



Town Council Meeting
August 16, 2018



A quorum being duly present, Council President Eric Steinhilber called the August 16, 2018, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Steinhilber 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: Britt Beedenbender, Jennifer Cullum, James Crocker, Jr., Debra Dagwan John Flores, Jessica Rapp Grasseti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Eric Steinhilber, James Tinsley, Jr., Philip Wallace.

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

President Eric Steinhilber and Town Manager Mark Ells recognized of the Town of Barnstable lifeguards Halle Rudman, Colleen Ellis and Ethan Sirhal, who worked to save a 17-year-old Hyannis girl on July 3, 2018 at Covell's Beach. Also recognized but not present at the meeting were: Luka Powers, Gate Attendant Victoria Richardson and Beach Supervisor Elizabeth Ells.

PUBLIC COMMENT:

Phineas Fisk, from Tails of Cape Cod, urged Council to support the Cape Cod Independence Day with a letter of support.

COUNCIL RESPONSE TO PUBLIC COMMENT:

Thank you, the cradle of liberty, started here in Barnstable- September 27th is Cape Cod Independence Day.

TOWN MANAGER COMMUNICATIONS: Update August 10 through August 16 (Exhibit A)

- Budget Calendar Fiscal Year 2020
- Water Supply and Wells
- Vineyard Wind
- Recycling Market
- Dog Park
- Municipal Dredge Project
- Training Exercise at Barnstable Police Department
- Flooding Neighborhood – Commerce road and Maraspin Creek

COUNCILOR QUESTIONS AND COMMENTS:

What can we expect with winters? [We will clean out and maintain existing structure for now we are trying to understand the structures and how they save function] Please look at potential sources of funding in other areas. [Ruth Weil explained the Community Preservation Act creates more beaches and beach area, and it is supporting the dredge project to increase a beach] [Nature will do what nature will do the Town will do its best] How are we spending the word about waste stream reduction? [Through education and regular recycling discussion with consumers]

ACT ON MINUTES: Upon a motion duly made and seconded it was voted to approve the minutes of the August 9, 2018

VOTE: PASSES UNANIMOUS

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

Utility Day was a success, each year more people are attending. The Barnstable Little League won the North East Regional Championship. Upcoming events: Osterville Annual Meeting; the September 9, 2018 Marstons Mills Village Day; West Barnstable Village Festival and the August 19th Barnstable Historical Society Summer Splash. August 22nd, Barnstable Village Annual Summer Stroll.

JUMP TO 2019-015

2019-015 AMENDING CHAPTER 240, THE ZONING ORDINANCES TO ADD REGULATIONS FOR ESTABLISHING AND OPERATING REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES AND INDEPENDENT TESTING LABORATORIES AND PROHIBITING ALL OTHER NON-MEDICAL MARIJUANA ESTABLISHMENTS INTRO: 08/09/2018, 08/16/18

Upon a motion duly made and seconded it was to open the Public Hearing by the Planning Board

VOTE: PASSES UNANIMOUS

Mike Ross, principal of Prince Lobel Tye LLP, gave the overview of the PowerPoint presentation. He explained there were 2264 total applications for the twelve provisional licenses granted by the Cannabis Control Committee. He mentioned the drop-in youth consumption and drop in opioid addition due to marijuana usage. He added the location of medical marijuana facilities in other communities President Steinhilber discussed the background of the marijuana question.

Adam Hansen supported the marijuana industry and hoped the abandon building in Barnstable could be utilized for this type of business. He suggested a moratorium on retail but urged Council to let Barnstable be open to the marijuana industry.

Spenser Knowles supported small business and suggested Council be progressive and not place a moratorium on the marijuana industry. He hoped Council would establish a Cannabis Control Committee.

Jason Cullivan said there were definite benefits to cannabis health wise and profitability.

Jack Anderson felt alcohol was more destructive than marijuana.

Asa Attwood expressed concern regarding Barnstable being ready for the cannabis industry.

Deccan Crocker expressed his concern regarding farm land being scooped up for other zoning needs. He hoped to keep his farming land.

Michelle Bennett hoped Council would reconsider the cannabis industry ban as Barnstable needs more manufacturing opportunities.

John Pond read out loud a letter from Arthur J. Luke dated 08/15/2018 in which he stressed the need for Council consider all options before banning. **(Exhibit B)**

Arlene Plunket discussed that Milford Community 24/7 operation. The Milford Company was in favor of doing business with Barnstable.

Beth Waterfall questioned Council regarding question 4 and the marijuana issue. She felt cannabis was widely misunderstood. She encouraged Council to accept cannabis companies into Barnstable.

Maureen Grandmont explained she voted against the marijuana law. She hoped Council upheld the no vote in Barnstable.

Pat Anastasia felt there needed to be a concrete plan and suggested Council look at other communities that utilized the money.

Adam Higgins said the marijuana bans were not effective he hoped Council would place a moratorium with bans in Barnstable.

President Steinhilber asked Town Attorney Ruth Weil to explain the moratorium. Ruth Weil said Council had voted on a moratorium until December 31, 2019, but if the Council did not act with zoning or a ban before the moratorium time ran out then Council will lose control. The State would have control of the cannabis matter and Barnstable would need to follow their regulation.

Close Public Hearing

Members of the Planning Board then went into a meeting in the Selectman's Conference room with Elizabeth Jenkins, Director of Planning and Development, and the Sub-Committee to deliberate on this item.

Upon a motion duly made and seconded it was

ORDERED:

Section 1.

That Chapter 240, Article III, Section 240.24.1.4 MS Medical Services District of the Zoning Ordinance is hereby amended as follows:

1. Add a new Special Permit use to Section 240-24.1.4B as follows:
 - (3) Registered Recreational Marijuana Cultivators, Research Facilities and Independent Testing Laboratories, subject to compliance with the provisions of Article XII herein.

Section 2.

That Chapter 240, Article III, Section 240.24.1.9.1 GM Gateway Medical District of the Zoning Ordinance is hereby amended as follows:

1. Add a new Special Permit use to Section 240-24.1.9.1B as follows:
 - (2) Registered Recreational Marijuana Cultivators, Research Facilities and Independent Testing Laboratories, subject to compliance with the provisions of Article XII herein.

Section 3.

That Chapter 240, the Zoning Ordinance be amended by renumbering the existing Article XII (Administration and Enforcement) to Article XIII and by sequentially renumbering each Article thereafter and by substituting in place of the existing ARTICLE XII the following:

“ARTICLE XII Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories.

§240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories.

A. Purpose; applicability; use; prohibited marijuana establishments

(1) 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, G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017, 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 MS Medical Services District and the GM Gateway Medical 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.

(2) Applicability. The cultivation, processing, packaging, and transfer of marijuana products; conducting of research regarding marijuana products; and testing of marijuana or cannabis is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted under this Article.

(3) Use. Within the MS Medical Services District and GM Gateway Medical 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 and §240-24.1.2E herein and subject to all additional standards and conditions of this Article.

(4) 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 MS Medical Services District and GM Gateway Medical District, subject to all the requirements of this Article, all other types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses are prohibited.

B. Definitions. Any term not specifically defined herein shall have the meaning as defined in Massachusetts General Laws Chapter 94G, §1, and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of Marijuana.

CANNABIS OR MARIJUANA OR MARIHUANA - All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

- (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- (b) hemp; or
- (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

CRAFT MARIJUANA COOPERATIVE – A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

RECREATIONAL MARIJUANA ESTABLISHMENT, INDEPENDENT TESTING LABORATORY – A laboratory that is licensed by the Cannabis Control Commission and is:

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual

- recognition arrangement or that is otherwise approved by the Cannabis Control Commission;
- (b) independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and
 - (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA CULTIVATOR –
An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA RESEARCH FACILITY – An entity licensed to engage in research projects by the Cannabis Control Commission.

C. Requirements for allowed Marijuana Cultivators, Research Facilities and Independent Testing Laboratories.

Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall comply with the following requirements:

(1) General

- a) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall comply with applicable State and local laws, regulations, ordinances, codes, conditions and agreements with the Town, including, but not limited to, 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 and M.G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of Marijuana, the Town of Barnstable's General Ordinances, the Town of Barnstable's Zoning Ordinances, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Cultivators, Research Facilities and Independent Testing Laboratories (including, but not limited to, the Town's Planning Board special permit), and agreements between the Marijuana Cultivator, Research Facility or Independent Testing Laboratory and the Town, including host community agreements.
- b) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall maintain all permits and licenses required by State and local laws. Any voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Cultivators, Research Facilities and Independent Testing Laboratories' Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the Marijuana Cultivator, Research Facility or Independent Testing Laboratory and pending further determination by the Planning Board.

- c) All taxes and charges owed to the Town must be paid on a current basis. Failure to pay all taxes and charges shall be subject to the provisions of Chapter 121 of the Barnstable Code and all other available legal remedies.
- d) An approved Host Community Agreement shall be required prior to granting a Special Permit for a Marijuana Cultivator, Research Facility or Independent Testing Laboratory.
- e) Dimensional requirements. Except where it is explicitly stated otherwise in this Article, Marijuana Cultivator, Research Facilities and Independent Testing Laboratories shall conform to the dimensional requirements applicable within the underlying and other overlaying zoning districts.
- f) Parking. The required number of parking spaces for Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall be one space for every 700 square feet of gross floor area. The Planning Board shall also rely on the recommendation of Site Plan Review.
- g) Loading. The Planning Board may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
- h) Landscaping. Landscape requirements in the underlying zoning district shall apply.
- i) Landscape Buffers. The landscape setback from any residential property line shall be 20 feet. Landscape buffers shall be densely landscaped with a combination grasses, trees, and shrubs providing year-round screening.
- j) Signage. The signage requirements of the underlying zoning district pursuant to Article VII of this chapter shall apply. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
- k) Groundwater Protection. Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall be subject to the requirements of Section 240-35 Groundwater Protection Overlay Districts as applicable.

(2) Operational Requirements

- (a) All Marijuana Cultivators', Research Facilities' and Independent Testing Laboratories' licensed operations shall be conducted within a building at a fixed location.
- (b) No Marijuana Cultivators, Research Facilities or Independent Testing Laboratories shall allow research, testing, cultivation, processing, packaging, manufacturing, or display of Marijuana or Marijuana Products to be visible to the public without the use of binoculars, aircraft, or other optical aids.
- (c) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories may cultivate, process, package, or conduct research and testing on Marijuana or Marijuana Products as licensed by the Cannabis Control Commission only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Cultivator, Research Facility or Independent Testing Laboratory to access the area.

- (d) The hours of operation for a Marijuana Cultivator, Research Facility or Independent Testing Laboratory shall be those conditioned by the Marijuana Cultivator's, Research Facility's or Independent Testing Laboratory's special permit.
- (e) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
- (f) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
- (g) Marijuana Cultivators', Research Facilities' and Independent Testing Laboratories' operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Cultivator, Research Facility or Independent Testing Laboratory, or in use of Marijuana in any manner that violates State or local law.
- (h) Marijuana Cultivators, Research Facilities or Independent Testing Laboratories operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties.
- (i) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, or into a wastewater treatment system or in any other manner that may contaminate the groundwater and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of any adjoining use or property.
- (j) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall be required to remove all Marijuana and Marijuana Products by the earlier of: prior to surrendering its State-issued license; or within six (6) months of ceasing operations.
- (k) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories must display a sign legible from the exterior of the building in which the Marijuana Cultivator, Research Facility or Independent Testing Laboratory is located either by posting on the building exterior in close proximity to the entrance or by placement in a window in close proximity to the entrance with the text facing and legible from the exterior, which states: "Must be 21 years or older and show identification to enter this establishment."
- (l) Solid and liquid waste, including waste composed of or containing marijuana, finished marijuana, Marijuana-Infused Product, or byproducts of marijuana processing shall be stored, secured, managed, and disposed of in accordance with State Law and all other applicable statutes and ordinances and regulations of the Town.

(3) Security-Specific Requirements

- (a) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall submit and receive the approval of the Barnstable Police Department for its required security and emergency procedures,

including a disaster plan, which plan shall include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.

- (b) Lighting shall be designed and maintained so as to protect adjacent properties from intrusive lighting; however, in accordance with State Law, the exterior perimeter of Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall be sufficiently lit to facilitate surveillance.
- (c) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall secure every entrance so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the Marijuana Cultivator, Research Facility or Independent Testing Laboratory to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.
- (d) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
- (e) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall file an emergency procedures, including a disaster plan, with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.
- (f) Landscaping shall be in compliance with the requirements set forth herein, except that in accordance with State Law, Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall maintain trees, bushes, and other exterior vegetation so that they do not allow for a person or persons to conceal themselves from sight.

(4) Access to Premises and Information/Reporting/Record-Keeping

- (a) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall be subject to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and applicable Fire Department on week-days between 8:00 a.m. to 5:00 p.m. to determine the Marijuana Cultivator, Research Facility or Independent Testing Laboratory's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this Article. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Cultivator, Research Facility or Independent Testing

Laboratory. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

- (b) Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning & Development, Building, Health, Police, Fire and Public Works Departments.
- (c) Within twenty-four (24) hours of receipt of notice of it, Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall file with the Town Manager, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission) regarding the Marijuana Cultivator, Research Facility or Independent Testing Laboratory, or the Cannabis Control Commission license.

(5) Additional Location Requirements for Marijuana Cultivators, Research Facilities and Independent Testing Laboratories,

- (a) No Marijuana Cultivator, Research Facility and Independent Testing Laboratory shall be located within 500 feet, as measured from each lot line of the subject lot, of the following preexisting uses: K-12 educational use; childcare center; or children's camp.

D. Site Plan Review for Marijuana Cultivators, Research Facilities and Independent Testing Laboratories. Marijuana Cultivators, Research Facilities and Independent Testing Laboratories shall be subject to Article IX, Site Plan Review, Section 240-102.

E. Special Permits. The following apply to special permits to operate a Marijuana Cultivator, Research Facility or Independent Testing Laboratory.

- (1) Application requirements: Applicants shall include with their special permit application:
 - (a) Copies of any required licenses and permits relating to the operation of the Marijuana Cultivator, Research Facility or Independent Testing Laboratory, or, if an application for a required license or permit is pending, a copy of the application.
 - (b) Evidence of the applicant's right to use the proposed site as a Marijuana Cultivator, Research Facility or Independent Testing Laboratory, such as a deed, lease or purchase and sales agreement.
 - (c) A copy of the Site Plan Review Approval.
 - (d) A description of the security measures, required by this Article, approved by Barnstable Police Department and Cannabis Control Commission for the Marijuana Cultivator, Research Facility or Independent Testing Laboratory, as applicable.
 - (e) A copy of emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, approved by the Cannabis Control Commission for the Marijuana

Cultivator, Research Facility or Independent Testing Laboratory, as applicable.

- (f) A copy of the policies and procedures for the transfer, or acquisition of marijuana between Marijuana Cultivators, Research Facilities and Independent Testing Laboratories and other Recreational Marijuana Establishments, as applicable.
 - (g) A copy of proposed waste disposal procedures.
 - (h) Proof of liability insurance that is in accordance with 105 CMR 725.105(Q) or any applicable regulations promulgated by the Cannabis Control Commission.
 - (i) Any waivers from Cannabis Control Commission regulations issued for the Marijuana Cultivator, Research Facility or Independent Testing Laboratory, as applicable.
 - (j) A copy of the Community Host Agreement.
 - (k) Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning and Development Department determines is necessary for review, such as Department reports or transportation studies or a license application.
- (2) Special permit criteria, The Planning Board, subject to the provisions of §240-125C and §240-24.1.2E. shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:
- (a) That the Marijuana Cultivator, Research Facility or Independent Testing Laboratory has demonstrated compliance with or the ability to comply where the requirements are prospective with all of the General Requirements set forth in this Article.
 - (b) That the Marijuana Cultivator, Research Facility or Independent Testing Laboratory has an approved Host Agreement.
 - (c) That the Marijuana Cultivator, Research Facility or Independent Testing Laboratory has security and emergency procedures, including a disaster plan, approved by the Barnstable Police Department.
 - (d) The location is compliant with this Article in its entirety.
 - (e) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, cyclists and public transportation users.
 - (f) Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Cultivator, Research Facility or Independent Testing Laboratory shall not create a substantial adverse impact on nearby residential uses.
 - (g) A special permit granted under this Article shall have a term limited to the duration of the applicant's ownership or lease of the premises for a Marijuana Cultivator, Research Facility or Independent Testing Laboratory, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing Marijuana Cultivator, Research Facility or Independent Testing Laboratory location or transfer of an existing license to a new owner shall require a new Special Permit pursuant to the Barnstable Zoning Ordinance.

F. Implementation

This Article shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500.

G. Severability

The provisions of Article XII, §240-122.1 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.

That the Zoning Ordinance, Chapter 240, Article I, Prohibited Uses, §240-10, is hereby amended by adding a new paragraph E as follows:

“E. All types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses except for licensed Marijuana Cultivators, Research and Independent Testing Laboratory Facilities permitted as a conditional use in the MS Medical Services District and GM Gateway Medical District, subject to all the requirements of Article XII, §240-122.1 herein.”

VOTE:

Councilor Tinsley called for a charter objection. The agenda item was moved to the September 6, 2018 Council meeting.

JUMP TO 2018-074

2018-074 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,000,000 FOR THE PURPOSE OF FUNDING THE COTUIT BAY ENTRANCE CHANNEL DREDGING PROJECT AS OUTLINED IN THE FISCAL YEAR 2019 – FISCAL YEAR 2023 CAPITAL IMPROVEMENT PLAN INTRO: 03/15/18, 04/05/18, 04/26/18, 05/03/18, 05/17/18, 08/16/18

Upon a motion duly made and seconded it was

ORDERED: That the sum of **\$1,000,000** be appropriated for the purpose of funding the Cotuit Bay Entrance Channel Dredging Project as outlined in the Fiscal Year 2019 – Fiscal Year 2023 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,000,000**, and that in accordance with Chapter 44, Section 20 of the General Laws, any premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

VOTE: TO A PUBLIC HEARING ON 09/06/18 – PASSES UNANIMOUS

JUMP TO 2019-001

2019-001 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND SEASHORE HOMES, INC. LOCATED AT 185 RIDGEWOOD AVENUE, HYANNIS, MA INTRO: 07/19/18, 08/16/18

Daniel Ojala, of Down Cape Engineering, Inc. gave the rationale. He explained the

changes to the small wooded area clean it up and build a housing unit. This housing unit would not be 40B housing but would help the housing issue. This is a multi-family with off-sight sewer improvements.

President Steinhilber asked Elizabeth Jenkins to give an overview of the process. She said the multi-family dwelling is allowed in the downtown Hyannis area. She added this project did proceed through the site plan review and the Planning Board supported this item.

Open Public Hearing seeing no one close Public Hearing.

Councilor questions and comments:

Were the abutters notified of the public hearing? [Yes, there were two open public hearing meetings] Is there enough parking? [Possible parking for two people]

Upon a motion duly made and seconded it was

ORDERED: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the "Code"), to enter into and execute a Regulatory Agreement between the Town of Barnstable and Seashore Homes, Inc., for the property 185 Ridgewood Avenue, Hyannis, 0.39± acres, shown on Town of Barnstable Assessor's Map 328 as Parcel 226, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 14210, Page 101("the Property"); and permitting the development of the Property and granting the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT
Seashore Homes, Inc.
185 Ridgewood Avenue, Hyannis

This regulatory agreement ("Agreement") is entered into by and between the developer, Seashore Homes, Inc. ("Developer") with a usual address of PO Box 462, Dennis, MA 02638 and the Town of Barnstable ("Town"), a municipal corporation with a usual address of 367 Main Street, Hyannis, MA 02601, on this ___ day of _____, 2018 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code.

WITNESS:

WHEREAS, this Agreement shall establish the permitted uses, densities, and parking within the Development (as hereinafter defined), the duration of the agreement, and any other terms or conditions mutually agreed upon between Developer and the Town;

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of the agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, Developer will be the owner of the property at 185 Ridgewood Ave., Hyannis, Massachusetts consisting of 17,061± square feet (0.39± acres), shown on Town of Barnstable Assessor's Map 328 as Parcel 226, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 14210, Page 101("the Property");

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests;

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS, the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS, Developer has made application to the Planning Board pursuant to Chapter 168 of the Barnstable Code;

WHEREAS, the Development is located in the Downtown Hyannis Growth Incentive Zone (GIZ) as originally approved by the Cape Cod Commission by decision dated April 6, 2006, and re-designated by decision dated April 19, 2018, as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02 Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02, establishing revised development thresholds within the GIZ, under which this development may proceed and Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, prior to applying for approval of this Agreement, the Development was reviewed by the Town of Barnstable Site Plan Review Committee on April 5, 2018 (SPR 020-18) and the Site Plan Review Committee voted to find the development proposal approvable subject to the grant of a Regulatory Agreement and other conditions as stated in its letter dated April 9, 2018 (the "Site Plan Approval Letter");

WHEREAS, Developer proposes to develop the Property with two (2) new multi-family residential structures (two, four-unit townhouses) that will contain a total of eight (8) units with a combined total floor area of 6,448 square feet (plus crawl space area)– seven units at market rate and one affordable unit for households with income at or below 80% of AMI – and with paved parking areas and new storm water management systems, lighting, and landscaping.

WHEREAS, the project will provide thirteen (13) on-site surface parking spaces;

WHEREAS, after consultation by the Developer with the Department of Public Works, it has been determined that there is sufficient capacity for the project to be connected to and

served by the municipal sewer system, as provided by Paragraphs 10 through 13 herein, and the municipal water system and that doing so will be to the mutual benefit of the Developer and the Town;

WHEREAS, the developer has voluntarily agreed that one (1) unit will be an affordable unit for households with income at 80% of the Area Medium Income for the Town of Barnstable, as determined annually by the United States Department of Housing and Urban Development:

WHEREAS, the project provides, without limitation, the following site design, traffic safety, and community benefits:

- a. The project will provide market rate housing (the need for which was identified in the 2014 Housing Needs Assessment) in an area of Hyannis in need of redevelopment;
- b. Sufficient on-site parking for the residents and guests;
- c. Exterior site lighting improvements;
- d. Improved storm-water drainage management on-site;
- e. Adhering to smart growth standards and goals by providing attractive new housing opportunities in an area with close accessibility to public transit facilities, shopping, and other amenities.

WHEREAS, the project is consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan's goals of creating livable neighborhoods for year-round residents; creates housing opportunities for persons and households of all income levels; and creates consistency with the historic and maritime character of the area. The proposed building design relates to the surrounding neighborhood context in placement and scale, buildings on the local architectural context; the siding materials are composed of SmartSide 76 Series Primed Engineered Treated Wood Siding; and the site design features shared open space and parking.

WHEREAS, Developer would require zoning relief to allow for multi-family residential development in the Single-Family Residential District and certain other dimensional and parking-lot related relief, all as further defined in paragraph number 21 below;

WHEREAS, Developer has undergone a public hearing on the Regulatory Agreement application with the Planning Board and received a majority vote from the Planning Board approving the application on _____, 2018;

WHEREAS, Developer has undergone a public hearing on the Regulatory Agreement application before the Town Council and received a 2/3rds vote approving the application on _____, 2018;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows:

1. The Developer shall develop the property as follows:

- a. The Developer shall develop the Property with two (2) new multi-family residential townhouse structures that will contain a total of eight (8) units with a combined total floor area of 6,448 square feet (plus crawl space) two-bedroom one and a half baths units and laundry. Seven units will be at market rate. One unit will be an affordable unit for households with income at or below 80% of AMI.
 - b. Paved parking areas with new storm water management systems, lighting and landscaping will be installed;
 - c. The Developer agrees to construct the project in accordance with the plans and specifications submitted to and approved by the Town (hereinafter Development Plans), listed as follows and made a part of this Regulatory Agreement by reference:
 1. Civil Engineering plans entitled "Site Plan of Ridgewood Residences at 185 Ridgewood Avenue, Hyannis, MA prepared for Seashore Homes, Inc." dated March 6, 2018, last revised on May 31, 2018 (PB Comments), drawn and stamped by Daniel A. Ojala, P.L.S. P.E., Down Cape Engineering, Inc.
 2. Building floor plans and elevations prepared by Streibert Associates, Architects dated April 3, 2018, last revised May 28, 2018.
 - d. The Developer agrees to construct the project with SmartSide 76 Series Primed Engineered Treated Wood Siding as the exterior siding.
 - e. The Developer agrees to comply with the conditions in the aforesaid Site Plan Approval Letter dated April 9, 2018 (SPR 020-18).
2. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of 10 years from the effective date of the Agreement, provided, however, that prior to the expiration of said 10-year period Developer may request a twelve-month extension to obtain development permits. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. Other than a transfer to a single-purpose entity controlled by the Applicant and created specifically for development of the project, the development rights granted under this agreement shall not transfer to another owner without the prior written permission of the Town Manager under Section 168-5 of the Barnstable Town Code.
 3. One (1) of the units in the proposed new development shall be dedicated as an affordable housing unit in perpetuity and shall be eligible for inclusion on the State's subsidized Housing inventory 760 CMR 56, as follows:
 - a) The one unit shall only be rented to qualified households with an income of not more than eighty (80%) percent of Area Medium Income for the Town of Barnstable (as determined by HUD) and priced so as to be affordable and

not exceed a monthly housing cost of 30% of such households' annual income, including rent and utilities;

- b) In order to protect the perpetuity of the affordable units, an Affordable Housing Restriction such as the one for the Commonwealth of Massachusetts Department of housing and Community Development Local Initiative Program shall be prepared by the applicant and reviewed and approved by the Town Attorney's office and recorded as the senior encumbrance at time of recording of this agreement;
 - c) The owner shall enter into a Monitoring Services Agreement with an entity experienced in performing monitoring and enforcement services to ensure compliance with permit conditions regarding affordability (such as Barnstable Housing Authority) to annually verify compliance with the affordability terms of this agreement, as approved by the Town affordable Housing coordinator;
 - d) The owner shall prepare an Affirmative Fair Housing Marketing and tenant Selection plan which shall be approved by the Dept. of Housing and Community Development and the Town Affordable Housing Coordinator.
4. Lighting for the Development shall be contained on-site, shall be down cast, shall not contribute to light pollution of the area, and shall be constructed consistent with the lighting plans identified in paragraph 1, above.
 5. The site shall be landscaped consistent with the landscaping plan identified in paragraph 1, above. All landscaping within the development shall be low-water use and shall minimize the use of fertilizers and pesticides.
 6. The developer shall provide bike racks or bike storage on the Property.
 7. Rental restrictions: the units developed hereunder are intended for use and occupancy by individuals and/or families claiming legal residence in the Town of Barnstable (to the extent that the same is legally permissible under the fair housing and other laws and regulations of the Commonwealth of Massachusetts and the United States). Developer's minimum lease term of rental units shall be twelve (12) months. Sublease of rental units, if permitted by the Developer, shall be for a minimum term of ninety (90) days. The units developed hereunder shall be rental only, and any change shall be construed as a modification to this Agreement.
 8. All plumbing fixtures in the new units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project.
 9. Developer shall provide calculations demonstrating adequate water flow for fire suppression prepared by a fire protection engineer as required by the Hyannis Fire Department.
 10. The capacity of the existing sewer infrastructure shall be determined sufficient to accept wastewater flows from this development prior to the issuance of Certificates of Occupancy for any unit on the Property. Sufficient capacity shall result from

completion of (a) improvements proposed by the Developer and conditioned in paragraphs 11 through 13 below or (b) planned capacity upgrades to the Town sewer infrastructure or other changes as may be verified and approved by the Director of Public Works and shall relieve the Developer of its obligation under clause (a), whichever occurs first.

11. Seashore Homes, Inc. shall at its sole cost and expense obtain local sewer connection permits for and install the sewer infrastructure of the type and specifications within the layouts of Spring Street and Center Street as shown on the plan entitled "Sewer Plan of Spring Street, Hyannis, MA Prepared For Seashore Homes, Inc. Date: March 21, 2018 Rev.: May 31, 2018 (DPW Comments) Scale: 1" = 20" a copy of which is attached to this Regulatory Agreement as Exhibit C. Installation shall be completed substantially in compliance with the specifications set forth in Exhibit C as "SMH #13 Manhole Detail," "SMH #1A Manhole Detail," "Pipe in Trench," "Sewer Connection Profile" and "Typical Manhole Detail." Exhibit C is specifically incorporated by reference and made a part hereof.
12. Upon completion of such installation and inspections demonstrating that the sewer infrastructure is operational as provided in document provided by the Town of Barnstable Department of Public Works entitled, "Town of Barnstable Required Conditions to Accept Proposed Sewer Modifications," containing six (6) pages attached to this Regulatory Agreement as Exhibit D and specifically incorporated by reference and made a part hereof, Seashore Homes, Inc. shall deliver free from all liens and encumbrances and the Town Barnstable shall assume and accept ownership of all such sewer infrastructure (including without proposed 10" gravity sewer line, proposed MH 1A) free from all liens and encumbrances, and Seashore Homes, Inc. shall provide a Bill of Sale free from all liens and encumbrances and assignment of all warranties to the Town of Barnstable for such infrastructure.
13. Upon assumption and acceptance of ownership of the sewer infrastructure, the Town of Barnstable shall be solely responsible for all ongoing and future costs and expenses associated with the operation and maintenance of the sewer infrastructure, including without limitation access thereto and future extensions thereof.
14. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces), sewer permits and water permits. Only Town of Barnstable approved contractors are allowed to work on Town owned property. Contractors are required to have the insurance stipulated in the Street Excavation Rules and Regulations (SERR) and all work on town property must comply with all provisions of SERR. All work within the public way and public utility services shall be to Town Standards. All plans shall be reviewed and approved by the Department of Public Works prior to initiating any work within the public way.
15. Developer will make best efforts to complete construction work in accordance with a construction schedule submitted and approved in writing by the Town of Barnstable Building Commissioner and Hyannis Fire Department prior to the issuance of any foundation or building permits. Developer shall have two (2) years from the date of commencement of work to complete construction. To the extent construction impacts public property or public rites of passage, changes in the schedule, if

needed as work progresses, are subject to the written approval of the Barnstable Planning & Development Department. The construction schedule shall, to the maximum extent feasible, avoid interference with traffic on Ridgewood Ave. The developer shall notify in writing and receive the written approval from the Town of Barnstable Planning & Development Department and the Department of Public Works at least 48 hours in advance of working on Town property. The Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work as determined by Town.

16. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays. No construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration. Failure to comply with these protocols following written notice from the Building Commissioner shall be grounds for the issuance of a stop work order until agreement as to compliance with the protocols is achieved.
17. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained.
18. The total number of parking spaces proposed for the Development is thirteen (13) on the Property.
19. Changes to the approved Plans referenced in Paragraph No. 1 shall require an amendment to this agreement under either §168-5 or §168-10 of the Barnstable Code, as determined by the Town.
20. Construction debris shall be removed from the Property and shall be reused or recycled to the maximum extent possible.
21. The construction of this project will result in the following benefits to the Town:
 - a. The project will provide market rate housing (the need for which was identified in the 2014 Housing Needs Assessment) in an area of Hyannis in need of redevelopment;
 - b. Sufficient on-site parking for the residents and guests;
 - c. Exterior site lighting improvements;
 - d. Improved storm-water drainage management on-site;
 - e. Adhering to smart growth standards and goals by providing attractive new housing opportunities in an area with close accessibility to public transit facilities, shopping, and other amenities which will contribute to the revitalization of Hyannis.
22. The Town hereby grants waivers from the following Zoning Ordinance sections:

See Exhibit A attached hereto and incorporated herein by reference.
23. Upon completion of all work, Developer shall cause a registered engineer or land surveyor to submit as-built plans accompanied by a letter of certification, made

upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy.

24. The development allowed in this permit shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added without compliance with §168-10 of the Barnstable Code.

25. This Agreement shall be recorded with the Barnstable Registry of Deeds within sixty (60) days of its execution by the Town and a recorded copy shall be provided to the Barnstable Planning & Development Department, such recording to include the aforesaid Exhibit A hereto and the legal Property description as provided in Exhibit B attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed, on the day and year first above written.

Dated this _____ day of _____, 2018.

Town of Barnstable/

Seashore Homes, Inc.

By: _____
Mark S. Ells, Town Manager

By: _____
Deborah Mason, President

Hereunto duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ___ day of _____, 2018, before me, the undersigned notary public, personally appeared Mark Ells, Town Manager of the Town of Barnstable, and proved to me through satisfactory evidence of identification, being (check whichever applies):

Driver's license or other state or federal governmental document bearing a photograph image; Oath or affirmation of a credible witness known to me who knows the above signatory, or My own personal knowledge of the identity of the signatory, to be the person whose name is listed above, and acknowledged to me that he signed the foregoing instrument as his free act and deed as Town Manager of Barnstable and voluntarily for its stated purpose.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ___ day of _____, 2018, before me, the undersigned notary public, personally appeared Deborah Mason, President of Seashore Homes, Inc., and proved to me through satisfactory evidence of identification, being (check whichever applies):

Driver's license or other state or federal governmental document bearing a photograph

image; Oath or affirmation of a credible witness known to me who knows the above signatory, or My own personal knowledge of the identity of the signatory, to be the person whose name is listed above, and acknowledged to me that she signed the foregoing instrument as her free act and deed as President of Seashore Homes, Inc. and voluntarily for its stated purpose.

Notary Public

My Commission Expires:

**EXHIBIT A
ZONING WAIVERS**

REQUESTED ZONING WAIVERS			
Zoning Bylaw (date)	Required	Provided	Comments
CODE 240-53.B.(2) Reduction in parking landscape buffer, building to parking buffer.	10 feet required	buffer as indicated on drawings	Wheel stops provided
CODE 353-4 Reduction in dumpster setback from abutting properties (commercial to north)	10 feet required	4 feet perimeter	Fence abuts commercial Property alley
CODE 240-24.1.5A SF Single Family Residential District	Permitted uses: a. Single family b. Bed and breakfast c. Artists' lofts d. For those lots with frontage on South Street and/or High School Road professional offices Multifamily e. Renting rooms for not more than three members by the family residing in a single family dwelling	Multi-family	Applicant seeks to construct 8 multifamily residential units on .39 acre lot
240-91 Lot size relief Relief for abutting lot coverage if required due to any merger issues	40,000 square feet of area	.57 acres +/-	Locus appears to have merged with abutting commercial property (Map 328/73) 195 Ridgewood Avenue
240-24.1.5(B) Less than 10" perimeter green space	10" perimeter green space	As shown on the site plan	Majority conforms
240-24.1.11(A)(5)(c) Landscaping	20' Landscape setback to residential property line required.	As shown on site plan	

240-35.G.(4) Well Protection Overlay District Regulations Lot coverage	Natural State 30%	2% Natural	Portions previously developed will provide 30% plus 37% green landscaped areas.
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**EXHIBIT B
LEGAL DESCRIPTION**

The land situate at 185 Ridgewood Avenue, Barnstable (Hyannis), Barnstable County, Massachusetts, shown on the Site Plan referred to herein and containing approximately 17,061 square feet in area. Also being shown on Barnstable Assessors Map 328 as Parcel 226

Being a portion of the land described in Deed recorded with the Barnstable County Registry of Deeds in Book 14210, Page 101.

**EXHIBIT C
PLAN**

EXHIBIT D

TOWN OF BARNSTABLE
REQUIRED CONDITIONS TO ACCEPT PROPOSED SEWER MODIFICATIONS

PART 1 - GENERAL

1.1 DESCRIPTION

A. Work Included:

1. Work in this Section is part of what is required for the Applicant to perform the proposed modification to the Town's sewer system.
2. Work shall include the following: sewer pipe installation, sewer manhole installation and modifications, sewer pipe testing, and preparation of record drawings.
3. Clean, test, and adjust each piece of equipment and/or system to the complete satisfaction of the Town of Barnstable.
4. Keep accurate record documents for all additions, substitutions of material, variations in work, and any other additions or revisions.

B. General Definitions:

1. Gravity sewer testing shall be generally defined as the performance testing and inspecting each and every length of sewer pipe and associated appurtenances (including manholes).

- C. Submittals:
 - 1. The Contractor shall submit submittals of each component of the proposed work to the Engineer and the Town for review and approval.
- D. Schedules:
 - 1. The pre-startup meeting shall be held at least ten working days prior to the beginning of construction. The meeting shall be held at the office of Department of Public Works, 382 Falmouth Road, Hyannis, MA.

PART 2 – PRODUCTS – Not Used

PART 3 - EXECUTION

3.1 GRAVITY SEWER TESTING

- A. General:
 - 1. All sewers, manholes, and appurtenant work, in order to be accepted by the Town, shall be subjected to tests that will determine the degree of watertightness and horizontal and vertical alignment.
 - 2. Thoroughly clean and/or flush all sewer lines to be tested, in a manner and to the extent acceptable to the Town, prior to initiating test procedures.
 - 3. Perform all tests and inspections in the presence of the Town engineers and others as in accordance with the requirements of the local and state codes.
- B. Line Acceptance Tests (Gravity sewers with no active service connections):
 - 1. Test all gravity sewer lines with no active service connections for leakage by conducting a low pressure air test.
 - 2. Equipment:
 - a. Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.
 - b. Pneumatic plugs shall resist internal test pressures without requiring external bracing or blocking.
 - c. All air used shall pass through a single central panel.
 - d. Connect 3 individual hoses:
 - (1) From the control panel to the pneumatic plugs for inflation,
 - (2) From the control panel to the sealed sewer line for introducing the low pressure air,
 - (3) From the sealed sewer line to the control panel for continually monitoring the air pressure rise in the sealed line.
 - 3. Testing Pneumatic Plugs:
 - a. Seal test all pneumatic plugs prior to using them in the actual test.
 - b. Lay one length of pipe on the ground and seal both ends with the pneumatic plugs to be tested.
 - c. Pressurize the sealed pipe to 5 psig.
 - d. The pneumatic plugs are acceptable if they remain in place without bracing.

4. Testing Sewer Pipeline:
 - a. After the sewer pipe has been cleaned and the pneumatic plugs checked, place the plugs in the sewer line at each manhole and inflate them.
 - b. Introduce low pressure air into the sealed sewer pipeline until the air pressure reaches 4 psig greater than the average groundwater pressure.
 - c. Allow a minimum of 2 minutes for the air pressure to stabilize to a minimum of 3.5 psig greater than the groundwater pressure. Groundwater is assumed to be at ground surface unless the Contractor can prove by otherwise by test pitting.
 - d. After the stabilization period, disconnect the air hose from the control panel to the air supply.
 - e. The pipeline will be acceptable if the pressure decrease is not greater than 1/2 psig in the time stated in the following table for the length of pipe being tested:

<u>Pipe Diameter (inches)</u>	<u>Time (Min.) for Length of Pipe</u>			
	<u>0-100 ft</u>	<u>101-200 ft</u>	<u>201-300 ft</u>	<u>301-400 ft</u>
4	2.0	2.0	2.0	2.0
6	3.0	3.0	3.0	3.0
8	4.0	4.0	4.0	5.0
10	5.0	5.0	6.0	8.0
12	5.5	5.5	8.5	11.5

5. Test Results:
 - a. If the installation fails the low pressure air test, determine the source of leakage.
 - b. Repair or replace all defective materials and/or workmanship and repeat low pressure air test at no additional cost to the Owner.
- C. Line Acceptance Tests (Gravity sewers with active services):
1. Test all new gravity sewer lines with active services by conducting a low-pressure air test on all joints using a packer after all services have been connected or capped at the property line and all trenches backfilled but before the surface course of permanent pavement is installed.
 2. Equipment:
 - a. Closed-circuit television system.
 - b. Testing devices (packer):
 - (1) Capable of isolating individual joints by creating a sealed void space around the joint being tested.
 - (2) Constructed such that low pressure air can be admitted into the void area.
 - (3) Shall contain a pressure gauge accurate to one tenth (0.1) psi in-line with the feed line to monitor the void pressure.
 - (4) Capable of performing in sewer lines where flows do not exceed 1/4 of the pipe diameter without resorting to any method of flow control.

3. Testing Sewer Pipeline Joints:
 - a. Test all joints except those with visible infiltration.
 - b. Procedure:
 - (1) Pull television camera through sewer line in front of the packer.
 - (2) Position the packer on each joint to be tested.
 - (3) Inflate the sleeves on each end of the packer.
 - (4) Apply four (4.0) psi pressure above the existing hydrostatic pressure on the outside of the joint to the void area created around the inside perimeter of the joint.
 - (5) Shut off the supply of air once the pressure has stabilized at the required amount.
 - (6) Monitor the void pressure for thirty (30) seconds.
 - (7) Repair the joint if the pressure drops more than one half (1/2) psi in the thirty (30) seconds.
 - c. Water pressure testing may be used in lieu of air testing subject to review and approval by the Town.
 - d. Re-clean and re-inspect all lines not approved by the Town at no additional cost to the Owner.
 - e. Repairing of Joints:
 1. When a joint fails the pressure test, excavate and repair the failed joint. Repairing joints with chemical grout will not be permitted.
 - f. The Engineer may request checking of the testing equipment for accuracy.
 1. Perform standard air test on a clean continuous section of pipe.
 2. Repair the equipment if the void pressure drops.
 - g. Testing Operation Inspection:
 1. Reset each joint, as specified herein, prior to acceptance and final payment for joint testing. Retest all joints that fail until the test requirements are met.
 - h. The contractor will supply a black and white photograph of every joint that fails the pressure test.

D. Alignment Tests (Gravity Sewers):

1. Perform tests for the correctness of horizontal and vertical alignment on each and every length of gravity sewer pipeline between manholes.
2. Alignment tests to be conducted after all pipe has been installed and backfilled.
3. The observation test shall be conducted after all upstream work has been completed and the pipeline cleaned of debris.
4. Notify the Town at least 72 hours in advance of the proposed observation testing.
5. Introduce water into the sewer lines to be tested from the upstream manhole prior to the observation test but no more than 24 hours in advance of the test.
6. Beam a source of light, acceptable to the Town, through the pipeline from both ends and the Town will directly observe the light in the downstream, and/or upstream manhole of each test section.

7. The length of pipe between manholes, diameter of pipe and amount of light observed in the manhole at the end of each pipe section will determine acceptance of the alignment test by the Town.
8. The amount of vertical and horizontal deflection shall not be greater than the ASTM allowance and (manufacturer's recommendations) for the pipe being tested.
9. No standing water shall be allowed. The presence of standing water shall be cause for rejection of that pipe (including manhole) section.
10. Improper alignment will be corrected by re-excavation and resetting of pipe at no additional cost to the Owner.

E. Pipe Deflection: (Gravity Sewers)

1. Pipe provided under this specification shall be installed so there is no more than a maximum deflection of 5.0 percent. Such deflection shall be computed by multiplying the amount of deflection (normal diameter less minimum diameter when measured) by 100 and dividing by the nominal diameter of the pipe.
2. The Contractor shall wait a minimum of 30 days after completion of a section of sewer, including placement and compaction of backfill, before measuring the amount of deflection by pulling a specially designed gage assembly through the completed section. The gage assembly shall be in accordance with the recommendations of the pipe manufacturer and be acceptable to the Town.
3. Should the installed pipe fail to meet this requirement, the Contractor shall do all work to correct the problem as the Town may require without additional compensation.

F. Television Inspection Tests (Gravity Sewers)

1. Where television inspection testing is required, test procedures shall be in compliance with the requirements.
2. No standing water shall be allowed. The presence of standing water may be cause for rejection of that pipe.
3. Any standing water, detectable leaks, improper joints or any other unacceptable feature detected by the television inspection will be corrected by re-excavation and resetting pipe at no additional cost to the Owner.

G. Inspection of Appurtenant Installations:

1. Completely inspect, at a time determined by the Town, all manholes and inlets to ascertain their compliance with the Drawings and Specifications.
2. Provide access to each manhole and inlet and check the following characteristics:
 - a. Shape and finish of invert channels,
 - b. Water tightness and finish of masonry structures,
 - c. Location, type, and attachment of stops,
 - d. Elevation and attachment of frames, covers, and openings,
 - e. Pattern and machining of covers, and
 - f. Drop connection arrangements.

H. Manhole Leakage Testing:

1. Perform a vacuum test on all manholes.
2. All testing must be performed in the presence of a Town engineer.
3. Suitably plug all pipes entering each manhole and brace plugs to prevent blow out.
4. The manhole shall be tested by a vacuum test after assembly of the manhole, connection piping and backfilling. Vacuum testing to be conducted prior to construction of invert channels.
5. Plug all lifting holes completely with non-shrink grout.
6. Properly tighten all boot clamps and brace all plugs to prevent them from being sucked into the manhole.
7. Install the testing equipment according to the manufacturer's instructions.
8. A vacuum of 10 inches of Hg shall be drawn on the manhole and the loss of 1 inch of Hg vacuum timed. The manhole shall be considered to have passed the test if the time for the loss of 1 inch of Hg vacuum is:
 - a. Not less than 2 minutes for manholes less than 10-feet deep.
 - b. Not less than 2.5 minutes for manholes 10 to 15-feet deep.
 - c. Not less than 3 minutes for manholes more than 15-feet deep.
9. If the manhole fails the initial test, the Contractor shall locate the leak(s) and make repairs. The manhole shall be retested until a satisfactory test result is obtained.
10. After the manholes have been backfilled and prior to final acceptance, any signs of leaks or weeping visible inside the manholes shall be repaired and the manhole made watertight.

3.2 RECORD DRAWINGS

- A. General: Legibly mark Contract Drawings to record existing utilities and actual construction of all work, including but not limited to the following (where applicable):
 1. Existing Utilities

Water mains and services, water main gate valves, sewer mains and services, storm drains, culverts, steam lines, gas lines, tanks and other existing utilities encountered during construction must be accurately located and shown on the Drawings. In congested areas supplemental drawings or enlargements may be required.

 - a. Show any existing utilities encountered in plan and profile and properly labeled showing size, material and type of utility. Ties should be shown on plan. Utility should be drawn to scale in section (horizontally and vertically) and an elevation should be called out to the nearest hundredth of a foot.
 - b. When existing utility lines are broken and repaired, ties should be taken to these locations.
 - c. If existing water lines are replaced or relocated, document the area involved and pipe materials, size, etc. in a note, and with ties.
 2. Manholes, Catch Basins and other structures.
 - a. Renumber structure stationing to reflect changes.
 - b. Show ties to center of structure covers or hatches.
 - c. In general, show inverts at center of structures. However, for manholes with drop structures, or steep channels (greater than 0.2' change on slope), show inverts at face of manhole.

- d. Show inverts for other structures at the face of the structure.
 - e. Draw any new structures that are added on plan and profile.
 - f. Show any field or office redesigns.
 - g. Redraw plan if the structure's location is moved more than 5 feet in any direction. [Note: It is important to show existing utilities, as outlined in Paragraph 1 above, especially if they were one reason for relocating the sewer, manholes and other structures.]
 - h. Redraw profile if inverts changed by more than 6 inches.
3. Gravity Sewer Line
- a. Change sewer line slopes indicated on Drawings if inverts are changed.
 - b. Draw any new gravity lines that are added on plan and profile.
 - c. Show any field or office redesigns.
 - d. Redraw the sewer line profile if manhole inverts are redrawn.
 - e. Redraw the sewer line on plan corresponding to relocated manholes.
4. House Services
- a. Draw all house services (even to empty lots) on plan, and show ties.
 - b. Show ties or distances to wyes from manhole.
 - c. Show chimneys heights in the profile.
5. Ledge
- a. Ledge profiles should be shown. Note whether the plotted ledge profile reflects undisturbed or expanded conditions.
6. Roads
- a. Show centerline road profile and level spot elevations.
 - b. Show pavement widths.
 - c. On road cross sections, show the pavement cross slope.
 - d. Show any deviations from the design plans.

VOTE: -PASSES 13 YES

**2019-004 APPROPRIATION ORDER IN THE AMOUNT \$11,438.30 FOR THE PURPOSE OF ADDRESSING THE IMPACT OF TRANSPORTATION NETWORK SERVICES ON TOWN OF BARNSTABLE TRANSPORTATION INFRASTRUCTURE
INTRO: 07/19/18, 08/16/18**

Mark Milne, Director of Finance, gave the rationale.
Open Public Hearing seeing no one close Public Hearing.

Upon a motion duly made and seconded it was

ORDERED: That the sum of **\$11,438.30** be appropriated for the purpose of addressing the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services within the Town of Barnstable including, but not limited to, the complete streets program, or other programs that support alternative modes of transportation, and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose.

VOTE: PASSES 13 YES

-

2019-005 APPROPRIATION ORDER IN THE AMOUNT OF \$80,000 COMMUNITY PRESERVATION FUNDS FOR PASSIVE RECREATION SHARED USE PEDESTRIAN AND BICYCLE PATH PHASE 4 INTRO: 07/19/18, 08/16/18

Rationale given by Lindsey Counsell, Chair of the Community Preservation Committee
Dan Santos, Director of Public Works, gave an overview of the PowerPoint presentation. He explained the Rail Trail projects. He added this was a ten-year goal project.

Open Public Hearing seeing no one close Public Hearing.

Upon a motion duly made and seconded it was

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G.L. c 44B, the sum of Eighty Thousand and NO/100 (**\$80,000.00**) Dollars be appropriated and transferred from the amount set aside for open space (recreation) in the Community Preservation Fund for a route alternatives study for Phase 4 of the Cape Cod Rail Trail shared use pedestrian and bicycle path extending from near the intersection of Mary Dunn Road and Independence Drive in the Town of Barnstable to the Barnstable/Sandwich Town Line; and the Town Manager is authorized to contract for and expend the appropriation made available for this purpose subject to the oversight of the Community Preservation Committee.

VOTE: PASSES 13 YES

Planning Board rejoined the Town Council meeting at approximately 9:15 pm.
Ruth Weil, Town Attorney, explained the Town had 21 days to deliver recommendation.

Planning Board Chair Mary Barry said they were ready to vote on this item.

Upon a motion duly made and seconded it was to adopt agenda item 2019-015. She handed the Clerk the signed written recommendation. **(Exhibit C)**

VOTE: PASSES 4 YES 1 NO (LASELVA) and 1 ABSTAIN (SWARTZ)

Close Planning Board Meeting

Vice President Crocker mentioned the sub committee was in favor of the agenda item as well.

5 YES 1 ABSTAIN

Councilor questions and comments:

Would like this industry to be friendly to small, local businesses. There are concerns, as the majority of our population voted no on this marijuana issue. We need education before we can move in the right direction.

Councilor Beedenbender called for a friendly amendment in which the Council would revisit this agenda item in 6 months, while simultaneously having a working group to study the impact and effectiveness of this matter. Councilor Cullum felt 6 months to short to completely understand all ramifications of the marijuana issue. Councilor Rapp Grassetti inquired about the working group – who would staff it? [Some Council members, some Town Staff and some industry people] **FRIENDLY AMENDMENT IS WITHDRAWN.** Councilor Beedenbender revised the amendment language to revisit the agenda item on or about June 2019 with a working group in place to study the marijuana issue and agenda

item.

Councilor Cullum clarified the need for a continual ban from this date tonight for one year.
REVISED AMENDMENT IS WITHDRAWN.

Councilor Tinsley questioned the agenda item did we want to ban all medical marijuana because the agenda item bans 4 other non-medical business opportunities. Ruth Weil, Town Attorney explained cultivation was permitted and a moratorium was not favored by the courts in Massachusetts.

VOTE:

Councilor Tinsley called for a charter objection. The agenda item was moved to the September 6, 2018 Council meeting.

**2019-006 APPROPRIATION ORDER IN THE AMOUNT OF \$200,000.00
COMMUNITY PRESERVATION FUNDS FOR COMMUNITY HOUSING CREATION
HOUSING ASSISTANCE CORPORATION (HAC) 57 RIDGEWOOD AVENUE, HYANNIS
INTRO: 07/19/18, 08/16/18**

Rationale was given by Lindsey Counsell, Chair of the Community Preservation Committee.

Dave Dunn of Housing Assistance Corporation (HAC) explained was seeking approval of the affordable units at 57 Ridgewood Way. He added there would be 8 units, 6 market place with 2 affordable housing.

Open Public Hearing seeing no one close Public Hearing.

Upon a motion duly made and seconded it was

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c 44B, the sum of Two Hundred Thousand and No/100 (\$200,000.00) Dollars be appropriated and transferred from the amount set aside for community housing in the Community Preservation Fund; and that the Town Manager is authorized to contract for and expend the amounts appropriated for the creation by Housing Assistance Corporation of two affordable year-round rental housing units for residents with household incomes under 80% AMI within a new multifamily development located on an underutilized vacant lot at 57 Ridgewood Avenue, Hyannis and to execute, deliver, accept and record restrictions for the purposes authorized herein subject to oversight by the Community Preservation Committee.

VOTE: PASSES 13 YES

**2018-159 ORDER TO AMEND THE ZONING ORDINANCE TO PROHIBIT NON-MEDICAL MARIJUANA IN ALL ZONING DISTRICTS WITHIN THE TOWN OF BARNSTABLE
INTRO: 06/07/18, 07/19/18, 08/16/18**

Upon a motion duly made and seconded it was open and continue to September 6, 2018 meeting

ORDERED: That the Code of the Town of Barnstable, Zoning Ordinance, Chapter 240, Article I, Prohibited Uses, §240-10, is hereby amended by adding a new paragraph E as follows:

“E. All types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses.”
VOTE: TO CONTINUE TO 09/06/18 - PASSES UNANIMOUS

2019-016 RESOLVE SEEKING LETTER OF SUPPORT FOR DECLARATION OF SEPTEMBER 27 AS CAPE COD INDEPENDENCE DAY INTRO: 08/16/18

Upon a motion duly made and seconded it was **RESOLVED**, that the Town Council, pursuant to the policy adopted under Town Council Order 2015-024, hereby approves sending a letter of support for the proclamation of September 27th as Cape Cod Independence Day to the Barnstable County Commissioners as submitted by Phineas Fiske, a Board member of Tales of Cape Cod, a non-profit organization housed in the historic Olde Colonial Courthouse, 3047 Main Street, Barnstable Village. The proposal was endorsed by the Barnstable Historical Commission on June 19, 2018 and by the Barnstable Old King’s Highway Historic District Committee on June 27, 2018
VOTE: PASSES UNANIMOUS

2019-017 TRANSFER ORDER OF \$300,000 FOR THE EMERGENCY REPAIRS AND DESIGN OF LONG-TERM SOLUTION FOR THE HYANNIS WEST ELEMENTARY SCHOOL ROOF TRUSS REPAIRS INTRO: 08/16/18

Rationale was given by Dave Kanyock, Director of Facilities. He explained the roof trusts needed emergency repairs.

Upon a motion duly made and seconded it was **ORDERED**: That the sum of **\$300,000** be transferred from the remaining unexpended bond proceeds appropriated under Town Council order **2016-081** for the purpose of evaluating and implementing the emergency repairs to the Hyannis West Elementary School roof truss failure and for the design of the long-term solution for the failing truss systems
VOTE: PASSES UNANIMOUS

2018-018 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND BIG PINK, LP INTRO: 08/16/18

Upon a motion duly made and seconded it was **ORDERED**: That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the “Code”), to enter into and execute a Regulatory Agreement between the Town of Barnstable and Big Pink, LP for the property 49 Elm Avenue, Hyannis, .0969 acres (4,223 sq. ft.), shown on Town of Barnstable Assessor’s Map 327, Page 75, and which is more particularly described in the deed recorded with the Barnstable Registry District of the Land Court as Certificate of Title No. 212309 (“the Property”); and permitting the development of the Property and granting the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT

BIG PINK LIMITED PARTNERSHIP
49 ELM AVENUE, HYANNIS, MA 02601

This regulatory agreement (the "Agreement") is entered into by Big Pink, LP, a Massachusetts limited partnership with an address of Post Office Box 611, Hyannis Port, Massachusetts 02647 (the "Applicant" and the "Developer"), including successors and assigns, and the Town of Barnstable, a municipal corporation with a place of business at 367 Main Street, Hyannis, MA 02601 (the "Town") on this ___ day of _____, 2018 (the "Effective Date") pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code.

WHEREAS, this Agreement shall establish the permitted use and density with the development on the hereinafter identified Property, the duration of the Agreement, and any other terms or conditions mutually agreed upon between the Applicant and the Town;

WHEREAS, the Applicant is the legal owner of the real property located at 49 Elm Avenue, Hyannis, Massachusetts which as an area of .0969 acres (4,223 sq. ft.) and is shown on Barnstable Assessor's Map 327, Page 75, the title to which is evidenced by Certificate of Title No. 212309 recorded with the Barnstable Registry District of the Land Court;

WHEREAS, the Property is improved with a two-story building with 3,400 gross square feet (the "Building");

WHEREAS, the Building was constructed circa 1929 and has had various uses over the years but most recently has been vacant commercial space on the first floor and a two-bedroom apartment on the second floor;

WHEREAS, the provisions of Article III of Chapter 112 of the Barnstable Code are applicable because the subject property is located within the Hyannis Main Street Waterfront Historic District;

WHEREAS, the Applicant is not changing the exterior of the Building in any substantial or material manner and, thus, relief from Article III of Chapter 112 of the Barnstable Code is not necessary;

WHEREAS, the Applicant proposes to renovate the existing building to include up to three (3) apartments;

WHEREAS, the Applicant seeks to convert the empty first floor commercial space into one (1) new one-bedroom apartment, one (1) new studio apartment, and maintain the existing two-bedroom apartment and thus have three (3) apartments in the Building;

WHEREAS, to proceed with the project, the Applicant requires relief from Section 240-24.1.3(B)(3) to allow more than sixteen dwelling units per acre, from Section 240-24.1.3(D)(3)(b) to allow three on-site parking spaces where four are required that do not meet design criteria (buffers and landscaping.).

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapter 168 of the Barnstable Code;

WHEREAS, the Town and the Applicant desire to set forth their respective understandings and agreements regarding the reuse of the Property;

WHEREAS, the Applicant is willing to commit to the reuse of the Property substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the reuse and therefore considered this Agreement to be in its best interests;

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of this Agreement and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health;

WHEREAS, the proposed development of the Property will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Development is located in the Downtown Hyannis Growth Incentive Zone (GIZ) as originally approved by the Cape Cod Commission by decision dated April 6, 2006, and re-designated by decision dated April 19, 2018, as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02 Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02, establishing revised development thresholds within the GIZ, under which this development may proceed and Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, prior to applying for approval of this Agreement, the Development was reviewed by the Town of Barnstable Site Plan Review Committee and the Site Plan Review Committee voted to find the development proposal approvable subject to the grant of a Regulatory Agreement and other conditions as stated in its letter dated November 29, 2017;

WHEREAS, the Town acknowledges that this Regulatory Agreement will result in a material increase in the number of year-round residential units for lower to middle income residents and will serve as so-called "workforce housing," as well as a reduction in the traffic flow on Elm Avenue;

WHEREAS, the Town acknowledged through the recently completed Housing Needs Assessment dated December 2014 that the Town of Barnstable's primary housing need is additional year-round rental housing and Hyannis is in need of market rate residential apartments and the two (2) new units, plus maintenance of the existing unit, for a total of three (3) units, will be such a benefit to the Town that mitigation is not warranted;

WHEREAS, the Town acknowledges that (a) the Property is located within the Hyannis Village Business Zoning District wherein multi-family residential use is allowed and (b) the existing commercial space and two (2) bedroom apartment are allowed uses; and (c) the use as residential development will result in appropriate use of the property and will generate less traffic than uses that are allowed-as-of-right;

WHEREAS, Applicant would require zoning relief to allow for multi-family residential development of the requested density within the Hyannis Village Business District and relief for parking requirements and parking-lot dimensional requirements;

WHEREAS, the project is consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan's goals of creating livable neighborhoods for year-round residents; creates housing opportunities for persons and households of all income levels; is compatible with the historic and maritime character of the Downtown Hyannis.

WHEREAS, the Property is situated such that on-foot and bicycle access to workplaces and sundry shopping is viable, thus making the Property appropriate for development of so-called Workforce Housing;

WHEREAS, the proposal has undergone public hearings on the Agreement application and received an affirmative majority vote from the Planning Board on May 11, 2018;

WHEREAS, the proposal has undergone a public meeting on the Agreement application before the Town Council and received no less than a two-thirds vote approving the application on _____;

WHEREAS, this Agreement authorizes only the uses and intensity of use and mitigation stipulation, if any, specified herein. Any minor amendment to the authorized terms of this Agreement may be made by the Town Manager pursuant to Section 168-5D; any substantial amendment to the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Section 168-10 of the Town Code.;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, their receipt and sufficiency of which each of the parties hereto acknowledged to each other, the parties hereby agree as follows:

1. The Applicant shall renovate and maintain the Building and Property at 49 Elm Avenue and construct one (1) new one-bedroom apartment, one (1) new studio apartment, and maintain one year-round two-bedroom apartment, for a total of three (3) year-round apartments, in substantial compliance with the site plan entitled "Site Plan in # 49 Elm Avenue, Hyannis, MA prepared for Jeffrey Lyon" dated May 19, 2017, with revisions through November 14, 2017, scale 1'=10', prepared and stamped Daniel A Ojala P.L.S, P.E., Down Cape Engineering, Inc., 939 Main Street (Rt.6A), Yarmouthport, MA 02675; the floor plans entitled "Revised Existing First Floor Plan," drawing no. 5 of 6, owner Jeff Lyons, 49 Elm Avenue, Hyannis, MA dated 3-10-18, prepared by F.D. Ciambriello, Residential & Commercial Design.
2. Applicant shall install a bicycle rack on the property for use of the residents as a Transportation Demand Management measure, prior to the issuance of the first certificate of occupancy.
3. Applicant shall install a split rail fence between the parking area and any abutters. A plan depicting said split rail fence shall be submitted to and approved by the Planning and Development Department before the issuance of a building permit.
4. Applicant shall assign one parking space to each apartment.

5. Based on existing acreage, the Applicant is permitted to construct 1 residential units in accordance with §240-24.1.3.A.1(w). In addition to the Principal Permitted Uses allowed in §240-24.1.3.A.1, this Agreement permits the construction of a total of 3 units as shown on the Plan on file with the Barnstable Planning Board. All units shall remain rental units in perpetuity and shall not be converted into a condominium form of ownership.
6. Any future partial and/or to total demolition of the Building shall constitute a substantial change to the Property and require review by Town Council and Planning Board pursuant to Section 168-10 of the Town Code.
7. The Applicant shall be responsible for obtaining all necessary building permits and all necessary approvals from the Town of Barnstable Public Works Water Supply Division as necessary and their use and construction of the Building shall be in compliance with all Building, Fire and Health Codes.
8. Prior to the issuance of any building permit, the Developer shall submit to the Planning and Development Department for approval a landscape plan for the Property that is consistent with Downtown Hyannis Design & Infrastructure Plan.
9. Developer shall be responsible for snow plowing and snow removal on the Development site in perpetuity.
10. Developer shall be responsible for providing trash removal on the Development site in perpetuity as is required by Section 54-5(2) of the Code of the town of Barnstable.
11. The basement of the Building shall not be converted to or used as habitable space.
12. All plumbing fixtures in the new units and any replacement plumbing fixtures in the existing units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
13. Developer's minimum lease term of rental units shall be twelve (12) months. Sublease of rental units, if permitted by the Developer, shall be for a minimum term of ninety (90) days. The lease documents shall be reviewed by the Town Attorney for consistency with the conditions of this Agreement prior to issuance of the first Certificate of Occupancy
14. Subsequent to the issuance of a Certificate of Occupancy for the units, each apartment shall be registered with the Health Division's Rental Registration Program.
15. The Project shall be completed in compliance with all requirements and conditions of the Site Plan Review approval issued on November 29, 2017.
16. All mortgagees holding good and valid mortgages against the Property have executed documents effectively subordinating the provisions of the mortgages to their Agreement, which subordination agreements shall be recorded contemporaneously with this Agreement.

17. All development rights granted under the Agreement shall run with the land. However, the Applicant agrees that 30 days prior to any change of ownership of the Property that written notice shall be sent to the Planning Board, Town Council, and the Town Manager and further agrees that all terms and conditions of this regulatory agreement and amendments thereto, shall be binding on successive owners of the Property.
18. All terms, conditions, and obligations contained in this Regulatory Agreement shall be binding on any successor or assignee of the Applicant.
19. This Agreement provides for the following relief:
 - A. Variance from Section 240-24.1.3(B)(3) to allow density to be more than 16 dwellings per acre to permit three units on .0969 acres; and
 - B. Variance from Section 240-24.1.3.(D)(3) to allow 3 on-site parking spaces when 4 are required;
 - C. Variance from Sections 240-52 and 240-53 to allow 3 on-site parking spaces that to not comply with the off-street parking regulations (buffers and landscaping).

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the date first above written.

Town of Barnstable,
By,

Big Pink Limited Partnership,
By,

Mark S. Ells
Town Manager

Jeffrey Lyon
General Partner

VOTE: TO A PUBLIC HEARING ON 09/06/18 – PASSES UNANIMOUS

2019-019 RESOLVE AUTHORIZING THE TOWN MANAGER TO EXECUTE A HOST COMMUNITY AGREEMENT WITH VINEYARD WIND, LLC FOR THE PROJECT CURRENTLY PENDING BEFORE THE COMMONWEALTH'S DEPARTMENT OF PUBLIC UTILITIES IN D.P.U. 18-18 AND 18-19, AND WITH THE ENERGY FACILITIES SITING BOARD IN EFSB 17-05 INTRO: 08/16/18

Upon a motion duly made and seconded it was

RESOLVED: that the Town Council approves the execution and delivery by the Town Manager of a Host Community Agreement between the Town of Barnstable and Vineyard Wind, LLC, which agreement is designed to mitigate the impacts of the Vineyard Wind Project which is currently pending before the Commonwealth's Department of Public Utilities in D.P.U. 18-18 and 18-19, and with the Energy Facilities Siting Board in EFSB 17-05. The Project proposes to construct an 800-megawatt wind generating facility in federal waters south of Martha's Vineyard and to connect that facility via cables into state waters and eventually to an electrical sub-station in the Town in order to connect to the regional electric grid

VOTE: TO A SECOND READING ON 09/06/18 – PASSES UNANIMOUS

**2019-020 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:
INTRO: 08/16/18**

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Airport Commission:** Norman Weill, 35 Dewey Lane, Cotuit, MA as a regular member to a term expiring 06/30/2021; **Community Preservation Committee:** Katherine Garofoli, 8 Western Circle, Hyannis, MA as a regular member to a term expiring 06/30/2021; **Hyannis Main Street Waterfront Historic District Commission:** Cheryl Powell, 419 Huckins Neck Road, Centerville, MA as a Historical Commission representative to a term expiring 06/30/2020; **Infrastructure and Energy Committee:** Peter Doyle, 60 Linden Lane, Osterville, MA as a regular member to a term expiring 06/30/2021; **Licensing Authority:** David Nunheimer, 221 Saddler Lane West Barnstable from an Associate Member to a full member to a term expiring 06/30/2021; **Youth Commission:** Morgan Contrino, c/o Hyannis Youth and Community Center, as a regular member to a term expiring 06/30/19

VOTE: TO A SECOND READING ON 09/06/18 – PASSES UNANIMOUS

**2019-021 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION
INTRO: 08/16/18**

Upon a motion duly made and seconded it was

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Community Preservation Committee:** Deborah Converse, 558 Lumbert Mill Road, Centerville, MA as a Barnstable Housing Authority representative member to a term expiring 06/30/2021; **Recreation Commission:** Rene Dowling, 35 Pasture Lane, Hyannis, MA as a regular member to a term expiring 06/30/19; Rene King, 192 Zeno Crocker Road, Centerville, MA as a regular member to a term expiring 06/30/2020

VOTE: TO A SECOND READING ON 09/06/18 – PASSES UNANIMOUS

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

Adjourned at 9:59 PM

Respectfully submitted,

Janet E. Murphy
Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: September 6, 2018

EXHIBITS:

- A. Town Manager Update for period August 10 through August 16, 2018
- B. Arthur J. Luke's letter, dated August 15, 2018
- C. Planning Board's letter, dated August 16, 2018