



# Town of Barnstable Town Council

367 Main Street, Village of Hyannis, MA 02601  
Office 508.862.4738 • Fax 508.862.4770  
E-mail: [council@town.barnstable.ma.us](mailto:council@town.barnstable.ma.us)  
[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)

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Precinct 2

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Precinct 13

Administrator:  
Cynthia A. Lovell

Administrative  
Assistant:  
Kelly Crahan

## MEETING AGENDA TOWN HALL HEARING ROOM September 06, 2018 7:00 PM

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. TOWN MANAGER COMMUNICATIONS**
- 7. ACT ON MINUTES (Including Executive Session)**
- 8. COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements**
  - **Presentation on the “Public Art Discovery Walk Project” by Marilyn Heberling, Chair, Rachel Youngling, Treasurer, Mid Cape Cultural Council**
  - **Presentation by Mark A. Milne, CPA, Director of Finance Fiscal Year 2020 Preliminary Budget Planning**
- 9. ORDERS OF THE DAY**
  - A. Old Business**
  - B. New Business**
- 10. ADJOURNMENT**

**NEXT REGULAR MEETING: September 20, 2018**

ITEM NO.	INDEX TITLE	PAGE
<b>A. OLD BUSINESS</b>		
2018-074	Appropriation and Loan Order in the amount of <b>\$1,000,000</b> 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 <b>(Public Hearing) (Roll Call 2/3 vote)</b> .....	4
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 <b>(May be acted upon) (Roll Call 2/3 vote)</b> .....	5-12
2018-159	Order to amend the Zoning Ordinance to prohibit non-medical marijuana in all zoning districts within the Town of Barnstable <b>(Public Hearing) (Roll Call 2/3)</b> .....	13-14
2019-018	Regulatory Agreement with Big Pink Limited Partnership for 49 Elm Avenue Hyannis, MA 02601 <b>(Public Hearing) (Roll Call 2/3)</b> .....	15-20
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 <b>(May be acted upon)</b> .....	21
2019-020	Appointments to a Board/Committee/Commission: <b>Airport Commission:</b> Norman Weill, 35 Dewey Lane, Cotuit, MA as a regular member to a term expiring 06/30/2021; <b>Community Preservation Committee:</b> Katherine Garofoli , 8 Western Circle, Hyannis, MA as a regular member to a term expiring 06/30/2021; <b>Hyannis Main Street Waterfront Historic District Commission:</b> Cheryl Powell, 419 Huckins Neck Road, Centerville, MA as a Historical Commission representative to a term expiring 06/30/2020; <b>Infrastructure and Energy Committee:</b> Peter Doyle, 60 Linden Lane, Osterville, MA as a regular member to a term expiring 06/30/2021; <b>Licensing Authority:</b> David Nunheimer, 221 Saddler Lane West Barnstable from an Associate Member to a full member to a term expiring 06/30/2021; <b>Youth Commission:</b> Morgan Contrino, c/o Hyannis Youth and Community Center, as a regular member to a term expiring 06/30/19 <b>(May be acted upon)</b> .....	22
2019-021	Reappointments to a Board/Committee/Commission: <b>Community Preservation Committee:</b> Deborah Converse, 558 Lumbert Mill Road, Centerville, MA as a Barnstable Housing Authority representative member to a term expiring 06/30/2021; <b>Recreation Commission:</b> 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 <b>(May be acted upon)</b> .....	23

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**B. NEW BUSINESS**

2019-022	Acceptance of a grant in the amount of <b>\$59,988</b> from the Coastal Pollutant Remediation Grant Program to design Stormwater Best Management Practice’s (BMPs) for the Three Bays Area <b>(May be acted upon)</b> .....	24-25
2019-023	Supplemental Appropriation Order in the amount of <b>\$98,625</b> for the Fiscal Year 2019 Barnstable Police Department Personnel Operating Budget ( <b>Refer to Public Hearing 09/20/18</b> ) .....	26-28

Approve Minutes –August 16, 2018

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**Please Note:** The list of matters, are those reasonably anticipated by the council president, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than they appear on this agenda. Persons interested are advised, that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, may be put off to a continued session of this meeting, and with proper notice. Anyone requiring hearing assistance devices please inform the Town Clerk at the meeting.

**A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM #2018-074**

**INTRO: 03/15/18, 04/05/18, 04/26/18, 05/03/18, 05/17/18, 08/16/18, 09/06/18**

**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**

**General Fund Capital Improvement Plan**

**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.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>03/15/18</u>	<u>Refer to Public Hearing 04/05/18</u>
<u>04/05/18</u>	<u>Continued to a Public Hearing on 04/26/18</u>
<u>04/26/18</u>	<u>Continued to a Public Hearing on 05/03/18</u>
<u>05/03/18</u>	<u>Continued to a Public Hearing on 05/17/18</u>
<u>05/17/18</u>	<u>Continued to a Public Hearing on 08/16/18</u>
<u>08/16/18</u>	<u>Continued to a Public Hearing on 09/06/18</u>

- \_\_\_ Read Item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

**A. OLD BUSINESS (May be acted upon) (Roll Call 2/3 vote)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2019-015**

**INTRO: 08/09/2018, 08/16/18, 09/06/18**

**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**

**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.”

**SPONSORS:** Eric R. Steinhilber, Town Council President, Town Council, James Crocker Jr. Vice President

DATE	ACTION TAKEN
<u>08/09/18</u>	<u>Refer to Public Hearing with Planning Board 08/16/18</u>
<u>08/16/18</u>	<u>Charter Objection by Councilor Tinsley, continued to 09/06/18</u>

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close public hearing
- Council Discussion
- Move/Vote

# BARNSTABLE TOWN COUNCIL

ITEM # 2019-015

INTRO: 07/19/18, 08/16/18, 09/06/18

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Eells, Town Manager  
**THROUGH:** Eric R. Steinhilber, Town Council President; James Crocker Jr. Town Council Vice President  
**DATE:** July 19, 2018  
**SUBJECT:** 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

**BACKGROUND:** Following the issuance of the final draft regulations by the Cannabis Control Commission, the Town Council began the public process of addressing non-medical marijuana zoning within the Town of Barnstable in March of 2018. Since that time, there have been several hearings and opportunities to hear from the public, the Planning Board, and the Town Council. In addition to the public comments received, in drafting this article, planning and economic issues were also considered. The zones identified were determined to be appropriate for the proposed uses and in need of new real estate investment and new growth re-development opportunities. The leadership also sought feedback from the Councilor representing the zoning districts that are identified. Based on the information gathered, the Council leadership has drafted this article for discussion in an effort to address and balance the broad range of issues and concerns that have been raised during the public process with the hope of bringing this process to a reasonable and responsible conclusion for the Town of Barnstable.

**STAFF ASSISTANCE:** Eric R. Steinhilber, Town Council President, Town Council, James Crocker Jr. Vice President

**A. OLD BUSINESS (Public Hearing) (Roll call 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2018-159**

**INTRO: 06/07/18, 07/19/18, 08/16/18, 09/06/18**

**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.”

**SPONSOR:** Eric R. Steinhilber, Town Council President

DATE	ACTION TAKEN
<u>06/07/18</u>	<u>Refer to Planning Board</u>
<u>07/19/18</u>	<u>Continued Public Hearing to 08/16/18</u>
<u>08/16/18</u>	<u>Continued Public Hearing to 09/06/18</u>

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close public hearing
- Council Discussion
- Move/Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2018-159

INTRO: 06/07/18, 07/19/19, 08/16/18, 09/06/18

## 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:

Blanks votes	485
Yes vote	12,432
No vote	13,463

**STAFF SUPPORT:** Ruth Weil, Town Attorney

**A. OLD BUSINESS (Public Hearing) (Roll call 2/3)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2018-018**  
**INTRO: 08/16/18, 09/06/18**

**2018-018 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND BIG PINK, LP**

**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, Big Pink Limited Partnership,  
By, By,

\_\_\_\_\_  
Mark S. Ells,  
Town Manager

\_\_\_\_\_  
Jeffrey Lyon  
General Partner

**SPONSOR:** James M. Tinsley, Councilor Precinct 9

DATE	ACTION TAKEN
<u>08/16/18</u>	<u>Refer to second Reading 09/06/18</u>

- \_\_\_\_\_  
\_\_\_\_\_  
 Read Item  
 Motion to Open Public Hearing  
 Rationale  
 Public Hearing  
 Close Public Hearing  
 Council Discussion  
 Move/Vote

## BARNSTABLE TOWN COUNCIL

ITEM # 2018-018  
INTRO: 08/16/18, 09/06/18

### SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Planning & Development Director, Big Pink Limited Partnership  
**DATE:** August 16, 2018  
**SUBJECT:** Regulatory Agreement with Big Pink Limited Partnership for 49 Elm Avenue Hyannis, MA 02601

**BACKGROUND:** The proposed Regulatory Agreement with Big Pink Limited Partnership for 49 Elm Avenue Hyannis convert an existing building into three residential apartment units, two (2) apartments on the first floor (a studio and one-bedroom), with one (1) existing two (2) bedroom apartment on the second floor. After a public hearing, the Planning Board voted to recommend adoption of the proposed Agreement on July 9, 2018.

**RATIONALE:** Approval of a Regulatory Agreement Big Pink Limited Partnership allowing the specified zoning relief, upon the terms and conditions as approved by the Planning Board, will facilitate redevelopment of the Property and yield the following benefits to the Town:

- a. 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.
- b. Development of long standing vacant property will eliminate and reduce issues associated with this property including, but not limited to, homeless occupation and illicit activity;
- c. Development will significantly improve aesthetics on an often-traveled road;
- d. The project will provide market rate housing, the need for which was identified in the Town of Barnstable's Housing Production Plan;
- e. The project will provide significant investment in the East End of Hyannis;
- f. The Property is situated such that on-foot and bicycle access to workplaces is viable;
- g. 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; and
- h. Sufficient on-site parking for the residents and guests.

**STAFF SUPPORT:** Elizabeth Jenkins, Planning & Development Director

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2019-019  
INTRO: 08/16/18, 09/06/18**

**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**

**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

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
08/16/18	First Reading_____
_____	_____

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

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2019-020**  
**INTRO: 08/16/18, 09/06/18**

**2019-020 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:**

**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 member 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

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
08/16/18	First Reading _____
_____	_____

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

**A. OLD BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2019-021**  
**INTRO: 08/16/18, 09/06/18**

**2019-021 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**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

**SPONSOR:** Appointments Committee

DATE	ACTION TAKEN
<u>08/16/18</u>	<u>First Reading</u>
_____	_____

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

**B. NEW BUSINESS (May be acted upon)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2019-022  
INTRO: 09/06/18**

**2019-022 ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$59,988 FROM THE COASTAL POLLUTANT REMEDIATION GRANT PROGRAM TO DESIGN STORMWATER BEST MANAGEMENT PRACTICE (BMP) FOR THE THREE BAYS AREA**

**RESOLVED:** That the Town of Barnstable hereby accepts a grant of **\$59,988** from the Massachusetts Office of Coastal Zone Management to support the continuation of the stormwater remediation Best Management Practice (BMP) programming in the Three Bays Area and does hereby authorize the Town Manager to contract for and expend said funds for that purpose.

**SPONSOR:** Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Rationale
- \_\_\_ Council discussion
- \_\_\_ Move/vote



# BARNSTABLE TOWN COUNCIL

**ITEM # 2019-022**  
**INTRO: 09/06/18**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Daniel W. Santos, P.E., Director, Department of Public Works  
**DATE:** September 06, 2018  
**SUBJECT:** Acceptance of a grant in the amount of **\$59,988** from the Coastal Pollutant Remediation Grant Program to design Stormwater Best Management Practice's (BMPs) for the Three Bays Area

**RATIONAL:** In 2018, the Barnstable Department of Public Works applied for grant funding in the amount of **\$59,988** from the Massachusetts Office of Coastal Zone Management from the Coastal Pollutant Remediation Program Fiscal Year 2018 in support of Barnstable stormwater Best Management Practice (BMP) programs. This funding will continue to assist Department of Public Works to assess, design and complete permit applications for two or more top priority stormwater retrofit sites in the Three Bays watershed. This will help improve the water quality in the bays, restore habitat for shellfish, fish and wildlife; and restore the area for designated human uses including shellfishing, fishing and swimming.

**FISCAL IMPACT:** There is no immediate financial impact to the Town's operating budget as a result of accepting this grant. This is a reimbursement grant whereby the Town will have to expend the project costs of front and submit for reimbursement.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager recommends acceptance of this grant

**STAFF ASSISTANCE:** Daniel W. Santos, P.E., Director, Department of Public Works

**B. NEW BUSINESS (Refer to Public Hearing 09/20/18)**

**BARNSTABLE TOWN COUNCIL**

**ITEM #2019-023  
INTRO: 09/06/18**

**2019-023 APPROPRIATION ORDER IN THE AMOUNT OF \$98,625 FOR THE FISCAL YEAR 2019 BARNSTABLE POLICE DEPARTMENT OPERATING BUDGET**

**ORDERED:** That the sum of **\$98,625** be raised and appropriated for the purpose of funding the Fiscal Year 2019 Barnstable Police Department Personnel Operating Budget and that this sum be added to the **\$14,532,512** appropriated under Town Council Order 2018-111 resulting in a total Fiscal Year 2019 Operating Budget of **\$14,631,137**

DATE	ACTION TAKEN
_____	_____
_____	_____

- \_\_\_ Read Item
- \_\_\_ Motion to Open Public Hearing
- \_\_\_ Rationale
- \_\_\_ Public Hearing
- \_\_\_ Close Public Hearing
- \_\_\_ Council Discussion
- \_\_\_ Move/Vote

# BARNSTABLE TOWN COUNCIL

ITEM# 2019-023  
INTRO: 09/06/2018

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Matthew K. Sonnabend, Chief of Police  
**DATE:** September 06, 2018  
**SUBJECT:** Supplemental Appropriation Order in the amount of **\$98,625** for the Fiscal Year 2019 Barnstable Police Department Personnel Operating Budget

**BACKGROUND:** The Barnstable Police Department will assign a fulltime School Resource Officer (SRO) to the Barnstable United Elementary School (BUES) for the 180 school days of the school year commencing in late August, 2018.

The Police Department is not currently funded to absorb the costs of replacing a patrol officer for the SRO that will be removed from the dayshift patrol line. For this first year of the SRO program at BUES, the costs for replacement of the patrol officer taken off of the patrol line/day shift and placed into BUES will need to be calculated entirely on an overtime basis. This is due to the fact that it is not feasible to hire and train a new patrol officer replacement on an immediate basis. This replacement will take approximately a little over a year to hire and train in consideration of the Civil Service System, backgrounding, and the availability of Police Academies.

While the BUES will serve as the home base for the Elementary Level SRO, this SRO will also be responsible for serving as the SRO at the Barnstable Community Horace Mann Charter School, Centerville Elementary School, West Villages Elementary School, Hyannis West Elementary School and the Barnstable West Barnstable Elementary School. In addition to the daily work of the SRO during the school hours, the officer will be paid one hour of overtime each school day for prep work and follow-up. It is projected that the SRO will also attend special events typically held in the evening approximately 6 times/school year. The position will also be allotted 64 hours of overtime for investigation of calls for service to these elementary schools. The historical data of the number of calls for service to the six elementary schools from 2013-2017 generated 68 calls for service over the 4 years, which when divided by 4 years averages 17 calls for service per year, estimated to generate 4 hours of investigative overtime at a minimum. The anticipated costs of overtime to be incurred by the SRO assigned to the BUES include 1 hour of daily overtime, 24 hours of overtime to attend special school events such as festivals, concerts and field days and 64 hours of overtime for special investigations conducted outside of school hours.

**ANALYSIS:** The following represents both the overtime costs of a replacement officer to replace the officer who will be placed in the elementary schools in lieu of being utilized as a patrol officer and the overtime costs associated with the actual officer who will be assigned as the SRO for the BUES.

Breakdown of Overtime Costs for Replacement Patrol Officer

Average OT Rate for Patrol Officer Replacement of \$56.1146/Hour  
180 8-Hour School Days = 1,440 Hours x \$56.1146 \$ 80,805

Estimated Overtime Costs of Actual SRO Assigned to BUES

1 Hour Daily OT \$66.4920 x 180 School Days for SRO Assigned to BUES \$ 11,969  
6 School Events (Fall, Winter, Spring) x OT Rate of \$66.4920 x 24 Hours \$ 1,596

Special Investigations x OT Rate of \$66.4920 x 64 Hours    \$ 4,255

Estimate Overtime Cost for Patrol Officer Replacement \$ 80,805

Estimated Overtime Cost for Overtime Hours of Actual BUES SRO \$ 17,820

**Total Estimated Overtime Costs Not Funded in FISCAL YEAR 19 Budget \$ 98,625**

**FISCAL IMPACT:** This additional overtime for Fiscal Year 2019 will not become part of the Police Department's base overtime budget in Fiscal Year 2020. Instead, the base salary for one additional sworn officer (approximately \$58,000) will be added to the Police Department's budget.

The final passage of the Fiscal Year 2019 State Budget at the end of July 2018 resulted in additional net state aid for the Town of Barnstable over what was used to balance the recently passed Fiscal Year 2019 Town General Fund operating budget. Local aid for cities and towns is reported on what is known as the "Cherry Sheet". The Cherry Sheet lists all state aid categories as well as state assessments to arrive at a net state aid figure. The Fiscal Year 2019 budget development used the Cherry Sheet numbers for aid and assessments based on the Governor's budget proposal released in January of 2018. Due to the timing of the passage of the state's budget any changes to the net state aid figure was not known until after the town passed its Fiscal Year 2019 Operating Budget. The town will receive an additional **\$192,489** in net state aid for Fiscal Year 2019. This can be appropriated at any time prior to setting the town's Fiscal Year 2019 tax rate which is expected to occur in November 2018. This will be a recurring revenue source provided the state continues to fund local aid accounts at their current levels.

**STAFF ASSISTANCE:** Matthew K. Sonnabend, Chief of Police; Mark A. Milne, Director of Finance; Anne E. Spillane, Barnstable Police Department