



Town of Barnstable  
Town Council  
James H. Crocker Jr. Hearing Room  
367 Main Street, 2<sup>nd</sup> floor,  
Hyannis, MA 02601  
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## TOWN COUNCIL MEETING AGENDA

December 12, 2024

6:00 pm

### Councilors:

Felicia Penn  
President  
Precinct 13

Craig Tamash  
Vice President  
Precinct 4

Gordon Starr  
Precinct 1

Dr. Kristin Terkelsen  
Precinct 2

Betty Ludtke  
Precinct 3

John Crow  
Precinct 5

Paul C. Neary  
Precinct 6

Seth Burdick  
Precinct 7

Jeffrey Mendes  
Precinct 8

Charles Bloom  
Precinct 9

Matthew P. Levesque  
Precinct 10

Kris Clark  
Precinct 11

Paula Schnepf  
Precinct 12

Administrator:  
Cynthia A. Lovell  
[Cynthia.lovell@town.barnstable.ma.us](mailto:Cynthia.lovell@town.barnstable.ma.us)

The December 12, 2024, Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2<sup>nd</sup> Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel live stream on the Town of Barnstable's website:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to: <https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/TownCouncil/Agenda-Comment.asp>

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/86812388187> Meeting ID: 868 1238 8187  
US Toll-free • 888 475 4499

### PUBLIC SESSION

#### 1. ROLL CALL

#### 2. PLEDGE OF ALLEGIANCE

#### 3. MOMENT OF SILENCE

#### 4. PUBLIC COMMENT

#### 5. COUNCIL RESPONSE TO PUBLIC COMMENT

#### 6. TOWN MANAGER COMMUNICATIONS (Pre-Recorded and available on Video on Demand on the Town website)

#### 7. MINUTES

- ACT ON PUBLIC SESSION MINUTES: December 05, 2024

#### 8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

#### 9. ORDERS OF THE DAY

- A. Old Business
- B. New Business

#### 10. TOWN COUNCIL ELECTION OF 2025 OFFICERS

President  
Vice President

- Approval of Town Council Calendar of Meetings for 2025

#### 11. ADJOURNMENT

NEXT REGULAR MEETING: January 09, 2025

ITEM NO.	INDEX TITLE	PAGE
<b>A.</b>	<b>OLD BUSINESS</b>	
2025-049	Fiscal Year 2025 spending limitation for Asset Management Revolving Fund <b>(May be acted upon) (Majority Vote)</b> .....	3-4
<b>B.</b>	<b>NEW BUSINESS</b>	
2025-061	Appointments to a Board/Committee/Commission: <b>Conservation Commission:</b> Jeffrey Kaschuluk, as a regular member to a term expiring 06/30/2027; <b>Disability Commission:</b> Mackenzie Bonaiuto, as a regular member to a term expiring 06/30/2027; <b>Historical Commission:</b> John Richmond, from an alternate position to a full member position to a term expiring 06/30/2027; <b>Infrastructure and Energy Committee:</b> Ron Ruggiero, as a regular member to a term expiring 06/30/2027 <b>(First Reading) (Refer to Second Reading 01/09/2025)</b> .....	5
2025-062	Order pursuant to M.G.L. Chapter 40A, Section 5 submitting to the Planning Board a proposed zoning amendment establishing a new “Cannabis Overlay District” and expanding the existing Medical Marijuana Overlay District <b>(First Reading) (Refer to Planning Board)</b> .....	6-13

**Please Note:** The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it votes, the Council may go into executive session. The Council may also act on items in an order other than as 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, it may be continued to a future meeting, and with proper notice.

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

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-049**

**INTRO: 11/21/2024, 12/12/2024**

**2025-049 FISCAL YEAR 2025 SPENDING LIMITATION FOR ASSET MANAGEMENT REVOLVING FUND**

**RESOLVED:** That the Town Council hereby authorizes a spending limitation for Fiscal Year 2025 of **\$500,000** for the Asset Management Revolving Fund.

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

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Continue Item to 12/12/2024</u>
_____	_____

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

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-049**  
**INTRO: 11/21/2024/12/12/2024**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Eells, Town Manager  
**THROUGH:** Mark A. Milne, Director of Finance  
**DATE:** November 21, 2024  
**SUBJECT:** Fiscal Year 2025 spending limitation for Asset Management Revolving Fund

**BACKGROUND:** As part of the annual operating budget approval, the Town Council must set spending limitations for all revolving funds. Establishment and operation of the Town's revolving funds are located under Chapter 86, Article III of the Town's General Ordinances. The Asset Management Fund was added to the list of revolving funds per Town Council Order 2018-136 on May 15, 2018.

During the Fiscal Year 2025 budget approval process, the Asset Management Revolving Fund was removed from the list when authorizing the spending limitations for Fiscal Year 2025 due to outstanding legislative action in regard to the use of proceeds generated from the sale of property acquired by cities and towns through the foreclosure process. Some of the proceeds in the Asset Management Revolving Fund were from the sale of property that the Town had foreclosed on many years ago. Recent legislation passed by the state legislature and signed by the Governor exempts the proceeds residing in the Town's Asset Management Revolving Fund from the new legislation. Therefore, the Town may use these funds for their original intent, which is for the support and promotion of any expenditure related to the Town's comprehensive asset management program.

**FISCAL IMPACT:** Revolving fund expenditures are subject to the lesser of the spending limit established by the Town Council (\$500,000 as requested) or the balance in the fund (currently \$262,241.33).

**TOWN MANAGER RECOMMENDATION:** Mark S. Eells, Town Manager, recommends approval of this item.

**STAFF ASSISTANCE:** Mark A. Milne, Director of Finance

**B. NEW BUSINESS (First Reading) (Refer to Second Reading 01/09/2025)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-061  
INTRO: 12/12/2024**

**2025-061 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Conservation Commission:** Jeffrey Kaschuluk, as a regular member to a term expiring 06/30/2027; **Disability Commission:** Mackenzie Bonaiuto, as a regular member to a term expiring 06/30/2027; **Historical Commission:** John Richmond, from an alternate position to a full member position to a term expiring 06/30/2027; **Infrastructure and Energy Committee:** Ron Ruggiero, as a regular member to a term expiring 06/30/2027 **(First Reading) (Refer to Second Reading 01/09/2025)**

**SPONSORS:** Appointments Committee Members: Councilor Jeffrey Mendes, Chair; Councilor Kris Clark, Vice Chair; Councilor Kristin Terkelsen; Councilor Charles Bloom; and Councilor Seth Burdick

DATE	ACTION TAKEN
_____	_____
_____	_____

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

**B. NEW BUSINESS (First Reading) (Refer to Planning Board)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2025-062**  
**INTRO: 12/12/2024**

**2025-062 ORDER PURSUANT TO M.G.L. CHAPTER 40A, SECTION 5 SUBMITTING TO THE PLANNING BOARD A PROPOSED ZONING AMENDMENT ESTABLISHING A NEW “CANNABIS OVERLAY DISTRICT” AND EXPANDING THE EXISTING MEDICAL MARIJUANA OVERLAY DISTRICT**

**ORDERED:** That the attached six-page proposal to amend the Town’s Zoning Ordinance to establish a “Cannabis Overlay District” and to expand the existing Medical Marijuana Overlay District submitted to the Town Council on December 2, 2024 by 10 registered voters is hereby submitted to the Planning Board for review pursuant to the provisions of M.G.L. Chapter 40A, Section 5.

**SPONSOR:** Mark S. Ells, Town Manager, upon the petition of ten (10) registered voters

# BARNSTABLE TOWN COUNCIL

**ITEM# 2025-062**  
**INTRO: 12/12/2024**

## SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Kate Connolly, Assistant Town Attorney  
**DATE:** December 12, 2024  
**SUBJECT:** Order pursuant to M.G.L. Chapter 40A, Section 5 submitting to the Planning Board a proposed zoning amendment establishing a new “Cannabis Overlay District” and expanding the existing Medical Marijuana Overlay District

**BACKGROUND:** Section 5 of M.G.L. c. 40A, the state Zoning Act, provides that “[a]doption or change of zoning ordinances or by-laws may be initiated by the submission to the city council ... of a proposed zoning ordinance ... by ten registered voters in a city ... .” Section 5 further provides that the City Council “shall within fourteen days of receipt of such zoning ordinance amendment ... submit it to the planning board for review.”

On December 2, 2024, a resident of the Town submitted a proposed amendment to the Town’s zoning ordinance addressed to the Town Council, along with the signatures of at least ten registered voters of the Town. On December 2, 2024, the Town Clerk certified that the petition was signed by ten certified registered voters of the Town. In accordance with G.L. c. 40A, section 5, the proposed amendment has been placed on this meeting’s agenda for referral to the Planning Board.

**FISCAL IMPACT:** Undetermined at this time

TOWN OF BARNSTABLE  
BARNSTABLE TOWN CLERK

# The Commonwealth of Massachusetts

DATE and TIME this paper received  
by Registrar.

## PETITION

### TOWN OF BARNSTABLE

#### SUBJECT OR SUBJECTS REQUESTED

(To be filled in by petitioners. If space is insufficient, attach additional page of description to each petition form before signatures are gathered.)

**PETITION FOR AN ORDINANCE CHANGE AND ZONING PROPOSAL TO ESTABLISH A CANNABIS DISTRICT OVERLAY AND EXPAND THE EXISTING MEDICAL MARIJUANA DISTRICT**

To the Honorable Members of the Barnstable Town Council:

We, the undersigned residents of the Town of Barnstable, hereby submit this petition for a zoning map amendment and text amendment to regulate and manage the placement of marijuana establishments within our town. We respectfully request that the Town Council consider the following proposal:

#### 1. Establish a Cannabis Overlay District

We propose that the Town of Barnstable adopt a Cannabis Overlay District regulating the siting of adult-use and medical marijuana establishments. This district will overlay the following areas:

- a. The existing Medical Marijuana Overlay District;
- b. The existing Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District; and
- c. The B Business District.

The Cannabis Overlay District will permit the controlled and responsible placement of marijuana cultivators, research facilities, testing laboratories, marijuana product manufacturers, and retail marijuana establishments. The overlay will ensure that these businesses operate in locations that are appropriate and away from sensitive uses such as schools and residential areas, while maintaining access to key commercial areas.

#### 2. Expand the Existing Medical Marijuana Overlay District

In conjunction with the establishment of the Cannabis Overlay District, we propose the expansion of the areas in which Medical Marijuana establishment can be located to include the same areas designated within the Cannabis Overlay District. This expansion will allow for a unified approach to the siting of medical and adult-use marijuana establishments within Barnstable.

By expanding the Medical Marijuana Overlay District, the Town will benefit from a streamlined zoning framework that encompasses both medical and adult-use marijuana establishments, ensuring consistent regulation and enforcement across all cannabis-related businesses.

SIGNER  
INFORMATION

#### INSTRUCTIONS TO SIGNERS

For your signature to be valid, you must be a registered voter in the town and your signature should be written substantially as registered. Do NOT sign more than one petition for the same subject.

If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

If you have NOT moved since January 1 of this year, you need complete only columns I and II.

If you HAVE moved since January 1 of this year, you must complete columns I, II and III.

#### SIGNER'S STATEMENT

We, the undersigned, are qualified voters of the Town of Barnstable, and in accordance with the provisions of law, request a special town meeting for the purposes above.



Attachment 1: Proposed Text Change

AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING OVERLAY DISTRICT KNOWN AS THE "REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES OVERLAY DISTRICT" AND CREATING A NEW OVERLAY DISTRICT KNOWN AS THE "CANNABIS OVERLAY DISTRICT" AND EXPANDING THE EXISTING MEDICAL MARIJUANA OVERLAY DISTRICT

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

SECTION 1

By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to repeal the "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District" and "Medical Marijuana Overlay District" and create a "Cannabis Overlay District" as shown on maps dated October 1, 2024, prepared by the Town of Barnstable Geographical Information System Unit, and entitled: proposed amendment to the town zoning map.

SECTION 2

A. By amending Article II, Section 240-5, Establishment of districts, by deleting: "Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District" under the heading "Overlay Districts" and inserting: "COD Cannabis Overlay District."

SECTION 3.

By amending Article XVI Amendment; Definition; Moratorium to add:

**CRAFT MARIJUANA COOPERATIVE** — A marijuana cultivator composed 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.

**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 Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;

(b) Independent financially from any medical marijuana treatment center (RMD), 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.

**MARIJUANA COURIER** — An entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that

allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

**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.

**MARIJUANA ESTABLISHMENT (ME)** — A marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, independent testing laboratory, marijuana research facility, marijuana transporter, marijuana courier, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

**MARIJUANA MICROBUSINESS** — A co-located marijuana establishment that can be either a Tier 1 marijuana cultivator or product manufacturer or both, in compliance with the operating procedures for each license. A microbusiness that is a marijuana product manufacturer may purchase no more than 2,000 pounds of marijuana per year from other marijuana establishments.

**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.

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

**MARIJUANA RETAILER** — An entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment. An entity licensed to purchase and transport cannabis or marijuana products 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.

**MARIJUANA TRANSPORTER** — An entity, not otherwise licensed by the Cannabis Control Commission, which is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers. Marijuana transporters may be an existing licensee transporter or third-party transporter.

#### SECTION 4.

By amending Article III District regulations to repeal Section 240-31 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District and replace it with:

##### § 240-31 Cannabis Overlay District.

A. District established. A Cannabis Overlay District is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.

Use. Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, Marijuana Establishments shall be allowed within the Cannabis Overlay District upon the granting of a special permit, subject to the requirements set forth in this section. Within the Cannabis Overlay District, and only within the Cannabis Overlay District, Marijuana Establishments may be permitted, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the following standards and conditions.

C. Purposes.

(1) To provide for the placement of marijuana establishments in appropriate places and under strict conditions in accordance with MGL c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, and the Cannabis Control Commission regulations promulgated thereunder, 935 CMR 500.000.

(2) To minimize the adverse effects of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said establishments.

(3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of marijuana establishments.

D. Applicability.

(1) No ME shall be established except in compliance with the provisions of this section.

(2) Pursuant to MGL c. 94G, §3(a)(2), the number of Marijuana Retailers shall be limited to fewer than 20 percent 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 section 15 of Chapter 138.

(3) Nothing in this bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

E. General requirements for marijuana establishments.

(1) A ME shall be contained within a building or structure, except open-air marijuana cultivators which may be allowed in accordance with § 164-13, Schedule of use regulations. Marijuana plants, products, and paraphernalia shall not be clearly visible to a person from the exterior of a ME.

(2) No ME shall be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the ME is or will be located.

(3) The hours of operation of a Marijuana Retailer shall not exceed the Alcoholic Beverages Control Commission (ABCC) maximum hours of operation for liquor licenses.

(4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a ME.

(5) A ME shall provide the Zoning Board of Appeals with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated

with the establishment. The applicant shall also provide a statement from the Barnstable Police Department verifying completion of background checks by the Cannabis Control Commission.

(6) Special permits shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

(7) Special permits shall be valid for a period of three (3) years from the date of the decision. A special permit shall be renewed for successive three-year periods provided that a written request for renewal is made to the Board of Appeals not less than three (3) months prior to the expiration of the then-existing three-year period. Publication of notice of said request shall be made in the same manner as would be required for an original application for a special permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then-existing permit, a written objection to the renewal, stating reasons, is received by the Board of Appeals. In the event of such an objection, a hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original permit application. The special permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the special permit renewal, including the outcome of any appeal under MGL c. 40A, § 17. In granting the renewal, the Board of Appeals may impose additional conditions, including, without limiting the foregoing, time limits to correct violations and hours of operation, upon which a specific lapse of time without correction or compliance shall result in a denial of the renewal.

#### F. Special permit requirements.

(1) A ME shall only be allowed by special permit from the Zoning Board of Appeals in accordance with M.G.L. c. 40A, § 9, and §240-125 herein, subject to the following statements, regulations, requirements, conditions and limitations.

(2) A special permit application for a ME shall include the following:

- a. The name and address of each owner of the ME;
- b. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the marijuana establishment;
- c. Evidence of the applicant's right to use the site of the ME for the ME use, such as a deed, or lease;
- d. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of each such entity until the disclosure contains the names and addresses of individuals;
- e. Proposed security measures for the ME, including lighting, fencing, gates and alarms, surveillance cameras, etc., to ensure safety and security from theft or fire. Such measures shall be sent by the applicant to the Police and Fire Chiefs for review and comment.

#### G. Mandatory findings.

(1) The Zoning Board of Appeals shall not issue a special permit for a ME unless it finds that:

a. The facility is designed to address any environmental, visual, noise, odor, traffic or economic impacts on abutters and other "parties in interest," as defined in M.G.L. c. 40A, § 11;

b. The facility demonstrates that it has met all the permitting requirements; and

c. The applicant has satisfied all of the general and special permit requirements of this section and § 164-44.

H. Severability.

The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.