



Town of Barnstable Town Council

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TOWN COUNCIL MEETING AGENDA March 4, 2010 7:00 PM

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Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
 - **Airport Terminal Workshop**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING: March 18th

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B. NEW BUSINESS

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Minutes – February 25, 2010

Please Note:

It is possible that if it so votes, the Council may go into executive session.
The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Public hearing continued) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-062

INTRO: 12/03/09, 02/25/10, 03/04/10

2010-062 DCPC IMPLEMENTING REGULATIONS-CRAIGVILLE BEACH DISTRICT

ORDERED:

Preamble: This section is adopted as a zoning implementing regulation of the Craigville Beach portion of the Craigville Beach District of Critical Planning Concern (DCPC). Included in this order: **Section 1** amends the Zoning Map to create the Craigville Beach District; **Section 2** adopts the Craigville Beach District Implementing Regulations. **Section 3** incorporates the DCPC implementing regulations into the Town of Barnstable Zoning Ordinances upon approval by the Cape Cod Commission and **Section 4** adds the Centerville Beach District to the Town of Barnstable Ordinance Article II, § 240-5 Establishment of Districts, Residential Districts.

Section 1

Craigville Beach District Map

That the Zoning Map of the Town of Barnstable is hereby amended by rezoning portions of the RB, RC, RD and RD-1 zoning districts in Centerville and a small portion of western Hyannis to the Craigville Beach District as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Craigville Beach District" dated July 16, 2009 Index Sheets Hyannis Sheet 3 of 7 and Centerville Map 4 of 7 creating the Craigville Beach District".

Section 2

Craigville Beach District Implementing Regulations

That Chapter 240, The Zoning Ordinance is hereby amended by adding to Article XIV District of Critical Planning Concern Implementing Regulations a new § 240-131 adding Craigville Beach District Implementing Regulations as follows:

§240- 131 Authority

This section is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§240-131.1 Purposes and Intent

- A. The purpose and intent of this section is to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 08-06 to ensure that development and redevelopment:
- (1.) Contributes to and respects the character and historic development patterns of the area; lessens inconsistent development and redevelopment impacts to the historic and community character resources in this area;
 - (2.) Protects and preserves scenic views and vistas and ways to the water;
 - (3.) Protects and improves natural resources including but not limited to the barrier beach and groundwater and coastal water quality; lessen development and redevelopment impacts to the natural resources and ecosystems in this district;
 - (4.) Protects human life and property from the hazards of periodic flooding,
 - (5.) Preserves the natural flood control characteristics and the flood control function of the flood plain,
 - (6.) Preserves and maintains the ground water table and water recharge areas within the floodplain. As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately

landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection.

240-131.2 District Boundaries

A. The provisions of this ordinance shall apply within the Craigville Beach District (CBD), as shown on the Zoning Map of the Town of Barnstable as amended.

B. **Neighborhood Overlays.** For the purpose of this section the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Zoning Map and identified as: .

LBSB: Long Beach/Short Beach

CB: Craigville Beach

CRNB: Centerville River North Bank

CV: Craigville Village

§ 240-131.3 Definitions

Accessory Use or Building-- A use or structure which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal use or structure.

Base Flood Elevation (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Beach Club -- A membership establishment legally in existence at the time of the adoption of this ordinance, not open to the general public, located in close proximity to a beach and providing recreational and social activities, including food service, to members.

Building Coverage - The percentage of a lot covered by principal and accessory buildings or structures. For the purposes of this section, this definition does not include uncovered swimming pools and tennis courts, and decks not exceeding 100 square feet or 10 feet in length.

Building Height –The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys, flagpoles or other similar appurtenances as approved by the Building Commissioner.

Common Driveway – A form of access which is not a street but extends from a street and provides common vehicular access to more than one (1) lot. For the purposes of calculating Lot Coverage, the common driveway's Impervious Surfaces shall be equally allocated among the lots served and/or benefited by the common driveway in proportion to the sizes of the lots.

Conference Center – A non-profit religious and educational use legally in existence at the time of the adoption of this section comprised of guest houses and cottages, single family residences, recreational areas, lodging for guests, meeting spaces, and summer recreational opportunities.

Cottage Colony – A group of three or more detached dwellings, under one ownership, legally in existence at the time of the adoption of this section located on a single lot, which are customarily rented out to the transient public by day, week, month, or season and occupied on a seasonal basis only. Cottage colonies shall not be used year round. Cottage colony structures shall not exceed one and one-half stories and 800 s.f. GFA.

Elevated Structure - A structure elevated for the purpose of Barnstable Code, Section 240-34, Flood Area provisions whose lowest structural member is 1' above BFE in A zones and 2' above BFE in V zones.

FEMA – Federal Emergency Management Agency.

FEMA Flood Zones - Geographic areas susceptible to inundation by water that FEMA has mapped according to varying levels of flood risk, as defined and delineated on a community's Flood Insurance Rate Map as may be amended from time to time.

FIRM – Flood Insurance Rate Map.

Grade – The referenced plane of the average of all finished ground levels adjoining the building or structure for a distance of 6 feet from all exterior walls. Retaining walls for mounded septic systems mandated by the Board of Health are not included in the calculation of grade.

Gross Floor Area – The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of

walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

Half Story – That space above the plate line but below the ridgeline in an area commonly called the “attic space”, provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.

Impervious Surface A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, sidewalks, etc. Any area designed for vehicle use or vehicle parking covered with porous pavers, which may become impervious over time may, at the discretion of the Building Commissioner be considered impervious surface.

Lot Area – For the purpose of determining Maximum Building Coverage and Maximum Lot Coverage Allowances the lot area for legally created lots that are vacant or developed and/or improved as of November 6, 2009 shall be the horizontal area of the lot defined by metes and bounds. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year.

Lot Coverage - The percentage of a lot covered by Impervious Surfaces. For the purposes of this section, paved driveways and parking areas, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious shall be included in the definition of lot coverage.

Non-Profit Educational Use – An educational use conducted by a not for profit corporation whose articles of incorporation permit it to engage educational activities and “educational purposes” as its principal permitted use within the meaning of Massachusetts General Laws, Chapter 40A, sec. 3, including but not limited to libraries and museums.

Open Foundation: A pile or column foundation designed for structures in flood zones that minimizes the foundation area subject to lateral flood loads. Open foundations are intended to prevent flotation, collapse, and lateral movement of a building during a flood-event.

Religious Institution – An institution engaged in “religious purposes” within the meaning of Massachusetts General Laws, Chapter 40A, Section 3.

Seasonal Use – A use carried on for only a part of the year. Typical seasonal uses are outdoor recreational activities such as swimming and boating both motorized and non-motorized; impermanent use of cottages, motels, hotels, letting of rooms in a residential structure and letting an entire residential structure.

Seasonal Use Structure – Any structure designed or used as temporary seasonal living quarters that is not used as a primary, permanent residence. Seasonal use structures may have heat and other amenities but do not deposit wastewater into wastewater treatment systems on a regular year round basis and do not withdraw water for consumption or other activities on a regular year round basis.

Single Family Residence - A detached residential building designed for and occupied by a single family.

Small-Scale Food Service – An establishment legally in existence at the time of the adoption of this section where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

Special Permit Granting Authority (SPGA) - The Zoning Board of Appeals shall be the special permit granting authority within the Craigville Beach District.

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.

Structure- Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, sheds, swimming pools and towers, but shall exclude fences of 6 feet or less in height and flag poles.

Upland – All lands not defined herein as wetlands.

V (Velocity) Zone—The area extending from mean low water to the inland limit 100 year floodplain supporting waves greater than three (3) feet in height. V-zones are mapped on the FEMA FIRM.

Wetland – The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune, or other shifting sand formation.

Section 240-131.4 Craigville Beach District Use Regulations

Municipal uses are exempt from these regulations.

Principal Permitted Uses. See 240-131.7 (Neighborhood Overlay Regulations) herein.

A. Use Limitations

- (1.) Any use not expressly allowed herein is prohibited.
- (2.) The conversion of any building or structure from seasonal use to year round use is prohibited, except that Single Family Residences are not subject to this use limitation. The conversion of a building, or buildings, constituting a cottage colony, hotel, inn or rooming house, or of a facility required to be licensed as a recreational camp, overnight camp or cabin, or motel under S. 32A to I of Chapter 140 of the General Laws, to condominium-type ownership, shall be deemed to be a change in use from seasonal to year-round use, and is prohibited.
- (3.) Permitted business and retail uses shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than fourteen (14) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

B. Exempt Uses

- (1.) Religious institutions, accessory day care centers, and Non-Profit Educational uses are permitted as exempt uses within the Craigville Beach District. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the Craigville Beach District as set forth in Sections 240-131.1 Purposes and Intent, § 240-131.5 Dimensional, Bulk and Other Regulations, § 240-131.7 Neighborhood Overlay Regulations including General Performance Standards and applicable Neighborhood Performance Standards
- (2.) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use, provided however that the relief granted will not create a public safety hazard along adjacent roadways and will not adversely impact natural resources or create a nuisance or adverse impacts to other surrounding properties. A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

C. Continuation. Any lawfully established lot, structure or use existing at the time of the adoption of this section that does not conform to the provisions of the CBD shall be allowed to continue.

D. Change, Expansion or Alteration of Uses and Structures

Existing conforming or non-conforming uses and structures lawfully existing at the time of the adoption of this ordinance may continue subject to the following:

- (1) As of right
 - a) The normal and customary repair and maintenance of a building or structure and the conversion of existing floor area to habitable space is permitted as of right.
 - b) The alteration and expansion of a building or structure is permitted as of right provided that the alteration or expansion shall conform to following criteria:
 1. Conforms to applicable height requirements of § 240-131.5.
 2. Does not exceed the Coverage Limitations set forth in § 240-131.6
 3. Complies with applicable General and Neighborhood Performance Standards.
- (2) By Special Permit
 - (a) The alteration or expansion of an existing conforming or non-conforming lawfully established building or structure that does not qualify under the “as of right” provisions above shall be permitted only by a special permit from the SPGA. In granting such special permit, the SPGA shall find that the proposed alterations and/or expansions:
 - [1.] Are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure;
 - [2.] Comply with Section 240-131.1 Purposes and Intent and with the Performance Standards for the Neighborhood Overlay area in which the development is located, in

accordance with Section 240-131.7 Neighborhood District Overlay Regulations with the exception of the dimensional requirements of Section 240-131.7 D (1);

- [3.] Do not exceed 25% of the Gross Floor Area of structures in existence as of July 1, 1989 or 10% of the Gross Floor Area of structures in existence as of November 6, 2009.
- [4.] Do not increase Lot Coverage over what is allowed under § 240-131.6 Coverage Limitations or by more than 10% over what was existing on November 6, 2009, whichever is greater.
- [5.] Do not increase flood hazards in the neighborhood.
- [6.] Maintain or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with Section 240-131.5, note 4;
- [7.] In V-zones does not increase south facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of flood waters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way.

E. Special Permit for Dimensional Relief

The SPGA may provide relief from minimum yard setbacks when such relief ensures that the proposed development:

- (1) Is consistent with § 240-131.I Purposes and Intent;
- (2) Is consistent with the Performance Standards for the neighborhood district where the development is located in accordance with Section 240-131.7 Neighborhood Overlay Regulations; and
- (3) The applicant demonstrates undue hardship without desired relief.

F. Re-establishment of damaged or destroyed use, building or structure.

- (1.) The re-establishment of a lawfully established conforming or non-conforming use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:
 - a. The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade other than grades required for installation or upgrade of onsite septic systems; except that buildings in the flood plain that existed prior to November 6, 2009 may be elevated 2 feet above BFE or as required by the applicable law regardless of the resulting building height provided the building complied with building height regulations at the time of its construction.
 - b. If the building's location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations and with performance standards regarding building orientation.
 - c. The reconstruction or repair will not constitute an expansion or intensification of any use.
 - d. In the case of any use in which it would otherwise be required, the site plan review process has been followed.
 - e. Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction the design guidelines in this chapter do not apply.
- (2.) Any previously established use or structure which no longer complies with the provisions of the CBD shall be discontinued unless a building permit has been applied for within two years from the date of damage or destruction, and construction is continuously pursued to completion.

Voluntary Demolition and Reconstruction of Single Family Residences: Lawfully established Single Family Residences may be demolished and reconstructed in accordance with §240-131.4 G. This provision shall not be construed to supersede local, state or federal regulations pertaining to the demolition of historic structures.

240-131.5 Dimensional, Bulk, and Other Requirements: The following requirements apply to all development and redevelopment in the Craigville Beach Zoning District.

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Requirements	For all legally created vacant lots the frontage and area in existence as of November 6, 2009 and/or legally developed lots that were in existence as of November 6, 2009 and conformed to the existing zoning when legally created, the existing lot area, lot frontage, front, side and rear setbacks and building height dimensions may be used in lieu of the following dimensional requirements.			
Minimum Lot Area (s.f.)	87, 120	87, 120	87,120	87,120
Minimum Lot Frontage (feet)	75	100	125	125
Min. Front Yard Setback (feet)	15	20	20	20
Min. Side Yard Setback (feet) ⁴	10	15	15 ⁴	15
Min. Rear Yard Setback (feet)	10	15	15	15
Maximum Building Height ^{1,2,3}	30	26	30	30
Maximum number of stories ³	2	2	2	2
Maximum Building Coverage	See Section 240-131-6			
Maximum Lot Coverage	See Section 240-131-6			

Dimensional table notes:

- (1.) Maximum Building Height allowances vary depending upon the roof pitch of the structure, with gable roofs having a slope of 7/12 or greater allowed the maximum building height, hip and other sloped roofs with a slope of 4/12 or greater are allowed 5 feet less than the maximum building height, and flat roofs prohibited except on one-story additions totaling less than 300 square feet per parcel.
- (2.) Buildings in the flood plain that existed prior to November 6, 2009 may be elevated 2 feet above BFE or as required by the applicable law provided the building complied with building height regulations at the time of its construction.
- (3.) The second story must be set back at least 2 feet from the façade line of the floor below on two of the building's facades and the second story floor area shall not exceed 80% area of floor area immediately below it.
- (4.) In the Long Beach/Short Beach Neighborhood, to preserve and enhance views of Craigville Beach and the Centerville River, a view corridor shall be preserved using 20 feet of either side setback or, where side yard setbacks are less than 20 feet, the greater of either side yard setback existing on November 6, 2009. The view corridor shall remain free of view obstructing buildings, structures, site improvements or landscaping other than low growing plant material or existing natural vegetation for the entire depth of the property from the street to the river or beach.

240-131.6 Coverage Limitations: The following limitations apply to all development and redevelopment in the Craigville Beach Zoning District.

Lot Size	Maximum Building Coverage (footprint) Allowance	Maximum Lot Coverage Allowance
1,300-4,999 s.f.	1,100 s.f. plus 10.8% of lot area over 1,300 s.f.	50%
5,000-7,499	1,500 s.f. plus 6% of lot area over 5,000	50%, but no more than 3,200 s.f.
7,500-9,999	1,650 s.f. plus 6% of lot area over 7,500	3,200 s.f.
10,000-14,999	1,800 s.f. plus 4% of lot area over 10,000	3,300 s.f.
15,000-19,999	2,000 s.f. plus 6% of lot area over 15,000	3,400 s.f.
20,000-34,999	2,300 s.f. plus 4% of lot area over 20,000	3,600 s.f.
35,000-44,999	2,900 s.f. plus 4% of lot area over 35,000	3,600 s.f. or 10%, whichever is greater.
45,000 and above	3,300 s.f. plus 3% of lot area over 45,000	10%

Section 240-131.7 Neighborhood Overlay Regulations

A. Purpose: The Neighborhood Overlay regulations establish uses, dimensional requirements and design guidelines to **preserve** the distinctive character; allow continued use and enjoyment of properties and structures; make provisions for changes, expansions; protect and **preserve** scenic views and vistas; protect and improve natural resources; and to limit damage from periodic flood events for each neighborhood within the Craigville Beach District.

B. Historic and Community Character. These regulations will ensure that development and redevelopment in the CBD contributes to and does not detract from the historic character of the Craigville Beach area; that any proposed additions to historic structures shall be consistent with the historic structure and shall be consistent with the character of the surrounding neighborhood, including elements such as building height, mass and orientation; and preserves views and ways to the water from public spaces, streets and ways.

C. Applicability: Development and redevelopment shall be subject to the following additional requirements and regulations based upon the applicable Neighborhood Overlay.

D. General Performance Standards

- 1) The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it unless relief has been granted by the SPGA in accordance with Sections 240-131.4(E) and (F).
- 2) The development complies with the height limitations set forth herein.
- 3) Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials.
- 4) Stormwater management and erosion control for non-residential uses comply with best management practices through Low Impact Development or other adaptive management practice.
- 5) Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within.

E. Long Beach/Short Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

(3) Neighborhood Performance Standards All development and redevelopment shall meet the following standards:

- (a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.
- (b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. Any proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
- (c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
- (d.) **Transitional Provision** Any development that has obtained a hardship approval from the Cape Cod Commission for a building permit prior to the effective date of this section shall not be subject to these regulations for the development authorized by said hardship exemption.

F. Craigville Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Craigville Beach Neighborhood Overlay area subject to the performance standards listed below.

- (a.) Single Family Residence
- (b.) Small-scale food service
- (c.) Beach club
- (d.) Cottage colony
- (e.) Hotel or motel in existence as of July 16, 2008 that is lawfully established

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Craigville Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

(3) Neighborhood Performance Standards: All development and redevelopment shall meet the following standards:

- (a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited.
- (b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
- (c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water

loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) Beach Club Design Guidelines

Purpose: To maintain public views to the water and to maintain the neighborhood's existing character with small scale building masses and natural or traditional building materials.

- (a.) **Building Height and Massing:** New construction on Beach Club properties shall have modest massings to relate to the small scale of most structures in the beachfront neighborhood. Any structure with a footprint of 3000 square feet or more shall incorporate significant changes in massing to break up the facade, and should integrate one-story massings into the design to relate the building to the surrounding smaller structures.
- (b.) **Building Orientation:** Buildings shall be oriented with the narrow end facing the street and the water to maximize public views of the water across the site. New buildings or complexes should not extend over more than 150 feet of the lot frontage, and efforts should be made to limit the expansion of existing buildings.
- (c.) **Maintaining Views to Water:** Multiple buildings on one lot should be clustered close together to limit obstructed views of the water, or shall be separated from each other by 100 feet or more of road frontage to allow broad unobstructed views across the lot to the water.
- (d.) **Fences:** Fences shall be of open construction and low profile (such as split rail and low picket fencing) to maintain public views to the water. Fences over 3 feet in height should be limited to screening loading and delivery areas adjacent to buildings, or modest trash collection areas. Screening fences should not extend farther than necessary beyond the building footprint to maintain public views.
- (e.) **Building Materials:** Exterior building materials shall be those traditionally used in the region or other naturally weathering materials, such as wood shingle, wood clapboard, or board and batten siding.

G. Centerville River North Bank Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Centerville River North Bank Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Centerville River North Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

(3) Neighborhood Performance Standards: All development and redevelopment shall meet the following standards:

- (a.) Tree removal or vista pruning shall not interrupt the treeline as viewed from the south looking northward to the treeline.
- (b.) No land area designated as V-zone of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zone which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.
- (c.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
- (d.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without

causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

H. Craigville Village Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Craigville Village Neighborhood Overlay area subject to the performance standards listed below.

- (a) Single Family Residence
- (b) Conference Center

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Craigville Village Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

(3) Neighborhood Performance Standards: All development and redevelopment shall meet the following Design Guidelines:

Purpose: Most buildings in the Craigville Village Neighborhood date from the late 1800s and early 1900s when the neighborhood developed as a Christian Camp Meeting Association. The neighborhood is still defined by its historic structures and their configuration around a central green, small street grid, and communal paths.

(a.) Objectives:

- (1.) To preserve the character-defining features of the original camp meeting neighborhood including its small lots, modest scale structures, and orientation of buildings to public areas.
- (2.) To ensure that additions and alterations to structures are compatible with the existing scale and character of the building and preserve the original massing and unique architectural features of its historic buildings.

(b.) Application:

The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of this section, but shall apply to all new development, to any additions to existing structures, and to all reconstruction projects except as provided for in Section 240-131 (G)(1)(e).

(c.) Building Design. The guidelines shall apply to construction of new structures and expansions and alterations of existing structures.

- (1.) Preserve the original massing of historic structures (pre-1945):
- (2.) Additions should be attached to secondary or less prominent facades of the building (the side or rear facades), and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.
- (3.) Work with modest massings: Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline than the original structure to maintain the prominence of the original building, though some additions may be slightly taller than the original structure if attached to the original structure with a smaller connecting mass.
- (4.) Roof forms: The roof pitch on new construction and additions should complement the roof pitch of the original historic structure and should maintain a pitch of at least 6 over 12.
- (5.) Retain Original Architectural Details and Unique Forms: Additions should be placed so as to limit the removal of distinctive architectural trim and features that are unique to the building. Additions and alterations should not interfere with character-defining features such as open porches, steeply pitched roof forms, unique windows, and carpenter gothic trim along eaves and entries. Siding materials used on the original structure should be retained, though other regional siding materials may be appropriate on additions.

Section 240-131.8 Additional Provisions

A. Other regulations

The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7 Application of District Regulations; § 240-9.C & D; § 240-10 Prohibited Uses; § 240-34 Flood Area Provisions; § 240-43 Accessory Uses; § 240-46.A & B Home Occupations; Article VI Off Street Parking Sections 240-52, 240-53.B

through .E ; and Sign Regulations § 240-59 through 63; Article XI Growth Management Sections 240-110 through 122; Article IX Site Plan Review; Article XII Administration and Enforcement § 240-123 – 240-124; and § 240-125 C Special Permit Provisions as these provisions of the Barnstable Code cited in this section may be amended from time to time

B. Conflicts

Unless otherwise stated, the requirements of the Craigville Beach District shall apply to uses and structures within the Craigville Beach District. In the event of a conflict, these regulations shall apply.

C. Severability

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

Section 3

For the purposes of the Cape Cod Commission Act, the implementing regulations shall be deemed incorporated into the Zoning Ordinances of the Town of Barnstable upon the approval by the Cape Cod Commission.

Section 4

Amend the Town of Barnstable Zoning Ordinance § 240-5 Establishment of Districts by adding the CBD - Centerville Beach District to the list of Residential Districts

SPONSORS: Council President Frederick Chirigotis
Councilor Janet S. Joakim
Councilor Tom Rugo

BARNSTABLE TOWN COUNCIL

IMPLEMENTATION OF DCPC CRAIGVILLE BEACH DISTRICT

ITEM# 2010-062

INTRO: 12/03/09, 02/25/10, 03/04/10

SUMMARY

BACKGROUND: This is an amendment to the Zoning Ordinance that creates Section XIII District of Critical Planning Concern Regulations, Section 240-131 Craigville Beach District.

The Craigville Beach District of Critical Planning Concern was initially nominated in February of 2008 as an Ecological, Cultural, Historic, Architectural, Hazard, Waterfront Management and Wastewater Management District. This DCPC process was initiated at the request of Centerville residents. On September 3, 2009 final Town Council vote on the adoption of these regulations was deferred. To avoid lapse of the DCPC Town Council voted to re-nominate the DCPC. The regulations presented in this order are the same regulation considered on September 3rd. Dates have been changes to reflect the re-nomination and a definition of ‘structure’, omitted from the previous order has been added. Adoption of these implementing regulations will allow the regulation desired by local residents to ensure that this coastal area will retain its character for residents, visitors and second home owners and will also implement a more predictable permitting environment.

The Town through the Town Attorney’s Office and the Growth Management Department organized and partnered with an Advisory Group representing stakeholders in the Beach DCPC. Attorneys Eliza Cox, Michael Scott, Barry Weiner, Sarah Alger, William Ryckman – and at the outset Patrick M. Butler - represented property owners; Roy Richardson and Meg Loughran, represented the Centerville Village Association; Lindsey Counsell, Three Bays; Steve Brown, Red Lily Pond Association; Dr. Wayne Miller, Board of Health; Town Attorney Ruth Weil and Interim Director of Growth Management Jo Anne Miller Buntich along with former Interim Director Patty Daley worked with this group. Over the last several months Planning Board members Ray Lang and Paul Curley sat with the group as the ordinance was drafted. This group has met several times a month since October 2008.

ANALYSIS: Adoption of this regulation will create the Craigville Beach District by rezoning portions of the existing RC, RD and RD-1 districts.

RATIONALE: These regulations respond to and support the purposes of the District of Critical Planning Concern which included protecting community, historic and architectural character which is accomplished through use regulations, dimensional regulations and design guidelines. Natural resources and flood protection are supported through performance standards tailored to each neighborhood.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-068

INTRO: 01/07/10, 03/04/10

2010-068 AMEND ZONING ORDINANCES:-BUSINESS DISTRICT REGULATIONS IN BARNSTABLE VILLAGE

ORDERED, that:

Section 1.

The Zoning Ordinance, Article III District Regulations § 240-24 VB-A and VB-B Business District is hereby amended as follows:

By deleting the words “Special permit uses (reserved for future use)” from Subsection E.

And by adding the following to Subsection E:

The following use limitations shall apply within the Barnstable Village VB-A only.

Use Limitations: Permitted retail establishment, lodging establishment, restaurant, or take out food establishment shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than eight (8) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

Corporate Branding Prohibition: Buildings, colors, signage, architectural features, text, symbols, graphics, other attention getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. All structures and sites shall be designed to include architectural and design elements that are consistent with the Barnstable Village VB-B architectural composition, character, and historic context.

Section 2

The Zoning Ordinance, Article III District Regulations § 240-23 MB-B Business District is hereby amended as follows:

By Re-enumerating existing subsection E to subsection G

And by adding the following to Subsection E:

The following use limitations shall apply within the MB-B only.

Use Limitations: Permitted retail establishment, lodging establishment, restaurant, or take out food establishment shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than eight (8) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

Corporate Branding Prohibition: Buildings, colors, signage, architectural features, text, symbols, graphics, other attention getting devices and landscape elements that are trademarked, branded or designed to identify with a particular formula business chain or corporation are prohibited. Interior corporate branding elements shall not be visible to the street through windows, doors or any other means. All structures and sites shall be designed to include architectural and design elements that are consistent with the Barnstable Village VB-B architectural composition, character, and historic context.

SPONSOR: Councilor Ann Canedy

BARNSTABLE TOWN COUNCIL

ITEM# 2010-068
INTRO: 01/07/10, 03/04/10

SUMMARY

TO: Town Council
FROM: Planning Board
THROUGH: Jo Anne Miller Buntich
DATE: December 7, 2009 & February 3, 2010

This zoning ordinance request arises out of a direct request from the Barnstable Village Business Association who sought the Town of Barnstable's management's help in crafting the ordinance. . The Village has been especially hard hit in recent months due to a combination of the poor economy and failed bulkhead and subsequent reduced use of Barnstable harbor.

The zoning ordinance has been vetted at Barnstable Village Sessions this spring, summer and fall. The Business District was considered, along with the Harbor area, to be a "threatened" resource.

There are a number of empty storefronts at the present time and the Barnstable Village Business Association and Barnstable Village Civic Associations believe that the village character is vulnerable to chain and formula corporations.

This zoning ordinance is modeled after the Centerville Village formula and corporate business prohibitions approved by the Barnstable Planning Board and Barnstable Town Council. The text of the zoning ordinance that is the subject of this Agenda items has been approved by the Planning Board subcommittee and it is requested that it be referred to the Planning Board for review, public hearing and recommendation to the Council.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-069

INTRO: 01/07/10, 03/04/10

2010-069 AMEND ZONING ORDINANCE, ARTICLE III DISTRICT REGULATIONS §240-24.1.6, OM OFFICE/MULTIFAMILY RESIDENTIAL DISTRICT SECTION A

ORDERED, that:

Section 1 That the Zoning Ordinance, Article III. District Regulations § 240-24.1.6. OM Office/Multifamily Residential District Section A. Permitted uses, is hereby amended as follows:

By adding the following to § 240-24.1.6 OM Office/Multifamily Residential District. § A. Permitted Uses,(1) Permitted Principal Uses

(j.) Office, dental or medical

Section 2 That the Zoning Ordinance, Article III. Definitions Applicable to the Hyannis Village Zoning Districts, §240-24-1.12 is hereby amended as follows:

By adding the following Definition

OFFICE, DENTAL OR MEDICAL — A building or portion of a building in which the primary use is the provision of health care services to patients or clients by an appointment only. Appointments limited to the hours between 7 AM to 7 PM Monday through Friday and Saturday from 7 AM to 1 PM. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, related medical services, or a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services. The sale of merchandise is allowed only as an accessory use.

Section 3 That the Zoning Ordinance, Article III. Definitions, Definitions Applicable to the Hyannis Village Zoning Districts, §240-24-1.12, **CLINIC, MEDICAL OR DENTAL** is hereby amended as follows:

Delete the sentence: “No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances.”

SPONSOR: Councilor Debra Dagwan

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2010-069
INTRO: 01/07/10, 03/04/10

TO: Town Council
FROM: Planning Board
THROUGH: Jo Anne Miller Buntich
DATE: December 7, 2009 & February 3, 2010

BACKGROUND: This amendment to the Zoning Ordinance will permit medical and dental office use in the OM Office/Multifamily Residential District.

RATIONALE: These regulations respond to and support the request of Stuart Bornstein, whose entities own several office buildings in the OM Office/Multifamily Residential District. Mr. Bornstein has stated that he has lost many tenants in his buildings located at 259 North Street, Village Market Place (Stevens Street), and One Financial Place (297 Stevens Street) due to the change in zoning which removed medical and dental use as a permitted principal use. These buildings were built in the 1980's and were designed, at great extra expense, to be used, in part, as medical offices. Now, due the change in zoning, even when an existing doctor tenant retires, the new tenant for the same space has to re-apply for a special permit, and they don't want to spend the time nor money to go through that process. As a result, a good portion of these buildings are vacant, and currently un-rentable due to the medical office configuration. Mr. Bornstein and his staff have showed vacant offices in these buildings to several prospective doctor and dentist tenants who expressed interest in the premises, due to the location being close to Cape Cod Hospital, plenty of parking, etc., but broke off their lease negotiations when informed that they had to apply for a special permit. Therefore, there exist many vacancies in these buildings, while there is still a need for medical and dental offices in the Hyannis Village Zoning District. Mr. Bornstein contends that the change in zoning was not intended to prohibit medical and dental office use, but just to prohibit walk-in clinics.

In summary, this amendment is needed in order to permit medical and dental as primary use in the OM Office/Multifamily Residential District, for providing health care services to patients or clients by appointment only during the hours set forth above. Specifically excluded would be in-patient or overnight care, animal hospitals, veterinarians, or other similar services.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-070

INTRO: 1/07/10, 03/04/10

2010-070 AMEND ZONING ORDINANCE-CHAPTER 240, ARTICLE II, ZONING MAP OF THE TOWN OF BARNSTABLE

ORDERED:

That Chapter 240, Article II of the Zoning Ordinance is hereby amended as follows:

By amending the official zoning map of the Town of Barnstable titled “ZONING MAP OF THE TOWN OF BARNSTABLE, MA,” and “ZONING MAP OF THE TOWN OF BARNSTABLE, MA Sheet No 4 of 7, Centerville, adopted September 1, 1998 as amended to July 16, 2009, by expanding the HB, Highway Business Zoning District as it abuts Iyannough Road (Route 132) in Centerville, rezoning from Residence D-1 to Highway Business the first 300-feet of Assessor’s Map 253, Parcel 019 as it abuts Iyannough Road (Route 132). This proposed expansion of the Highway Business Zoning District is shown on a maps entitled “Proposed Amendment to the Town Zoning Map expanding the Highway Business District; Proposed Amendment to the Town Zoning Map expanding the Highway Business District - Barnstable – Sheet 1 of 7; Proposed Amendment to the Town Zoning Map expanding the Highway Business District - Hyannis Sheet 3 of 7; Proposed Amendment to the Town Zoning Map expanding the Highway Business District - Centerville Sheet 4 of 7 ” all dated December 17, 2009 as prepared by the Town of Barnstable GIS Unit.

SPONSOR: Councilor Thomas R. Rugo and Council Vice President James H. Crocker, Jr.

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-070

INTRO: 01/07/10, 03/04/10

SUMMARY

TO: Town Council
FROM: Planning Board
THROUGH: Councilor Thomas R. Rugo and Council Vice President James H. Crocker, Jr.
DATE: December 7, 2009 and February 3, 2010

BACKGROUND: This is an amendment to the Zoning Map that extends the HB (“Highway Business”) Business District (as described in Section 240-25 of the Zoning Ordinance) to an additional portion of property towards the western end of Route 132 (Iyannough Road). The District presently includes the Route 132 corridor from the Airport Rotary to the parcel identified as Assessors Map 253, Parcel 016, located at 1555 Iyannough Road, Hyannis (the Highway Business District extends from Route 132 to the first 300 feet of the lot, as with the other lots within this District). The amendment would extend the District to the first 300 feet from Route 132 of the abutting parcel identified as Assessors Map 253, Parcels 019/B00 and 019/T00, located at 1575 Iyannough Road, Hyannis, owned by Floyd J. Silvia, Trustee of 60 North Street Realty Trust. This lot is presently in a Residence D-1 Zoning District. Located and operated on this parcel is the “Rose Lodge,” which is a rooming house that has been there for approximately 21 years. The owner of the parcel has explored alternate uses of the site with the Planning Department and the Town Manager, including a possible affordable housing development under Chapter 40B. The Town’s Planning Department and Manager have indicated that they do not believe the site is appropriate for further residential development. The change to “highway business” use under Section 240-25 would allow for office development that is compatible with the other buildings on Iyannough Road, and though the parcel is presently zoned residential, there are no other residential uses in the area. The Town of Barnstable owns the abutting vacant parcel of land at 1585 Iyannough Road.

ANAYLSIS: Adoption of the amendment will simply change the zoning map to extend the HB Business District by adding the parcel at 1575 Iyannough Road to the District. No changes to the HB Business District regulations, Section 240-25, are being proposed.

RATIONALE: Adoption of the amendment would be consistent with the recent improvements in this section of the Route 132 corridor. Many of the older, fairly run-down motels have been demolished and improved with new high quality commercial retail and office buildings. The adjacent parcel to the southeast, at 1555 Iyannough Road, has received Special Permits from the Zoning Board of Appeals for an office and bank development. Especially with the recent completion of the widening of Route 132, the parcel in question is not a desirable location for residential development. Additional business development under the Section 240-25 regulations, on the other hand, would provide compatible uses which would both enhance this gateway to Hyannis aesthetically and provide “new growth opportunities” and a larger tax base for the Town. Approval of the zoning map amendment would promote the Town’s planning objectives and the public welfare.

A. OLD BUSINESS (Public hearing continued) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-071

INTRO: 01/07/10, 01/21/10, 02/04/10, 03/04/10

2010-071 AMENDING CHAPTER 76 OF THE GENERAL CODE - SCHEDULE OF FEES

ORDERED, that Chapter 76 of the General Code of the Town of Barnstable is hereby amended by deleting three Chapter 76 sections, and replacing them with the following amended sections.

Chapter 76 of the General Code:

- 76-3 Weights and Measures annual fees (MGL C.98§56)
- 76-4 Licensing
- 76-6 Building

§ 76-3. Weights and Measures annual fees (MGL C. 98, § 56)

Description	Fees Per Device	
	<u>1 – 3</u>	<u>4 or more</u>
Scale with capacity over 10,000 lbs.	\$250	\$225
Scale with capacity 5,000-10,000 lbs.	\$135	\$110
Scale with capacity 100-5,000 lbs.	\$ 80	\$ 70
Scale with capacity less than 100 lbs.	\$ 50	\$ 45
Weights (each)	\$ 8	\$ 6
Liquid measures	\$ 30	\$ 30
Liquid measure meters	-----	-----
Lubricant meters	\$ 50	\$ 45
Motor fuel meters	\$ 50	\$ 45
Vehicle tank meters	\$110	\$100
Vehicle tank meter gravity	\$175	\$150
Bulk storage tank meter	\$175	\$150
Mechanical pumps, each stop	\$ 10	\$ 10
Taxi meters (semi-annually)	\$ 55	\$ 50
Commercial odometer – hubodometer	\$ 55	\$ 50
Leather measure	\$175	\$150
Dry measure, one bushel or less	\$ 85	\$ 85
Dry measure, more than one bushel	\$120	\$120
All other measuring devices	\$125	\$125
Rope, wire or chain measuring devices	\$ 25	\$ 20
Reinspection fee (after official rejection)	\$ 95	\$ 95
Reverse Vending Machines		
Bottle and Can redemption Inspection		
Disposable Test Material Supplied by Inspector	\$25.00	\$20
Disposable Test Material supplied by Store	\$15.00	\$10
Automatic Electronic Check-Out Systems		
3 or less cash registers (per inspection)	\$85.00	N/A
4-11 cash registers (per inspection)	\$170.00	N/A
12 or more cash registers (per inspection)	\$280.00	N/A

2010-071 (Continued)

§ 76-4. Miscellaneous licenses and permits [Amended 6-1-2006 by Order No. 2006-128]

MGL C./Section	Description	Fees
101, § 33	Temporary license to sell for charitable purposes	\$ 10
138, § 30A	License for pharmacist to sell alcoholic beverages	\$2,000
140, § 2	Licenses for inns and restaurants	\$ 100
140, § 21B	License to serve nonalcoholic beverages	\$ 100
140, § 32B	License for mobile home parks	\$ 50
140, § 32B	License for motels	\$ 50
140, § 34	License for lodging house	\$ 50
140, § 49	License for vehicle for sale of food	\$ 250
140, § 56A	License for shooting gallery	\$ 100
140, § 59	Auto dealer license	\$ 150
140, § 177A	License for automatic amusement devices	\$ 100
140, § 183A	Entertainment annual	\$ 250
140, § 183A	Entertainment daily	\$ 25
140, § 1851	License for fortune tellers	\$ 250
140, § 192	License for rental boats (freshwater)	\$ 100
	License to store hazardous materials	\$ 100
	Septic system inspection filing	\$ 25
	Board of Health request for variance	\$ 85
	Application fee – licenses and permits	\$ 100

§ 76-6. Building, sign, wiring, plumbing and gas permit fees.

Building Permits

Description	Fees
Residential (R03, R-4 Use Groups)	
New Buildings	
Application fee	\$100
Permit fee	\$5.10 per \$1,000 of construction value
Additions, alterations/renovations	
Application fee	\$50
Permit fee	\$5.10 per \$1,000 of construction value \$35 minimum
Commercial and all other use groups	
New Buildings	
Application fee	\$150
Permit fee	\$9.10 per \$1,000 of construction value
Additions, alterations/renovations	
Application fee	\$100
Permit fee	\$9.10 per \$1,000 of construction value; \$60 minimum
Permit fee for all other structures (not specified)	\$9.10 per \$1,000 based on actual value; \$100 minimum

Plumbing Permits

Description	Fees
Residential, per unit	\$ 40/first fixture plus \$12 each additional fixture
Commercial, per unit	\$ 60/first fixture plus \$15 each additional fixture

Gas Permits

Description	Fees
Residential, per unit	\$ 40/first fixture plus \$12 each additional fixture
Commercial, per unit	\$ 60/first fixture plus \$15 each additional fixture

2010-071 (Continued)

Electrical Permits

Description	Fees
Residential	
New construction per unit	\$150
Additions/renovations	
Less than 500 SF	\$ 30
Greater than 500 – 1,500 SF	\$ 50
Greater than 1,500 SF	\$100
Minor alterations/appliances	\$ 30
Change of service/meter	\$ 30
Accessory structures (garage,barn,etc., excluding separate meter)	\$ 30
Temporary service	\$ 30
Meters per unit	\$ 30
Smoke detectors/alarms	\$ 30
Commercial	
New construction per unit	\$200+\$25 per 1,000 SF greater than 4,000 SF
Additions/renovation	
Less than 1,000 SF	\$ 75
Greater than 1,000-2,500 SF	\$100
Greater than 2,500 SF	\$150 + \$25 per 1,000 SF greater than 4,000 SF
Minor alterations/appliances, etc.	\$ 30
Change of service/meter	\$ 40
Temporary service	\$ 30
Signs	\$ 30
Carnivals/fairs	
1-10 concessions/rides	\$ 50
10 concessions/rides	\$ 100

Signs

Description	Fees
Under 25 SF	\$ 50
Over 25-50 SF	\$ 75
Over 50-75 SF	\$150
Over 75 SF	\$200

Miscellaneous Permits and Fees

Description	Fees
Accessory building: all use groups	
Greater than 120 SF – 500 SF	\$ 35
Greater than 500 SF – 750 SF	\$ 50
Greater than 750 SF – 1,000 SF	\$ 75
Greater than 1,000 SF – 1,500 SF	\$100
Greater than 1,500 SF	Same as new building permit based on actual cost
Change of permit holder	\$ 35
Pre-building code structure, certificate of occupancy	\$ 75
Change of use permit (no construction)	\$ 25
Foundation permit (separate from building permit for cause only)	\$ 35
Zoning compliance certificate (lots/existing uses/structures)	\$ 50 minimum + research time
Reinspections (for work not ready for inspection, incomplete work or failure of inspectors to gain access to premises)	\$100
Removal of stop-work order	\$ 50
Replacement of lost permit inspection cards	\$ 50
Chimney/fireplace (new and reconstruction)	\$ 35
Certificates of inspection	\$10 increase CMR 780 Table 106 \$ 50 minimum
Permit renewals	
First renewal	\$ 50
Second renewal (for cause only)	\$ 75
Inground swimming pools	\$125
Aboveground swimming pools	\$ 75
Decks, open porch	\$ 60
Relocation/moving (includes new foundation)	\$250
Demolition	
Residential principal buildings (\$4.10 per \$1,000 of construction value)	Minimum \$125; (\$5.10 per \$1,000 of construction value)
Accessory buildings	\$ 50
Commercial buildings (\$8.10 per \$1,000 of construction value)	(\$9.10 per \$1,000 of construction value)
Home occupation (no construction)	\$ 35

Miscellaneous Permits and Fees (Continued)

Description	Fees
Pre-permit plan review (one and two family)	\$..75
Temporary residential certificate of occupancy (for cause only)	\$ 75
Residential certificate of occupancy	\$ 25
Temporary commercial certificate of occupancy (for cause only)	\$ 75
Commercial certificate of occupancy	\$ 75
Pre-permit plan fees	\$100
Site plan (fees)	
Project construction cost under \$5,000	\$100
\$5,000 - \$14,999	\$200
\$15,000 - \$49,999	\$250
\$50,000 - \$249,999	\$350
\$250,000 or more	\$500
Permit related to work begun prior to time allowed for acquiring permits under Building, Electrical, Plumbing and Gas Code	Two times permit cost

[Added 10-19-2006 by Order No. 2007-033]

Express Permits

Description	Fees
Minimum	\$ 35
Residing/reroofing (residential)	\$5.10 per \$1,000 of construction value
Wood/coal stoves	\$ 35
Replacement windows	\$ 35
Sheds under 120 SF	\$ 35
Others (as determined by inspector)	\$ 35

Tents (See § 240-9D of Ch. 240, Zoning)

Description	Fees
Residential	\$ 25
Fund raiser/special event/nonprofit agency	\$ 25
Commercial (temporary accessory structure)	\$100
Organized and supervised recreational camp (special permit required)	\$ 50

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2010-071

INTRO: 01/07/10, 01/21/10, 02/04/10, 03/04/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Thomas F. Geiler, Director Regulatory Services Department
DATE: November 6, 2009
SUBJECT: Fee Schedule Change

BACKGROUND: Chapter 76 of the General Code of the Town of Barnstable contains the schedule of fees established by the Town Council. The fees contained therein are primarily fees for licenses or permits associated with commercial or business activities. The council has maintained a policy of 100% cost of service recovery rate for several years.

ANALYSIS: Changes in laws and regulations as well as changes in technology affect the procedures and policies governing the licensing and inspection process. This revision is an attempt to bring the fees closer to achieving the council goal of 100% cost recovery. In some cases, this is not possible. Some permits carry state imposed maximums that prevent the town from achieving 100% cost recovery. This proposal identifies fees that no longer reflect 100% cost recovery and adjusts the fees to remove discrepancies. The average annual percentage increase is 2.8%.

FISCAL IMPACT: It is anticipated that adoption of this amended fee schedule would have a positive impact on the town's financial position. Failure to adopt the amended schedule will result in reduced revenue in FY 12. Reduced revenue will require the town reduce expenditures to balance the budget. Reduced revenues will almost certainly result in reduced services. Reduced services may result in additional lost revenue from fees associated with the reduced services.

Our goal is to continue to increase our efficiency and effectiveness. We cannot do that without appropriate resources. Fees for service are an important resource.

See current fee/proposed fee comparison chart attached –

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of this order.

STAFF ASSISTANCE:

Tracey Smith, Administrative Assistant, Consumer Affairs Division
Debi Barrows, Building Division
Thomas Perry, Building Commissioner
Thomas F. Geiler, Director Regulatory Services

COMPARISON OF CURRENT AND PROPOSED FEES

§ 76-3. Weights and Measures annual fees (MGL C. 98, s 56)

Description	Current Fees		Proposed Fees	
	1 - 3	4 or more	1 - 3	4 or more
Scale with capacity over 10,000 lbs.	\$200	\$200	NC	NC
Scale with capacity 5,000-10,000 lbs.	\$125	\$100	NC	NC
Scale with capacity 100-5,000 lbs.	\$ 75	\$ 65	NC	NC
Scale with capacity less than 100 lbs.	\$ 45	\$ 40	NC	NC
Weights (each)	\$ 7	\$ 5	NC	NC
Liquid measures	\$ 25	\$ 25	NC	NC
Liquid measure meters	-----	-----	NC	NC
Lubricant meters	\$ 45	\$ 35	NC	NC
Motor fuel meters	\$ 45	\$ 35	NC	NC
Vehicle tank meters	\$100	\$ 90	NC	NC
Vehicle tank meter gravity	\$150	\$125	NC	NC
Bulk storage tank meter	\$150	\$125	NC	NC
Mechanical pumps, each stop	\$ 10	\$ 10	NC	NC
Taxi meters (semi-annually)	\$ 50	\$ 45	NC	NC
Commercial odometer – hubodometer	\$ 50	\$ 45	NC	NC
Leather measure	\$150	\$140	NC	NC
Dry measure, one bushel or less	\$ 75	\$ 75	NC	NC
Dry measure, more than one bushel	\$100	\$100	NC	NC
All other measuring devices	\$100	\$100	NC	NC
Rope, wire or chain measuring devices	\$ 25	\$ 20	NC	NC
Reinspection fee (after official rejection)	\$ 95	\$ 95	NC	NC
Reverse Vending Machine				
Bottle & Can Redemption Inspection				
Disposable Test Material Supplied by Inspector	\$ 25	\$ 25	NC	\$ 20
Disposable Test Material Supplied by Store	\$ 25	\$ 25	\$ 15	\$ 10

§ 76-4. Miscellaneous licenses and permits [Amended 6-1-2006 by Order No. 2006-128]

MGL C./Section	Description	Current Fees	Proposed Fees
101, § 33	Temporary license to sell for charitable purposes	\$ 10	NC
138, § 30A	License for pharmacist to sell alcoholic beverages	\$2,000	NC
140, § 2	Licenses for inns and restaurants	\$ 100	NC
140, § 21B	License to serve nonalcoholic beverages	\$ 100	NC
140, § 32B	License for mobile home parks	\$ 50	NC
140, § 32B	License for motels	\$ 50	NC
140, § 34	License for lodging house	\$ 50	NC
140, § 49	License for vehicle for sale of food	\$ 250	NC
140, § 56A	License for shooting gallery	\$ 100	NC
140, § 59	Auto dealer license	\$ 150	NC
140, § 177A	License for automatic amusement devices	\$ 100	NC
140, § 183A	Entertainment annual	\$ 250	NC
140, § 183A	Entertainment daily	\$ 25	NC
140, § 1851	License for fortune tellers	\$ 250	NC
140, § 192	License for rental boats (freshwater)	\$ 100	NC
	License to store hazardous materials	\$ 100	NC
	Septic system inspection filing	\$ 25	NC
	Board of Health request for variance	\$ 85	NC
	Application fee – licenses and permits	\$ 100	NC

COMPARISON OF CURRENT AND PROPOSED FEES (Continued)

§ 76-6. Building, sign, wiring, plumbing and gas permit fees.

Building Permits

Description	Current Fees	Proposed Fees
Residential (R03, R-4 Use Groups)		
New Buildings		
Application fee	\$100	NC
Permit fee	\$5.10 per \$1,000 of construction value	NC
Additions, alterations/renovations		
Application fee	\$50	NC
Permit fee	\$5.10 per \$1,000 of construction value \$35 minimum	NC
Commercial and all other use groups		
New Buildings		
Application fee	\$150	NC
Permit fee	\$5.10 per \$1,000 of construction value	NC
Additions, alterations/renovations		
Application fee	\$100	NC
Permit fee	\$9.10 per \$1,000 of construction value; \$50 minimum	\$9.10 per \$1,000 of construction value; \$60 minimum
Permit fee for all other structures (not specified)	\$9.10 per \$1,000 based on actual value; \$100 minimum	NC

Plumbing Permits

Description	Current Fees	Proposed Fees
Residential, per unit	\$ 40/first fixture plus \$12 each additional fixture	NC
Commercial, per unit	\$ 60/first fixture plus \$15 each additional fixture	NC

Gas Permits

Description	Current Fees	Proposed Fees
Residential, per unit	\$40/first fixture plus \$12 each additional fixture	NC
Commercial, per unit	\$60/first fixture plus \$15 each additional fixture	NC

Electrical Permits

Description	Current Fees	Proposed Fees
Residential		
New construction per unit	\$150	NC
Additions/renovations		
Less than 500 sf	\$ 25	30
Greater than 500 – 1,500 sf	\$ 50	NC
Greater than 1,500 sf	\$100	NC
Minor alterations/appliances	\$ 25	30
Change of service/meter	\$ 30	NC
Accessory structures (garage, barn, etc., excluding separate meter)	\$ 30	NC
Temporary service	\$ 30	NC
Meters per unit	\$ 30	NC
Smoke detectors/alarms	\$ 30	NC
Commercial		
New construction per unit	\$150+\$25 per 1,000 sf greater than 4,000 sf	\$200+\$25 per 1,000 sf greater than 4,000 sf
Additions/renovation		
Less than 1,000 sf	\$ 75	NC
Greater than 1,000-2,500 sf	\$ 100	NC
Greater than 2,500 sf	\$150 + \$25 per 1,000 sf greater than 4,000 sf	NC
Minor alterations/appliances, etc.	\$ 25	30
Change of service/meter	\$ 40	NC
Temporary service	\$ 30	NC
Signs	\$ 25	30
Carnivals/fairs		
1-10 concessions/rides	\$ 50	NC
10 concessions/rides	\$100	NC

Signs

Description	Current Fees	Proposed Fees
	\$ 50	NC
Over 25-50 sf	\$ 75	NC
Over 50-75 sf	\$150	NC
Over 75 sf	\$200	NC

COMPARISON OF CURRENT AND PROPOSED FEES (Continued)

Miscellaneous Permits and Fees

Accessory building: all use groups

Greater than 120 sf – 500 sf	\$ 35	NC
Greater than 500 sf – 750 sf	\$ 50	NC
Greater than 750 sf – 1,000 sf	\$ 75	NC
Greater than 1,000 sf – 1,500 sf	\$100	NC
Greater than 1,500 sf	Same as new building permit based on actual cost	NC
Change of permit holder	\$ 25	35
Pre-building code structure, certificate of occupancy	\$ 75	NC
Change of use permit (no construction)	\$ 25	NC
Foundation permit (separate from building permit for cause only)	\$ 25	35
Zoning compliance certificate (lots/existing uses/structures)	\$ 50 minimum + research time	NC
Reinspections (for work not ready for inspection, incomplete work or failure of inspectors to gain access to premises)	\$ 100	NC
Removal of stop-work order	\$ 50	NC
Replacement of lost permit inspection cards	\$ 50	NC
Chimney/fireplace (new and reconstruction)	\$ 25	35
Certificates of inspection	\$10 increase CMR 780 Table 106 \$50 minimum	NC
Permit renewals		
First renewal	\$50	NC
Second renewal (for cause only)	\$75	NC
Inground swimming pools	\$125	NC
Aboveground swimming pools	\$ 75	NC
Decks, open porch	\$ 60	NC
Relocation/moving (includes new foundation)	\$250	NC
Demolition		
Residential principal buildings (\$4.10 per \$1,000 of construction value)	Minimum \$125; (\$5.10 per \$1,000 of construction value)	NC
Accessory buildings	\$ 50	\$ NC
Commercial buildings (\$8.10 per \$1,000 of construction value)	(\$9.10 per \$1,000 of construction value)	NC
Home occupation (no construction)	\$ 25	\$ 35
Pre-permit plan review (one and two family)	\$ 75	NC
Temporary residential certificate of occupancy (for cause only)	\$ 75	NC
Residential certificate of occupancy	\$ 25	NC
Temporary commercial certificate of occupancy (for cause only)	\$ 75	NC
Commercial certificate of occupancy	\$ 75	NC
Pre-permit plan fees	\$100	NC
Site plan (fees)		
Project construction cost under \$5,000	\$100	NC
\$5,000 - \$14,999	\$200	NC
\$15,000 - \$49,999	\$250	NC
\$50,000 - \$249,999	\$350	NC
\$250,000 or more	\$500	NC
Permit related to work begun prior to time allowed for acquiring permits under Building, Electrical, Plumbing and Gas Code	Two times permit cost	NC

Added 10-19-2006 by Order No. 2007-033

Express Permits

Description	Current Fees	Proposed Fees
Minimum	\$ 25	\$35
Residing/reroofing (residential)	\$5.10 per \$1,000 of construction value	NC
Wood/coal stoves	\$35	NC
Replacement windows	\$35	NC
Sheds under 120 sf	\$35	NC
Others (as determined by inspector)	\$35	NC
Tents (See § 240-9D of Ch. 240, Zoning)		
Description	Current Fees	Proposed Fees
Residential	\$ 25	NC
Fundraiser/special event/nonprofit agency	\$ 25	NC
Commercial (temporary accessory structure)	\$100	NC
Organized & supervised recreational camp (special permit required)	\$50	NC

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-087
INTRO: 03/04/10

2010-087 AUTHORIZE ESTABLISHMENT OF A DESIGNATED GIFT ACCOUNT FOR HYCC

RESOLVED that, the Town Council, pursuant to the provisions of G.L. c. 44 §53A, hereby authorizes the establishment of a gift account to segregate from other operating revenue of the Hyannis Youth & Community Center; all contributions and other gifts received for the benefit of the Hyannis Youth & Community Center, including those associated with naming rights, for future capital and operating needs subject to the Town Manager’s recommendation and Town Council appropriation.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-086

INTRO: 02/25/10

SUMMARY

TO: Barnstable Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: February 22, 2010

SUBJECT: Creation of a Designated Account for Naming Rights and Unrestricted Contribution Revenue for the Hyannis Youth & Community Center.

BACKGROUND: One of the most significant projects the Town of Barnstable has created is the long awaited Hyannis Youth & Community Center (HYCC) Project which broke ground on January 18, 2008 and opened its doors on September 1, 2009. The \$24.7 million project was funded by a \$3.5 million grant from the Commonwealth of Massachusetts, \$1 million grant from the United States Department of Education, \$1.34 million of private fundraising through the Hyannis Youth & Community Center Foundation and the balance of \$18,863,283 was from Town of Barnstable borrowing authorization and unexpended funds.

The project was expanded by the Town Council in May 2007 as it sought to increase the main rink seating capacity to 1,500 with 250 in the second rink. The gymnasium was also enlarged to accommodate a competition basketball court with two full cross courts and portable seating for spectators along with an elevated three lane jogging track. Additional property was added to the site along Stevens Street to accommodate needed parking and increased building size. The building of 105,000 SF now meets the requests of members of the general public and the Barnstable Youth Commission who spoke favorably on the new proposal in May 2007. The project, by design, is placed in the area of Town with the greatest need as 3,000 children reside within a one mile radius of the site. In June 2009, an Enterprise Account was created for the HYCC.

The completed multi-generational project is a facility of which Barnstable residents can all be extremely proud. It is in the Town's best interest to properly maintain this important asset for the years to come and a dedicated funding resource for the accumulation of reserves for its maintenance is being proposed.

ANALYSIS: Operating revenue for the HYCC comes from several sources of revenue including ice and gymnasium rental fees, advertising, concessions, memberships, program fees and the rental of multi-purpose space. Revenue from these sources are used to pay for the on-going operating costs of the facility including a portion of the annual debt service payments made on the bonds issued for the facility's construction. Previous fundraising efforts were used for the construction of the facility. We are now looking to the long term financial viability of the facility. A list of the areas available for naming opportunities at the center includes the spaces in the table on the following page:

As the center is now open, any future revenue generated from the sale of naming rights as well as any unrestricted contributions will be segregated from all other operating revenue and used for future operating and capital costs subject to the Town Manager's recommendation and Town Council appropriation.

FISCAL IMPACT: The creation of this account allows the Town to segregate certain revenue from operating revenue that will be subject to further Town Council action in order to expend the funds. Revenue from these sources will be used to build reserves for future capital improvements or maintenance and/or contribute towards paying the annual debt service on the bonds in a more accelerated rate the originally intended. This will have a positive financial impact for the Town of Barnstable.

TOWN MANAGER RECOMMENDATIONS: The Town Manager recommends approval of this Resolve.

STAFF ASSISTANCE: Lynne M. Poyant, Director of Community Services
David Curley, Director of Recreation
Amy Harwood, HYCC Marketing Director
Mark Milne, Director of Finance

ITEM	SPONSOR	TERM	EXPIRATION	STATUS
Entire Building Naming Rights		20		
Lobby	TD Bank	15	09/01/19	SOLD
United Cultures Resource Room		3		
Pro Shop		3		
Reception/Box Office		3		
Police Substation	D'Olimpio Fund for Suicide Prevention	perp	-	SOLD
Youth Center	Lorusso Foundation	perp	-	SOLD
Computer Room	Tracy Family	5	09/01/14	SOLD
Teen Center	CC5 Charitable Foundation	20	09/01/29	SOLD
Gymnasium		10		
Walking Track		3		
Community Room	Shepley Wood Products	perp	-	SOLD
Recreation Conference Room		3		
SkyBox		3		
Café	Scudder Family	perp	-	SOLD
Rink #1	Lt. Joseph P. Kennedy Memorial Rink	perp	-	SOLD
Viewing Platform		3		
Elevator		3		
Rink #2	Patrick M. Butler Memorial Skating Rink	perp	-	SOLD
Lower Lobby/Warming Area	Barnstable Youth Hockey Association	perp	-	SOLD
Lower Snack Bar	Robert & Suzanne Kittredge Foundation	perp	-	SOLD
Skate Rental/Sharpening Booth		3		
Locker Room 1	Barnstable HS Boosters	perp	-	SOLD
Locker Room 2	Ellen Amy McBarron Ladies Locker Room	perp	-	SOLD
Locker Room 3 - large		3		
Locker Room 4 - large		3		
Locker Room 5 - small		3		
Locker Room 6 - small		3		
Locker Room 7 - small		3		
Locker Room 8 - small		3		
Cubs Locker Room		3		
Women's Officials Locker Room		3		
Men's Officials Locker Room		3		
Rink Manager's Office		3		
Coaches Office - Butler Rink		3		
Coaches Office - Kennedy Rink		3		
Figure Skating Office		3		
1st Aide Station		3		
BYHA Office		3		
Drop Off Area		3		
Parking Lot - Back		3		
Parking Lot - Front East Side		3		
Parking Lot - Front West Side		3		

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-088
INTRO: 03/04/10

2010-088 ACCEPTANCE OF A \$1,647,786 SUPPLEMENTAL GRANT AWARD FROM THE FAA

RESOLVED: That the Town Council does hereby accept a supplemental grant award in the amount of \$1,647,786 from the Federal Aviation Administration and that the Barnstable Municipal Airport Commission is authorized to enter into contracts and to expend the grant monies for the purposes specified therein.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-088
INTRO: 03/04/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: (1) R. W. Breault, Jr., Airport Manager (2) Barnstable Municipal Airport Commission

BACKGROUND: On May 27, 2009 the Department of Transportation and Federal Aviation Administration signed an "Other Transaction Agreement" with the Barnstable Municipal Airport Commission that granted the Barnstable Municipal Airport the amount of \$3,015,000 to provide funds to site, obtain permits, design, construct, and equip a replacement Airport Traffic Control Tower (ATCT) at Barnstable Municipal Airport which meets the requirements of Federal Aviation Administration Order 6480.4A, meets the criteria established by the Code of Federal Regulations, meets the requirements of the FAA Contract Tower Program, and receives permitting approval from state and municipal agencies for design, construction and environmental purposes. This grant was approved by the Barnstable Town Council on November 19, 2009 by Council Order Number 2010-045. This Supplemental Agreement #1 to the original Other Transaction Agreement grants an additional sum of \$1,647,786 pursuant to the American Recovery and Reinvestment Act of 2009 (the "ARRA") for the ATCT project. The total not to exceed (NTE) cost of this agreement is now \$4,662,786.

ANALYSIS: The purpose of the Supplemental Agreement #1 is to provide additional funds to site, obtain permits, design, construct, and equip a replacement Airport Traffic Control Tower (ATCT) as a non-federal ATCT (NFCT). The initial Other Transaction Agreement was approved by the FAA on May 27, 2009; and would remain in effect until April 30, 2017 or when the Agreement is either successfully concluded or earlier terminated by the parties. The addition of the ARRA funding has changed the date for termination of the Agreement to September 30, 2014 or when the Agreement is concluded. The current schedule for completion of the project is August 2011 upon Commissioning of the new ATCT and demolition of the old ATCT.

FISCAL IMPACT: An FY2010 Supplemental CIP Request was previously submitted with the initial Grant Acceptance for the siting, permitting, design, construction and equipping the replacement FAA Contract Air Traffic Control Tower; and to commence a phased approach to completion of the project. The ATCT siting location process conducted by the FAA Technical Laboratory has commenced and should be completed before the end of FY2010. Following a competitive bidding process a new architect/engineer has been selected for the design and construction of the new ATCT on a very aggressive schedule that requires design completion by the end of April 2010, and construction start-up by July/August 2010.

Within the grant allocation, the Barnstable Municipal Airport Commission (BMAC) must reserve funds in the amount of \$230,000 for a reimbursable agreement with the FAA for the purchase and installation of telecommunications circuits, lines and equipment and related work, and for other FAA-provided equipment, leaving a useable balance in the amount of \$4,432,786 for all remaining project related costs.

An initial amount of \$300,000 was disbursed by the FAA and received by the Town on June 26, 2009, and work has already commenced for the purpose of siting, design, specifications, permits, and related work. An additional sum of \$1,650,000 will be disbursed to the Town for construction costs within 60 days after we have accepted a contract for the design of the NFCT and notified the FAA. Further disbursements will be made as outlined in the Agreement, with a total project cost not to exceed the grant amount of \$4,662,786. No additional BMAC or Town funds are required for this project.

This is an independent project, and should move forward on its own merit without regard to the BMA Terminal construction project. The project is also listed in the Draft FAA and Massachusetts DOT Aeronautics Division FY2010 five-year CIP for an FY2010 start for the purpose of siting, design, specifications, permits, and related work. The CIP will be amended to reflect the new funding and construction requirements and timing.

There should be no Operating Budget impact. Minor efficiencies will occur with regard to decreased maintenance and lower utility costs with better more energy efficient equipment. Savings should also occur with coordination of construction with the Airport Terminal project.

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-089
INTRO: 03/04/10**

2010-089 ACCEPTANCE OF A \$35,000 MASSACHUSETTS SEAPORT COUNCIL GRANT

RESOLVED: That the Barnstable Town Council does hereby accept a Commonwealth of Massachusetts Seaport Advisory Council grant in the amount of \$35,000 for the Bismore Park Marina Project

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Rationale
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-089

INTRO: 03/04/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: February 23, 2010
SUBJECT: A Commonwealth of Massachusetts Seaport Advisory Council grant

RATIONALE: The Bismore Park Marina Project will replace seven or more broken fender piles and repair three small holes in the steel sheeting in the bulkhead. The piles protect the bulkhead from vessels when docked. If the piles are not replaced they will cause the interior structure of the bulkhead to continue to weaken and eventually fail. Repairing the holes in the steel sheeting will prevent further corrosion and the loss of backfill and formation of sinkholes.

BACKGROUND: The Town of Barnstable has applied for and been awarded a Commonwealth of Massachusetts Seaport Advisory Council grant in the amount of \$35,000.

Bismore Park is within the Growth Incentive Zone (GIZ). This project will keep the marina in working order for the commercial, residential and visiting community.

This project is expected to begin in May 2010 and be completed by June 30, 2010.

FISCAL IMPACT: The final design, final approvals and construction are estimated to cost \$35,000. No additional Town funds will be required.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends acceptance of this grant.

STAFF ASSISTANCE:

Mark Ells, Director of Public Works

Daniel J. Horn, Director of Marine and Environmental Affairs/Harbormaster

Eric Shufelt, Marina Manager / Assistant Harbormaster

Marcia King, Grant Coordinator

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-090
INTRO: 03/04/10

2010-090 ACCEPT A MA EXECUTIVE OFFICE OF FINANCE GRANT - MAX OF \$3,750,000

RESOLVED: That the Barnstable Town Council does hereby accept a Commonwealth of Massachusetts Executive Office of Administration and Finance grant in the amount of 75% of the project up to \$3,750,000 for the replacement of the Barnstable Bulkhead

SPONSOR: Town Manager John C. Klimm

BARNSTABLE TOWN COUNCIL

ITEM# 2010-090

INTRO: 03/04/10

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
THROUGH: Lynne M. Poyant, Director of Community Services
DATE: February 23, 2010
SUBJECT: Commonwealth of Massachusetts Executive Office of Administration Finance grant

RATIONALE: A portion of the wooden bulkhead failed in March 2008 leading to costly temporary emergency repairs and possible collateral damage to the adjacent steel bulkhead. To reduce the cost of the emergency repairs the temporary repairs were only designed to last for 18 months until full replacement could be completed. The existing steel bulkhead is showing signs of deterioration including: movement of the steel sheeting, failed/failing wales, and loss of soil material from behind the bulkhead as evidenced by subsidence in the parking lot. The loss of material from behind the bulkhead is causing shoaling under and around the adjacent floats and slips. According to town engineering assessments, the best solution to prevent further deterioration is to replace the entire bulkhead estimated to cost \$5,000,000.

BACKGROUND: The Town of Barnstable has applied for and been awarded a Commonwealth of Massachusetts Executive Office of Administration and Finance (EOAF) grant in the amount of 75% of the project up to \$3,750,000. EOAF agrees to provide financial assistance to the Town for replacement of the bulkhead and paved area with funds authorized under Chapter 312 of the Acts of 2008.

Barnstable Inner Harbor is one of the busiest harbors on the Bay side of Cape Cod. It provides space to over 502 commercial and recreational vessels and other marine-related activities including a 392-passenger whale-watching vessel. The harbor employs 189 people in a variety of professions, both full and part time, and generates an estimated 8 million dollars in economic activity.

We believe that the tremendous community support this project received pushed it to the top of Governor Deval Patrick's long list of infrastructure needs. Councilor Ann Canedy, Senators Rob O'Leary and Therese Murray, Representative Demetrius Atsalis as well as the Friends of Barnstable Harbor were critical proponents of this project.

ANALYSIS: Governor Deval Patrick made a visit to Barnstable Harbor on Monday, December 21, 2009 to provide us with the notification of this award.

B. NEW BUSINESS (Refer to public hearing 03/18/10) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-091
INTRO: 03/04/10**

2010-091 AMEND GENERAL ORDINANCE: SECTION 177-1 SANDY NECK BEACH PARK

**ORDERED:
SECTION I**

The General Ordinances are hereby amended by striking out Section 177-1 and inserting in place thereof the following:

“§ 177-1. Operation of a vehicle within a closed area on Sandy Neck Beach Park. No person shall operate a motor vehicle on Sandy Neck Beach Park except within marked open sections of the front beach off road vehicle corridor and on the beach access trail.”

SECTION 2

The General Ordinances are hereby amended by striking out Section 177-2 and inserting in place thereof the following:

“§ 177-2. Operation of a vehicle on Sandy Neck Beach Park without a valid permit
No person shall operate a motor vehicle on Sandy Neck Beach Park without first obtaining a Sandy Neck off road vehicle permit.”

SECTION 3

The General Ordinances are hereby amended by striking out Section 177-3 and inserting in place thereof the following:

“§ 177-3. Violations and penalties.
Any person violating this chapter shall be punished by a fine not more than \$200 for each offense.”

SECTION 4

The schedule of fines in Article I, Section 1-3 of the General Ordinances are hereby amended by striking out the lines related to Chapter 177, Article I and inserting in place thereof the following:

“Code Chapter/Section	Subject	Fine
Ch. 177, Art. I	Vehicle within a closed area (Sandy Neck Beach Park)	\$150
Ch. 177, Art. II	Vehicle without a valid permit (Sandy Neck Beach Park)	\$150”

SECTION 5

The schedule of fines in Article 1 of the General Ordinances is hereby amended by adding the following new section, §1-6.1:

“§1-6.1: Fines for the Violation of Marine and Environmental Affairs Division Regulations

offense	Fines
Sandy Neck Beach Park Regulations	
Violation of regulation	\$50

SPONSOR: Town Manager John C. Klimm

BARNSTABLE TOWN COUNCIL

ITEM# 2010-091
INTRO: 03/04/10

SUMMARY

TO: Town Council
FROM: Lynne M. Poyant, Director of Community Services
DATE: February 23, 2010
SUBJECT: Town of Barnstable Ordinance changes for § 177-1, § 177-2 and § 177-3 as well a schedule of fines for Sandy Neck Beach Park Regulations

BACKGROUND: The Town Ordinances, as they pertain to Sandy Neck Beach Park, are outdated. They include multiple references to the Sandy Neck Governing Board which has been disbanded for many years. In addition, the ordinances refer to the off road vehicle permit as an “inspection sticker” which is confusing to the public and the court system. With regard to fines, the dollar amount is not defined for violations of the regulations. In addition, the fine amount for driving on the beach in many cases is less than the cost of an off road vehicle permit. This makes driving illegally on the beach less expensive than purchasing a permit and obtaining and obeying the rules and regulation of the beach.

RATIONALE: By updating the Town Ordinances, the public will have a better understanding of the Town laws as they pertain to driving a vehicle on Sandy Neck Beach Park. In addition, citations issued will be more defensible in the court system with improved and comprehensible language defining the violation. Finally, fines for regulation violations will be clearly delineated and not subject to individual interpretation.

FISCAL IMPACT: There will be a minimal increase in revenue as fines for violations will increase.

STAFF ASSISTANCE: Ruth J. Weil, Town Attorney
Nina Coleman, Sandy Neck Park Manager

B. NEW BUSINESS (Refer to public hearing 03/18/10) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-092
INTRO: 03/04/10

2010-092 APPROPRIATION FROM SANDY NECK ENTERPRISE SURPLUS FUNDS \$5,000

ORDERED: That the sum of five thousand dollars and no/100 (\$5,000.00) be transferred from the Sandy Neck Enterprise Account Surplus funds to the Sandy Neck Enterprise Account Operating Budget for the purpose of funding additional purchases of merchandise for resale.

SPONSOR: Town Manager John C. Klimm

BARNSTABLE TOWN COUNCIL

ITEM# 2010-092
INTRO: 03/04/10

SUMMARY

TO: Town Council
FROM: Lynne M. Poyant, Director of Community Services
DATE: February 22, 2010
SUBJECT: Transfer of \$5,000 in funds from Sandy Neck Enterprise Account Surplus to the Sandy Neck Enterprise Account Operating Budget.

BACKGROUND: In past years we have utilized a revolving account to purchase merchandise for resale at Sandy Neck Beach Park. However, we were required to close our revolving account when the Sandy Neck Enterprise Account was established in Fiscal Year 2006. The new enterprise account line item for purchasing merchandise was set at \$5,000 and we feel that this amount does not maximize our revenue potential.

RATIONALE: Sandy Neck merchandise is very popular and we often sell out long before the end of the season. We would like to increase and expand our offerings to include a larger variety of sweatshirts and tee shirts as well as start a new line of sweatpants. These items will require a greater initial investment than the existing operating budget can support.

FISCAL IMPACT: There will be a positive fiscal impact as improved and increased merchandise offerings will enhance revenue potential.

STAFF ASSISTANCE: Nina Coleman, Sandy Neck Park Manager