

Town of Barnstable Planning Board

Location Hardship Sign Special Permit Application Hyannis Village Business District

Instructions and Procedure:

Please review these application requirements before completing this application.

Application forms are available:

- At the Growth Management Department, 200 Main Street, Hyannis, MA
- On the Town's web site
<http://www.town.barnstable.ma.us/GrowthManagement/RegulatoryReview/PlanningBoard/default.asp>

A Location Hardship Sign Special Permit is issued to the applicant and/or business and is nontransferable without permission of the Planning Board. Please also see detailed list of required application materials on Page 4 of this application

- Proposed sign location sketch plan must be reviewed and approved by the Building Commissioner prior to filing this application. A copy of the Commissioner's approved location sketch plan must be submitted with the application for it to be considered a complete application.
- If you do not own the property in which your business is located you will need to supply information showing that you have 'standing' to make this application (see application form footnote 2).
- If the proposed sign is to be located on private property other than land you own, you need to have permission from the property owner allowing your sign on that property and so indicate on the application form. (see application for second box on page 3)
- If the proposed sign to be on public property (the sidewalk) a License Agreement is enclosed and as portions applicable portions to you filled in. That Agreement will be processed for you by the Growth Management Department upon submission of this special permit application to the Planning Board.

It is recommended that applications be reviewed by the Growth Management Department staff prior to clocking at the Town Clerk's Office to ensure a complete application.

Completed applications must be submitted to the Town Clerk's Office, to be time and date stamped. One (1) copy remains with the Clerk's Office, and two (2) copies filed with the Planning Board at Growth Management, 200 Main Street, Hyannis, MA.

At the time of filing your application at the Growth Management Department 200 Main Street Office you are required to provide:

- A deposit check in the amount of \$150.00 payable to the Barnstable Patriot. You are required to pay the required public notice publishing cost. This deposit check is to ensure payment is made and that the Town does not become responsible for this cost. Once the Barnstable Patriot notifies Growth Management staff that this invoice has been paid in full – this deposit check will be returned to the applicant.
- Postage stamps to cover the cost of the first class mailing of the public hearing notices (\$0.44 stamps) and the postcard decision notices (\$0.28 stamps) to abutters as required. At the time of filing staff will determine the number of abutters and the required number of stamps and assist you with this process.

No fee has been adopted for Location Hardship Sign Special Permits

Public Hearing Process:

The Planning Board will hold a Public Hearing on your application within 65 days and must render a decision within 90 days after the close of the public hearing. Abutters will be notified by mail of the date of the Public Hearing. Any additional support materials must be submitted at least 10 days prior to the public hearing and requires 12 copies to be submitted.

For this hearing please be prepared to present evidence demonstrating that the proposed sign meets the criteria and performance standards of Section 240-71(a) and (b) is in harmony with the intent and purposes of the Zoning Ordinance and complies with Special Permit provisions as set forth in the ordinance.

Decision and Notice of Decision:

The Planning Board's decision is filed with the Town Clerk within 14 days after the Board renders its decision. The applicant/applicant's representative will receive a copy of the decision. Notice of the decision filing will be sent to all abutters.

A 20 day appeal period begins on the date the decision is filed with the Town Clerk. After the appeal period has elapsed, if no appeal has been filed, the Town Clerk will certify the decision. A copy of that certified decision will then be mailed to the applicant/applicant's representative.

If an appeal is taken during the 20 day appeal period, the outcome of your special permit request will be determined by the courts.

You must record the certified decision at the Barnstable County Registry of Deeds or Land Court Registry for the special permit to take effect.

A copy of that recorded document must then be submitted to the Planning Board's file and will be required for the sign permit from the Building Division.

The rights granted under a Special Permit shall lapse unless they are exercised within two (2) years of the date the decision is filed with the Town Clerk's Office.

Town of Barnstable Planning Board

Special Permit Application Hardship Location Sign

For office use only: Special Permit # _____
Date Received Town Clerk: _____ Days Extended: _____
Hearing Date: _____ Decision Due _____

The undersigned hereby applies to the Planning Board of the Town of Barnstable for a Special Permit, in the manner and for the reasons set forth below:

Applicant Name¹: _____, Phone: _____

Applicant Address: _____

Applicant E-Mail Address _____ @ _____

Property Location: _____

Property Owner: _____, Phone: _____

Address of Owner: _____

Deed Recording: Book _____, Page _____ Plan Recording: Plan Book _____, Page _____

If applicant differs from owner, state nature of interest in the property:²

Assessor's Map/Parcel Number: _____ Zoning District: HVB

_____ Sign location approved by the Building Commissioner

Sign to be located on Town property/sidewalk (circle one) **YES / NO**

If the answer to the above question is **YES**

Please complete the applicable portions of the attached license agreement and return it and the proof of insurance with your application packet. Your license request will be forwarded to the Town Manager internally and promptly returned to you once the license is complete.

If the answer to the above question is **NO**

Property owner has granted permission to place the Location Hardship Sign on their property (circle one)

YES / NO

Special Permit Requested: § 240-71 Signs HVB District E. 4. Location Hardship Sign

Description of Request: _____

APPLICANT SIGNATURE _____ DATE _____

¹ The Applicant Name will be the entity to which the special permit will be issued.

² If the applicant differs from owner, the applicant will be required to submit one original notarized letter authorizing the application, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

The following information must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form each with original signatures.
- Three (3) copies, minimum 8 1/2" x 11" size, of a sketch plan showing measurements and dimensions of the property/sidewalk where the sign is to be placed and the exact proposed sign location, as approved by the Building Commissioner, in relation to the street, building façade, curbing, light poles, utility poles, hydrants, trash receptacles, street furniture, planters and outdoor dining appurtenances.
- Where the Location Hardship Sign is proposed on Town property, the following additional documentation shall be submitted:
 - Copy of proof of insurance and a license from the Town Manager for the proposed location of the sign; shall be provided to the Planning Board and the Building Commissioner prior to placing any approved sign.
- Three (3) copies of a color drawing/photo of the proposed sign.
- Applications for Location Hardship signs shall demonstrate through visual evidence substantial obstruction or other substantial location hardship as defined herein.
- Copy of Certificate of Appropriateness, Certificate of Non-applicability, or Certificate of Hardship as issued from Hyannis Main Street Waterfront Historic District Commission.

The applicant may submit additional supporting documents to assist the Board in making its determination. All supporting documents must be submitted eight days prior to the public hearing for distribution to the Board.

Signature: _____ Date: _____
Applicant's or Representative's Signature

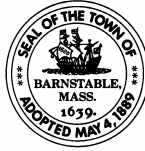
Print Name _____

Representative's³ _____ Phone: _____
 Address: _____ Fax No: _____

E-mail address _____

³ Note: All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

This page intentionally left blank



**Town of Barnstable
Planning Board**

**Hyannis Village Business District
Hardship Location Sign**

**Agreement to Extend Time Limits
for Holding of a Public Hearing and Filing of a Decision on a
Special Permit**

In the Matter of _____, the Applicant(s), seeking a special permit as requested in an application submitted to the Town Clerk’s Office of the Town of Barnstable on _____, the applicant(s) and the Planning Board, pursuant to Massachusetts General Laws, Chapter 40A, Section 9, agree to extend the required time limits for holding of a public hearing and for filing a decision on this application for a Special Permit for a period of _____ days beyond that date the hearing was required to be held and the decision was to be filed.

In executing this Agreement, the Applicant(s) hereto specifically waive any claim for a constructive grant of relief based upon time limits applicable prior to the execution of this Agreement.

Applicant(s):

Planning Board:

Signature: _____
Applicant(s) or Applicant’s Representative

Signature: _____
Chair or Acting Chair

Print: _____

Date: _____

Date: _____

Address of Applicant(s) or Applicant’s Representative

Planning Board

Growth Management Department
200 Main Street, Street, Hyannis, MA 02601
Phone 508-862-4687

cc: Town Clerk
Applicant(s)
File

This page intentionally left blank

§ 240-60 Definitions

Location Hardship Sign: A temporary portable sign allowed in the HVB for a business demonstrating a location hardship, as further defined herein, to identify and/or direct patrons to their business. Such locations are ones where

- (1.) A permitted sign is not visible due to substantial obstruction(s) outside the control or ownership of the business owner including but not limited to other signs, awnings, trees in leaf, outdoor dining or other business appurtenances or where building facades are excessively setback or
- (2.) Due to the location on an upper floor the business is unable to display a trade figure or symbol or a trade flag or
- (3.) Where, due to the upper floor location, the visibility of other permitted signage is substantially reduced.

Hardship location signs are not counted toward the amount of signage allowed.

§ 240-71 Signs HVB District E.

4. **Location Hardship Sign:** These signs are allowed in the HVB District, provided that a special permit is obtained from the Planning Board subject to the provisions of § 240-125C herein and subject to the following criteria and performance standards.

a. Criteria

1. Applications for Location Hardship signs shall demonstrate through visual evidence substantial obstruction or other substantial location hardship as defined herein.
2. One (1) Location Hardship Sign is permitted per each business frontage.
3. Evidence demonstrating to the satisfaction of the Planning Board and the Building Commissioner that explicit written permission has been given by the owner(s) of the property proposed for placing the sign that is the subject of the special permit application.
4. Where the Location Hardship sign is within the Hyannis Main Street and Waterfront Historic District a certificate of appropriateness shall be obtained prior to and submitted with the application for special permit
5. Where the Location Hardship Sign is proposed on town property, the following additional criteria shall be met:
 - (a.) Proof of receipt of a license from the Town Manager or designee for the sign at the proposed location;
 - (b.) Proof of insurance consistent with this license from the Town Manager or designee shall be provided to the Planning Board and the Building Commissioner prior to placing any approved sign.

b. Performance standards:

Location Hardship signs:

1. Shall not exceed two (2) feet by four (4) feet.
2. Shall be secured as necessary so as not to create nuisance or hazard to pedestrians, motorists or business patrons under any conditions.
3. Shall not obstruct safe passage or impede accessibility on the sidewalk.
4. Shall not obstruct views to another business or business sign.
5. Shall be professionally made, professionally painted and well- maintained. Hand lettered signs shall not incorporate informal, irregular hand lettering.
6. Shall not be illuminated.
7. Shall not have lights, banners, flags or similar objects placed on or adjacent to the sign.
8. Shall be placed on the sidewalk leading to the public business entrance.
9. Shall be removed at the close of business each day.
10. Shall not be displayed outside of business hours.

This page intentionally left blank

LICENSE FROM TOWN OF BARNSTABLE

TO

FOR

PLACEMENT OF PERMITTED LOCATION HARDSHIP SIGN ON TOWN SIDEWALK

I, JOHN C. KLIMM, Town Manager of the Town of Barnstable, New Town Hall, 367 Main Street, Hyannis, Barnstable County, Massachusetts, 02601-3907, 508-862-4610, hereby give permission pursuant to Section 4-3(g) of the Charter of the Town of Barnstable to _____ of _____ (hereafter known as "LICENSEE") to temporarily place a location hardship sign on a portion of town property located at _____ and at the specific location further delineated on the plan attached hereto as Exhibit A, which permission shall take effect upon the receipt of a special permit from the Planning Board and a permit from the Building Commissioner pursuant to §240-84 of the Code of the Town of Barnstable and shall be subject to the following terms and conditions.

1. Permission terminates and is withdrawn upon (a) failure to obtain all necessary approvals, licenses and permits for the sign; (b) failure to comply with the requirements and conditions of all necessary approvals, licenses, permits statutes, regulations and rules for the sign and its location including but not limited to the special permit from the Planning Board and the permit from the Building Commissioner pursuant to §240-84 of the Code of the Town of Barnstable; (c) any change in the Licensee's status as either owner or lessee of the above-referenced premises adjacent to the licensed area; (d) use of the licensed premises for any purpose other than for the approved location hardship sign; or (e) revocation of permission by the Town Manager.
2. The permission extended cannot be transferred or assigned to any other person.
3. This is a bare license only that is revocable at will by the Town Manager without notice, without hearing, without giving reasons therefore, and without recourse to the licensee. In the event of termination or revocation, the Town Manager has the right to immediately remove any sign located on town property.
4. This license does not create expressly or by implication any property, prescriptive, adverse possession, or other rights to the specified licensed area or surrounding area.
5. The Licensee must maintain in full force and effect releases and indemnifications of the Town from any and all liability arising out of any use of the licensed premises and liability insurance in the amount of \$1,000,000.00 naming the Town as additional insured for injuries or damages to persons or property arising out of use of the town sidewalk and shall deliver proof of such insurance to the Town upon signing this Agreement. Said insurance shall be non-cancelable except after fifteen (15) days written notice to the Town. Failure to so indemnify and insure shall be grounds for cancellation and rescission of this license.

WITNESS my hand and seal this _____ day of _____, 2010

JOHN C. KLIMM, Town Manager,
Town of Barnstable

The above license is accepted under the terms stated above, which I agree to abide by fully, and I enclose my insurance binder naming the Town as additional insured and the executed release and indemnification.

Date: _____, 2010

LICENSEE

PRINTED NAME

I, _____ of _____ in consideration of permission granted to me by the Town Manager of the Town of Barnstable as set forth in the "PLACEMENT OF PERMITTED LOCATION HARDSHIP SIGN ON TOWN SIDEWALK" LICENSE to which this is attached, agree to release the Town of Barnstable from any and all claims, demands, actions, and causes of action, whether known or unknown, arising out of the use of the area in and around the licensed premises located at _____, Hyannis, as further delineated in Exhibit A and to indemnify and hold harmless the said TOWN OF BARNSTABLE from any and all claims of any person(s) with respect to the use of the licensed premises and the placement of the sign on the licensed premises and in the event any such claims arise, will at my/its expense defend the Town of Barnstable against said claims.

Executed as a sealed instrument this ____ day of _____, 2010.

Licensee

Printed Name

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2010, before me the undersigned notary public, personally appeared _____, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Notary Public
My Commission expires: