

To: Barnstable Town Council

From: Committee to Review and Assess Zoning and Review of the Town's Regulatory Agreements

CC: James Kupfer, Kathleen Connolly, Steven Robichaud, Mark Ells

Date: April 7, 2025

Re: Recommendations on Zoning, Use of Regulatory Agreements and Other Zoning-Related Matters

SEE ATTACHED MEMORANDUM

I. EXECUTIVE SUMMARY

A. Purpose/Objective

- The Town Council established the purpose of the Ad Hoc Committee as follows: “Work with the Town’s Planning & Development staff to review and reassess recently adopted zoning changes, review the Town’s use of regulatory agreements, and make recommendations to the Council.”
- The Committee was comprised of both sitting Town Councilors appointed by the Town Council President, and members of the public who were appointed after an extensive application and interview process. The Committee members brought a diversity of life and professional experience, views and opinions on the topics discussed.
- In addition to recently adopted zoning changes (which were defined as significant amendments passed or proposed over the past 20 years) and the Town’s use of regulatory agreements, the Committee also identified several additional significant zoning-related topics/issues which it believes the Council should consider. Several of these topics/issues were brought to the attention of the Committee by members of the public. The Committee welcomed extensive public input and comment, and appreciated related contributions from Town staff.
- The Committee gathered facts, reviewed ordinances, and examined the topics/issues in light of changing circumstances and conditions. The Committee's objective was to assist the Town Council by making recommendations for zoning amendments and policy changes that would preserve and improve the quality of life in our Town and its villages and satisfy residents' current and future needs. The Committee’s recommendations were developed after robust discussion and consideration of input from Town Staff, subject experts and, importantly, residents. The Committee's deliberations were thorough, constructive, and respectful. The Committee appreciated the same from everyone who contributed to its important work.

B. Primary Areas of Review

The three primary areas of review by the Committee and for which recommendations have been made for the Town Council’s consideration include the following:

- Chapter 168 Regulatory Agreements Ordinance
- Chapter 240 Zoning Ordinance and Maps
- Other Zoning-Related Topics/Issues

C. Recommendations/Action Items by Priority

The following detailed memorandum sets forth the Committee's recommendations to the Town Council in full. Provided below is a list of the recommendations summarized by the priority level assigned by the Committee for the Town Council to take action. The page number(s) of the memorandum on which details for the recommendations can be found are listed in parentheses after the item below. The three levels assigned to the recommendations are: IMMEDIATE PRIORITY, HIGH PRIORITY, and PRIORITY.

IMMEDIATE PRIORITY ACTION

- Downtown Hyannis Zoning Districts – Chapter 240 §24.1 - §24.1.13:
 - Parking (Increase Parking Requirements) (pp. 12-13)
 - Building Standards (Expansion of Downtown Main Street Zoning District Boundaries) (p. 13)
 - Building Height (Reduce Building Height Maximum in Downtown Main Street Zoning District) (p. 14)
 - District Boundaries (Replace Downtown Village District with Downtown Neighborhood District) (p. 14)
- Other Zoning-Related:
 - Inclusionary Affordable Housing Ordinance (p. 15-16)
 - Zoning Enforcement Issues (p. 19-20)
 - Identification and Designation of IND and IND Limited Zoned Land (Preserve Areas in Independence Park and elsewhere for Development of Contractor Bays/Industrial Zoned Parking Only, (e.g. low-cost start-up space, development of small shop spaces, parking for equipment)) (p. 22)

HIGH PRIORITY ACTION

- Chapter 240 Zoning:
 - Short-Term Rental Regulations (Implement Short-Term Rental Regulations) (pp. 16-17)
 - By-Right Zoning/Single-Family Residential Zoning (p. 18)
 - Commercial Vehicle Ordinance (Implement Restrictions in Residential Areas) (p. 20)
 - Rental Properties – Parking Restriction Ordinance (pp. 20-21)
 - West Main Street Hyannis Zoning Amendment (Amend Zoning from Highway Business District to Less Intense Use Category) (p. 21)
- Other Zoning-Related
 - Climate Resiliency-Related Requirements (pp. 21-22)

PRIORITY ACTION

- Chapter 168 Regulatory Agreements
 - Review and Amend Chapter 168 Regulatory Agreement District Map (Add or Delete Properties) (p. 18)
 - Implement Changes to Enhance Consistency and Visibility of Regulatory Agreements – Earlier Public Involvement and Requirement for Final Reporting (pp. 8-9)
 - Town Council Guidance on Priority Defined Public Benefits for Regulatory Agreements (Periodic Review and Update) (p. 9-10)
 - Regulatory Agreement Enforcement (Use of Enforcement Officers and Establish Criteria and Use of Performance/Conservation Bonds) (p. 10)
- Other Zoning-Related:
 - Solar Installation Regulations (p. 23)
- Chapter 240 Zoning:
 - Review and Amend §240-8, Exempt Uses (Establish Standard Policies/Standards for Exempt Uses, Specifically Municipal Uses) (p. 11)

D. Conclusion

We would like to thank the Town Council for the authorization and formation of this Committee. It provided town officials, town staff and members of the public with a public forum and transparent environment in which they could discuss and share ideas and opinions regarding potential zoning amendments and policy changes that would preserve and improve the quality of life in our Town and its villages and satisfy residents' current and future needs. Finally, the Committee believes and hopes you will agree that the recommendations set forth herein merit serious discussion and prompt action by the Town Council.

II. INTRODUCTION

A. Background

This memorandum of recommendations (the "Memo") is being provided to members of the Barnstable Town Council (the "Town Council") in response to Town Council Item # 2024-166 – Resolve Establishing Certain Ad Hoc Advisory Committees (the "Resolve"). The establishment of such committees to assist the Town Council in carrying out its responsibilities is in accordance with Section 241-8 of Chapter 241 of the Town Administrative Code.

The initial read of the Resolve occurred on March 7, 2024 and was continued to March 21, 2024. On March 21, 2024, the Town Council voted to approve Item # 2024-166C which established the Committee to Review and Assess Zoning and Review of the Town's Regulatory Agreements (the "Committee").

The Committee¹ would like to thank the Town Council for the opportunity to address and make recommendations on numerous critical topics and issues impacting Barnstable, its neighborhoods and, most importantly, its residents. These topics and issues are often complex and therefore can be challenging to address. In making the recommendations set forth herein, the Committee considered information provided from all sources as well as tradeoffs associated with various options.

We are very grateful for the time and assistance provided by Director of Planning & Development, James Kupfer, Attorney Kathleen Connolly, our Committee administrator, Cynthia Lovell, and finally, Sarah Beal-Fletcher and her staff. Mr. Kupfer was particularly helpful and responsive to any requests made by the Committee and was always a pleasure to work with. We found his approach and leadership of the Planning and Development Department a refreshing change and feel he is a real asset to the Town's senior management team. In working with Mr. Kupfer, we found that the Town has many good "tools" at its disposal (e.g., dedicated Planning & Development staff, Regulatory Agreements, new zoning regulations, street improvement plans, etc.) and strived to make recommendations that would take advantage of those tools in order to preserve and improve the quality of life in our Town and villages.

The Committee would also like to thank the many members of the public who appeared before us, emailed or called members of the Committee with their thoughts and opinions. Not surprisingly, we found that one of the Town's best and most important resources is its residents. The Committee believes this is something on which we can all agree.

¹ See Appendix 1 for a list of the Committee members.

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Finally, the Committee is grateful for the opportunity to have been of service to the Town Council. We feel strongly about the importance of the topics addressed by our Committee and recommend that the Town Council plan to reestablish and appoint new members to this Committee periodically (e.g., every 3 to 5 years) to reconsider and provide recommendations to future Town Councils.

B. Purpose of the Committee

As set forth in the Resolve, the purpose of the Committee is as follows: *Work with the Town's Planning & Development staff to review and reassess recently adopted zoning changes, review the Town's use of regulatory agreements, and make recommendations to the Council.* The Committee adhered to the purpose by reassessing recently adopted Town Council-approved zoning changes, including the Downtown Hyannis Zoning Districts/Form-Based Zoning, many of which were focused in Hyannis. The Committee generally did not assess the broad suite of forward-looking land use and zoning matters under discussion in the Local Comprehensive Planning process or the in the Housing Production Plan process; however, we have provided comments for the Council's consideration.

The initial deadline for the Committee to complete its work and make recommendations to the Town Council was October 31, 2024. However, the deadline for the completion of the Committee's work was extended to March 31, 2025 with a presentation of its recommendations as soon as reasonably practicable thereafter.

C. Processes Undertaken

1. Bimonthly Meetings - The Committee held its initial meeting on June 28, 2024 at which it elected a chair and discussed its general plans for the execution of its charge. Over a nine-month period, the full Committee held 18 meetings on a bimonthly basis, through the end of March 2025, with the exception of December when one meeting was held.

The Committee's meetings were generally well attended and a quorum of Committee members was satisfied for all meetings. Committee members who attended the meetings came well prepared and robust discussions were held without constraints placed on time.²

² One Councilor who asked to be appointed to the Committee attended only the initial meeting. While that Committee member did not resign, the lack of attendance caused the Committee to operate with one less member than contemplated at formation. Given the regular and robust participation by elected and appointed officials, and unconstrained public comment, the Committee nevertheless had a robust record and diverse perspectives throughout the process.

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Upon commencement of its work, the Committee elected to start by considering Chapter 168 of the General Ordinance: Regulatory Agreements to be followed by Chapter 240 of the General Ordinance: Zoning. For Chapter 240, as only a few zoning amendments are passed each year, the Committee discussed with Director of Planning James Kupfer and Assistant Town Attorney Kathleen Connolly how it would define "recent" zoning amendments for the purpose of its work. There was agreement among Committee members and Town staff supporting the Committee that "recent" zoning amendments would include not only the 2023 Downtown Hyannis Zoning Districts amendment, but also a look back at significant zoning amendments passed and/or proposed by the Town over the past 20 years.

2. *Presentations by Subject Experts* - During the course of its meetings, the Committee received numerous presentations on various topics by subject experts and/or knowledgeable individuals. Those experts/individuals included the following:
 - James Kupfer, Director, Planning and Development
 - Kathleen Connolly, Assistant Town Attorney
 - Brian Florence, Director, Inspectional Services
 - Steven Robichaud, Planning Board Chair
 - Rick Presbrey, Chair, Committee to Assess and Recommend Strategies for Housing Creation Within the Town
 - Laura Shufelt, Member, Committee to Assess and Recommend Strategies for Housing Creation Within the Town
3. *Public Comment* - All of the Committee's meetings included public comment periods with no limits placed on time for commenters. The public was granted the ability to comment at various points during meetings. Public comment was accepted in person, via zoom and in writing via email. Public comment was always respectful and on numerous issues was quite extensive. The Committee would again like to thank and express its gratitude for the engagement of so many residents throughout the process.
4. *Memorandum of Recommendations* – During the course of its work, the Committee discussed numerous zoning and zoning-related issues, many of which were complex and challenging and often involving numerous considerations and tradeoffs. The Committee heard a variety of opinions on the issues and topics which it discussed. These opinions were expressed by Town staff, subject experts, members of the public and the Committee members themselves. On some issues, the range of opinions was wide. For example, regarding building & building heights, opinions ranged **from** requesting a multi-

year moratorium on all new building in Downtown Hyannis and surrounding areas **to** making no changes to the current zoning and continue building at the current pace. Another example was parking in Downtown Hyannis. We heard requests which ranged **from** increasing parking to 1 space per bedroom (vs. dwelling unit) to eliminating any parking requirements at all.

The Committee discussed and evaluated all of the information and opinions provided and developed the recommendations included in this memorandum. There was broad majority consensus on most issues, although unanimity was not reached on every topic. Some Committee members provided supplemental materials and information which included extensive details on their thoughts and opinions on various topics and requested they be provided to the Town Council members for their information.³ Some of these dealt with topics discussed by the Committee and others were not. Copies of these materials have been included as Appendices to this memorandum.

III. Review of Chapter 168 Regulatory Agreements Ordinance and Map

Please see the attached memorandum titled ***Potential Amendments to Chapter 168 Regulatory Agreement Ordinance and Map***, dated July 24, 2024, Updated August 7, 2024 and August 23, 2025, and prepared by Mr. Kupfer (**Exhibit A**). This document has been valuable and is important to retain as part of the record of the Committee's work. The memorandum provides a detailed overview of the process undertaken by the Committee in its discussions, consideration of public comment and rationale in support of its recommendations to the Town Council regarding Regulatory Agreements. The Committee believes the recommended amendments/actions summarized below will make Regulatory Agreements better, more consistent, visible and effective for both the Town and developers. The Committee noted that Regulatory Agreements have been infrequently used since some of the recent zoning changes were made by the Town. Therefore, the Committee did not rank any of its recommendations for Regulatory Agreements as Immediate or High Priority. However, the Committee recommends the Town Council consider implementation of the recommendations outlined below prior to any future Regulatory Agreements being contemplated by the Town.

³ See Appendices

A. **Proposed Recommendations/Amendments to the Town Council:**

1. ***Regulatory Map Amendments (Review and Amend District Map) -*** **PRIORITY ACTION**

a) The Committee recommends the Regulatory Agreement District Map be reviewed and amended by adding or removing certain properties from the Map.

- i. Priority consideration for removal should be given to the Regulatory Agreement District Parcels outside the Growth Incentive Zone (GIZ). Some of these, (e.g., a portion of historic Main St. Centerville), appear to have been added with no apparent connection or basis as there has been no development or activity there and should be considered for removal from the GIZ map.

2. ***Process Changes to Enhance Consistency and Visibility – Earlier Public Involvement and Requirement for Final Reporting -*** **PRIORITY ACTION**

The Committee recommends:

- a) Establish a Regulatory Agreement Template utilizing best language examples from prior agreements and institute a process where the Town takes the lead in what it would like to see in the agreement (this will enable the Town to lead the process and be proactive in what it wants from developers versus being reactive);
- b) Require the introductory presentation of a proposed project, (i.e., concept stage without the need for expensive engineering drawings) to the Town Council and public at a regularly scheduled Town Council meeting prior to any public hearing by Planning Board. The Town shall provide all applicable materials provided by the applicant on a Town project webpage prior to the regularly scheduled meeting of Town Council and the Chair of the Planning Board shall provide notice of an application submitted at a regularly scheduled meeting of the Board upon notice of said application;⁴ and

⁴ The Committee also suggests the Town Council consider requiring developers contemplating a Regulatory Agreement for a proposed project to first approach and inform Town Council leadership, the Director of Planning & Development and the town councilor of the precinct where the project would be located.

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- c) Require all Regulatory Agreements be conditioned to provide a final report/presentation documenting the satisfaction of all conditions and requirements at a public Town Council meeting prior to consideration of final approval of the project and certification of occupancy.⁵

The Committee recommends the Town Council solicit input from the Planning & Development Department on whether the above recommendations can be most effectively implemented through an ordinance amendment or a change/update to Town policy.

3. Town Council Guidance on Priority Defined Public Benefits - PRIORITY ACTION

The Committee recommends:

- a) The Town Council should review and consider providing guidance on suggested public benefits that would, in the Council's view, provide the greatest community value for the long term. Such guidance would not foreclose other proposed benefits, but would enhance focus on Town Council-identified community priorities and benefits; and
- b) The Town Council should review, and revise as appropriate, such Public Benefits guidance annually so that the guidance to developers remains aligned with then-current Council-identified community needs;
 - i. This could be done in a process that includes consideration of community needs and objectives and/or solving specific problems, and that has public notice and comment opportunity, such as in connection with the Town Council's annual Strategic Plan Review. This could include, for example, new/different benefits, or a table of specific benefits, etc. Some examples of specific additional benefits that might be considered include:
 - Specific or certain types of uses
 - Specific building designs
 - Reduction of impervious surface coverage
 - Low water, biodiverse landscaping plans

⁵ The Committee recommends the Town Council consider assigning responsibility for determining satisfaction of this requirement be assigned to the position of regulatory enforcement officer recommended below in paragraph III. 4. c) below.

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- Creation of affordable/workforce housing
- Additional tree planting
- Construction of new underground utilities
- Replacement of aging water lines

4. *Regulatory Agreement Enforcement* - **PRIORITY ACTION**

The Committee recommends:

- a) The Town Council should amend subsection Chapter 168-11 to require performance guaranty for conditions through the posting of a performance and/or conservation bond (for environmental feature benefits);
 - i. Bonds should be for a calculated⁶ significant dollar amount as specified in the Regulatory Agreement and not released (i.e., no partial release) until the Town makes a written determination that the developer has fully executed all of the Regulatory Agreement conditions.
- b) The Town Council should amend subsection Chapter 168-9B to add language regarding explicit timeframes for the developer to satisfy the conditions, (e.g., perpetuity, x number of years), and reporting requirements for specified conditions and changes of ownership during the period the Agreement is in effect and run with the land; and
- c) The Town Council should explore the assignment or addition of specific enforcement officers responsible for the review and confirmation that Regulatory Agreement requirements/conditions are complied with and ultimately fully satisfied, and specify the process for reporting non-compliance to the Town legal department for follow-up.

IV. Review of Chapter 240 Zoning Ordinance and Map

Please see the attached memorandum titled ***Potential Amendments to Chapter 240 Zoning Ordinance and Map***, dated October 11, updated November 19, 2024 and January 24, 2025 and prepared by Mr. Kupfer (**Exhibit B**). This document has been valuable and is important to retain as part of the record of the Committee's work. The memorandum provides a detailed overview of the process undertaken by the Committee in its discussions, consideration of public comment and rationale in support of its recommendations to the Town Council regarding Chapter 240 Zoning. The

⁶ Most performance bond costs are calculated using a rate per \$1,000 of the contract value. The rates may vary by project based on factors like the contractor's financial health, experience and the project complexity. However, for illustration purposes only, a 2.0% rate on a \$1.5 million project would be $.02 \times \$1,500,000 = \$30,000$.

Committee believes the recommended amendments/actions summarized below will address issues and concerns with the current Zoning.

A. **Proposed Recommendations/Amendments to the Town Council:**

1. ***Exempt Uses*** - **PRIORITY ACTION**

The Committee suggests that there is a lack of regulation surrounding exempt uses, specifically municipal uses. The Committee noted that better management of municipal properties is necessary to provide a model standard for those required to meet the zoning ordinance that the Town has set forth and that enhanced standards in §240-8 may be necessary.

The Committee recommends:

- a) Exempt Uses, §240-8, be amended to establish standard policies and/or add certain standards for municipalities (e.g., including fire district lands) to adhere to for site development when proposing new construction or substantial alterations. Examples of such policies and/or standards include:
 - i. Tree preservation, and planting with biodiversity targets;
 - ii. Landscaping improvements;
 - iii. Stormwater management;
 - iv. Low impact development; and
 - v. Buffers and boundary setbacks

2. ***Downtown Hyannis (Chapter 240 §24.1 through 24.1.13):***

The Committee reviewed Chapter 240 §24.1 through 13 of the Barnstable Zoning Ordinance, defined as the Downtown Hyannis Zoning Districts, as amended on February 2, 2022. The Committee highlighted several key issues for further discussion including: parking ratios; heights of structures; % of open space on lots; streetscape/tree planting; and the districts as defined on the zoning map. The Committee recommends the Town Council take the following actions:

a) Parking (Increase Minimum Parking Requirements) - **IMMEDIATE ACTION**

- i. Recommend amendment to Chapter 240 §24.1.5.C Table 2 Minimum Required Accessory Parking Spaces by increasing “Residential or artist live/work (per dwelling unit (DU))” from one space per unit in all districts to a parking ratio of a minimum of 1.5 space per dwelling unit up to no more than two spaces per dwelling unit, and when calculating the overall parking count for a specific project, the Committee recommends that the state mandated handicap parking spaces that shall be required for any proposed project are not to be included in the parking count.⁷ Additionally, it is recommended that the Town Council may wish to include parking dimension standards for all districts in the Downtown Hyannis Zoning. These dimensional recommendations are that the new proposed parking spaces shall be a minimum of 9’ by 18’ and that a drive aisle between parking spaces shall be a minimum of 20’;
 - a. Data Reference: 2023 U.S. Census reports that only 2% of Barnstable residents take public transportation to work and only 2% walk.⁸
- ii. In addition to promptly adopting the above-mentioned parking requirements adjustment to meet current needs, the Committee recommends the Town Council consider requesting an update/refresh of May 2017 Hyannis Parking Study to reflect current data on existing conditions, user perspectives and land use (the 2017 report was done pre-Covid and utilized data that is now almost 10 years old); and
- iii. Require the Town management and staff to continue with the prompt implementation of key recommendations included in the Hyannis Parking Study, as appropriate. Included below is a list of key recommendations from the 2017 Study. Those that are currently in progress have been noted as such below:
 - a. Create a Coordinated and Village-Wide Parking System
 - i.) Create a Parking Management Group
 - ii.) Expand Shared Parking
 - *IN PROGRESS – Zoning provided a shared parking option*

⁷ It is worth noting that the reduction of parking requirements was one of the most frequent areas of public comment during the Town’s original discussions on adopting Form Based Code. Therefore, it was not surprising for parking concerns to emerge as a priority in the Committee’s review.

⁸ <https://censusreporter.org/profiles/16000US2503690-barnstable-town-ma/>

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- iii.) Create a Downtown Hyannis Parking Benefit Districts (PBD)
 - In PROGRESS - Exploring/studying what a district(s) may include
 - This should include consideration of the immediate creation of a "Downtown" parking district and later a separate "Waterfront" parking district
 - b. Increase Parking Availability
 - i.) Implement demand-based pricing
 - ii.) Add parking supply
 - iii.) Maximize curbside capacity
 - c. Improve Legibility of Parking System
 - i.) Improve parking information and signage
 - *IN PROGRESS - Have begun "wayfinding" improvements. More work necessary. Currently seeking grants.*
 - ii.) Update technology
 - *IN PROGRESS – Exploring app-based metering where meters exist today and enhanced enforcement technology*
 - iii.) Adjust enforcement
 - iv.) Access improvements
 - d. Improve the Pedestrian and Bicycle Environment
 - i.) Re-Examine One-Way Circulation System
 - *IN PROGRESS - Working towards implementation*
 - e. Accommodate Short- and Long-Term Parking
 - Update employee parking permit
- b) Building Standards (Expansion of Downtown Main Street District Boundaries) -
IMMEDIATE ACTION
- i. Recommend amendment to Chapter 240 §24.1.6.C.4 to delete and replace "Ocean Street" with "Pleasant Street".

c) Building Height (Reduce Building Height Maximum in Downtown Main Street District) –

IMMEDIATE ACTION

- i. Recommend amendment to Chapter 240 § 24.1.6 Downtown Main Street Dimensional Standards, Table 3, Building Form F - Number of Stories from “3.5 to 4 maximum” to a “3 maximum” stories; however, it is recommended allowing for a 3.5 story only if the half story above the third story of any building is recessed (“stepped back”) from the facade of the stories below by at least eight feet. Delete 240 §24.1.6.C.6 that reads “The fourth story of any building must be recessed (“stepped back”) from the facade of the stories below at least eight feet”.

d) District Boundaries (Replace Downtown Village District with Downtown Neighborhood District to Reduce Heights and Density to Preserve Neighborhoods Adjacent to the Downtown Main Street District) - **IMMEDIATE ACTION**

- i. The Committee recommends amendments to Chapter 240 §24.1.7 Downtown Village District and the zoning map by replacing in its entirety §24.1.7 Downtown Village District with §24.1.8 Downtown Neighborhood District. In turn, the zoning map would need to reflect the proposed amendment to the district as well. (The impact of this change will be to address concerns about building heights and density of parcels on the outer limits of the Downtown Hyannis Districts. This will allow for similar development patterns as those abutting the outer perimeter of the districts.)

V. Other Zoning-Related Topics/Issues Discussed by the Committee and Recommendations to the Town Council

Over the course of its work, the public brought numerous other significant zoning-related topics/issues to the attention of and which were discussed by the Committee. Due to scope and/or time constraints, the Committee was unable to address all of these topics/issues in detail.

However, based on its work and the extensive public comments it received, the Committee has identified certain issues which it believes to be extremely important to the Town and its residents and strongly recommends that the Town Council review and consider addressing these through additional amendments to the Town's zoning laws and regulations.

A. **Inclusionary Affordable Housing Ordinance** - **IMMEDIATE ACTION**

On December 13, 2024, Rick Presbrey, Chair of the Committee to Assess and Recommend Strategies for Housing Creation Within the Town, and Laura Shufelt, a member of that Committee and local housing expert, joined our Committee for a presentation by James Kupfer on Chapter 9, Affordable Housing, of the Town's General Ordinance and to discuss affordable housing requirements and the Town's Inclusionary Housing Ordinance. During this meeting and others held by the Committee, members of the Committee as well as members of the public, both in-person and in writing, expressed concerns with the amount of new market rate housing units being created under the Town's current zoning and the lack of affordable, year-round units which are what is truly needed by the members of our community. This was not unexpected: at a stakeholder meeting in March 2020 on the Hyannis zoning change proposal, the Town's consultant said to expect new housing units to be at the upper end of the market rate. Under the current Inclusionary Affordable Housing Ordinance, developments with 10 or more units must have at least 10% of the residential constructed as deed restricted affordable units. The Committee raised the concern that the 10% requirement was not high enough to create the deed restricted affordable units the Town needs.

Various other related issues were also discussed and the Committee recommends that the Town Council review and consider the following actions, amendments and policies:

1. Conduct a formal audit of the Town's existing affordable housing units to establish an accurate current count as a benchmark and to avoid the risk of underreporting qualifying units to the State.⁹ The current count should also include the number of affordable units in the Accessory Affordable Apartment Program.
2. Conduct an economic feasibility analysis to assist in determining whether and to what percentage the Inclusionary Affordable Housing Ordinance should be adjusted.
3. Increase in the Inclusionary Affordable Housing Ordinance percentage from 10% (e.g., 15% - 20%, or more) based on input from the economic feasibility study.
4. Consider use of a tiered approach in which the larger the project, the higher the affordable percentage required, (e.g., 10 to 20 units – 10%; 21 to 50 units – 15%; 51 to 100 units – 20%; 101+ units – 25%).
5. Move the Inclusionary Affordable Housing Ordinance from a General Ordinance to a Zoning Ordinance to improve the ability of the Town to enforce locally.

⁹ See **Exhibits C and D** for articles from the *Plymouth Independent* dated 03_08_2025 and 03_21_2025 regarding the underreporting of affordable housing units in Plymouth and an audit conducted by a town staff member.

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6. Consider use of density bonuses, payment in lieu-of, fee waivers, and/or formulas as other towns have successfully done, (e.g., Provincetown requires developers to build 1 affordable unit for every 6 housing units, in order for density and height bonuses to be taken. This would result in a greater diversity of units in smaller buildings.)
7. Consider establishing a program that specifically covers "workforce housing" – 65% - 80% of AMI (or in some markets up to 120% of AMI).
8. Improve monitoring of affordable units by the Town by either creating a full-time housing position which would include responsibility for this task or the establishment of a Regional Housing Services Office shared by multiple towns, as described by Mr. Kupfer.
9. Adjustment of affordability rate from 65% AMI.

B. **Short Term Rental Regulations (Implement Short-Term Rental Regulations) - HIGH PRIORITY ACTION**

The Committee recommends the Town amend Chapter 240 Zoning, Article II, Section 7 to add provisions pertaining to the regulation and use of short-term rentals (STRs).

The Committee discussed the significant impact of STRs on the affordability and availability of housing in Barnstable and across the entire Cape. Additionally, the Committee discussed and acknowledged there has been a long tradition of local residents renting their homes as seasonal rentals (e.g., from one week to the whole summer) which must be taken into consideration in developing short-term rental regulations. However, the negative impact of short-term rentals on housing was made clear in two recently published items on the topic which were discussed by the Committee.

The first item was an article in the *Commonwealth Beacon*, dated February 21, 2025, (**Exhibit E**) in which Alisa Magnotta, CEO of the Cape-based Housing Assistance Corporation, was interviewed regarding the housing issue on Cape Cod and was quoted as saying, "It's not that there is a shortage of housing units, it's a problem of how they're used" and "a lot of housing is not being used in a way that makes sense for year-round communities."

The second item was Governor Maura Healey's "A Home for Everyone, A Comprehensive Housing Plan for Massachusetts 2025 – 2029"¹⁰ (the "Plan"), dated February 6, 2025. On pages 12, 20 and 29, respectively, the Plan states the following:

¹⁰ The full "A Home for Everyone" plan can be found at <https://www.mass.gov/info-details/a-home-for-everyone-massachusetts-statewide-housing-plan>

“Statewide, 3.6% of homes are used as seasonal residences or for short-term rental. On Cape Cod, that figure is 36%; in the Berkshires, 13%; on Nantucket and Martha’s Vineyard, 60%. This means that a substantial share of the housing stock in these regions isn’t available to year-round residents at any income.”

“An estimated 9,000 homes were converted to seasonal homes or short-term rentals between 2010 and 2020 and are no longer available to year-round residents in those communities. The availability of modestly priced homes and apartments is dwindling as they are acquired and upscaled by investors who sell or rent at a much higher price point.”

“Every home lost to natural hazards, seasonal use, short term rental, or disrepair further depletes our supply and worsens the shortage. The loss of existing homes – especially affordable ones – is disruptive to communities.”

The issue of short-term rentals and their impact on the availability and affordability of housing has been addressed by cities and towns across the U.S. and internationally, including many seasonal and tourism-based communities like the Cape and Islands. The Committee suggests the Town Council look to the approaches used by other communities to address short-term rentals in order to protect Barnstable’s housing inventory and prioritize existing housing stock for local residents and maintain the quality of life and feeling of community in our Town.

Some examples of commonly used approaches for regulating short-term rentals include the following:

- The property must be the host’s primary residence (i.e., for tax purposes)
- Limit the total number of days a property can be short-term rented per season (e.g., up to 90 days total for non-hosted rentals)
- Prohibit short-term rentals in dwelling units owned by a corporation, partnership, real estate investment trust, or similar entity which pools funds from investors and is engaged primarily in investment activity (See Chapter 123 – Short-Term Rentals of the Nantucket Town Code as an example)
- Limit short-term rentals to specific zoning districts
- Capping the number of STRs allowed at any one time to a fixed number or percentage of the total residential units in the districts where STRs are permitted

C. **By-Right Zoning/Single-Family Residential Zoning** - **HIGH PRIORITY ACTION**

The Committee was given a presentation and primer on By-Right Zoning by Mr. Kupfer and discussed current single-family residential zoning districts. In his presentation, Mr. Kupfer provided a history of how the current zoning evolved and its complexities.

During the course of its work, the Committee received significant public comment on this subject with residents expressing concerns about amendments to single-family residential zoning that would result in changing the character of residential neighborhoods, particularly those in Hyannis, and give rise to problems with the overcrowding of properties, parking, property maintenance and stresses on neighborhood infrastructure (e.g., streets, wastewater disposal, etc.).

The Committee also discussed the ongoing work being done by both the Local Comprehensive Planning Committee (LCPC) and the Ad Hoc Committee to Assess and Recommend Strategies for Housing Creation Within the Town. The Committee noted the significant sentiment expressed by residents to preserve current single-family residential zoning. That sentiment was further reinforced by the public's response to a Town-administered survey in connection with the Local Comprehensive Plan. The #1 response to question #20 of the Local Comprehensive Plan Survey, "What kind of future residential development would you like to see in Barnstable in the future?"¹¹ was single-family homes.

During the Committee's discussions, the subject of what comprises a "residential neighborhood" was discussed. It was agreed that neighborhoods are made up of a unified set of physical elements including homes, private and public streets, parks, proximity to commercial businesses, (e.g., beauty, health, grocery and conveniences stores, etc.), other public and private facilities and they are not simply a Zoning designation in the Town Code. The Committee agreed that neighborhoods should be viewed in their entirety in order to retain their value and importance to both the residents and the community. The intrusion of industrial uses in neighborhoods was considered a major blighting factor as they are not home occupations. One Committee member summed it up by saying, "Wonderful neighborhoods make and are essential to great towns."

As the LCPC and Ad Hoc Housing Creation Committee are already working on recommendations on this topic, our Committee elected to recommend the Town Council review this subject carefully and thoroughly and keep in mind the strong sentiment expressed by residents on this matter.

¹¹ See page 22 of the Updated Barnstable Local Comprehensive Plan Survey Summary in the meeting materials for LCPC Meeting #9, May 11, 2025 at this link: <https://barnstablelcp.com/meeting-materials/>

D. **Zoning Enforcement Issues** - **IMMEDIATE ACTION**

As the Committee Chair reported in his progress update to the Town Council on November 21, 2024, Zoning Enforcement was one of, if not the single most, commented on issue by the Town's residents to the Committee. Over the course of its work, the Committee and its members heard from dozens of residents via in-person public comment, visits to residents' homes, emails and phone calls about the difficulties they have experienced resolving zoning and other enforcement issues they have. Some of these issues have been ongoing for long periods of time and residents expressed extreme frustration with the lack of enforcement action. These are issues and problems that seriously impact the quality of life for residents across all villages in Barnstable.

The public comment included complaints about lack of enforcement actions, lack of regular communication following a request for enforcement, the extremely long duration of time to address complaints, the need for citizens to continually reach out for updates rather than the Town providing updates to citizens, suggestions by the Town for citizens to retain costly legal help, and other related issues. Of note, several members of the public called or sent emails to committee members personally and asked that their names not be used and their emails not forwarded to Town officials because they feared retribution from the illegal users or Town officials. The Committee chair met with Town Manager Ells and shared with him the number of comments the Committee had received from the public regarding zoning and other enforcement issues/problems and the fears of retribution by some members of the public.

Although Zoning Enforcement was one of several key topics specifically identified for discussion by the Committee at the start of its work, and some members expressed the belief that enforcement is part and parcel of zoning, we were subsequently informed by the Town's legal department that Zoning Enforcement was not specifically included in the wording of the Committee's charge and that zoning enforcement is not within the purview of the Town Council but rather is overseen by the Town Manager. Therefore, we were told we would not be allowed to make recommendations to the Town Council regarding Zoning Enforcement. Although the Chair and most Committee members respectfully disagreed with the legal department's interpretation, the Committee agreed not to include any specific recommendations on this topic in this Memo.

However, the Committee would like to acknowledge the fact that in his January 7, 2025 Update Report, the Town Manager announced the formation of a cross-departmental group headed by Assistant Town Manager, Andy Clyburn, to address enforcement issues in Barnstable. We understand this group will include representatives from Legal, Inspectional Services, Marine & Environment Affairs, Barnstable Police Department, Hyannis Fire Department, Geographic

Committee to Review and Assess Zoning and Review of the Town's Regulatory Agreements

Information Systems, Communications and other staff as needed and will address all types of enforcement issues and not just Zoning Enforcement. At the March 6, 2025 Town Council meeting, the Assistant Town Manager announced and committed to provide monthly updates to the Town Council on the progress being made by this group on improving enforcement issues in the Town.

Based on the significant number of comments and concerns the Committee heard from the public regarding the zoning and other enforcement problems/issues experienced by residents from all villages in Barnstable, we can't stress strongly enough to the Town Council how important it is that this group act without delay and address these issues which are impacting the quality of life in many of Barnstable's neighborhoods.

E. **Commercial Vehicle Parking Ordinance (Implement Restrictions in Residential Areas) - HIGH PRIORITY ACTION**

One of the most frequent comments heard by the Committee was related to the parking of commercial vehicles (e.g., pickup trucks, box trucks, tractor trailers, trailers, multi-passenger vehicles/vans, construction vehicles including bulldozers, backhoes, dump trucks) in residential neighborhoods in all of Barnstable's villages, rather than in areas zoned for commercial use.

Therefore, the Committee recommends the Town Council instruct the Town manager and his staff to identify properties, municipal or private, which could be used for overnight commercial vehicle parking and/or the development of commercial bays/industrial-zoned secure parking areas. Additionally, the Town Council should review Chapter 240 Zoning, Article V Accessory Uses, §240-43 Incidental and Subordinate Nature of Accessory Uses and consider zoning amendments that would: 1) restrict the overnight parking of commercial vehicles in residential neighborhoods to one small pick-up truck or equivalent commercial vehicle per residence or residential lot; and 2) prohibit and enforce other types and numbers of commercial vehicles from parking on lots in residential areas.

F. **Rental Properties – Parking Restriction Ordinance - HIGH PRIORITY ACTION**

Another frequent complaint heard by the Committee was related to parking issues related to overcrowded rental houses in neighborhoods. The Committee discussed the residential parking topic and a member inquired about a court case involving multiple vehicles parked outside on a residential property that was not necessarily a rental property. Upon request, Attorney Connolly reviewed the case and reported back to the committee that the court in that case invalidated the

Committee to Review and Assess Zoning and Review of the Town's Regulatory Agreements

Ordinance provision because it was a health regulation of parking that had no nexus to public health and should have been contained in the Zoning Ordinance. Also, at the request of a member, Attorney Connolly provided the committee with copies of all parking provisions currently contained in the Zoning Ordinance. We recommend the Council review and consider amendment of the current Rental Parking Restrictions §170-9 of the Town Code.

G. **West Main Street Zoning Amendment (Amend Zoning from Highway District to Less Intense Use Category) - HIGH PRIORITY ACTION**

During the course of the Committee's work, we heard numerous comments regarding the current zoning of West Main Street as a Highway Business District. Those comments increased following the recent Land Court's decision remanding the ZBA's decision to disallow the permitting of a drive-through restaurant on West Main, immediately adjacent to a residential neighborhood, directly across the street from Barnstable High School and at an intersection the safety of which is of great concern to residents.

We understand several neighborhoods along West Main Street were identified during the current Local Comprehensive Plan (LCP) process for additional study to consider zoning as well as tree canopy, streetscape, commercial activities and traffic impacts.

Therefore, the Committee recommends that the Town Council conduct a review of the current zoning for West Main Street and consider changing the zoning from a Highway Business District to a less intense Neighborhood Commercial (new) or Village Business District (e.g., Marstons Mills Village and Barnstable Village) zoned district.

H. **Climate Resiliency-related Requirements¹² - HIGH PRIORITY ACTION**

The Committee recognized the importance of the Town and its leadership planning for climate resilience. Included below are several recommendations for the Town Council to discuss and consider for inclusion in the zoning ordinance.

1. Tree Preservation Ordinance

The Committee recommends the Town Council discuss and consider enacting a tree preservation ordinance to be applied to all development or land use changes requiring a permit. The Town should consider requiring an ordinance to apply to all commercial,

¹² Committee member Catherine Ledec gave a presentation on Climate Resiliency Issues to the Committee on 01_31_2025. See Appendices for additional information.

residential and municipal lands. Trees provide critical ecosystem benefits for humans and protect us from the adverse effects of climate change and tree preservation should be a high priority.

2. Climate Resiliency Ordinance & Requirements for Land Disturbing Projects

The Committee recommends the Town Council discuss and consider requiring all development projects to include a resiliency action plan before building permits are issued or other approvals are granted. The Town Council could codify this requirement in the zoning ordinance to ensure consistency in implementation and a long-term legacy. The Town should take seriously its responsibility to its current and future residents and work towards minimizing the impacts of climate change.

3. Wildlife-Friendly/Bird-Friendly Building Design

The Committee recommends the Town Council discuss and consider a zoning ordinance amendment that would require new or rebuilt buildings (i.e., residential, commercial and/or municipal) to be designed with bird safety in mind. This would involve the use of bird-safe materials that do not pose major bird collision risks.

4. Codification of Landscaping Plan and Biodiversity Requirements

The Committee recommends the Town Council discuss and consider improving the Town's zoning ordinance by codifying staff recommendations that encourage greater use of native plants in all landscape plans. This should include specifically measurable biodiversity targets in all landscape plans. The adoption of such targets will help facilitate adequate diversity that will work towards achieving a landscape that is both sustainable and resilient to the adverse impacts of climate change.

I. Identification and Designation of IND and IND LIMITED Zoned Only Land (In Order to Address Neighborhood Intrusion by Such Uses) - **IMMEDIATE ACTION**

The Committee recommends that the Town Council identify specific portions of IND and IND LIMITED zoned land (e.g., located in Independence Park and elsewhere) that should be designated only for the development of contractor bays/industrial-zoned secure parking. This was the Town's original intent for this area and is needed to provide light industrial space, start-up and parking opportunities for the Town's contractors and small businesses so that they don't need to park their commercial vehicles and trucks in residential neighborhoods.

J. **Solar Installation Regulations - PRIORITY ACTION**

The Committee recommends the Town Council amend § 240-44.2 Ground-Mounted Solar Photovoltaic Overlay District to read as follows:

E. (3) Dimensional requirements. Ground-mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s), except that any ground-mounted, large-scale solar photovoltaic installation with 250 kw or larger of rated nameplate capacity located in a residential zoning district shall maintain a minimum 150-foot setback to residentially developed lots and 100-foot setback from all other property lines to contain noise, limit glare, and reduce all other impacts to abutting properties to protect the public's health, safety, and welfare.

EXHIBITS

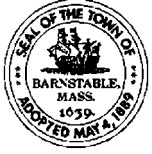
- **Exhibit A - *Potential Amendments to Chapter 168 Regulatory Agreement Ordinance and Map***, dated July 24, 2024, Updated August 7, 2024 and August 23, 2025
- **Exhibit B - *Potential Amendments to Chapter 240 Zoning Ordinance and Map***, dated October 11, updated November 19, 2024 and January 24, 2025
- **Exhibit C - *Plymouth Independent*** article dated 03_08_2025
- **Exhibit D - *Plymouth Independent*** article dated 03_21_2025
- **Exhibit E - *Commonwealth Beacon*** article dated 02_21_2025

APPENDICES

- **Appendix 1 – List of Committee Members**
- **Appendix 2 – Response and Recommendations Provided by Committee Member Seth Etienne**
- **Appendix 3 – Traffic Signing – Why the Concerns, October 2024 – Whitepaper by Committee Member Ken Alsman**
- **Appendix 4 – Climate Resiliency Presentation Provided by Committee Member Ledec**
- **Appendix 5 – Climate Resiliency Suggested Recommendations, including Annex with Recommended Provisions for Bird-Friendly Building Design, Provided by Committee Member Ledec**

EXHIBITS

EXHIBIT A



Town of Barnstable

Planning & Development Department

www.townofbarnstable.us/planninganddevelopment



July 24, 2024, Updated August 7, 2024, [Updated August 23, 2024](#)

To: Committee to Review and Assess Zoning and Regulatory Agreements

From: Stephen Robichaud, Planning Board Chair

Jim Kupfer, Director, Planning and Development

Re: Potential Amendments to Chapter 168 Regulatory Agreement Ordinance and Map

At the July 19, 2024 meeting of the Town Council Ad-Hoc Subcommittee entitled Committee to Review and Assess Zoning and Regulatory Agreements, the Chairman of the Planning Board along with the Planning and Development Interim Director presented an overview of Chapter 168 of the General Ordinance: Regulatory Agreements. In that presentation, the Interim Director provided an overview of the ordinance, how the process has functioned to date, a comprehensive list of regulatory agreements executed, and map amendments that have been made since inception of the district. The presentation led to committee conversation as to ways in which the ordinance and process may be improved. The request at the conclusion of the meeting was for the Chairman and Planning and Development staff to expand on the issues and opportunities discussed.

Subsequently, on July 26th, 2024, the Committee reconvened to discuss the matter further [as well as on August 16th and 23rd](#). Below please find the main topic areas discussed as possible ways to improve the ordinance and recommendations for further discussion. Track changes reflect further edits and updates from July 26th [and August 23, 2024](#).

Potential Chapter 168 Policy or Ordinance Amendments

Map Amendments

The Regulatory Agreement District Map was adopted along with the ordinance in 2004. The original district was to match the Growth Incentive Zone. In 2007 two small properties abutting 291 Barnstable Road were added to the district, in what appears to be a clean up to match the Growth Incentive Zone boundary. In 2009, Town Council added properties on and near Centerville Main Street to the Regulatory Agreement District. In 2012, Town Council added 35 Scudder Avenue to the Regulatory Agreement District. Lastly, in 2018, Town Council added 790 Iyannough Road (Former K-Mart Plaza) to the Regulatory Agreement District.

The Committee suggested that these additions may need to be re-evaluated. If ultimately the Committee recommends an amendment to the map to Town Council, Planning and Development can assist Town Council in developing a formal process for map amendment(s) that shall require authorization by the Town Council during a public hearing and notification to the Cape Cod Commission.

Potential Recommendation to Town Council: The Committee recommends the Regulatory Agreement District Map be amended by adding or removing certain properties from the Map. **Priority consideration for removal should be given to the Regulatory Agreement District parcels outside of the Growth Incentive Zone.**

Earlier Public Involvement and Final Reporting

Chapter 168 identifies a process for receipt of a regulatory agreement application, requiring at least two public hearings. The application is to be deemed complete when all materials, draft agreement, and a plan are provided to the Town. The regulatory agreement process, as identified in the ordinance, begins with the Planning Board as the lead negotiator, who may or may not recommend the agreement to Town Council. Both Planning Board and Town Council shall hear the matter during public hearings.

The Committee raised concern about the lack of public notice of new proposed regulatory agreement applications. Staff agreed that the process could use improvement as recent agreements have spent months at Planning Board, only to be immediately turned away at Town Council. Enhanced early engagement with Town Council and the public could improve the process. The Committee may recommend adding language to this effect, either formally through an amendment to the Ordinance, or through policy directed by Town Council to the Planning and Development Department. **The Committee also recommended a template agreement be established, with standard terms, to provide consistency to the agreement negotiation process.**

Additionally, the Committee suggested a final reporting out process may benefit both the Town Council and the process. Some on the Committee recommended adding a requirement for applicants to be required to provide a formal presentation or report to the Council as a condition of final approvals.

Potential Recommendation to Town Council: **The Committee recommends Staff develop a template regulatory agreement for use by applicants. In addition, the Committee** recommends adding an introductory presentation to Town Council by the applicant at a regularly scheduled meeting of the Council prior to a public hearing being held by the Planning Board. The Town shall provide all applicable materials provided by the applicant on a town project webpage prior to the regularly scheduled meeting of Town Council and the Chair of the Planning Board shall provide notice of an application submitted at a regularly scheduled meeting of the Board upon notice of said application. Lastly, all regulatory agreements shall be conditioned to provide a final report/presentation to Town Council prior to final approvals. This recommendation may be by ordinance amendment or policy by Town Council.

Defined Public Benefit

The Committee reviewed the “public benefits” as identified in the ordinance which include contributions to, Town infrastructure, public capital facilities, land dedication and/ or preservation, affordable housing, either on or off-site, employment opportunities, community facilities, recreational facilities, alternative mass transportation and/or any other benefit intended to serve the proposed development, municipality or county, including site design standards, to ensure preservation of community character and natural resources.

The Committee has asked for any suggested additions to this list of potential contributions. After further consideration we believe the list is fairly comprehensive in broad strokes. If the Committee

were to consider a change to the procedural process, a recommendation may be to request Town Council offer more defined suggested public benefits, perhaps in their annual Strategic Plan, to offer proactive guidance to applicants and the Planning Board.

Potential Recommendation to Town Council: The Committee recommends Town Council consider adding a section to their annual Strategic Plan or other applicable guiding document, outlining certain current public benefit priorities in the District and update these priorities annually.

Enforcement

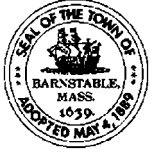
The Committee discussed enforcement measures available to the Town when a Regulatory Agreement is not adhered to. The Committee heard from the Building Commissioner and Assistant Town Attorney. As was explained, regulatory agreements are contracts and not zoning decisions. The agreements are enforced through local review of a team made up of Building, DPW, and Planning but any refusal of compliance is directed to “a Massachusetts court of competent jurisdiction” as a legal matter per the ordinance. In order to limit noncompliance the committee suggested inserting performance bonds **and/or conservation bonds** with strict limitations on access to the bond until such time as the agreement is completed in full, such as minimum hold backs. The Town has experience with performance bonds in other permitting processes and could facilitate this as standard practice. If the Committee would like to recommend to Town Council that they may wish to consider instituting this process, they may do so in the form of a policy or a formal amendment to the ordinance.

The Committee also discussed the need to clearly articulate to an applicant that certain conditions are required to be adhered to for the life of the agreement, which may well be in perpetuity. The Committee recommended language be added to the ordinance to reflect that certain conditions shall extend beyond the 10-year time frame to complete an agreement. Furthermore, the Committee recommended included language in the ordinance that if ownership of the agreement was to transfer, that the Town Council would be notified.

Additionally, the Committee suggested the Town investigate whether dedicated enforcement officers may improve compliance and may be utilized for enforcement beyond just regulatory agreements. The Committee suggested that if officers are considered, they may need to be staggered in hours and geography, so compliance is enforced in off hours and across Town.

Potential Recommendation to Town Council: The Committee recommends a formal policy or an amendment to the ordinance under subsection 168-11 Enforcement, that a performance guaranty through bond or other measure shall be required for a certain value as defined in the agreement and not released until full completion of the agreement. **In addition, the Committee recommends amending 168-9B to add language regarding explicit enhanced timeframes for certain conditions and change of ownership.** The Committee also recommends the Council direct the Town to explore adding additional enforcement officers for regulatory and zoning compliance.

EXHIBIT B



Town of Barnstable

Planning & Development Department

www.townofbarnstable.us/planninganddevelopment



October 11, 2024, updated November 19, 2024, and **January 24, 2025**

To: Committee to Review and Assess Zoning and Regulatory Agreements

From: Jim Kupfer, Director, Planning and Development

Re: Potential Amendments to Chapter 240 Zoning Ordinance and Map

At the September 6th meeting of the Town Council Ad-Hoc Subcommittee entitled Committee to Review and Assess Zoning and Regulatory Agreements, the Planning and Development Director provided a comprehensive list of amendments to Chapter 240 Zoning Ordinance that have been approved over the last 20 years and facilitated a discussion identifying each. In that presentation, the Director provided an overview of the zoning ordinance and provided a general overview of each amendment. The discussion led to committee conversation as to which amendments they wish to further discuss. The request at the conclusion of the meeting was for the Planning and Development staff to expand on specific recently amended zoning changes including Exempt Uses and Downtown Hyannis Zoning. The Committee also identified the need to discuss short-term rentals and inclusionary housing.

Subsequently, on September 20, October 4, 2024, October 18, 2024, November 1, 2024, and November 15, 2024 the Committee reconvened to discuss the matter further. Below please find the main topic areas discussed as possible ways to improve the ordinance and recommendations for further discussion.

Potential Chapter 240 Policy or Ordinance Amendments

Exempt Uses

The Committee requested to review §240-8 Exempt Uses in the Zoning Ordinance. Staff presented the section in whole to the Committee.

Committee members suggested that there was a lack of regulation surrounding exempt uses, specifically municipal uses. A committee member noted that better management of municipal properties is necessary to provide a model standard for those required to meet the zoning ordinance that the Town has set forth and that enhanced standards in §240-8 may be necessary.

Potential Recommendation to Town Council: The Committee recommends Exempt Uses, §240-8, establish standard policies or that §240-8 be amended by adding certain standards for municipalities to adhere to for site development when proposing new construction or substantial alterations.

Downtown Hyannis

Chapter 240 §24.1 through 13 of the Barnstable Zoning Ordinance is defined as the Downtown Hyannis Zoning Districts and includes the Districts' development standards. These sections were amended February 2, 2022. The Committee requested to review the entirety of the Downtown Hyannis Zoning Districts. Staff presented the section in whole to the Committee.

Committee members highlighted several issues they would like to discuss further. Those items being parking ratios, heights of structures and the districts as defined on the zoning map. In addition, while not specified in the Chapter 240 §24.1 through 13, the Committee also raised concern over the Inclusionary Housing Ordinance, the uniform requirement of 10 percent of the units being affordable as insufficient, as well as a potential need to prohibit short term rentals within these districts.

Staff presented each item requested more specifically at subsequent meetings. The Committee noted the following:

Parking

The Committee suggested that the parking ratios for residential dwelling units may need to be adjusted and studied further as one space per unit may not be enough for future development. The Committee reviewed recently approved site plans in the district, discussed the 2017 Hyannis Parking Study, as well as several members conducted a site walk with staff. The Committee concluded that while existing private parking is underutilized and could be managed better there is no guarantee that new development will utilize existing private parking in a shared manner and as a result may impact public facilities if additional parking is needed above one space per unit. The Committee also recognized that Downtown Hyannis is a more walkable district than most areas of Barnstable and trends such as uber, doordash, etc may limit the necessity for multiple vehicles. Ultimately the Committee recommended increasing the parking ratio.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1.5.C Table 2 Minimum Required Accessory Parking Spaces by increasing "Residential or artist live/work (per DU)" from one space per unit in all districts to a parking ratio of a minimum of 1.5 spaces per unit greater than one space per unit up to no more than but less than two spaces per unit, and when calculating the overall parking count for a specific project, the Committee recommends that the state mandated handicap parking spaces that shall be required for any proposed project are not to be included in the parking count. Additionally, it is recommended that the Council may wish to include parking dimension standards for all districts in Downtown Hyannis Zoning. These dimensional recommendations are that new proposed parking spaces shall be a minimum of 9' by 18' and that a drive aisle between parking spaces shall be a minimum of 20'.

Building Height

The Committee suggested building heights may also need to be adjusted. The Committee noted that the zoning may want to consider a more nuanced approach to building height considering abutting properties, roof lines, and varying heights over linear feet to reduce the likelihood of a canyon effect along Main Street. The Committee specifically identified the Downtown Main Street District and the Downtown Village District as districts to reevaluate height requirements. The Committee reviewed

recently approved site plans in the district as well as several members conducted a site walk with staff.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1.6 Downtown Main Street District Table 3 by amending Section F of the Table “Number of Stories” from “3.5 or 4 maximum” to a maximum height of 3 stories, however it is recommended allowing for a 3.5 story if the rooftop is proposed to have active space such as rooftop amenities for residents, active commercial space such as a restaurant, green roof, etc. as well as eliminating 240-24.1.6.C.6 “The fourth story of any building must be recessed (“stepped back”) from the facade of the stories below at least eight feet”.

The Committee also recommends Town Council consider amendments to Chapter 240 §24.1.7 Downtown Village District Table 4 by amending Section F of the Table “Number of Stories” from “3.5 or 4 maximum” to a maximum height of 3 stories, however it is recommended allowing for a 3.5 story if the rooftop is proposed to have active space such as rooftop amenities for residents, active commercial space such as a restaurant, green roof, etc. ~~to a height less than four stories maximum~~ as well as eliminating 240-24.1.7.C.4 “The fourth story of any building must be recessed (“stepped back”) from the facade of the stories below at least eight feet”.

District Boundaries

The Committee discussed potential amendments to the Downtown Hyannis Zoning Districts. The Committee raised concerns about the outer parcels and potentially reducing heights and density as parcels get closer to the outer limit of the Downtown Hyannis Zoning Districts. The Committee reviewed recently approved site plans in the district, existing conditions of boundary neighborhoods, as well as several members conducted a site walk with staff. The Committee suggested amendments to the Downtown Village District that would allow for similar development patterns as those abutting the outer perimeter of the districts.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1.7 Downtown Village District and the zoning map by replacing in its entirety §24.1.7 Downtown Village District with §24.1.8 Downtown Neighborhood District or the creation of a new zoning district that reduces heights and density. In turn, the zoning map would need to reflect the proposed amendment to the district as well.

Inclusionary Housing

The Committee has noted that with the updating zoning, the Town is creating a large number of new housing units. The Committee raised concern over the number of these units that would not be deemed restricted affordable. The Committee suggests that the Town Council may wish to consider requiring additional affordability requirements either in the Downtown Hyannis Zoning Districts or in Chapter 9 of the General Ordinance, townwide.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1 through 13 and the zoning map. The Committee shall continue to work through specific issue areas to provide a comprehensive list of suggested amendments.

Short Term Rentals

Similar to above, the Committee has noted that with the updating zoning, the Town is creating a large number of new housing units. The Committee raised concern over the number of these units

that may result in short-term rentals. The Committee suggests that the Town Council may wish to consider requiring a prohibition of short-term rentals either in the Downtown Hyannis Zoning Districts or added as a General Ordinance, townwide.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1 through 13 and the zoning map. The Committee shall continue to work through specific issue areas to provide a comprehensive list of suggested amendments.

EXHIBIT C

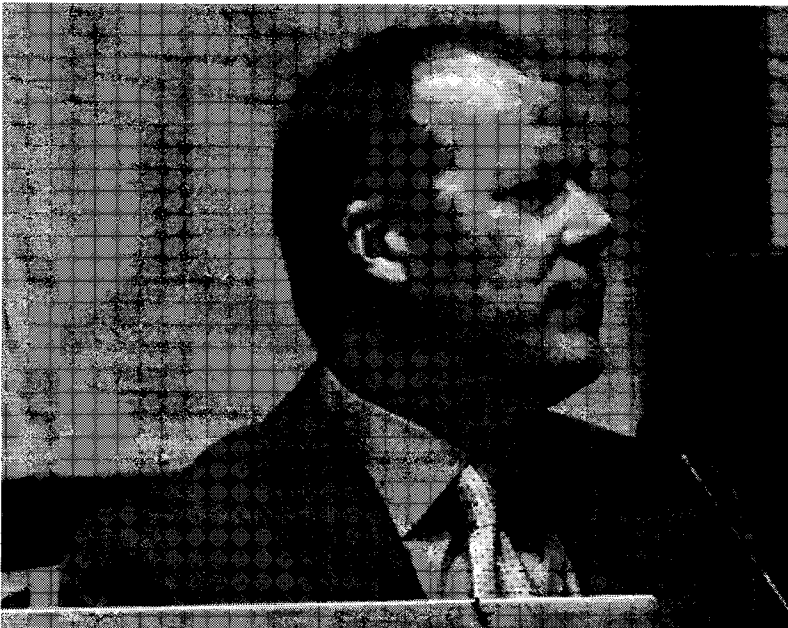
GOVERNMENT

Town employee discovers nearly 600 'missing' affordable housing units

If the state signs off on the number, Plymouth will move closer to gaining more control over residential development.

by Fred Thys - Independent Staff

03/08/2025



"The individual who discovered that is obviously worth their weight in gold," said Select Board member John Mahoney. (File photo)

An enterprising town employee has discovered that there are hundreds more units of affordable housing in Plymouth than previously reported.

Town Manager Derek Brindisi told the Select Board this week that the employee's audit of the town's housing stock identified 588 affordable housing units that were never submitted to the state for consideration. That's nearly 50 percent more than previously reported. It's unclear why they were not already accounted for.

The finding matters because if a community's stock of housing considered affordable – meaning it falls within certain income guidelines – is below 10 percent, it is subject to the [Chapter 40b](#) law. That allows developers to bypass most local zoning rules if at least 25 percent of units in a project are categorized as affordable.

Currently, the [state's inventory of subsidized housing](#) shows that just 4.88 percent of Plymouth's housing meets the criteria for affordable.

Brindisi said the town has submitted the 588 units for consideration. If the state signs off on the number, that will bring Plymouth's total count of affordable housing units to 1,842, or 6.56 percent of the total housing stock. A decision is expected within several weeks.

With hundreds of units of affordable housing planned or under construction, that puts the 10 percent goal within reach, he said.

"Everybody kind of thought it was elusive," Ed Bradley, chair of the Community Preservation Committee, said of the 10 percent threshold. The committee makes recommendations on many of the town's affordable housing projects.

If **Claremont Companies** builds 300 affordable units at Colony Place as planned and Pulte Homes builds 38 affordable units on Hedges Road, Plymouth's count of affordable housing units would rise to 2,180, increasing the percentage of affordable housing units to 7.8 percent, Brindisi told the Select Board.

The Redbrook development in South Plymouth is planning another 144 units of affordable housing, Brindisi said. That would bring the total to 2,324 or 8.3 percent of the total housing stock.

And with the addition of approximately 375 affordable housing units planned for Cordage Park, Brindisi said, the town would get even closer to the 10 percent mark.

"The silver lining in all this is that we are getting very close to the 10 percent goal and once that is achieved, we can be very targeted as to the types of affordable housing projects we want here in town," he said.

Select Board members appeared surprised by the discovery, and Brindisi did not explain why nearly 600 homes were not accounted for until now.

"The individual who discovered that is obviously worth their weight in gold," Select Board member John Mahoney told Brindisi on Tuesday night.

That individual is Kristin Ford, recently hired coordinator for the Community Preservation Committee. With the assistance of the town's planning department, she conducted an audit of Plymouth's subsidized housing.

Describing Ford as a self-starter, Mahoney told the Independent she took the initiative to cross-reference Plymouth's inventory of affordable housing units with the state's database.

"This was just a complete unacceptable breakdown that has to be rectified and not allowed to occur again," Mahoney said of the oversight.

Fred Thys can be reached at fred@plymouthindependent.org.

Share this story

EXHIBIT D

GOVERNMENT

With the 'discovery' of 588 affordable apartments, town closer to gaining more control over development

But a series of lapses led to a serious undercount of housing stock. Select Board member John Mahoney calls the oversight 'unacceptable.'

by Fred Thys - Independent Staff
03/21/2025

While the new number boost efforts to gain more control over residential growth in Plymouth, officials are still trying to sort out why the state's count has been too low for years – and why it took Kristen Ford, a new employee, to figure out something was amiss. Ford works as part-time coordinator for the Community Preservation Committee.

The state Executive Office of Housing and Livable Communities said Tuesday that Plymouth currently has a total of 1,578 affordable housing units, or about 6.1 percent of its total inventory. To be able to turn down so-called 40b projects – which can circumvent many zoning rules – a municipality must reach the 10 percent threshold.

Lee Hartmann, Plymouth's director of planning and development, told the Select Board Tuesday that the town is on a path to achieve the 10 percent level in coming years. But for that to happen, a slew of building plans must come to fruition. Changes in the real estate market, such as a recession or rising construction costs, could affect that scenario.

Hartmann said local officials are waiting for another 277 existing affordable units to be added to the stock count, which would bring the total to 1,855, or 7.2 percent.

Three hundred additional units would be credited if Claremont Companies builds apartments as planned at Colony Place and another 38 if Pulte Homes goes ahead with construction of additional affordable units on Hedges Road.

That would bring Plymouth's affordable housing count to 2,180, increasing the percentage to 7.8 percent, Town Manager Derek Brindisi told the Select Board on March 4.

Beyond that, 144 affordable housing units are planned for the Redbrook development in South Plymouth, Brindisi said, which would bring the figure to 8.3 percent.

And with the addition of approximately 375 affordable housing units envisioned for a third phase of the Harborwalk apartments at Cordage Park, the 10 percent mark would be within reach.

There is "no guarantee all that gets built," Hartmann cautioned, but if does, the town would be just 191 units short of reaching 10 percent.

He said the number of entities involved in funding and building affordable housing makes tabulating them tricky.

“It’s a little bit of a challenge when these numbers come in,” Hartmann said.



“There were two massive breakdowns here,” Select Board member John Mahoney told the Independent. (Photo by Jim Curran)

But Select Board member John Mahoney seemed to view it as a good news/bad news scenario. At Tuesday’s meeting, he called discovery of the previously unreported 588 units “embarrassing and euphoric all at the same time.”

“It’s good that all of a sudden we’ve leapt from being in the four percent range into the seven, eight, potentially almost nine-and—half percent range,” he told Hartmann, “but how we got here, to me, is unacceptable.”

Hartmann said two mistakes were made: Affordable units were undercounted while the total number of homes in Plymouth was inflated.

In an email to Town Manager Derek Brindisi Tuesday, Hartmann explained that the town included seasonal housing units as part of the overall housing stock total, when it should only have been counting units that are

lived in year-round.

Plymouth has approximately 25,000 year-round units and another 3,000 seasonal units. Including seasonal units in the denominator yielded a lower percentage of units that were affordable. Precisely why it took so long to uncover such a mistake is unclear.

Mahoney, who serves as the Select Board's representative on the Community Preservation Committee – which recommends spending for some affordable housing – said part of the reason for the undercount was that the committee resisted accepting staff help until last year.

“But the other half of this is [in] your purview,” Mahoney told Brindisi.

Brindisi said the error was detected after Ford and Finance Director Lynne Barrett decided to conduct an audit of the town's affordable housing inventory. The town's Office of Community Development Tuesday – for the first time – posted **a complete inventory of Plymouth's affordable housing units.**

“There were two massive breakdowns here,” Mahoney told the Independent. For one, he said, “you had a committee that was in desperate need of administrative support,” referring to the Community Preservation Committee.

The hiring of an administrative support person was a longstanding point of contention between Brindisi and the Select Board on one side and Bill Keohan, former chair of the Community Preservation Committee, on the other. Keohan wanted to be part of the interviewing and hiring process. Brindisi and the board wanted to make the hiring decision.

Ultimately, Keohan acceded, but the rift persisted and **the Select Board replaced him** with former fire chief Edward Bradley.

Keohan, who is running for a seat on the Select Board in the May town election, declined to comment Thursday.

While the Community Preservation Committee makes funding recommendations for affordable housing, money also comes from other sources.

“The other failure [in the undercount] resides in the Planning Department,” Mahoney said. “The Planning Department is under the purview of Mr. Brindisi. That is his responsibility to analyze and figure out what happened. Fix it if possible.”

Reiterating what he said during Tuesday's meeting, Mahoney told the Independent that the mistake stemmed from "a completely unacceptable set of circumstances."

Brindisi, however, said Hartmann is best equipped to address how the 588 units went unreported.

Hartmann told the Independent that there were several reasons for the gap.

First, Ford detected discrepancies between the number of affordable units funded after recommendations by the Community Preservation Committee and the figure reflected on the state's list. Hartmann said his department knew of some of those discrepancies and had been working with the state to correct them but had not been aware of all of them.

Among the unreported Community Preservation Committee-funded projects Ford found was Cherry Hill II, a Plymouth Area Housing Authority building with 35 apartments categorized as affordable.

In addition, the town was not given credit for Hanover Colony Place, a 320-unit apartment complex, Hartmann explained. By law, if at least 25 percent of a project's units are deemed affordable, all the units can be included in the count. It was a major discrepancy that has been rectified, he said.

The town has still not been given enough credits for the Harborwalk apartments, Hartmann said. The Cordage Park complex was built in two phases, and a third is in the planning stage. In the first phase, fewer than 25 percent of the units were affordable, so the town could only claim credit for the 31 affordable units. But more than 25 percent of the apartments in the second phase qualified as affordable, bringing the cumulative percentage for both phases up to 25 percent. That meant all 302 apartments should have been counted as affordable. They were not and the mistake went undetected.

Hartmann said the town is still working with the state to sort out the mix-up.

He also blamed the state for being slow in recording the addition of new affordable units.

"We have been working for months to have the state update Plymouth's numbers," Hartmann said. "The state updates its numbers twice a year. There is a lag time."

Fred Thys can be reached at fred@plymouthindependent.org.

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EXHIBIT E

HOUSING

Vacation home trends add to Massachusetts housing crunch

More houses sitting empty with short-term rental shift and wealthy buyers keeping second homes off the market



by JENNIFER SMITH

February 21, 2025



Tourists and residents make their way down one of the main streets of Provincetown. (Photo by Gintautas Dumcius)

WHEN ALISA MAGNOTTA first got her place in Orleans, she did what many a Cape Cod resident might do in the prime vacation months: put the house up for rent and camp out in her mother-in-law's backyard.

It was more than two decades ago – years before Airbnb was even a twinkle in the eye of Silicon Valley roommates – and it was fairly normal practice for people on the Cape to hand off their homes to summer renters to help pay for expenses the rest of the year. Even nine-month rentals, where people used a house as a summer home but rented it out during the off-season, were common, Magnotta said, which ensured these small towns had a vibrancy and fairly steady population around the calendar year.

But, after the short-term rental industry and pandemic patterns reshaped seasonal communities like Orleans, Massachusetts is grappling with what it means for a state with a crippling housing crunch when about 110,000 units sit vacant at any given time because of part-time or seasonal use.

Some of that use is still in line with the long-term renting patterns of old, but state housing officials say seasonal community homeowners who may have previously made unoccupied units available for year-round rentals now lean toward short-term higher-revenue rentals. Plus the pandemic ushered in more wealthy vacation home buyers with no need to manage a tenant during off-seasons.

“It’s not that there’s a shortage of housing units, it’s a problem of how they’re used,” said Magnotta, still a year-round Orleans resident and CEO of the Housing Assistance Corporation, a non-profit focused on housing access on the Cape and Islands. **Population dwindles in the off-season, but areas like the Cape are home to people throughout the year, and Magnotta says “a lot of housing is not being used in a way that makes sense for year-round communities.”**

Gov. Maura Healey’s sweeping housing bond bill included several provisions that help or target this type of community, creating a **seasonal communities designation** and Seasonal Communities Advisory Council. Seasonal communities automatically include all municipalities in the counties of Nantucket and Dukes, including Martha’s Vineyard; plus municipalities with over 35 percent seasonal housing units in Barnstable County and more than 40 percent in Berkshire County.

It’s something of a riff on the state’s Gateway Communities designation, said state Sen. Julian Cyr, who represents the Cape and Islands and championed the policy, in that municipalities with common histories and conundrums can get targeted policy and funding support.

“It’s applying that framework to towns with high vacancy rates and fluctuating populations,” Cyr said of seasonal communities. In a state where many local initiatives need buy-in from an entire state Legislature, Cyr describes the seasonal communities program as crafting a “toolkit, so that towns do not have to go through the home rule process” if they want to start housing subsidy programs or impose deed restrictions that would require year-round rentals.

Cyr, a Truro native who has watched his hometown dwindle to less than 2,000 year-round residents, describes the situation as a “real existential crisis for us. Our communities are eroding a heck of a lot faster because of the housing

crisis than anything that's happening with seas or climate change.”

Healey's new statewide [housing plan and needs assessment](#) lays out the scale of the problem: 220,000 more units needed by 2035 to meet demand and get a handle on housing costs.

Massachusetts, which has the second highest cost of living in the country, is dealing with a mismatch between available units and demand. It needs new units to keep younger people from moving away, address existing overcrowding, and account for younger generations expanding their families. Older households dissolving, downsizing, or moving away will not happen fast enough to meet unit demand, the housing plan and needs assessment states.

Meanwhile, a slew of units sits fallow. Between 2018 and 2022, there were about 258,000 vacant units at any point, the Massachusetts housing needs assessment estimates. But only 47,800 – less than one fifth of all vacant units – were available for sale or rent. Others were being held for seasonal use, had been rented or sold but not yet occupied, or were vacant for another reason.

This represents a 40 percent decline in available vacant units compared to the late 2000s, a period of time including the 2008 housing bust and subsequent Great Recession.

According to the assessment, that means that only 1.6 percent of all homes in the state were available for sale or rent in 2022. A “healthy” vacancy rate is [often considered](#) to be roughly 2 percent for home ownership and 6 percent for rentals.

Some 118,000 units – 4 percent of the state's housing stock – are reported as being used for “seasonal, recreational, or occasional use.” The housing assessment reports 110,000 of those units are vacant at any given time.

Graphic from Gov. Maura Healey's "[A Home for Everyone: A Comprehensive Housing Plan for Massachusetts](#)" report.

Cyr and Magnotta are quick to acknowledge that seasonality has always been a part of the Cape's identity, but the rise of short-term rentals was a pivot point and the COVID-19 pandemic wave of wealthy vacation house buyers was another.

"There was a real ability to wash ashore here and make a life, particularly on a remote place like Cape Cod," said Cyr. He describes his parents leaving Connecticut in the 1970s, casting off to Provincetown to bartend and wait tables as older teens. "They were able to buy a house on the salary of a bartender and waiter and then opened a restaurant, and that was a common experience," Cyr said. Now, "to be able to make that happen, you have to have a combination of wealth, backing, or incredible real estate acumen."

On Nantucket and Martha's Vineyard, 60 percent of homes are used as seasonal residences or for short-term rentals, and on Cape Cod, it's 36 percent. Though the Berkshires lag behind at 13 percent, residents can see the writing on the wall.

Looking at the Cape and Islands, “we’re heading in that direction,” said real estate agent Cameron Volastro, a native of the Berkshires who sits on the Community Development Corporation (CDC) of South Berkshire board and the seasonal communities council.

The CDC works to provide low- to moderate-income rental apartments, while Volastro’s work at Stone House Properties often involves helping buyers find second homes in the area. It’s as expensive to build in the Berkshires as anywhere else in the state, so the region’s existing aging housing stock is the target for those who want to live there permanently or keep it on as a personal vacation escape.

“I see the value of the tourism driven to the area and of course I totally understand the attraction to the area,” said Volastro. “It’s the backbone of our local economy, so it brings some ups and downs.”

The ups are more property tax dollars, a busy tourism season, and theoretically an influx of new full and part-time residents. Those who want to rent their houses in the short-term, as Magnotta has in the past, can optimize their rental income by nights of highest demand rather than months.

The downs are system strain. Cape Cod, the Islands, and Western Massachusetts lost an estimated 9,000 year-round homes to seasonal conversion from 2010 to 2020.

Since the start of the pandemic, many units were wholly taken off the market by buyers who would rather have a vacant vacation home than deal with a tenant. The year-round population is declining because of housing costs, leading to plummeting school enrollment. Seasonal and year round workers either cram into small units or have to commute each day due to lack of appropriate housing. Plus, the housing crunch means these small towns have issues attracting and retaining essential workers like public works employees, needed to upgrade utility systems to support larger and more elaborate homes.

This has created a significant workforce and schooling crisis in many of the small towns, Cyr notes.

“It’s not the heartfelt cry of ‘We grew up here and have to live here,’” Magnotta said. “The reality is the town can’t function.”

There’s also the sense of uneasy stillness in the off-season.

Cyr, speaking from his rented home in Provincetown, said Cape towns have seen a drop off in population after the brief flee-the-city boomlet of the pandemic. Now, with no neighbors on either side of him in mid-February, the senator said it’s “the quietest winter I can remember.”

The seasonal communities council, which first met last December, includes representatives from the Cape, Islands, and the Berkshires, who are tasked with providing advice and recommendations on policies or programs that could

benefit seasonal communities.

The advisory council in its initial meeting considered policies now available to seasonal communities, including adopting tiny home policies, encouraging more accessory dwelling unit construction, prioritizing municipal employees or artists for housing, and increasing the property tax exemption for full-time residents. Some part-time residents, the *Cape Cod Times* [reports](#), also want a seat at the council table.

As the council deliberates, Cyr says to expect a return of the [real estate transfer fee](#) effort, which isolated and expensive areas say is essential to shore up workforce housing but [skeptics say](#) would only benefit wealthy communities because they are the ones with the expensive housing to leverage.

For many seasonal community residents, single family homes on large lots are core to Cape, island, or mountain life. Housing advocates say they understand that, but the housing style is out of step with a changing reality that calls for strategic density. The regions are simultaneously tourist destinations and naturally occurring retirement communities, aging faster than the rest of the state with limited appetite for new housing even as demand grows and prices spike.

“We’re not ‘build, baby, build,’” Magnotta said. “I live there. We have to be good stewards of where we live.” But just as Volastro looks at the Cape as a warning for the Berkshires, Magnotta looks at certain parts of Nantucket and Martha’s Vineyard, closed off to all but wealthy part-timers, and worries about the Cape following along.

If a sea change doesn’t come, she said, “It’s going to be a museum.”

APPENDICES

APPENDIX 1

Committee to Review and Assess Zoning and review of the Town's Regulatory Agreements

Committee Members:

Charles Bloom, Councilor Precinct 9

John Crow, Councilor Precinct 5

Matthew Levesque, Councilor Precinct 10

Jeffrey Mendes, Councilor Precinct 8

Kristin Terkelsen, Councilor Precinct 2

Ken Alsman, Cotuit Resident

Seth Etienne, Hyannis Resident

Catherine Ledec, Barnstable Resident

Robert Schulte, Centerville Resident and Chair

Staff Support:

James Kupfer, Director, Planning and Development

Kathleen Connolly, Assistant Town Attorney

Cyntia Lovell, Committee Administrator

APPENDIX 2



FW: Ad Hoc Zoning Committee Alternative Proposal

1 message

Lovell, Cynthia <Cynthia.Lovell@town.barnstable.ma.us>

Fri, Mar 21, 2025 at 11:11 AM

To: "schulte.adhoc.zoning@gmail.com" <schulte.adhoc.zoning@gmail.com>, "catherine.c.ledec@gmail.com" <catherine.c.ledec@gmail.com>, "Bloom, Charles" <Charles.Bloom@town.barnstable.ma.us>, "Connolly, Kathleen" <Kathleen.Connolly@town.barnstable.ma.us>, "Crow, John" <John.Crow@town.barnstable.ma.us>, "Fair, Marylou" <Marylou.Fair@town.barnstable.ma.us>, "kenalsman@aol.com" <kenalsman@aol.com>, "Terkelsen, Kristin" <Kristin.Terkelsen@town.barnstable.ma.us>, "Kupfer, James" <James.Kupfer@town.barnstable.ma.us>, "Levesque, Matthew" <Matthew.Levesque@town.barnstable.ma.us>, "Mendes, Jeffrey" <Jeffrey.Mendes@town.barnstable.ma.us>, Seth Etienne <setiennevt@gmail.com>

From: Seth Etienne

Sent: Friday, March 21, 2025 11:01 AM

To: Lovell, Cynthia <Cynthia.Lovell@town.barnstable.ma.us>

Subject: Ad Hoc Zoning Committee Alternative Proposal

Good Morning Cynthia,

As requested per the Chairman, here's my response to the draft of the memo and the recommendations therein. Please share with the rest of the committee, as well as the planning department, and any other entity that may be interested.

Thanks,

Seth

 **SEtienne Zoning Alt Proposal 3_21.pdf**

97K

Part I: Housing Production and Accessibility

A. Parking Requirements

CURRENT AD HOC COMMITTEE RECOMMENDATION: Increase minimum parking from 1 space per residential unit to 1.5 spaces per unit.

COUNTER-PROPOSAL:

1. Maintain the current 1 space per unit minimum for residential development in downtown areas.
2. Create a graduated parking requirement based on unit size:
 - Studio/1-bedroom units: 0.75 spaces per unit
 - 2-bedroom units: 1 space per unit
 - 3+ bedroom units: 1.5 spaces per unit
3. Allow shared parking arrangements that recognize the complementary timing of residential and commercial parking needs.
4. Establish a fee-in-lieu option where developers can contribute to a municipal parking fund instead of providing on-site parking.

B. Building Heights and Form

CURRENT AD HOC COMMITTEE RECOMMENDATION: Reduce maximum heights from "3.5 or 4 stories maximum" to 3 stories with conditional allowance for 3.5 stories with rooftop amenities.

COUNTER-PROPOSAL:

1. Maintain current height allowances of 3.5-4 stories in the Downtown Main Street and Downtown Village Districts.
2. Implement form-based design standards that ensure new buildings enhance community character regardless of height.

C. District Boundaries and Zoning Flexibility

CURRENT AD HOC COMMITTEE RECOMMENDATION: Replace the Downtown Village District with Downtown Neighborhood District or create a new district with reduced heights and density.

COUNTER-PROPOSAL:

1. Maintain the existing Downtown Village District with its current development potential.
2. Create pre-approved design templates for small-scale multi-family and missing middle housing types to streamline approvals.

D. Expanded Permitted Residential Uses

NEW PROPOSAL

Amend the language in § 240-11 through § 240-15 to replace the current principal permitted use limitation of "(1) Single-family residential dwelling (detached)" in the RB, RC, RC-1, RC-2, RD, RD-1, RF-1, RF-2, and RG Districts with the following:

(1) Residential dwellings, which shall include:

- Single-family residential dwellings (detached);
- Two-family dwellings (duplexes) that maintain a single-family appearance from the street;
- Three-family dwellings (triplexes) compatible with neighborhood scale;
- Townhouses with up to four attached units designed as distinct residences;
- Cottage court developments of 4-8 detached units not exceeding 1,200 square feet each arranged around common green space

E. Minimum Lot Size Adjustment

NEW PROPOSAL

Amend § 240-11 through § 240-15 to add a new subsection under dimensional requirements for the RB, RC, RC-1, RC-2, RD, RD-1, RF-1, RF-2, and RG Districts:

Minimum Lot Area for the following principal uses:

1. For single-family dwellings (detached), the existing minimum lot area requirements shall apply.
2. For two-family dwellings (duplexes), the minimum lot area shall be 100% of what would otherwise be required for a single-family dwelling in the district.
3. For three-family dwellings (triplexes), the minimum lot area shall be 125% of what would otherwise be required for a single-family dwelling in the district.
4. For townhouses, the minimum lot area shall be 2,000 square feet per dwelling unit, with a minimum total lot size of 8,000 square feet.
5. For cottage court developments, the minimum lot area shall be 3,000 square feet per dwelling unit, with a minimum total lot size of 15,000 square feet and a maximum of 40,000 square feet.

Part II: Housing Affordability and Stability

A. Inclusionary Housing Requirements

CURRENT AD HOC COMMITTEE CONSIDERATION: Potentially increasing affordability requirements beyond the current 10% minimum.

COUNTER-PROPOSAL:

1. Implement a graduated inclusionary housing requirement based on project size:
 - 10-19 units: 10% affordable
 - 20-49 units: 15% affordable
 - 50+ units: 20% affordable
2. Offer meaningful density bonuses, parking reductions, and fee waivers to offset the cost of providing affordable units.
3. Create an affordability covenant program that preserves naturally occurring affordable housing.
4. Establish a housing trust fund supported by linkage fees on commercial development and a real estate transfer fee on high-value property transactions.
5. Develop a first-time homebuyer assistance program funded through the housing trust
6. Use tax incentives and bonuses for projects that include workforce housing or deed-restricted year-round occupancy

B. Geographic Housing Distribution

NEW PROPOSAL

Direct a minimum of 30% of town housing investments outside of Hyannis to ensure equitable distribution of housing opportunity and prevent over-concentration of affordable housing in a single area.

Part III: Economic Vitality and Community Development

A. Economic Development Integration

NEW PROPOSAL

1. Create a coordinated economic and housing development strategy that:
 - Identifies workforce housing as a key economic development priority
 - Establishes employer-assisted housing programs
 - Coordinates infrastructure investments with housing development
 - Aligns workforce development with housing initiatives
2. Implement a "creative economy" overlay district that allows live-work spaces for artists, makers, and entrepreneurs.
3. Develop an adaptive reuse program for vacant or underutilized commercial properties.

B. Graduated Property Tax Structure for Non-Primary Residences

NEW PROPOSAL

Establish a graduated property tax structure for non-primary residences:

1. Create a residential exemption program that shifts a portion of the tax burden from primary residents to non-resident property owners
2. Implement an "empty home tax" surcharge on properties vacant for more than 6 months per year, with exemptions for active construction, medical stays, or other reasonable circumstances
3. Dedicate revenue from these tax programs to a local housing trust fund specifically for creating affordable and workforce housing

APPENDIX 3

TRAFFIC SIGNING – WHY THE CONCERN?

December 2023
Updated, April 2025

I started out in 2023 concerned about the increase of traffic signing and its impact on the appearance of Cotuit Village where we have had a home for the last 32 years. I wondered why it was happening and the basis for decisions. Once I started looking into it, walking and driving here and elsewhere on the Cape I found more and more examples of what I consider are the serious toxic impacts of today's traffic signing practices on our neighborhoods and streets throughout Barnstable and the Cape. My hope is that we will rethink, *perhaps well-intended, but I believe, misguided* practices of those designing traffic management signing.

The shame is that we can define many of our own traffic signing policies for safe and attractive signing in our villages, we do not need to blindly over-sign our streets. A thorough reading of the 850-page *Federal Uniform Traffic Control Devices for Streets and Highways* (MUTCD), support by town staff, and a better sense of town planning and design will enable us to correct the over-signing problem while enhancing public safety and preserving the essential beauty & historic character of our Town, its Villages and future community improvements like downtown Hyannis.

It is often said that the secret of Good Design is found in the details. Signing, often an afterthought, is one of the most important details of street and community design. We start with the base that the Cape, our villages and the neighborhoods within them are most valued as quiet, calm, attractive, green, natural, welcoming and pedestrian-friendly environments, values that need our protection. Unfortunately, the treatment of our village streets with over-use of traffic signs works against these values. Great for the companies selling signs but not for the design of our towns and villages.

I have tried to highlight and discuss the existing traffic sign problems. I have also proposed a set of design/use guidelines to consider for local adoption. Perhaps these ideas will help spur an interest, understanding and vision for this important aspect of our Town's environment and design. The results may also be incorporated as part of the policies Village Specific Plans and included in the ongoing Local Comprehensive Plan update and adopted by Town staff. I submitted this information to Public Works in early 2024 with limited response as noted in the attached.

I am convinced that our current town signing policy produces Too Many, Too Frequent, Too Tall, Unneeded, Unattractive and Ineffective signs. We can change this and maintain safe, more attractive streetscapes throughout our communities. (*See pages 12 to 14 for specific recommendations*) If we don't act will there be even more streetside signs planted in the future? Seems likely – frightening in some respects but likely.


Ken Alsmann
Cotuit Resident
kenalsman@aol.com
650-533-8070

SIGNS IN COTUIT



BUT NOW WE HAVE STREETS LINED WITH TRAFFIC SIGNS

A chaotic explosion of TRAFFIC CONTROL SIGNING - Most of these signs have appeared over the last couple of years, a few at a time. Probably put there with good intent, they have far exceeded the needs of this small village, and like graffiti, these traffic signs bring an unwelcome blighting impact on the natural beauty, and essential character of Cotuit. The number, placement and design of these signs is excessive, total overkill for a quaint village of 4,000 people. We can do better, much better, to provide safety without destroying our otherwise beautiful environment.



The negative impact of these public traffic signing can increasingly be seen throughout Cotuit and other Barnstable villages.

WHAT CAN BE CHANGED?

LOWELL AND PUTNAM ISLAND

Here we have a fairly new (2023) cluster of signs located by the Kettleers' Ball Park on Lowell adding parking restrictions along Lowell and a new traffic pattern at the landmark Lowell and Putnam Island. I have been here for 30 plus years. Prior to the signs people saw the game activity, slowed and figured out what to do at the intersection, it worked, we understood. But now we have signs, lots of signs. Assuming the signing is needed, how can we reduce the clutter, making it straight forward and simple to understand?



First, we can now remove the "NOTICE" sign, the intersection signing is no longer new and we can lower the height of the parking restriction sign.

Then we can minimize the signing at the island on Putnam Road by giving one simple direction using the international sign without the redundant 'KEEP Right' and 'BUCKLE UP' signs.

(UPDATE: The "Notice" and Buckle Up signs were removed in 2024)



TOO MUCH



CLEAR



ALSO CLEAR, JUST SHORTER BUT TOO LARGE

The simple international sign, like others used elsewhere, and mounted lower is even more effective and less obtrusive. It fits the location and the purpose, easy to see, easy to understand with no distractions. A better choice would be a ground-mounted sign, as used elsewhere in town.

On the Putnam side of the island we have two new (2023) “DO NOT ENTER - ONE-WAY” signs mounted atop 7’ galvanized metal posts. If essential to have a sign, much better is just one in the island lower to the ground. Right?



ON PARKING, it’s true, the Ketteleers’ ballgame parking does cause a bit of congestion – maybe 20 to 25 times a summer, for three to four hours, three days a week. However, these games signaled a welcome and exciting local event and, for the 32 years we’ve owned here, created a natural, intuitive condition for drivers to slow down, be respectful, and drive carefully. Now it is much more confusing and frustrating with drivers trying to read multiple signs, and understand the volunteer road guards trying to help drivers to remote locations, a mess rather than a welcome village event.

And maybe worse our streets - Lowell, stretches of Main and Putnam - are now lined with ugly orange “No Parking” signs on wood slats every 20 feet or so for the entire baseball season. Temporary Yes, but there, in place, 24 hours a day for most of the summer months. Have we solved a problem or taken away a village attraction and created something much worse?



UPDATE: The orange signs were not used last season.

WARNING SIGN PROLIFERATION

It seems that almost all signs now have additional "Warning Signs" announcing that a stop, signal, crossing or other control sign is ahead, even when the base sign is clearly evident. While limited warning signs may be needed for rare situations, perhaps when a stop sign is at the end of a curve, a surprise when rounding a bend in the road. But, not everywhere.



Public road signs now seem to be used much like old the Burma-Shave signs that once lined our roads, but without need and without the humor.





<<**NEW SIGN** - For the past decade the sign previously in this Main Street, Cotuit location warned– ‘School Children Ahead’ - even though the nearby school had left years ago. Recently the old sign was finally removed, but rather than simply removing the sign someone found this one and went to the time and expense of replacing the school kid warning sign with this new one – why? Is it really needed.



>>**STILL HERE** - Three other remnants from the long-gone former school have yet to be removed along another Village street.

SOLAR POWERED SPEED RADAR- Perhaps the best sign to slow traffic, but as currently “designed” it has an awkward, patched together, Rube Goldberg look.



<<MAIN STREET, COTUIT – 10’ TALL

>>THIS 6-FOOT TALL SIGN ON SEA STREET, HYANNIS LOOKS A BIT BETTER.



EVEN BETTER MIGHT BE THIS TEMPORARY TRAILER-MOUNTED SPEED SIGN. IT JUST SHOWS UP, ALERTS THE MOTORISTS AND GRABS THEIR ATTENTION, BUT CAN THEN BE MOVED FOR USE ELSEWHERE. IT ISN’T A PLANTED SIGN THAT CLUTTERS THE STREET AND THAT DRIVERS COME TO IGNOR. (THIS TRAILER MOUNTED CAN BE MUCH BETTER DESIGNED, AND LESS OBTRUSIVE.)



SIGNING MARSTONS MILLS

A couple of years ago the Town completed work on a section of Cotuit Road (149) to improve the Marstons Mills Village Center – clarifying driveway entrances, adding granite curbs, brick pedestrian crossings, nice decorative street lights and a few trees. What could have been an attractive, pedestrian friendly village center between Falmouth Rd. (Rt 28) and Lovells Lane is now ruled by over 40 aluminum and steel traffic signs dominated by large bright reflective yellow crossing signs, warning signs and multiple 16-foot tall solar powered, actuated flashing and seldom used crossing signs – a confusing gauntlet of large, tall street signs that tends to block and obscure most of the new street design amenities and merchant signs.



It is hard to tell that actual businesses exist here. Public traffic signs, not trees, dominate the setting with many of the sign posts actually located within and blocking the scant, already narrow sidewalks. Unfortunately, instead of making this little village center a charming, calm, pedestrian friendly community asset it is a generally barren paved area with few trees or evident pedestrian amenities despite the redesign—mostly an uninviting forest of ugly, confusing and frightening traffic control signing. *(Who wants to be here, it must be obviously really dangerous?)*



ONE DOWNTOWN HYANNIS INTERSECTION



"We welcome all pedestrians - both residents and visitors - to Historic downtown Hyannis to see our beautiful parks and views of the Harbor. First, just for fun, let's try to count the number of traffic sign for these two crosswalks – see if you can find them all in this half of the intersection (The mail box and street name signs don't count, nor do the "advance warning signs" further up each street.) Guess why we need them all. You are right, we probably don't. Afterall, this corner already has tall STOP signs and painted crosswalks."

12 ea.

PEDESTRIAN FRIENDLY ENVIRONMENT

It seems that much of the current signing clutter results from a misplaced interest and lack of understanding of what makes a safe, enjoyable and friendly environment for citizens & visitors, pedestrians & motorists. We need policies that encourage walking, that enhance communities. The natural beauty of our environment, the relationship to the water, to the trees, to small calm villages have shaped our sense of Cape Cod. Pedestrian safety is of course essential but when overdone traffic control signs dominate the village landscape, block pathways, shield views, obscure merchant uses, discourage pedestrians and deflate the value of our surroundings – why walk?

We need to be careful of what we wish for. For example, take the idea of including a *raised* crosswalk to enhance the pedestrian experience. Today, adding a simple painted or paved x-walk yields at least 4 new pedestrian signs, but raise it up a couple of inches and it now generates at least 2 more new large and tall “HUMP AHEAD” warning signs for motorists. And then there were 6.

Narrow streets, tree-lined edges, slower vehicle speeds, a clear view of our surroundings enhance both pedestrian and motorist experience. Plant more trees, not more signs. Thinking more about how we plan, design and change our villages is vital. Unfortunately, if recent streetscape changes in Marstons Mills is an example – we need help. That little stretch of road is anything but friendly, it is a gauntlet of signs, a bit frightening for both motorists and pedestrians.

Instead of designing traffic signing to be clear and understandable as recommended in the MUTCD, the industry has apparently just moved to more-and-more signs – repetitive, redundant, multiple, larger, taller, brighter, flashing, reflective, dominant – many seem to yell “hey stupid” at all of us, semi-permanent monuments making our community streets and surroundings visually more chaotic and a bit insulting to the environment and all of us.

IMPROVED PEDESTRIAN CROSSING SIGNING IN MASHPEE

I’ve noticed that Mashpee Public Works has recently (2023) installed a series of Pedestrian Crosswalk signs along Cotuit Road, a fairly heavily traveled, 40 mph street. Their design approach seems to check off most of the logical, more positive design boxes for crossings. The town locates a single sign “ahead” fairly close to the crossing. The sign is at the driver’s eye level, about 6-foot tall, mounted on a dark green, not galvanized, steel post. A major benefit of these Mashpee signs is their COLOR, the original “mellow yellow,” not the ugly, intrusive and overused acid yellow version now dominating signs elsewhere. It has a 30” x 30” aluminum panel with the international symbol of a man crossing above an “AHEAD” panel as shown in the picture. Unfortunately, the sign panels are oversized. Much smaller (18” x 18”), but very readable sign would be more in scale.



SIGN PANEL COLORS	CHECK	Mellow Yellow
NUMBER OF SIGNS/XWALK	CHECK	One per Approach
LOCATION	CHECK	Just Ahead of Crosswalk
SIGN PANEL SIZES	NO	Way Too Large
OVERALL HEIGHT	CHECK	Eye Level
CLARITY & SIMPLICITY	CHECK	Clear Message – But, “AHEAD” Not Needed
TYPE AND COLOR OF POST	CHECK	Dark Green, not metallic, not reflective

While these signs are much better than the increasing overkill of signing found elsewhere, I have to question the need or warrant for signing every crosswalk, in every situation.

HOW DID WE GET HERE?

(A modern fable)

Well, **it might have been** at an Annual Traffic Sign Conference, maybe in San Francisco or Dallas, a couple of years ago. Several sign company executives and their lobbyists were discussing how to increase lagging sales. They all agreed that they needed to influence changes to State and Local policies in order to fabricate a need for more and more road signs, not just replacements. Here's how some of the conversation may have gone:

Hi gang, good see you all again this morning. We have a lot to cover. For this morning session I'd like to start by building on two specific ideas: First I'd like to take advantage of recent public interest to give more attention to the pedestrians and then switch to what I call public service signs. Agreed? OK.

The man from Southern California spoke first. How about we come up with a new, more dramatic color for pedestrian signs at crosswalk. We can feature a walking man figure, then later we can discuss how to add new, different figures depending on the neighborhood. Any ideas? My Texas team is thinking about a large sign in a really bright reflective yellow, I mean this is really bright, like a headlight, some call the color acid yellow or urochrome yellow. We can use it in new places and eventually convince towns to replace all the existing crossing signs. From the Massachusetts executive: How about we add little arrows pointing at the crosswalk, in the same reflective bright yellow. Heads around the table nodded approval.

The woman from New Jersey added: Don't forget MUTCD suggests that, in some cases, using advance warning signs that says a control sign you can't see is coming up a bit further ahead, say around a curve. We convince clients they are needed everywhere that there is another sign coming. I think adding advance warning signs everywhere is going to be a big market once we get the ball rolling – a warning sign for every other sign. We'll more than double the number of signs we sell. The Oregon rep reminded everyone that we can use the same Man-walking sign and hang an 'AHEAD' panel underneath – now a total of four new signs. Someone asked, won't people be concerned about the number and brightness of signs in their communities? Maybe, but we just say it is the MUTCD standard, a Federal Law. Nobody is going to read or argue with an 850 page federal document. And, we can convince them the change is for a good cause – pedestrian safety for all. Our job is to sell signs, not what a street or town looks like. We need to have the lobbyists work on getting rid of the 'don't-over-do-it' language currently in the MUTCD manual.

OK, let's try that – big, tall, bright, reflective yellow signs with a man-walking figure, plus the 'ARROW' pointing at the x-walk and at least one advance warning sign – same color, same figure but a secondary 'AHEAD' panel – all on tall galvanized steel poles. Wait, lets also add a red reflective sleeve over the poles, to sell a little more 'color,' oops, I mean super safety. And they all laughed.

Now, let's look how we can increase the sale of at what I like to call "Public Service" road signs, like 'BUCKLE YOUR SEATBELT' -----

THE FEDERAL MUTCD

The Town OF BARNSTABLE uses the **850 plus page** *Manual on Uniform Traffic Control Devices for Streets and Highways*, or **MUTCD**, as a guide for traffic signing. The following is a condensed summary of the Manual's initial directions for use:

PURPOSE: This Manual describes the application of traffic control devices, but shall not be a legal requirement for their installation.

EXCESSIVE USE: Regulatory and Warning signs should be used conservatively because these signs, if used to excess, tend to lose their effectiveness.

LOCATION: The Manual recognizes that urban traffic conditions differ from those in more rural environments, and that signs are applied and located differently depending on factors such as amount and speed of traffic, setting, density etc.

NEED FOR WARNING SIGNS: Warning signs give notice of a situation that might not be readily apparent, (*i.e., warning that a sign is around a curve*). They are not needed otherwise. They are not to be used routinely.

PURPOSE: To be effective, a traffic control device should meet five basic requirements: Fulfill a need, convey a clear & simple meaning, command attention and respect, give adequate time for proper response.

APPROPRIATE LOCATION: Traffic control device should be appropriately positioned with respect to the location, or situation to which it applies. A standard device is as objectionable as a non-standard device; in fact, this might be worse, because such misuse might result in disrespect at those locations where the device is needed and appropriate.

ANALYSIS: Signs should be used only where justified. The decision to use a particular device at a particular location should be made on the basis of engineering study or judgment based on available information, and the application of appropriate principles, provisions, and practices as contained in this Manual and **other sources**.

SUMMARY: Use common sense when installing signs, limit their use and respect the surrounding situation and environment.

The manual suggests but fails to include a specific provision of the negative impacts traffic signing can have on a community, the surrounding visual environment and good urban design. This is a provision that can be adopted locally to help protect the sense and design needs of all Barnstable Villages. Such provisions can be included in new Village Specific Plans in the ongoing Town of Barnstable Comprehensive Planning process.

PROPOSED GUIDELINES FOR EFFECTIVE VILLAGE TRAFFIC SIGN ANALYSIS, JUDGEMENT & JUSTIFICATION

The MUTCD recognizes the difference between rural and urban signing and that signs in general: are to be used conservatively, used where a situation is not readily apparent, should give a clear and simple meaning, be appropriately positioned, applied only where justified – otherwise they become disrespected, lose their effectiveness and, I might add, become little more than public graffiti. These guidelines are proposed based primarily on the needs of smaller rural villages, but can, in most cases, apply throughout Barnstable villages and neighborhoods. And hopefully, the Cape.

- RECOGNIZE THAT TRAFFIC SIGN REQUIREMENTS IN A MORE RURAL VILLAGE SETTINGS ARE SIGNIFICANTLY DIFFERENT THAN IN A MORE URBAN ENVIRONMENTS. NOT EVERY CROSS WALK NEEDS SIGNING.
- PEDESTRIAN X-WALK SIGNS ARE NOT NEEDED AT INTERSECTIONS WHERE STOP SIGNS ARE USED. THEY MAY BLOCK OR SHROUD EACH OTHER CREATING A CONFUSING, POTENTIALLY DANGEROUS SITUATION.
- USE ADVANCE WARNING SIGNS ONLY IF THE PRIMARY SIGN IS NOT SUFFICIENTLY VISIBLE TO ENABLE A SAFE REACTION OR STOPPING DISTANCE - SUCH AS A STOP SIGN IS AT THE END OF A CURVE. DON'T USE A WARNING SIGN IF YOU CAN SEE THE OBJECT SIGN FROM THE POTENTIAL PRIMARY SIGN LOCATION. APPLIES TO X-WALKS, STOP SIGNS, AND SIGNALIZED INTERSECTIONS.
- DO NOT ADD OTHER SIGNING SUCH AS "USE YOUR SEAT BELT" ON A STOP SIGN OR OTHER POST. AVOID THE USE OF PUBLIC SERVICE MESSAGES SUCH AS "FASTEN YOUR SEATBELT," "SHARE THE ROAD" AND "STATE LAW" ETC. ON LOCAL SIGNS.
- DON'T USE TWO SIGNS IF ONE IS ADEQUATE TO GIVE A CLEAR, SIMPLE MESSAGE. USE THE CLEAREST AND SIMPLEST SINGLE SIGN, NOT REDUNDANT SIGNS – SUCH AS USING A SINGLE 'INTERNATIONAL' SIGN TO STAY TO THE RIGHT OF AN ISLAND. USING ANOTHER "KEEP RIGHT" SIGN IS NOT NEEDED. NOR ARE SUPPLEMENTAL ARROWS ADDED TO PEDESTRIAN CROSSINGS – (THE SMALL ARROW ALONE COULD MEET THE NEED, REPLACING THE LARGER PRIMARY SIGN ENTIRELY.)
- MOUNT SIGNS AS LOW AS POSSIBLE, AT DRIVER'S EYE LEVEL, 3 TO 5 FEET ABOVE THE SURFACE TO A MAXIMUM OF 7 FEET OVERALL. MANY OF THE SIGNS NOW EXCEED 9 FEET, NOT NEEDED ESPECIALLY ON OUR SMALL VILLAGE AND NEIGHBORHOOD STREETS. TALL, GANGLY, OFTEN TILTED SIGNS ARE OUT OF CHARACTER WITH A VILLAGE SETTING.
- AVOID ANY USE OF THE VERY TALL (15 TO 18 FOOT), SOLAR-POWERED, PEDESTRIAN-ACTUATED, FLASHING CROSSING TOWERS – PERHAPS THE MOST INTRUSIVE OF ALL RECENT CROSSWALK ADDITIONS IN OUR VILLAGES.
- USE SMALL 18 INCH SQUARE SIGNS TO A MAXIMUM OF 24 INCHES IN MOST CASES FOR LOCAL STREETS.
- MOUNT LOCAL SIGNS ON BLACK OR DARK GREEN POSTS RATHER THAN THE GALVANIZED STEEL MOST OFTEN USED. DO NOT ADD REFLECTIVE RED OR YELLOW POLE COVERS IN ANY CASE.
- USE THE ORIGINAL YELLOW ("MELLOW YELLOW) PEDESTRIAN CROSSING SIGNS RATHER THAN THE MUCH MORE OBTRUSIVE XTRA-BRIGHT REFLECTIVE ACID YELLOW SIGNS.
- USE CENTERLINE CROSSING SIGNS RATHER THAN CURBSIDE MOUNTED SIGNS IF POSSIBLE. THEY ARE VERY EFFECTIVE AND MUCH LESS OBTRUSIVE AND DO NOT BLOCK PEDESTIAN SIDEWALKS OR MERCHANT SIGNING (ALTHOUGH THEY CAN BE BETTER DESIGNED WITHOUT THE "STATE LAW" PROVISION.)
- AND FINALLY, **REMOVE SIGNS** THAT ARE REDUNDANT AND NO LONGER SERVE A VALID PURPOSE SUCH AS SCHOOL SIGNS WHERE SCHOOLS NO LONGER EXIST, UNNEEDED WARNING SIGNS AND SIGNS THAT DO NOT MEET THE ABOVE CRITERIA.

AN ADDITIONAL BENEFIT TO CLARIFYING SAFETY PROVISIONS AND CLEANING UP THE VISUAL ENVIRONMENT IS THE COST TO THE PUBLIC OF BUYING, INSTALLING AND MAINTAINING EXCESS SIGNING IN OUR VILLAGES. (*Individual signs with installation, etc. will likely cost the town, what?, maybe \$400 or more PER SIGN. PLANT A TREE INSTEAD.*)



FLASHING STOP SIGN

Over the 2024 holidays I noticed a few new signs in Hyannis. At first, when I saw the flashing lights around a stop sign, I assumed a neighbor had “decorated” the sign for the holidays.

But the neighbor was the Town with a new solar powered, flashing, red STOP SIGN. This sign was likely a good idea during the sewer line construction but I assume it will eventually be replaced and not used elsewhere except for construction.



25mph vs. 30mph

This happened on Little River Road, a narrow 13-foot wide, somewhat winding residential street between Putnam Ave. and Old Post Rd. in the village of Cotuit. The neighbors felt some drivers were going too fast and asked the town to have a 25 mph speed limit sign (a small, black and white speed limit sign common on the Cape and in Cotuit.) installed on Putnam. As I understand, residents were not pleased when told by town officials, “No, we can only install a 30 mph sign because we can not enforce speeds under 30 mph,” - even though the 25 mph sign is common elsewhere. So now another new, bigger, brighter sign has been planted at the Old Post Road end of the street.

Wouldn't the 25 mph sign have worked, enforced if needed for cars exceeding 30 mph and satisfying the residents with minimal signing?



Town of Barnstable
Building Department Services
Brian Florence, CBO
Building Commissioner
200 Main Street, Hyannis, MA 02601
www.town.barnstable.ma.us

Office: 508-862-4679

Fax: 508-790-6230

Approved: _____
Fee: _____
Permit#: _____

HOME OCCUPATION REGISTRATION

Date: _____

Name: _____ Phone #: _____

Address: _____ Village: _____

Name of Business: _____

Type of Business: _____ Map/Lot: _____

INTENT: It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within single family dwellings, subject to the provisions of Section 4-1.4 of the Zoning ordinance, provided that the activity shall not be discernible from outside the dwelling: there shall be no increase in noise or odor; no visual alteration to the premises which would suggest anything other than a residential use; no increase in traffic above normal residential volumes; and no increase in air or groundwater pollution.

After registration with the Building Inspector, a customary home occupation shall be permitted as of right subject to the following conditions:

- The activity is carried on by the permanent resident of a single family residential dwelling unit, located within that dwelling unit.
- Such use occupies no more than 400 square feet of space.
- There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use.
- No traffic will be generated in excess of normal residential volumes.
- The use does not involve the production of offensive noise, vibration, smoke, dust or other particular matter, odors, electrical disturbance, heat, glare, humidity or other objectionable effects.
- There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.
- Any need for parking generated by such use shall be met on the same lot containing the Customary Home Occupation, and not within the required front yard.
- There is no exterior storage or display of materials or equipment.
- There are no commercial vehicles related to the Customary Home Occupation, other than one van or one pick-up truck not to exceed one ton capacity, and one trailer not to exceed 20 feet in length and not to exceed 4 tires, parked on the same lot containing the Customary Home Occupation.
- No sign shall be displayed indicating the Customary Home Occupation.
- If the Customary Home Occupation is listed or advertised as a business, the street address shall not be included.
- No person shall be employed in the Customary Home Occupation who is not a permanent resident of the dwelling unit.

I, the undersigned, have read and agree with the above restrictions for my home occupation I am registering.

Applicant: _____ Date: _____

Email: _____

APPENDIX 4

Presentation to the
Town of Barnstable's

Ad Hoc Committee to
Review and Assess Zoning and Review the
Town's Use of Regulatory Agreements

Cathy Campos Ledec
January 31, 2025

This presentation will cover:

A. Selected Items Missing/Omissions/Gaps

B. Selected areas for improvement

(in addition to those already identified by the Committee)

Selected items missing, omissions, gaps:

1. Tree Preservation associated with land disturbing activities
2. Climate Resiliency
3. Wildlife-friendly/Bird-friendly building design

Selected areas for improvement:

4. Landscaping – Biodiversity
5. Other?

1. Tree Preservation – Missing

The Zoning Ordinance includes actions required for specimen trees (trees of a certain size).

THIS IS EXCELLENT but more is needed.

Current Practice: completely clear trees and vegetation from a site except on protected lands (e.g. wetland buffers) This is intensifying the impacts of climate change through deforestation and is not necessary.

The current zoning ordinance should provide **clear rules for tree preservation for land disturbing activities.**

Extensive tree removal is not necessary, needs to stop...the time is now...before it is too late and we lose significant tree cover that will take could take many years from which to recover.

Trees especially large native shade trees provide many ecosystem services, most times this goes unnoticed. Why should we care?

Trees:

- Inhale carbon dioxide, exhale oxygen
- Filter pollutants from the air
- Absorb and filter large quantities of stormwater
- Buffer noise
- Provide Wildlife Habitat
- Prevent erosion by holding soils
- Cool the air around us through shade – reducing the heat island effect
saving energy
- And more

Trees also protect us from the adverse impacts of climate change.

- Slow the impacts of heavy precipitation events
- Reduce the Heat Island effect by providing shade
- Protect us from heavy winds
- Prevent soil erosion
- Absorb and filter stormwater
- And more

We all NEED and DESERVE all of these benefits.

Recommendation: This committee should consider recommending to the Town Council the enacting of a Tree Preservation Ordinance for all land disturbing activities.

Let's not reinvent the wheel...rather seek out examples from other localities with Tree Preservation Ordinances. Keep in mind other localities have had these for many years, improved them over time, learning from actual practice on what works.

Local examples: Mashpee's Tree Preservation By-law (Approved by MA Attorney General January 17, 2024)

Others: State of Rhode Island has guidance at the state level for local tree preservation ordinances; Fairfax County, VA; Nags Head, NC; Cape May, NJ ... to name a few...

2. Climate Resiliency

All development & redevelopment projects (including municipal projects) should include an action plan for climate resiliency

This should include implementation of mitigation and adaption measures that reduce the impacts of,

- ✓ Increased intensity and frequency of precipitation events
- ✓ High wind events
- ✓ Flooding, including from sea level rise, and from increased intensity and frequency of precipitation
- ✓ Urban Heat Island effect – need to reduce this
- ✓ And more...

Climate Recommendation to the Committee:

This Committee should consider recommending to the Town Council a requirement that all land disturbing projects (definition needed) be climate resilient and incorporate actions to adapt, mitigate and protect us from the increasing impacts of climate change.

Also recommend including at least some of these suggested areas that would result in projects that adapt and mitigate for climate impacts such as:

- a. This might apply to projects with land disturbance greater than 2500 sq feet (a suggestion?)
- b. More (25% more?) stormwater management than is required
- c. Re-use of grey water and stormwater

Climate Recommendation to the Committee: (continued)

- d) 100% native plantings with biodiversity targets,
- e) Tree preservation and tree planting with space for large native canopy trees to achieve mature height and breadth so we benefit
- f) Green infrastructure that become landscape features
- e) There could be many more....these are introductory ideas...

We, current and future residents, deserve to be protected from the adverse impacts of climate change.

3. Wildlife-friendly/Bird-friendly Building Design

Collisions with glass kill more than 1 billion birds each year. Current scientific research suggests these numbers are likely even higher.

Birds provide important ecological functions in support of humans including pest control, pollination of plants, seed dispersal and more. Birds are also indicator species...telling us that our environment is healthy for them ... AND for us.

We must ensure that all buildings (residential, commercial, municipal) are not hazards to our wildlife.

Current Zoning Ordinance includes:

Lighting needs to be Dark Sky Compliant – EXCELLENT!!

I recommend to the Committee that we request the Town Council **add to the Zoning Ordinance** the need to:

- Use wildlife safe and bird-safe materials including
- No mirrored or reflective surfaces such as mirrored windows
- Fully screen windows that open
- Large expanses of glass must include exterior decals, fritting or etched designs on the exterior of the glass to break up reflected images – these become feature design elements for some buildings
- Varied roof lines (also architecturally more interesting) – avoid long expanses of the same architectural materials

The Yale Bird-friendly Building Initiative includes links to Wildlife-friendly/Bird-friendly Ordinances approved and implemented to date including links to the language of these ordinances:

<https://bird-friendly.yale.edu/usa-policy-database>

Municipal Buildings State-wide require this in: Minnesota, Illinois, Wisconsin, Maryland

Localities: Cook County, IL; San Francisco, CA; Oakland, CA; Portland, OR; Sunnyvale, CA; Richmond, CA; Minneapolis, MN; Mountainview, CA; Washington, DC; Alameda, CA; Santa Cruz, CA; San Jose, CA; New York City, NY; Arlington County, VA; Emeryville, CA; Highland Park, IL; Madison, WI; Howard County, MD; Cupertino, CA; Evanston, IL; Berkeley, CA; Lake County, IL; Middleton, WI; Portland, ME

US Forest Service, National Park Service, US Fish and Wildlife Service Visitor Centers are retrofitting windows with Feather-friendly decals. New construction uses bird-friendly building design.

There are numerous research reports and publications that cover this material including:

Kornreich A, Partridge D, Youngblood M, Parkins K (2024) Rehabilitation outcomes of bird-building collision victims in the Northeastern United States. PLoS ONE 19(8): e0306362. <https://doi.org/10.1371/journal.pone.0306362>

<https://home.nps.gov/orgs/1252/upload/Bird-collisions-handbook.pdf>

https://abcbirds.org/wp-content/uploads/2015/05/Bird-friendly-Building-Guide_2015.pdf

And more...

Selected Areas of the Zoning Ordinance that could be strengthened

• This does not include those topics that have already been discussed by the committee

4. Landscaping Plans and Biodiversity

Global Biodiversity Crisis – current scientific research documents this

There are many peer-reviewed, published scientific references on this topic

Here's one:

The long shadow of biodiversity loss: Technological substitutes are poor proxies for functioning ecosystems Larsen, A. et.al., **SCIENCE**, 5 Sep 2024, Vol 385, Issue 6713, pp. 1042-1044, [DOI: 10.1126/science.adq2373](https://doi.org/10.1126/science.adq2373)

Another:

Decline of the North American avifauna. Rosenberg, K. et.al. **SCIENCE**, 19 Sep 2019, Vol 366, Issue 6461, pp. 120-124, [DOI: 10.1126/science.aaw1313](https://doi.org/10.1126/science.aaw1313)

And more...

What's causing this biodiversity crisis?

Many factors including human-caused climate change, habitat loss, deforestation, land use change, overuse of pesticides, and more.

The resulting insect declines, bird declines, plant species declines are well documented in current peer-reviewed scientific research journals. These declines contribute to degrading environmental conditions – this impacts us humans.

How can the Zoning Ordinance improve this situation?

Current Zoning for Landscaping Plans require a focus on native species. **THIS IS EXCELLENT** and will bring us sustainable landscapes.

Goal: Sustainable and Resilient Landscapes

Achievable by increasing the diversity in our planned landscapes

Keep in mind that each landscape plan is an ecological restoration project AND every land disturbing activity should aim to reduce its impact and improve environmental conditions.

Recommendation: The committee should consider recommending to the Town Council - ensure that the following requirements for all Landscaping Plans (including municipal plans) are codified into the zoning ordinance.

- a) 100% native plants
- b) Plant Diversity: a biodiversity target should be followed. Achieve no more than 10% plants in any one plant category (trees, shrubs, perennials, grasses) should be of one species, and no more than 30% of any genus. No fertilizers (native plants thrive in local soils without fertilizers)
- d) All lawn/turfgrass areas should be replaced with native sedges & ground covers, or non-woody native meadow species.
- e) Use of fertilizers should be prohibited – these contribute to the degradation of water quality (consider a town-wide ban/limit on fertilizer use – review the Orleans fertilizer ban of October 2022 - this is being considered at the state level). Review examples from other localities.

We need this to maximize ecological restoration on our landscapes.

In Summary:

I recommend that this committee consider including this material in the recommendations to the Town Council.

Implementing these recommendations will improve management of the built and natural environment and contribute to improved environmental conditions.

This benefits all of us...we deserve this.

**Sample images of
Bird – friendly buildings and windows**

Sample images of Bird – friendly buildings



National Museum of African American History and Culture, Washington DC



Sample images



Sample images



Images of windows with exterior decals



Sample images of etching on glass



Sample images of etching on glass



APPENDIX 5

1. Selected items missing from the Zoning Ordinance

A. A tree preservation ordinance should be enacted and applied to all land disturbing activities, especially for all development or land use change requiring a permit.

This tree preservation ordinance should apply to ALL commercial, residential and municipal lands.

The current zoning ordinance includes tree preservation requirements for specimen trees. This is good, but more is needed. We are losing many valuable trees and a directive should be given to all commercial, residential and municipal landowners that tree preservation is a high priority and needs to be taken into account when land disturbance or development happens.

Trees provide critical ecosystem benefits for humans and protect us from the adverse impacts of climate change. Some benefits include inhaling carbon dioxide and exhaling oxygen; filtering pollutants from the air; absorbing and filtering large quantities of stormwater; slowing the impacts of heavy precipitation events; protecting us from heavy winds (especially important on Cape Cod); buffering noise; providing wildlife habitat; preventing erosion by holding soils; cooling the air around us through shade,– reducing the heat island effect; saving energy; and more.

These ecosystem support functions must be prioritized. Tree preservation and protection should be planned for and should occur prior to the building of structures of any kind, along with the building of roads, trails, sidewalks, parking lots, utility easements or other infrastructure.

Clearing all trees on a site in most situations is not necessary. Tree preservation areas should be identified and trees, including their critical root zone, must be protected before, during, and after land-disturbing activities. Compensatory mitigation should be required for unavoidable tree clearing.

Compensatory mitigation can be tree planting (within the same watershed) on land protected from development. It can also take the form of payment in lieu of planting at a rate that incentivizes tree preservation or planting. At a minimum, the replacement rate of 2:1 should be followed, with 2 dbh (diameter at breast height) planted for every 1 dbh removed as measured by diameter at breast height. For trees larger than 10 inches dbh, the planting ratio should be higher since mature trees are highly valued. It can take 30+ years for ecosystem services to equal the rate lost when trees are taken down.

We recommend checking out examples to inform the preparation of a tree preservation ordinance for the town of Barnstable. Mashpee has a Tree Preservation By-Law (approved by the

MA Attorney General 1/17/24). Other sources could include the State of Rhode Island's guidance for local tree preservation ordinances; Nags Head, NC; Cape May, NJ; Fairfax County, VA; Montgomery County, MD; and more. We can learn from the detailed examples provided by others and craft our own ordinance that more appropriately meets our town's needs.

B. Climate Resiliency

We recommend that all development projects (residential, commercial or municipal) be required to include a climate resiliency action plan before building permits are issued or other approvals are granted by the town.

Some town departments may already require some climate resiliency actions, but these are not yet codified into the zoning ordinance. Codifying this will ensure its consistency in implementation across all projects and ensure a long term legacy.

An example of climate resiliency is stormwater management. With increased intensity and frequency of precipitation events due to climate change, effective stormwater management might be requesting a developer to add 115-125% of “normal” rainfall and thus build out infrastructure to handle the higher precipitation scenarios. Another example might be increased strength of windows or other building materials, so they can withstand sustained high wind events, similar to what we experienced in early 2025 (with winds reaching 60-65mph).

The Town of Barnstable has a responsibility to ensure that future residents are protected from the impacts of climate change. A climate resiliency action plan for all development projects can work towards achieving this thereby reducing future risk of needing to rescue residents from life-threatening storm events.

A climate resiliency action plan for the town of Barnstable should to include (at a minimum) adaptation measures that address:

- Stormwater management, implementing systems that can handle on site stormwater up to 125% normal precipitation.
- Wind-resistant windows, reducing the potential for damage during sustained high wind events.
- The urban heat island effect due to the removal of trees from a location. This can be mitigated by strategic tree preservation and or planting of new, native large canopy trees.

Climate resiliency plans should be required for all land-disturbing projects of greater than 2,500 square feet. These projects should include actions such as:

- On-site reuse of grey water and stormwater,
- 100% native plantings with biodiversity targets,
- Tree preservation and tree planting, with space for large native canopy trees so they grow to full maturity,
- Green infrastructure that can also serve as open space and support passive recreation activities,
- And other creative, proven actions that reduce climate impacts.

In drafting zoning ordinance language, we should not re-invent the wheel. Other localities have implemented the requirement to include climate resiliency action plans for development projects. We can learn from their experiences in developing a requirement that is adapted to our locality.

C. Bird-friendly Building Design

According to recent data, bird populations in North America have declined by approximately 2.9 billion birds, a loss of more than one in four birds since 1970. Experts say this bird loss will continue to grow unless the main causes of bird decline are addressed. (Rosenberg, K. V., et al. "Decline of the North American avifauna". SCIENCE. DOI: 10.1126/science.aaw1313. September 19, 2019.)

Cape Cod is on the Atlantic Flyway and is home to roughly 400 bird species, with many migrating through or wintering here, while other species nest and raise their young here during the spring and summer. Birds provide important ecological functions in support of humans including pest control, pollination of plants, seed dispersal and more. Birds are also indicator species. Their presence tells us that our environment is healthy for them, and for us.

Collisions with glass have been found to kill more than 1 billion birds each year in the US. (<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0306362>). We need to do our part to reduce the impacts of our buildings or other infrastructure on birds. Buildings can and should be designed to prevent bird collisions with glass. This is now highly feasible since there are effective, proven strategies that greatly reduce bird collision risks.

What can we do about this problem?

The Town of Barnstable should stop approving new buildings and other structures that would pose unnecessary hazards to our birds.

Developers plan and design buildings with the Town of Barnstable's zoning ordinance requirements in mind. This includes such things as historic elements, paint colors, window types, fenestrations, and the like. Following a zoning amendment that requires bird-safe materials and design can be easily, so long as the requirements are clearly identified. More than 25 localities have passed ordinances requiring bird friendly building design. See here <https://bird-friendly.yale.edu/usa-policy-database> some of the approved ordinances to date. They vary in complexity, we recommend a simplified version that includes the specific elements noted in Annex 1.

To reduce serious bird mortality from window collisions, we recommend a zoning ordinance amendment that would require new or rebuilt buildings (residential, commercial and municipal) to be designed with birds in mind. This involves using bird-safe materials that do not pose major bird collision risks.

2. Strengthening Selected Areas of the Zoning Ordinance

Landscaping Plans:

We recommend improving the zoning ordinance by codifying staff recommendations requiring the use of 100% native plants in all landscape plans. We also recommend including a requirement of specifically measurable biodiversity targets in all landscape plans as described below. This will work towards achieving sustainable and resilient landscapes.

Current scientific research clearly documents that we are experiencing a global biodiversity loss crisis. Many factors contribute to this, including human-caused climate change; habitat loss through land use change and deforestation; overuse of fertilizers, pesticides, and herbicides; and more. We should therefore focus our attention on actions we can take to improve local biodiversity and reduce the loss within our locality wherever possible.

Each project's landscape plan should be viewed as an ecological restoration project. The resulting landscape should be sustainable and resilient. **We can achieve this and reduce local biodiversity loss by strengthening the zoning ordinance with respect to land and landscape management.** Specifically, each submitted landscape plan should commit to:

- Using 100% native plants.
- No more than 10% native plants in any one plant category should be of the same species. Plant categories are trees, shrubs, perennials, and grasses.
- No more than 30% of plants in any one plant category should be of the same genus (species group).
- Replacing lawn and turfgrass with native sedges and groundcovers, or non-woody native meadow species.
- Prohibiting fertilizers, herbicides and pesticides in all circumstances.
With impaired waterways, we must stop human-caused damage to landscapes and biodiversity. Native plants do not need fertilizers, herbicides and pesticides. Rather, they thrive in our local conditions. Using artificial inputs often causes mis-timed growth and bloom cycles that harm our pollinators, whose behaviors are timed to natural events.
- Limiting use of irrigation systems in residential neighborhoods. Wasteful water use like this contributes to polluted runoff to our waterways. Climate change has resulted in longer drought periods and we need to conserve water more effectively.

We understand that staff already recommend the use of native plants, although this is not yet codified. Further strengthening this requirement by requiring biodiversity targets will ensure adequate diversity that will work towards achieving a landscape that is both sustainable and resilient to the adverse impacts of climate change.

Annex 1: Recommended Provisions of a Proposed New Ordinance on Bird-friendly Building Design

1. Early planning should allow for measures that will deter collisions and at the same time meet other requirements, such as privacy and energy efficiency.¹
2. Bird-friendly building design should be implemented for residential, commercial and municipal buildings with no upper or lower height limitations, since bird collisions unfortunately occur at all building heights, from the ground to the top.
3. No highly reflective or mirrored glass should be used on windows or as an architectural feature on any building, of any size.
4. Large, contiguous expanses of glass should be avoided. However, if these are incorporated in any area, such as a building/residence entrance, patio doors, or to highlight stairwells or vaulted ceiling areas, these areas also should incorporate fritting patterns or frosted glass patterns that deter collisions. Acopian bird savers can also be used on the exterior of large windows to deter collisions (birdsavers.com).
5. Breaking up any glass (which should not be mirrored or reflective) on the exterior of the building with brick or other non-window construction materials can reduce the potential risk for bird collisions. The use of recessed balconies and recessed roof setbacks will also break up any large expanses of building exterior with easily visible elements that birds can avoid.
6. Fritting patterns or frosted glass patterns on the outside layer of glass that follow the American Bird Conservancy guidelines for bird-safe window designs should be used where reflections of natural landscaping cannot be avoided on windows.²³
7. Enclosed pedestrian walkways, even if connecting a building to a parking structure surrounded by clear glass, should be completely avoided. The exterior of such walkways should be covered with brick or masonry and may include small or narrow, full-screened windows.
8. If windows are designed to open, they should include full-sized insect screens on the outside part of the glass; these will deter collisions.

¹ Some of the information in this document is adapted from Audubon Society of Northern Virginia (ASNV) letter dated June 6, 2020 to Kyle Flanders regarding the Virginia Uniform Statewide Building Code, and ASNV letter dated April 20, 2020 to Victor H. Stephenson regarding Humphreys Engineer Center, Fairfax County, VA.

² https://abcbirds.org/wp-content/uploads/2015/05/Bird-friendly-Building-Guide_2015.pdf

³ <https://abcbirds.org/wp-content/uploads/2017/04/Save-birds-2017.pdf>

9. Lighting design is also important both for the building, streets, surrounding parking lots and any telecommunications facilities that may be co-located on a building or parking structure's rooftop. During migration, birds can become confused by excessive night lighting, resulting in collisions and reduced migration success.⁴ The LEED standard includes recommendations for both interior and exterior lighting.⁵ Energy efficiency is important, not just to reduce costs but also to mitigate climate change (which affects wildlife and its habitat). However, any exterior lighting design should not achieve efficiency at the expense of natural resources. Because light pollution can adversely affect both plants and animals,⁶ lighting design for the building and surrounding parking lots should avoid blue-rich lights and follow the standards developed jointly by the International Dark Sky Association and the Illuminating Engineering Society of North America, particularly in preventing backlight (trespass), up-light, and glare. Those issues are particularly important if the facility or building is surrounded by natural vegetation.⁷ The zoning ordinance already provides for dark sky compliance.
10. Maintenance of all bird deterrent features should be clearly communicated to private and commercial property owners or managers when ownership or management transfers. This will ensure these features are maintained for the long term. Including a description of the bird collision deterrent features on engineered site plan will ensure that they are installed as promised.
11. Any commercial or high-density residential building pursuing green building certifications should seek to satisfy the US Green Building Council's LEED Pilot Credit No. 55, including monitoring for success.

⁴ National Audubon Society, <https://www.audubon.org/conservation/project/lights-out>.

⁵ Exterior light design also should address the building roof if it is to include exterior telecommunications equipment.

⁶ See Visibility, Environmental and Astronomical Issues Associates with Blue-Rich White Outdoor Lighting, International Dark-Sky Association, May 4, 2010, available at <https://www.darksky.org/why-is-blue-light-at-night-bad/>. See also Light Pollution Is Altering Plant and Animal Behaviour, <https://phys.org/news/2018-03-pollution-animal-behaviour.html> ; Light Pollution Effects on Wildlife and Ecosystems, <https://www.darksky.org/light-pollution/wildlife/>; Light Pollution Can Harm Wildlife, https://darksky.org/wp-content/uploads/bsk-pdf-manager/Wildlife-Brochure-FINAL2_32.pdf ; Light Pollution Harms the Environment, <http://cescos.fau.edu/observatory/lightpol-environ.html>; The Vanishing Night: Light Pollution Threatens Ecosystems, <https://www.the-scientist.com/features/the-vanishing-night--light-pollution-threatens-ecosystems-64803>; Animals Need the Dark, https://www.nps.gov/articles/nocturnal_earthnight.htm; Light Pollution Is Bad for Humans but May Be Even Worse for Animals, <https://theconversation.com/light-pollution-is-bad-for-humans-but-may-be-even-worse-for-animals-31144>.

⁷ See International Dark Sky Association, Light Pollution, at <https://www.darksky.org/light-pollution/>. See also Joint IDA_IES Model Lighting Ordinance with User's Guide, June 15, 2011, available at <https://www.darksky.org/our-work/lighting/public-policy/model-lighting-laws-policy/>.