

Brookline Advisory Committee
Planning and Regulation Subcommittee
Report on Warrant Articles 19 and 20

The Planning and Regulation Subcommittee of the Advisory Committee held a public hearing on March 23, 2021 to review Warrant Articles 19 and 20 of the May 2021 Annual Town Meeting. Due to current health concerns, the hearing was held via Zoom. In attendance were Subcommittee members Steve Kanés (chair), Carlos Ridruejo, Lee Selwyn, Neil Wishinsky, and David Pollak. Presenting on behalf of the Department of Planning and Community Development, petitioner of Warrant Articles 19 and 20, was Maria Morelli (Senior Planner, Department of Planning and Community Development). Also present was Monique Baldwin (Cannabis Licensing & Mitigation Coordinator), John VanScoyoc (Select Board) and members of the public.

SUMMARY

Warrant Articles 19 and 20 seek to update Town By-Laws to reflect recent changes made by the Commonwealth's Cannabis Control Commission which allow two new types of licenses: Marijuana Delivery Operator and Marijuana Courier. Warrant Article 19 amends the Town's General By-Laws, "Marijuana Establishments" while Warrant Article 20 amends the Brookline Zoning By-Law, to regulate these new use types of activities. It is important to note that, for the first three years, the Commonwealth is reserving these two types of licenses to social equity program participants and economic empowerment applicants.

RECOMMENDATION

The Subcommittee is of the view that Warrant Articles 19 and 20 represent a worthy direction towards quickly fulfilling the Town's goals on social equity and economic empowerment. Pending the refinement of some details by the Town staff, the Subcommittee will vote on a recommendation on April 6, prior to the presentation to the full Advisory Committee.

BACKGROUND

In May 2018 Town Meeting approved Article 8.37 of the Town's General By-Laws establishing a local regulatory scheme for recreational ("Adult Use") marijuana retailers and other forms of marijuana establishments established by State statute and State regulations promulgated by the Massachusetts Cannabis Control Commission ("CCC").

Later in December 2020, the CCC amended its regulations to create two new State license types: (1) the "Marijuana Delivery Operator" (a marijuana establishment with no storefront presence that sells and delivers marijuana and marijuana products directly to consumers utilizing an on-line platform, the so called "Amazon" model), and (2) the "Marijuana Courier" (which do not sell directly to consumers but partner with marijuana establishments that do so, and do their deliveries to consumers, the so called "DoorDash" model).

It is important to note that these new CCC regulations reserve these two license types to “Economic Empowerment” applicants and “Social Equity Program Participants” at least during the three (3) year period from when the State’s first Marijuana Delivery Operator may commence operations.

The new state regulations require minor changes in both the Town’s General By-Laws and the Brookline Zoning By-Law. It is important to note that the new “licenses” are regulated by the General By-Laws while the new “Special Permit Uses” are regulated by the Zoning By-Law.

Town staff have developed Warrant Article 19 (Town’s General By-Law) and the accompanying Warrant Article 20 (Zoning By-Law) proposing changes in order to provide for Select Board licensing, siting, and local regulation of Marijuana Delivery Operators and Marijuana Couriers.

Cap of Licenses. The proposed caps on the two new license categories are the same as the cap for the formerly denominated “Delivery Only” Marijuana Retailer (now termed the “Marijuana Courier”) and other Marijuana Retailers. Because the Town has no experience with either new use, it was deemed prudent to establish caps at the outset of permitting/licensing these uses while any community impacts are assessed.

License vs. Special Permit. As with any Marijuana Establishment applicant for a license, the Select Board issues the license and the Zoning Board of Appeals issues the corresponding Special Permit. These two new types of marijuana licenses (issued by the Select Board) will have a corresponding special permit which will undergo site plan review through the Planning Department, Planning Board and Zoning Board of Appeals processes. This cross-departmental review determines the Select Board license conditions and eligibility for a new license.

Warrant Article 19 amends Town’s General By-Laws definitions, process and requirements for the Select Board licensing. Here is a summary of the distinctions between the two new licenses:

Marijuana Courier	Marijuana Delivery Operator
<ul style="list-style-type: none"> ▪ So called “DoorDash” delivery model ▪ Max licenses: 20% of liquor licenses [as of this date: 4 licenses] ▪ No storage of marijuana 	<ul style="list-style-type: none"> ▪ So called “Amazon” sales model ▪ Can sell directly to consumers via on-line platform ▪ Warehouse must be in host community ▪ Max licenses: 20% of liquor licenses [as of this date: 4 licenses]

This Warrant Article also proposes to delete a provision for licensing of Medical Marijuana Treatment Centers under an older bylaw (Article 8.34 of the General Bylaws). (since NETA was the only entity licensed under it and NETA is now fully licensed pursuant to the existing Article

8.37 instead of under Article 8.34.) Currently, the Town does not permit Social Consumption Marijuana Retailers. Pursuant to State law, a Town-wide referendum is required.

Warrant Article 20 amends the Zoning By-Law by adding Use 20D to allow the Marijuana Delivery Operators license. This use is allowed by Special Permit in districts zoned Industrial (I), and Office (O). To support the CCC’s mission of prioritizing Social Equity and Economic Empowerment candidates, a maximum limit of 5,000 sf floor area is proposed.

Here is a summary of the distinctions between the new proposed uses:

Use 20C - Marijuana Courier	Use 20D - Marijuana Delivery Operator
<ul style="list-style-type: none"> ▪ So called “DoorDash” delivery model ▪ Would be allowed in L, G, I, and O zoning districts ▪ May not occupy street level spaces in L and G districts ▪ No parking required ▪ Max floor area: 5000 sf 	<ul style="list-style-type: none"> ▪ So called “Amazon” sales model ▪ Would be allowed in I and O zoning districts ▪ Max parking spaces 1.5 per 1000 sf of GFA. One loading space. ▪ Max floor area: 5000 sf

PUBLIC COMMENT

No members of the public commented on the Warrant Articles.

DISCUSSION

Members of the Subcommittee asked several questions on the proposed Warrant Articles.

Ms. Morelli clarified that the warehouse for the Delivery Only license is to be located within the Town limits in districts zoned Industrial (I), and Office (O) and be limited to a 5,000 gross square foot area. This was to promote small local business and further the mission of targeting social equity and economic empowerment, rather than larger national operators. The Courier license would be located in the General Business Districts (L, G and O) but with no street level presence, and in Industrial (I) Districts.

A Subcommittee member asked if marijuana delivery is currently allowed in Brookline. Ms. Morelli clarified that currently, there is a type of delivery allowed, but these Warrant Articles were meant to align Town regulations with the new CCC rules and to add a delivery use to the Zoning By-Law Table of Uses. These Warrant Articles do not change anything regarding Social Consumption Licenses (a cafe which serves cannabis product for consumption) for which the Commonwealth still has to approve legislation and be subject to a Town-wide referendum.

Delivery Only Operators. The Subcommittee discussed the location of the I and O districts in Town, which are located mainly along the Route 9 corridor. Ms. Morelli explained that since the

Delivery Only operators will require a fleet of vehicles (delivery vans with a maximum load value of \$10,000 at any one time), the locations will require access and ample space for such operations. The proposed amendments require that delivery loading and unloading be located in an enclosed building. This aspect was extensively discussed by the members of the Subcommittee. It was unclear why it was required to be in an enclosed building. Security and screening of operations from the outside were cited as reason for this requirement. It was noted that currently, Marijuana operators in Town are not required to unload in an enclosed area. It was also noted that security can be achieved without having to be an enclosed area. The maximum parking limit would be or 1.5 spaces for every 1,000 gross square feet of area.

Courier Operators. It was clarified that this type of operation is basically an office dispatch which coordinated all the delivery operations. No cannabis product would be located on these premises. The courier would pick up the product at one of the existing cannabis sales locations and deliver it to the customer. If the delivery is not possible, the courier would have to return the cannabis product to the sales location. The law does not allow the storage of any cannabis product at the courier operators premises. These locations are not open to the public. These operators are not required to store their delivery vehicles (vans with two occupants) on site or within the Town limit. The couriers cannot be services such as Uber or Door Dash. The courier does not sell directly to consumers.

Social Equity and Economic Empowerment. Ms. Morelli described that these two programs would prioritize people of color populations that have been disproportionately impacted by the criminalization of marijuana. She also mentioned that there has been extensive interest by several parties to have a presence in Brookline. She reiterated that it would be important for the Town to announce these programs to people of color. She expressed the importance to not only support the state's mission but to further promote equity and economic empowerment in Town. Members of the subcommittee underscored the importance of this mission and extensively discussed if some of the requirements proposed posed undue burden towards fulfilling these goals. Another item discussed was how many actual sites at I and O zoning districts would be adequate to fulfill the requirement of the proposed amendments.

The members of the Subcommittee agreed to continue the hearing to allow for further refinement by Town staff of the requirements for loading, parking and storage of vehicle, enclosed or not enclosed, for Delivery Only Operators. Mr. Ridruejo and Mr. Wishinsky were charged by the Subcommittee to have subsequent discussions with Ms. Morelli regarding the refinement of the forementioned requirements.

After further consultation with the Building Commissioner, the Director of Economic Development, the Police Department, Town Counsel and the Cannabis Licensing and Mitigation Coordinator, Ms. Morelli has suggested to make the following amendments to Warrant Article 20.

The first amendment is regarding loading requirement (Section 4.13.4.7):

Section 4.13.4.7

7. The Parking and Loading Requirements for Marijuana Delivery Operators shall be as follows:

- ~~a. All loading, parking, and storage of commercial vehicles shall be within an enclosed building.~~
- ~~b. Delivery and loading of Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods shall occur with an enclosed building.~~
- ~~c. a. The maximum parking limit shall be 1.5 spaces per for every 1000 square feet of gross floor area.~~
- ~~b. A minimum of one loading space sufficient in size to park and load any vehicle used for delivery shall be required and shall be used solely to meet the loading and delivery needs associated with the use on the site.~~

The second amendment is regarding the special permit criteria and the Board of the Appeals (Section 4.13.6.B.1).

Section 4.13.6.B.1

B. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

1. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (see subsection 4-3, Cap on the Number of Special Permits for Storefront Marijuana Retailers, *Marijuana Couriers, Marijuana Delivery Operators* of this section) and any applicable density restrictions (see subsection ~~4 5~~, *Additional Location Requirements for Marijuana Establishments*, General Requirements for Marijuana Establishments, of this section). ~~Issuance of a special permit must also comply with applicable State and local laws.~~

The committee will vote on a recommendation at their meeting on April 6, pending these subsequent amendments by Ms. Morelli.

ARTICLE 19

Petitioner: Planning Department

To see if the Town will amend Article 8.37 of the Town's General By-Laws, "Marijuana Establishments", as follows (additions are in bold, underlined text, and deletions are in bold, stricken text):

ARTICLE 8.37 MARIJUANA ESTABLISHMENTS

Section 8.37.1 PURPOSE

The intent of this section is to permit Marijuana Establishments to operate pursuant to local requirements to ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

Section 8.37.2 DEFINITIONS

See also Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended. In the event of a conflict between the following definitions and those contained in the foregoing State laws and regulations, the definitions contained in the foregoing State laws and regulations shall govern.

- a. Cannabis Control Commission — the Massachusetts Cannabis Control Commission.
- b. **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, brand and Transfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers.**
- c. **Finished Marijuana Products –usable Marijuana, Cannabis resin or Cannabis concentrate that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.**

- d. Hemp — the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.
- e. Manufacture — to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.
- f. Marijuana — all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “Marijuana” shall not include (1) 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; (2) Hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.
- g. **Marijuana Accessories –equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Marijuana into the human body.**
- h. **Marijuana Courier - an entity licensed by the Massachusetts Cannabis Control Commission to deliver Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers from a Marijuana Retailer, or directly to registered qualifying patients or caregivers from an Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to consumers, registered qualifying patients or caregivers and is not authorized to wholesale, Marijuana Warehouse, process, repackage, or White Label.**
- i. Marijuana Cultivator — an entity licensed by the Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers.

- j. Marijuana Delivery Only Marijuana RetailerOperator — an entity licensed by the Massachusetts Cannabis Control Commission to purchase at wholesale and Marijuana Warehouse Finished Marijuana Products and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers, but is not authorized to repackage Marijuana or Marijuana Products or operate a storefront under this license. For Marijuana Delivery Operators, the location of the Marijuana Warehouse shall be the Licensee’s principle place of business within the Town. a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Marijuana Microbusiness.
- k. Marijuana Establishment — a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Marijuana Independent Testing Laboratory, or any other type of Cannabis Control Commission-licensed Marijuana-related business or entity.
- l. Marijuana Establishment Agent — any owner, employee, executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana. a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana
- m. Marijuana Establishment Branded Goods — a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment’s brand name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.
- n. Marijuana Independent Testing Laboratory — an entity licensed or registered by the Massachusetts Cannabis Control Commission that is (i) accredited to the most current International Organization for Standardization 17025 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; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when

~~conducted by other types of Marijuana Establishments. — qualified to test Marijuana and Marijuana Products in conformity with State law.~~

- m. ~~Marijuana Products — Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been manufactured and contain cannabis, marijuana, or an extract from cannabis or marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edibles, beverages, topical products, ointments, oils and tinctures. Marijuana Products include Marijuana-infused Products (MIPs). ~~products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.~~~~
- n. ~~Marijuana Product Manufacturer — an entity licensed by the Massachusetts Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.~~
- o. Marijuana Research Facility – an academic institution, nonprofit corporation or domestic corporation or entity licensed by the Massachusetts Cannabis Control Commission to conduct research.
- p. ~~Marijuana Retailer — an entity licensed by the Massachusetts Cannabis Control Commission to purchase, and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers. This definition includes the foregoing uses described in this definition when ~~conducted by other types of Marijuana Establishments.~~ repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to transfer or otherwise transfer this product to Marijuana Establishments and to sell to Consumers.~~
- q. Marijuana Transporter – An entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Massachusetts Cannabis Control Commission to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or Medical Marijuana Treatment Centers, but not to consumers.
- r. Marijuana Warehouse – Marijuana Warehouse means an indoor structure or a portion of the structure on the licensed Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000 including the requirements for

security, storage and disposal. For Marijuana Delivery Operators, the location of the Marijuana Warehouse shall be the Licensee’s principle place of business within the Town.

- s. **Marijuana Warehousing – Marijuana Warehousing means the onsite storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.**
- t. Medical Marijuana Treatment Center— an entity **licensed by the Massachusetts Cannabis Control Commission** that acquires, cultivates, possesses, processes (including development of related products such as edibles, Marijuana-infused products, tinctures, aerosols, oils, or ointments), **repackages, transfers,** transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.
- u. Mixed Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a **Select Board Cannabis Control Commission** Mixed Use Social Consumption Marijuana Retailer license (**as may be further provided by 935 CMR,** any commercial enterprise for which 50% or less of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).
- v. Primary Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a **Select Board Cannabis Control Commission** Primary Use Social Consumption Marijuana Retailer license (**as may be further provided by 935 CMR,** any commercial enterprise for which 51% or more of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).
- w. Social Consumption Marijuana Retailer — a Marijuana Retailer licensed by the Cannabis Control Commission to **purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products and allow consumers to consumer Marijuana or Marijuana Products solely** on its premises ~~only~~.
- x. **Standards Laboratory – a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.**
- y. Storefront Marijuana Retailer — a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Massachusetts Medical Use of Marijuana Program.

- z. White Labeling – White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers.

~~Section 8.37.3~~ — ~~MEDICAL MARIJUANA TREATMENT CENTERS~~

~~Medical Marijuana Treatment Centers licensed prior to July 1, 2017 may be licensed pursuant to Section 8.37.6 below or under Article 8.34 of the General By-Laws, as the Select Board may determine in conformity with applicable State and local laws.~~

Section 8.37.34 CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR MARIJUANA RETAILERS

The Select Board shall not issue more Marijuana Establishment licenses in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers, b) Marijuana Delivery Operators~~Delivery-Only Marijuana Retailers~~; ~~and~~ c) Social Consumption Marijuana Retailers, ~~and~~ d) Marijuana Couriers.

Section 8.37.45 GENERAL REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

Marijuana Establishments shall comply with the following requirements:

A. General

1. Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit).
2. Marijuana Establishments shall execute and maintain a Host Community Agreement with the Town which shall include the conditions for having the Marijuana Establishment within the Town in conformity with applicable law.
3. Marijuana Establishments shall maintain all permits and licenses required by State and local laws, including, but not limited to, a valid, current license in good standing from the Cannabis Control Commission. 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 Establishment's Cannabis Control Commission license, shall result in an automatic suspension of the Select Board license pending hearing or the opportunity therefore afforded to the Marijuana Establishment.

4. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.
5. Any Marijuana Establishment licensee wishing to close a place of business or cease operations, whether on a temporary or permanent basis, may do so only if permitted by State law and must submit to the Select Board a written request for the Select Board's permission to do so, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancellation of the license.

B. Operational Requirements

1. All Marijuana Establishments' licensed operations shall be conducted within a building or fixed structure.
2. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft or other optical aids.
3. Marijuana Establishments 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 Marijuana Establishment to access the area.
4. No Marijuana Establishment shall allow any person under 21 years of age to volunteer or work for the Marijuana Establishment.
5. The hours of operation of Marijuana Establishments shall be set by the Select Board. The licensee shall not change its hours of operation without Board approval.
6. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
7. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.

8. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.
9. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. “Nuisance” includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment’s premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Department Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.
10. Marijuana Establishments 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, 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 the facility or at any adjoining use or property.
11. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:
 - a) prior to surrendering its State-issued license; or
 - b) within six (6) months of ceasing operations.
12. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.
13. Marijuana Retailers **and Marijuana Delivery Operators** are required to engage in patron age verification using legally-acceptable proof of age as may be further specified by the Select Board license.
14. Marijuana Retailers **and Marijuana Delivery Operators** shall not sell or offer for sale Marijuana or Marijuana Products in a quantity that exceeds the limits established by 935 CMR 500.
15. Marijuana Establishments shall not supply Marijuana or Marijuana Products free of charge or in connection with a commercial or promotional endeavor within the Town of Brookline. Such endeavors include, but are not limited to, product “giveaways”, or distribution of Marijuana or Marijuana Products as an incentive, prize or bonus in a game, contest or tournament involving skill or chance.

16. Marijuana Retailers 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.
17. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

C. Security-Specific Requirements

1. Marijuana Establishments shall maintain compliance with any Town Police Department-approved security and public safety plan as the Police Department may require, 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 (related or unrelated to the business or the establishments), providing access to and transfer of video footage from the establishment's video surveillance system to the Police Department when the Police Department so requests (which request may be made when the Police Department has a reason to believe that such footage may be of assistance in an ongoing investigation related or non-related to the business of the establishment), a requirement to connect an alarm system to a third party monitoring system and to notify the Town's Chief of Police about said third party monitoring system, and any other notifications and security-related measures as may be required by the Police Department and the Select Board.
2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing Marijuana is restricted to employees and others permitted by the Marijuana Establishment to access the area and to agents of the

Cannabis Control Commission or state and local law enforcement officers and emergency personnel.

3. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana Accessories.
4. Marijuana Establishments shall file an emergency response 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.

D. Access to Premises and Information/Reporting/Record-Keeping

1. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Select Board and agents of the Select Board from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week-days during normal business hours to determine the Marijuana Establishment'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 Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.
2. Marijuana Establishments shall cooperate and comply with requests for information made by the Select Board and its agents from the Planning, Building, Health, Police, Fire and Public Works Departments.
3. Within twenty-four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, 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 (DPH)) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the DPH Certificate of Registration.

- a. No person shall operate a Marijuana Establishment or sell Marijuana within the Town unless licensed to do so by the Select Board. Unless the Select Board license states a different duration, a Marijuana Establishment license shall be valid for a term of one year from the first day of January. Each day of operation without a Select Board license shall constitute a separate violation.
- b. A Select Board license shall be subject to the Marijuana Establishment's compliance with this Article 8.37 and with any conditions placed on the Marijuana Establishment's license. An applicant's or licensee's violation of this Article 8.37 and applicable State and local law shall be good cause for and may result in the Select Board's denial of an application or sanction of a license to the extent permitted by law, including, but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing.
- c. The Select Board may issue regulations for the implementation of this By-Law.
- d. The Select Board shall specify the process and forms to be used by applicants for new and renewed licenses.
- e. All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Select Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Select Board. License fees shall not be prorated and are not refundable. Application and license fees shall be in an amount established by the Select Board pursuant to M.G.L. c. 40, § 22F.
- f. No Select Board licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Select Board approval. A Select Board licensee must obtain Select Board approval for a change to or addition of Board Member, Executive, Director and/or Managers, as may be determined by the Select Board. Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.
- g. A Select Board licensee must apply for and obtain the approval of the Select Board or its designee prior to making any structural change to the premises.
- h. The Select Board licensee shall display its license on the premises in a conspicuous place where it can be easily read.

- i. The Select Board or its designee may inspect a Marijuana Establishment and affiliated vehicles prior to the issuance of a Marijuana Establishment license or renewal of a license.
- j. All areas of a Marijuana Establishment may be subject to inspection consistent with applicable law.
- k. The Select Board may, to the extent permitted under applicable law, consider whether an applicant for a license is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this By-Law. An applicant's non-compliance with applicable Massachusetts laws and regulations (including 935 CMR 500), Town by-laws (including this Article and applicable sections of the Town's Zoning By-Law), Town regulations and codes, and any conditions on a license may be cause for denial of an application for a new or renewed Marijuana Establishment license.

Section 8.37.~~68~~ FINES

Any person violating this By-Law shall be fined in the amount of \$100 for each violation. Each day of a continuing violation shall count as a separate violation.

Section 8.37.~~78~~ IMPLEMENTATION

This By-Law shall not be implemented in a manner that conflicts or interferes with the Massachusetts General Laws Chapter 94G or Chapter 94I, or with the regulations promulgated thereunder, including 935 CMR 500.

or act on anything relative thereto.

ARTICLE 20

Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-law as follows:

By amending §2.13, "M" Definitions, as follows (additions are denoted in *bold, italicized* text, deletions are denoted in ~~stricken~~ text):

- 1. MARIJUANA — As defined or amended by State regulations, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "Marijuana" shall not include (1) 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; (2) hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

- a. Marijuana, Hemp — As defined or amended by State regulations, the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.*
- 2. MARIJUANA ACCESSORIES – As defined or amended by State regulations, equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Marijuana into the human body.**
- 3. MARIJUANA ESTABLISHMENT – As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.**

 - a. Marijuana Establishment, Marijuana Courier – As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to deliver Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers from a Marijuana Retailer, or directly to registered qualifying patients or caregivers from an Medical Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to consumers, registered qualifying patients or caregivers and is not authorized to wholesale, Warehouse, process, repackage, or White Label. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
 - b. Marijuana Establishment, Craft Marijuana-Cultivator-Cooperative — As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the **Massachusetts** Cannabis Control Commission to cultivate, obtain, manufacture, process, package, and brand **and transfer** Marijuana ~~or~~ **and** Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers.*

This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

- c. Marijuana Establishment, Marijuana Cultivator – As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.
- d. Marijuana Establishment, **Marijuana Delivery Operator** ~~Only Marijuana Retailer~~ — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission **to purchase at wholesale and Warehouse Finished Marijuana Products and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods directly to consumers, but is not authorized to repackaging Marijuana or Marijuana Products or operate a storefront under this license. For Delivery Operators, the location of the Warehouse shall be the Licensee’s principle place of business within the Town.** ~~as a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Micro-Business.~~ **This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.**
- e. Marijuana Establishment, Marijuana Independent Testing Laboratory — As defined or amended by State regulations, an entity licensed **or registered** by the Massachusetts Cannabis Control Commission that is (i) ~~accredited to the most current International Organization for Standardization 17025 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;~~ (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments. **qualified to test Marijuana and Marijuana Products in conformity with State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.**
- f. Marijuana Establishment, Marijuana Micro-Business — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to **operate as a** ~~act as a co-located licensed Marijuana Cultivator in an area less than 5,000 square feet, a licensed Marijuana Product Manufacturer, and a~~

licensed Marijuana Delivery Service, in compliance with operating procedures for each such license and siting requirements for each type of licensee. ~~—Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, and, if in receipt of a Delivery Endorsement issued by the Massachusetts Cannabis Control Commission, to deliver Marijuana or Marijuana Products produced at the licensed location directly to consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~

- ~~g. Marijuana Establishment, Marijuana Product Manufacturer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers~~ **obtain, manufacture, process and package Marijuana or Marijuana Products and to transfer these products to other Marijuana Establishments, but not to Consumers.** This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.
- ~~h. Marijuana Establishment, Marijuana Research Facility — As defined or amended by State regulations, an academic institution, nonprofit corporation or domestic corporation or entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may be academic institutions, non-profit corporations and domestic corporations or entities authorized to do business in Massachusetts. A Marijuana Research Facility may hold a Cannabis Control Commission Marijuana Retailer License to sell Marijuana and Marijuana Products other than Marijuana cultivated under its research license. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~
- ~~i. Marijuana Establishment, Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to purchase, and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~ **repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to transfer or otherwise transfer this product to Marijuana Establishments**

and to sell to Consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

- j. Marijuana Establishment, Social Consumption Marijuana Retailer — As defined or amended by State regulations **and the Town's General Bylaws**, a Marijuana Retailer licensed by the Massachusetts Cannabis Control Commission **to sell Marijuana or Marijuana Products and allow consumers to consume Marijuana or Marijuana Products solely on its premises. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.**~~to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.~~*
- k. Marijuana Establishment, Marijuana Transporter — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the **Massachusetts** Cannabis Control Commission ~~to purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers. This definition includes the foregoing uses described in this definition when conducted by Marijuana Establishments.~~**possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or Medical Marijuana Treatment Centers, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.***
- l. Marijuana Establishment, Medical Marijuana Treatment Center — As defined of amended by State regulations, an entity **licensed by the Massachusetts Cannabis Control Commission** that ~~acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use, as otherwise defined by State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.~~**acquires, cultivates, possesses, processes (including development of related products such as edibles, MIPs, tinctures, aerosols, oils, or ointments), repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.***

- a. Marijuana Products, Finished – As defined or amended by State regulations, usable Marijuana, Cannabis resin or Cannabis concentrate that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.*
7. MARIJUANA, MANUFACTURE — As defined or amended by State regulations, to compound, blend, extract, infuse or otherwise make or prepare a Marijuana product.
8. MARIJUANA, MARIJUANA MANUFACTURER RESIDENTIAL USE: Residential Marijuana ~~e~~Extraction by ~~n~~Non-licensed ~~e~~Establishments or ~~i~~Individuals utilizing extraction processes that pose an explosive or flammable danger, including solvent-based extraction and any method utilizing liquefied petroleum gas (“LPG”, as may be defined by NFPA1, including propylene, propane, butane, butylenes, and mixtures thereof).’
9. *MARIJUANA, WAREHOUSE – Marijuana Warehouse means an indoor structure or a portion of the structure on the licensed Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000 including the requirements for security, storage and disposal. For Delivery Operators, the location of the Warehouse shall be the Licensee’s principle place of business within the Town.*
10. *MARIJUANA, WAREHOUSING – Marijuana Warehousing means the onsite storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.*
11. *MARIAJUANA, WHITE LABELING – Marijuana White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers.*

And further, by amending §4.07, Table of Use Regulations, as follows (all uses are new):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20B. Medical Marijuana Treatment Centers (see Section 4.13 for applicable definition), and uses analogous to Marijuana Retailer Uses Only	No	No	No	No	No	No	SP*2	SP*2	SP*

<p>Registered Marijuana Dispensary (RMD)*</p> <p>* To be eligible for a special permit under Use 20B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, and Sec. 4.13, Marijuana Establishments, shall be met, as each may be applicable.</p>									
<p>20C. Delivery Only Marijuana Retailers Marijuana Couriers and Marijuana Transporters</p> <p>*To be eligible for a special permit under Use 20C, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.</p>	No	No	No	No	No	SP*1	SP*1	SP*1	SP*1
<p>20D. Marijuana Delivery Operators</p> <p><i>*To be eligible for a special permit under Use 20D, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.</i></p>	No	No	No	No	No	No	No	SP*1	SP*1
<p>29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment</p> <p>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments</p>	No	No	No	No	No	SP*1, 2	SP*1, 2	No	SP*1

29B. Social Consumption Marijuana Retailers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L c.94G, § 3(b).	No	No	No	No	No	SP*1,2	SP*1,2	No	SP*1
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities * To be eligible for a special permit under Use 36C, the requirements under Sec. 4.13, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.	No	No	No	No	No	No	SP*1,2	SP*1,2	SP*1
38D. Marijuana Cultivators * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	SP*1,2	SP*1,2	SP*1,2	SP*1
46B. Marijuana Product Manufacturers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	No	No	No	SP*1
Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No

FOOTNOTES:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.
2. No manufacturing of Marijuana is permitted in these districts.

And further, by creating a new §4.13, Marijuana Establishments with the following requirements:

§4.13 -Marijuana Establishments

1. Purpose

The intent of this section is to permit Marijuana Establishments to operate in locations and pursuant to local requirements that ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. Definitions

See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended, as well as Section 2, Definitions, of the Zoning By-Law for further definitions of applicable terms.

~~3. Medical Marijuana Treatment Centers~~

~~Medical Marijuana Treatment Centers licensed prior to July 1, 2017 shall be subject to §2.13(1) (“Medical Marijuana Treatment Center”), §4.07, Use 20B, and §4.12 (“Registered Marijuana Dispensary (RMD)”) of the Zoning By-Laws and not this section, subject to the following: In the event that the medical Marijuana licensing process by the Select Board pursuant to Article 8.34 of the General By-Laws is discontinued in whole or in part, a medical Marijuana treatment center not subject to Select Board licensing pursuant to Article 8.34 shall then be subject to the requirements established for Storefront Marijuana Retailers.~~

3. Cap on the Number of Special Permits for Marijuana Retailers, *Marijuana Couriers, and Marijuana Delivery Operators*

The Zoning Board of Appeals shall not grant a special permit if doing so would result in a total number of outstanding special permits granted to Marijuana Retailers that exceeds any cap set by a General By-Law on the number of Select Board Marijuana Establishment licenses that can be issued to Marijuana Retailers.

If no such General By-Law is in effect at the time of a vote by the Zoning Board of Appeals on a special permit application, the Zoning Board of Appeals shall not issue a special permit if doing so would result in a total number of outstanding special permits that exceeds the following limitations: The Zoning Board of Appeals shall not issue more special permits in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole

number in the event the number is a fraction: a) Storefront Marijuana Retailers; b) ~~Delivery-Only Marijuana Retailers~~ *Marijuana Couriers*; c) *Marijuana Delivery Operators*; and d) Social Consumption Marijuana Retailers.

~~4. General Requirements for Marijuana Establishments~~

~~Marijuana Establishments shall comply with the following requirements:~~

~~E. General~~

- ~~6. Marijuana Establishments shall comply with applicable State and local laws, regulations, by laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the Marijuana Establishment and the Town, including host community agreements.~~
- ~~7. Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any laws 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 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 Marijuana Establishment and pending further determination by the Zoning Board of Appeals.~~
- ~~8. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.~~

~~F. Operational Requirements~~

- ~~18. All Marijuana Establishments' licensed operations shall be conducted within a building at a fixed location.~~
- ~~19. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft, or other optical aids.~~
- ~~20. Marijuana Establishments 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 Marijuana Establishment to access the area.
- ~~21. The hours of operation of Marijuana Establishments shall be those that are set by the Marijuana Establishment's host community agreement with the Town or a Select Board-issued license.~~
 - ~~22. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.~~
 - ~~23. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.~~
 - ~~24. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.~~
 - ~~25. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.~~
 - ~~26. Marijuana Establishments 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, 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 the facility or at any adjoining use or property.~~
 - ~~27. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:
 - a) prior to surrendering its State-issued license; or
 - b) within six (6) months of ceasing operations.~~
 - ~~28. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.~~

- ~~29. Marijuana Establishments 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.~~
- ~~30. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.~~

G. Security Specific Requirements

- ~~5. Marijuana Establishments shall maintain compliance with any Town Police Department approved security and public safety plans as the Police Department may require, 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.~~
- ~~6. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the Marijuana Establishment to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.~~
- ~~7. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.~~

- ~~8. Marijuana Establishments shall file an emergency response 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.~~

~~H. Access to Premises and Information/Reporting/Record Keeping~~

- ~~4. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week days during normal business hours to determine the Marijuana Establishment'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 Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.~~
- ~~5. Marijuana Establishments shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning, Building, Health, Police, Fire and Public Works Departments.~~
- ~~6. Within twenty four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, 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 Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.~~

~~I. 4. Additional Location Requirements for Marijuana Establishments~~

- ~~1. Marijuana Establishments shall not be located in a building that contains a pre-existing daycare center.~~
- ~~2. Marijuana manufacturing or extraction shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.~~

3. ~~Delivery-Only Marijuana Retailers~~ ***Marijuana Couriers*** and Marijuana Transporters shall not occupy street-level space in Local or General Business districts.
4. The required distance from schools that serve Kindergarten through 12th grade, public or private, shall be:
 - a. 500 feet for i) Social Consumption Marijuana Retailers issued a primary use license; and ii) Storefront Marijuana Retailers with the following provisions:
 1. Where the 500-foot buffer intersects a major corridor (as defined in subsection 2 immediately below), the buffer zone shall not include land on the opposite side of the major corridor from where the school is located.
 2. For purposes of this section, “major corridors” are defined as Beacon Street, Commonwealth Avenue, and/or Route 9 (otherwise known as Boylston Street, including a portion of Route 9 that converts to Washington Street).
 - b. No distance requirement applicable to i) Marijuana Research Facilities that do not hold a Marijuana Retailer license; ii) Marijuana Independent Testing Laboratories; and iii) Marijuana Standards Laboratories.
 - c. 200 feet for all other Marijuana Establishments.
 - d. Measured from lot boundary to lot boundary.
5. Density requirements for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall be:
 - a. A minimum of 200 feet from another Social Consumption Marijuana Retailer issued a ***Select Board*** primary use license ***pursuant to Article 8.37 of the Town’s General Bylaws*** or a Storefront Marijuana Retailer, if any portion of the establishment is located at street-level.
 - b. Allowed within 200 feet from another Social Consumption Marijuana Retailer issued a ***Select Board*** primary use license ***pursuant to Article 8.37 of the Town’s General Bylaws*** or a Storefront Marijuana Retailer above or below street-level as long as the Zoning Board of Appeals determines that doing so will not have a detrimental impact on the vibrancy of the streetscape and all other applicable requirements are satisfied (applicable to uses 29A and 29B).
 - c. Measured from lot boundary to lot boundary.

6. Store Size Limitations for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers, *Marijuana Couriers, and Marijuana Delivery Operators* shall:
 - a. Not exceed a total gross floor area of 5,000 square feet per establishment.
 - b. Not exceed a gross floor area of 3,500 square feet and no more than 5,000 square feet total gross floor area per establishment if any portion of the establishment is located at street-level. *Not applicable to Marijuana Couriers and Marijuana Delivery Operators.*
 - c. Not apply to Medical Marijuana Treatment Centers licensed to operate prior to July 1, 2017, who receive a State Storefront Marijuana Retailer license or Delivery-Only Marijuana Retailer license pursuant to M.G.L. c. 94G and the regulations promulgated thereunder, unless a licensed Medical Marijuana Treatment Center expands the licensed premises or building.
7. *The Parking and Loading Requirements for Marijuana Delivery Operators shall be as follows:*
 - a. *The maximum parking limit shall be 1.5 spaces for every 1000 square feet of gross floor area.*
 - b. *A minimum of one loading space sufficient in size to park and load any vehicle used for delivery shall be required and shall be used solely to meet the loading and delivery needs associated with the use on the site.*

5. 7 Site Plan Review for Marijuana Establishments

The following describes requirements for a Marijuana Establishment site plan review process to precede the Marijuana Establishment’s application for a building permit and a special permit:

- A. Prior to applying for a building permit, the Marijuana Establishment shall have an initial informal meeting with the Planning Director and the Building Commissioner or designees to discuss development plans and relevant Zoning By-Law requirements.
- B. The appropriate site plan review process shall be determined at the initial meeting consistent with the Zoning By-Laws, which may include, but is not limited to, the process for Major Impact Projects and Design Advisory Teams.
- C. In addition, at the discretion of the Planning Director or designee, the Marijuana Establishment Site Plan Review process may entail submission of reports from all relevant departments and divisions, which may include the Health Department, the Police Departments, the Fire Department, the Building Department, the Department of Public Works (e.g., the Transportation Division in the event that a Transportation Demand

Management Plan may be contemplated, the Water Division, the Highway and Sanitation Division, as applicable), and/or any other Department that the Planning Director or designee determines to be appropriate to the project.

- D. The applicant is responsible for obtaining any Department report deemed necessary by the Planning Director or designee in connection with Marijuana Establishment Site Plan Review process and submitting the report to the Planning Department. The Planning Department will assist with identifying to the applicant information and documents that Departments may require in connection with issuing their reports. Departments responsible for reports may identify other needed information and documents needed from the applicant.
- E. Each Department designated by the Planning Department to issue a report will make its report available to the applicant no later than forty-five (45) calendar days from the date the applicant has completed submission to the Department of all requested information and documents.
- F. In the event a Department designated by the Planning Department to issue a report does not do so within 45 days of when the applicant submitted all requested information and documents to the Department, the applicant may submit to the Planning Department, in lieu of the report, a letter showing evidence of the applicant's submission of requested information and documents to the Department or stating that no documents or information was requested, as the case may be.
- G. The Marijuana Establishment shall cooperate with requests for information or meetings by the Planning Director and/or by any of the Departments designated by the Planning Director to issue reports as part of the Marijuana Establishment Site Plan Review process, which information may include the Marijuana Establishment's application for a license from the Cannabis Control Commission or relevant State agency.
- H. Marijuana Establishments may not apply for a building permit until the Planning Director and Building Commissioner have issued a written Notice of Completion of Marijuana Establishment Site Plan Review.

6. Special Permits

The following apply to special permits to operate a Marijuana Establishment, in addition to the requirements set forth in §9 of the Zoning By-Laws.

- A. Application requirements: Marijuana Establishments shall include with their special permit application:
 - 1. Copies of any required licenses and permits relating to the operation of the Marijuana Establishment, or, if an application for a required license or permit is pending, a copy of the application.

2. Evidence of the Marijuana Establishment’s right to use the proposed site as a Marijuana Establishment, such as a deed or lease.
 3. A copy of the Notice of Completion of Marijuana Establishment Site Plan Review Process for Marijuana Establishments.
 4. Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning Department determines is necessary for review, such as Department reports or transportation studies or a license application.
- B. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:
1. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (see subsection 4-3, Cap on the Number of Special Permits for Storefront Marijuana Retailers, *Marijuana Couriers*, *Marijuana Delivery Operators* of this section) and any applicable density restrictions (see subsection 4-5, *Additional Location Requirements for Marijuana Establishments*, ~~General Requirements for Marijuana Establishments~~, of this section). **Issuance of a special permit must also comply with applicable State and local laws.**
 2. The location is compliant with Section 4.13 in its entirety.
 3. The Board of Appeals is otherwise satisfied that the Marijuana Establishment has the ability to comply with the General Requirements for Marijuana Establishments set forth in Section 4.13, and 4.12 if applicable.

7. Submittal Requirements prior to issuance of a Certificate of Occupancy

The following information shall be provided to the Building Department:

- A. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and with access to the facility when it is closed, to enable contact if operating problems should arise.
- B. Proof that all security measures required by the special permit have been installed or implemented.
- C. Proof that the applicant is compliant with implementing any required transportation mitigation measures.

8. Enforcement

This section of the Zoning By-Law shall be enforced by the Building Commissioner or the Building Commissioner's designee, as may be consistent with law. This Section, 9. Enforcement, shall supersede any conflicting provision of the Zoning By-Laws that would otherwise be applicable to the enforcement of this section.

9. 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 or act on anything relative thereto.