

# BARNSTABLE TOWN COUNCIL

ITEM# 2022-146  
INTRO: 03/03/2022

**2022-146 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY MOVING AND RENUMBERING SECTION 240-122.1 REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES INTO A NEW OVERLAY ZONING DISTRICT AND REPEALING SECTIONS 240-129 AND 240-129.1 EXPIRED TEMPORARY MORATORIAM FOR MARIJUANA USES**

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

## **SECTION 1**

By amending the Zoning Map of Barnstable, Mass., dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add a Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, as shown on maps dated January 21, 2022, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District
- Proposed Amendment to the Hyannis Zoning Map Creating the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District

## **SECTION 2**

By amending Article II, Section 240-5, Establishment of districts, by inserting “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District” immediately below the “Medical Marijuana Overlay District” as it appears under the heading “Overlay Districts”.

## **SECTION 3**

- A. By striking the words “Article XII. Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories” and inserting “Article XII. (Reserved)” in their place.
- B. By moving Section 240-122.1, Registered recreational marijuana cultivators, research facilities and testing laboratories, in its entirety from Article XII to Article III and inserting and renumbering said section as Section 240-31..

## **SECTION 4**

By amending said Article III, Chapter 240-31 as follows:

- A. In Subsection A(1), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(1) shall read:

“Purpose. To provide for the location of registered recreational marijuana cultivators, research facilities and independent testing laboratories, as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of marijuana Act. M.G.L. c.94C, App. § 1-1, et. seq., as amended by Chapter 55 of the Acts of 2017, M.G.L. c.94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, and Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of marijuana, in locations within the Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District suitable for lawful marijuana cultivation, research and Independent Testing and to minimize adverse impacts of marijuana cultivation, research facilities and independent testing laboratories on adjacent properties, residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of marijuana cultivators, research facilities and independent testing laboratories.”

- B. By amending Subsection A(3) by striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”.
- C. By further amending Subsection A(3) by striking out the words “and § 240-24.1.2E”, so that revised Section 240-31 A(3) shall read:

“Use. Within the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, a licensed marijuana cultivator, research facility or independent testing laboratory may be permitted as a conditional use, provided a special permit is first obtained from the Planning Board. All special permits granted under this article shall be subject to the provisions of § 240-125C herein and subject to all additional standards and conditions of this article.”

- D. In Subsection A(4), striking out “MS Medical Services District and the GM Gateway Medical District” and substituting in its place “Registered Recreational Marijuana Cultivators, Research Facilities and Testing Laboratories Overlay District”, so that revised Section 240-31 A(4) shall read:

“Prohibition of all other non-medical marijuana establishments. Except for licensed marijuana cultivators, research facilities and independent testing laboratories permitted as a conditional use in the Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay District, subject to all the requirements of this article, all other types of non-medical "marijuana establishments" as defined in M.G.L. c.94G § 1, including marijuana product manufacturers, marijuana retailers or

any other types of licensed related businesses are prohibited.”

E. In Subsection G, striking out “Article XII, § 240-122.1,” and substituting in its place “Article **III**, § **240-31**” so that revised Section 240-31 G shall read:

“Severability. The provisions of Article **III**, § **240-31**, 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**

By deleting Article XIV, Section 240-129 in its entirety.

**SECTION 5**

By deleting Article XIV, Section 240-129.1 in its entirety.

**SPONSOR:**

DATE

ACTION TAKEN

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

## BARNSTABLE TOWN COUNCIL

ITEM# 2022-146  
INTRO: 03/03/2022

### SUMMARY

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth S. Jenkins, Planning & Development Director  
**DATE:** March 03, 2022  
**SUBJECT:** Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by moving and renumbering section 240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories into a new overlay Zoning District and repealing sections 240-129 and 240-129.1 expired temporary moratorium for Marijuana uses

**RATIONALE:** This proposed zoning ordinance amendment is a corollary amendment to the proposed new Downtown Hyannis Zoning.

Adult use registered recreational marijuana cultivators, research facilities, and testing laboratories are currently allowed within the Medical Services (MS) Zoning District and the Gateway Medical (GM) Zoning District. The new Downtown Hyannis Zoning will create a total of seven zoning districts, where there are currently eight, and the boundaries of the MS and GM Zoning Districts will be changed with the redrawing of the zoning district lines.

In order to maintain the current configuration and extent of the allowed recreational marijuana uses, we have created an overlay district that mirrors the current MS and GM zoning districts. By doing so, every lot that currently allows for recreational marijuana uses will continue to do so, and every lot that currently does not allow for recreational marijuana uses will continue to not allow them.

There are no changes proposed to the current allowed location of recreational marijuana uses; there are no changes proposed to the recreational marijuana use regulations themselves.

There is also a corollary zoning map amendment, which shows the new “Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories Overlay Zoning District.”

This amendment also repeals two expired temporary zoning moratoria on marijuana uses. Section 240-129 was a temporary moratorium on medical marijuana treatment centers. This moratorium expired on January 1, 2014. Section 240-129.1 was a temporary moratorium on recreational marijuana establishments and marijuana retailers. This moratorium expired on December 31, 2018.

Collectively, these amendments clean up and consolidate all provisions related to recreational

adult-use marijuana and medical marijuana and make them consistent with the proposed new Downtown Hyannis Zoning without changing any of the current regulatory provisions.

**STAFF ASSISTANCE:** Gloria McPherson, Planning & Economic Development Coordinator;  
Kate Connolly, Assistant Town Attorney