



Town Council Meeting  
July 19, 2018



**A** quorum being duly present, Council President Eric Steinhilber called the July 17, 2018, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

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

**PRESENT:** Britt Beedenbender, Jennifer Cullum, James Crocker, Jr., Debra Dagwan, John Flores, Jessica Rapp Grasseti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Eric Steinhilber, James Tinsley, Jr. (7:39 p.m.), Philip Wallace.

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

**PUBLIC COMMENT:**

Adam Hansen urged Town Council not to close the door on the whole marijuana industry. He felt this new industry was needed in Barnstable and the Town could set the gold standard for how the marijuana industry could be run successfully in a municipality.

William Quinn, Jr. discussed the flood issue on Commerce Road. He mentioned the needed repair of the clapper valve and cleaning of the catch basin. He suggested the Town contact Americore for help with the flooding issue. He also spoke about his opposition to getting rid of the coyote killing contest – this contest helps rid Towns of their coyotes.

Bud Bergstrom was in favor of banning the coyote killing contest, He urged Town Council to support the ban and help make a positive Barnstable.

Peter Halesworth addressed the flood issue in Blush Point. He hoped Town Council would make flood resistance in neighborhoods successful. He felt the seasonal maintenance should be scheduled. (EXHIBIT A)

Cindy Martin discussed the marijuana industry and felt zoning restrictions should be enacted to help reduce the visibility of the pot shops. She urged Council to tax the industry as much as it was legally possible to tax.

Robert Kearns spoke about the flooding issue in Blish Point. He asked Council to fix the culvert and clean the marsh on Commerce Road. He asked for guidance and to help acquire funding from grants to help ease the monetary spending to fix the area. (Exhibit B)

Francis Hoothay suggested looking at the other precincts who voted yes to the ballot question regarding marijuana as possible areas to establish marijuana businesses. She stated 50 percent of all Barnstable precincts voted no to marijuana.

Steven Wright spoke about the lack of adequate drainage for Laura Avenue. He mentioned his family's home was damaged due to the drainage issue and flooding of the road. (Exhibit C)

Louise Kane was supportive of the ban on the wildlife coyote killing contest. He felt the killing contest devalued life.

David Still, Communication Coordinator at the Cape Cod Commission, invited Town Council to the 5<sup>th</sup> Annual Cape Summit, August 15-16, 2018 at the Wequassett Inn in Harwich, MA.

Toby Leary said the Coyote Killing Contest help the State of Massachusetts affectively manage wildlife. He added contests like this type have been utilized at least for the last 100 years.

Close Public Comment

**COUNCIL RESPONSE TO PUBLIC COMMENT:**

The flooding issues in Precinct 1 have been going on for six (6) months. There have been meetings between the Town Manager's office and Department of Public Works. They have devised a plan of action. The Coyote Killing Contest ordinance is not about banning hunting season rather about the unethical approach to reducing the coyote population.

**TOWN MANAGER COMMUNICATIONS: Update June 8 through June 21**

Commerce Road/Blish Point: the catch basin has been cleaned; reviewed flapping basin; hired consultant and working on better communication between Town Staff and residents. He added this project will progress to a capital project with an estimated \$3 million for culvert repair and raise the road phases.

Budget Fiscal 2000

Massachusetts Department of Fish and Wildlife

Vineyard Wind

Lieutenant Governor Polite Roundtable

Open Cape

July 6<sup>th</sup> Lawsuit

Sports field upgrade

**Councilor questions and comments:**

What is the step by step of the school project regarding affluence discharge [Will take Council vote to approve Capital funds.]

Assistant Director Public Works Robert Steen discussed the MassDOT project on Route 28 and Bearses Way. He spoke about the construction timeline and moving of utilities. What is happening with the bike path? [There is a project to expand the bike path in 2020

in that area] What about sidewalks and crosswalks? [Crosswalks will be at all major intersections]

Jack Yunits, Jr. discussed the status of the economy with emphasis on how the community could protect and keep the water clean. He mentioned the carbon filters and replacement lab tests. He added the next step is to cap the hot spots at the academy, then regrade the soil away from the Flint Rock Pond. Steven Cronin spoke about his extensive experience regarding fire academies, building and repairing them. He added the new technology to train was to reuse water and utilize propane heavy fighters. Chairman Leo Cakounes stress the need for a training facility as well as high quality of water for the Town of Barnstable.

**ACT ON MINUTES:** Upon a motion duly made and seconded it was voted to approve the minutes of the June 21, 2018

**VOTE: PASSES UNANIMOUS**

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

Big Nick's 9<sup>th</sup> Annual Ride for the Fallen - July 22<sup>nd</sup>, 2018  
Hyannis Harbor Hawks – congratulations on the pizza event

Josh Richards from Sail Cape Cod discussed the sailing center and the US Mentoring Sailing programs. He noted the sailing programs were: youth sailing; adult learn-to-sail; and adaptive sailing. Bob Harrison, Board Member, added the programs were inclusive to the entire community. (Exhibit D)

Jump to 2019 - 009

<p><b>2019-009 AMENDING CHAPTER 240, THE ZONING ORDINANCES TO ADD REGULATIONS FOR ESTABLISHING AND OPERATING REGISTERED RECREATIONAL MARIJUANA RESEARCH FACILITIES AND INDEPENDENT TESTING LABORATORIES AND PROHIBITING ALL OTHER NON-MEDICAL MARIJUANA ESTABLISHMENTS INTRO: 07/19/2018</b></p>
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Upon a motion duly made and seconded it was

**ORDERED:**

**Section 1.**

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

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

**Section 2.**

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

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

### **Section 3.**

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

### **“ARTICLE XII Registered Recreational Marijuana Research and Testing Facilities.**

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

#### A. Purpose; applicability; use; prohibited marijuana establishments

(1) Purpose. To provide for the location of Registered Recreational Marijuana Research Facilities and Independent Testing Laboratories, as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, in locations within the Medical Services District and the GM Gateway Medical District suitable for lawful Marijuana Research and Independent Testing and to minimize adverse impacts of Marijuana Research Facilities and Independent Testing Laboratories on adjacent properties, residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of Marijuana Research Facilities and Independent Testing Laboratories.

(2) Applicability. The conducting of research regarding marijuana products and testing of marijuana or cannabis is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted under this section.

(3) Use. Within the MS Medical Services District and GM Gateway Medical District, a licensed Marijuana Research Facility and Independent Testing Laboratory may be permitted as a conditional use, provided a special permit is first obtained from the Planning Board. All special permits granted under this section shall be subject to the provisions of §240-125.C. and §240-24.1.2E. herein and subject to all additional standards and conditions of this section.

(4) Prohibition of All Other Non-Medical Marijuana Establishments. Except for licensed Marijuana Research and Independent Testing Laboratory Facilities permitted as a conditional use in the MS Medical Services District and GM Gateway Medical District, subject to all the requirements of this Article, all other types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana cultivators, marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses are prohibited.

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

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

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

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

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission;
- (b) independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

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

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

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

(1) General

- (a) Marijuana Research Facilities and Independent Testing Laboratories shall comply with applicable State and local laws, regulations, ordinances, codes, conditions and agreements with the Town, including, but not limited to, Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, M.G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and M.G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, the Town of Barnstable's General Ordinances, the Town of Barnstable's Zoning

Ordinances, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Research Facilities or Independent Testing Laboratories (including, but not limited to, the Town's Planning Board special permit), and agreements between the Marijuana Research Facility or Independent Testing Laboratory and the Town, including host community agreements.

- (b) Marijuana Research Facilities and Independent Testing Laboratories shall maintain all permits and licenses required by State and local laws. Any voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Research Facilities and Independent Testing Laboratories Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the Marijuana Research Facility or Independent Testing Laboratory and pending further determination by the Planning Board.
- (c) All taxes and charges owed to the Town must be paid on a current basis. Failure to pay all taxes and charges shall be subject to the provisions of Chapter 121 of the Barnstable Code and all other available legal remedies.
- (d) An approved Host Community Agreement shall be required prior to granting a Special Permit for a Marijuana Research Facility or Independent Testing Laboratory.
- (e) Dimensional requirements. Except where it is explicitly stated otherwise in this section, Marijuana Research Facilities and Independent Testing Laboratories shall conform to the dimensional requirements applicable within the underlying and other overlaying zoning districts.
- (f) Parking. The required number of parking spaces for Marijuana Research Facilities and Independent Testing Laboratories shall be one space for every 700 square feet of gross floor area. The Planning Board shall also rely on the recommendation of Site Plan Review.
- (g) Loading. The Planning Board may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
- (h) Landscaping. Landscape requirements in the underlying zoning district shall apply.
- (i) Landscape Buffers. The landscape setback from any residential property line shall be 20 feet. Landscape buffers shall be densely landscaped with a combination grasses, trees, and shrubs providing year-round screening.
- (j) Signage. The signage requirements of the underlying zoning district pursuant to Article VII of this chapter shall apply. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
- (k) Groundwater Protection. Marijuana Research Facilities and Independent Testing Laboratories shall be subject to the requirements of Section 240-35 Groundwater Protection Overlay Districts as applicable.

## (2) Operational Requirements

- (a) All Marijuana Research Facilities' and Independent Testing Laboratories' licensed operations shall be conducted within a building at a fixed location.
- (b) No Marijuana Research Facility or Independent Testing Laboratory shall allow research, testing, cultivation, processing, manufacture, or display of Marijuana or Marijuana Products to be visible to the public without the use of binoculars, aircraft, or other optical aids.
- (c) Marijuana Research Facilities and Independent Testing Laboratories may conduct research and testing on Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Research Facility or Independent Testing Laboratory to access the area.
- (d) The hours of operation for a Marijuana Research Facility or Independent Testing Laboratory shall be those conditioned by the Marijuana Research Facility's or Independent Testing Laboratory's special permit.
- (e) Marijuana Research Facilities and Independent Testing Laboratories shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
- (f) Marijuana Research Facilities and Independent Testing Laboratories shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
- (g) Marijuana Research Facilities' and Independent Testing Laboratories' operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Research Facility or Independent Testing Laboratory, or in use of Marijuana in any manner that violates State or local law.
- (h) Marijuana Research Facilities or Independent Testing Laboratories operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties.
- (i) Marijuana Research Facilities and Independent Testing Laboratories shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, or into a wastewater treatment system or in any other manner that may contaminate the groundwater and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of any adjoining use or property.
- (j) Marijuana Research Facilities and Independent Testing Laboratories shall be required to remove all Marijuana and Marijuana Products by the earlier of: prior to surrendering its State-issued license; or within six (6) months of ceasing operations.
- (k) Marijuana Research Facilities and Independent Testing Laboratories must display a sign legible from the exterior of the building in which the Marijuana Research Facility or Independent Testing Laboratory is located either by posting on the building exterior in close proximity to the entrance or by placement in a window in close proximity to the entrance with the text facing and legible from the exterior, which states:

“Must be 21 years or older and show identification to enter this establishment.”

- (l) Solid and liquid waste, including waste composed of or containing marijuana, finished marijuana, Marijuana-Infused Product, or byproducts of marijuana processing shall be stored, secured, managed, and disposed of in accordance with State Law and all other applicable statutes and ordinances and regulations of the Town.

(3) Security-Specific Requirements

- (a) Marijuana Research Facilities and Independent Testing Laboratories shall submit and receive the approval of the Barnstable Police Department for its required security and emergency procedures, including a disaster plan, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.
- (b) Lighting shall be designed and maintained so as to protect adjacent properties from intrusive lighting; however, in accordance with State Law, the exterior perimeter of Marijuana Research Facilities and Independent Testing Laboratories shall be sufficiently lit to facilitate surveillance.
- (c) Marijuana Research Facilities and Independent Testing Laboratories shall secure every entrance so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the Marijuana Research Facility or Independent Testing Laboratory to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.
- (d) Marijuana Research Facilities and Independent Testing Laboratories shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
- (e) Marijuana Research Facilities and Independent Testing Laboratories shall file an emergency procedures, including a disaster plan, with the Town’s Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.
- (f) Landscaping shall be in compliance with the requirements set forth herein, except that in accordance with State Law, Marijuana Research Facilities and Independent Testing Laboratories shall maintain trees, bushes, and other exterior vegetation so that they do not allow for a person or persons to conceal themselves from sight.

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

- (a) Marijuana Research Facilities and Independent Testing Laboratories shall be subject to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and applicable Fire Department on week-days between 8:00 a.m. to 5:00 p.m. to determine the



Marijuana Research Facility or Independent Testing Laboratory's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Research Facility or Independent Testing Laboratory. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

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

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

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

D. Site Plan Review for Marijuana Research Facilities and Independent Testing Laboratories. Marijuana

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

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

- (1) Application requirements: Applicants shall include with their special permit application:

- (a) Copies of any required licenses and permits relating to the operation of the Marijuana Research Facility or Independent Testing Laboratory, or, if an application for a required license or permit is pending, a copy of the application.
  - (b) Evidence of the applicant's right to use the proposed site as a Marijuana Research Facility or Independent Testing Laboratory, such as a deed, lease or purchase and sales agreement.
  - (c) A copy of the Site Plan Review Approval.
  - (d) A description of the security measures, required by this section, approved by Barnstable Police Department and Cannabis Control Commission for the Marijuana Research Facility or Independent Testing Laboratory, as applicable.
  - (e) A copy of emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, approved by the Cannabis Control Commission for the Marijuana Research Facility or Independent Testing Laboratory, as applicable.
  - (f) A copy of the policies and procedures for the transfer, or acquisition of marijuana between Marijuana Research Facilities and Independent Testing Laboratories and other Recreational Marijuana Establishments, as applicable.
  - (g) A copy of proposed waste disposal procedures.
  - (h) Proof of liability insurance that is in accordance with 105 CMR 725.105(Q) or any applicable regulations promulgated by the Cannabis Control Commission.
  - (i) Any waivers from Cannabis Control Commission regulations issued for the Marijuana Research Facility or Independent Testing Laboratory, as applicable.
  - (j) A copy of the Community Host Agreement.
  - (k) Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning and Development Department determines is necessary for review, such as Department reports or transportation studies or a license application.
- (2) Special permit criteria, The Planning Board, subject to the provisions of §240-125C and §240-24.1.2E. shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:
- (a) That the Marijuana Research Facility or Independent Testing Laboratory has demonstrated compliance with or the ability to comply where the requirements are prospective with all of the General Requirements set forth in this section.
  - (b) That the Marijuana Research Facility or Independent Testing Laboratory has an approved Host Agreement.
  - (c) That the Marijuana Research Facility or Independent Testing Laboratory has a security and public safety plan approved by the Barnstable Police Department.
  - (d) The location is compliant with this section in its entirety.
  - (e) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, cyclists and public transportation users.

- (f) Traffic generated by client trips, employee trips, and deliveries to and from the Marijuana Research Facility or Independent Testing Laboratory shall not create a substantial adverse impact on nearby residential uses.
- (g) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for a Marijuana Research Facility or Independent Testing Laboratory, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing Marijuana Research Facility or Independent Testing Laboratory location or transfer of an existing license to a new owner shall require a new Special Permit pursuant to the Barnstable Zoning Ordinance.

F. Implementation

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

G. Severability

The provisions of Article XII, §240-122.1 are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.”

**Section 4.**

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

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

**VOTE: TO A PLANNING BOARD MEETING ON 08/09/18 – PASSES UNANIMOUS**

Jump to 2018-163

**2018-163 AMENDING CHAPTER 240, ARTICLE III, OF THE ZONING ORDINANCES TO CREATE A CANNABIS OVERLAY DISTRICT-A AND CANNABIS OVERLAY DISTRICT-B AND DISTRICT REGULATIONS FOR ESTABLISHING AND OPERATING REGISTERED RECREATIONAL MARIJUANA DISPENSARIES INTRO: 06/07/2018, 07/19/18**

Councilor Britt Beedenbender gave the rationale. President Steinhilber said the Planning Board did not recommend adoption of this Ordinance. Vice President Crocker explained the ordinance was not approved and he would not be supporting it.

Open Public Hearing

Beth Waterfall, Elevate New England, urged Council to let the Cannabis Control Commission do their job. She added cannabis would be heavily controlled and two banks were now servicing the cannabis industry.

Francis Parks a pediatric physician's assistance felt marijuana was a gateway drug. She opposed this ordinance.

Richard Eric opposed the ban on marijuana and stated six (6) of thirteen (13) Barnstable precincts voted in favor of the marijuana initiative.

Laura Cronin opposed the marijuana non-medical use. She asked Council to hold off until regulation catches up to Barnstable. She is in favor of medical marijuana but opposed the non-medical marijuana.

Tyler Crocker hoped Council would not ban all marijuana but rather allow regulations to help mold the industry.

Bud Bergstrom hoped Council and residents would look at the research regarding marijuana.

Toni Zugel felt there was little business opportunities in Barnstable.

Eric Hunter from Cape Cod Hemp, explained he supported cannabis testing and urged Council to allow the marijuana industry in Barnstable.

Spenser Knowles he hoped Council would support medical marijuana and temporary non-medical use. He said the industry was alive and doing well in other parts of the state.

Adam Higgins suggested Phase I of the marijuana initiative should take retail sales off the table.

Michelle Bennet opposed the marijuana ban and felt the ban would eliminate people from staying here on the Cape.

Toby Leery said he had lost friends to marijuana and opiates and hoped there would be a study to see if marijuana was indeed a gateway drug.

President Steinhilber mentioned he was in receipt of the Marstons Mills Village Association letter dated July 11, 2018 which the members had unanimously voted to not support agenda item 2018-163. (Exhibit E)

Close Public Hearing

**Councilor questions and comments:**

There needs to be more study to this issue. We need to hear from all ages regarding this new industry. Support opening one or two shops as the majority of the state voted yes for the marijuana question. We need more understanding, hold off on an ordinance, would want a working group to understand the issues and to find out what will work in Barnstable. Education is needed on this matter – it is very important. This needs to move forward, but it should be in phases. Law enforcement is another component that is very important. We need do to something with the zoning regulations or ban it. This is poor zoning. Precinct 1 over whelmingly voted no to the marijuana question and there should be a possible regroup with different options for such facilities in other precincts. There is new information which was not clear through the process. [Ruth Weil, Town Attorney, she

explained the Land Court has a new decision (which is under appeal) that if there was a negative recommendation by the Planning Board and a negative recommendation by the Council then the item would be barred for two years.

To avoid a particular situation where we cannot be regulated then the item should be withdrawn or continue this item within the 90 (ninety) day window to take action.] Willing to withdraw agenda item 2018-163 if 2018-159 is also withdrawn.

Upon a motion duly made and seconded it was

**ORDERED:**

### **Section 1.**

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

#### **§240-30.1 Cannabis Overlay Districts.**

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

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

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

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

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

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

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

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

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

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

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

- (d) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission;
- (e) independent financially from any Medical Marijuana Treatment Center, Marijuana Establishment or licensee for which it conducts a test; and
- (f) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

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

- E. Cap on the Number of Special Permits for Recreational Marijuana Retailers  
Pursuant to MGL c. 94G §3(a) (2), the number of Recreational Marijuana Retailers shall be limited to three (3) establishments in Town of Barnstable to be located in COD-A only, which is fewer than 20 per cent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under MGL c. 138 §15
- F. On-Site Consumption. On-site consumption of recreational marijuana products at MMTCs or RMEs shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL 94G §3(b).
- G. Requirements for Recreational Marijuana Establishments and Medical Marijuana Treatment Centers. Recreational Marijuana Establishments and Medical Marijuana Treatment Centers shall comply with the following requirements:
  - (1) General
    - (a) MMTCs and RMEs shall comply with applicable State and local laws, regulations, ordinances, codes, conditions and agreements with the Town, including, but not limited to, Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, M.G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and M.G.L. c.

94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, the Town of Barnstable's General Ordinances, the Town of Barnstable's Zoning Ordinances, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the MMTCs and RMEs (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the MMTC or RME and the Town, including host community agreements.

- (b) MMTCs and RMEs shall maintain all permits and licenses required by State and local laws. Any voiding of the Cannabis Control Commission's or Department of Health's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Department of Health or Cannabis Control Commission approval), and any revocation or suspension of the Recreational Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the MMTC or RME and pending further determination by the Zoning Board of Appeals.
- (c) All taxes and charges owed to the Town must be paid on a current basis. Failure to pay all taxes and charges shall be subject to the provisions of Chapter 121 of the Barnstable Code and all other available legal remedies.
- (d) An approved Host Community Agreement shall be required prior to granting a Special Permit for a Recreational Marijuana Establishment and Medical Marijuana Treatment Centers.
- (e) Dimensional requirements. Except where it is explicitly stated otherwise in this section, MMTCs or RMEs shall conform to the dimensional requirements applicable within the underlying and other overlaying zoning districts.
- (f) Parking. The required number of parking spaces for a MMTC registered marijuana dispensary or a RME, Marijuana Retailer shall be one space for every 200 square feet of gross floor area; and one space for every 700 square feet of gross floor area for any type of MMTCs except marijuana dispensaries or RMEs except Marijuana Retailers. The Zoning Board of Appeals shall also rely on the recommendation of Site Plan Review.
- (g) Loading. The Zoning Board of Appeals may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
- (h) Landscaping. For MMTCs or RMEs in the COD-A, Landscape requirements in the underlying zoning district shall apply. For MMTCs or RMEs in the COD-B, §240-53. Landscape requirements for parking lots shall apply.
- (i) Landscape Buffers. The landscape setback from any residential property line shall be 20 feet. Landscape buffers shall be densely landscaped with a combination grasses, trees, and shrubs providing year-round screening.
- (j) Signage. For MMTCs or RMEs in the COD-B, signage shall not exceed two signs, the total area of which shall not exceed 24 square feet. No part of any freestanding sign shall exceed six feet above existing average grade. External illumination of signage may be permitted only during actual hours of businesses. In the COD-A, the signage requirements of the underlying zoning district pursuant to Article VII of this chapter shall apply. The Zoning Board of Appeals may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.



- (k) Groundwater Protection. Uses and development in the COD-A and COD-B shall be subject to the requirements of Section 240-35 Groundwater Protection Overlay Districts as applicable.

(2) Operational Requirements

- (a) All MMTC or RME's licensed operations shall be conducted within a building at a fixed location.
- (b) No MMTC or RME shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible to the public without the use of binoculars, aircraft, or other optical aids.
- (c) MMTCs and RMEs may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the MMTC or RME to access the area.
- (d) The hours of operation for a RME shall be those conditioned by the RME's special permit. The hours of operation of MMTC or RME Retailer shall be limited to the hours between 8:00 a.m. to 8:00 p.m.
- (e) MMTCs and RMEs shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
- (f) MMTCs and RMEs shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
- (g) MMTC and RME operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the MMTC or RME, or in use of Marijuana in any manner that violates State or local law.
- (h) MMTC and RME operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties.
- (i) MMTCs and RMEs shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, or into a wastewater treatment system or in any other manner that may contaminate the groundwater and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of any adjoining use or property.
- (j) MMTCs and RMEs shall be required to remove all Marijuana and Marijuana Products by the earlier of: prior to surrendering its State-issued license; or within six (6) months of ceasing operations.
- (k) MMTCs and RMEs are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.
- (l) MMTCs and RMEs must display a sign legible from the exterior of the building in which the MMTC or RME is located either by posting on the building exterior in close proximity to the entrance or by placement in a window in close proximity to the entrance with the text facing and legible from the exterior, which states: "Must be 21 years or older and show identification to enter this establishment."
- (m) Solid and liquid waste, including waste composed of or containing marijuana, finished marijuana, Marijuana-Infused Product, or byproducts of marijuana processing shall be stored, secured, managed, and disposed of

in accordance with State Law and all other applicable statutes and ordinances and regulations of the Town.

(3) Security-Specific Requirements

- (a) MMTCs and RMEs shall submit and receive the approval of the Barnstable Police Department for its required security and emergency procedures, including a disaster plan, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.
- (b) Lighting shall be designed and maintained so as to protect adjacent properties from intrusive lighting; however, in accordance with State Law, the exterior perimeter of MMTCs and RMEs shall be sufficiently lit to facilitate surveillance.
- (c) MMTCs and RMEs shall secure every entrance so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the MMTC or RME to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.
- (d) MMTCs and RMEs shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
- (e) MMTCs and RMEs shall file an emergency procedures, including a disaster plan, with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified
- (f) Landscaping shall be in compliance with the requirements set forth herein, except that in accordance with State Law, MMTCs and RMEs shall maintain trees, bushes, and other exterior vegetation so that they do not allow for a person or persons to conceal themselves from sight.

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

- (a) MMTCs and RMEs shall be subject to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and applicable Fire Department on week-days between 8:00 a.m. to 5:00 p.m. to determine the MMTC or RME's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the MMTC or RME. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

- (b) MMTCs and RMEs shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning & Development, Building, Health, Police, Fire and Public Works Departments.
  - (c) Within twenty-four (24) hours of receipt of notice of it, MMTCs and RMEs shall file with the Town Manager, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the MMTC or RME, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.
- (5) Additional Location Requirements for MMTCs and RMEs,
- (a) No MMTC or RME shall be located within 500 feet, as measured from each lot line of the subject lot, or the following preexisting uses: K-12 educational use; childcare center; or children's camp.
- H. Site Plan Review for MMTCs and RMEs. MMTCs and RMEs shall be subject to Article IX, Site Plan Review, §240-102.
- I. Special Permits. The following apply to special permits to operate a MMTC or RME.
- (1) Application requirements: Applicants shall include with their special permit application:
    - (a) Copies of any required licenses and permits relating to the operation of the MMTC or RME, or, if an application for a required license or permit is pending, a copy of the application.
    - (b) Evidence of the applicant right to use the proposed site as an MMTC or RME, such as a deed, lease or purchase and sales agreement.
    - (c) A copy of the Site Plan Review Approval.
    - (d) A description of the security measures, required by this section, approved by Barnstable Police Department and MDPH or CCC for the MMTC or RME, as applicable.
    - (e) A copy of emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, approved by MDPH or CCC for the MMTC or RME, as applicable.
    - (f) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between MMTC or RME, as applicable.
    - (g) A copy of proposed waste disposal procedures.
    - (h) Proof of liability insurance that is in accordance with 105 CMR 725.105(Q) or any applicable regulations promulgated by the CCC.
    - (i) Any waivers from MDPH or the CCC regulations issued for the MMTC or RME, as applicable.
    - (j) A copy of the Community Host Agreement.
    - (k) Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning and Development Department determines is necessary for review, such as Department reports or transportation studies or a license application.

- (2) Special permit criteria, The Zoning Board of Appeals, subject to the provisions of §240-125C. shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:
- (a) That the MMTC or RME has demonstrated compliance with or the ability to comply where the requirements are prospective with all of the General Requirements set forth in this section.
  - (b) That the MMTC or RME has an approved Host Agreement.
  - (c) That the MMTC or RME has a security and public safety plan approved by the Barnstable Police Department.
  - (d) Issuance of the special permit would not contravene the cap on the number of special permits that may be granted to Recreational Marijuana Retailers (see subsection 4 of this section).
  - (e) The location is compliant with this section in its entirety.
  - (f) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, cyclists and public transportation users.
  - (g) Traffic generated by client trips, employee trips, and deliveries to and from the MMTC or RME shall not create a substantial adverse impact on nearby residential uses.
  - (h) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for an MMTC or RME, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing MMTC or RME location or transfer of an existing license to a new owner shall require a new Special Permit pursuant to the Barnstable Zoning Ordinance.

J. Revocation

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

K. Implementation

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

L. Severability

The provisions of §240-30.1 are severable. If any provision shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

### Section 3

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

- "Proposed Amendment to the Town Zoning Map Creating the Cannabis Overlay District"

- “Proposed Amendment to the Hyannis Zoning Map Creating the Cannabis Overlay District”
- “Proposed Amendment to the Barnstable Zoning Map Creating the Cannabis Overlay District”
- “Proposed Amendment to the Marstons Mills Zoning Map Creating the Cannabis Overlay District” and
- “Proposed Amendment to the Osterville Zoning Map Creating the Cannabis Overlay District”

dated June 1, 2018, as prepared by the Town of Barnstable GIS Unit.

#### **Section 4**

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

**VOTE: TO WITHDRAW AGENDA ITEM 2018 – 163 AS WRITTEN – PASSES UNANIMOUS**

Jump to 2018-159

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

Upon a motion duly made and seconded it was to open and extend this agenda item to the August 16, 2018 Town Council meeting

**VOTE: TO OPEN AND EXTEND AGENDA ITEM 2018 – 159 TO AUGUST 16, 2018 TOWN COUNCIL MEETING 6 YES 7 NO (BEEDENBENDER, CULLUM, DAGWAN, HEBERT, NEARY, SCHNEPP, TINSLEY) – FAILS**

Vice President Crocker asked for an explanation from the Town Attorney as the public hearing on the 2018 – 159 agenda item has not been heard and we failed on the vote to move it forward to the next regular calendar Council meeting.

Ruth Weil, Town Attorney, suggested the agenda item should be open for public hearing now, and take public comment as the Council did with previous agenda item 20189-163.

Point of clarification – Councilor Neary was against opening and extending the agenda item and has now made the motion to reconsider can anyone second it or does it have to be the winning side?

*Two minute recess at approximately 10:35 PM*

[Ruth Weil, Town Attorney under rule 6F a person from the prevailing side needs to move the issue but there is prohibition on who can second it.]

Upon a motion duly made and seconded it was to reconsider the vote for agenda item 2018-159

**VOTE: TO RECONSIDER THE VOTE FOR AGENDA ITEM 2018-159 9 YES 3 NO (BEEDENBENDER, CULUM, TINSLEY) 1 ABSTAIN (DAGWAN) –PASSES**

**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.”  
Upon a motion duly made and seconded it was to open and continue agenda item 2018-159 to the August 16, 2018 Town Council Meeting

**VOTE: TO OPEN AND CONTINUE AGENDA ITEM 2018 – 159 TO AUGUST 16, 2018 TOWN COUNCIL MEETING 8 YES (CROCKER, FLORES, RAPP GRASSETTI, HEBERT, LEVESQUE, NEARY, STEINHILBER, WALLACE) 5 NO (BEEDENBENDER, CULLUM, DAGWAN, SCHNEPP, TINSLEY) – PASSES**

#### **Jump to 2018-167**

**2018-167 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$29,000 PURSUANT TO TEMPORARY REPAIR TO PRIVATE ROADS PROGRAM REGARDING LAURA ROAD IN CENTERVILLE INTRO: 06/21/18, 07/19/18**

Rob Steen, Assistant Director of Public Works gave the rationale.  
Open Public Hearing, seeing no one close Public Hearing

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$29,000** be appropriated for the purpose of making temporary repairs to Laura Road in the Village of Centerville, and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, be authorized to borrow **\$29,000** and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, and that the Town Manager is further authorized to assess betterments and to accept any grants and/or gifts in relation thereto.

**VOTE: 12 YES 1 NO (TINSLEY) PASSES**

**2018-173 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$4,425,000 FOR THE CONSTRUCTION OF A WATER FILTRATION PLANT AT THE MAHER WELLFIELD INTRO: 06/21/18, 07/19/18**

Rob Steen, Assistant Director of Public Works gave the rationale. He added Hans Keijser, Supervisor from Public Works was at the Council meeting to answer questions. He discussed the two-phase project: summer to 5.5 million gallons of water was utilized and winter it was 2.5 million gallons, split of water going to commercial and or residents is equally split. He discussed the water quality studies, carbon filtration filters, the building processes and what wells were up and operational.

Upon a motion duly made and seconded it was agreed go past 11:00 pm

**VOTE: PASSES UNANIMOUS**

Open Public Hearing, seeing no one close Public Hearing

**Councilor questions and comments:**

Will the Hyannis water consumer would bare all costs [This project is funded by the Hyannis Water Enterprise fund and not a general fund project] Will it go to the Hyannis consumer [Yes]

Upon a motion duly made and seconded it was to amend:

**ORDERED:** That the sum of **\$4,425,000** be appropriated for the purpose of constructing a water filtration plant at the Maher wellfield, including the payment of costs incidental or related thereto, and that to meet this appropriation, the Town Treasurer with the approval of the Town Manager, is authorized to borrow **\$4,425,000**, and that in accordance with Chapter 44, Section 20 of the General Laws, any premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto.

**VOTE: 13 YES - PASSES**

<b>2018-174      APPROPRIATION ORDER IN THE AMOUNT OF \$700,000 COMMUNITY PRESERVATION FUNDS FOR REHABILITATION OF JUDY WALDEN SCARAFIELD AT MCKEON PARK, HYANNIS INTRO: 06/21/2018, 07/19/18</b>
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Lindsey Counsell, Chair of the Community Preservation Committee gave the rationale. He discussed Phase I.

Open Public Hearing

Ralph Calhoun urged the Town to keep the fields under their control.

Close Public Hearing

**Councilor questions and comments:**

What about the CPC investment? [One project done this will be second one, there will be some design work on other projects]

Upon a motion duly made and seconded it was

**ORDERED:** That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the sum of Seven Hundred Thousand and NO/100 (\$700,000.00) Dollars be appropriated and transferred from the undesignated amount in the Community Preservation Fund for a grant to the Hyannis Athletic Association, Inc. effective upon receipt of a signed public active recreation use agreement; and that following receipt of a signed agreement for public active recreation use the Town Manager is authorized to expend the amount appropriated for rehabilitation consisting of soil sampling/lab testing, erosion control, installation of sod and topsoil, grading, installation of irrigation and drainage systems, engineering design and permitting, excluding dugouts, of the open space and recreation land consisting of the baseball field at the Judy Walden Scarafield Field at McKeon Park in Hyannis, subject to oversight by the Community Preservation Committee

**VOTE: PASSES UNANIMOUS**

**2018-176 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION**  
**INTRO: 06/21/18, 07/19/18**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Board of Health:** F. P. Tom Lee, 1081 Putnam Road, Marstons Mills, as an alternate member to a term expiring 06/30/21; **Disability Commission:** Sarah Nicholson 67 Hamden Circle, Hyannis as a regular member to a term expiring 06/30/21; **Shellfish Committee:** Jacob Angelo, 15 Putnam Ave, Cotuit as a member at large to a term expiring 06/30/21; Robert Lancaster, 21 Hannah Circle, Cotuit as a regular member holding a family permit to a term expiring 06/30/21; William Shumway, 278 Capn Lijah's Road, Centerville as a regular member to a term expiring 06/30/21

**VOTE: PASSES UNANIMOUS**

**2018-177 AMEND SECTION 241-30 of the BARNSTABLE ADMINISTRATIVE CODE, PUBLIC WORKS COMMISSION, TO CREATE AN INFRASTRUCTURE AND ENERGY COMMITTEE AND REPEAL SECTION 241-36 OF THE ADMINSTRATIVE CODE, WATER POLLUTION CONTROL BOARD** INTRO: 06/21/18, 07/19/18

Upon a motion duly made and seconded it was

**SECTION 1.**

The Town Council hereby amends the Administrative Code by striking Section 241-30, Public Works Commission, in its entirety and by substituting in place thereof the following:

“§ 241-30. Infrastructure and Energy Committee,

A.

Term of office. There shall be an Infrastructure and Energy Committee consisting of seven regular members. Members of the Infrastructure and Energy Committee shall serve for terms of three years, so arranged that as equal a number of terms as possible shall expire each year.

B.

Authorities and responsibilities. The Infrastructure and Energy Committee is a standing committee serving as an advisory board to the Town Council, Town Manager and Department of Public Works. The Committee's charge is to:

(1) provide the Town Manager and the Director of Public Works with recommendations concerning the development of rules and regulations for the maintenance and sanitary operation of the solid waste transfer station, water pollution control facilities, public roads, bridges, sidewalks, parking lots, parks, bulkheads, docks, Town landings, beaches, playgrounds, recreation and conservation areas, cemeteries, Town forests, and public buildings, excluding schools.

(2) recommend viable methods for achieving energy conservation and for utilizing renewable sources of energy within the Town.

(3) promote energy efficiency programs available through the Cape Light Compact in residential and commercial sectors.

C.



Interrelationships.

(1)

Town Council: The Infrastructure and Energy Committee interacts with the Town Council to advise the Council on those policies and legislative matters concerning public works and energy conservation and renewable energy activities within the Town.

(2)

Town Manager: The Infrastructure and Energy Committee provides the Manager with recommendations in order to accomplish and effectuate its mission.

(3)

Other boards: The Infrastructure and Energy Committee interacts, as necessary, with any town board requiring or requesting assistance in matters of public works and energy conservation and renewable energy activities in the Town.”

## **SECTION 2.**

The Town Council hereby amends the Administrative Code by repealing §241-36, Water Pollution Control Board.

**VOTE: YES 9 NO 3 (CULLUM, BEEDENBENDER, SCHNEPP) 1 ABSTAIN (HEBERT)**

**Jump to 2019-010**

<b>2019-010</b>	<b>APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION</b>
<b>INTRO: 07/19/18</b>	

Upon a motion duly made and seconded it was to wave the rules to have this agenda item take effect tonight.

**VOTE: PASSES UNANIMOUS**

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Conservation Commission:** George Gilmore, 200 Pine Ridge Road, Cotuit, as a regular member to a term expiring 06/30/21

**VOTE: PASSES UNANIMOUS**

<b>2019-011</b>	<b>APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION</b>
<b>INTRO: 07/19/18</b>	

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council appoints the following individuals to a multiple-member board/committee/commission: **Golf Committee:** Keith Hochstein, 57 Cap'n Lijah's Road, Centerville, as a regular member to a term expiring 06/30/21; Ron Matros, 140 Pheasant Hill Circle, Cotuit, as a regular member to a term expiring 06/30/21; **Housing Committee:** Catherine Ritchie, 23 Doves Lane, Marstons Mills, as a regular member to a term expiring 06/30/21; **Community Preservation Committee:** James Tenaglia as a Recreation Commission representative member to a term expiring 06/30/19

**VOTE: TO SECOND READING - PASSES UNANIMOUS**

<b>2019-012</b>	<b>REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION</b>
<b>INTRO: 07/19/18</b>	

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council reappoints the following individuals to a multiple-member board/committee/commission: **Land Acquisition and Preservation Committee:** Anne Rowland as a regular member to a term expiring 6/30/21; Phyllis Miller as a regular member to a term expiring 6/30/21; F.P Tom Lee as a regular member to a term expiring 6/30/21; Ann Canedy as a regular member to a term expiring 6/30/21; **Youth Commission:** Matthew McCauley as a student member to a term expiring 6/30/19; Sean Dowling as a student member to a term expiring 6/30/19; Ethan Sirhal as a student member to a term expiring 6/30/19; Connor Levesque as a student member to a term expiring 6/30/19; Allianna DeBarros, as a student member to a term expiring 6/30/19; LT. Jean Challies as an adult advisory member to a term expiring 6/30/19  
**VOTE: TO SECOND READING - PASSES UNANIMOUS**

Jump to 2019-001

<b>2019-001            AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND SEASHORE HOMES, INC. LOCATED AT 185 RIDGEWOOD AVENUE, HYANNIS, MA INTRO: 07/19/18</b>
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Upon a motion duly made and seconded it was  
**ORDERED:** That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the “Code”), to enter into and execute a Regulatory Agreement between the Town of Barnstable and Seashore Homes, Inc., for the property 185 Ridgewood Avenue, Hyannis, 0.39± acres, shown on Town of Barnstable Assessor’s Map 328 as Parcel 226, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 14210, Page 101(“the Property”); and permitting the development of the Property and granting the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

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

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

WITNESS:

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

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of the agreement, and such rights shall not be subject to subsequent changes in

local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare

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

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

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

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

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

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

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

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

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

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

– and with paved parking areas and new storm water management systems, lighting, and landscaping.

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

WHEREAS, after consultation by the Developer with the Department of Public Works, it has been determined that there is sufficient capacity for the project to be connected to and served by the municipal sewer system, as provided by Paragraphs 10 through 13 herein, and the municipal water system and that doing so will be to the mutual benefit of the Developer and the Town;

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

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

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

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

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

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

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

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

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

3. One (1) of the units in the proposed new development shall be dedicated as an affordable housing unit in perpetuity and shall be eligible for inclusion on the State's subsidized Housing inventory 760 CMR 56, as follows:
  - a) The one unit shall only be rented to qualified households with an income of not more than eighty (80%) percent of Area Medium Income for the Town of Barnstable (as determined by HUD) and priced so as to be affordable and not exceed a monthly housing cost of 30% of such households' annual income, including rent and utilities;
  - b) In order to protect the perpetuity of the affordable units, an Affordable Housing Restriction such as the one for the Commonwealth of Massachusetts Department of housing and Community Development Local Initiative Program shall be prepared by the applicant and reviewed and approved by the Town Attorney's office and recorded as the senior encumbrance at time of recording of this agreement;
  - c) The owner shall enter into a Monitoring Services Agreement with an entity experienced in performing monitoring and enforcement services to ensure compliance with permit conditions regarding affordability (such as Barnstable Housing Authority) to annually verify compliance with the affordability terms of this agreement, as approved by the Town affordable Housing coordinator;
  - d) The owner shall prepare an Affirmative Fair Housing Marketing and tenant Selection plan which shall be approved by the Dept. of Housing and Community Development and the Town Affordable Housing Coordinator.
4. Lighting for the Development shall be contained on-site, shall be down cast, shall not contribute to light pollution of the area, and shall be constructed consistent with the lighting plans identified in paragraph 1, above.
5. The site shall be landscaped consistent with the landscaping plan identified in paragraph 1, above. All landscaping within the development shall be low-water use and shall minimize the use of fertilizers and pesticides.
6. The developer shall provide bike racks or bike storage on the Property.
7. Rental restrictions: the units developed hereunder are intended for use and occupancy by individuals and/or families claiming legal residence in the Town of Barnstable (to the extent that the same is legally permissible under the fair housing and other laws and regulations of the Commonwealth of Massachusetts and the United States). Developer's minimum lease term of rental units shall be twelve (12) months. Sublease of rental units, if permitted by the Developer, shall be for a minimum term of ninety (90) days. The units developed hereunder shall be rental only, and any change shall be construed as a modification to this Agreement.
8. All plumbing fixtures in the new units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project.

9. Developer shall provide calculations demonstrating adequate water flow for fire suppression prepared by a fire protection engineer as required by the Hyannis Fire Department.
10. The capacity of the existing sewer infrastructure shall be determined sufficient to accept wastewater flows from this development prior to the issuance of Certificates of Occupancy for any unit on the Property. Sufficient capacity shall result from completion of (a) improvements proposed by the Developer and conditioned in paragraphs 11 through 13 below or (b) planned capacity upgrades to the Town sewer infrastructure or other changes as may be verified and approved by the Director of Public Works and shall relieve the Developer of its obligation under clause (a), whichever occurs first.
11. Seashore Homes, Inc. shall at its sole cost and expense obtain local sewer connection permits for and install the sewer infrastructure of the type and specifications within the layouts of Spring Street and Center Street as shown on the plan entitled "Sewer Plan of Spring Street, Hyannis, MA Prepared For Seashore Homes, Inc. Date: March 21, 2018 Rev.: May 31, 2018 (DPW Comments) Scale: 1" = 20" a copy of which is attached to this Regulatory Agreement as Exhibit C. Installation shall be completed substantially in compliance with the specifications set forth in Exhibit C as "SMH #13 Manhole Detail," "SMH #1A Manhole Detail," "Pipe in Trench," "Sewer Connection Profile" and "Typical Manhole Detail." Exhibit C is specifically incorporated by reference and made a part hereof.
12. Upon completion of such installation and inspections demonstrating that the sewer infrastructure is operational as provided in document provided by the Town of Barnstable Department of Public Works entitled, "Town of Barnstable Required Conditions to Accept Proposed Sewer Modifications," containing six (6) pages attached to this Regulatory Agreement as Exhibit D and specifically incorporated by reference and made a part hereof, Seashore Homes, Inc. shall deliver free from all liens and encumbrances and the Town Barnstable shall assume and accept ownership of all such sewer infrastructure (including without proposed 10" gravity sewer line, proposed MH 1A) free from all liens and encumbrances, and Seashore Homes, Inc. shall provide a Bill of Sale free from all liens and encumbrances and assignment of all warranties to the Town of Barnstable for such infrastructure.
13. Upon assumption and acceptance of ownership of the sewer infrastructure, the Town of Barnstable shall be solely responsible for all ongoing and future costs and expenses associated with the operation and maintenance of the sewer infrastructure, including without limitation access thereto and future extensions thereof.
14. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces), sewer permits and water permits. Only Town of Barnstable approved contractors are allowed to work on Town owned property. Contractors are required to have the insurance stipulated in the Street Excavation Rules and Regulations (SERR) and all work on town property must comply with all provisions of SERR. All work within the public way and public utility services shall be to Town Standards. All plans shall be reviewed and approved by the Department of Public Works prior to initiating any work within the public way.

15. Developer will make best efforts to complete construction work in accordance with a construction schedule submitted and approved in writing by the Town of Barnstable Building Commissioner and Hyannis Fire Department prior to the issuance of any foundation or building permits. Developer shall have two (2) years from the date of commencement of work to complete construction. To the extent construction impacts public property or public rites of passage, changes in the schedule, if needed as work progresses, are subject to the written approval of the Barnstable Planning & Development Department. The construction schedule shall, to the maximum extent feasible, avoid interference with traffic on Ridgewood Ave. The developer shall notify in writing and receive the written approval from the Town of Barnstable Planning & Development Department and the Department of Public Works at least 48 hours in advance of working on Town property. The Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work as determined by Town.
16. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays. No construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration. Failure to comply with these protocols following written notice from the Building Commissioner shall be grounds for the issuance of a stop work order until agreement as to compliance with the protocols is achieved.
17. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained.
18. The total number of parking spaces proposed for the Development is thirteen (13) on the Property.
19. Changes to the approved Plans referenced in Paragraph No. 1 shall require an amendment to this agreement under either §168-5 or §168-10 of the Barnstable Code, as determined by the Town.
20. Construction debris shall be removed from the Property and shall be reused or recycled to the maximum extent possible.
21. The construction of this project will result in the following benefits to the Town:
  - a. The project will provide market rate housing (the need for which was identified in the 2014 Housing Needs Assessment) in an area of Hyannis in need of redevelopment;
  - b. Sufficient on-site parking for the residents and guests;
  - c. Exterior site lighting improvements;
  - d. Improved storm-water drainage management on-site;
  - e. Adhering to smart growth standards and goals by providing attractive new housing opportunities in an area with close accessibility to public transit facilities, shopping, and other amenities which will contribute to the revitalization of Hyannis.



22. The Town hereby grants waivers from the following Zoning Ordinance sections:

See Exhibit A attached hereto and incorporated herein by reference.

23. Upon completion of all work, Developer shall cause a registered engineer or land surveyor to submit as-built plans accompanied by a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy.

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

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Town of Barnstable/

\_\_\_\_\_  
Seashore Homes, Inc.

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

By: \_\_\_\_\_  
Deborah Mason, President

Hereunto duly authorized

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

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

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

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

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

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

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**EXHIBIT A  
ZONING WAIVERS**

<b>REQUESTED ZONING WAIVERS</b>			
<b>Zoning Bylaw (date)</b>	<b>Required</b>	<b>Provided</b>	<b>Comments</b>
CODE 240-53.B.(2) Reduction in parking landscape buffer, building to parking buffer.	10 feet required	buffer as indicated on drawings	Wheel stops provided
CODE 353-4 Reduction in dumpster setback from abutting properties (commercial to north)	10 feet required	4 feet perimeter	Fence abuts commercial Property alley
CODE 240-24.1.5A SF Single Family Residential District	Permitted uses: a. Single family b. Bed and breakfast c. Artists' lofts d. For those lots with frontage on South Street and/or High School Road professional offices Multifamily e. Renting rooms for not more than three members by the family residing in a single family dwelling	Multi-family	Applicant seeks to construct 8 multifamily residential units on .39 acre lot

240-91 Lot size relief Relief for abutting lot coverage if required due to any merger issues	40,000 square feet of area	.57 acres +/-	Locus appears to have merged with abutting commercial property (Map 328/73) 195 Ridgewood Avenue
240-24.1.5(B) Less than 10" perimeter green space	10" perimeter green space	As shown on the site plan	Majority conforms
240-24/1/10(A)5(c) Landscaping	20' Landscape setback to residential property line required.	As shown on site plan	
240-35.G.(4) Well Protection Overlay District Regulations Lot coverage	Natural State 30%	2% Natural	Portions previously developed will provide 30% plus 37% green landscaped areas.

**EXHIBIT B  
LEGAL DESCRIPTION**

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

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

**EXHIBIT C  
PLAN**

**EXHIBIT D**

TOWN OF BARNSTABLE  
REQUIRED CONDITIONS TO ACCEPT PROPOSED SEWER MODIFICATIONS

PART 1 - GENERAL

## 1.1 DESCRIPTION

- A. Work Included:
  - 1. Work in this Section is part of what is required for the Applicant to perform the proposed modification to the Town's sewer system.
  - 2. Work shall include the following: sewer pipe installation, sewer manhole installation and modifications, sewer pipe testing, and preparation of record drawings.
  - 3. Clean, test, and adjust each piece of equipment and/or system to the complete satisfaction of the Town of Barnstable.
  - 4. Keep accurate record documents for all additions, substitutions of material, variations in work, and any other additions or revisions.
  
- B. General Definitions:
  - 1. Gravity sewer testing shall be generally defined as the performance testing and inspecting each and every length of sewer pipe and associated appurtenances (including manholes).
  
- C. Submittals:
  - 1. The Contractor shall submit submittals of each component of the proposed work to the Engineer and the Town for review and approval.
  
- D. Schedules:
  - 1. The pre-startup meeting shall be held at least ten working days prior to the beginning of construction. The meeting shall be held at the office of Department of Public Works, 382 Falmouth Road, Hyannis, MA.

## PART 2 – PRODUCTS – Not Used

## PART 3 - EXECUTION

### 3.1 GRAVITY SEWER TESTING

- A. General:
  - 1. All sewers, manholes, and appurtenant work, in order to be accepted by the Town, shall be subjected to tests that will determine the degree of watertightness and horizontal and vertical alignment.
  - 2. Thoroughly clean and/or flush all sewer lines to be tested, in a manner and to the extent acceptable to the Town, prior to initiating test procedures.
  - 3. Perform all tests and inspections in the presence of the Town engineers and others as in accordance with the requirements of the local and state codes.
  
- B. Line Acceptance Tests (Gravity sewers with no active service connections):
  - 1. Test all gravity sewer lines with no active service connections for leakage by conducting a low pressure air test.
  - 2. Equipment:

- a. Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.
  - b. Pneumatic plugs shall resist internal test pressures without requiring external bracing or blocking.
  - c. All air used shall pass through a single central panel.
  - d. Connect 3 individual hoses:
    - (1) From the control panel to the pneumatic plugs for inflation,
    - (2) From the control panel to the sealed sewer line for introducing the low pressure air,
    - (3) From the sealed sewer line to the control panel for continually monitoring the air pressure rise in the sealed line.
3. Testing Pneumatic Plugs:
- a. Seal test all pneumatic plugs prior to using them in the actual test.
  - b. Lay one length of pipe on the ground and seal both ends with the pneumatic plugs to be tested.
  - c. Pressurize the sealed pipe to 5 psig.
  - d. The pneumatic plugs are acceptable if they remain in place without bracing.
4. Testing Sewer Pipeline:
- a. After the sewer pipe has been cleaned and the pneumatic plugs checked, place the plugs in the sewer line at each manhole and inflate them.
  - b. Introduce low pressure air into the sealed sewer pipeline until the air pressure reaches 4 psig greater than the average groundwater pressure.
  - c. Allow a minimum of 2 minutes for the air pressure to stabilize to a minimum of 3.5 psig greater than the groundwater pressure. Groundwater is assumed to be at ground surface unless the Contractor can prove by otherwise by test pitting.
  - d. After the stabilization period, disconnect the air hose from the control panel to the air supply.
  - e. The pipeline will be acceptable if the pressure decrease is not greater than 1/2 psig in the time stated in the following table for the length of pipe being tested:

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

5. Test Results:
- a. If the installation fails the low pressure air test, determine the source of leakage.
  - b. Repair or replace all defective materials and/or workmanship and repeat low pressure air test at no additional cost to the Owner.

- C. Line Acceptance Tests (Gravity sewers with active services):
1. Test all new gravity sewer lines with active services by conducting a low-pressure air test on all joints using a packer after all services have been connected or capped at the property line and all trenches backfilled but before the surface course of permanent pavement is installed.
  2. Equipment:
    - a. Closed-circuit television system.
    - b. Testing devices (packer):
      - (1) Capable of isolating individual joints by creating a sealed void space around the joint being tested.
      - (2) Constructed such that low pressure air can be admitted into the void area.
      - (3) Shall contain a pressure gauge accurate to one tenth (0.1) psi in-line with the feed line to monitor the void pressure.
      - (4) Capable of performing in sewer lines where flows do not exceed 1/4 of the pipe diameter without resorting to any method of flow control.
  3. Testing Sewer Pipeline Joints:
    - a. Test all joints except those with visible infiltration.
    - b. Procedure:
      - (1) Pull television camera through sewer line in front of the packer.
      - (2) Position the packer on each joint to be tested.
      - (3) Inflate the sleeves on each end of the packer.
      - (4) Apply four (4.0) psi pressure above the existing hydrostatic pressure on the outside of the joint to the void area created around the inside perimeter of the joint.
      - (5) Shut off the supply of air once the pressure has stabilized at the required amount.
      - (6) Monitor the void pressure for thirty (30) seconds.
      - (7) Repair the joint if the pressure drops more than one half (1/2) psi in the thirty (30) seconds.
    - c. Water pressure testing may be used in lieu of air testing subject to review and approval by the Town.
    - d. Re-clean and re-inspect all lines not approved by the Town at no additional cost to the Owner.
    - e. Repairing of Joints:
      1. When a joint fails the pressure test, excavate and repair the failed joint. Repairing joints with chemical grout will not be permitted.
    - f. The Engineer may request checking of the testing equipment for accuracy.
      1. Perform standard air test on a clean continuous section of pipe.
      2. Repair the equipment if the void pressure drops.
    - g. Testing Operation Inspection:
      1. Reset each joint, as specified herein, prior to acceptance and final payment for joint testing. Retest all joints that fail until the test requirements are met.

- h. The contractor will supply a black and white photograph of every joint that fails the pressure test.

D. Alignment Tests (Gravity Sewers):

1. Perform tests for the correctness of horizontal and vertical alignment on each and every length of gravity sewer pipeline between manholes.
2. Alignment tests to be conducted after all pipe has been installed and backfilled.
3. The observation test shall be conducted after all upstream work has been completed and the pipeline cleaned of debris.
4. Notify the Town at least 72 hours in advance of the proposed observation testing.
5. Introduce water into the sewer lines to be tested from the upstream manhole prior to the observation test but no more than 24 hours in advance of the test.
6. Beam a source of light, acceptable to the Town, through the pipeline from both ends and the Town will directly observe the light in the downstream, and/or upstream manhole of each test section.
7. The length of pipe between manholes, diameter of pipe and amount of light observed in the manhole at the end of each pipe section will determine acceptance of the alignment test by the Town.
8. The amount of vertical and horizontal deflection shall not be greater than the ASTM allowance and (manufacturer's recommendations) for the pipe being tested.
9. No standing water shall be allowed. The presence of standing water shall be cause for rejection of that pipe (including manhole) section.
10. Improper alignment will be corrected by re-excavation and resetting of pipe at no additional cost to the Owner.

E. Pipe Deflection: (Gravity Sewers)

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

F. Television Inspection Tests (Gravity Sewers)

1. Where television inspection testing is required, test procedures shall be in compliance with the requirements.
2. No standing water shall be allowed. The presence of standing water may be cause for rejection of that pipe.

3. Any standing water, detectable leaks, improper joints or any other unacceptable feature detected by the television inspection will be corrected by re-excavation and resetting pipe at no additional cost to the Owner.
- G. Inspection of Appurtenant Installations:
1. Completely inspect, at a time determined by the Town, all manholes and inlets to ascertain their compliance with the Drawings and Specifications.
  2. Provide access to each manhole and inlet and check the following characteristics:
    - a. Shape and finish of invert channels,
    - b. Water tightness and finish of masonry structures,
    - c. Location, type, and attachment of stops,
    - d. Elevation and attachment of frames, covers, and openings,
    - e. Pattern and machining of covers, and
    - f. Drop connection arrangements.
- H. Manhole Leakage Testing:
1. Perform a vacuum test on all manholes.
  2. All testing must be performed in the presence of a Town engineer.
  3. Suitably plug all pipes entering each manhole and brace plugs to prevent blow out.
  4. The manhole shall be tested by a vacuum test after assembly of the manhole, connection piping and backfilling. Vacuum testing to be conducted prior to construction of invert channels.
  5. Plug all lifting holes completely with non-shrink grout.
  6. Properly tighten all boot clamps and brace all plugs to prevent them from being sucked into the manhole.
  7. Install the testing equipment according to the manufacturer's instructions.
  8. A vacuum of 10 inches of Hg shall be drawn on the manhole and the loss of 1 inch of Hg vacuum timed. The manhole shall be considered to have passed the test if the time for the loss of 1 inch of Hg vacuum is:
    - a. Not less than 2 minutes for manholes less than 10-feet deep.
    - b. Not less than 2.5 minutes for manholes 10 to 15-feet deep.
    - c. Not less than 3 minutes for manholes more than 15-feet deep.
  9. If the manhole fails the initial test, the Contractor shall locate the leak(s) and make repairs. The manhole shall be retested until a satisfactory test result is obtained.
  10. After the manholes have been backfilled and prior to final acceptance, any signs of leaks or weeping visible inside the manholes shall be repaired and the manhole made watertight.

### 3.2 RECORD DRAWINGS

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



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

- a. Show any existing utilities encountered in plan and profile and properly labeled showing size, material and type of utility. Ties should be shown on plan. Utility should be drawn to scale in section (horizontally and vertically) and an elevation should be called out to the nearest hundredth of a foot.
  - b. When existing utility lines are broken and repaired, ties should be taken to these locations.
  - c. If existing water lines are replaced or relocated, document the area involved and pipe materials, size, etc. in a note, and with ties.
2. Manholes, Catch Basins and other structures.
- a. Renumber structure stationing to reflect changes.
  - b. Show ties to center of structure covers or hatches.
  - c. In general, show inverts at center of structures. However, for manholes with drop structures, or steep channels (greater than 0.2' change on slope), show inverts at face of manhole.
  - d. Show inverts for other structures at the face of the structure.
  - e. Draw any new structures that are added on plan and profile.
  - f. Show any field or office redesigns.
  - g. Redraw plan if the structure's location is moved more than 5 feet in any direction. [Note: It is important to show existing utilities, as outlined in Paragraph 1 above, especially if they were one reason for relocating the sewer, manholes and other structures.]
  - h. Redraw profile if inverts changed by more than 6 inches.
3. Gravity Sewer Line
- a. Change sewer line slopes indicated on Drawings if inverts are changed.
  - b. Draw any new gravity lines that are added on plan and profile.
  - c. Show any field or office redesigns.
  - d. Redraw the sewer line profile if manhole inverts are redrawn.
  - e. Redraw the sewer line on plan corresponding to relocated manholes.
4. House Services
- a. Draw all house services (even to empty lots) on plan, and show ties.
  - b. Show ties or distances to wyes from manhole.
  - c. Show chimneys heights in the profile.
5. Ledge
- a. Ledge profiles should be shown. Note whether the plotted ledge profile reflects undisturbed or expanded conditions.
6. Roads
- a. Show centerline road profile and level spot elevations.
  - b. Show pavement widths.
  - c. On road cross sections, show the pavement cross slope.
  - d. Show any deviations from the design plans.

**VOTE: TO PUBLIC HEARING - PASSES UNANIMOUS**

**2019-002 RESOLVE ALLOWING MARK S. ELLS, TOWN MANAGER TO CONTINUE TEACHING AT CAPE COD COMMUNITY COLLEGE UNDER SECTION 8 OF THE TOWN MANAGER CONTRACT INTRO: 07/19/18**

Upon a motion duly made and seconded it was

**RESOLVED:** That according to Section 8 of the Town Manager Contract Agreement between the Town of Barnstable and Mark S. Ells, the Barnstable Town Council does hereby approve Mark S. Ells to continue teaching at Cape Cod Community College for the period of July 1, 2018 to June 30, 2019

**VOTE: PASSES UNANIMOUS**

**2019-003 RESOLVE AUTHORIZING INTERMUNICIPAL AGREEMENT WITH THE TOWN OF YARMOUTH TO PROVIDE TREE WARDEN SUPPORT SERVICES TO THE TOWN OF YARMOUTH INTRO: 07/19/18**

Mark Ells, Town Manager gave the rationale. He noted the continued effort between Yarmouth and Barnstable. Town of Yarmouth will pay for overtime for the three workers.

Upon a motion duly made and seconded it was

**RESOLVED:** That the Town Council approves the execution and delivery by the Town Manager on behalf of the Town of an Intermunicipal Agreement between the Town of Barnstable and the Town Yarmouth by which the Town of Barnstable will provide Tree Warden support services to the Town of Yarmouth on an as needed basis for a maximum term of nine (9) years

**VOTE: PASSES UNANIMOUS**

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

Upon a motion duly made and seconded it was

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

**VOTE: TO PUBLIC HEARING ON 08/16/18 - PASSES UNANIMOUS**

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

Upon a motion duly made and seconded it was

**ORDERED:** That, pursuant to the provisions of the Community Preservation Act, G.L. c 44B, the sum of Eighty Thousand and NO/100 (**\$80,000.00**) Dollars be appropriated and transferred from the amount set aside for open space (recreation) in the Community Preservation Fund for a route alternatives study for Phase 4 of the Cape Cod Rail Trail shared use pedestrian and bicycle path extending from near the intersection of Mary Dunn

Road and Independence Drive in the Town of Barnstable to the Barnstable/Sandwich Town Line; and the Town Manager is authorized to contract for and expend the appropriation made available for this purpose subject to the oversight of the Community Preservation Committee.

**VOTE: PASSES UNANIMOUS**

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

Upon a motion duly made and seconded it was

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

**VOTE: TO PUBLIC HEARING 08/16/18 - PASSES UNANIMOUS**

**2019-007 ORDER FOR SPECIAL LEGISLATION PETITION TO FURTHER AMEND  
St. 1992 c. 61 STATE HIGHWAY ROUTE 6A SCENIC ROAD RELATIVE TO TREE  
CUTTING AND THE OLD KING'S HIGHWAY REGIONAL HISTORIC DISTRICT ACT  
RELATIVE TO CIVIL FINES INTRO: 07/19/18**

Councilor John Flores gave the rationale.

Upon a motion duly made and seconded it was

**ORDERED:** That the Town Manager is authorized to submit the following petition for enactment by the General Court

“In the Year Two Thousand Eighteen Hundred

An Act Relative to the Old King’s Highway Regional Historic District.

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows.

Section 1. St. 1992 c. 61 designating state highway route 6A as a scenic road is hereby further amended by adding at the end of the first sentence after the word ‘highway’ a semi-colon and the following: ‘and provided further that the trimming or cutting of any trees or parts thereof located up to ten (10) feet adjacent to and extending on or over state highway route 6A shall be subject to the provisions of this chapter.’

Section 2. Section 12 – Enforcement of Chapter 470 of the Acts of 1973, as amended, is hereby amended by adding after the first paragraph the following second paragraph: -

Whoever violates any provision of this Act shall be subject to an alternative non-criminal enforcement proceeding by the Building Inspector in the affected town under the procedures of MGL c. 40, Sec. 21D with the specific penalty as

the Old King's Highway Regional Historic District Commission shall fix for each violation not exceeding five hundred dollars (\$500.00) and which shall inure to the city or town for such use as said city or town may direct. Each day of violation of this Act shall constitute a separate violation.

Section 3. This act shall take effect upon passage.”

**VOTE: PASSES UNANIMOUS**

<b>2019-008</b>	<b>AMENDING GENERAL ORDINANCE CHAPTER 147, BY ADDING ARTICLE V, PROHIBITION AGAINST BOBCAT, FOX AND COYOTE KILLING CONTESTS INTRO: 07/19/18</b>
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**Councilor questions and comments:**

Point of Information: this is the first time this has come before Council [Councilor Crocker will not support this item]

Upon a motion duly made and seconded it was

**ORDERED**, that:

**Section 1.** Chapter 147 of the General Ordinances of the Code of the Town of Barnstable, is hereby amended by adding Article V as follows:

“**Article V.** Prohibition against bobcat, fox and coyote killing contests.

§ 147-15. Definitions.

As used in this article, the following term shall have the meaning indicated:

**PERSON:**

Any natural person, firm, corporation, partnership, or other organization or group however organized.

§ 147-16 Killing of bobcat, fox and coyote in contest prohibited

It is unlawful for any person to advertise, conduct or offer to conduct or to otherwise promote any contest or competition involving two or more persons and the monetary payment or the awarding of any other prize when the object of the contest or competition involves the killing of any of the following furbearing animals: bobcat, fox and coyote.

§ 147-17. Violations and penalties.

Violations of § **147-16** shall be punishable by a fine of \$300 per day.

§ 147-18. Severability.

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

**Section 2.** Article 1, §1-3 of the General Ordinances of the Code of the Town of Barnstable, is hereby amended by adding the following after the column beginning Ch. 147, Article III:

<b>Code Chapter/Section</b>	<b>Subject</b>	<b>Fine</b>
Ch. 147, Art. V	Bobcat, fox and coyote in contest prohibited	\$300

**VOTE: 4 YES (DAGWAN, BEEDENBENDER, SCHNEPP, CULLUM) 7 NO (CROCKER, STEINHILBER, RAPP GRASSETTE, WALLACE, FLORES, LESVESQUE, NEARY) 2 ABSTAIN (TINSLEY, HEBERT) - FAILS**

**VOTE: ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED TO ADJOURN:**

**Adjourned at 11:35 PM**

Respectfully submitted,

Janet E. Murphy  
Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING:

EXHIBITS:

- A. Peter Halesworth - Blish Point Letter dated July 19, 2018
- B. Robert Kearnes letter with pictures
- C. Steven Wright's pictures of damaged home
- D. Sail Cape Cod PowerPoint presentation
- E. Marstons Mills Village Association Letter dated July 11, 2018