



TOWN COUNCIL
Committee to Review Zoning and Permitting Regulations
Selectmen's Conference Room
Thursday July 19, 2018 – 6:00pm

Councilors:

Vice-President James Crocker, Precinct 5 (CHAIR)
Councilor Jessica Rapp Grasseti, Precinct 7
Councilor Paula K. Schnepf, Precinct 12
Councilor Matthew Levesque, Precinct 10
Councilor Deborah Dagwan, Precinct 8
Member at large Hank Farnham

MEETING MINUTES

PRESENT: Chair of Committee, Vice-President James Crocker Jr.; Councilor Jessica Rapp Grasseti; Councilor Paul Neary; Councilor Paula Schnepf; Councilor Matthew Levesque; Hank Farnham, Member at large; **ALSO IN ATTENDANCE:** Elizabeth Jenkins, Planning and Development Director; Paul Wackrow, Principal Planner, Planning & Development Department; Ruth Weil, Town Attorney; Mary Barry, Chair, Planning Board; Steven Helman, member of Planning Board; **ABSENT:** Councilor Debra Dagwan

Chair opened the meeting at 6:03pm will Roll Call: There was no Public Comment. Vice President Crocker explained to the Committee and the Planning Board Sub Committee regarding the Items on the Agenda for discussion as being one that the President of the Council asked the Chair to take up tonight which will push back the discussion on the Highway Business, Vice President Crocker apologized to both Ms. Jenkins and Mr. Wackrow if the Committee did not get to the discussion of Highway Business, but that these Items were on the Agenda for the Town Council tonight and input from this Committee since it handles Zoning would be helpful.

Chair of the Committee asked the members of the Committee to look at the following documents distributed for discussion regarding Town Council Agenda Item **2018-163** Amending Chapter 240, Article III, of the Zoning Ordinances to create a Cannabis Overlay District-A and Cannabis Overlay District-B and District Regulations for establishing and operating registered recreational marijuana dispensaries. Discussion regarding Town Council Agenda Item **2019-009 (in DRAFT form)** Amending Chapter 240, the Zoning Ordinances to add regulations for establishing and operating registered recreational marijuana research facilities and independent testing laboratories; Discussion regarding Town Council Agenda Item **2018-159** Order to amend the Zoning Ordinance to prohibit non-medical marijuana in all zoning districts within the Town of Barnstable.

Councilor Paula Schnepf explained the following that both ordinances that went before the planning Board and the concerns were the retail establishments. Councilor Schnepf attended both the meetings and heard the feedback from both the Planning Board and the public and that both of the ordinances introduced were missing some components on both, and both still did not address all the concerns, 2019-163 may not be expansive enough, 6 uses were allowed in the regulations, so we looked at it trying to address all of the 6 uses, the thought of the Zoning had a lot to do with the overlay already established in this area, and we also looked at other parts of the Community that may be compatible, and to eliminate the zoning near residential areas or our Main Streets, there was an area in Marstons Mills by the landfill, it was a small area for cultivation, but not retail. Our attempt in this resulted in the Item before you tonight; we tried to meet all the needs of our Community and the needs of our Community. Vice president Crocker asked "What uses did you want in Marstons Mills", Councilor Schnepf answered that the group of sponsors looked at an area for cultivation, and minimal manufacturing, we carved off the retail portion of it,; Vice President Crocker stated the restriction was the

number of licenses to three, Councilor Schnepf answered yes. Councilor Schnepf attended the meeting with the Cannabis Control Commission, and it was explained at that meeting that this process is very complicated with many layers, and it very difficult to set standards because it is forever changing environment, very controversial topic, that is highly regulated, so Barnstable is sort of jumping in front of the Control Commission before they have even established everything. This ordinance was designed after Brookline and with our own legal office helping us as well.

Chair of the Committee asked if anyone had any questions from any members to the Sponsor of 2019-163. Councilor Neary asked that this Item tonight is a vote having to do with strictly zoning or is this vote tonight on whether or not if we want recreational marijuana in town, or is this vote just to ask where it would be zoned if passed. Chair of the Committee said we need to vote on the Item as drafted, any other zoning options after that is not what we aren't discussing or voting on tonight, we are voting on the Item as is as written. Councilor Rapp Grasseti stated she is not comfortable in the area put forward for Zoning and she does not want to see recreational in this area, and she is not comfortable in supporting Item 2019-163, but is very happy to see another Item introduced on the testing portion of the ordinance.

Mary Barry, Chair of the Planning Board said that the two meetings they had was very passionate about whether this would be in the Town, and there was a number of people there wanting to promote this as a business, and then there was some in the middle that did not want it in their back yard, but not really saying no to it totally, which brought us to this third option, she felt that the Board was looking for a door number three because they did not want to say no altogether, but let's look to see where this would be better in the town. Mr. Helman stated that the three councilors that made the presentation made an outstanding presentation and answered a lot of my questions and really took away the fear, and became comfortable with discussing okay it's good to promote, but the location was the biggest hurdle. Ms. Barry said this is so very new for all of us, and the Cannabis Control Commission even stated there is a lot of pressure to make a decision by the end of the year, or they make the decision for you. Ms. Barry said it would be great if another community already did this and we had the information from them to say this is what worked for them and this is what did not work for us , and then we could make a decision based on that. The Planning board deliberations were messy, but she believed that everyone on the Board was respectful of each other, and that is why the Planning Board was looking for a third option, the Planning Board was uncomfortable banning it all together, but just not to locate it where the Town wants to locate it or zone for it in that area, there was a lot of people not willing to agree with the zoning area. Hopefully there will be a third option. The Planning Boards voted no on both with one abstention, the recommendation on 163 was no, and on 159 it was no; the recommendation on 163 was to extend the moratorium for an additional 6 months and review the ordinance to look at a town wide map, the Planning Board wanted other areas looked at other than the one proposed, but make it a town wide search for land.

Councilor Dagwan wanted to comment on the statement made that there are no communities that have done this, so we have nothing to look at and compare it to, Councilor Dagwan said that Colorado has ha this legal for a number of months, so they have data we and look at and should have looked at. Councilor Dagwan also wanted to know

CHAIR OF THE COMMITTEE ASKED FOR A MOTION TO SUPPORT IN THE POSITIVE 2018-163 AS DRAFTED

COUNCILOR DEBRA DAGWAN MADE THE MOTION;

COUNCILOR NEARY SECONDED THE MOTION;

VOTE: 2 YES, 4 NO

2018-163 AMENDING CHAPTER 240, ARTICLE III, OF THE ZONING ORDINANCES TO CREATE A CANNABIS OVERLAY DISTRICT-A AND CANNABIS OVERLAY DISTRICT-B AND DISTRICT REGULATIONS FOR ESTABLISHING AND OPERATING REGISTERED RECREATIONAL MARIJUANA DISPENSARIES

ORDERED:

Section 1.

That Chapter 240, Article III of the Zoning Ordinance is hereby amended by adding a new Section 240-30.1 "Cannabis Overlay Districts" as follows:

§240-30.1 Cannabis Overlay Districts.

- A. District established. A Cannabis Overlay District (COD) is hereby established and shall be considered as superimposed over any other districts established by this chapter in two areas, COD-A and COD-B, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.
- B. Purpose; applicability; use.
- (1) Purpose. To provide for the location of Medical Marijuana Treatment Centers (MMTC) and Recreational Marijuana Establishments (RME), 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 and G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, in locations suitable for lawful MMTCs and RMEs and to minimize adverse impacts of MMTCs and RMEs 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 MMTCs and RMEs.
 - (2) Applicability. The cultivation, production, processing, manufacturing, assembly, packaging, retail or wholesale sale, trade, distribution, or dispensing of marijuana is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted under this section.
 - (3) Use. Within the COD-A, licensed Medical Marijuana Treatment Centers (MMTC) and Recreational Marijuana Establishments (RME) may be permitted as a conditional use, provided a special permit is first obtained from the Zoning Board of Appeals. Within the COD-B, only non-retail Recreational Marijuana Establishments (RME) may be permitted as a conditional use, provided a special permit is first obtained from the Zoning Board of Appeals. All special permits granted under this section shall be subject to the provisions of §240-125C and §240-24.1.2.E. (as applicable) herein and subject to all additional standards and conditions of this section.
- C. 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.

MEDICAL MARIJUANA TREATMENT CENTER - Also known as a Registered Marijuana Dispensary (RMD), a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

RECREATIONAL MARIJUANA ESTABLISHMENT – Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

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, 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, MARIJUANA PRODUCT MANUFACTURER – An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

RECREATIONAL MARIJUANA ESTABLISHMENT, MARIJUANA RETAILER – An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

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

D. Cap on the Number of Special Permits for Recreational Marijuana Retailers

Pursuant to MGL c. 94G §3(a) (2), the number of Recreational Marijuana Retailers shall be limited to three (3) establishments in Town of Barnstable to be located in COD-A only, which is fewer than 20 per cent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138 §15

- E. On-Site Consumption. On-site consumption of recreational marijuana products at MMTCs or RMEs shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL 94G §3(b).
- F. Requirements for Recreational Marijuana Establishments and Medical Marijuana Treatment Centers. Recreational Marijuana Establishments and Medical Marijuana Treatment Centers shall comply with the following requirements:

(1) General

- (a) MMTCs and RMEs 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, 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 MMTCs and RMEs (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the MMTC or RME and the Town, including host community agreements.
- (b) MMTCs and RMEs shall maintain all permits and licenses required by State and local laws. Any voiding of the Cannabis Control Commission's or Department of Health's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Department of Health or Cannabis Control Commission approval), and any revocation or suspension of the Recreational Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the MMTC or RME and pending further determination by the Zoning Board of Appeals.
- (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 Recreational Marijuana Establishment and Medical Marijuana Treatment Centers.
- (e) Dimensional requirements. Except where it is explicitly stated otherwise in this section, MMTCs or RMEs shall conform to the dimensional requirements applicable within the underlying and other overlaying zoning districts.
- (f) Parking. The required number of parking spaces for a MMTC registered marijuana dispensary or a RME, Marijuana Retailer shall be one space for every 200 square feet of gross floor area; and one space for every 700 square feet of gross floor area for any type of MMTCs except marijuana dispensaries or RMEs except Marijuana Retailers. The Zoning Board of Appeals shall also rely on the recommendation of Site Plan Review.
- (g) Loading. The Zoning Board of Appeals may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
- (h) Landscaping. For MMTCs or RMEs in the COD-A, Landscape requirements in the underlying zoning district shall apply. For MMTCs or RMEs in the COD-B, §240-53. Landscape requirements for parking lots 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. For MMTCs or RMEs in the COD-B, signage shall not exceed two signs, the total area of which shall not exceed 24 square feet. No part of any freestanding sign shall exceed six feet above existing average grade. External illumination of signage may be permitted only during actual hours of businesses. In the COD-A, the signage requirements of the underlying zoning district pursuant to Article VII of this chapter shall apply. The Zoning Board of Appeals may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
- (k) Groundwater Protection. Uses and development in the COD-A and COD-B shall be subject to the requirements of Section 240-35 Groundwater Protection Overlay Districts as applicable.

(2) Operational Requirements

- (a) All MMTC or RME's licensed operations shall be conducted within a building at a fixed location.
- (b) No MMTC or RME shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible to the public without the use of binoculars, aircraft, or other optical aids.
- (c) MMTCs and RMEs may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the MMTC or RME to access the area.
- (d) The hours of operation for a RME shall be those conditioned by the RME's special permit. The hours of operation of MMTC or RME Retailer shall be limited to the hours between 8:00 a.m. to 8:00 p.m.
- (e) MMTCs and RMEs shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
- (f) MMTCs and RMEs shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
- (g) MMTC and RME operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the MMTC or RME, or in use of Marijuana in any manner that violates State or local law.
- (h) MMTC and RME operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties.
- (i) MMTCs and RMEs 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) MMTCs and RMEs 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) MMTCs and RMEs are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.
- (l) MMTCs and RMEs must display a sign legible from the exterior of the building in which the MMTC or RME 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."
- (m) 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) MMTCs and RMEs shall submit and receive the approval of the Barnstable Police Department for its required security and emergency procedures, including a disaster plan, which plan may 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 MMTCs and RMEs shall be sufficiently lit to facilitate surveillance.
- (c) MMTCs and RMEs shall secure every entrance so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the MMTC or RME to

access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.

- (d) MMTCs and RMEs shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
- (e) MMTCs and RMEs 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, MMTCs and RMEs 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) MMTCs and RMEs 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 MMTC or RME's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. 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 MMTC or RME. 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) MMTCs and RMEs 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, MMTCs and RMEs 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 and Massachusetts Department of Public Health) regarding the MMTC or RME, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

(5) Additional Location Requirements for MMTCs and RMEs,

- (a) No MMTC or RME shall be located within 500 feet, as measured from each lot line of the subject lot, or the following preexisting uses: K-12 educational use; childcare center; or children's camp.

G. Site Plan Review for MMTCs and RMEs. MMTCs and RMEs shall be subject to Article IX, Site Plan Review, §240-102.

H. Special Permits. The following apply to special permits to operate a MMTC or RME.

(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 MMTC or RME, or, if an application for a required license or permit is pending, a copy of the application.
- (b) Evidence of the applicant right to use the proposed site as an MMTC or RME, 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 section, approved by Barnstable Police Department and MDPH or CCC for the MMTC or RME, 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 MDPH or CCC for the MMTC or RME, as applicable.
 - (f) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between MMTC or RME, 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 CCC.
 - (i) Any waivers from MDPH or the CCC regulations issued for the MMTC or RME, 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 Zoning Board of Appeals, subject to the provisions of §240-125C. 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 MMTC or RME has demonstrated compliance with or the ability to comply where the requirements are prospective with all of the General Requirements set forth in this section.
 - (b) That the MMTC or RME has an approved Host Agreement.
 - (c) That the MMTC or RME has a security and public safety plan approved by the Barnstable Police Department.
 - (d) Issuance of the special permit would not contravene the cap on the number of special permits that may be granted to Recreational Marijuana Retailers (see subsection 4 of this section).
 - (e) The location is compliant with this section in its entirety.
 - (f) 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.
 - (g) Traffic generated by client trips, employee trips, and deliveries to and from the MMTC or RME shall not create a substantial adverse impact on nearby residential uses.
 - (h) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for an MMTC or RME, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing MMTC or RME location or transfer of an existing license to a new owner shall require a new Special Permit pursuant to the Barnstable Zoning Ordinance.

I. Revocation

In accordance with 105 CMR 105(O), Requirements Upon Expiration, Revocation or Voiding of Certificate of Registration of RMD, should DPH take action under this section, the special permit for a MMTC shall be null and void.

J. Implementation

This section 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.

K. Severability

The provisions of § 240-30.1 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 3

That the official zoning map of the Town of Barnstable is hereby amended by adding the Cannabis Overlay District-A (COD-A) and Cannabis Overlay District (COD-B) as shown on the maps entitled:

- “Proposed Amendment to the Town Zoning Map Creating the Cannabis Overlay District”
- “Proposed Amendment to the Hyannis Zoning Map Creating the Cannabis Overlay District”

- “Proposed Amendment to the Barnstable Zoning Map Creating the Cannabis Overlay District”
 - “Proposed Amendment to the Marstons Mills Zoning Map Creating the Cannabis Overlay District” and
 - “Proposed Amendment to the Osterville Zoning Map Creating the Cannabis Overlay District”
- dated June 1, 2018, as prepared by the Town of Barnstable GIS Unit.

Section 4

That Chapter 240, Article II, § 240-5 "Establishment of Districts" of the Zoning Ordinance is hereby amended adding “Cannabis Overlay District-A” and “Cannabis Overlay District-B” under Overlay Districts.

SPONSORS: Britt Beedenbender, Town Councilor Precinct 4; Jennifer Cullum, Town Councilor Precinct 13; Paula K. Schnepf, Town Councilor Precinct 12

DATE	ACTION TAKEN
<u>06/07/18</u>	<u>Refer to Planning Board</u>

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

BARNSTABLE TOWN COUNCIL

ITEM# 2018-163

INTRO: 06/07/2018, 07/19/18

SUMMARY

TO: Town Council
FROM: Britt Beedenbender, Town Councilor Precinct 4; Jennifer Cullum,
Town Councilor Precinct 13; Paula K. Schnepf, Town Councilor Precinct 12
DATE: June 7, 2018
SUBJECT: Adult Use Cannabis A Responsible Plan that Capitalizes in Economic Opportunities

RATIONALE: In 2016 voters in the Commonwealth of MA approved a ballot measure to legalize adult-use cannabis. In the Town of Barnstable there was almost an even split with 6 out of 7 precincts voting yes, with Precinct 11 missing a majority yes vote by 3.

Adult use cannabis is legal in Massachusetts. You can possess it, you can consume it and you can grow it. Citizens should be able to buy it legally as well and the state has left it to municipalities to determine how, where and in what manner. Prohibiting legal sales will guarantee a market of unsafe, untested product sold by unlicensed dealers who don't check IDs and don't pay taxes. Like Prohibition 100 years ago, marijuana forced lots of untaxable, unregulated transactions into the shadows and the wrong people were enriched.

We can ignore the fact that the state has legalized adult-use or we can be pro-active and thoughtful in how we zone, tax and regulate it. Through this process we will plan for growth, generate new dollars, lessen the impact of the black market and ensure quality and safety through regulation.

Responsible adults want access to adult-use cannabis and the economic opportunities that come with it.

Attached is a proposal for zoning along with a by-law that allows for adult-use cannabis in the Town of Barnstable. Approving this measure would position Barnstable as a leader on this issue as it recognizes the myriad of opportunities this industry can offer and in doing so is planning for growth and for the future of Barnstable.

Approving this measure is in alignment with a number of priority areas in the Town of Barnstable's Strategic Plan.

1. Finance

Goal: Provide a viable financial plan for meeting the operational and capital needs of the town with a balanced budget that includes ongoing cost reductions, maintaining reserves, and aggressively pursuing new growth dollars and revenue sources.

In 2017 the legal cannabis industry generated \$9 billion in revenue, \$1.4 billion in taxes and 121,000 jobs. In Eagle County, CO, a resort community similar to the Town of Barnstable, adult use cannabis generated about \$14M last year in adult-use sales which equates to \$415,000 in tax revenue based on 3% rate.

Several revenue opportunities exist if Barnstable approves this measure. State law requires that marijuana establishments execute host community agreements with municipalities in which they operate. Agreements may include a community impact fee of up to 3% gross sales. SIRA Naturals in Milford just agreed to a deal that plans for 5 annual payments of \$250,000 to the

town to go toward mitigating any impacts the facility could have and towards improving public health safety and security. Barnstable may also accept the local sales tax option and collect an additional 3% on retail sales of cannabis. In addition to new revenue opportunities through fees and sales, Barnstable stands to gain from gross dollars and employment opportunities from the creation of viable new businesses in our town.

2. Economic Development

Goal: Town Council and Town Manager to support and grow a vibrant economy with a diversity of businesses, both for-profit and non-profit, and a strong labor force.

The adult-use cannabis industry will offer year-round skilled and unskilled jobs to Cape Codders. These jobs include growers, technicians, bakers, researchers and systems specialists. As an example, SIRA Naturals in Milford employs 65 people who make between \$32,000-\$90,000. Additional opportunities exist for training and education in agricultural practices, plant science and systems management.

Cannabis businesses retain workers and utilize services from a wide variety of collateral sectors, such as construction, engineering, security, legal, insurance, real estate, and retail. Colorado's regulated cannabis market generated \$2.4 billion in overall economic activity in 2015. Tourism, jobs, real estate, education and tax revenue have all seen dramatic increases.

3. Public Health and Safety

Goal: Protect and promote the health, safety, and high quality of life of all town residents and visitors.

We cannot control users but we can control how they obtain their product, through a regulated and safe establishment that guarantees that the product is safe, tested and taxed. Our residents and our visitors deserve that option if they so desire.

Providing access to adult-use cannabis to responsible adults will diminish access and use by teens. In 2016 the Healthy Kids Colorado Study found that teens found marijuana harder to obtain because the legal market reduces the base for dealers. Studies in both CO and WA conducted after legalization found use decreased amongst youth.

Opioid use is a problem in our community and adult-use cannabis can be used successfully to reduce use and impact. Several recent studies have shown a decrease in opioid use in states that have legalized cannabis, and that cannabis can be used as a tool to decrease opioid use overall as either an alternative pain management or as a treatment for addiction.

A strategy included under this Goal was to "develop and implement a substance use prevention plan in collaboration with key stakeholders." Revenue from adult-use cannabis through a Community Host Agreement would provide funds to support this goal and to develop an education and prevention plan that is developed in collaboration with community stakeholders working on substance use from a range of perspectives.

Adult-use cannabis needs to be legitimized. It's not good for social cohesion as minorities are disproportionately criminalized and law-abiding citizens are asked to move into the shadows and procure cannabis from dealers. Law-abiding citizens should be able to access marijuana, as they do alcohol and cigarettes, from legitimate sources to ensure quality and safety, and should not feel stigmatized for it. This by-law provides a road map by which we can plan, regulate and tax this emerging industry.

The investments being made by the state have created an opportunity for us. There are responsible adults in our community who would like reliable access to locally-sourced cannabis - cannabis that is accurately labeled and predictable in its potency, cannabis that is tested for safety from undesirable contaminants, cannabis that does not sustain illegal black markets. When responsible adults purchase these products, they generate legitimate tax revenue and they create jobs for the retailers, the manufacturers, the laboratory technicians and local farmers...*who deserve this opportunity.*

This is the future and we should not run from it.

2019-009 AMENDING CHAPTER 240, THE ZONING ORDINANCES TO ADD REGULATIONS FOR ESTABLISHING AND OPERATING REGISTERED RECREATIONAL MARIJUANA RESEARCH FACILITIES AND INDEPENDENT TESTING LABORATORIES AND PROHIBITING ALL OTHER NON-MEDICAL MARIJUANA ESTABLISHMENTS

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 240-24.1.4(B) as follows:
 - (3) Registered Recreational Marijuana 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 240-24.1.9.1(B) as follows:
 - (2) Registered Recreational Marijuana 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 substituting in place of the existing ARTICLE XII the following:

“ARTICLE XII Registered Recreational Marijuana Research and Testing Facilities.

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

A. Purpose; applicability; use; prohibited marijuana establishments

- (1) Purpose. To provide for the location of Registered Recreational Marijuana 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 and G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, in locations within the Medical Services District and the GM Gateway Medical District suitable for lawful Marijuana Research and Independent Testing and to minimize adverse impacts of Marijuana 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 Research Facilities and Independent Testing Laboratories.

(2) Applicability. The 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 section.

(3) Use. Within the MS Medical Services District and GM Gateway Medical District, a licensed Marijuana Research Facility and 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 section shall be subject to the provisions of §240-125.C. and §240-24.1.2E. herein and subject to all additional standards and conditions of this section.

(4) Prohibition of All Other Non-Medical Marijuana Establishments. Except for licensed Marijuana 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 this Article, all other types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana cultivators, 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.

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

- (d) 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;
- (e) independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and
- (f) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

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

C. Requirements for allowed Marijuana Research Facilities and Independent Testing Laboratories. Marijuana Research Facilities and Independent Testing Laboratories shall comply with the following requirements:

(1) General

- (a) Marijuana 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, 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 Research Facilities or Independent Testing Laboratories (including, but not limited to, the Town's Planning Board special permit), and agreements between the Marijuana Research Facility or Independent Testing Laboratory and the Town, including host community agreements.

- (b) Marijuana 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 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 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 Research Facility or Independent Testing Laboratory.
- (e) Dimensional requirements. Except where it is explicitly stated otherwise in this section, Marijuana 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 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 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 Research Facilities' and Independent Testing Laboratories' licensed operations shall be conducted within a building at a fixed location.
- (b) No Marijuana Research Facility or Independent Testing Laboratory shall allow research, testing, cultivation, processing, manufacture, 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 Research Facilities and Independent Testing Laboratories may conduct research and testing on Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Research Facility or Independent Testing Laboratory to access the area.

- (d) The hours of operation for a Marijuana Research Facility or Independent Testing Laboratory shall be those conditioned by the Marijuana Research Facility's or Independent Testing Laboratory's special permit.
- (e) Marijuana 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 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 Research Facilities' and Independent Testing Laboratories' operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Research Facility or Independent Testing Laboratory, or in use of Marijuana in any manner that violates State or local law.
- (h) Marijuana 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 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 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 Research Facilities and Independent Testing Laboratories must display a sign legible from the exterior of the building in which the Marijuana 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 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 may 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 Research Facilities and Independent Testing Laboratories shall be sufficiently lit to facilitate surveillance.
- (c) Marijuana 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 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 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 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 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 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 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 section. 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 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 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 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 Research Facility or Independent Testing Laboratory, or the Cannabis Control Commission license.

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

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

D. Site Plan Review for Marijuana Research Facilities and Independent Testing Laboratories. Marijuana 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 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 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 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 section, approved by Barnstable Police Department and Cannabis Control Commission for the Marijuana 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 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 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 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 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 section.
 - (b) That the Marijuana Research Facility or Independent Testing Laboratory has an approved Host Agreement.
 - (c) That the Marijuana Research Facility or Independent Testing Laboratory has a security and public safety plan approved by the Barnstable Police Department.
 - (d) The location is compliant with this section 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 Research Facility or Independent Testing Laboratory shall not create a substantial adverse impact on nearby residential uses.
 - (g) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for a Marijuana Research Facility or Independent Testing Laboratory, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing Marijuana 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 section 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 cultivators, marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses except for licensed Marijuana 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.”

2018-159 ORDER TO AMEND THE ZONING ORDINANCE TO PROHIBIT NON-MEDICAL MARIJUANA IN ALL ZONING DISTRICTS WITHIN THE TOWN OF BARNSTABLE

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.”

BARNSTABLE TOWN COUNCIL

ITEM# 2018-159
INTRO: 06/07/18, 07/19/18

SUMMARY

TO: Town Council
FROM: Eric R. Steinhilber, Town Council President
DATE: June 7, 2018
SUBJECT: Order to amend the Zoning Ordinance to Prohibit Non-Medical Marijuana in all Zoning Districts within the Town of Barnstable

BACKGROUND: the residents of the Town of Barnstable went to the polls on November 8, 2016 to vote on Question 4.

QUESTION 4

LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2016

SUMMARY

The proposed law would permit the possession, use distribution, and cultivation of marijuana in limited amounts by persons age 21 and older and would remove criminal penalties for such activities. It would provide for the regulation of commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of such items.

The proposed law would authorize persons at least 21 years old to possess up to one ounce of marijuana outside their residences; possess up to ten ounces of marijuana inside their residences; grow up to six marijuana plants in their residences; give one ounce or less of marijuana to a person 21 years old without payment; possess, produce or transfer hemp; or make or transfer items related to marijuana use, storage, cultivation, or processing.

The measure would create a Cannabis Control Commission of three members appointed by the State Treasurer which would generally administer the law governing marijuana use and distribution, promulgate regulations, and be responsible for the licensing of marijuana commercial establishments.

The proposed law would also create a Cannabis Advisory Board of fifteen members appointed by the Governor. The Cannabis Control Commission would adopt regulations governing licensing qualifications; record keeping; health and safety standards; packing and labeling; testing; advertising and displays; required inspections; and such other matters as the Commission considers appropriate. The records of the Commission would be public records.

The proposed law would authorize cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana business and to limit the number of marijuana establishments in their communities. A city or town could hold a local vote to determine whether to permit the selling of marijuana and marijuana products for consumption on the premises at commercial establishments.

The proceeds of retail sales of marijuana and marijuana products would be subject to the state sales excise tax and an additional excise tax of 3.75%. A city or town could impose a separate tax of up to 2%. Revenue received from the additional state excise tax or from license application fees and civil penalties for violations of this law would be deposited in a Marijuana Regulation Fund and would be used subject to appropriation for administration of the proposed law. Marijuana-related activities authorized under this proposed law could not be basis for adverse orders in child welfare cases absent clear and convincing evidence that such activities had created an unreasonable danger to the safety of a minor child.

The proposed law would not affect existing law regarding medical marijuana treatment centers or the operation of motor vehicles while under the influence. It would permit property owners to prohibit the use, sale, or production of marijuana on their premises (with an exception that landlords cannot prohibit consumption by tenants of marijuana by means other than smoking); and would permit employers to prohibit consumption of marijuana by employees in the workplace. State and local governments could continue to restrict uses in public buildings or at or near schools. Supplying marijuana to person under the age of 21 would be unlawful.

The proposed law would take effect on December 15, 2016

A YES VOTE would allow persons 21 and older to possess, use and transfer marijuana and products containing marijuana concentrate (including edible products) and to cultivate marijuana, all in limited amounts, and would provide for the regulation and taxation of commercial sale of marijuana products.

A NO VOTE would make no changes in the current laws relative to marijuana.

ANALYSIS: The voters of Barnstable voted in the following:

Yes vote	12,432
No vote	13,463

Blanks votes 485

NEXT MEETING: _____, 2018 6pm

ADJOURNMENT: 6:56pm

40:17 (Tape)