



# Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601  
508.862.4738 • 508.862.4770  
E-mail: [council@town.barnstable.ma.us](mailto:council@town.barnstable.ma.us)  
[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)



Councilors:

Dr. Debra S. Dagwan  
President  
Precinct 8

Jessica Rapp Grassetti  
Vice President  
Precinct 7

Ann B. Canedy  
Precinct 1

Tom Rugo  
Precinct 2

Michael P. Hersey  
Precinct 3

Frederick Chirigotis  
Precinct 4

James H. Cote  
Precinct 5

Janet S. Joakim  
Precinct 6

James M. Tinsley  
Precinct 9

Janice L. Barton  
Precinct 10

June M. Daley  
Precinct 11

John T. Norman  
Precinct 12

Jennifer L. Cullum  
Precinct 13

Administrator to the  
Town Council:  
Barbara A. Ford

Administrative  
Assistant:  
Cynthia A. Lovell

## MEETING AGENDA TOWN HALL HEARING ROOM October 17, 2013 7:00 PM

### 1. ROLL CALL

### 2. PLEDGE OF ALLEGIANCE

### 3. MOMENT OF SILENCE

- **Presentation from Deb Krau Chair of the Hyannis Water Board**
- **Presentation from Maggie Downey Administrator for Cape Light Compact**
- **Presentation from Steve Heslinga Trustee of the Cobb Fund**
- **Presentation on Tax classification Director of Assessing Jeff Rudziak**
- **Presentation Recycling center Director of DPW Dan Santos**

### 4. PUBLIC COMMENT

### 5. COUNCIL RESPONSE TO PUBLIC COMMENT

### 6. ACT ON MINUTES (Includes Executive Session)

### 7. COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements

### 8. ORDERS OF THE DAY

- A. Old business**
- B. New business**

### 9. TOWN MANAGER COMMUNICATIONS

### 10. ADJOURNMENT

**NEXT REGULAR MEETING: November 7, 2013**

## **A. OLD BUSINESS**

2013-166	Amending the Code of the Town of Barnstable General Ordinances by inserting Chapter 224, Vacant or Foreclosing Properties <b>(Public hearing)Roll-call)</b> .....	3-8
2014-027	Appointments to Boards/Committees/Commissions <b>(Second Reading)</b> .....	9
	<b>Council on Aging:</b> Katherine Lee Evans, Herbert Bodensiek, <b>Sandy Neck Governing Board:</b> Thomas O’Neil, <b>Shellfish Committee:</b> Kevin Flaherty <b>Youth Commission:</b> Nicole Neville <b>Zoning Boards of Appeals:</b> George Zevitas from alternate to full time position, Herbert Bodensiek as an alternate member	
2014- 028	Reappointments to Boards/Committees/Commissions <b>(Second Reading)</b> .....	10
	<b>Shellfish Committee:</b> Robert Lancaster term expiring 6/30/16	

---

## **B. NEW BUSINESS**

2014-029	Authorize the Town Manager to contract for Hyannis water systems operation and maintenance services <b>(May be acted upon)</b> .....	11-12
2014-030	Appropriation order \$500,000 Long Beach Road, Centerville <b>(Public Hearing) (Roll call)</b> .....	13
2014-031	Allocation Tax Levy FY13 Tax Factor <b>(Refer to Public Hearing 11/07/13)</b> .....	14-15
2014-032	Allocation Tax Levy FY14 Residential Exemption <b>(Refer to Public Hearing 11/07/13)</b> .....	16-17
2014-033	Allocation Tax Levy FY14 Small Commercial <b>(Refer to Public Hearing 11/07/13)</b> .....	18-19
2014-034	Ordinance Amendment setting the schedule of fees to be in effect in the Town of Barnstable <b>(Refer to Public Hearing 11/07/13)</b> .....	20-22

**EXECUTIVE SESSION:** If the Council President does so declare that the discussion of litigation strategy in open session may have a detrimental effect on the litigating position of the Town, the Town Council may vote to enter into executive session under M.G.L. c. 30A, Section 21 (a) (3) and to discuss litigation strategies relating to **Marty v. Town of Barnstable**

**Approve Minutes** – October 3, 2013; No executive session minutes.

---

**Please Note:** The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda.

Persons interested are advised, that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice.

Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

## AMENDMENT INTRODUCTION 10-03-2013

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

#### BARNSTABLE TOWN COUNCIL

AMENDMENT TO ITEM# 2013-166

INTRO: 05/16/13, 07/11/13, 10/03/13, 10/17/13

#### 2013-166 AMENDING THE CODE OF BARNSTABLE GENERAL ORDINANCES- INSERTING CHAPTER 224 VACANT OR FORECLOSING PROPERTIES

**ORDERED:** That Part I, General Ordinances of the Code of the Town of Barnstable be amended by inserting the following chapter 224.

##### “CHAPTER 224

##### Vacant or Foreclosing Properties

##### § 224-1. Purpose.

Unsecured and unmaintained vacant properties and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, occupants, and abutters; contribute to blight within neighborhoods and commercial areas; and, as such, constitute a public nuisance. This Ordinance is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

##### § 224-2. Definitions.

The following words and phrases, when used in this Ordinance, shall have the following meanings:

##### **FIRE CHIEF**

The Fire Chief of the Fire District in which any property subject to this Ordinance is located, or his or her designee

##### **FORECLOSING**

The process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

##### **INITIATION OF THE FORECLOSURE PROCESS**

Taking any of the following actions:

- A. Taking possession of a residential property pursuant to MGL c. 244, § 1.
- B. Commencing a foreclosure action on a property in any court of competent jurisdiction, including without limitation filing a complaint in Land Court under the Service Members Civil Relief Act, Public Law 108-189 (50 U.S.C.S. App. § 501-536).
- C. In any instance, where the mortgage authorizes mortgagee entry to make repairs upon mortgagor's failure to do so.

##### **MAINTENANCE**

Keeping property in good sanitary condition and repair, including without limitation the following: securing the property by locking and boarding of buildings, draining or covering swimming pools and fencing the immediate areas surrounding swimming pools; and removal from the property of perishable food items, dangerous substances or chemicals, animal litter, debris, trash, indoor items such as furniture, appliances, plumbing fixtures and bedding not kept in a building and snow from adjacent sidewalks

## **MORTGAGEE**

The creditor, including, but not limited to, service companies, agents, lenders in a mortgage agreement, and any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

## **OWNER**

Every person, entity, service company, property manager or real estate broker, who or which, alone or severally with others:

- A. Has legal title to any real property, including but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- B. Has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park, or any administrator, administratrix, executor, trustee or guardian of the estate of the holder of legal title; or
- C. Is a mortgagee of any such property who has initiated the foreclosure process as defined in this Ordinance; or
- D. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- E. Is an officer or trustee of the association of unit owners of a condominium? Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to MGL c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
- F. Every person who operates a rooming house; or
- G. Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process?

## **PROPERTY**

Any real property, or portion thereof, located in the Town, including municipally owned and commercial properties, and buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the Commonwealth or the United States of America.

## **VACANT**

Any property not currently legally occupied and not properly maintained and secured, but not including any property unoccupied on a seasonal basis only and properly secured and maintained while so unoccupied.

### **§ 224-3. Registration and maintenance requirements for foreclosing properties.**

- A. Any mortgagee of foreclosing property shall, unless exempt from such actions by Massachusetts General Laws, within 15 days of the initiation of the foreclosure process, provide written notification to the Building Commissioner and the Fire Chief of the status of such property, including in such notice the names, addresses, telephone numbers and email address of the mortgagee's employees or representatives responsible for conducting the foreclosure, including mortgagee entry to make repairs, and the owner or person in control of the property; the location of the property; whether the property is vacant, and if so the length of time of the vacancy, both past and estimated for the future, to the best of the owner's or mortgagee's knowledge or belief; and the nature of the contents of the building.

- B. Any mortgagee of foreclosing property shall maintain the property as required by and in accordance with the provisions of subsections (A) and (B) of section 224-4, unless exempt from such actions by Massachusetts General Laws.

**§ 224-4. Registration and maintenance requirements for vacant properties, including foreclosing and foreclosed properties.**

- A. When the Building Commissioner, upon receipt of a complaint or other information and after making inquiries, determines that a property is vacant as defined herein, the Commissioner shall proceed as follows.
1. If the property is foreclosing or has been foreclosed and the mortgagee has entered to make repairs or exercised any incidents of possession or ownership, including without limitation resort to mortgage provisions for preservation of the property, changing locks, or payment of utilities or taxes,, the Commissioner shall require compliance within the time provided in section 224-3 if necessary and with subsection (B) of this section 224-4 within thirty days unless exempt from such actions by Massachusetts General Laws.
  2. If the property is not foreclosing, or a mortgagee has not become the owner at foreclosure, the Building Commissioner shall then inform the owner of the requirements of subsection (B) of this section 224-4 and require that the owner submit a plan within thirty (30) days for bringing the property into compliance with subsection (B) within thirty (30) days of submission of the owner's plan, or such additional time as the owner may request and which the Commissioner determines to be reasonable.
  3. The Commissioner may waive the provisions of subsections (1) and (2) if the property is a nuisance or danger pursuant to G. L. c. 139 and procedures promulgated there under.
- B. Any owner or mortgagee of a vacant property having taken ownership or possession as provided in subsection A (1) of this section 224-4 shall also comply with the following within the time periods set forth in subsection A.
- (1) Register the property as a mortgagee irrespective of entry into ownership or possession as a mortgagee as provided under section 224-3(A).
  - (2) As may be required by the Fire Chief for commercial property, file one set of space utilization floor plans for any buildings on said property with the Fire Chief and one set of said plans with the Building Commissioner and certify space utilization plans as accurate twice annually, in January and July.
  - (3) Remove from the property, to the satisfaction of the Fire Chief, hazardous material as that term is defined in MGL c. 21K, as that statute may be amended from time to time.
  - (4) Secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board-up Procedures or provide twenty-four-hour on-site security personnel on the property.
  - (5) Post "No Trespassing" signs on the property.
  - (6) Ensure that structures are maintained in sound condition.
  - (7) Maintain lawns and shrubs free from excessive overgrowth.
  - (8) Drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires.
  - (9) Maintain the property in accordance with the Barnstable Zoning Ordinances the definition of "maintenance" in this Ordinance ,and any other provision of this Ordinance; and

dispose of trash, debris and pools of stagnant water as provided in Chapter 54 of the Town of Barnstable General Ordinances concerning the maintenance of property.

- (10) Maintain all fences around swimming pools or install fences as required by Chapter 210 of the Barnstable General Ordinances and maintain existing fences or install fences around spas.
- (11) Provide the Fire Chief and Building Commissioner with the name, local address, telephone number and email address of a responsible person if different from the person named in the registration under section 224-3(A) who can be contacted in case of emergency and cause the name and contact number to be marked on the front of the property as may be required by the Fire Chief or Building Commissioner.
- (12) Maintain liability insurance on the property and furnish the Building Commissioner with a copy of said certificate of insurance.

A mortgagee of foreclosing property shall additionally, provide the following:

- (13) a cash or surety bond in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout vacancy or the foreclosure process until the property is sold or transferred and remunerate the Town for any expenses incurred in inspecting, securing, marking or making such building safe, a portion of which shall be retained by the Town as an administrative fee to fund an account for expenses incurred in inspecting, securing, and marking said building and other such buildings that are not in compliance with this Ordinance, and such bond or bonds for all other vacant or foreclosing properties it owns in the Town;
- (14) schedule inspections with the Building Commissioner and Health Director, who may at his or her discretion include the Fire Chief, within a reasonable time after notification under subsection A (1) in order to confirm that the land and interior of all structures comply with the provisions of this Ordinance and/or identify the provisions with which the property does not comply and establish a program to bring the property into full compliance; and
- (15) Notify the Building Commissioner in writing when the property is sold or transferred.

#### **§ 224-5. Signs and markings.**

When required pursuant to this Ordinance, signs or markings shall be applied on the front of the property, and elsewhere as the Fire Chief or Building Commissioner may require, and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the Fire Chief or Building Commissioner, shall be placed on the sides and rear of the property. Signs/Markings shall be a minimum of 24 inches by 24 inches, with lines of two-inch width, and shall have a reflective background, or be painted with reflective paint in contrasting colors. Signs/Markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the Fire Chief and Building Commissioner.

#### **§ 224-6 Properties with certificate of compliance: continuing duty to comply.**

Upon satisfactory compliance with the applicable provisions of sections 224-3 through and including 224-5, the Building Commissioner shall issue a certificate of compliance. Said certificate shall be valid for the length of the vacancy or initiation of foreclosure, foreclosure, and vacancy following foreclosure; provided, however, the certificate shall be subject to continued compliance with the provisions of this Ordinance. No owner of a vacant property and no mortgagee required to maintain a foreclosing property as provided in this Ordinance shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain excessive overgrowth, or to have a stagnant pool of water, or otherwise fail to comply with this Ordinance.

**§ 224-7. Properties without certificate of compliance: notice and order to obtain certificate of compliance.**

If it appears that any vacant or foreclosing property is unregistered, unsecured, contains rubbish, contains excessive overgrowth of vegetation or a stagnant pool or pools of water, the Building Commissioner, upon being informed of such vacant or foreclosing property without a certificate of compliance with this Ordinance, shall cause notice to issue to the owner as defined in this Ordinance of the status of the property, the requirements to register and secure the property, remove rubbish or overgrowth, abate stagnant pools of water and maintain the property in compliance with this Ordinance and order said person to obtain a certificate of compliance. If any person fails to comply with said order, the Building Commissioner and agents thereof may commence civil proceedings to obtain injunctive relief or court orders, including recovery of any unreimbursed expenses incurred by the Town to enter the property to inspect, secure and clean the property and, remove any pools of stagnant water, together with the costs of the Town's response as a municipal charges lien as provided in G. L. c. 40 § 58.

**§ 224-8. Expenses for court-ordered inspection, securing and cleaning of property.**

The Building Commissioner may demand reimbursement for the expenses incurred by the Town for actions taken to inspect and secure the property, clean the property, and remove any stagnant pools of water, rubbish, overgrowth of vegetation and snow under a court order obtained pursuant to section 224-6.

- A. The Building Commissioner shall provide the owner or mortgagee with a written statement of all associated costs.
- B. In the case of foreclosed or foreclosing properties only, if the owner as defined in this Ordinance fails to pay or reimburse the Town within 30 days of notice of expenses the Town may immediately seek to obtain the proceeds from the surety given pursuant to § **224-3(B)(13)** .
- C. In the case of vacant property not foreclosed or in foreclosure, if the owner fails to pay or reimburse the Town within 30 days of notice of expenses, the Building Commissioner shall provide the owner a second written statement of costs. If the owner fails to pay or reimburse the Town within 10 days of receipt of the second notice, the Building Commissioner may proceed as provided in subsection (D) of this section 224-7.
- D. If there is no surety, or the Town's expenses exceed the amount of the surety the Town may, as part of any court order sought pursuant to section 224-6 or by a separate civil action, seek to recover the balance due for reimbursement of its expenses incurred pursuant to this section and establish a lien on the property to be recorded in the Barnstable County Registry of Deeds or Land Registration District as applicable,

**§ 224-9. Notices.**

Notices required pursuant to this Ordinance shall be served in the following manner:

- A. Personally on any owner as defined in this Ordinance or on the contact person specified pursuant to § **224-3(A)** and (B) as applicable; or
- B. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to § **224-3(A)** and (B) as applicable, if such place of abode is known and is within or without the commonwealth; or

C. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to § **224-3(A) and (B) as applicable.**

**§ 224-10. Review of provisions.**

There shall be a review of Chapter 224 within one (1) year of its effective date for consideration of retaining, modifying, or repealing this Ordinance.

**SPONSORS:** Councilor Ann Canedy and Councilor Jen Cullum

<b>DATE</b>	<b>ACTION TAKEN</b>
<u>05/16/13</u>	<u>Referred to 07/11/13 public hearing</u>
<u>07/11/13</u>	<u>Public hearing continued to 08/01/13</u>
<u>08/01/13</u>	<u>Public hearing continued to 10/03/13</u>
<u>10/03/13</u>	<u>Public Hearing continued Amended language10/17/13</u>

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



**A. OLD BUSINESS (Second Reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-027**  
**INTRO: 10/3/13, 10/17/13**

**2014-027 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town Council appoint the following individuals to a multiple-member board/committee/commission.

**COUNCIL ON AGING**

Katherine Lee Evans, 2321 Meetinghouse, Way West Barnstable as a member to a term expiring 6/30/2015

Herbert Bodenseik, 58 Loomis Lane, Centerville as an alternate member to a term expiring 6/30/2015

**SANDY NECK GOVERNING BOARD**

Thomas O’Neil, 58 Holway Drive, West Barnstable as a member to a term expiring 6/30/2015

**SHELLFISH COMMITTEE**

Kevin Flaherty, 739 Rt 149, Marstons Mills as a member to a term expiring 6/30/2014

**YOUTH COMMISSION**

Nicole Neville, 545 Scudder Ave Hyannis as a member to a term expiring 6/30/2016

**ZONING BOARD OF APPEALS**

George Zevitas, 77 Winding Cove Road, Cotuit as a regular member from an alternate member to a term expiring 6/30/2016

Herbert Bodensiek, 58 Loomis Lane, Centerville as an alternate member to the Zoning Board of Appeals to a term expiring 6/30/2015

**DATE**

**ACTION TAKEN**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Read Item

\_\_\_\_\_ Rationale

\_\_\_\_\_ Council discussion

\_\_\_\_\_ Move/vote

**A. OLD BUSINESS (Second Reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-028**  
**INTRO: 10/3/13, 10/17/13**

**2014-028 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED**, that the Town Council re-appoint the following individuals to a multiple-member board/committee/commission.

**SHELLFISH COMMITTEE**

Robert Lancaster 21 Hannah Circle Cotuit as a member to a term expiring 6/30/16

**DATE**

**ACTION TAKEN**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Read Item

\_\_\_\_\_ Rationale

\_\_\_\_\_ Council discussion

\_\_\_\_\_ Move/vote

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

**BARNSTABLE TOWN COUNCIL**

**ITEM#2014-029  
INTRO: 10/17/13**

**2014-029 AUTHORIZING THE TOWN MANAGER TO CONTRACT FOR HYANNIS  
WATER SYSTEM OPERATION AND MAINTENANCE SERVICES**

**RESOLVED:** That the Town Council authorizes the Town Manager to enter into the second, five year contract agreement with two (2) five (5) year options remaining on this contract agreement for a total potential contract term of twenty (20) years, including any renewals, extensions or options, for the purposes of contracting for operation and maintenance services for the Hyannis Water System. The Town Council shall be the approving authority for each of the five year option periods.

**SPONSOR:** Thomas K. Lynch Town Manager

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

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council Discussion
- \_\_\_ Move/vote

# **BARNSTABLE TOWN COUNCIL**

## **SUMMARY**

**ITEM#2014-029**  
**INTRO: 10/17/13**

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**THROUGH:** Daniel Santos, Director of Public Works  
**DATE:** October 10, 2013  
**SUBJECT:** Resolve to extend the contract for the operation and maintenance services for the Hyannis Water System.

**BACKGROUND:** This request would authorize the Town Manager to enter into the second, five year contract agreement with two (2) additional five (5) year options remaining on this contract agreement for a total potential contract term of 20 years, including any renewals, options and extensions for the purposes of contracting for the operation and maintenance services for the Hyannis Water System. The Town Council shall be the approving authority for each of the five year option periods. Chapter 30B, the Universal Procurement Act, limits contracts authorized by the Town Manager and procurement officers of any Town or city to a contract of up to 36 months in duration. In order to exceed this 36-month threshold, a contract requires a majority vote of the governing body. In the case of the Town of Barnstable, a contract with a vendor providing operation and maintenance services exceeding 36 months would need to be approved by a majority vote of the Town Council.

**ANALYSIS:** Under this requested order, the DPW Director via the Town Manager seeks to have the approval of the Town Council, to enter into the second five year contract agreement with United Water to provide operation and maintenance services for the Hyannis Water System. United Water has performed well over the last five years and has demonstrated to be a professional, committed and knowledgeable operator. The Hyannis Water System rate payers have experienced a caring and attentive contractor in United Water.

**FISCAL IMPACT:** The impact of this order would allow the Town to continue a long term relationship with the operation and maintenance firm United Water. It would enable the Town to maximize preventive maintenance strategies and excellent customer service for a competitive price while focusing on water quality and capital improvements in the Hyannis Water System.

**TOWN MANAGER RECOMMENDATION:** The Town Manager recommends favorable action.

**BOARD AND COMMISSION ACTION:** A unanimous vote in support of the five year contract extension has been made to the Town Manager by the Hyannis Water Board.

**STAFF ASSISTANCE:**

Daniel Santos, Director of Public Works  
Johanna Boucher, Purchasing Agent  
Hans Keijser, Supervisor Water Supply Division

**B. NEW BUSINESS (Refer to Public Hearing (11/07/13))**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-030  
INTRO: 10/17/13**

**2014-030 APPROPRIATION ORDER OF \$500,000 COMMUNITY PRESERVATION FUNDS FOR OPEN SPACE AND RECREATION AND AUTHORIZING ACQUISITION OF INTERESTS IN LAND OFF LONG BEACH ROAD IDENTIFIED AS MAP 185, PARCEL 29, LOT A IN CENTERVILLE**

**ORDERED:** That the Town Manager be authorized to acquire by gift, purchase or eminent domain on behalf of the Town interests in real property pursuant to the Community Preservation Act, G. L. c 44B, for open space, recreation, public access and bathing beach purposes in and over all or any portion of the real estate beginning on the South side of Long Beach Road to Nantucket Sound known in part as Cross Street bounded on the East by land having a street address of 249 Long Beach Road shown on Assessors Map 185 as Parcel 29 and as Lot A on plan of land recorded in the Barnstable County Registry of Deeds in Plan Book 139 Page 2 and bounded on the West by land having a street address of 259 Long Beach Road shown on Assessors Map 185 as Parcel 30 and as Lot C-2 on plan of land recorded in the Land Registration District of the Barnstable County Registry of Deeds as plan number 16409-B; that pursuant to said G. L. c. 44B the sum of \$500,000.00 be appropriated and transferred from the Community Preservation Fund for the purchase or taking of said interests for said purposes; and that the Town Manager is authorized to contract for and to expend the appropriation made available for this purpose, execute and record any written instruments, grant restrictions if required and accept any gifts or grants in relation thereto.

**SPONSOR:** Town Manager Thomas K. Lynch

**DATE**                      **ACTION TAKEN**

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

**B. NEW BUSINESS (Refer to Public Hearing 11/07/13)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-031  
INTRO: 10/17/2013**

**2014-031 ALLOCATION OF TAX LEVY FY14 – TAX FACTOR**

**RESOLVED**, That the Town Council hereby votes to classify the Town of Barnstable under the Classification Act at a Factor of 1 (one) for the fiscal year 2014.

**SPONSOR:** Town Manager Thomas K. Lynch at the request of the Board of Assessors

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

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2014-031**  
**INTRO: 10/17/2013**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** October 17, 2013  
**SUBJECT:** Allocation of Tax Levy FY14 – Tax Factor

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes. The residential factor commonly referred to as the “Split Tax Rate” allows the Town Council to create separate tax rates; one for residential property owners and a separate one for commercial, industrial and personal property owners, (CIP owners). Under a residential “Factor of 1”, all property owners would pay taxes at the same rate per \$1,000 of valuation. The maximum permissible shift would increase the CIP tax rate by 150%. Since 2007, the Town Council’s policy has been to select a Residential Factor of “1”. Please see tax factor information handouts provided prior to the meeting.

**B. NEW BUSINESS (Refer to Public hearing 11/07/13)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-032  
INTRO: 10/17/2013**

**2014-032 ALLOCATION OF TAX LEVY FY14 – RESIDENTIAL EXEMPTION**

**RESOLVED**, That the Town Council hereby votes to adopt a Residential Exemption percentage of 20% for fiscal year 2014.

**SPONSOR:** Thomas K. Lynch Town Manager at the request of the Board of Assessors

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

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



**B. NEW BUSINESS (Refer to Public hearing 11/07/13)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-032  
INTRO: 10/17/2013**

**SUMMARY**

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** October 17, 2013  
**SUBJECT:** Allocation of Tax Levy FY14– Residential Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between property owners within certain property classes based on statutory criteria. The Town Council can choose to adopt a “residential exemption”. The maximum exemption allowed is 20% of the average assessed value of all Class One (or Residential) parcels. This exemption would be applied to residential parcels which are qualified as the principal residence of the taxpayer. Principal residence is a taxpayer’s domicile, that is, their fixed place of habitation, permanent home, and legal residence, as used for federal and state income tax purposes. This option shifts property taxes between residential taxpayers only and does not affect the CIP class of taxpayers. If the full 20% exemption amount is adopted, residential taxpayers whose principal residence is in the Town of Barnstable will receive a tax reduction as long as their property assessment is approximately less than \$870,000 and the residential tax rate for all taxpayers will rise to cover the exempted portion of value of the qualified properties. The tax savings these property owners realize will be shifted to all non-resident property owners and residential property owners whose assessments are greater than approximately \$870,000. At the 10% level of exemption, a lesser amount will be exempted and the residential tax rate will not rise as much as under a 20% exemption. Under this option, property tax savings are greater as the assessed value of the property declines (progressive) and the percentage exemption adopted increases. See the tax factor informational handouts provided prior to the meeting for actual numbers and analysis. The town council has voted to adopt a 20% residential exemption for the past 8 fiscal years.

**B. NEW BUSINESS (Refer to Public hearing 11/07/13)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-033**  
**INTRO: 10/17/2013**

**2014-033 ALLOCATION OF TAX LEVY FY14 – SMALL COMMERCIAL EXEMPTION**

**RESOLVED**, That the Town Council hereby votes to adopt a Small Commercial Exemption of 10% for fiscal year 2014.

**SPONSOR:** Thomas K Lynch Town Manager at the request of the Board of Assessors

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

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

# **BARNSTABLE TOWN COUNCIL**

**ITEM# 2014-033**  
**INTRO: 10/17/2013**

## **SUMMARY**

**TO:** Town Council  
**FROM:** Town Manager  
**DATE:** October 17, 2013  
**SUBJECT:** Allocation of Tax Levy FY14 – Small Commercial Exemption

**BACKGROUND:** According to Massachusetts General Law, Chapter 40, Section 56, of the Acts of 1982 and Chapter 79 of the Acts of 1983, the Town Council is annually charged with determining the allocation of local property taxes by the adoption of a Residential Factor; a Residential Exemption; and/or the adoption of a Small Business Exemption. These tax levy-shifting tools will not change the overall amount of money that will be raised through property taxes; rather they allow the town to shift portions of the tax levy between classes of property and/or between property owners within certain property classes.

The Town Council has the option of granting up to a 10% exemption to the owner of commercial property which is occupied by qualified small businesses. This option shifts property taxes between commercial and industrial property owners only. It does not impact residential or personal property taxpayers. Qualifying property must be commercial, assessed under \$1,000,000 and be totally occupied by businesses with less than 10 employees. Adoption of the 10% level of this exemption would result in an increase in the commercial and industrial tax rate of approximately \$0.06 per thousand for all commercial and industrial properties only, including those receiving the exemption. Unlike the residential exemption, this exemption is calculated as 10% of the individual parcel's value, rather than being a flat amount for all properties and is less progressive as a result. In the prior 7 fiscal years, the Town council voted not to adopt the small business exemption.

## **B. NEW BUSINESS (Refer to Public hearing 11/07/13)**

### **BARNSTABLE TOWN COUNCIL**

**ITEM NO# 2013-034**

**INTRO: 10/17/13**

#### **2013-034 ORDINANCE AMENDMENT SETTING THE SCHEDULE OF FEES TO BE IN EFFECT IN THE TOWN OF BARNSTABLE.**

ORDERED: That Article II, Chapter §76-4 of the General Code of the Town of Barnstable is hereby amended by adding the omitted fees in the schedule.

#### **SCHEDULE OF FEES**

**Article II, § 76-4. Licenses. [Amended 3-4-2010 by Order No. 2010-071; 1-5-2012 by Order No. 2012-034; 1-17-2013 by Order No. 2013-064]**

The following Schedule of fees shall be in effect in the Town of Barnstable:

#### **§76-4 Miscellaneous Licenses and Permits**

<b><u>MGL c/Section</u></b>	<b><u>Description</u></b>	<b><u>Fee</u></b>
138-12	Club All Alcohol	\$2,225.00
138-12	Common Victualer, All Alcohol	\$3,050.00
138-12	Common Victualer, Beer & Wine	\$1,950.00
138-12	Innholder, All Alcohol	\$3,550.00
138-12	Farmer-Brewery Pouring	\$3,050.00
138-14	One-Day, All Alcohol	\$ 90.00
138-14	One-Day, Beer & Wine	\$ 40.00
138-14	One-Day, Beer Only/Wine Only	\$ 35.00
138-15	Package Store, All Alcohol	\$3,025.00
138-15	Package Store, Beer & Wine	\$1,950.00
101-33	Temporary License to sell for charitable purposes	\$ 10.00
138-30A	Pharmacist to sell alcoholic beverages	\$2,000.00
140-2	Inns and restaurants (Common Victuallers)	\$ 100.00
140-21B	Non alcoholic beverages	\$ 100.00
140-32B	Mobile home parks	\$ 50.00
140-32B	Motels	\$ 50.00
140-34	Lodging Houses - 10 or more Lodgers	\$ 125.00
140-34	Lodging Houses - less than 10 Lodgers	\$ 75.00
140-49	Vehicle for sale of food	\$ 250.00
140-56A	Shooting gallery	\$ 100.00
140-59	Auto dealer	\$ 150.00
140-177A	Automatic amusement devices	\$ 100.00 ea
140-2	Live Theatre	\$ 100.00
140-54	Junk Dealer	\$ 50.00
100-2	Auctioneer – Annual (Town Manager)	\$ 15.00

100-2	Auctioneer – temporary (Town Manager)	\$ 10.00
148-13	Storage of hazardous materials (Town Manager)	\$ 100.00
140-177	Pool Table	\$ 75.00/table
140-186	Carousel	\$ 75.00
140-56	Private Parking Lot	\$ 8.00/space
140-183A	Daily live entertainment (includes Sundays)	\$ 275.00
140-183A	Daily non-live entertainment (includes Sundays)	\$ 75.00
140-183A	Karaoke	\$ 100.00
140-183A	One day entertainment for profit (including Sundays)	\$ 50.00
140-183A	One day entertainment for non-profits (including Sundays)	\$ 25.00
140-185I	Fortune tellers	\$ 250.00
140-192	Rental boats (freshwater)	\$ 100.00
40-22	Taxicabs/Limos (Town Manager)	\$ 50.00
	Septic system inspection fee (Health)	\$ 25.00
	Board of Health request for variance	\$ 95.00
	Application fee – licenses and permits	\$ 100.00
	Bad Check Fee	\$ 25.00
	Late Fee	\$ 100.00

**SPONSOR:** Town Manager, Thomas K. Lynch

DATE	ACTION TAKEN
_____	_____
_____	_____

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

# **BARNSTABLE TOWN COUNCIL**

## **CORRECTION IN FEE SCHEDULE**

**ITEM#2013-034**  
**INTRO: 10/17/03**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Thomas K. Lynch, Town Manager  
**THROUGH:** Richard V. Scali, Interim Director Regulatory Services Department  
**DATE:** October 10, 2013  
**SUBJECT:** Omitted Fees in Schedule

**BACKGROUND:** Article II Chapter §76-4 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 restaurant and entertainment 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. All fees listed are current fees however some were left out of final version printed in Code. None of the fees are new or changed.

### **TOWN MANAGER RECOMMENDATION:**

The Town Manager recommends approval of this order.

### **STAFF ASSISTANCE:**

Richard V. Scali, Interim Director, Regulatory Services  
Tracey Smith, Administrative Assistant, Consumer Affairs Division