

Victor Panak

From: Victor Panak
Sent: Monday, September 26, 2022 9:21 AM
To: Al Raine (al.raine.2012@gmail.com); alanrchrist@yahoo.com; Anne Meyers (annermeyers@gmail.com); Carol Levin (carolslevin@mac.com); Cliff Brown (cliff_brown@comcast.net); Derrick Choi (dkyc617@gmail.com); kgl232@msn.com; Marilyn Newman; Paul Saner; Sandi Silk (sandisilk@gmail.com); Tom Nally (tnally@abettercity.org); Zeina Talje (zeina@zcapitalinvestments.com)
Cc: Meredith Mooney
Subject: FW: Legal Memos on Marijuana and Demo Articles

EDAB Members,

I have heard that Warrant Articles 16, 17, 19, and 20 are being withdrawn but have not seen official confirmation. Those articles reduce the license caps for marijuana social consumption retailers and delivery retailers. In the meantime, Town Counsel has issued the guidance below.

Cheers,

Victor Panak

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From: Jonathan Simpson <jsimpson@brooklinema.gov>
Sent: Friday, September 23, 2022 2:36 PM
To: Victor Panak <vpanak@brooklinema.gov>
Cc: Meredith Mooney <mmooney@brooklinema.gov>
Subject: RE: Legal Memos on Marijuana and Demo Articles

In terms of social consumption marijuana establishments, I would want the EDAB to know this:

Over the summer, the Legislature passed (and the Governor signed) *An Act Relative to Equity in the Cannabis Industry*. The new legislation revised several portions of M.G.L. c. 94G, s. 3, the statutory section dealing with local control of marijuana establishments. You may have heard, for example, how the new legislation substantially altered how much a town can charge as an impact fee in its host community agreements.

Another change received much less press, but has an impact in Brookline you should be aware of. Previously, licenses for “social consumption” marijuana establishments (stores where marijuana and products containing marijuana are sold to be consumed on the premises) would only be allowed after a town-wide vote. Now, they can be permitted by town-wide vote OR by-law. The new portion of the section states:

(3) As an alternative to a local voter initiative petition process under paragraph (2), a city or town may, by ordinance or by-law, allow the consumption of marijuana or marijuana products on the premises where sold. **No local voter initiative shall be required if the sale of marijuana and marijuana products for consumption on the premises is authorized by local law.**

(emphasis added)

Section 8.37.3 of the Town’s General By-Laws states:

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, c) Social Consumption Marijuana Retailers, and d) Marijuana Couriers.

In my opinion, the Town's By-Laws currently allow social consumption marijuana retailers, therefore, under the new language in the state statute there is no longer a need for a town-wide vote to begin licensing social consumption marijuana retailers.

This does NOT mean that the Select Board can begin issuing such licenses. The Board has not specified the process and forms needed for such licenses nor has it adopted any regulations to govern them. Such licenses are subject to different requirements and conditions than those for storefront marijuana retailers, and an existing storefront marijuana retailer cannot simply add the option for its customers to consume marijuana or marijuana products on-site.

In addition, it is not clear how the Cannabis Control Commission plans to begin licensing social consumption establishments at the state level. There was talk several years ago of first establishing a pilot program for such establishments before allowing licensing state-wide. Following this summer's legislation, the CCC may opt to restart that initiative, which would forestall any licensing in Brookline unless it was part of the pilot program.