



Town Council Meeting  
December 1, 2022



A quorum being duly present, President Matthew Levesque called the December 1, 2022, Town Council meeting to order at 7:08 PM.

An announcement was made by President Levesque regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

**PRESENT:** Nikolas Atsalis, Kristine Clark, Paul Cusack, Jessica Rapp Grassetti, Matthew Levesque, Betty Ludtke, Jeffrey Mendes, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber **Absent:** Jennifer Cullum

The Pledge of Allegiance was led by President Levesque followed with a moment of silence.

**PUBLIC COMMENT:**

Debra Dagwan speaking on behalf of the Zion Union Heritage Museum asked the Council to support this historical building; very dear to my heart, we need to keep this going.

Ralph Dagwan in support of the Zion Union Heritage Museum, offered to give a tour of the museum, was rezoned multiple times; this represents a lot of the people who lived in that neighborhood. We can do a small wedding in the chapel and a reception area, this building is for the community.

Lynne Rhodes treasurer for the Zion Union Heritage Museum, before Covid we had monthly youth events every afternoon, encourage you to support the Zion.

Rob Galibois introduced himself to the Council, would like to keep a relationship with the Town Council, his swearing in ceremony is scheduled for January.

William Hedly Smith concerned about the dumping of nuclear waste into Cape Cod Bay from the Pilgrim Power Plant which is tasked with transporting the nuclear waste to Utah. He would like the Council to engage the legislature to prevent this from happening to our waterway. Asked the Council to find a way to have a public posting of the petitions to all the folks who want to sign the petition.

Helen Chatel new executive director of Cape Media center is looking forward to working with us to bring back a sense of community.

Cheryl Powell called in to speak about the Appointments Committee agenda item, for the Hyannis Main Street Waterfront Historic District Commission addition and gave her full support for the appointment of Laura Cronin.

Close public comment

**COUNCILOR RESPONSE TO PUBLIC COMMENT:**

(Rapp Grassetti) I will be supporting the Zion Historical Union Museum; congratulations to our District Attorney. (Ludtke) Spoke about the Zion Historical Union Museum and how she remembered the area, you have my support. (Shaughnessy) I too support this appropriation, I will take you up on that tour, Attorney Galibois congratulations; could not agree more about the danger of the nuclear waste (Starr) We have passed a resolution about not dumping into the Cape Cod Bay, aquaculture is a big business, if anyone thought there was a possibility of radio activity in our waters we would lose the sales of our shellfish. (Clark) Time for another letter especially due to the newspaper article (Schnepf) Support the Zion Historical Union Museum, and will take you up on the tour, we need to raise our voices against the

dumping of nuclear waste in our waters (Levesque) Is looking forward to the first reading of the Zion Historical Union Museum, thanked everyone for coming out to speak about this item.

**TOWN MANAGER’S COMMUNICATIONS: (Exhibit A)**

Asked Senior Town Attorney McLaughlin to look into the regulatory aspects relevant to Pilgrim to brief the Council leadership;

Elizabeth Jenkins, Director of Planning and Development this is the monthly update of the Local Comprehensive Plan (LCP) utilizing a Power Point presentation

- Winter Open House on December 14<sup>th</sup> at the Hyannis Youth and Community Center
- Civic Association meetings on zoom
- Visit the LCP Survey on the Website
- Community Comment Walls
- Housing Production Plan Forum
- Stay in Touch

**Councilor questions and comments:**

(Clark) Tighter time frame for the Housing Plan (Jenkins) Hope to have it for January/February time frame.

Town Manager Communications con’t

- Budget Action Calendar continues for Fiscal Year (FY) 2024
- Public hearing held for proposed fees and taxi rates
- Secretary of Housing and Economic Development will be visiting Town Hall
- Massachusetts Department of Environmental Protection (MassDEP) three public hearings
- We continue review of permits filed with regulatory agencies regarding the proposed Phase 2 (Commonwealth Wind) landing of cable in Barnstable
- Inside Barnstable Town Government, a Citizens Leadership Academy will begin on January 24, this is a 12 week commitment with the goal of educating the citizens of Barnstable about the operations of town government

**Councilor questions and comments:**

(Clark) Inside Town Government, when it is full is there a place that the people can go, (Poyant) there is a waiting list (Clark) This is on the Town Managers website (Ells) Yes (Rapp Grassetti) this is a great program, a good way to learn all the areas of the town. Will there be another Police Academy? (Sonnabend) we are in talks about rebuilding a program now, smaller class size, late winter early spring. (Shaugnessy) Both academies are great, I learned so much encourage any and all to do it (Schnepp) letter that came out of the office of the Town Attorney on the Environmental Notification Form (ENF) is that a public document, where is that available (Ells) MEBA website, and on the Town Managers page of the website, we are not the proponents. (Atsalis) Letter that was sent regarding Commonwealth Wind, this is where you go to get the correct information, read this letter, we have your best interests at heart. (Levesque) At the last meeting we approved the ability to move forward, we have honest dialogue and we do have concerns.

**ACT ON MINUTES:**

Two sets of minutes, the first are the notes from the Meeting held on October 13, 2022, correct the Scribner’s error to remove Eric Steinhilber’s name, he was not in attendance

**VOTE: PASSES AS AMENDED-UNANIMOUS**

Upon a motion duly made and seconded it was to accept the minutes of November 17, 2022 as presented.

**VOTE: PASSES 11 YES, 1 abstention Rapp Grassetti**

**COMMUNICATIONS from elected officials, boards committees, and staff, commission reports, correspondence and announcements:**

(Clark) Congratulations to President Levesque for the Rosenthal Award and to Past Town Council Presidents Debra Dagwan and Paul Hebert are receiving Unsung Hero Awards. Michael Mecenaz will also be receiving an Unsung Hero Award.

(Shaughnessy) Boat Parade moved to Sunday due to weather as well as the Hyannis Stroll; (Rapp Grasseti) Santa will arrive by boat in Cotuit on Saturday, (Levesque) Centerville Stroll from 3 to 6 PM; December 7<sup>th</sup>-Barnstable Village Stroll and Osterville Stroll is on the 9<sup>th</sup> (Clark) the Village Tree lighting in West Barnstable, Sunday at 5 PM Levesque Lighting of the menorah is at the Cape Cod Mall on Monday the 19<sup>th</sup> (Atsalis) Aaron Crosby Park in Centerville sign has been down a resident from town replaced that sign, thank you to Mr. Lebo for volunteering his time and money for doing this; also for many years the residents have wanted to light up a large pine tree, however do to a lack of power available it has not been done. This year the DPW worked with the Eversource, there will be lights on that large pine tree at Aaron Crosby Park great example of the town working with the residents to get things done.

Break: 5 minute back at 8:20

Old Business Item Number 2022-144:

Recuse Councilors Atsalis, Neary, Rapp Grasseti, and Shaughnessy

President Levesque made the following announcement:

Because 4 Councilors are recused from Item #2022-144 and another Councilor is absent, we do not have quorum tonight for that item. Since Items 2022-145 and 2022-146 are related to that item; I am opening and continuing Items 2022-144, 2022-145, and 2022-146 to individual public hearings to be held on each item at the Town Council meeting on January 5, 2023.

**2022-144 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING DISTRICTS KNOWN AS THE “HYANNIS VILLAGE ZONING DISTRICTS” AND REPLACING THEM WITH REVISED AND UPDATED DISTRICTS COLLECTIVELY KNOWN AS THE “DOWNTOWN HYANNIS ZONING DISTRICTS” INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022**

Upon a motion duly made and seconded it was

**ORDERED:** That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1: By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to repeal the districts collectively known as the “Hyannis Village Zoning Districts” and replace them with seven (7) new districts collectively known as the “Downtown Hyannis Zoning Districts”, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

Proposed Amendment to the Hyannis Zoning Map Re-Zoning Downtown Hyannis  
Proposed Amendment to the Town Zoning Map Re-Zoning Downtown Hyannis

SECTION 2

By amending Article II, Section 240-5, Establishment of districts, by deleting:

“Hyannis Village Zoning Districts”

HVB	Hyannis Village Business District
MS	Medical Services District
SF	Single Family Residential District
OM	Office/Multi-Family Residential District
HD	Harbor District
HG	Hyannis Gateway District
TD	Transportation Hub District
GM	Gateway Medical District”

and inserting in its place:

“Downtown Hyannis Zoning Districts”

DMS	Downtown Main Street
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DV	Downtown Village
DN	Downtown Neighborhood
HH	Hyannis Harbor
TC	Transportation Center
HC	Highway Commercial
DH	Downtown Hospital”

By further amending said Section 240-5 by deleting “Hyannis Parking Overlay District” as it appears under the heading “Overlay Districts”.

section 3

By amending Article III District Regulations to repeal Sections 240-24.1 through 240-24.1.13 and replace them with the following new Sections 240-24.1.1 through 240-24.1.13:

“§240-24.1.1 Downtown Hyannis Zoning Districts”

Title

These districts shall be collectively known as the "Downtown Hyannis Zoning Districts."

General Provisions

Applicability

Where the provisions of Sections 240-24.1.1 through 240-24.1.13 conflict with those found elsewhere in the Barnstable Zoning Ordinance, the provisions of this Section shall apply.

The provisions of the Barnstable Zoning Ordinance § 240-6.C (3) shall not apply within the Downtown Hyannis Zoning Districts.

Development Review

The Planning Board is the Special Permit Granting Authority (SPGA) for all development within the Downtown Hyannis Zoning Districts.

Development within the Downtown Hyannis Zoning Districts, excluding single-family residences, must comply with Article IX, §240-103, site development standards, and the Design and Infrastructure Plan. The Planning Board shall establish a Design and Infrastructure Plan (DIP) which shall be adopted after a public hearing.

The use of land or occupancy of floor space is permitted as specified by §240-24.1.5.B Use Provisions.

Compliance

Any modification to an existing structure that results in greater conformance to this Ordinance is permitted.

Any modification to an existing structure that increases an existing nonconformity or creates a new nonconformity is prohibited.

Definitions

General

The following defined words, phrases, and terms are applicable for real property within the Downtown Hyannis Zoning Districts.

**Accessory Parking** Motor vehicle parking spaces that are incidental but supportive of (a) principal building(s).

**Building Component** A structural projection from the main massing or roof of a building that increases habitable square footage or enhances the usefulness of floor area.

**Commercial Parking** A surface parking lot or structured parking facility providing short- or long-term parking service for a fee.

**Commercial Service** The provision of various services, entertainment, or recreational opportunities to individuals, groups, or businesses including animal care, assembly & entertainment, banking & financial services, building & home repair, business support, day care & education, maintenance & repair of consumer goods, personal services, gyms & health clubs, and recreational services.

**Cultural Services** The provision of social or cultural services to individuals or groups including membership based social organizations and the production, manufacture, publishing, rehearsal, performance, broadcast, selling, or teaching of the arts.

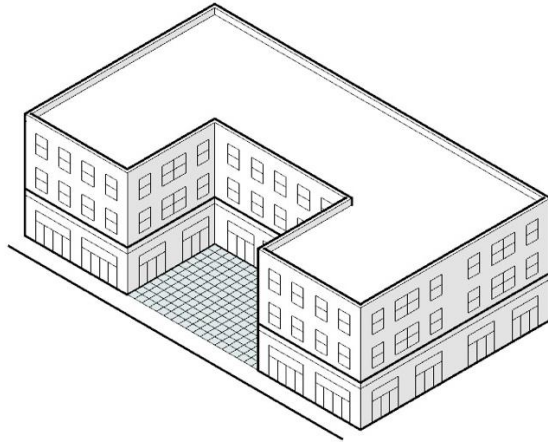
**Development** The platting of any lot, construction of any structure, or establishment of any parking lot that did not exist prior to the adoption of the Downtown Hyannis Zoning Districts.

**Façade.** Any exterior wall of a principal building oriented toward a front lot line.

**Fenestration** The openings in the facade of a building, including windows and doors.

**Food & Beverage Services** The provision of food or beverages for on- or off-site sale or consumption.

**Forecourt** An open space between the forward projecting wings of a building.



**Frontage Area** The area of a lot between the façade of a principal building and any front lot line(s), projected to the side lines of the lot.

**Frontage Type A** distinct combination of façade and frontage area design features.

**Health Care Clinic** The provision of health care services to patients or clients excluding inpatient or overnight care.

**Hospital** A facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health under MGL c. 111, §51.

**Lot Coverage** The ratio or percentage of a lot that is covered by principal buildings, outbuildings, accessory structures, and impervious paved surfaces including driveways, parking lots and sidewalks.

**Modification** The alteration or structural change of an existing structure and any change to the parking capacity of an existing parking lot.

**Office** The administrative, professional, or clerical operations of a business and the provision of outpatient health services to patients or clients by appointment.

**Outbuilding** A free-standing, fully enclosed structure for an accessory use or for activities customary to the principal use of land or a principal building.

**Principal Building** The primary building on a lot.

**Principal Entrance** The addressed entrance to a building or commercial space.

**Recreational Facility** The provision of public recreational services including bowling and billiards, and video arcades.

**Research & Development** The analysis, testing, and development of ideas and technology including computer software, information technology, communications systems, transportation, and multi-media technology where the construction of prototypes may be an ancillary activity.

**Residential** The provision of living accommodations.

**Retail Sales** The sale, lease, or rental of new or used goods to the ultimate consumer.

**Shrub, Large** A multi-stemmed, woody plant with an expected mature height of six (6) feet.

**Shrub, Medium** A multi-stemmed, woody plant with an expected mature height of four (4) feet.

**Shrub, Small** A multi-stemmed, woody plant with an expected mature height of two (2) feet.

Story The portion of a building located between the surface of a habitable floor and the surface of the habitable floor or roof next above.

Story, Ground The lowest story of a building with a finished floor at or above the finished ground level next to a building at the facade.

Story, Upper Any story above the ground story of a building.

Through Lot A lot fronting on two (2) or more improved ways, excluding a corner lot.

Tree, Canopy A deciduous tree with an expected mature height of thirty (30) feet or more.

Tree, Evergreen An evergreen tree (conifer) with an expected mature height of twenty (20) feet or more.

Tree, Understory A deciduous tree with an expected mature height of twenty (20) feet or more.

Visitor Accommodations The provision of temporary lodging in guest rooms or guest units for a fee.

## Standards for all Districts

### Building Standards

#### Frontage types.

Buildings must have at least one (1) frontage type except if otherwise specified. Buildings on corner lots must have two (2) frontage types, one (1) for each frontage.

Frontage types are permitted as specified by Table 11.

Multiple frontage types may exist for buildings that have more than one (1) principal entrance.

Buildings must have at least one (1) principal entrance located on the façade.

Multi-story buildings with ground floor commercial space(s) must have one (1) principal entrance for each commercial space in addition to any principal entrance(s) necessary for any upper stories.

Buildings may not exceed the maximum number of stories as specified for each district.

Each individual story of a building must comply with the minimum and maximum story height specified for each district.

Story height is measured vertically from the surface of the finished floor to the surface of the finished floor above. When there is no floor above, story height is measured from the surface of the finished floor to the top of the structural beam or joists above or the top of the wall plate, whichever is more.

The ground story is always counted as one (1) story, except that a single ground story over eighteen (18) feet in height is counted as two (2) stories.

Each upper story is counted as one (1) additional story, except that any upper story over sixteen (16) feet is counted as two (2) stories.

Basements are not counted as one (1) story unless the finished floor of the ground story is five (5) feet or more above the average ground level of the lot.

Habitable space located directly under a pitched roof is counted as a half (0.5) story.

The roof rafters of a half story must intersect the wall plate or top of wall frame of the exterior walls at a height no more than (2) feet above the finished floor of the half story.

Non-habitable attic space located under a pitched roof is not counted a half story.

Pitched roofs with a slope greater than 12:12 require a Special Permit.

Buildings may not exceed the maximum building height specified for each district, as applicable.

Building height is measured as the vertical distance from the average finished ground level to the top of the structural beam or joists of the upper most story.

Non-habitable architectural features including, but not limited to, mechanical & stairwell penthouses; vents or exhausts; solar panels or skylights; belfries, chimneys, cupolas, parapets, spires, and steeples are not included in any building height or story calculations and are permitted on roofs.

Building components are permitted as specified by Table 12.

Facades must have fenestration as specified for each district, as applicable.

Fenestration is calculated as a percentage of the area of a façade.

For buildings with ground story commercial spaces, ground story fenestration is measured between two (2) feet and twelve (12) feet above the finished floor of the ground story.

For all other buildings and all other building stories, fenestration is measured independently for each story, corresponding with the top of a finished floor to the top of the finished floor above.

Fenestration enclosed with glass may be included in the calculation if it meets the following criteria: For ground story fenestration, glazing must have a minimum sixty percent (60%) Visible Light Transmittance (VLT) and no more than fifteen percent (15%) Visible Light Reflectance (VLR) as indicated by the manufacturer.

For upper story fenestration, glazing must have a minimum of forty percent (40%) VLT and no more than fifteen percent (15%) VLR as indicated by the manufacturer.

## Use Provisions

### General

The use of real property is permitted as specified by Table 1.

Table 1 is organized by broad use categories and specific uses that may be regulated differently than other uses from the same category.

Use categories are intended to include uses with similar functional, product, or physical characteristics; the type and amount of activity; the manner of tenancy; the conduct of customers; how goods or services are sold or delivered; and the likely impacts on surrounding properties.

Where Table 1 identifies a category followed by “except as follows” any use that meets the definition of that use category is permitted by right, while the specific uses identified in the list under that category are either not permitted, are permitted with limitations, or require a special permit despite belonging to the same use category.

Where Table 1 identifies a category followed by “as specified below” the specific uses listed under the category are the only land uses permitted from that use category.

The Building Commissioner shall classify the actual use of land or structures using the defined use categories specified on Table 1. Also see §240-24.1.4 Definitions.

Real property may have one (1) or more principal use(s).

Once classified into a use category, the use of land or structures in the same manner cannot also be classified into another use category.

The use of land or structures in a manner that is inconsistent with a permitted use category or specific use type specified on Table 1 is prohibited.

Unless classified as a specific use that is not permitted in a zoning district, an existing nonconforming use may be changed to another nonconforming use that is from the same use category as the existing nonconforming use by Special Permit.

A nonconforming use may not change to a different nonconforming use that is from a different use category than the existing nonconforming use.

Use Category Specific Use	DMS	DV	DN	HH	TC	HC	DH
Commercial Services (except as follows)	P	P	N	P	P	P	P
Automobile Maintenance & Repair	N	N	N	N	N	N	N
Boat Storage	N	N	N	N	N	N	N
Contractor Services	N	N	N	N	N	N	N
Funeral Services	N	N	N	N	N	N	N
Marina	N	N	N	SP	N	N	N
Commercial Parking	N	N	N	N	P	SP	N
Public Transportation Maintenance	N	N	N	N	SP	N	N
Recreational Facility	SP	SP	N	SP	SP	SP	SP
Self-Storage Facility	N	N	N	N	N	SP	N
Veterinary Services	N	N	N	N	N	P	N
Cultural Services (as specified below)	--	--	--	--	--	--	--

Use Category Specific Use	DMS	DV	DN	HH	TC	HC	DH
Arts & Culture Establishments	P	P	N	P	P	P	N
Fraternal & Social Organizations	P	P	N	P	P	P	N
Performing Arts & Theaters	P	P	N	P	P	P	N
Artist Live/Work	P	P	P	P	P	N	N
Food & Beverage Services (except as follows)	L	L	N	L	P	P	P
Brewery/Distillery	L	N	N	N	N	N	N
Hospital	N	N	N	N	N	N	P
Office (except as follows)	P	P	L	P	P	P	P
Health Care Clinic	P	P	L	P	N	P	P
Research & Development	P	P	N	P	N	P	P
Residential (as specified below)	--	--	--	--	--	--	--
Multi-Unit Dwelling	L	L	N	L	L	N	N
Two-Unit Dwelling	P	P	L	N	N	N	N
Single Unit Dwelling	N	P	P	N	N	N	N
Retail Sales (except as follows)	L	L	N	L	P	P	P
Boat Sales	N	N	N	SP	N	N	N
Gasoline Sales	N	N	N	N	N	N	N
Motor Vehicle Sales	N	N	N	N	N	N	N
Visitor Accommodations (as specified below)	--	--	--	--	--	--	--
Hotel/Motel	P	N	N	P	N	P	N
Bed & Breakfast	N	P	P	P	N	N	N

P – Permitted By-Right      SP – Special Permit  
N – Not Permitted      L – Permitted with Limitations (see district)



## Parking Standards

### Applicability

Parking is required based on the intended use of floor area within a building at construction permitting and not for the subsequent establishment, change, or expansion of any permitted use; or the renovation of any existing principal building.

### General

Accessory parking must be provided as specified by Table 2 and is calculated as the sum of all required spaces, including any adjustment specified for on-site shared parking.

Commercial Parking uses are exempt from Table 2.

Relief from the parking requirements of Table 2 requires a Special Permit.

In its discretion to approve or deny a Special Permit authorizing relief from the minimum parking requirements of Table 2, the Planning Board shall consider conditioning the Special Permit upon one or more of the following:

Elimination or reduction of existing curb cuts and driveway aprons

Establishment of a shared driveway or cross-access connection between abutting parking lots with a binding easement and joint maintenance agreement defining the responsibilities of abutting property owners sharing access.

### Location

Accessory parking spaces must be located on the same lot as the building they support and may be provided within a principal building or outbuilding or as surface parking.

Motor vehicle parking of any type is prohibited within the frontage area of a lot and any required landscape buffer.

Real property in the Highway Commercial (HC) district or in the Downtown Hospital (DH) district is exempt.

Table 2. Minimum Required Accessory Parking Spaces

Use Category	DMS	DV	DN	DH	HH	TC	HC	On Site Shared Parking Adjustment <sup>1</sup>
Commercial Services (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Cultural Services (per 1,000 sf)	0	4	4	4	N/A	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Food & Beverage Services (per 1,000 sf)	0	4	N/A	4	4	4	4	--
Hospital (per 3 beds)	N/A	N/A	N/A	1	N/A	N/A	N/A	--
Office (per 1,000 sf)	3	3	3	3	3	3	3	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Residential or Artist Live/Work (per DU)	1	1	1	N/A	1	1	N/A	--
Retail Sales (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Visitor Accommodations (per room)	1.25	1.25	1.25	N/A	1.25	N/A	1.25	--

<sup>1</sup> Rounded up to the nearest whole number

## Site Standards

### Forecourts

Driveways and passenger drop-offs are permitted in forecourts by Special Permit.

Real property fronting Main Street or in the Downtown Hospital (DH) district is exempt.

Garage entrances, parking spaces, loading and service areas, exhaust vents, mechanical equipment, and refuse or recycling storage are not permitted in forecourts.

### Landscaping

Lot area uncovered by structures or impermeable surfaces must be landscaped.

New canopy trees must be at least fourteen (14) feet in height or three (3) inches in caliper when planted.

New understory trees must be at least ten (10) feet in height or one and a half (1.5) inches in caliper when planted.

New evergreen trees must be at least six (6) feet in height when planted.

Vegetation must be low water use and low maintenance plant species that are indigenous to Cape Cod.

Plant species should be capable of withstanding seasonably wet conditions and provide habitat value for wildlife.

Landscaped areas must be maintained, irrigated, and fertilized. Vegetation should be organically maintained to every extent practicable.

Vegetation may not obscure any driveways, vehicular entrances, or roadway intersections.

Mulch may not be placed in a manner that will wash into catch basins or drainage pipes.

All Site Plan and Special Permit applications must submit a Landscape Plan(s) signed and stamped by a MA registered Landscape Architect unless waived/exempt by the Building Commissioner.

The Building Commissioner shall not issue a Certificate of Occupancy until the landscaping has been installed in accordance with the approved plans unless the property owner posts security to the Town of Barnstable for one hundred and fifty percent (150%) of the estimated cost of installation of the landscaping.

Any fractional value required for plant materials is rounded up to the next whole number.

### Stormwater Management

Rain gardens should be used to the maximum extent practicable. Rain gardens are defined as landscaped areas designed to absorb and filter stormwater runoff from impervious surfaces.

### Signs

All development shall comply with the applicable signage requirements contained in Article VII, Sign Regulations, at §240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance. Internally illuminated signs are prohibited in the Downtown Hyannis Zoning Districts.

### Outdoor Lighting

All outdoor lighting must be directed only on site.

The trespass of light at any lot line may not exceed 0.1 of a footcandle, except that the trespass of light at any lot line abutting a lot in Downtown Neighborhood (DN) district may not exceed 0.05 footcandle.

At driveways, lighting may be up to 0.5 of a footcandle at the front lot line.

Outdoor lighting may not cause glare that impacts motorists, pedestrians, or neighboring premises.

Light fixtures must have a total cutoff of all light at less than ninety degrees (90°) and a beam cutoff of less than seventy-five degrees (75°). Attached building or wall pack lighting should be screened by the building's architectural features or contain a forty-five-degree cutoff shield.

Electrical service for lighting on posts or poles must be located underground.

### Fences

Fences greater than four (4) feet in height in the frontage area and seven (7) feet in height in all other locations at any point along their length require a Special Permit except that where fencing that is higher than seven (7) feet is needed to screen mechanical equipment, the Building Commissioner may allow a greater height as determined through the Site Plan Review process.

Fences may be no more than fifty percent (50%) open.

Fence posts and supporting rails must face inward toward the property being fenced and the finished face must be oriented towards the abutting lot.

#### Vehicular Access

Driveways, vehicular entrances to parking lots or structures, and curb cuts must comply with the minimum or maximum width specified for each district.

Drive throughs require a Special Permit and are only permitted for the following uses:

Banks (a specific use of the Commercial Service use category)

Pharmacies (a specific use of the Retail Sales use category)

All new curb cuts require a Special Permit.

The interior width of a curb cut (between the curb stones or flares) may be no wider than the driveway, vehicular entrance, or loading facility it serves, unless a greater width is determined to be appropriate by the Building Commissioner during the Site Plan Review process based upon unique operational requirements of the proposed use.

A driveway apron may be installed within a sidewalk of an improved way, but the grade, cross slope, and clear width of the pedestrian walkway must be maintained between the driveway apron and the abutting driveway.

The appearance of the pedestrian walkway (i.e. scoring pattern or paving material) must indicate that, although a vehicle may cross to enter a property, the area traversed by a vehicle remains part of the sidewalk.

#### Utilities

All mechanical equipment must be screened from view from adjacent lots and public rights-of-way and integrated into or compatible with the architectural design of the building.

#### Surface Parking Lot Design Standards

##### Applicability

This section is applicable to the construction of any new surface parking lot and the expansion or modification of an existing surface parking lot containing twenty-one (21) or more parking spaces that increases the number of parking spaces by five (5) or more.

##### General

To reduce traffic congestion and increasing convenience for customers, employees, and residents, development is encouraged to provide direct vehicular connections between abutting parking lots so that motor vehicles can move between properties without re-entering the public street.

To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to provide access to rear parking lots via driveways that are shared between abutting properties or multiple properties on the same block face.

##### Surface Parking Lot Landscaping

One (1) three (3) inch minimum caliper low-water-use, low-maintenance tree must be provided for every five (5) parking spaces and must be located within ten (10) feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least fifty (50) square feet of permeable area. Existing trees located in the interior of parking lots are credited toward this requirement.

A front landscaped buffer at least ten (10) feet wide must be provided between any parking lot and any lot line abutting an improved way and must include the following features over the span of fifty (50) linear feet:

One (1) canopy tree

One (1) understory or evergreen tree

Five (5) medium shrubs and five (5) small shrubs or a fence or wall a maximum of four (4) feet in height.

A side/rear landscaped buffer at least six (6) feet wide must be provided between any side or rear lot line and any parking lot with five (5) or more parking spaces, excluding any vehicular connections to abutting parking lots and must include the following features over the span of fifty (50) linear feet:

Two (2) understory or evergreen trees

Three (3) large shrubs and five (5) small shrubs or a fence or wall at least six (6) feet in height. A landscaped buffer at least ten (10) feet wide must be provided between any building and any parking lot with ten (10) or more parking spaces, excluding building entrances, service and loading areas, and utility locations, and must include the following features over the span of fifty (50) linear feet:

Two (2) understory or evergreen trees

Four (4) medium shrubs

Six (6) small shrubs

At least ten percent (10%) of any parking lot with ten (10) or more parking spaces must be landscaped. Lot area required as a landscape buffer is excluded from the calculation of the parking lot area.

Landscape islands abutting a single row of parking spaces must be at least six (6) feet in width and the same length as the parking spaces. Each island must include one (1) three (3) inch minimum caliper, low-water-use, low-maintenance tree.

Landscape islands abutting a double row of parking spaces must be at least eight (8) feet in width and the same length as the parking spaces. Each island must include two (2) three (3) inch minimum caliper, low-water-use, low-maintenance trees.

### Downtown Main Street District (DMS)

#### Intent

The Downtown Main Street District is intended to promote the continuation of a walkable, pedestrian-oriented downtown environment with continuous active streetscape. Development is characterized by mid-rise mixed-use buildings, continuous street walls and variety of materials with parking visually minimized. Land uses are mixed residential and active commercial, including retail, restaurant, office, hospitality, cultural and institutional.

#### Lot Standards

Newly platted lots must be dimensioned as specified by Table 3.

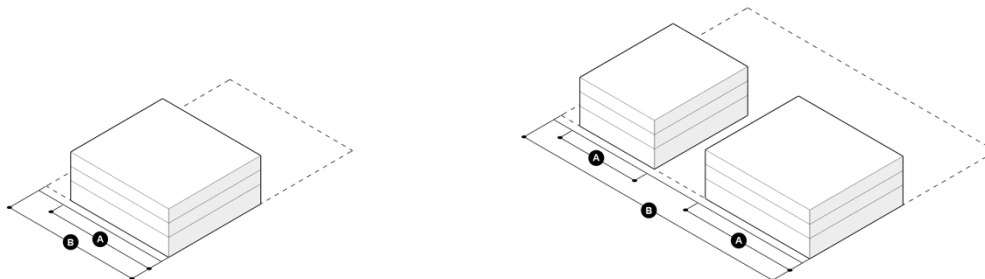
Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the façade build out by Table 3.

Façade build out is calculated by dividing the total width of all facades by the lot width and may be cumulatively calculated by multiple buildings.

The open space of a forecourt is considered part of the building for the purpose of measuring building width and façade build out.

The SPGA may provide relief from the façade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

#### Façade Build Out



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Single Building per Lot =  $A \div B$

Multiple Buildings per Lot =  $(A+A) \div B$

#### Building Standards

Multiple principal buildings are permitted per lot.

Principal buildings are permitted as specified by Table 3.

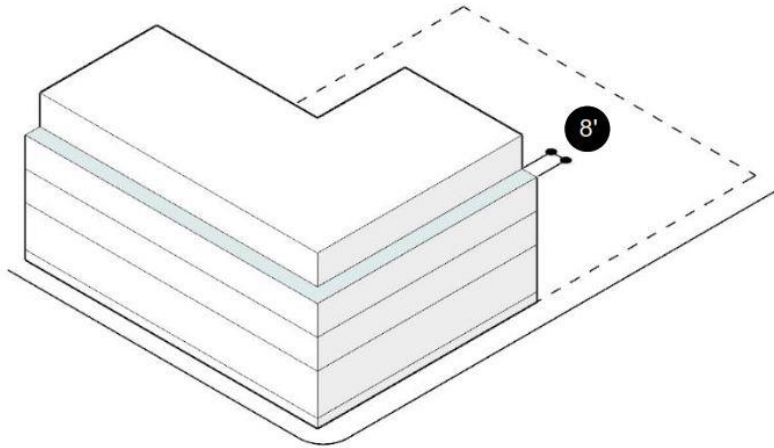
Additional principal buildings are exempt from the required maximum front setback.

Principal building façade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.

Any building contributing toward the frontage buildout for any lot fronting Main Street between Ocean Street and Sea Street must provide ground story commercial space that is at least twenty (20) feet in depth for one hundred percent (100%) of the total width of the building, excluding lobby entrances and other means of egress associated with the use of upper stories.

Awnings, canopies, signs, balconies, and non-habitable architectural features of a building may project over the public sidewalk but must provide at least eight (8) feet of clearance and a license from the Town Manager in accordance with Barnstable General Ordinances, Part 1, Chapter 121, § 121-6J is required.

The fourth (4th) story of any building must be recessed (“stepped back”) from the façade of the stories below at least eight (8) feet.



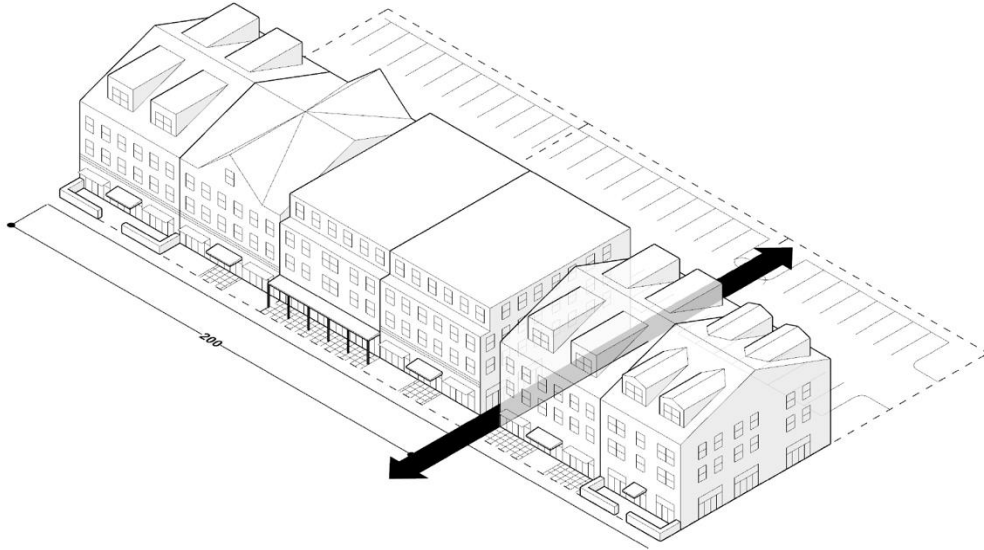
Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

Facades may not have any blank wall areas without fenestration or architectural surface relief greater than twenty (20) feet measured both vertically and horizontally for all stories of a building for any facade.

Loading and service areas may not be visible from any public sidewalk of Main Street.

#### Design Guidelines

The development of any new principal building should include a pedestrian passage connecting the sidewalk at the front of the property to any parking areas to the rear of the building, to every extent practicable, where no such pedestrian passage exists within two hundred (200) linear feet of the building's principal entrance.



When provided, pedestrian passages may be designed as an open-air passage between buildings, a covered atrium providing continuous protection from the elements, or as an up to two (2) story passage through a building.

#### Use Provisions

##### Limitations

Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.

The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

#### Site Standards

Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

#### Landscape Standards

A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one (1) canopy tree to be planted every thirty (30) feet of frontage of the property.

A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:

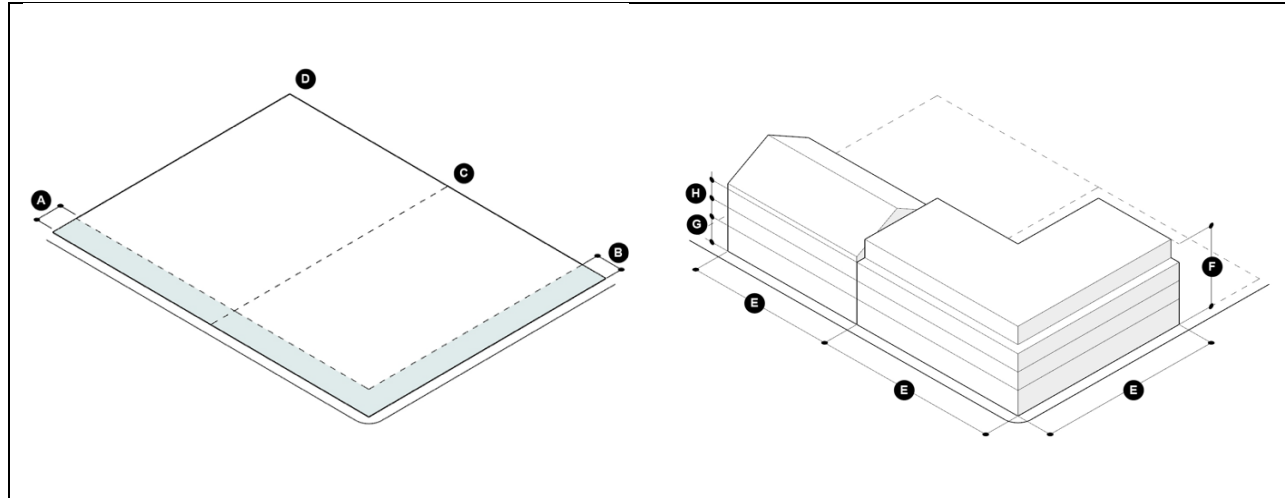
Two (2) understory or evergreen trees

Three (5) medium shrubs and three (3) small shrubs or a fence or wall at least six (6) feet in height.

#### Parking Standards

For development on any through lot fronting Main Street, parking access must be provided from the non-Main Street frontage.

Table 3. DMS Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	180' max
Lot Coverage	100% max	F - Number of Stories	3.5 or 4 max <sup>2</sup>
Facade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
Secondary Frontage	40% min	Residential	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	<b>BUILDING FEATURES</b>	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	60% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

<sup>2</sup> See 240-24.1.6.C.6 (4th Story Step-back)



## Downtown Village District (DV)

### Intent

The Downtown Village District is intended to promote mixed land uses that support the downtown core and reestablish or preserve traditional neighborhood forms and pedestrian orientation. Development is characterized by mid-rise single-use buildings and detached and semi-detached residential buildings.

### Lot Standards

Newly platted lots must be dimensioned as specified by Table 4.

Lot coverage may not exceed the maximum specified by Table 4.

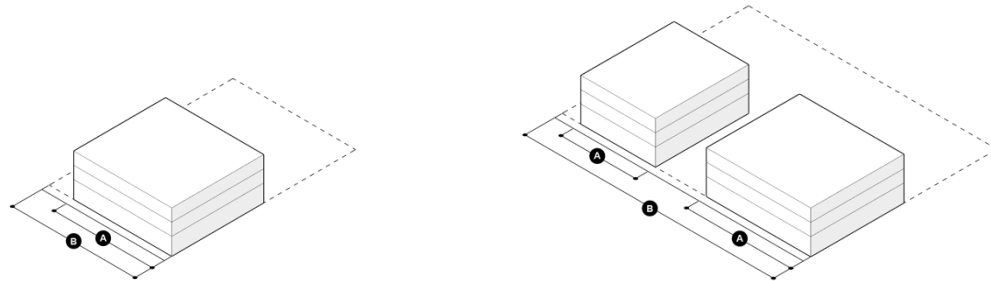
Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the façade build out on Table 4.

Façade build out is calculated by dividing the total width of all facades at or forward of the maximum front setback by the lot width and may be cumulatively calculated by multiple buildings.

The open space of a forecourt is considered part of the building for the purpose of measuring building width and façade build out.

The SPGA may provide relief from the façade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

### Façade Build Out



---

Single Building per Lot =  $A \div B$

Multiple Buildings per Lot =  $(A+A) \div B$

### Building Standards

Multiple principal buildings are permitted per lot.

Principal buildings are permitted as specified by Table 4.

Additional principal buildings are exempt from the required maximum front setback.

Principal building façade(s) must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks.

The fourth (4th) story of any building must be recessed (“stepped back”) from the façade of the stories below at least eight (8) feet.

Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### Use Provisions

#### Limitations

Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.

The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

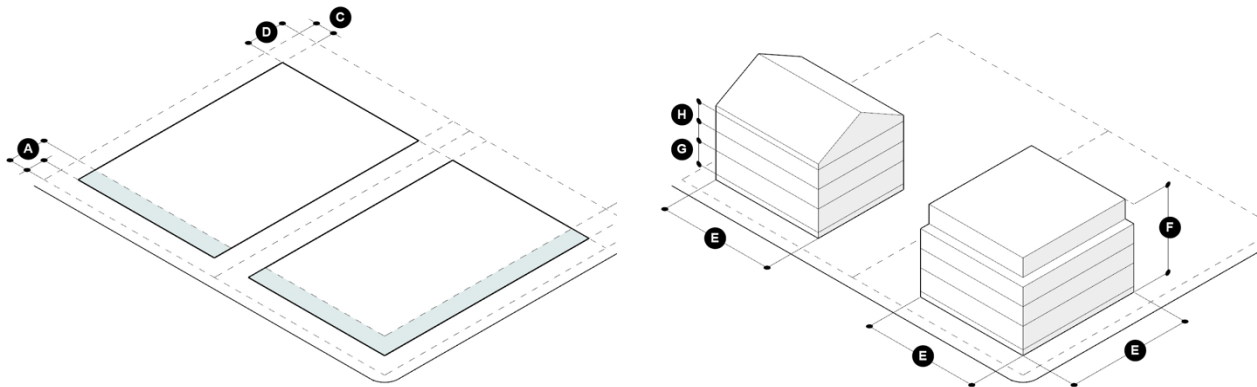
#### Site Standards

Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

#### Landscape Standards

A front landscape area is not required if the front setback is zero. When a setback is greater than zero, those portions of the setback not occupied by pedestrian amenities and public spaces shall be landscaped including one (1) canopy tree to be planted every thirty (30) feet of frontage of the property.

Table 4. DV Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	120' max
Lot Coverage	80% max	F - Number of Stories	3.5 or 4 max3
Façade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
		Residential	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	<b>BUILDING FEATURES</b>	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	15% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

3 See 240-24.1.7.C.4 (4th Story Step-back)

## Downtown Neighborhood District (DN)

### Intent

The Downtown Neighborhood District is intended to promote the traditional uses and form of the neighborhoods adjacent to downtown that are characterized by a variety of 19th and 20th Century detached and semi-detached residential building types.

### Lot Standards

Newly platted lots must be dimensioned as specified by Table 5.

Lot coverage may not exceed the maximum specified by Table 5.

### Building Standards

One (1) principal building and multiple outbuildings are permitted per lot.

Principal buildings and outbuildings are permitted as specified by Table 5.

The third story in a single-family or two-family dwelling can only occur within habitable attic space.

### Use Provisions

#### Limitations

Office and Health Care Clinic uses are permitted only for lots fronting South Street or High School Road.

Two-Unit dwellings are prohibited for lots fronting only Brookshire Road or King's Way.

#### Site Development

Development on corner lots must comply with the provisions of § 240-41 of the Barnstable Zoning Ordinance.

Curb cuts may be no wider than twelve (12) feet.

Outdoor lighting must be shielded and provide total cut off of all light at the boundaries of the lot under development.

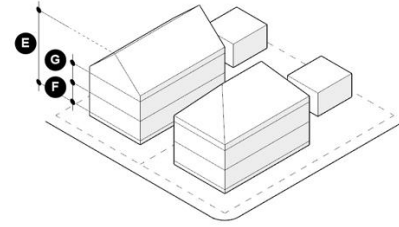
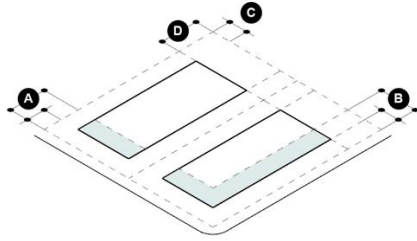
Fences greater than four (4) feet in height in the frontage area and seven (7) feet in height in all other locations at any point along their length require a Special Permit.

#### Landscape Standards

A perimeter green space of not less than ten (10) feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.

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Table 5. DN Dimensional Standards



LOT		BUILDING FORM	
Lot Width	20' min	E - Number of Stories	3 max4
Lot Coverage	50% max	F - Ground Story Height	10' min
<b>SETBACKS – PRINCIPAL BUILDINGS</b>		G - Upper Story Height	10' min
A - Primary Front Setback	10' min 20' max		
B - Secondary Front Setback	10' min 20' max		
C - Side Setback	10' min		
D - Rear Setback	20' min		
<b>SETBACKS - OUTBUILDINGS</b>			
Front Setback	60' min		
Side Setback	3' min		
Rear Setback	3' min		

**Downtown Hospital District (DH)**

**Intent**

The Downtown Hospital District is intended to maintain an area of Hyannis for a large-scale Health Care Services institution and is characterized by moderate to large floor plate, multi-story buildings arranged in a campus-like setting, with clear pedestrian and vehicular connections to downtown and the region.

4 See 240-24.1.8.C.2(a)

### Lot Standards

Newly platted lots must be dimensioned as specified by Table 6.

Lot coverage may not exceed the maximum specified by Table 6.

### Building Standards

Multiple principal buildings are permitted per lot.

Principal buildings are permitted as specified by Table 6.

Buildings are exempt from 240-24.1.5.A.1 frontage types and 240-24.1.5.A.3 provisions for calculating building stories. Buildings must comply with the maximum number of stories and maximum building height defined within Table 6.

### Site Standards

Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet except that wider widths may be allowed by the Building Commissioner during the Site Plan Review process if additional width is needed to provide emergency access.

### Landscape Standards

A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:

One (1) canopy tree

One (1) understory or evergreen tree

Four (4) medium shrubs

Six (6) small shrubs

Table 6. DH Dimensional Standards

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LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories	6 max
Lot Coverage	100% max	Building Height	85' max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

## Hyannis Harbor District (HH)

### Intent

The Hyannis Harbor District is intended to maintain an area near Hyannis Inner Harbor for maritime activities and water-related uses, and is characterized by a mix of commercial, maritime industrial, and residential development and the presence of the commercial ferry services.

### Lot Standards

Newly platted lots must be dimensioned as specified by Table 7.

Lot coverage may not exceed the maximum specified by Table 7.

### Building Standards

Multiple principal buildings are permitted per lot.

Principal buildings are permitted as specified by Table 7.

To support water-dependent uses on the harbor, the maximum building height permitted for existing structures used as a Marina or a Commercial Service use for constructing, selling, renting, or repairing boats is forty-five (45) feet.

Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### Use Provisions

#### Limitations

The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

#### Site Standards

Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

#### Landscape Standards

A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:

One (1) canopy tree

One (1) understory or evergreen tree

Four (4) medium shrubs

Six (6) small shrubs

A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:

Two (2) understory or evergreen trees

Five (5) medium shrubs and three (3) small shrubs or a fence or wall at least six (6) feet in height.

Table 7. HH Dimensional Standards

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LOT		BUILDING FORM	
Lot Width	20' min	Number of Stories	2.5 max
Lot Coverage	90% max	Building Height	35 ft max <sup>5</sup>

**SETBACKS – PRINCIPAL BUILDINGS**

Primary Front Setback	20' min
Secondary Front Setback	20' min
Side Setback	10' min
Rear Setback	10' min

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<sup>5</sup> See 240-24.1.10.C.2(a)

## Transportation Center District (TC)

### Intent

The Transportation District is intended to accommodate transportation related-uses serving the downtown, harbor and the region and is characterized by functional buildings and parking areas screened and not highly visible from surrounding roadways.

### Lot Standards

Newly platted lots must be dimensioned as specified by Table 8.

Lot coverage may not exceed the maximum specified by Table 8.

### Building Standards

Multiple principal buildings are permitted per lot.

Principal buildings are permitted as specified by Table 8.

Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### Use Provisions

#### Limitations

Occupation of a single commercial space greater than five thousand (5,000) square feet by any Food & Beverage Service or Retail Sales use requires a Special Permit.

The maximum number of dwelling units permitted for any Multi-Unit Dwelling residential use is determined by the permitted dimensions of the building and the actual motor-vehicle parking spaces provided on a lot as required by Table 2.

#### Site Standards

Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

#### Landscape Standards

A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:

One (1) canopy tree

One (1) understory or evergreen tree

Four (4) medium shrubs

Six (6) small shrubs

A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:

Two (2) understory or evergreen trees

Three (3) large shrubs and three (3) medium shrubs or a fence or wall at least six (6) feet in height.

Table 8. TC Dimensional Standards

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LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories	3 max
Lot Coverage	65% max	Building Height	40 ft max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	--		
Lots fronting Route 28	50' min		
All other Lots	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

## Highway Commercial District (HC)

### Intent

The Highway Commercial District is intended to maintain an area for larger-scale commercial land uses, with private parking appropriately screened, on a regional roadway and promote in the long-term transformation of the area into a cohesive gateway corridor into Hyannis. The area is characterized by detached low- and mid-rise commercial structures.

### Lot Standards

Newly platted lots must be dimensioned as specified by Table 9.

Lot coverage may not exceed the maximum specified by Table 9.

### Building Standards

Multiple principal buildings are permitted per lot.

Principal buildings are permitted as specified by Table 9.

The third story can only occur within habitable attic space.

Mechanical & stairwell penthouses and building systems equipment must be setback from any exterior wall a distance that is equal to their height.

### Site Standards

Driveways, vehicular entrances to parking lots or structures, and curb cuts may be no wider than twenty-four (24) feet.

### Landscape Standards

A front landscaped area at least ten (10) feet wide measured from the lot line toward the interior of the lot must include the following features over the span of fifty (50) linear feet:

One (1) canopy tree

One (1) understory or evergreen tree

Four (4) large shrubs

Two (2) small shrubs

A side or rear landscaped area at least six (6) feet wide must be provided along any side or rear lot line abutting a lot in Downtown Neighborhood (DN) district and must include the following features over the span of fifty (50) linear feet:

Two (2) canopy trees

Three (3) large shrubs and three (3) medium shrubs or a fence or wall at least six (6) feet in height.

### Parking Standards

To reduce traffic congestion and increase convenience for customers, employees, and residents, development is encouraged to provide direct vehicular connections between abutting parking lots so that motor vehicles can move between properties without re-entering the public street.

To increase walkability and reduce conflicts between pedestrians and motor vehicles, development is encouraged to:

Provide only the minimum number of driveways or vehicular entrances to parking lots necessary to accommodate the number of parking spaces provided

Share driveways between abutting properties or multiple properties fronting the same street

Relocate any existing frontage area parking spaces to the side or rear of buildings.

Establishment of a new curb cut on Route 28 or Barnstable Road must consult the Director of Public Works regarding access prior to applying for a state highway access permit from the Massachusetts Department of Transportation and work with the Town and other authorizing agencies on a transportation access plan prior to site plan approval.

New construction, modification of an existing principal building, and the establishment, change, or expansion of any use of real property abutting Engine House Road must provide vehicular access only from the Engine House Road frontage.

Parking is highly discouraged within the frontage area and should be limited to a single row of parking stalls and associated drive aisle where necessary.

Table 9. HC Dimensional Standards

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LOT		BUILDING FORM	
Lot Width	50' min	Number of Stories (max)	3 max <sup>6</sup>
Lot Coverage	80% max	Building Height	40 ft max
SETBACKS – PRINCIPAL BUILDINGS			
Primary Front Setback	60' max		
Lots fronting Route 28	20' min		
Secondary Front Setback	20' min		
Side Setback	10' min		
Rear Setback	10' min		

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<sup>6</sup> See 240-24.1.12.C.2(a)

Tables

Table 10. Dimensional Standards Summary Table

	DMS	DV	DN	DH	HH	TC	HC
<b>A. Lot</b>							
Lot Width	30' min	30' min	20' min	50' min	20' min	50' min	50' min
Lot Coverage	100% max	80% max	50% max	100% max	90% max	65% max	80% max
Facade Build Out	--	--	--	--	--	--	--
Primary Frontage	80% min	80% min	--	--	--	--	--
Secondary Frontage	40% min	--	--	--	--	--	--
<b>B. Setbacks – Principal Building</b>							
Primary Front Setback	0' min 15' max	0' min 15' max	10' min 20' max	20' min	20' min	20' min	60' max
Lots fronting Route 28	--	--	--	--	--	50' min	20' min
Secondary Front Setback	0' min 15' max	0' min 15' max	10' min 20' max	20' min	20' min	20' min	20' min
Side Setback	0' min	0' min	10' min	10' min	10' min	10' min	10' min
Rear Setback	0' min	0' min	20' min	10' min	10' min	10' min	10' min
<b>C. Setbacks - Outbuilding</b>							
Primary Front Setback	--	--	60' min	--	--	--	--
Secondary Front Setback	--	--	--	--	--	--	--
Side Setback	--	--	3' min	--	--	--	--
Rear Setback	--	--	3' min	--	--	--	--
<b>D. Building Form</b>							
Building Width	180' max	120' max	--	--	--	--	--
Number of Stories	--	--	--	--	--	--	--
Principal Building	3.5 or 4 max7	3.5 or 4 max8	3 max9	6 max	2.5 max	3 max	3 max10
Outbuilding	--	--	--	--	--	--	--
Ground Story Height	--	--	10' min	--	--	--	--
Commercial	14' min	14' min	--	--	--	--	--
Residential	10' min	10' min	--	--	--	--	--
Upper Story Height	10' min	10' min	10' min	--	--	--	--
Building Height	--	--	--	85' max	35' max11	40' max	40' max
<b>E. Building Features</b>							
Ground Story Fenestration	--	--	--	--	--	--	--
Primary Frontage	60% min	15% min	--	--	--	--	--

7 See 240-24.1.6.C.6 (4th Story Step-back)

8 See 240-24.1.7.C.4 (4th Story Step-back)

9 See 240-24.1.8.C.2(a)

10 See 240-24.1.12.C.2(a)

11 See 240-24.1.10.C.2(a)

Secondary Frontage	15% min	15% min	--	--	--	--	--
Upper Story Fenestration	15% min	15% min	--	--	--	--	--
Blank Wall	20' max	20' max	--	--	--	--	--
Commercial Space Depth	20' min	20' min					



Table 11. Frontage Types

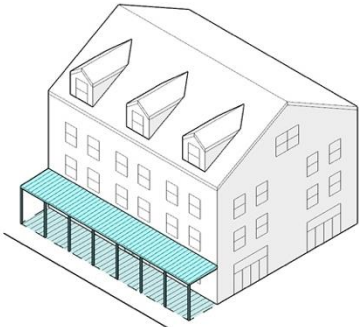
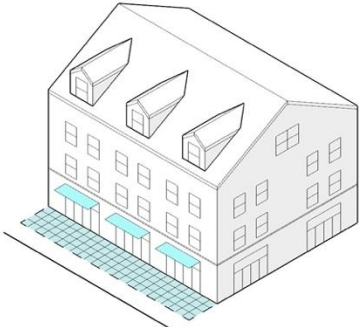
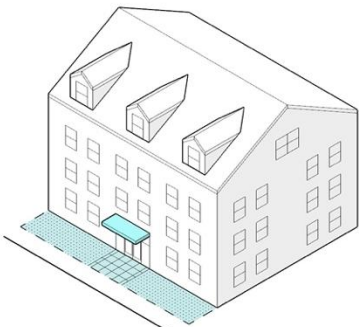
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Gallery</p>  <p>A frontage type consisting of a storefront(s) and an attached colonnade with a roof, open pergola, or balcony overhanging a paved sidewalk. A gallery may wrap around the corner of a building to create a veranda-like gallery.</p>	P	P	N	N/A	P	P	P
<p>Storefront</p>  <p>A frontage type consisting of an assembly of commercial entry doors and display windows providing access and light to a commercial space and a place to display goods, services, and signs.</p>	P	P	N	N/A	P	P	P
<p>Common Lobby</p>  <p>A frontage type consisting of an assembly of entry doors and windows</p>	P	P	N	N/A	P	P	P

Table 11. Frontage Types

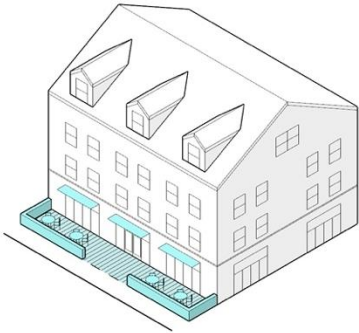
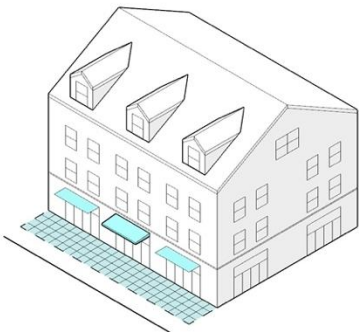
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>providing access and light to the lobby of a building. A common lobby may be combined with an entry plaza or front garden frontage type.</p>							
<p><b>Dining Patio</b></p>  <p>A frontage type consisting of a storefront(s) and outdoor café seating in the frontage area.</p> <p><b>Entry Plaza</b></p>  <p>A frontage type consisting of a storefront(s) and a highly paved frontage area. An entry plaza may be combined with a common lobby frontage type.</p>	P	P	N	N/A	P	P	P

Table 11. Frontage Types

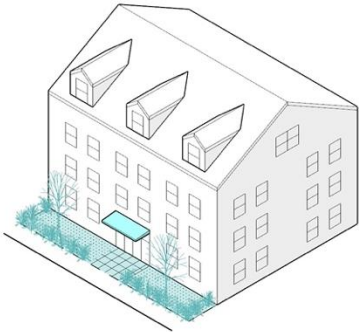
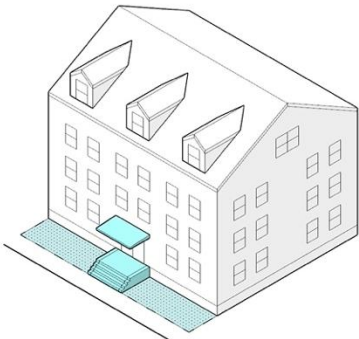
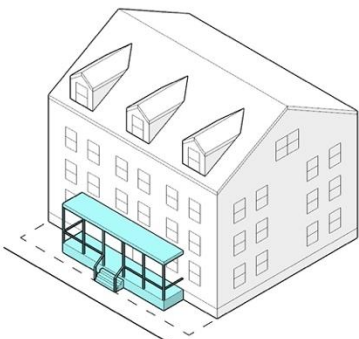
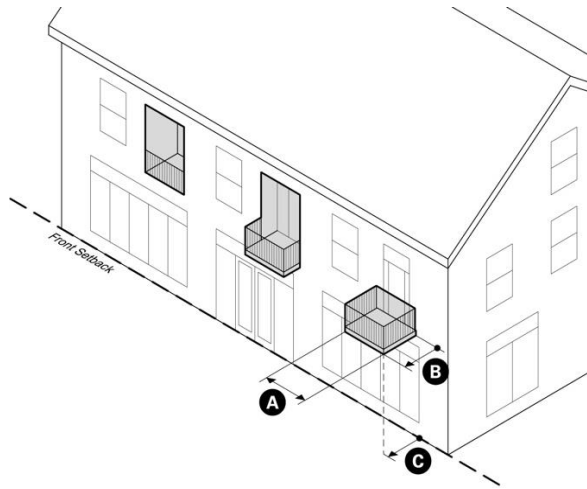
P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>Front Garden</p>  <p>A frontage type consisting of a highly landscaped frontage area. A front garden may be combined with a common lobby, dooryard or stoop, or porch frontage type.</p>	N	P	P	N/A	N	N	N
<p>Dooryard or Stoop</p>  <p>A frontage type consisting of a zero-step entrance or a set of stairs with a landing that provides access to the entrance of a building. A dooryard or stoop may be combined with a front garden frontage type.</p>	N	P	P	N/A	N	N	N
<p>Porch</p>  <p>A frontage type consisting of a raised platform with a roof supported by columns, piers, or posts; an area for seating; and an optional set of</p>	N	P	P	N/A	N	N	N

Table 11. Frontage Types

P – Permitted N – Not Permitted	DMS	DV	DN	DH	HH	TC	HC
<p>stairs with a landing that provides access to the entrance of a building.                      A porch may be combined with a front garden frontage type</p>							

Table 12. Building Components

A. Balcony



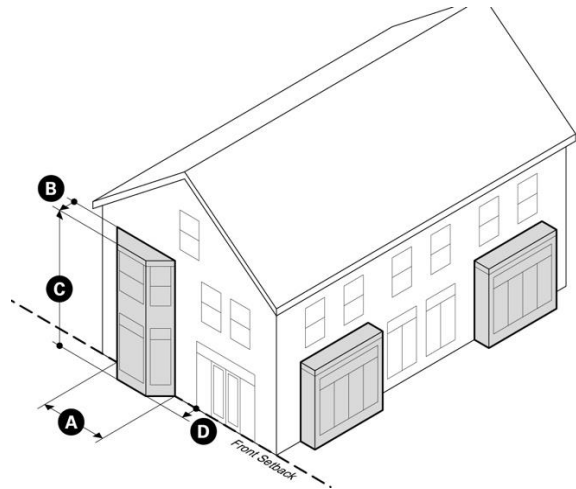
A	Width (min)	5 ft
B	Depth (min)	4 ft
	Area (min)	20 sf
C	Front Setback Encroachment (max)	5 ft

Design Standards:

Balconies may attach to any exterior wall of a principal building.

Balconies may be recessed, projecting, a combination of the two, or terraced as part of the roof of a permitted building component.

B. Bay or Oriel Window



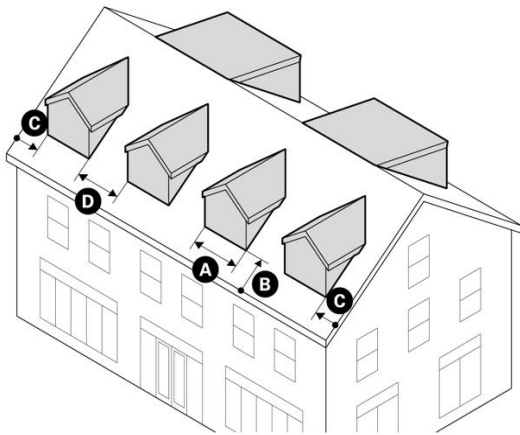
A	Single Bay Width (max)	16 ft
	Cumulative Bay Width (max)	50% of the width of the exterior wall from which the bays project
B	Projection (max)	3 ft
C	Stories (max)	Same as the principal building
D	Front Setback Encroachment (max)	3 ft

Design Standards:

Bays may attach to any exterior wall of a principal building.

A bay window may have a flat roof.

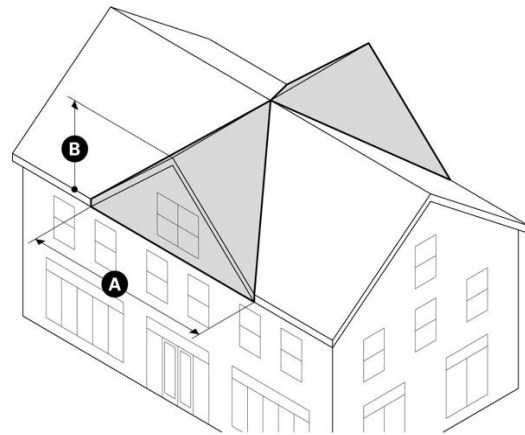
### C. Dormer



A	Cumulative Width of all Dormers (max)	50% of the roof eave
B	Exterior Wall Setback (min)	--
	Roof with Eave	0 ft
	Roof without Eave	1 ft
C	Setback from Gable (min)	3 ft
D	Separation from another Dormer (min)	50% of dormer width

The face wall of a dormer window may not project beyond the exterior wall of the building and may not interrupt the eave of the roof.

### D. Cross Gable



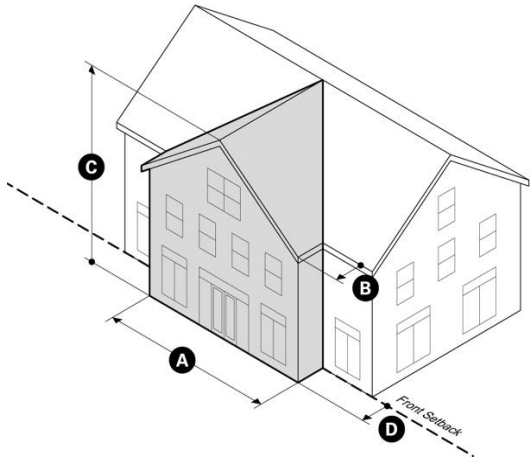
A	Width (max)	50% of the roof eave below
B	Height (min)	Equal to the height of the roof of the attached primary massing

#### Design Standards:

The roof ridge of a cross gable must be perpendicular to the main roof ridge of the principal building.

The rakes and ridge of the roof of the cross gable must be structurally integrated into the eave and ridge of roof of the attached primary massing.

E. Projecting Gable



A	Width (max)	Equal to the shortest side of the attached primary massing
B	Projection (max)	6 ft
C	Height (min)	Height of Building in Stories
D	Front Setback Encroachment (max)	6 ft
Design Standards:		

A projecting gable may attach only the façade of a principal building.

The roof ridge of a projecting gable must be perpendicular to the main roof ridge of the principal building.

**VOTE: Opened and continued to January 5, 2023**

**2022-145 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY AMENDING ARTICLE VII SIGN REGULATIONS INTRO: 03/03/2022, 03/17/2022, 11/03/2022, 12/01/2022**

In subsection A, by striking the words “in a professional residential zone”, so that the revised Section shall **2022-145 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY AMENDING ARTICLE VII SIGN REGULATIONS**

Upon a motion duly made and seconded it was **ORDERED:** That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning, Article VII Sign Regulations be amended as follows:

## **SECTION 1**

By amending Article VII, Section 240-64 as follows:

A. By striking the words “Signs in Medical Services District” from the section heading and inserting “**Signs in Downtown Hospital District**” in their place.

B. read:

“§ 240-64 **Signs in Downtown Hospital District.**

A. One sign giving the name of the occupant or other identification of a permitted use may be permitted. Such signs shall be no more than 12 square feet in area and shall not extend more than eight feet above the ground.

C. Any illuminated sign must comply with the provisions of § **240-63** herein.”

## **SECTION 2**

By amending Article VII, Section 240-65 by adding the word “and” after “S&D,” in the section heading and striking “and GM”, so that the revised section heading shall read:

“§ 240-65 **Signs in B, UB, HB, HO, S&D, and SD-1 Districts.**”

## **SECTION 3**

By amending Article VII, Section 240-67 by striking “OM, HG, TD” from the section heading and inserting “HC, TC” in their place, so that the revised section heading shall read:

“§240-67 **Signs in CVD, HC, TC, VB-A, WBVBD and MMV Districts.**”

## **SECTION 4**

By amending Article VII, Section 240-68 by striking “HD” from the section heading and inserting “HH” in its place, so that the revised section heading shall read:

“§ 240-68 **Signs in MB-A1, MB-A2, MB-B and HH Districts.**”

## **SECTION 5**

A. By amending Article VII, Section 240-71 by striking “HVB” from the section heading and inserting “DMS” in its place, so that the revised section heading shall read:

“§ 240-71 **Signs DMS District.**”

B. By amending Article VII, Section 240-71, Subsection A by inserting after the words “eight feet” the phrase “, except that the Building Commissioner may allow signs up to 14 feet in height on buildings if he finds that such height is necessary for the façade and is compatible with the appearance, scale and character of the area”, so that the revised Subsection shall read:

“The maximum allowable height of all signs on buildings shall be 12 feet, and the



maximum height of a freestanding sign shall be eight feet, except that the Building Commissioner may allow signs up to 14 feet in height on buildings if he finds that such height is necessary for the façade and is compatible with the appearance, scale and character of the area.”

- C. By amending Article VII, Section 240-71, Subsection D by striking the words “HVB Business” and inserting in their place “DMS” so that the revised Subsection shall read:

“Temporary street banners may be permitted in the DMS District only, for the purpose of informing the general public of community events and activities, with approval of the Town Manager. Street banners shall be hung in prescribed locations, securely fastened to buildings, maintain a minimum height of 16 feet above the street, be constructed of durable materials, used solely for community events in the district, and remain in place for no more than three weeks prior to the event and be removed within one week after the event.”

## **SECTION 6**

By amending Article VII by adding the following new Section 240-71.1:

### **“§ 240-71.1 Signs in Downtown Village (DV) District.**

- A. Each business establishment may be allowed a maximum of two signs. The allowed signage types are: wall signs; projecting signs, which may be double sided and considered a single sign; and signage as part of a freestanding sign serving businesses on the lot.
- B. One freestanding sign may be allowed on a lot. A freestanding sign may contain signage for multiple businesses on the lot.
- C. The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade that contains the establishment's primary customer entrance or 32 square feet, whichever is the lesser amount.
- D. The total area of a wall sign shall not exceed 24 square feet.
- E. The total area of a projecting sign shall not exceed 15 square feet.
- F. The maximum height of any freestanding sign shall not exceed 8 feet in height and 12 square feet in area, except that the Building Commissioner may allow signs to be up to 24 square feet in area if the sign will include more than one business establishment and it is determined that the additional area will be in keeping with the scale of the building and will not detract from the appearance or safety of the area and will not obscure existing signs that conform to these regulations and have a Town permit.
- G. Any illuminated sign must comply with the provisions of § 240-63 herein.”

**VOTE: Opened and continued to January 5, 2023**

**2022-146 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY MOVING AND RENUMBERING SECTION 240-122.1 REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES INTO A NEW OVERLAY ZONING DISTRICT AND REPEALING SECTIONS 240-129 AND 240-129.1 EXPIRED TEMPORARY MORATORIUM FOR MARIJUANA USES INTRO: 03/03/2022, 03/17/2022, 11/03/2022**

Upon a motion duly made and seconded it was

**ORDERED:** That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

**SECTION 1**

By amending the Zoning Map of Barnstable, Mass., dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add a Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District
- Proposed Amendment to the Hyannis Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District

**SECTION 2**

By amending Article II, Section 240-5, Establishment of districts, by inserting “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District” immediately below the “Medical Marijuana Overlay District” as it appears under the heading “Overlay Districts”.

**SECTION 3**

- C. By striking the words “Article XII. Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories” and inserting “Article XII. (Reserved)” in their place.
- D. By moving Section 240-122.1, Registered recreational marijuana cultivators, research facilities and testing laboratories, in its entirety from Article XII to Article III and inserting and renumbering said section as Section 240-31.

**SECTION 4**

By amending said Article III, Chapter 240-31 as follows:

- A. In Subsection A(1), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(1) shall read:  
“Purpose. To provide for the location of registered recreational marijuana cultivators, research facilities and independent testing laboratories, as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of marijuana Act. M.G.L. c.94C, App. § 1-1, et. seq., as amended by Chapter 55 of the Acts of 2017, M.G.L. c.94I, to be enacted pursuant to Chapter 55 of

the Acts of 2017, and Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of marijuana, in locations within the Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District suitable for lawful marijuana cultivation, research and Independent Testing and to minimize adverse impacts of marijuana cultivation, research facilities and independent testing laboratories on adjacent properties, residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of marijuana cultivators, research facilities and independent testing laboratories.”

- B. By amending Subsection A (3) by striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”.
- C. By further amending Subsection A(3) by striking out the words “and § 240-24.1.2E”, so that revised Section 240-31 A(3) shall read:

“Use. Within the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, a licensed marijuana cultivator, research facility or independent testing laboratory may be permitted as a conditional use, provided a special permit is first obtained from the Planning Board. All special permits granted under this article shall be subject to the provisions of § 240-125C herein and subject to all additional standards and conditions of this article.”

- D. In Subsection A(4), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(4) shall read:

“Prohibition of all other non-medical marijuana establishments. Except for licensed marijuana cultivators, research facilities and independent testing laboratories permitted as a conditional use in the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, subject to all the requirements of this article, all other types of non-medical "marijuana establishments" as defined in M.G.L. c.94G § 1, including marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses are prohibited.”

- E. In Subsection G, striking out “Article XII, § 240-122.1,” and substituting in its place “Article III, § 240-31” so that revised Section 240-31 G shall read:

“Severability. The provisions of Article III, § 240-31, are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.”

#### **SECTION 4**

By deleting Article XIV, Section 240-129 in its entirety.

#### **SECTION 5**

By deleting Article XIV, Section 240-129.1 in its entirety.

**VOTE: Opened and continued to January 5, 2023**

**2023-023 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, ARTICLE III, §240-39 BY REPEALING AND REPLACING THE SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT INTRO: 09/01/2022, 12/01/2022**

Elizabeth Jenkins, Director of Planning and Development gave the rationale and explained this is a rewrite of the towns existing overlay district; Shopping Center Redevelopment Overlay District (SCROD) to encourage a mixed use environment to expand to multi-family, hotel and office uses. Attorney Eliza Cox and Tim Fox of the Simon Group gave a procedural overview. Tim Fox spoke about the changes to the mall thus far, intending to move the mall from the past into the present by diversifying away from strictly retail business. Open public hearing seeing no one close public hearing

**Councilor questions and comments:**

(Atsalis) will the change allow for more retail property (Fox) we could but it is not in the plan (Starr) Does the mall lease land on the south side (Fox) Yes (Starr) if we are going to allow hotels, the need is for housing space and the outdoor recreational space is not very large (Cox) If you look in subsection (l) it says 15 feet no specified length (Starr) Is there any chance you are going to add retail if so, could you add housing above (Fox) Yes that is a possibility (Ludtke) please work towards the housing it would take advantage of the parking. In Hanover Crossing it is now amazing, they now have more, smaller housing and great models, hope this comes to fruition. (Mendes) Agree with the housing needs, but we also need a hotel that is modern, we have to modernize hotels to bring in the tourist dollars (Shaughnessy) Support the amendment, multi-family housing, hotels it is need of renovation, I will support this (Schnepf) Housing is definitely one I favor the most, happy to see our amendment include landscaping. (Cox) If this passes it will require the landscaping (Schnepf) Is it the permitting processing that will discuss what can go where (Cox) Yes (Schnepf) would there be any time when you would put in structured parking (Fox) highly unlikely at this time due to cost (Atsalis) on the south side towards Route 28. Would there be additional curb cuts needed, what is the tentative plan (Fox) the side on 28 is correct but no additional curb cuts (Starr) Parking lot at the south side is connecting Trader Joes, and the Christmas Tree Shop access (Jenkins) Zoning doesn't speak to any interconnecting, keeping access and shared access would be part of a regulatory meeting.

**ORDERED:** That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning, Article III, § 240-39 Shopping Center Redevelopment Overlay District be amended by deleting § 240-39 in its entirety and inserting the following new § 240-39 in its place:

“§ 240-39. Shopping Center Redevelopment Overlay District.

A. Purposes.

1. The purpose of this § 240-39 is to permit the renovation and redevelopment of a large-scale integrated retail shopping and mixed-use center on a large site with convenient highway access. The Shopping Center Redevelopment Overlay District is established as a special district which overlays another nonresidential zoning district or districts (including a Groundwater Protection Overlay District).

2. The Shopping Center Redevelopment Overlay District permits the redevelopment and expansion of a shopping center subject to the specific regulations and requirements contained in this § 240-39. If there is an inconsistency between the provisions of this Overlay District Section 240-39 and the underlying zoning district, even where the Overlay District provisions are less stringent than provisions of the underlying zoning district, the provisions of this Overlay District section 240-39 shall govern. The regulations of this § 240-39 relating to use, building and lot dimensions, development intensity, parking, signage and advisory site plan review shall apply only to a regional shopping center, and not to any other use that is allowed or permitted in the underlying zoning district.
3. The provisions of this § 240-39 are designed to assure that all development activities associated with a regional shopping center will be carried out so as to provide for and maintain:
  - (a) Protection of neighboring properties against harmful effects of uses on the development site;
  - (b) Protection of neighboring properties against harmful effects of uses on the development site;
  - (c) Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;
  - (d) Satisfactory methods of stormwater management and groundwater recharge shall be provided with due regard to the protection of the Town's groundwater resources;
  - (e) Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishments on the development site;
  - (f) Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishments on the development site;
  - (g) Adequate off-street parking and traffic mitigation measures that will enhance the efficiency of the transportation system taking into consideration the overall Town traffic needs.
  - (h) Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site; and
  - (i) Attractive and functional design with due regard to the existing conditions of the development site and the use thereof for a regional shopping center, in order to

promote the interests of the community.

B. Location. The boundary of the Shopping Center Redevelopment Overlay District is shown on a map of land entitled "Shopping Center Redevelopment Overlay Zoning District" filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this chapter.

C. Relationship to underlying districts and regulations.

(1) The Shopping Center Redevelopment Overlay District shall overlay all underlying districts so that any parcel of land lying in a Shopping Center Redevelopment Overlay District shall also lie in the zoning district or districts in which it is otherwise classified by this chapter.

(2) All regulations of the underlying zoning district(s) shall apply within the Shopping Center Redevelopment Overlay District to the extent that they are not inconsistent with the specific provisions of this § 240-39. To the extent the provisions of this § 240-39 are in conflict with or are inconsistent with other provisions of this chapter, the provisions of this § 240-39 shall govern and prevail even if such other provisions are more restrictive than those set forth in this § 240-39.

D. Definitions. The following definitions shall be applicable to land and its use within the Shopping Center Redevelopment Overlay District:

ADVISORY SITE PLAN REVIEW - The process set forth in § 240-39L of this chapter, and shall not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto.

AMUSEMENT USES -The principal use of stores or common areas in a regional shopping center for the operation of a coin-operated video arcade, game room, indoor playground, bowling alley or similar use (but restaurant and theater uses and amusement uses that are accessory to retail uses shall not constitute amusement uses).

GROSS FLOOR AREA - The meaning set forth in § 240-128 of this chapter.

GROSS LEASABLE AREA - Gross floor area, exclusive of mall areas, stairs, escalators, elevators, utility, storage and equipment rooms, mall offices, exit and service corridors, toilet rooms, maintenance areas, and mezzanine areas not used for the public sale or display of goods or services.

HOTEL – One or more buildings providing temporary lodging accommodations offered to the public on a daily rate for compensation. The building or buildings have an interior hall and lobby with access to each room from such interior hall or lobby, supervised by a person in charge at

all hours. Accessory uses may include a restaurant, conference center facility, meeting rooms, health club and other customary uses.

**INITIAL REDEVELOPMENT** The expansion of existing improvements within the Shopping Center Redevelopment Overlay District which increases the gross floor area of all buildings within the district above that which is in existence on January 1, 1996, by 50,000 square feet of gross floor area or more in the aggregate pursuant to a special permit issued under § 240-39N hereof.<sup>12</sup>

**MEZZANINE(S)** - An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than 10% of the gross floor area of the store or area of the building in which the level or levels are located. Mezzanines which are not used for the public sale or display of goods shall not be treated as an additional story for purposes of calculating maximum building height. Mezzanine space may be used for storage and for backroom office functions incident to the operation of gross floor area within the regional shopping center, but shall not be rented for such purposes to persons not operating gross floor area within the regional shopping center. Mezzanines which are used for the public sale or display of goods shall be treated as gross leasable area.

**MULTIFAMILY DWELLING** - A structure containing three or more dwelling units offered for sale or rent, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the families residing there.

**OFFICE** – Includes professional, business, dental and/or medical offices, which are defined as a room, or group of rooms used for conducting the affairs of a business, service industry, or government entity.

**REDEVELOPMENT AREA** - Land within the boundaries of the Shopping Center Redevelopment Overlay District, which is used or proposed for use as part of a regional shopping center, and encompassing one or more individual lots on which the regional shopping center will be situated.

**REGIONAL SHOPPING CENTER** - A concentration of stores and establishments devoted to retail shopping center uses and amusement uses including an enclosed structure (which may consist of several buildings) containing a total of not less than 500,000 square feet of gross floor area and located on a redevelopment area, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. A regional shopping center may also contain offices, hotels, and multifamily dwellings. A regional shopping center may consist of one or more lots and one or more buildings under separate ownership provided that:

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<sup>12</sup> Editor's Note: The former definition of "major store," which immediately followed this definition, was repealed 1-17-2019 by Order No. 2019-064.

(1) The lots and buildings are subject to an operating agreement or leasehold arrangements, provided that the areas used in common, including the central enclosed mall area, the parking structures and the exterior parking and circulation areas, will be under integrated management; and

(2) The separate lots and buildings are developed with a unified approach to architectural and landscape design, pedestrian ingress and egress, parking, truck loading, vehicular entrances and exits, drainage, groundwater recharge and utilities.

**RETAIL SHOPPING CENTER USES** — A concentration of retail stores and service establishments, including restaurants, movie theaters and such other uses as are customarily found in a regional shopping center, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. Retail shopping center uses may include one area devoted to outdoor, tent-type sales of home and garden goods, provided that any such area is operated incident to a retail store having not less than 40,000 square feet of gross floor area and occupies not more than 5,000 square feet of area.

E. Application of requirements.

(1) A redevelopment area may consist of more than a single building lot, and in such event the requirements of this chapter shall not be applied to individual building lots, but shall be applied to the entire redevelopment area as if the redevelopment area were a single building lot notwithstanding the fact that the building lots within the redevelopment area may be in different ownership.

(2) The regional shopping center and other improvements within the redevelopment area may be developed in phases and may be developed and occupied under one or more building permits and occupancy permits.

(3) The provisions of this § 240-39 shall not apply to any expansion of existing improvements within the Shopping Center Redevelopment Overlay District until the exercise of rights under a special permit issued under § 240-39N with respect to the initial redevelopment, and any such expansion which does not constitute the initial redevelopment shall be subject to all of the requirements of the underlying zoning district(s) including, without limitation, the requirement of a special permit for certain uses and structures within the district. Following the exercise of rights under a special permit issued under § 240-39N with respect to the initial redevelopment, this § 240-39 shall apply to all improvements thereafter constructed within the Shopping Center Redevelopment Overlay District.

F. Permitted and prohibited uses.



(1) The following uses are permitted by right in the Shopping Center Redevelopment Overlay District:

- (a) Retail Shopping Center Uses.
- (b) Office.
- (c) Hotels.
- (d) Multifamily Dwellings.
- (e) Amusement uses, provided that no more than 75,000 square feet of gross leasable area in a regional shopping center shall be devoted to amusement uses unless a special permit is issued therefor by the Zoning Board of Appeals.

(2) The following uses are prohibited in the Shopping Center Redevelopment Overlay District:

- (a) All uses prohibited in § 240-35F (2) [GP Groundwater Protection Overlay District] of this chapter.
- (b) Parking and/or storage of transport vehicles for fuel, including but not limited to oil, coal and gas.
- (c) Parking and/or storage of transport vehicles for toxic and/or hazardous substances.
- (d) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the underlying Highway Business District, subject to the special permit provisions of § 240-39N and a drive-through restaurant may be permitted only on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone" as shown on the map entitled "Shopping Center Redevelopment Overlay District Amendment,"<sup>13</sup> dated February 20, 2015, subject to the special permit provisions of § 240-39N.
- (e) Gasoline and oil filling stations.
- (f) Casinos and other gambling establishments (other than the incidental sale of lottery tickets as part of a use otherwise permitted in the Shopping Center Overlay District).

G. Bulk and dimensional regulations.

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<sup>13</sup> Editor's Note: The map is on file in the office of the Town Clerk.

(1) Land located within the Shopping Center Redevelopment Overlay District and used for a regional shopping center shall be subject to the dimensional controls set forth below:

- (a) Minimum area of redevelopment area: 50 acres.
- (b) Minimum lot size (individual building lots): none.
- (c) Minimum lot frontage (individual building lots): 20 feet.
- (d) Minimum side, front and rear yards (other than at the perimeter of the redevelopment area): none.
- (e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet.

[1] One hundred feet along Iyannough Road/Route 132 Road except 50 feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone."

[2] Within 100 feet of Route 28/Falmouth Road, the minimum setback shall be 20 feet, but there shall be a maximum setback of 50 feet.

- (f) Minimum side and rear yards (at perimeter of redevelopment area): 30 feet.
- (g) Maximum lot coverage as percentage of lot area of redevelopment area: 50%.
- (h) Maximum building height:

(1) The maximum building height for retail shopping center uses shall be 42.5 feet or two stories, whichever is lesser.

(2) The maximum building height for hotel and multifamily dwelling uses shall be 55 feet or four stories, whichever is lesser.

(3) The maximum building height may be increased by special permit issued by the Zoning Board of Appeals under § 240-39N.

(2) Except as specifically stated to the contrary in Subsection G(1), the bulk and dimensional requirements set forth therein shall be applied to a redevelopment lot as if it were one lot, even though it may be comprised of several lots in different ownerships. More than one building may be located on a single lot within the Shopping Center Redevelopment Overlay District.

(3) Skylights, mechanical penthouses, rooftop mechanical features, and architectural features not designed for human occupancy (collectively, the "special features") shall be excluded in determining the height of any building within a regional shopping center. However, in no case shall such special features exceed ten (10) feet above the height of the building absent special permit relief issued pursuant to § 240-39N.

H. Maximum increase in gross leasable area. Retail shopping center uses within a regional shopping center shall not exceed 1,200,000 square feet of gross floor area within the redevelopment area, measured on an aggregate basis, unless the Zoning Board of Appeals has issued a special permit in accordance with the provisions of this § 240-39N. The maximum gross floor area of 1,200,000 square feet set forth above shall be reduced by 20,000 square feet of gross floor area for every acre by which the total area of the redevelopment area is less than 59 acres. For purposes of this § 240-39, the floor area of parking structures shall not be treated as gross floor area or gross leasable area.

I. Limitation on impervious surfaces; outdoor recreational areas; buffer strip landscaping.

(1) Impervious Surfaces. No more than 70% of the total redevelopment area shall be rendered impervious by the installation of buildings, structures and paved surfaces, measured on an aggregate basis, unless groundwater mitigation land is provided at a one-to-one ratio for any overage of impervious cover in the redevelopment area. Groundwater mitigation land shall mean land located within the same or a more restrictive Groundwater Protection District in a zone of contribution to the well fields operated as of January 1, 1996 by the Barnstable Water Company and/or the Barnstable Fire District which land is permanently restricted by or on behalf of the owners of the redevelopment area to be left in an open and natural state. However, even with the dedication of groundwater mitigation land, no more than 82.7% of the total redevelopment area shall be so rendered impervious. Rooftop and surface water drainage systems shall be designed and maintained in accordance with the standards set forth in § 240-39L(4)(j). For purposes of this § 240-39I, roadways (other than interior access drives) built in accordance with municipal specifications (as the same may be modified or waived by the Planning Board) and used as public way(s) or private way(s) shall not be treated as impervious surfaces and shall not be treated as part of the area of the district for purpose of such calculation.

(2) Outdoor Recreational Areas. Any new development or redevelopment within the Shopping Center Redevelopment Overlay District that proposes a hotel or multi-family use shall include an outdoor

recreational area for use by hotel guests or multi-family residents and visitors. Outdoor recreational areas should consist of a contiguous space containing a minimum width of 15 feet and a minimum tree canopy of 10%.

(3) Landscaped Buffer. As a part of the portion of the redevelopment area to be maintained in pervious condition, a landscaped buffer strip of variable width shall be provided and maintained along the redevelopment area's frontage on Route 28, Route 132 and any extension of Enterprise Road which is laid out in conjunction with the redevelopment. Said landscaped buffer strip shall be a minimum of 15 feet in depth from the property line. The design of this buffer strip may include sidewalks/bikepaths, berms, indigenous planting materials and other ground cover. Cross over access drives and signs

provided for herein shall be permitted in the landscaped buffer strip, but parking areas are prohibited. All other roadway frontages shall have a landscaped buffer strip of at least 10 feet.

J. Parking and loading. Uses within the Shopping Center Redevelopment Overlay District shall be subject to the following minimum off-street parking and loading requirements:

- (1) Required off-street parking for retail shopping center uses within a regional shopping center shall be provided at a ratio of not less than 4.0 parking spaces for each 1,000 square feet of gross leasable area.
- (2) Required off-street parking for office uses within a regional shopping center shall be provided at a ratio of not less than 1.0 parking space for each 300 square feet of gross leasable area plus 1.0 parking space per separate suite.
- (3) Required off-street parking for hotel uses within a regional shopping center shall be provided at a ratio of not less than .75 parking spaces per guest unit.
- (4) Required off-street parking for multifamily dwellings within a regional shopping center shall be provided at a ratio of not less than 1.5 parking space per dwelling unit.
- (5) The foregoing parking requirements may be reduced by Special Permit from the Zoning Board of Appeals if lesser off-street parking is shown to be adequate given such special circumstance as:
  - (a) Use of a common parking area by different uses having different peak hours of demand.
  - (b) Habits or other characteristics of occupants which result in reduced auto usage.
  - (c) Characteristics of use invalidating normal methods of calculating parking demand.
  - (d) Supplementary parking provided off premises.
  - (e) Demonstrated measures to lower parking demand to the regional shopping center.
- (6) All off-street parking spaces required by this § 240-39J shall be located within the redevelopment area, except that parking spaces may be located outside of the redevelopment area on another non-residentially zoned lot provided (a) such other lot is located within 300 feet of the redevelopment area on which the use for which

such spaces are required is located, and (b) such lot is in common ownership with, or subject to a long term lease or easement for the benefit of, all or a portion of the redevelopment area. In addition, parking spaces may be located at such other locations as may be approved by the Zoning Board of Appeals as part of any Traffic Demand Management Plan which shall be incorporated as part of the special permit issued under § 240-39N hereof.

(7) Each off-street parking space shall have minimum dimensions of nine by 18 feet, excluding the driveway to such space. Parking stalls within the Shopping Center Redevelopment Overlay District which are designed at 90° shall have the following minimum dimensions:

(a) Ninety-degree parking dimensions:

Stall width: nine feet, zero inches.

Stall length: 18 feet, zero inches.

Aisle width: 24 feet, zero inches.

Bay width: 60 feet, zero inches.

(b) All parking stalls which are designed at angles other than 90° shall comply with the minimum parking space dimensions set forth in § 240-104 of this chapter.

(8) Parking Lot Landscaping

(a) Application. This section shall apply to any new development or redevelopment within the Shopping Center Redevelopment Overlay District in which the limit of work exceeds one (1) acre (43,560 square feet). This section shall not apply to ordinary maintenance or repairs to buildings or parking areas within the Shopping Center Redevelopment Overlay District.

(b) Procedure. Any project that satisfies the triggering requirements set forth in Subsection (a) above shall delineate on the accompanying plans the proposed limit of work. Only parking and loading areas within the limit of work shown on the plans shall be subject to the minimum requirements set forth below.

(c) The surfaced area of a parking lot and all entrance and exit drives shall be set back from the side and rear lot lines, by a landscaped side and rear yard buffer at least five (5) feet in width.

(d) A ten-foot minimum, landscaped perimeter buffer shall be maintained between a building and the surfaced area of a parking lot or drive, except at entrances, building loading and utility locations. A walkway may be located within the landscaped perimeter buffer, provided that the landscape area is not reduced to less than 40% of the area of the perimeter buffer.

- (e) At least 7% of the interior of a parking lot with 21 or more parking spaces shall be landscaped. Planting along the perimeter of a parking area shall not be considered as part of the 7% interior landscaping. Interior landscaped islands shall be distributed throughout the parking lot. At least one tree with a minimum 2.5-inch caliper or larger shall be provided per twelve spaces or any portion thereof, located within interior landscaped islands. Existing naturally occurring trees in good condition located in landscaped islands shall be credited towards this requirement only in those areas where the existing trees are located. No landscaped island shall have an overall width of less than six feet. A walkway may be located within an interior landscaped island, provided that the walkway is separated from the surfaced area of the drive or parking lot by a minimum of four feet of landscaped area. These interior landscape requirements shall not apply to interior parking spaces, parking garages, or parking lots used for sale and/or display of motor vehicles.
- (f) Where landscaped setbacks to parking areas, landscaped buffers to buildings, and landscaped islands within parking areas are required in Subsections (c) through (e) above, the following requirements shall apply:
- i. Existing natural trees and shrubs shall be retained within landscaped islands, and side and rear yard landscaped buffers to parking lots and drives wherever possible and supplemented with other landscape materials, in accordance with accepted landscape practices. Specimen trees shall be retained and, if practical, relocated within the site where necessary. Where natural vegetation cannot be retained, these areas shall be landscaped with a combination of low-maintenance grasses, trees and shrubs commonly found on Cape Cod. A list of recommended plant materials is on file with the Town Clerk and may also be obtained from the Planning Department. Plant materials shall be of sufficient size and density to create an attractive appearance. Brick or stone mulch shall not be used in place of ground covers in landscaped islands. Where mulch is used, it shall be in such a manner that it will not wash into leaching catch basins located in a parking lot, or adjacent roadway.
  - ii. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX. No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except that the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.

- (g) Landscape buffers and islands may be reduced by an amount sufficient to ensure the creation of a functional, attractive parking lot, subject to approval of site plan review.

K. Signs in the Shopping Center Redevelopment Overlay District. Only the following types of signs shall be permitted in the Shopping Center Redevelopment Overlay District:

(1) Large freestanding exterior signs:

- (a) Maximum number: three signs.
- (b) Maximum height: not to exceed 22 feet above grade.
- (c) Maximum area: not to exceed 170 square feet per side exclusive of structures holding the sign. Reasonable efforts shall be exercised to minimize the size of any such supporting structures.

(2) Wall signs identifying uses permitted by right in the Shopping Center Redevelopment Overlay District having gross leasable area of greater than 25,000 square feet or having exterior public entrances; the food court; and the regional shopping center, provided that no wall sign shall extend higher than the top of the parapet wall:

- (a) Maximum letter height: five feet for signs accessory to anchor and major stores, and four feet for other such signs. This letter height restriction shall not apply to emblems, logos, or other designs associated with the sign display.

(b) Maximum area:

[1] Anchor stores (for each tenant with a gross leasable area of 45,000 square feet or more): The maximum sign area for any one display shall not exceed 200 square feet for the first sign; the maximum sign area for any additional display shall be 150 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 30 square feet shall be provided for entrance door and awning signs.

[2] Major stores (for each tenant with a gross leasable area of 12,000 square feet or more): The maximum sign area for any one display shall not exceed 120 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 15 square feet shall be provided for entrance door and awning signs.

[3] In-line store (for each tenant with an exterior entrance): The maximum sign area for any one display shall not exceed 50 square feet for tenants with storefronts less than 50 linear feet in length. An additional square foot of sign area shall be allowed

for each linear foot of storefront above 50; the maximum sign area for any one display shall not exceed 75 square feet. There shall only be one sign display per tenant. An additional sign allowance of 10 square feet shall be provided for entrance door and awning signs.

[4] Mall entrances: The maximum sign area for any one display shall not exceed 50 square feet. There shall only be one sign per each eligible mall entrance.

(3) Wall signs designating loading areas, service courts, employee entrances and similar areas:

- (a) Maximum number: no limit.
- (b) Maximum mounting height above ground: eight feet.
- (c) Maximum area: six square feet.

(4) Freestanding directional signs indicating access and egress to the site, as well as direction to department stores, services or other areas within the regional shopping center:

- (a) Maximum number: three times the total number of vehicular entrances.
- (b) Maximum height to top of sign above ground: seven feet.
- (c) Maximum area: 16 square feet per side.

(5) Hanging parking structure signs at vehicular entrances to parking structures:

- (a) Maximum number: one per vehicle ramp access point to parking structures.
- (b) Maximum height: one foot, six inches.
- (c) Maximum area: 16 square feet per side.
- (d) In addition, directional and parking area identification signs shall be permitted within the parking structures, and safety/height limitation markings shall be permitted on the exterior of the parking structures.

(6) Parking lot identification signs.

- (a) Maximum number: one per light post.
- (b) Maximum size: three square feet per side.



(7) <sup>14</sup>Banners which do not advertise particular stores or articles for sale shall be permitted.

(8) In addition to the signs otherwise permitted under this § 240-39K, wall signs for freestanding buildings, including hotels, multifamily dwellings, and movie theaters (meaning buildings which are not physically connected to the enclosed mall of the regional shopping center) which are otherwise permitted in the underlying zoning district under this chapter shall be permitted in the Shopping Center Redevelopment Overlay District.

(9) In addition to the wall signs permitted under § 240-39K(2), one exterior wall sign for each movie theater, hotel, and multifamily dwelling located within a regional shopping center shall be permitted with a size of up to 150 square feet.

(10) In addition to the signs permitted under § 240-39K(1) hereof, up to two freestanding exterior signs for each movie theater, hotel, and multifamily dwelling located within a regional shopping center shall be permitted as follows:

(a) Maximum number: two.

(b) Maximum height: 14 feet above grade.

(c) Maximum area: not to exceed 175 square feet per side, exclusive of structures holding the sign.

(11) In addition to the signs permitted under § 240-39K (1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone," provided that the maximum height of freestanding signs does not exceed 12 feet above grade and the maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign.

(12) No special permit shall be required for signs that are in conformance with the standards set forth above.

L. Advisory site plan review and provisions.

(1) Findings. Owing to their physical characteristic and the nature of their operations, a regional shopping center may affect neighboring properties and adjacent sidewalks and streets. It is in the interest of the community to promote functional and aesthetic design,

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<sup>14</sup> Editor's Note: Former Subsection K(7), pertaining to electronic reader boards, which immediately preceded his subsection, was repealed 1-17-2019 by Order No. 2019-064. This order also provided for the redesignation of former Subsection K (8) through (13) as Subsection K (7) through (12).

construction and maintenance of a regional shopping center and to minimize any harmful effects on surrounding areas.

(2) Purposes. The provisions of this section are designed to assure that all development activities associated with a regional shopping center will be carried out in furtherance of the purposes articulated in § 240-39A, taking into account the existing condition of the redevelopment area, the large-scale character of developments such as the regional shopping center, the customary site layout of regional shopping centers, and the necessity to permit natural light to illuminate the common areas of the regional shopping center (hereinafter referred to as the "design constraints").

(3) Advisory site plan review/when required. The provisions of this § 240-39L shall apply to development within the Shopping Center Redevelopment Overlay District in lieu of the site plan review provisions of Article IX of this chapter. At least 60 days prior to filing any DRI application with the Cape Cod Commission, the proponent of a regional shopping center shall make an informal filing with the Building Commissioner, in draft form, of such plans and materials relating to the DRI application as the proponent intends to file with the Commission with its DRI application and such relevant plans and materials relating to the MEPA process as are then available. Within 30 days following such informal submission, the Building Commissioner and other members of the Site Plan Review Committee established under Article IX of this chapter and such other Town staff as may be designated by the Building Commissioner shall review, comment upon and make recommendations with respect to the plans and materials so submitted, provided that the Building Commissioner shall have the right to extend such thirty-day period by an additional 30 days at the request of the Site Plan Review Committee. In conducting its review the Site Plan Review Committee shall consider the consistency of such plans and materials with the site development standards set forth in Subsection L(4) hereof. The informal filing and review described in this Subsection L (3) requires no approval and therefore does not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto; however, the Cape Cod Commission shall be invited to have representatives participate in the advisory site plan review process.

(4) Site development standards.

(a) A reasonable effort shall be made to improve, conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.

(b) Slopes which exceed 10% shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.

(c) The placement of buildings, structures, fences, lighting and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.

(d) At any driveway, a visibility triangle shall be provided in which nothing shall be erected, placed, planted or allowed to grow so as to materially impede vision from within motor vehicles between a height of three feet and eight feet above the average center-line grades of the intersecting street and driveway, said triangle being bounded by the intersection of the street line and the edges of a driveway in a line joining points along said lines 20 feet distant from their projected intersection.

(e) Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to interfere with traffic beyond the perimeter of the site.

(f) All areas designed for vehicular use shall be paved with a minimum of either 2 1/2 inches bituminous asphalt concrete, a six-inch portland cement concrete pavement, or other surface, such as brick or cobblestone, as approved by the Town Engineer.

(g) All parking spaces shall be arranged and clearly marked in accordance with the parking lot design standards contained in § 240-39J herein. Signs and pavement markings shall be used as appropriate to control approved traffic patterns.

(h) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground. Electric, telephone, cable TV, and other such utilities shall be underground, except for transformers, electric switching boxes or similar equipment and gas meters, which may be above ground.

(i) All surface water runoff from structures and impervious surfaces shall be disposed of on site, but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies (except for drainage structures in place as of the effective date of this § 240-39). All drainage systems shall be designed to minimize the discharge of pollutants by maximizing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration (with due regard to the design constraints). Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Subject to ambient surcharge conditions, roof runoff shall be recharged to the ground via a system of dry wells and/or infiltration systems. Nontoxic roof materials shall be used to minimize the leaching of toxic materials to the groundwater. To minimize water utilization, all new plumbing fixtures shall be designed to meet water conservation measures as required under the State Building and Plumbing Codes. All such drainage structures shall be preceded by oil, grease and sediment traps to facilitate removal of

contaminants. All calculations shall be for a twenty-five-year storm and shall be reviewed by the Town Engineer. The materials submitted shall include provision for an appropriate maintenance program for such drainage structures to be implemented and maintained by the proponent. The materials submitted shall show adequate measures to mitigate pollution of surface or groundwater to minimize erosion and sedimentation. All drainage shall be designed so that all runoff shall be disposed of on site, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

(j) The materials submitted shall describe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow showing adequate access to and from the site and adequate circulation within the site. The proponent of a regional shopping center will include in such materials reasonable measures to lower traffic demand to the regional shopping center such as, by way of example only, working with other major retailers along the 132 corridor to promote bus and shuttle bus activity, encouraging carpooling among employees, and/or similar measures, which materials shall be referred to as the "Traffic Demand Management Plan." Reasonable efforts shall be made to provide vehicular and pedestrian connections within the redevelopment area to adjoining properties devoted to retail use.

M. Affordable Housing Units. Notwithstanding any other provisions as may be set forth in this Zoning Ordinance, any multifamily dwelling development in the Shopping Center Redevelopment Overlay District shall comply with either subsection (1) or (2) below, whichever calculation results in a greater number of restricted units. If the total number of restricted units is the same under subsection (1) and subsection (2), then the subsection with the greater number of deed restricted affordable units for individuals and families with the lowest percentage of Area Median Income (AMI) shall be required. The determination as to which calculation applies shall be made at the time that development permits are sought for a proposed multifamily development.

(1) The provisions of the Town of Barnstable Code, Chapter 9, Inclusionary Affordable

Housing Requirements in effect at the time development approvals are sought for any multifamily dwelling development within the SCROD; or

(2) Ten percent (10%) of the multifamily dwelling units shall be deed restricted as affordable units for individuals and families earning up to 65% of the area median income and an additional three percent (3%) of the multifamily dwelling units shall be deed restricted as affordable housing units for individuals and families earning up to 80% of the median income for the Town of Barnstable, as determined annually by the Department of Housing and Urban Development. The affordable units shall conform to all Department of Housing and Community Development (DHCD) standards that must be met to qualify these units for inclusion in the DHCD Subsidized Housing Inventory (SHI) as Local Initiative Program units.

(3) No certificate of occupancy permit shall be issued until recordation of the Regulatory Agreement and Declaration of Restrictive Covenants.

N. Special permit provisions.

(1) Special permit for regional shopping center.

(a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39N. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this § 240-39N.

(b) A special permit may provide for phased development (and, if applicable, a projected phasing plan shall be provided to the Zoning Board of Appeals as part of the special permit process under § 240-39N). A special permit shall become void two years from the date of issue unless any construction work contemplated thereby (or first phase thereof, if applicable) shall commence and proceed in good faith continuously to completion, or, if no construction work is contemplated by the special permit, the use authorized thereby is commenced.

(c) Any work done in deviation from a special permit granted pursuant to this § 240-39N shall be a violation of this chapter, unless such deviation is approved in writing by the Zoning Board of Appeals. However, a special permit may be granted based upon plans showing one or more permissible building areas and/ or permissible parking structure areas, in which buildings and other structures are to be located, rather than with the locations of the buildings and other structures finally established. Provided the boundaries of such permissible building areas and/or permissible parking structure areas are approved by the Zoning Board of Appeals in connection with the special permit, once the special permit is granted, no separate approval of the Zoning Board of Appeals will be required for the actual location of the buildings or improvements within such permissible building areas and/or permissible parking structure areas [provided that no material change to the design or materials described in § 240-39N(2)(a) shall be made without the approval of the Zoning Board of Appeals.] The Zoning Board of Appeals may amend or modify a special permit upon the application of the developer of a regional shopping center and, if the Zoning Board of Appeals determines that such amendment or modification is minor in nature, such amendment or modification may be approved without a hearing upon the submission of plans and information that may, in the discretion of the Zoning Board of Appeals, be less extensive than the plans and information required in this § 240-39N.

Amendments or modifications determined by the Zoning Board of Appeals not to be minor in nature shall require a public hearing.

(d) The purpose of the special permit for a regional shopping center is to assure that the development of a regional shopping center is carried out in a manner which is (1) consistent with the purposes set forth in § 240-39A hereof and the site development standards set forth in § 240-39L(4) hereof,

(2) consistent with the terms and conditions of any DRI permit issued by the Cape Cod Commission and the certificate of the Secretary of Environmental Affairs on the final environmental impact report, (3) with due regard given to the Design Guidelines for Cape Cod prepared by the Cape Cod Commission in light of the design constraints, and (4) consistent with such additional reasonable conditions as may be imposed by the Zoning Board of Appeals as are not inconsistent with the foregoing. The Zoning Board of Appeals shall grant a special permit for a regional shopping center upon its determination that the standards for the issuance of such special permit set forth in this Subsection M(1)(d) have been complied with, giving due regard to the design constraints.

(2) Required contents of special permit application. The application for a special permit under this § 240-39N shall include:

(a) Building elevation plans for all exterior facades of buildings and structures, at a scale of 1/16 inch equals one foot, or such scale as may be required by the Zoning Board of Appeals for detail drawings, indicating surface materials and colors, together with not less than three representative cross sections.

(b) A tabulation of the areas of the proposed site elements, including buildings (footprints and gross leasable area and gross floor area), parking structures and surface parking areas (square footage and number of parking spaces), stormwater management facilities, and landscaped areas (square footage, number of trees and other plantings).

(c) Updated versions of the materials submitted to the Building Commissioner in connection with the advisory site plan review process described in § 240-39L above.

(d) Any request for gross leasable area in excess of the use limitations set forth in § 240-39F (1) (e).

(e) Any request to permit the structure to exceed the maximum height limitation set forth in § 240-39G (1) (h).

(f) Any request to permit rooftop features to exceed the rooftop feature height limitation set forth in § 240-39G (3) (b).

- (g) Any request to exceed the maximum allowable 1,200,000 square feet of gross leasable area for retail shopping center uses set forth in § 240-39H.
  - (h) Any request to permit a reduction in the required parking ratios under § 240-39J (5).
  - (i) All materials relating to any request to permit off-site parking under § 240-39J(6).
  - (j) A description of the operating agreement and/or leasehold agreements contemplated in the definition of "regional shopping center."
  - (k) Additional information as may be required by the Zoning Board of Appeals as reasonably necessary to making the determinations required by this section.
- (3) Required procedures for special permit.
- (a) At least two copies are required of all plans, drawings and written information. Copies of application materials shall also be submitted to the Zoning Board of Appeals electronically.
  - (b) The Zoning Board of Appeals may solicit the advice of any other Town agency or department it deems necessary to properly make the determinations required by this section.
  - (c) In issuing a special permit under this § 240-39N, the Zoning Board of Appeals shall give due regard to and shall not be inconsistent with the decisions and recommendations of the Cape Cod Commission as set forth in any DRI permit or similar approval.
  - (d) The Zoning Board of Appeals shall also include as a condition of its special permit the performance of any written commitments made by the developer of a regional shopping center to the Zoning Board of Appeals, the Planning Board or the Town Council intended to reduce or limit the impacts, financial or otherwise, of the regional shopping center on the Town. Such conditions shall be based on the written information furnished to the Zoning Board of Appeals by the Planning Board and Town Council. Such conditions shall be binding on the applicant for such special permit provided they are consistent with the provisions of Section 15 of Chapter 716 of the Acts of 1989 (the Cape Cod Commission Act).
  - (e) The Zoning Board of Appeals may include as a condition of its special permit that, prior to the issuance of a certificate of occupancy for the regional shopping center, the Building Commissioner shall be provided with evidence that the operating agreement and/or leasehold arrangements contemplated in the definition of "regional shopping center" are in place.

(f) If the proposed improvements which are the subject of an application for a special permit under this § 240-39N have not been subject to the review of the Cape Cod Commission because at the time of such application the Cape Cod Commission or the DRI process has been abolished, then the proposed improvements shall be subject to site plan review under Article IX of this chapter.”

**VOTE: PASSES 12 YES**

**Roll Call: Atsalis, Clark, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.**

**2023-058      APPROPRIATION ORDER IN THE AMOUNT OF \$45,000 FOR THE GOLF ENTERPRISE FUND FOR THE PURPOSE OF FUNDING THE ACQUISITION OF A UTILITY TRACTOR FOR THE GOLF MAINTENANCE OPERATIONS INTRO: 11/17/2022, 12/01/2022**

Assistant Director of Community Services Christopher Gonnella gave the rationale  
Open public hearing seeing no one close public comment

Upon a motion duly made and seconded it was

**ORDERED:** That the amount of **\$45,000** be appropriated and transferred from the Golf Enterprise Fund surplus for the purpose of funding expenses related to the acquisition of a utility tractor for the Golf Maintenance Operations.

**VOTE: PASSES 12 YES**

**Roll Call: Atsalis, Clark, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.**

**2023-061      APPROPRIATION ORDER IN THE AMOUNT OF \$3,811,500 FOR THE FISCAL YEAR 2023 AIRPORT ENTERPRISE FUND OPERATING EXPENSE BUDGET FOR THE PURPOSE OF PURCHASING AVIATION JET FUEL FOR RESALE INTRO: 11/17/2022, 12/01/2022**

Katie Servis, Airport Manager gave the rationale utilizing a Power Point presentation  
Open Public hearing seeing no one close public hearing

**Councilor questions and comments:**

(Neary) What is the Storage capacity on the grounds (Servis) we have 60 thousand gallons we can store on the ground and three mobile units, we are looking into installing an addition 20,000 gallon tank (Neary) is it first in first out or is it average cost (Servis) new rates every week;

Upon a motion duly made and seconded it was

**ORDERED:** That the amount of **\$3,811,500** be appropriated and provided from the Airport Enterprise Fund surplus for the purpose of funding the purchase of aviation jet fuel for resale.

**VOTE: PASSES 12 YES**

**Roll Call: Atsalis, Clark, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.**

**President Levesque made the following announcement:**

Appointments are typically two reads. However, because we need to fill some vacancies on one of the committees in order for that committee to have a quorum, I would entertain a motion to suspend Town Council Rules 12 and 13 to allow the Council to vote on Item 2023-063 tonight.

Upon a motion duly made and seconded to suspend the Town Council Rules 12 and 13 to allow the Council to vote on Item 2023-063 tonight.



**VOTE: PASSES 12 YES**

**2023-063 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 12/01/2022**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Comprehensive Financial Advisory Committee:** Jacky Johnson, as a regular member to a term expiring 06/30/2024; Neil Kleinfeld, as a regular member to a term expiring 06/30/2025; **Disability Commission:** Lori Gillen, as a regular member to a term expiring 06/30/2024; **Hyannis Main Street Waterfront Historic District Commission:** Laura Cronin, as a regular member to a term expiring 06/30/2025; **Licensing Authority:** Max Mitrokostas as an associate member, to a term expiring 06/30/2025; **Recreation Commission:** Alyssa Chase, as a regular member to a term expiring 06/30/2025; **Zoning Board of Appeals:** Aaron Webb from associate member to a regular member to a term expiring 06/30/2023

**VOTE: PASSES 12 YES**

**2023-064 APPROPRIATION ORDER IN THE AMOUNT OF \$1,337,890 FOR THE PURPOSE OF FUNDING THE RESTORATION WORK TO THE ZION UNION HISTORIC MUSEUM AND ORIGINAL CHAPEL, 296 NORTH STREET, HYANNIS, MA INTRO: 12/01/2022**

**ORDERED:** That the amount of **\$1,337,890** be appropriated for the purpose of funding the restoration and rehabilitation work to the Zion Union Historic Museum and original chapel located at 296 North Street, Hyannis MA, Map 308, Parcel 029, and to fund this appropriation that **\$457,390** be provided from the Capital Trust Fund, and that, pursuant to the provisions of G.L. c. 44B, the Community Preservation Act, **\$261,778** be transferred from the amount set aside for Historic Preservation within the Community Preservation Fund and **\$618,722** be transferred from the Undesignated Fund Balance within the Community Preservation Fund. It is further ordered that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

**VOTE: TO A PUBLIC HEARING ON 12/15/2022-UNANIMOUS**

**2023-065 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 RECYCLING DIVIDENDS PROGRAM GRANT IN THE AMOUNT OF \$11,700 FROM THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURPOSE OF ENHANCING THE TOWN'S WASTE REDUCTION PROGRAMS INTRO: 12/01/2022**

Town Manager Mark Ells gave the rationale

**Councilor questions and comments:**

(Clark) will this grant include the provision of composting bins for the public (Ells) have to check on that: we have done this before.

**ORDERED:** That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 Recycling Dividends Program Grant in the amount of **\$11,700** from the Commonwealth of Massachusetts, Department of Environmental Protection to enhance the Town's waste reduction programs through the acquisition of recycling containers, recycling carts and recycling bins, waste reduction and/or recycling outreach and education materials, and other related expenses authorized in the Recycling Dividends Program contract.

**VOTE: PASSES UNANIMOUS**

**2023-066 ORDER WAIVING FEES FOR CONSTRUCTION WORK BY THE BARNSTABLE FIRE DISTRICT FOR A NEW FIRE DISTRICT WATER TREATMENT PLANT OFF BREEDS HILL ROAD TO TREAT THE DISTRICT'S WELLS 2 & 5 INTRO: 12/01/2022**

**ORDERED:** Notwithstanding the provisions of any ordinance of the Town regarding schedules of fees, the construction project for the construction of a new water treatment plant off Breeds Hill Road by the Barnstable Fire District (the "Project") shall hereby be exempt from payment of such fees; provided that if the Town is required to hire outside inspectors with special expertise to inspect any aspect of the Project, the Barnstable Fire District will pay those costs; and provided further, that this Order shall not become effective until a Memorandum of Agreement between the Town of Barnstable and the Barnstable Fire District is executed and filed with the Barnstable Town Clerk in which the Barnstable Fire District agrees to pay any such costs for outside inspectors.

**VOTE: TO A PUBLIC HEARING ON 12/15/2022- UNANIMOUS**

**TOWN COUNCIL NOMINATIONS:**

**PRESIDENT: Matthew Levesque**

**VICE PRESIDENT: Jennifer Cullum**

Upon a motion duly made and seconded

I move to go into executive session pursuant to G.L.c.30A, sec. 21(a)(3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect on the litigating position of the Town and Town Council. Specifically, the Council will discuss a lawsuit filed against the Town by TJA Clean Energy, LLC

**VOTE: PASSES 12 YES**

**Roll Call: Atsalis, Clark, Cusack, Rapp Grassetti, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.**

**VOTE: ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED TO ADJOURN:**

**VOTE: PASSES 11YES**

**Roll Call: Atsalis, Clark, Cullum, Cusack, Levesque, Ludtke, Mendes, Neary, Schnepf, Shaughnessy, Steinhilber.**

**Adjourned at 9:35 PM**

Respectfully submitted,

Ann M Quirk

Barnstable Town Clerk

NEXT MEETING: December 15, 2022

Exhibits

A. Town Manager Update