



**Town of Barnstable
Planning & Development Department**



Proposed Regulatory Agreement – 49 Elm Avenue

Update June 19, 2018

Applicant:	Big Pink, LP
Property Addresses:	49 Elm Ave, Hyannis
Assessor's Map/Parcel:	327/075
Property Owner:	Big Pink, LP
Zoning:	Hyannis Village Business District (Growth Incentive Zone)
Lot Area:	4,223 sq. ft (.10 acres)
Utilities:	Public water & sewer

Update

In a letter dated June 8, 2018, the applicant's representative submitted a response to items raised at the May 14, 2018, Planning Board meeting. The applicant has since revised plans to remove two units from the proposal. The applicant now seeks relief from the Zoning Ordinance to permit a three (3) unit apartment building, with two apartments on the first floor (a studio and one-bedroom), and one apartment on the second floor (two-bedroom). The applicant has also stated that a split rail fence will be installed between the parking area and the abutters. Each parking space will be assigned. An updated staff report is below.

General Description of Proposed Development

Big Pink, LP seeks to renovate and convert an existing building, constructed c. 1929, into three residential apartment units, two apartments on the first floor (a studio and one-bedroom), and one apartment on the second floor (two-bedroom). The building has 3,400 square feet of gross floor area, and was most recently used as commercial space. There is an existing two-bedroom apartment on the second floor of the building. The property is zoned HVB – Hyannis Village Business District and is within the Aquifer Protection Overlay, shown on Assessor's Map 327 as Parcel 075. The total land area of the lot is 4,223 square feet.

The proposal includes three onsite parking spaces, to be assigned to each unit. The proposal calls for the installation of a bicycle rack on the property for use by residents as a transportation demand management measure.

Waivers Requested

The Regulatory Agreement seeks waivers from Zoning Ordinance, specifically:

- Section 240-24.1.3(A)(1)(w) – To allow more than twelve units per acre (proposal is for 30.9 units per acre, 3 units on 0.0969 acres).
- Section 240-24.1.3(D)(3)(b) – To allow three on-site parking spaces where 4 are required.

- Section 240-49 – To allow three on-site parking spaces that do not meet design criteria (buffer and landscape requirements).

Other Reviews & Approvals

- **Site Plan Review:** The proposal presented with the Regulatory Agreement was reviewed by the Site Plan Review Committee (Building, Department of Public Works, Hyannis Fire District, etc.) pursuant to Article IX of the Zoning Ordinance. The Committee approved the proposal in a letter dated November 29, 2017.

Staff Comments

- Regulatory Agreement applications are directed to be reviewed for compliance with the Design and Infrastructure Plan (DIP) and the Local Comprehensive Plan. The proposal for market rate rental housing is consistent with DIP goals to create “livable neighborhoods for year round residents” and “housing opportunities for persons and households of all income levels.” As the project is located within an existing historic building, the proposal is compatible with the historic and maritime character of the Downtown Hyannis.
- The Comprehensive Plan (2010) puts forwards a policy to direct dense development to downtown Hyannis and limit density in the villages. Up to twelve (12) units per acre are allowed by right in the Hyannis Village Business District. This proposal calls for a density of 30.9 units per acre, or 3 units on 0.0969 acres.
- The Town of Barnstable completed a Housing Needs Assessment in December 2014. The Needs Assessment identifies more rental housing as Barnstable’s primary housing need. Additional findings specific to Hyannis conclude that the “development of rental housing in Hyannis should focus on creating market-rate rentals.” Further, the assessment provides that approximately one-half of all renters live in single-family structures as a result of limited multi-family options town wide.
- Relief from Hyannis Main Street Waterfront Historic District Regulations is not requested as part of this Regulatory Agreement.

Procedural Information

A draft Regulatory Agreement has been provided for the Board’s consideration. The Board should consider the application, the draft Agreement and any additional testimony from the Applicant and/or members of the public. **An affirmative majority vote recommending the execution of the Regulatory Agreement is required from the Planning Board.**

- Notice of the proposed regulatory agreement and public hearing was provided in the Barnstable Patriot, to abutting property owners, and to interested parties as required by §168-8(D).
- An affirmative majority vote of the Planning Board recommending execution of the Regulatory Agreement is required.
- Upon an affirmative recommendation from the Planning Board, a two-thirds affirmative vote of the Town Council is needed to authorize the Town Manager to execute the regulatory agreement.



Town of Barnstable Planning Board



Adult Use Marijuana Establishments Overview

Background: On November 8, 2016, the voters of Massachusetts voted in favor of the Question 4 ballot initiative authorizing the adult use of marijuana and the licensing of recreational marijuana establishments. In the time since Question 4 was approved, the Massachusetts Legislature has passed laws that place limits on municipal control over marijuana establishments.

Under the law, municipalities may *limit the number of marijuana establishments* within a community, or enact a complete prohibition. When regulating rather than prohibiting adult use marijuana, ordinances may regulate “*time, place, and manner*” of marijuana establishments.

Types of Recreational Marijuana Establishments:

- Marijuana Retailer
- Marijuana Cultivator
- Craft Marijuana Cooperative
- Marijuana Product Manufacturer
- Marijuana Transporter
- Marijuana Research Facility
- Laboratories
- Microbusiness

Where a community has not enacted a complete prohibition, state licensing requirements, administered by the Cannabis Control Commission, impose a variety of requirements (application, community outreach meeting, host community agreement) before an entity can make application locally.

Current status in Barnstable: Barnstable voted “no” on Question 4 in 2016, with 52% of voters against the proposal. In April of 2017, Town Council passed a moratorium on all recreational marijuana establishments through December 31, 2018. The intent of the moratorium is to allow time for a planning process to “determine whether the Town shall restrict any, or all, licenses for recreational marijuana establishment.”

On March 22, 2018, Barnstable Town Council held workshop with the Board of Health which outlined the State’s regulatory framework and financial tax options for marijuana establishments. The workshop also included testimony from experts representing law enforcement, marijuana policy advocates, the School Committee, and the health and energy industries (a link to the video of this meeting is on the Planning Board website under Current Applications).

Two zoning amendments were introduced at the June 7, 2018, Town Council meeting:

- Item 2018-159, proposing to prohibit non-medical marijuana establishments town-wide, sponsored by Council President Steinhilber.
- Item 2018-163, proposing to create a Cannabis Overlay District and regulations for establishing and operating marijuana establishments, sponsored by Councilors Beedenbender, Cullum, and Schnepf.

Both items are scheduled for a public hearing at the June 25, 2018, meeting of the Barnstable Planning Board.

Zoning Amendments being considered by the Barnstable Planning Board:

Item 2018-159 proposes to amend the Zoning Ordinance’s section on Prohibited Uses, by including “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.”

Item 2018-163 proposes to create a Cannabis Overlay District (COD) to permit recreational marijuana establishments in two sections of Barnstable as a conditional use by Special Permit from the Zoning Board of Appeals. The COD-A, located in Hyannis, would permit no more than three (3) recreational marijuana retailers, along with non-retail recreational establishments and medical marijuana treatment centers. COD-B, located in Marstons Mills, would only permit non-retail recreational marijuana establishments. No permit for recreational or medical marijuana establishments would be granted within 500 feet of a K-12 school, childcare center, or children’s camp.

The proposed ordinance prohibits on-site consumption of marijuana, and includes additional requirements related to parking, landscaping, signage, operations (addressing hours of operation, air pollution, solid and liquid waste disposal, etc.), security, record keeping, and inspections by municipal officials. The ordinance also includes conditions under which the Zoning Board of Appeals will judge applications.

Following the public hearings, the Planning Board will issue recommendations on each amendment to Town Council.

B. NEW BUSINESS (Refer to the Planning Board for Public Hearing)

BARNSTABLE TOWN COUNCIL

**ITEM# 2018-163
INTRO: 06/07/2018**

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

ORDERED:

Section 1.

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

§240-30.1 Cannabis Overlay Districts.

- A. District established. A Cannabis Overlay District (COD) is hereby established and shall be considered as superimposed over any other districts established by this chapter in two areas, COD-A and COD-B, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.
- B. Purpose; applicability; use.
- (1) Purpose. To provide for the location of Medical Marijuana Treatment Centers (MMTC) and Recreational Marijuana Establishments (RME), as defined herein, in accordance with Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, in locations suitable for lawful MMTCs and RMEs and to minimize adverse impacts of MMTCs and RMEs on adjacent properties, residential neighborhoods, historic sites, schools and other locations where minors congregate by regulating the siting, design, placement, security, modification and removal of MMTCs and RMEs.
 - (2) Applicability. The cultivation, production, processing, manufacturing, assembly, packaging, retail or wholesale sale, trade, distribution, or dispensing of marijuana is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted under this section.
 - (3) Use. Within the COD-A, licensed Medical Marijuana Treatment Centers (MMTC) and Recreational Marijuana Establishments (RME) may be permitted as a conditional use, provided a special permit is first obtained from the Zoning Board of Appeals. Within the COD-B, only non-retail Recreational Marijuana Establishments (RME) may be permitted as a conditional use, provided a special permit is first obtained from the Zoning Board of Appeals. All special permits granted under this section shall be subject to the provisions of §240-125C and §240-24.1.2.E. (as applicable) herein and subject to all additional standards and conditions of this section.
- C. Definitions. Any term not specifically defined herein shall have the meaning as defined in Massachusetts General Laws Chapter 94G, §1, and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use of Marijuana.

CANNABIS OR MARIJUANA OR MARIHUANA - All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every

compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

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

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

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

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

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

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

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

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

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

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

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

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

E. On-Site Consumption. On-site consumption of recreational marijuana products at MMTCs or RMEs shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL 94G §3(b).

F. Requirements for Recreational Marijuana Establishments and Medical Marijuana Treatment Centers. Recreational Marijuana Establishments and Medical Marijuana Treatment Centers shall comply with the following requirements:

(1) General

- (a) MMTCs and RMEs shall comply with applicable State and local laws, regulations, ordinances, codes, conditions and agreements with the Town, including, but not limited to, Chapter 55 of the Acts of 2017 and M.G.L. c.94G, the Humanitarian Medical Use of Marijuana Act, M.G. L. c.94C, App. §1-1, et seq., as amended by Chapter 55 of the Acts of 2017 and M.G.L. c. 94I, to be enacted pursuant to Chapter 55 of the Acts of 2017, the Town of Barnstable's General Ordinances, the Town of Barnstable's Zoning Ordinances, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the MMTCs and RMEs (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the MMTC or RME and the Town, including host community agreements.
- (b) MMTCs and RMEs shall maintain all permits and licenses required by State and local laws. Any voiding of the Cannabis Control Commission's or Department of Health's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Department of Health or Cannabis Control Commission approval), and any revocation or suspension of the Recreational Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the MMTC or RME and pending further determination by the Zoning Board of Appeals.
- (c) All taxes and charges owed to the Town must be paid on a current basis. Failure to pay all taxes and charges shall be subject to the provisions of Chapter 121 of the Barnstable Code and all other available legal remedies.
- (d) An approved Host Community Agreement shall be required prior to granting a Special Permit for a Recreational Marijuana Establishment and Medical Marijuana Treatment Centers.
- (e) Dimensional requirements. Except where it is explicitly stated otherwise in this section, MMTCs or RMEs shall conform to the dimensional requirements applicable within the underlying and other overlaying zoning districts.
- (f) Parking. The required number of parking spaces for a MMTC registered marijuana dispensary or a RME, Marijuana Retailer shall be one space for every 200 square feet of gross floor area; and one space for every 700 square feet of gross floor area for any type of MMTCs except marijuana dispensaries or RMEs except Marijuana Retailers. The Zoning Board of Appeals shall also rely on the recommendation of Site Plan Review.
- (g) Loading. The Zoning Board of Appeals may require loading bays based on the recommendation of site plan review and/or based on the needs of the proposed use.
- (h) Landscaping. For MMTCs or RMEs in the COD-A, Landscape requirements in the underlying zoning district shall apply. For MMTCs or RMEs in the COD-B, §240-53. Landscape requirements for parking lots shall apply.

- (i) Landscape Buffers. The landscape setback from any residential property line shall be 20 feet. Landscape buffers shall be densely landscaped with a combination grasses, trees, and shrubs providing year-round screening.
- (j) Signage. For MMTCs or RMEs in the COD-B, signage shall not exceed two signs, the total area of which shall not exceed 24 square feet. No part of any freestanding sign shall exceed six feet above existing average grade. External illumination of signage may be permitted only during actual hours of businesses. In the COD-A, the signage requirements of the underlying zoning district pursuant to Article VII of this chapter shall apply. The Zoning Board of Appeals may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
- (k) Groundwater Protection. Uses and development in the COD-A and COD-B shall be subject to the requirements of Section 240-35 Groundwater Protection Overlay Districts as applicable.

(2) Operational Requirements

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

(3) Security-Specific Requirements

- (a) MMTCs and RMEs shall submit and receive the approval of the Barnstable Police Department for its required security and emergency procedures, including a disaster plan, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.
 - (b) Lighting shall be designed and maintained so as to protect adjacent properties from intrusive lighting; however, in accordance with State Law, the exterior perimeter of MMTCs and RMEs shall be sufficiently lit to facilitate surveillance.
 - (c) MMTCs and RMEs shall secure every entrance so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the MMTC or RME to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.
 - (d) MMTCs and RMEs shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
 - (e) MMTCs and RMEs shall file an emergency procedures, including a disaster plan, with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified
 - (f) Landscaping shall be in compliance with the requirements set forth herein, except that in accordance with State Law, MMTCs and RMEs shall maintain trees, bushes, and other exterior vegetation so that they do not allow for a person or persons to conceal themselves from sight.
- (4) Access to Premises and Information/Reporting/Record-Keeping
- (a) MMTCs and RMEs shall be subject to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and applicable Fire Department on week-days between 8:00 a.m. to 5:00 p.m. to determine the MMTC or RME's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the MMTC or RME. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.
 - (b) MMTCs and RMEs shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning & Development, Building, Health, Police, Fire and Public Works Departments.
 - (c) Within twenty-four (24) hours of receipt of notice of it, MMTCs and RMEs shall file with the Town Manager, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the MMTC or RME, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.
- (5) Additional Location Requirements for MMTCs and RMEs,
- (a) No MMTC or RME shall be located within 500 feet, as measured from each lot line of the subject lot, or the following preexisting uses: K-12 educational use; childcare center; or children's camp.

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

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

- (1) Application requirements: Applicants shall include with their special permit application:
 - (a) Copies of any required licenses and permits relating to the operation of the MMTC or RME, or, if an application for a required license or permit is pending, a copy of the application.
 - (b) Evidence of the applicant right to use the proposed site as an MMTC or RME, such as a deed, lease or purchase and sales agreement.
 - (c) A copy of the Site Plan Review Approval.
 - (d) A description of the security measures, required by this section, approved by Barnstable Police Department and MDPH or CCC for the MMTC or RME, as applicable.
 - (e) A copy of emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, approved by MDPH or CCC for the MMTC or RME, as applicable.
 - (f) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between MMTC or RME, as applicable.
 - (g) A copy of proposed waste disposal procedures.
 - (h) Proof of liability insurance that is in accordance with 105 CMR 725.105(Q) or any applicable regulations promulgated by the CCC.
 - (i) Any waivers from MDPH or the CCC regulations issued for the MMTC or RME, as applicable.
 - (j) A copy of the Community Host Agreement.
 - (k) Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning and Development Department determines is necessary for review, such as Department reports or transportation studies or a license application.
- (2) Special permit criteria, The Zoning Board of Appeals, subject to the provisions of §240-125C. shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:
 - (a) That the MMTC or RME has demonstrated compliance with or the ability to comply where the requirements are prospective with all of the General Requirements set forth in this section.
 - (b) That the MMTC or RME has an approved Host Agreement.
 - (c) That the MMTC or RME has a security and public safety plan approved by the Barnstable Police Department.
 - (d) Issuance of the special permit would not contravene the cap on the number of special permits that may be granted to Recreational Marijuana Retailers (see subsection 4 of this section).
 - (e) The location is compliant with this section in its entirety.
 - (f) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, cyclists and public transportation users.
 - (g) Traffic generated by client trips, employee trips, and deliveries to and from the MMTC or RME shall not create a substantial adverse impact on nearby residential uses.
 - (h) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or lease of the premises for an MMTC or RME, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing MMTC or RME location or transfer of an existing license to a new owner shall require a new Special Permit pursuant to the Barnstable Zoning Ordinance.

I. Revocation

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

J. Implementation

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

K. Severability

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

Section 3

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

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

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

Section 4

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

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

DATE	ACTION TAKEN
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_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2018-163
INTRO: 06/07/2018

SUMMARY

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

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

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

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

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

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

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

1. Finance

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

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

Several revenue opportunities exist if Barnstable approves this measure. State law requires that marijuana establishments execute host community agreements with municipalities in which they operate. Agreements may include a community impact fee of up to 3% gross sales. SIRA

Naturals in Milford just agreed to a deal that plans for 5 annual payments of \$250,000 to the town to go toward mitigating any impacts the facility could have and towards improving public health safety and security. Barnstable may also accept the local sales tax option and collect an additional 3% on retail sales of cannabis. In addition to new revenue opportunities through fees and sales, Barnstable stands to gain from gross dollars and employment opportunities from the creation of viable new businesses in our town.

2. Economic Development

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

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

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

3. Public Health and Safety

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

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

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

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

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

Adult-use cannabis needs to be legitimized. It's not good for social cohesion as minorities are disproportionately criminalized and law-abiding citizens are asked to move into the shadows and procure cannabis from dealers. Law-abiding citizens should be able to access marijuana, as they do

alcohol and cigarettes, from legitimate sources to ensure quality and safety, and should not feel stigmatized for it.

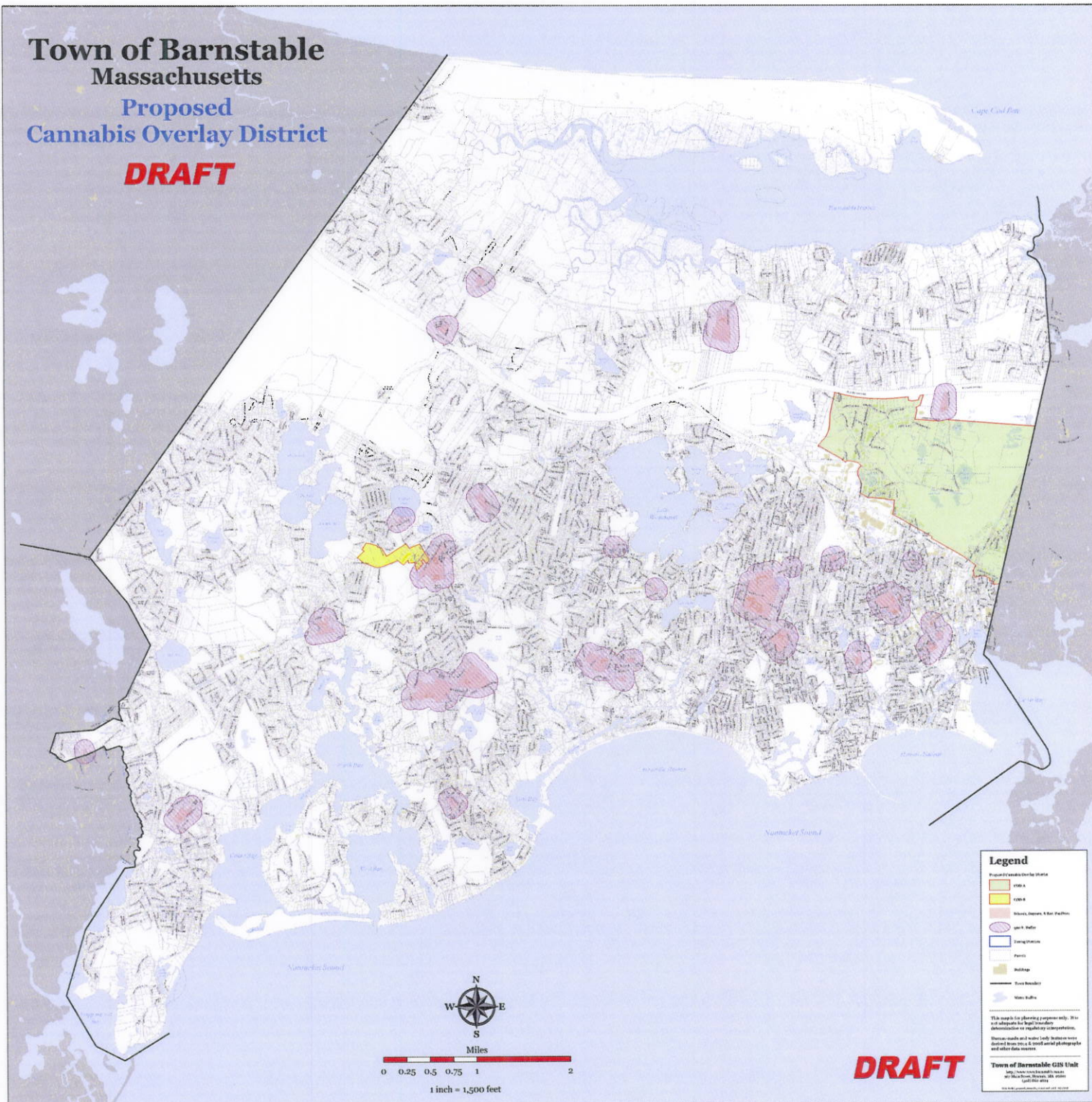
This by-law provides a road map by which we can plan, regulate and tax this emerging industry.

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

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

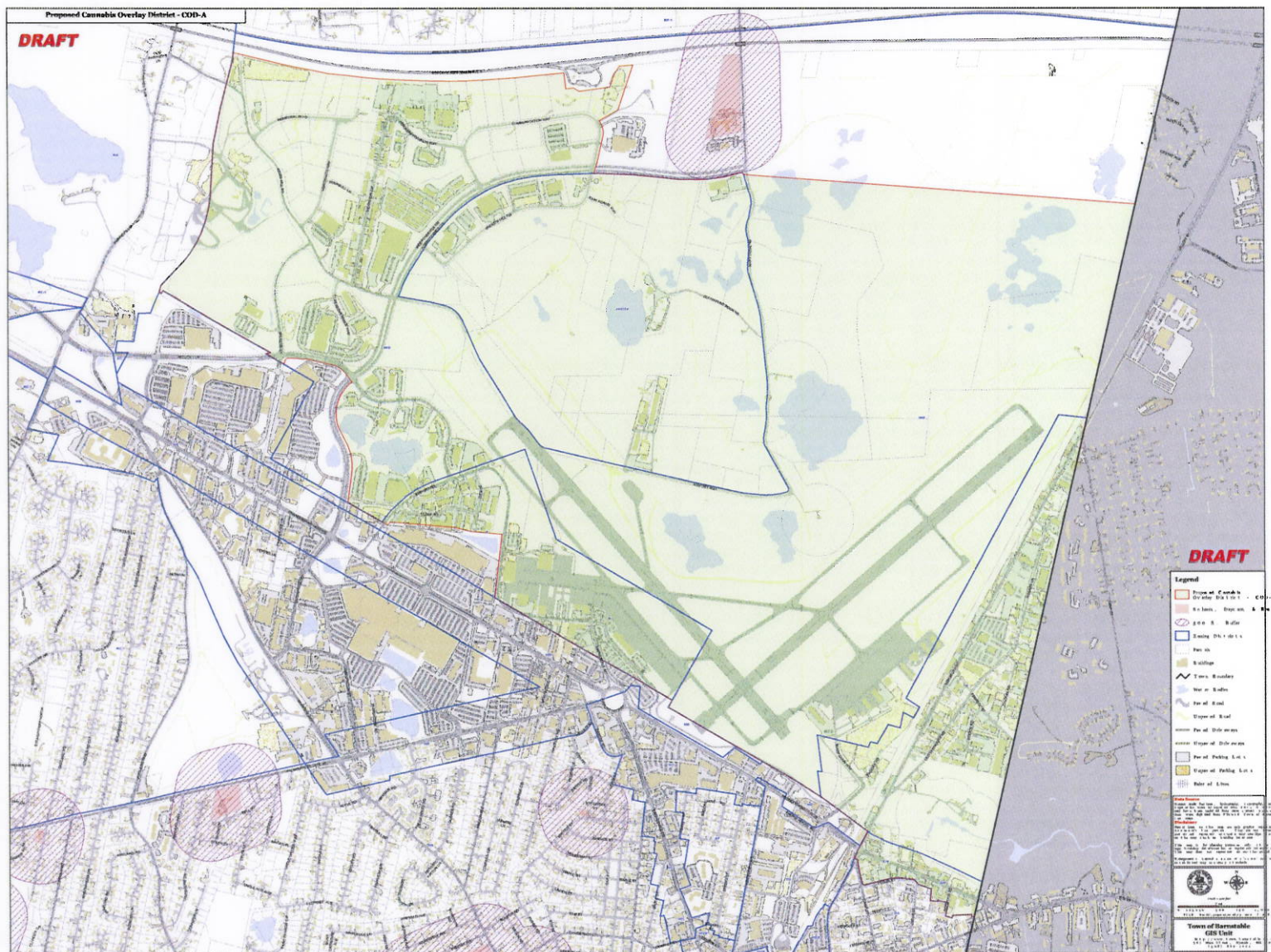
STAFF SUPPORT: Britt Beedenbender, Town Councilor Precinct 4; Jennifer Cullum, Town Councilor Precinct 13; Paula K. Schnepp, Town Councilor Precinct 12

Town of Barnstable
Massachusetts
Proposed
Cannabis Overlay District
DRAFT

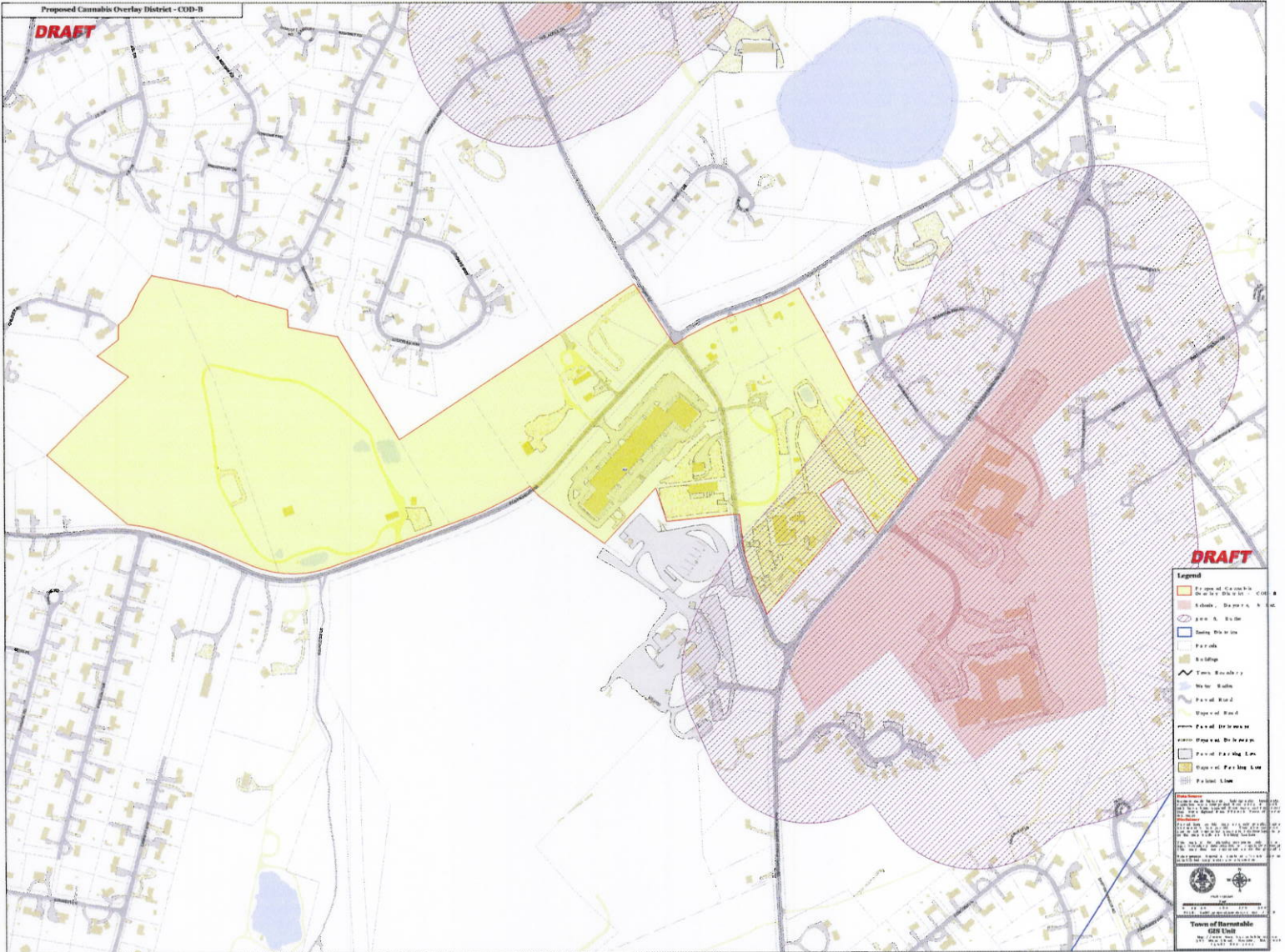


DRAFT

DRAFT



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DRAFT

Legend

- [illegible]

Price-Sensitive

Price-sensitive customers are those who are highly responsive to changes in price. They are typically found in the lower end of the market and are often price-conscious. They are more likely to switch to a competitor if the price is not competitive. Price-sensitive customers are often found in the lower end of the market and are often price-conscious. They are more likely to switch to a competitor if the price is not competitive.

Seal of the Town of Barnstable

Compass rose showing North (N), South (S), East (E), and West (W).

Scale bar: 0 50 100 150 200 250 feet

**Town of Barnstable
GIS Unit**

Map of Town of Barnstable
300 West Main Street, Barnstable, MA 02532
Phone: 508-548-2000

B. NEW BUSINESS (First reading)

BARNSTABLE TOWN COUNCIL

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

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

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

“E. All types of non-medical “marijuana establishments” as defined in G.L. c. 94G §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed related businesses.”

SPONSOR: Eric R. Steinhilber, Town Council President

DATE	ACTION TAKEN
_____	_____
_____	_____

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

Societal Impacts of Cannabis Dispensaries/Retailers

Compiled by

Councilor Britt Beedenbender

Societal Impacts of Cannabis Dispensaries/Retailers

Retail cannabis facilities are not positively associated with increased criminality

- "There were no observed cross-sectional associations between the density of medical marijuana dispensaries and either violent or property crime rates in this study. These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders."

Exploring the ecological association between crime and medical marijuana dispensaries, Journal of Studies on Alcohol and Drugs, 2012

- "Tobacco shops, medical marijuana dispensaries (MMD), and off-sale alcohol outlets are legal and prevalent in South Los Angeles, California—a high-crime, low-income urban community of color. This research is the first to explore the geographic associations between these three legal drug outlets with surrounding crime and violence in a large low-income urban community of color. ... Results indicated that mean property and violent crime rates within 100-foot buffers of tobacco shops and alcohol outlets—but not MMDs—substantially exceeded community-wide mean crime rates and rates around grocery/convenience stores (i.e., comparison properties licensed to sell both alcohol and tobacco)."

The geography of crime and violence surrounding tobacco shops, medical marijuana dispensaries, and off-sale alcohol outlets in a large, urban low-income community of color, Preventive Medicine, 2017

- **RESOURCES:** LAPD Chief: Pot clinics not plagued by crime, Los Angeles Daily News | Springs finds no tie between crime and marijuana shops, Denver Post | Medical dispensaries effect on crime unclear, Denver Post | No, legalizing medical marijuana doesn't lead to crime, according to actual crime stats, Washington Post | Have medical marijuana dispensaries increased crime in other towns? The Suffolk Times | Medical marijuana stores impact neighborhoods in Denver no more than coffee shops, study says, Westword | Medical marijuana dispensaries and their effect on crime, MPP factsheet | Do medical marijuana dispensaries increase crime? California NORML factsheet

By contrast, dispensary closures are associated with increases in crime

- "The results presented above show that temporary dispensary closures increase crime in the short-run. ... Analyzing medical marijuana dispensary closures in the City of Los Angeles, we find no support for the idea that closing dispensaries reduces crime. Rather,

temporary closures deter some types of Part I crime. ... Our findings have direct policy implications for regulating marijuana sales in the U.S. They imply that dispensary closures, and potentially the closure of other types of retail establishments, exert a significant negative externality in terms of neighborhood criminality. A quick back of the envelope cost calculation using the change in larceny theft at 1/3 of a mile and crime costs ... suggests that an open dispensary provides over \$30,000 per year in social benefit in terms of larcenies prevented."

Going to pot: The impact of dispensary closures on crime. Journal of Urban Economics, 2017

Retail cannabis facilities are associated with rising housing values

- "In this paper we contribute to the debate on the impacts of recreational marijuana legalization on local communities by examining the effects of retail marijuana stores on nearby house prices in Denver, Colorado. ... Using a difference-in-differences model, we compare houses that are in close proximity to a retail conversion to those that are slightly farther away from a retail conversion before and after the legalization of recreational sales. We find that after the law went into effect at the end of 2013, single family residences close to a retail conversion (within 0.1 miles) increased in value by approximately 8.4% relative to houses that are located slightly farther from a conversion (between 0.1 miles and 0.25 miles) in 2014 compared to the previous year."

Contact high: The external effects of retail marijuana establishments on house prices, Real Estate Economics, 2017

- "Does legalizing retail marijuana generate more benefits than costs? This paper addresses this question by measuring the benefits and costs that are capitalized into housing values. We exploit the time-series and cross-sectional variations in the adoption of Colorado's municipality retail marijuana laws (RMLs) and examine the effect on housing values with a difference-in-differences strategy. Our estimates show that the legalization leads to an average 6 percent increase in housing values, indicating that the capitalized benefits outweigh the costs. ... In conclusion, this paper provides convincing causal evidence that legalizing retail marijuana generates net benefits, as measured through the housing market."

The effect of legalizing retail marijuana on housing values: Evidence from Colorado, University of Mississippi working paper series, 2016

Dispensary clients tend to be older, value access to specific strains of cannabis, and tend to require greater quantities of cannabis to treat their therapeutic condition

- "Regarding age, respondents who used dispensaries were older than those not using dispensaries, perhaps reflecting that services that these dispensaries provide, such as storefront access and personalized service, may be particularly appealing to older adults. ... A larger proportion of dispensary clients considered access to their preferred strain to

be important than those not using dispensaries. ... With regard to cannabis use, dispensary users were more likely to use larger amounts of cannabis. ... [D]ispensaries were widely used and well rated by respondents. Given this high level of endorsement by patients, future regulations should consider including storefront dispensaries as an authorized source of cannabis for therapeutic purposes."

Are dispensaries indispensable? Patient experiences and access to cannabis from medical cannabis dispensaries in Canada. International Journal on Drug Policy, 2017

The prevalence of cannabis dispensaries is not positively associated with increased teen use

- "[T]he presence of recreational marijuana retail store(s) was not associated with perceived easy access to marijuana, controlling for perceived ease of access before the retail sales. There was no significant change in past 30-day marijuana use in bivariate analysis or in a multivariate model including presence of a recreational marijuana store."

Adolescent marijuana use and perceived ease of access before and after recreational marijuana implementation in Colorado, Substance Use & Misuse, 2017

- "[W]e did not find empirical evidence showing the availability of medical marijuana dispensaries is associated with [the] current use of marijuana among adolescents. ... It is also suggestive that the dispensaries may not have spillover effects on neighborhood social norms or marijuana availability overall."

The availability of medical marijuana dispensary and adolescent marijuana use, Preventive Medicine, 2016

Cannabis retailers are not selling to minors and their products are not being diverted to the underage market

- "On December 19, 2017 OLCC [the Oregon Liquor Control Commission] marijuana inspectors visited 20 marijuana retailers in central Oregon, and all of the 20 businesses visited in Bend and La Pine passed a check for prohibiting sales to a minor volunteer. 'That our licensed retailers in central Oregon scored 100 percent on refusal to sell marijuana to a minor is a sign that this segment of our regulated industry understands the importance of compliance,' said Steve Marks, Executive Director of the OLCC."

"OLCC Launches Marijuana Retailer Minor Decoy Checks," Oregon Liquor and Control Board press release, December 20, 2017

- Among state-licensed Colorado retailers, "Compliance with laws restricting marijuana sales to individuals age 21 years or older with a valid ID was extremely high and possibly higher than compliance with restrictions on alcohol sales. ... "The retail market at present may not be a direct source of marijuana for underage individuals."

Pseudo-Underage Assessment of Compliance With Identification Regulations at Retail Marijuana Outlets in Colorado, Journal of Studies on Alcohol and Drugs, 2016

Retail cannabis access is associated with reduced opioid consumption by the general public

- "[S]tates providing legal access to marijuana through dispensaries reduce deaths due to opioid overdoses. ... We provide complementary evidence that dispensary provisions lower treatment admissions for addiction to pain medications. ... In short, our findings that legally protected and operating medical marijuana dispensaries reduce opioid-related harms suggests that some individuals may be substituting towards marijuana, reducing the quantity of opioids they consume or forgoing initiation of opiates altogether. ... At a minimum, however, our results suggest a potential overlooked positive effect of medical marijuana laws that support meaningful retail sales."

Do medical marijuana laws reduce addictions and deaths related to pain killers? Journal of Health Economics, 2018

- "This paper uses a unique marijuana dispensary dataset to exploit within- and across-state variation in dispensary openings to estimate the effect increased access to marijuana has on narcotic-related admissions to treatment facilities and drug-induced mortalities. [It] finds that core-based statistical areas (CBSAs) with dispensary openings experience a 20 percentage point relative decrease in painkiller treatment admissions over the first two years of dispensary operations ... [and] provides suggestive evidence that dispensary operations negatively affect drug-induced mortality rates."

The effects of marijuana dispensaries on adverse opioid outcomes. SSRN Working Paper, 2017

- "Using both standard differences-in-differences models as well as synthetic control models, we find that states permitting medical marijuana dispensaries experience a relative decrease in both opioid addictions and opioid overdose deaths compared to states that do not."

Do medical marijuana laws reduce addictions and death related to pain killers? NBER Working paper No. 21345, 2015

The prevalence of cannabis dispensaries is inversely associated with traffic fatalities

- "Both MMLs (medical marijuana laws) and dispensaries were associated with reductions in traffic fatalities, especially among those aged 25 to 44 years. ... On average, MML states had lower traffic fatality rates than non-MML states. Medical marijuana laws were associated with immediate reductions in traffic fatalities in those aged 15 to 24 and 25 to 44 years, and with additional yearly gradual reductions in those aged 25 to 44 years."

US Traffic Fatalities, 1985-2014, and Their Relationship to Medical Marijuana Laws, American Journal of Public Health, 2017

Marijuana Regulation and Teen Use Rates

Since the mid-1990s, self-reported lifetime use of cannabis has fallen 46 percent among 8th-graders, 25 percent among 10th-graders, and ten percent among 12th-graders.

- Thirty states have legalized the medical use of cannabis, and eight of those states have also regulated the adult use of marijuana, since that time.

Monitoring the Future, Trends in Lifetime Prevalence of Use of Various Drugs, 2016

Since 2002, perceived availability of marijuana among young people has fallen dramatically nationwide.

- "Between 2002 and 2015, we observed a 27% overall reduction in the relative proportion of adolescents ages 12-17-and a 42 percent reduction among those ages 12-14-reporting that it would be "very easy" to obtain marijuana. This pattern was uniformly observed among youth in all sociodemographic subgroups. ... Despite the legalization of recreational and medical marijuana in some states, our findings suggest that ... perceptions that marijuana would be very easy to obtain are on the decline among American youth."

Trends in perceived access to marijuana among adolescents in the United States: 2002-2015, Journal of Studies of Alcohol and Drugs, 2017

- "From 2002 to 2014, ... the perceived availability decreased by 13 percent among persons aged 12-17 years and by three percent among persons aged 18-25 years."

United States Centers for Disease Control, National Estimates of Marijuana Use and Related Indicators - National Survey on Drug Use and Health, United States, 2002-2014, 2016

Rates of problematic cannabis use by young people has declined 24 percent between 2002 and 2013.

- Declining Prevalence of Marijuana Use Disorders Among Adolescents in the United States, 2002 to 2013, Child & Adolescent Psychiatry, 2016 | See also: Recent Trends in the Prevalence of Marijuana Use and Associated Disorders in the United States, JAMA Psychiatry, 2016

The enactment of medical cannabis laws is not associated with any causal upticks in youth marijuana use

- "This systematic review screened 2999 unique papers retrieved from 17 sources, yielding 21 unique studies. Ultimately, 11 studies passed secondary exclusion criteria designed to ensure optimal study quality. ... [A]ll estimates of pre–post changes in past-month marijuana use within MML (medical marijuana law) states from these studies were non-significant. ... In summary, current evidence does not support the hypothesis that MML passage is associated with increased marijuana use prevalence among adolescents in states that have passed such laws."

Medical marijuana laws and adolescent marijuana use in the United States: A systematic review and meta-analysis, Addiction, 2018

- "Of 17 large surveys using difference-in-difference methods spanning different states, periods, and specifications, 16 indicated no MML (medical marijuana laws) effects on adolescent use. Despite differences in methodology, the findings were very consistent: post-MML adolescent cannabis use did not increase compared to pre-MML levels and to national trends in non-MML states during the corresponding years."

U.S. epidemiology of cannabis use and associated problems, Neuropsychopharmacology, 2017

The passage of adult use cannabis laws is not associated with any causal upticks in youth marijuana use in those jurisdictions that have enacted them

- "With legalization of retail marijuana in Colorado, and the opening of dispensaries in January 2014, two key questions were how legalization would impact marijuana use and whether there would be an increase in adverse health events. Legalization did not noticeably impact marijuana use rates among adolescents or young adults. Past-30-day use among adolescents remained steady for more than ten years, pre- and post-legalization."

Marijuana use and related health care encounters in Colorado before and after retail legalization, International Journal of Mental Health and Addiction, 2018

- "Certainly the worst things that we had great fear about (the legalization of marijuana for adults in Colorado) – spikes in consumption, kids, people driving while high – we haven't seen any of that. We saw a little increase in teenagers and that came down within a couple years. ... We were very worried that by legalizing, we were making this more somehow more psychologically available to kids. We haven't seen that. If anything, we've seen less drug dealers."

Comments from Colorado Gov. John Hickenlooper, April 9, 2018

Marijuana Regulation: Impact on Health, Safety, Economy

The enactment of adult use cannabis regulation is not associated with upticks in marijuana use by adolescents

- "With legalization of retail marijuana in Colorado, and the opening of dispensaries in January 2014, two key questions were how legalization would impact marijuana use and whether there would be an increase in adverse health events. Legalization did not noticeably impact marijuana use rates among adolescents or young adults. Past-30-day use among adolescents remained steady for more than ten years, pre- and post-legalization."

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Comments from Colorado Gov. John Hickenlooper, April 9, 2018

The establishment of cannabis retailers is not associated with upticks in criminal activity

- "[W]e find no support for the idea that closing dispensaries reduces crime. Rather, temporary closures deter some types of Part I (serious) crime. ... "An open dispensary provides over \$30,000 per year in social benefit in terms of larcenies prevented."

Going to pot: The impact of dispensary closures on crime. Journal of Urban Economics, 2017

- "There were no observed cross-sectional associations between the density of medical marijuana dispensaries and either violent or property crime rates in this study. These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders."

Exploring the ecological association between crime and medical marijuana dispensaries, Journal of Studies on Alcohol and Drugs, 2012

Neither medical use nor adult use legalization is associated with adverse effects on traffic safety

- "We find that states that legalized marijuana have not experienced significantly different rates of marijuana- or alcohol-related traffic fatalities relative to their synthetic controls. ... In summary, the similar trajectory of traffic fatalities in Washington and Colorado relative to their synthetic control counterparts yield little evidence that the total rate of traffic fatalities has increased significantly as a consequence of recreational marijuana legalization."

Early Evidence on Recreational Marijuana Legalization and Traffic Fatalities, National Bureau of Economic Research, 2018

- "We (the state of Colorado) have not experienced any significant issue as a result of legalization. ... We have actually seen an overall decrease in DUI's since legalization. So, the short answer is: There has been no increase since the legalization of marijuana here."

Comments from Larry Wolk, Chief Medical Officer of the Colorado Department of Public Health, October 23, 2017

Marijuana regulation is not associated with adverse effects on workplace performance or safety

- "There is no or insufficient evidence to support ... a statistical association between cannabis use and occupational accidents or injuries."

National Academy of Sciences, Engineering, and Medicine, The Health Effects of Cannabis and Cannabinoids: Committee's Conclusions, 2017

- Reducing criminal penalties for marijuana offenses is associated with increased probability of employment, particularly for young males, and an average increase of 4.5 percent in weekly earnings. "This data provides suggestive evidence that marijuana decriminalization laws improve extrinsic labor market outcomes. ... This result is consistent with existing literature that suggests black adults, especially men, stand to benefit the most from removing these penalties."

Economic Self-Sufficiency Policy Research Institute, Marijuana decriminalization and labor market outcomes, 2016

Marijuana regulation is associated with declining alcohol consumption

- "We use data on purchases of alcoholic beverages in grocery, convenience, drug, or mass distribution stores in US counties for 2006-2015 to study the link between medical marijuana laws and alcohol consumption and focus on settling the debate between the substitutability or complementarity between marijuana and alcohol. ... We find that the legalization of medical marijuana reduces alcohol consumption. We find consistent

evidence across different specifications and alcohol products (i.e. alcohol in general, beer and wine). States legalizing medical marijuana use experience significant decrease in the aggregate sales of alcohol, beer and wine. Moreover, the effects are not short lived, with significant reductions observed up to 24 months after the passage of the law."

Helping settle the marijuana and alcohol debate: Evidence from scanner data. SSRN Working Paper, 2017

- "Research firm Cowen & Company analyzed the state of the beer industry in Colorado, Oregon and Washington—states where both recreational weed is legal and craft beer has become popular. In those states, beer markets have "collectively underperformed" over the last two years, trailing behind beer sales around the country."

Time.com. "Legal weed is hurting the beer business." December 6, 2016

Marijuana regulation is associated with increased tax revenue and job creation

- "Here's a striking figure for the nascent cannabis industry that only recently began to operate legitimately: It supports 125,000-160,000 full-time jobs in the U.S. To put that in perspective, the marijuana industry now supports approximately the same numbers of full-time workers as there are librarians and kindergarten teachers in the country – and roughly three times the number of employees in the U.S. coal industry. Over the next five years, the number of full-time marijuana workers is expected to more than double as large markets including California ramp up and new states come online."

Marijuana Business Daily. "Cannabis industry supports up to 160,000 full-time jobs, with more growth on the horizon." June 4, 2018

- "According to ZipRecruiter data, the total number of industry job posts increased by 445% in 2017. ... Our data also shows that the cannabis industry is growing more rapidly than some of today's fastest-growing fields. Year over year growth of job posts in the cannabis industry is outpacing both tech (254% growth) and healthcare (70% growth). ... Not only does the legalization of cannabis create a safer and more stable market for medical and recreational users, but it also significantly drives job growth."

ZipRecruiter.com, Will cannabis job growth continue to outpace tech job growth?, 2018



Town of Barnstable

Board of Health

200 Main Street, Hyannis MA 02601



Office: 508-862-4644
FAX: 508-790-6304

Paul J. Canniff, D.M.D.
Donald A. Guadagnoli, M.D.
Junichi Sawayanagi

April 24, 2018

Mr. Eric R. Steinhilber
Town Council President
PO Box 974
Barnstable, MA 02630

Dear President Steinhilber,

The Town of Barnstable Board of Health wishes to express serious concerns regarding the potential future sale and distribution of recreational marijuana at one or more sites in the Town of Barnstable. We understand that although the recreational marijuana vote passed state-wide, a majority of the voters from the Town of Barnstable were against the sale and distribution of recreational marijuana.

Recall that on March 22, 2018, during the workshop of the Town Council and the Board of Health, the Board listened to comments provided by six panelists, who provided arguments for and against the distribution and sale of marijuana products. We found the meeting to be informative and educational. However, absent from much of that discussion were the detrimental health and safety effects of marijuana use. According to the National Institute for Health and the Centers for Disease Control, inhalation of marijuana smoke has been shown to be detrimental to various important systems of the human body including the lungs, heart, and brain. It has also been linked to increased mental illness. Edible marijuana has been difficult to control in regards to THC concentrations, resulting in an increase of poisonings. In addition, vehicle accidents have increased in three States where marijuana has been legalized. On the next page, we provide more detailed information regarding these detrimental effects.

Lungs

Marijuana smoke irritates the lungs, and people who smoke marijuana frequently can have the same breathing problems as those who smoke tobacco. These problems include daily cough and phlegm, more frequent lung illness, and a higher risk of lung infections.

Heart

Marijuana raises the heart rate for up to 3 hours after smoking. This effect may increase the chance of heart attack. Older people and those with heart problems may be at higher risk

Mental Illness

According to the CDC, marijuana users are significantly more likely than nonusers to develop chronic mental disorders, including schizophrenia. Schizophrenia is a type of mental illness where people might see or hear things that aren't really there (hallucinations).

Poisonings

Eating foods or drinking beverages that contain marijuana have some different risks than smoking marijuana, including a greater risk of poisoning. These "edibles" are products such as cookies, sodas, brownies, and candies that have been made with THC—the active ingredient in marijuana. The amount of THC, the main psychoactive ingredient in marijuana, can vary in edible marijuana products. This makes it harder to control how much THC is consumed.

Second-Hand Smoke

In addition, secondhand marijuana smoke contains tetrahydrocannabinol (THC), the chemical responsible for most of marijuana's psychological effects, and many of the same toxic compounds in smoked tobacco. Therefore, breathing it could affect the health and behavior of nonsmokers, including babies and children who are exposed.

Impaired Driving

Research studies have shown negative effects of marijuana on drivers, including an increase in lane weaving, poor reaction time, and altered attention to the road. Use of alcohol with marijuana made drivers more impaired, causing even more lane weaving.

According to a June 22, 2017 NSNBC news report article, automobile crashes are on the rise in marijuana states. Three states that have approved the sale of marijuana for recreational use have shown an increase

in car accident claims. The number of vehicle collisions is 3 percent higher than what would have been if marijuana wasn't legal.

Conclusion

In view of these facts, these detrimental effects of recreational marijuana use raises serious public health and safety concerns. The Board members therefore voted against the sale and distribution of recreational marijuana within the Town of Barnstable. This majority vote was taken during the public meeting of the Board of Health held on April 24, 2018,

Sincerely,

Paul J. Canniff, D.M.D.,

Chairman

TOWN OF BARNSTABLE

BOARD OF HEALTH

Town of Barnstable, MA
Wednesday, June 20, 2018

Chapter 240. Zoning

Article III. District Regulations

§ 240-30. Medical Marijuana Overlay District.

[Added 2-6-2014 by Order No. 2014-050]

- A. District established. A Medical Marijuana Overlay District is hereby established, and shall be considered as superimposed over any other districts established by this chapter, and is shown as an overlay on the Official Zoning Map established pursuant to § 240-6, Zoning Map, herein.
- B. Purpose; use.
 - (1) Purpose. The purpose of the Medical Marijuana Overlay District is to provide for the limited establishment of registered marijuana dispensaries as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. Given that registered marijuana dispensaries shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations intend to permit them where there is access to both regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where their impacts are ameliorated by these locations.
 - (2) Use. Within the Medical Marijuana Overlay District, a registered marijuana dispensary that dispenses, cultivates and prepares marijuana products may be permitted as a conditional use only within the overlay district, provided a special permit is first obtained from the Zoning Board of Appeals, subject to the provisions of § 240-125C herein and subject to the all additional standards and conditions of this section.
- C. Special permit granting authority. Within the MMOD, the Zoning Board of Appeals shall be the special permit granting authority.
- D. Use. Notwithstanding the use limitations of the base zoning district or any other overlay zoning district, a registered marijuana dispensary shall be allowed within the Medical Marijuana Overlay District upon the granting of a special permit, subject to the requirements set forth in this section. Within the Medical Marijuana Overlay District, and only within the Medical Marijuana Overlay District, a registered marijuana dispensary may be permitted, provided that a special permit is first obtained from the Zoning Board of Appeals, subject to the following standards and conditions.
- E. Requirements/standards.
 - (1) Registration. All permitted registered marijuana dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No building permit or certificate of occupancy shall be issued for a registered marijuana dispensary that is not properly registered with the Massachusetts Department of Public Health.
 - (2) Building. A registered marijuana dispensary shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to

qualified clients pursuant to applicable state and local regulations.

- (3) Proximity to residential uses. A medical marijuana treatment center shall not be allowed within a building containing a residential use, or upon a lot with a residential use, except an incidental residential use that may be necessary for RMD security.
- (4) Separation requirements. The site is located at least 1,000 feet distant from a religious institution/place of religious assembly, school, day-care center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is determined by the Zoning Board of Appeals to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the registered marijuana dispensary, but in no case shall the distance be less than 500 feet measured from parcel boundary to parcel boundary. In no case shall a RMD directly abut another RMD or any medical marijuana use.
- (5) Dimensional requirements. Except where it is explicitly stated otherwise in this section, Registered marijuana dispensaries shall conform to the dimensional requirements applicable to nonresidential uses within the underlying and other overlaying zoning districts.
- (6) Parking. The required number of parking (both long-term and short-term) spaces for a registered marijuana dispensary shall be one space for every 200 square feet of gross floor area for a RMD; and one space for every 700 square feet of gross floor area for RMD marijuana infused product manufacturing or marijuana cultivation. The Board of Appeals shall also rely on the recommendation of site plan review.
- (7) Loading. The 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.
- (8) Signage. Signage shall not exceed 12 square feet in area, and no part of the sign shall exceed eight feet above existing average grade. For other site signage, the requirements of Article VII of this chapter shall also apply through the underlying zoning district. The Zoning Board of Appeals may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
- (9) Consistency with registration materials. Plans and information provided to the Zoning Board of Appeals shall be consistent with the with the registration materials issued by the Massachusetts Department of Public Health and any other information and materials provided to the Massachusetts Department of Public Health.

F. Special permit requirements.

- (1) Application requirements. An application to the Zoning Board of Appeals shall include, at a minimum, the following information:
 - (a) Complete application form.
 - (b) Description of activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIPs), on-site sales, off-site deliveries, site security, hours of operation, community benefit, distribution of educational materials, and other programs or activities.
 - (c) Service area: A scaled map and narrative describing the area proposed to be served by the registered marijuana dispensary and the anticipated number of clients that will be served within that area. This description shall indicate where any other registered marijuana dispensaries exist or have been proposed within the expected service area.
 - (d) Context map: A scaled map depicting all properties and land uses within a two-thousand-foot radius of the project site, whether such uses are located in Barnstable or within surrounding communities, including but not limited to all religious institutions/places of religious assembly, schools, day-care centers, preschool or afterschool facilities or any facilities in which children commonly congregate.

- (e) Site plan: The proposal is subject to the provisions of Article IX, Site Plan Review, § 240-102.
 - (f) Security plan: The security plan shall be submitted to the Chief of Police who shall provide written comment to the Board as to the adequacy or inadequacy of the security provisions and plans.
 - (g) Building elevations and signage: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.
 - (h) Registration materials: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Zoning Board of Appeals is consistent with the information provided to the Massachusetts Department of Public Health.
- (2) Special permit criteria. In granting a special permit for a registered marijuana dispensary, in addition to the general criteria for issuance of a special permit as set forth in § 240-125C herein and in consideration of all application materials submitted and testimony received, the Zoning Board of Appeals shall find that the following criteria are met:
- (a) The registered marijuana dispensary complies with all requirements of this section, including but not limited to Subsections E and F in their entirety.
 - (b) The registered marijuana dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other registered marijuana dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
 - (c) 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.
 - (d) Traffic generated by client trips, employee trips, and deliveries to and from the registered marijuana dispensary shall not create a substantial adverse impact on nearby residential uses.
 - (e) Where necessary to shield adjacent uses, the Zoning Board of Appeals may require buffering by fencing, vegetation or other screening methods.
- (3) Prohibition on transfer. The special permit shall be issued to the owner of the Medical marijuana treatment center and shall not transfer with a change in ownership of the business and/or property.
- (4) Limitation of approval. A special permit authorizing the establishment of a registered marijuana dispensary shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the registered marijuana dispensary has been authorized by special permit. If the registration for a registered marijuana dispensary has been revoked, transferred to another controlling entity, or relocated to a different site within the Medical Marijuana Overlay District, a new special permit shall be required prior to issuance of a certificate of occupancy.
- (5) Revocation/nonrenewal.
- (a) In accordance with 105 CMR 725.100(E), Expiration and Renewal of Registration, all materials submitted pursuant to the RMD compliance with that section shall also be submitted to the Zoning Board of Appeals record file. The Board reserves the right to hold a public hearing based on a review of the materials showing inconsistencies with special permit conditions and/or the requirements and standards of this section.
 - (b) 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 shall be null and void.

- G. Relationship to other laws. Nothing in this section poses an obstacle to federal enforcement of federal law. Nothing in this law supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes. Nothing in this law requires the violation of federal law or purports to give immunity under federal law.

[1] *Editor's Note: Former § 240-30, MA-2 Business District, as amended, was repealed 7-14-2005 by Order No. 2005-100.*