registration Ordinance

**BACKGROUND:** In the original ordinances adopted by the Town Council on June 1, 2006 there were two minor errors that require correction. First, in section 59-2 of the General Ordinances, the Comprehensive Occupancy Ordinance, there was a lettering error in the definition of bedroom. An amendment has been submitted to re-configure the lettering of the clauses. In addition, the fee for the Rental Registration was originally placed in Section 76-4 of the Code with fees that are charged based on the Massachusetts General Laws. An amendment has been submitted to place this fee, more appropriately, in Section 76-6.

**FISCAL IMPACT:** None

**TOWN MANAGER RECOMMENDATIONS:** The Town manager recommends that the proposed amendments be adopted.