



Town of Barnstable Town Council

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

MEETING AGENDA October 1, 2020 7:00 PM

Councillors:

Paul Hebert
President
Precinct 3

Jessica Rapp Grasseti
Vice President
Precinct 7

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

VACANT
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Matthew Levesque
Precinct 10

Kristine Clark
Precinct 11

Paula Schnepf
Precinct 12

Jennifer L. Cullum
Precinct 13

Administrator:
Cynthia A. Lovell

Administrative
Assistant:
Kelly Crahan

The October 1, 2020 meeting of the Barnstable Town Council shall be physically closed to the public to avoid group congregation

Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Barnstable Town Council utilizing the Zoom link or telephone number and access code for remote access below
Join Zoom Meeting <https://zoom.us/j/95544850764> Meeting ID: 955 4485 0764

1-888 475 4499 US Toll-free Meeting ID: 955 4485 0764

PUBLIC SESSION

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. MOMENT OF SILENCE
4. PUBLIC COMMENT (For Public Comment please call **508-862-4610**)
5. COUNCIL RESPONSE TO PUBLIC COMMENT
6. TOWN MANAGER COMMUNICATIONS
7. ACT ON MINUTES (Including Executive Session)
8. COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements
9. ORDERS OF THE DAY

A. Old Business

B. New Business

EXECUTIVE SESSION

The Town Council will enter executive session pursuant to G.L. c. 30A, sec. 21(a)(3) to discuss strategy with respect to litigation since a discussion in open session may have detrimental effect on the litigating position of the Town and Town Council. Specifically, the Council will discuss the two Notices of Intent to File Suit dated

August 5, 2020 and September 16, 2020, respectively, sent by the Conservation Law Foundation to the Town regarding claims under the Clean Water Act and Title 5 of the Massachusetts Environmental Code.

10. ADJOURNMENT

NEXT REGULAR MEETING: October 15, 2020

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2020-192	Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties (May be acted upon) (Roll Call Majority)	4-19
2020-193	Order amending Chapter 240 Zoning, Article II, Section 7 adding certain provisions pertaining to Short Term Rentals (Refer to Public Hearing 10/15/2020)	20-21
2021-018	Order to accept Town of Barnstable’s amended application and the Community Preservation Committee’s vote to approve the amount of \$320,000 in Community Preservation Open Space/Recreation Funds for Falcon Road Conservation Restriction to be held by Barnstable Land Trust (May be acted upon) (Roll Call Majority)	22-23
2021-019	Order to accept Town of Barnstable’s amended application and the Community Preservation Committee’s vote to approve the amount of \$500,000 in Community Preservation Open Space/Recreation Funds for 830 Wakeby Road Conservation Restriction to be held by Barnstable Land Trust (May be acted upon) (Roll Call Majority)	24-25
B. NEW BUSINESS		
2021-020	Resolve that the Town Manager petition Barnstable County pursuant to General Laws Ch. 82 to abandon all its interest in Craigville Beach Road and upon abandonment the Town of Barnstable the Town will continue to maintain the road as a public way (First Reading) (Refer to Second Reading 10/15/2020)	26
2021-021 Resolve that the Town petition Barnstable County to grant an easement within the full length of Craigville Beach Road in accordance with a sketch attached hereto for all purposes for which public ways are utilized in the Town of Barnstable First Reading) (Refer to Second Reading 10/15/2020)	27
2021-022	Resolve that the Town of Barnstable grant to Vineyard Wind LLC an easement extending from Covells Beach to Independence Park along the route shown in the sketch attached hereto as prepared by the Engineering Department for utility purposes only. This easement shall terminate as such time as a permit granted to VW LLC by the United States Government Bureau of Ocean Management shall cease to be in full force and effect. The final form of the easement shall be approved by the Town Attorney (First Reading) (Refer to Second Reading 10/15/2020)	28-29

Approve Minutes; September 17, 2020

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.

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2020-192

INTRO: 06/18/2020, 07/16/2020, 08/20/2020, 09/17/2020 , 10/01/2020

2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES

SECTION 1. ORDERED that the Code of the Town of Barnstable be amended by adding the following Chapter 190, Short Term Rental Properties, to the General Ordinances:

“CHAPTER 190 SHORT TERM RENTAL PROPERTIES

§ 190-1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town’s housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

§ 190-2 Definitions

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

BUILDING COMMISSIONER

The Building Commissioner of the Town of Barnstable or his designee.

COTTAGE COLONY

A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

DWELLING

Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

INSPECTIONAL SERVICES DEPARTMENT

Consisting of Town Building and Health Divisions.

OCCUPANCY

The use or possession of or the right to use or possess a short term rental.

OCCUPANT (GUEST)

Any individual residing overnight in a short term rental.

OPERATOR (HOST)

Any person as defined below operating a short term rental.

OPERATOR'S AGENT

A person who, on behalf of an operator of a short term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER

Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

PERSON

An individual, partnership, trust or association, with or without transferable shares, joint-stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Barnstable or any of its agencies.

SHORT TERM RENTAL

A residential dwelling or remove any portion of bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; and bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506.

§ 190-3 Short Term Rental Registration

A. Registration Required

No Owner shall rent, or offer to rent, any Short Term Rental prior to registering with the Inspectional Services Department. No tenant or lessee of an Owner shall let or sub-let a Short Term Rental under any circumstances.

B. Limits on Number of Registrations per Owner

A maximum of two (2) Short Term Rental registrations shall be issued per Owner; provided that Owners who have short term rentals registered with the Massachusetts Department of Revenue as of April 30, 2020, will be eligible to register those short term rentals with the Inspectional Services Department, notwithstanding the limit of two set forth herein.

C. Compliance

A dwelling used as a Short Term Rental shall be in compliance with the provisions of all state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the Inspectional Services Department prior to occupancy. Operators shall comply with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, Chapter 133 Noise, Chapter 353, Art. 1, Storage of Garbage and Refuse, the Fair Housing Act, G.L. c. 151B, and

local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

D. Application Required

The Owner of the dwelling shall be required to complete a short term rental registration application, the form and content of which shall be provided by the Inspectional Services Department.

E. Registration Renewal

Short term rental registrations shall be renewed “every year” (annually) after a satisfactory inspection by Inspectional Services and upon payment of the renewal fee.

F. Fees

The fee for a short term rental registration or a renewal of a registration shall be initially set at “(\$90)” and thereafter may be modified by the Town Manager at a fee hearing.

G. Non-Transferability

Short term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

§ 190-4 Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the Short Term Rental for rent.

§ 190-5 Contact Information of Owner, Operator and/or Operator’s Agent

- A. An Owner of a Short Term Rental shall provide the Inspectional Services Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short Term Rental Registration in the Town of Barnstable has been issued or for which a Short Term Rental Registration application is pending.
- B. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
- C. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator’s Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by Inspectional Services Department, Barnstable Police, or any Fire District to complaints regarding the condition or operation of the Short Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short Term Rental Registration and shall be posted conspicuously within the rental unit.

§ 190-6 Good Neighbor Information

Short term rental registrations will be published to the Inspectional Services page of the Town’s website and shall include the contact information required in section 190-5(C) above. The website shall also

include information about these short term rental regulations, and instructions and contact information to file a complaint.

§ 190-7 Posting of Notices

The Town shall provide information to each registered Operator summarizing the regulations for short term rentals. For each Short Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the Application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The Operator shall:

- A. Provide occupants a copy of the provided information; and
- B. Post the information, along with the Short Term Rental Registration, in a conspicuous location within the Short Term Rental.

§ 190-8 Trash Removal

The Short Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent, in addition to compliance with the requirements of Chapter 353, Art. 1, Storage of Garbage and Refuse.

§ 190-9 Occupancy Requirements

Notwithstanding the provisions of Chapter 59-3, the maximum number of Occupants in a Short Term Rental shall be two per bedroom, plus an additional two.

§ 190-10 Smoke Detectors and Carbon Monoxide Alarms

Each Short Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. Operators shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the Short Term Rental Registration. Any detector or alarm found to be defective shall be repaired or replaced forthwith. The Occupant(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the owner of the dwelling and, second, the Inspectional Services Department.

§ 190-11 Keeping of Register

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years and shall be made available upon request to Inspectional Services Department staff, police, or other duly appointed or authorized code compliance staff of the Town of Barnstable.

§ 190-12 Ineligible Units

The following are not eligible to be rented or offered to rent as Short Term Rentals:

1. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
2. Family Apartments or Accessory Affordable Apartments;
3. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short Term Rental;
4. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders;

5. Properties designated as Problem Properties under Chapter 160.

§ 190-13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal or District Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding a Short Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

§ 190-14 Inspections

Short term Rentals shall be subject to reasonable inspections by Town and District inspectional staff (“Inspectors”).

§ 190-15 Complaint Process, Violations

- A. Complaint. A complaint alleging that a Short Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Inspectional Services Department. The complaint must contain the Short Term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- B. Written notice of any violations of this chapter shall be treated as a complaint and may also be given by Inspectors. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- C. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short Term Rental Registration application then on file with the Inspectional Services Department. A written change-of-address notice signed by the Owner/s and delivered to the Inspectional Services Department may be filed at any time.
- D. Review of Complaint. The Commissioner or his designee shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short Term Rental. The Commissioner shall keep records of all complaints received and determinations made.
- E. Offering an Ineligible Unit as a Short Term Rental. Any person who offers a unit as a Short Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short Term Rental.

- F. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short Term Rental without a valid Short Term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- G. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- H. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Inspectional Services Department shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Manager and shall occur no later than three (3) weeks after the date the Inspectional Services Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- I. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Inspectional Services Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- J. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Inspectors.
- K. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

§ 190-16 Registration Suspension, Modification and Revocation

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Inspectional Services Department, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Inspectional Services Department, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

§ 190-17 Judicial Appeals

Any person aggrieved by a final decision of the Hearing Officer and Inspectional Services Department with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

§ 190-18 Penalties

A. Any person who violates any provision of this chapter may be subject to a fine in accordance with the following:

- Warning 1st Offense
- \$100 2nd Offense
- \$200 3rd Offense
- \$300 4th Offense – and each subsequent offense

Each day that a violation exists constitutes a separate offense.

§ 190-19 Enforcement

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

§ 190-20 Regulations

The Inspectional Services Department may adopt regulations, policies and procedures for the implementation of this chapter.

§ 190-21 Severability

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Ordinances, this chapter 190 shall control.”

SECTION 2. **ORDERED** that the Code of the Town of Barnstable, General Ordinances Chapter 170, Rental Properties, be amended as follows:

- A. By adding to § 170-2, Definitions, “Dwelling,” after the words “rooming houses,” the words “except any required to be registered pursuant to § 190-3 Short Term Rental Registration” of Chapter 190 Short Term Rental Properties.
- B. By adding to § 170-2, Definitions, “Licensed Facility,” after the words “registered under this chapter” the words “or Chapter 190 Short Term Rental Properties.”

SPONSOR: Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

DATE	ACTION TAKEN
<u>06/18/2020</u>	<u>Refer to Public Hearing 07/16/2020</u>
<u>07/16/2020</u>	<u>Continue Public Hearing 08/20/2020</u>
<u>08/20/2020</u>	<u>Continue Public Hearing 09/03/2020</u>
<u>09/03/2020</u>	<u>Continue Item to 10/01/2020</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2020-192

INTRO: 06/18/2020, 07/16/2020, 08/20/2020, 09/03/2020, 10/01/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Town Council Committee to Review Zoning & Permitting Regulations
DATE: June 18, 2020
SUBJECT: Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties

RATIONALE: This proposed Short Term Rental General Ordinance aims to create enforceable standards for the operation and occupancy of Short Term Rentals that promote the safety of our residents and guests and provide a clear understanding of what is permitted in terms of renting a residential dwelling in the Town of Barnstable. Appropriate regulation of short term rentals will allow for varied accommodations and experiences for visitors, while retaining the quality of life in residential neighborhoods. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short term rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This ordinance defines Short Term Rentals in a manner consistent with the Commonwealth's Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions or dwellings that are rented out in advance for less than 31 days (including weekly rentals).

The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and regulate them by requiring that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize short-term rentals as an allowed use of a residential dwelling.

This item is the proposed general ordinance creating a registration process and associated requirements for the operation of Short Term Rentals. This process is separate and distinct from the current rental registration requirements of Chapter 170 to address the unique aspects of Short Term Rentals. The item establishes that all Short Term Rentals in the Town of Barnstable must be registered with the Inspectional Services Department, with registration renewals due every two years. Upon registration, owners of short term rentals must sign an affidavit attesting to compliance with pertinent health, safety, and other regulations. Registrations are not transferable to new owners. Upon registering, owners must provide their own contact information as well as contact information for someone who is available 24 hours a day and able to respond in-person to the Short Term Rental if necessary.

The proposed general ordinance limits the number of Short Term Rental registrations that may be issued to a single owner, as defined, to two. The intention of this limitation is to reduce the potential that multiple dwellings will be purchased exclusively for Short-Term Rentals use and is a measure to protect the Town's housing stock from this form of speculative investment. Limits on the number of licenses may incentivize the owners of multiple dwelling units to rent year-round, which can help both housing availability and affordability.

The proposed general ordinance establishes several provisions for Short Term Rentals to address potential health, safety, and community concerns, including measures to keep the public informed of

short term rentals registered in their neighborhood. The Town will be obligated to maintain a website with the address of all registered Short Term Rentals and corresponding contact information available for public view. The proposed general ordinance also commits the Town to providing template informational items that make clear the requirements of being both a host and a guest in a Short Term Rental in Barnstable.

There are requirements for regular trash removal and for the installation of smoke detectors and carbon monoxide alarms. Additionally, the proposed general ordinance proposes occupancy restrictions: a maximum of two occupants per bedroom, plus an additional two.

The proposed general ordinance establishes a process for filing complaints with the Inspectional Services Department and for violations, rights to a local hearing before a hearing officer, penalties and fines, and allowance for judicial appeals.

This proposed general ordinance was developed with the assistance of consultant groups who provided background research on Short Term Rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings.

A proposed General Ordinance requires introduction at a first reading before the Council, and must be considered at an advertised public hearing upon second reading, and requires a majority vote for passage.

STAFF ASSISTANCE: M. Andrew Clyburn, Assistant Town Manager, Karen Nober, Town Attorney, Charles McLaughlin, Assistant Town Attorney, Brian Florence, Building Commissioner, Elizabeth Jenkins, Planning & Development Director, Paul Wackrow, Senior Planner, Gloria McPherson, Planning & Economic Development Coordinator

PROPOSED GENERAL ORDINANCE AS AMENDED

BY TOWN COUNCIL ON SEPT 3, 2020

2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES

SECTION 1. ORDERED that the Code of the Town of Barnstable be amended by adding the following Chapter 190, Short Term Rental Properties, to the General Ordinances:

“CHAPTER 190 SHORT TERM RENTAL PROPERTIES

§ 190-1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town’s housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

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A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

DWELLING

Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

INSPECTIONAL SERVICES DEPARTMENT

Consisting of Town Building and Health Divisions.

OCCUPANCY

The use or possession of or the right to use or possess a short term rental.

OCCUPANT (GUEST)

Any individual residing overnight in a short term rental.

OPERATOR (HOST)

Any Person operating a short term rental.

OPERATOR'S AGENT

A **Person** who, on behalf of an operator of a short term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER

Any Person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

PERSON

An individual, partnership, trust or association, with or without transferable shares, joint-stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Barnstable or any of its agencies.

SHORT TERM RENTAL

A residential dwelling **or any bedroom within a dwelling** rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; and bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506.

§ 190-3 Short Term Rental Registration

D.Registration Required

No Owner shall rent, or offer to rent, any Short Term Rental prior to registering with the Inspectional Services Department. No tenant or lessee of an Owner shall let or sub-let a Short Term Rental under any circumstances.

E. Limits on Number of Registrations per Owner

A maximum of two (2) Short Term Rental registrations shall be issued per Owner; provided that Owners who have short term rentals registered with the Massachusetts Department of Revenue as of April 30, 2020, will be eligible to register those short term rentals with the Inspectional Services Department, notwithstanding the limit of two set forth herein.

F. Restrictions

- 1. Minimum Night Stay: A short Term Rental shall not be rented out for a rental period of less than three (3) nights. No additional rental is permitted within the minimum rental period.**
- 2. Notwithstanding the provisions of paragraph C – 1 immediately above, a Short Term Rental may be rented for a rental period of less than three (3) nights provided that the owner is physically present on premises where the Short Term Rental is located for the duration of the rental.**

3. A dwelling may be rented as a Short Term Rental only as a single rental to one party of Occupants at any one time.

G. Compliance

A dwelling used as a Short Term Rental shall be in compliance with the provisions of all state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the Inspectional Services Department prior to occupancy. Operators shall comply with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, Chapter 133 Noise, Chapter 353, Art. 1, Storage of Garbage and Refuse, the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

E. Application Required

The Owner of the dwelling shall be required to complete a short term rental registration application, the form and content of which shall be provided by the Inspectional Services Department.

F.Registration Renewal

Short term rental registrations shall be renewed **annually** after a satisfactory inspection by Inspectional Services and upon payment of the renewal fee.

G. Fees

The fee for a short term rental registration or a renewal of a registration shall be initially set at **\$90** and thereafter may be modified by the Town Manager at a fee hearing.

H. Non-Transferability

Short term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

J. Limits on Number of Registrations Town-wide

The number of short-term rental registrations issued by the Town shall not exceed 1,500 at one time.

§ 190-4 Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the Short Term Rental for rent.

§ 190-5 Contact Information of Owner, Operator and/or Operator's Agent

D. An Owner of a Short Term Rental shall provide the Inspectional Services Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short Term Rental Registration in the Town of Barnstable has been issued or for which a Short Term Rental Registration application is pending.

E. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.

F. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator's Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by Inspectional Services Department, Barnstable Police, or any Fire District to complaints regarding the condition or operation of the Short Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short Term Rental Registration and shall be posted conspicuously within the rental unit.

§ 190-6 Good Neighbor Information

Short term rental registrations will be published to the Inspectional Services page of the Town's website and shall include the contact information required in section 190-5(C) above. The website shall also include information about these short term rental regulations, and instructions and contact information to file a complaint.

§ 190-7 Posting of Notices

The Town shall provide information to each registered Operator summarizing the regulations for short term rentals. For each Short Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the Application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The Operator shall:

- C. Provide occupants a copy of the provided information; and
- D. Post the information, along with the Short Term Rental Registration, in a conspicuous location within the Short Term Rental.

§ 190-8 Trash Removal

The Short Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent, in addition to compliance with the requirements of Chapter 353, Art. 1, Storage of Garbage and Refuse.

§ 190-9 Occupancy Requirements

Notwithstanding the provisions of Chapter 59-3, the maximum number of Occupants in a Short Term Rental shall be two per bedroom, plus an additional two.

§ 190-10 Smoke Detectors and Carbon Monoxide Alarms

Each Short Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. Operators shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the Short Term Rental Registration. Any detector or alarm found to be defective shall be repaired or replaced forthwith. The Occupant(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the owner of the dwelling and, second, the Inspectional Services Department.

§ 190-11 Keeping of Register

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years and shall be made available upon request to Inspectional

Services Department staff, police, or other duly appointed or authorized code compliance staff of the Town of Barnstable.

§ 190-12 Ineligible Units

The following are not eligible to be rented or offered to rent as Short Term Rentals:

6. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
7. Family Apartments or Accessory Affordable Apartments;
8. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short Term Rental;
9. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders;
10. Properties designated as Problem Properties under Chapter 160.

§ 190-13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal or District Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding a Short Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

§ 190-14 Inspections

Short term Rentals shall be subject to reasonable inspections by Town and District inspectional staff (“Inspectors”).

§ 190-15 Complaint Process, Violations

- L. Complaint. A complaint alleging that a Short Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Inspectional Services Department. The complaint must contain the Short Term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- M. Written notice of any violations of this chapter shall be treated as a complaint and may also be given by Inspectors. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- N. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short Term Rental Registration application then on file with the Inspectional Services Department. A written change-of-address notice signed by the Owner/s and delivered to the Inspectional Services Department may be filed at any time.
- O. Review of Complaint. The Commissioner or his designee shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation

is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short Term Rental. The Commissioner shall keep records of all complaints received and determinations made.

- P. Offering an Ineligible Unit as a Short Term Rental. Any person who offers a unit as a Short Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short Term Rental.
- Q. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short Term Rental without a valid Short Term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- R. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- S. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Inspectional Services Department shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Manager and shall occur no later than three (3) weeks after the date the Inspectional Services Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- T. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Inspectional Services Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- U. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Inspectors.
- V. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

§ 190-16 Registration Suspension, Modification and Revocation

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Inspectional Services Department, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Inspectional Services Department, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

§ 190-17 Judicial Appeals

Any person aggrieved by a final decision of the Hearing Officer and Inspectional Services Department with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

§ 190-18 Penalties

If any Occupant, Operator or Owner violates any provision of this chapter, the Owner may be subject to a fine in accordance with the following:

- **\$1501st Offense**
- **\$3002nd Offense – and each subsequent offense**

Each day that a violation exists constitutes a separate offense.

§ 190-19 Enforcement

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

§ 190-20 Regulations

The Inspectional Services Department may adopt regulations, policies and procedures for the implementation of this chapter.

§ 190-21 Severability

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Ordinances, this chapter 190 shall control.”

§190-22 Annual Reporting by the Town Manager

Commencing in the fall in 2021, the Town Manager shall annually report to the Council on the statistical data relating to Short Term Rentals, their success stories, problems, suggested regulatory and zoning changes, if any, for Council and/or Planning Board consideration, and any other information deemed helpful to the Council’s assessment of community impact.

SECTION 2. **ORDERED** that the Code of the Town of Barnstable, General Ordinances Chapter 170, Rental Properties, be amended as follows:

- C. By adding to § 170-2, Definitions, “Dwelling,” after the words “rooming houses,” the words “except any required to be registered pursuant to § 190-3 Short Term Rental Registration” of Chapter 190 Short Term Rental Properties.
- D. By adding to § 170-2, Definitions, “Licensed Facility,” after the words “registered under this chapter” the words “or Chapter 190 Short Term Rental Properties.”

A. OLD BUSINESS (Refer to Public Hearing 10/15/2020)

BARNSTABLE TOWN COUNCIL

ITEM# 2020-193

INTRO: 06/18/2020, 10/01/2020

**2020-193 ORDER AMENDING CHAPTER 240 ZONING, ARTICLE II, SECTION 7
ADDING CERTAIN PROVISIONS PERTAINING TO SHORT TERM RENTALS**

ORDERED that the Code of the Town of Barnstable, Chapter 240 Zoning, Article II, Section 7, be amended by adding the following subparagraph (J) to Section 240-7:

“J. Short term rentals. Notwithstanding any provisions to the contrary in this Chapter 240, short term rentals shall be permitted within lawful dwelling units in all zoning districts. A short term rental shall be defined as a residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506. Cottage Colony shall be defined as a group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis. When a property is in use as a short term rental, on-site parking shall not be in any cultivated or landscaped area between a roadway and the part of the principal structure nearest to the roadway.”

SPONSOR: Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2020-193

INTRO: 06/18/2020, 10/01/2020

SUMMARY

TO: Town Council
FROM: Town Council Committee to Review Zoning & Permitting Regulations
DATE: June 12, 2020
SUBJECT: Order amending Chapter 240 Zoning, Article II, Section 7 adding certain provisions pertaining to Short Term Rentals

RATIONALE: This proposed amendment to Chapter 240, Zoning, aims to provide a clear understanding of what is permitted in terms of renting a residential dwelling as a Short Term Rental in the Town of Barnstable. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short Term Rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This proposed amendment to the Town's zoning ordinance defines Short Term Rentals in a manner consistent with the Commonwealth in the Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions of dwellings, that are rented out in advance for less than 31 days (including weekly rentals).

The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and require that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize Short Term Rentals as an allowed use of a residential dwelling.

This item is a proposed amendment to the Zoning Ordinance to recognize and define Short Term Rentals. Short Term Rentals are defined consistent with the Short-Term Rental Law, as noted above; the definition also includes exclusions, including historical cottage colonies. The amendment also establishes parking standards for the use. Parking is appropriately addressed through zoning, as opposed to a general ordinance.

This proposed amendment to the zoning ordinance was developed with the assistance of consultant groups who provided background research on short term rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings.

A proposed zoning amendment requires referral by the Council to the Planning Board, and a recommendation by the Planning Board to the Town Council. The amendment then must be considered by the Town Council at an advertised public hearing, and requires a two-thirds majority vote for passage.

STAFF ASSISTANCE: M. Andrew Clyburn, Assistant Town Manager, Karen Nober, Town Attorney, Charles McLaughlin, Assistant Town Attorney, Brian Florence, Building Commissioner, Elizabeth Jenkins, Planning & Development Director, Paul Wackrow, Senior Planner, Gloria McPherson, Planning & Economic Development Coordinator

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-018

INTRO: 09/17/2020, 10/01/2020

2021-018 ORDER TO ACCEPT TOWN OF BARNSTABLE’S AMENDED APPLICATION AND THE COMMUNITY PRESERVATION COMMITTEE’S VOTE TO APPROVE THE AMOUNT OF \$320,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR FALCON ROAD CONSERVATION RESTRICTION TO BE HELD BY BARNSTABLE LAND TRUST

RESOLVED: That the Town Council hereby votes to approve the Town of Barnstable’s amended request for **\$320,000** in Community Preservation Open Space/Recreation Funds for the acquisition of the open space resource consisting of 15.96 acres located at 28 Falcon Road, West Barnstable, Map 195, Parcel 038 and the Community Preservation Committee’s vote to recommend said acquisition. Specifically, the Town Council hereby authorizes, pursuant to the provisions of the Community preservation Act, G.L.c. 44B and the Conservation Restriction statute, G.L. c. 184, Sections 31-33, the amended application for the larger amount of \$320,000 which represents a portion of the total purchase price of \$347,500, said Restriction to be held by the Barnstable Land Trust which is contributing \$27,000 in both funding and in kind contributions. The Town of Barnstable will be applying for a Massachusetts drinking water grant that would potentially pay for up to half of the cost of the project and reserve rights for the Town to install a drinking water well at this site. If awarded, the amount granted would be returned to the Community Preservation Fund. The CPC has requested that the Conservation Restriction reflecting Barnstable Land Trust as the holder, be approved by the Legal Department. The Town Council further votes to authorize the Town Manager to execute, deliver and record documents and restrictions as provided in the relevant, above-cited statutes for the stated purpose and oversight of the Community Preservation Committee.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2021-018

INTRO: 09/17/2020, 10/01/2020

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Lindsey Counsell, Chairman, Community Preservation Committee
DATE: September 17, 2020
SUBJECT: Order to accept Town of Barnstable's amended application and the Community Preservation Committee's vote to approve the amount of **\$320,000** in Community Preservation Open Space/Recreation Funds for Falcon Road Conservation Restriction to be held by Barnstable Land Trust

BACKGROUND: At the August 17, 2020 Community Preservation Committee (CPC) meeting, the eight members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager, The Town of Barnstable's amended funding request for \$320,000 in Community Preservation Open Space/Recreation Funds for the acquisition of the open space resource consisting of 15.96 acres located at 28 Falcon Road, West Barnstable. The amended application for the larger amount of \$320,000 represents a portion of the total purchase price of \$347,500. Barnstable Land Trust will hold the Conservation Restriction and is contributing \$27,500 in cash and in kind contributions. The Town of Barnstable will be applying for a Massachusetts drinking water grant that would potentially pay for up to half of the cost of the project and reserve rights for the Town to install a drinking water well at this site. If awarded, the amount granted would be returned to the Community Preservation Fund. The CPC has requested that the Conservation Restriction reflecting Barnstable Land Trust as the holder, be approved by the Legal Department.

ANALYSIS: This land acquisition would satisfy many Barnstable Open Space Plan and Community Preservation Act goals related to water supply protection, natural resource preservation as well as passive recreation. The partnership with Barnstable Land Trust and the leveraging the drinking water grant creates, is an advantageous cost-benefit value for the Town and Barnstable Land Trust.

FISCAL IMPACT: This appropriation will be funded from the set-aside for open space and recreation within the Community Preservation Fund which has a balance of \$1,887,196. Any reimbursement received from a grant will be credited back to this reserve to offset the purchase. There is no impact on the General Fund budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager

VOLUNTEER STAFF ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-019

INTRO: 09/17/2020, 10/01/2020

2021-019 ORDER TO ACCEPT TOWN OF BARNSTABLE’S AMENDED APPLICATION AND THE COMMUNITY PRESERVATION COMMITTEE’S VOTE TO APPROVE THE AMOUNT OF \$500,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR 830 WAKEBY ROAD CONSERVATION RESTRICTION TO BE HELD BY BARNSTABLE LAND TRUST

RESOLVED: That the Town Council hereby votes to approve the Town of Barnstable’s amended request for **\$500,000** in Community Preservation Open Space/Recreation Funds for the acquisition of the open space resource consisting of 15.74 acres located at 830 Wakeby Road, Marstons Mills and the Community Preservation Committee’s vote to recommend said acquisition. Specifically, the Town Council hereby authorizes, pursuant to the provisions of the Community preservation Act, G.L.c. 44B and the Conservation Restriction statute, G.L. c. 184, Sections 31-33, the amended application for the larger amount of \$500,000 which represents a portion of the total purchase price of \$525,680, said Restriction to be held by the Barnstable Land Trust which is contributing \$25,680 in both funding and in kind contributions. The Town has a pending application for a reimbursement grant from the State for matching funds in the amount of \$250,000, which upon award, would be returned to the Community Preservation Fund. The CPC has requested that the Conservation Restriction reflecting Barnstable Land Trust as the holder and other usual conditions, be reviewed and approved by the Barnstable Legal Department. The Town Council further votes to authorize the Town Manager to execute, deliver and record documents and restrictions as provided in the relevant, above-cited statutes for the stated purpose and oversight of the Community Preservation Committee.

SPONSOR: Mark Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2021-019

INTRO: 09/17/2020, 10/01/2020

SUMMARY

TO: Town Council
FROM: Mark Ells, Town Manager
THROUGH: Lindsey Counsell, Chairman, Community Preservation Committee
DATE: September 17, 2020
SUBJECT: Order to accept Town of Barnstable's amended application and the Community Preservation Committee's vote to approve the amount of **\$500,000** in Community Preservation Open Space/Recreation Funds for 830 Wakeby Road Conservation Restriction to be held by Barnstable Land Trust

BACKGROUND: At the August 17, 2020 Community Preservation Committee (CPC) meeting, the eight members present voted unanimously by roll call vote to recommend to the Town Council through the Town Manager, The Town of Barnstable's amended request for \$500,000 in Community Preservation Open Space/Recreation Funds for the acquisition of the open space resource consisting of 15.74 acres located at 830 Wakeby Road, Marstons Mills. The amended application for the larger amount of \$500,000 represents a portion of the total purchase price of \$525,680. Barnstable Land Trust will hold the Conservation Restriction on the property and is contributing \$25,680 in both funding and in kind contributions. The Town has a pending application for a reimbursement grant from the State for matching funds in the amount of \$250,000, which upon award, would be returned to the Community Preservation Fund. The CPC has requested that the Conservation Restriction reflecting Barnstable Land Trust as the holder and other usual conditions, be reviewed and approved by the Barnstable Legal Department.

ANALYSIS: This land acquisition would satisfy many Town planning and Community Preservation Act goals, as well as the Town's Open Space Plan related to scenic and natural resource protection as well as passive recreation. The partnership with Barnstable Land Trust and the leveraging the Massachusetts Land Grant creates an advantageous cost-benefit value for the Town and Barnstable Land Trust.

FISCAL IMPACT: This appropriation will be funded from the set-aside for open space and recreation within the Community Preservation Fund which has a balance of \$1,887,196. Any reimbursement received from a grant will be credited back to this reserve to offset the purchase. There is no impact on the General Fund budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager

VOLUNTEER STAFF ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-020
INTRO: 10/01/2021**

2021-020 RESOLVED THAT THE TOWN MANAGER PETITION BARNSTABLE COUNTY PURSUANT TO GENERAL LAWS CH. 82 TO ABANDON ALL ITS INTEREST IN CRAIGVILLE BEACH ROAD AND UPON ABANDONMENT THE TOWN OF BARNSTABLE THE TOWN WILL CONTINUE TO MAINTAIN THE ROAD AS A PUBLIC WAY

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-021
INTRO: 10/01/2021**

2021-021 RESOLVE THAT THE TOWN PETITION BARNSTABLE COUNTY TO GRANT AN EASEMENT WITHIN THE FULL LENGTH OF CRAIGVILLE BEACH ROAD IN ACCORDANCE WITH A SKETCH ATTACHED HERETO FOR ALL PURPOSES FOR WHICH PUBLIC WAYS ARE UTILIZED IN THE TOWN OF BARNSTABLE

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

B. NEW BUSINESS (May be acted upon)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-022
INTRO: 10/01/2021**

2021-022 RESOLVE THAT THE TOWN OF BARNSTABLE GRANT TO VINEYARD WIND LLC AN EASEMENT EXTENDING FROM COVELLS BEACH TO INDEPENDENCE PARK ALONG THE ROUTE SHOWN IN THE SKETCH ATTACHED HERETO AS PREPARED BY THE ENGINEERING DEPARTMENT FOR UTILITY PURPOSES ONLY. THIS EASEMENT SHALL TERMINATE AS SUCH TIME AS A PERMIT GRANTED TO VW LLC BY THE UNITED STATES GOVERNMENT BUREAU OF OCEAN MANAGEMENT SHALL CEASE TO BE IN FULL FORCE AND EFFECT. THE FINAL FORM OF THE EASEMENT SHALL BE APPROVED BY THE TOWN ATTORNEY

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2021-022
INTRO: 10/01/2021

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: October 1, 2020
SUBJECT: Vineyard Wind Cable Installation/Craigville Beach Road/West Main Street

RATIONALE: This resolve is required to accommodate the installation of sewer pipes in parallel with the Vineyard Wind cable installation. Doing this work simultaneously with Vineyard Wind being responsible for trenching and repaving will save the Town more than \$3,000,000 in costs. The County currently has an easement in Craigville Beach Road and may have an interest in West Main Street. To expedite both projects for bidding and construction purposes, the Town first seeks an easement from the County in both roads, to be followed by a more time-consuming abandonment process whereby the Town will assume all of the County's rights and maintenance obligations in both roads. The Town will then grant an easement to Vineyard Wind to facilitate its cable installation from Covell's Beach leading to the Independence Park sub-station. The Vineyard Wind easement will automatically terminate when the federal Bureau of Ocean Management permit for the project is terminated."

STAFF ASSISTANCE: Charles S. McLaughlin, Jr., Esq