

## November 2022 Town Meeting

### Warrant Article

#### WA 18

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#### Section 4.13

To see if the Town will amend the Zoning By-Laws, Section 4.13., Marijuana Establishments: Cap on the Number of Special Permits for Marijuana Retailers, Marijuana Couriers, Marijuana Delivery Operators, and Social Consumption Marijuana Retailers as follows (additions are underlined and deletions appear in stricken text):

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, s. 15, as rounded up to the nearest whole number in the event the number is a fraction: ~~a) Storefront Marijuana Retailers;~~ a) Marijuana Couriers; ~~e) b) Marijuana Delivery Operators;~~ and ~~d) c) Social Consumption Marijuana Retailers.~~

The Zoning Board of Appeals shall not issue more than 4 special permits to Storefront Marijuana Retailers.

### Petitioners' Article Explanation

#### **Background**

In 2016 the State of Massachusetts legalized recreational marijuana (the ballot initiative had the support of 54% voters) and in 2017 established the Cannabis Control Commission to implement and administer the laws enabling access to adult use marijuana.

#### **Current Licensing**

Brookline has already granted FOUR marijuana retail licenses and has approved the granting of licenses for FOUR marijuana delivery and FOUR courier businesses to

establish operations in Brookline with EXTENDED hours (July 2022). The new hours of delivery are Sunday-Saturday 8am-9pm. The delivery and courier licenses have been reserved for applicants qualifying as social equity businesses. Anyone in Brookline eligible to consume cannabis has convenient access to medical and recreational marijuana. Legal cannabis is readily available to Brookline residents by the presence of 35 retail, delivery and courier businesses that are authorized to commence operations and are located in Brookline and the surrounding communities of Boston within 10 miles (including West Roxbury, Jamaica Plain, Allston, Brighton), Newton, Cambridge, Watertown and Framingham, Somerville, Chelsea, Needham, Arlington, Quincy, and Melrose.

Some residents may be concerned that 4 recreational cannabis stores is enough and would like to vote on the expansion of more stores in Brookline. This warrant article is a pathway back to the voters-letting them decide.

Some residents may also be concerned that new cannabis licenses will require the applicant to enter and effectively compete in an already crowded marketplace which is likely to require considerable working capital - further discouraging economically disadvantaged applicants from applying for a new license.

### **Density**

Brookline is only about 25% less in population than Newton but has about 1/3 the land area. Newton can allow 8 storefront licenses at this time and they have many more commercial areas with 13 villages than does Brookline. Brookline cannot compare the number of stores like Newton and Boston because our commercial areas are different.

### **Revenue**

Revenue generated by host community agreements are increasingly available only for activity meant to mitigate actual negative impact of licensing and are unavailable for general purposes. M.G.L.94G, Sec.3.

Some residents may be concerned that the excise tax collected from the sale of recreational marijuana in Brookline only represents less than 1% of the total Town budget (FY20-\$1.8mm, FY21-\$1.0mm and FY22-\$n.n) when they thought much more revenue would be coming to town.

New licenses are unlikely to increase the amount of excise tax collected by the Town because the market is increasingly saturated. New licenses may instead increase competition for market share resulting in unintended and likely negative consequences.

### **Growing Teen Use**

Some residents may be concerned about the underage drug use including marijuana. This is especially important for teenagers because recent studies suggest that there is a link between “experimenting” and social acceptance, and that there is

strong evidence that marijuana causes disproportionate harm to the developing brain including psychosis with the lack of caps on THC potency.

Some residents may be concerned that rates of cannabis use disorder in people aged 12 to 17 grew 25% more in states that legalized recreational marijuana than in those that didn't, according to a 2020 study as reported in the Washington Post 6/9/22.

On January 13, 2021, the well established and respected RAND corporation, a research organization that develops solutions to public policy to help make communities throughout the world safer, more secure, and healthier, came out with a study <https://www.rand.org/news/press/2021/01/13.html> associating increased cannabis outlets with cannabis use, heavy use, and intentions to use. The study is among the first to find associations between cannabis use outcomes with density of cannabis outlets among young adults. <https://onlinelibrary.wiley.com/doi/abs/10.1111/ajad.13132>

## **Balance**

The purpose of the No More Than Four warrant article is to preserve the ability of Brookline residents to legally and conveniently obtain marijuana while seeking to limit the unintended negative effects that marijuana may have on the Town, particularly upon teenagers, should additional licenses in any category be made available.

Some residents may also be concerned that when they voted YES in 2016, they didn't realize there could be more than 4 cannabis stores in Brookline. Fortunately, the cannabis statute has a unique design that points to ballot initiative as a method for residents to weigh in on commercialization in their municipality. That is the nature of WA 15. If this Warrant Article passes, it will then go on the May Townwide ballot for residents to weigh in on the expansion of cannabis stores in Brookline. Now that the landscape is different from 2016 with 4 cannabis stores, 4 delivery licenses and 4 courier licenses, in addition to the 4 extended hours in delivery and courier, 2 hours earlier and 2 hours later, the cannabis footprint has changed in 6 years. More stores are opening around the boundaries of Brookline (the list is below). Residents may want the opportunity to weigh in now. If this warrant article passes, the community can decide for themselves to stay where we are at 4 cannabis stores or keep growing. Medical marijuana stores will not be impacted.

## **Brookline's 4 Cannabis Licenses/Stores**

The four retail outlets, three of which are in operation and the fourth for which the Select Board approved license conditions on June 8, 2021 are listed below:

<https://www.brooklinema.gov/1940/Marijuana-Retail-Establishments>

- New England Treatment Access (NETA) – 170 Washington Street and Boylston Street (Brookline Village-highest grossing cannabis store in the world)
- Sanctuary Medicinals, Inc. – 1351 Beacon Street (Coolidge Corner)
- Mission MA, Inc. – 1022-1024 Commonwealth Avenue (Packard's Corner)

- Comm Ave Canna, Inc. – 1030 Commonwealth Avenue (Packard’s Corner)

### **Nearby Cannabis Stores**

According to the Cannabis Control Commission website, there are 35 stores within 10 miles of Brookline (02446 zip code) and the surrounding communities offering access to retail marijuana. There are 25 stores within 5 miles of Brookline (02246 zip code). In addition, delivery and courier services provide home delivery in Brookline. Convenient access to recreational marijuana is assured.

Below are other cannabis stores nearby Brookline:

Seed 401A Centre Street Jamaica Plain

11am-8pm everyday

Med Men 120 Brookline Ave (near Fenway)

Mon.-Fri. 10am—5p.m.

Sunday 12:00pm-6:00pm

Redi 24 Elliot St Newton

m-s 9:00am—9:00 27 parking spaces; separate from residential area

Ascend 1089 Washington St Newton, MA

Daily 9:00-9:00 very large parking lot; separate from residential area

Ethos Dispensary 390 Arsenal Street Watertown

Mon-Sat 10:00am—8:00pm

Additional license applications in Boston and the surrounding area are pending. These provisional licenses (waiting for CCC to grant them an order to commence are below):

Newton (have received special permit from City)

- MedMen 232 Boylston Street (Wegman’s Plaza)
- Union Twist 1158 Beacon Street
- Green Lady 740 Beacon Street

Brighton

- HVV 1937-1939 Beacon Street (former “MaryAnne’s”)
- Pure Oasis 535 Washington Street

Allston

- Opco 144 Harvard Street
- Mass. Greenwoods 166 Harvard Street
- Union Twist 259 Cambridge Street

Fenway and Back Bay

- Cyprus Tree 1114 Boylston Street
- New Dia 48-62 Boylston Street
- Rooted 371 Newbury Street
- Sira Naturals 827-829 Boylston Street

### **What Was Promised and What Actually Happened**

Voters in Massachusetts and Brookline voted to legalize marijuana, addressing the harmful effects of the “war on drugs” on minority and disadvantaged communities. These were often cited as reasons to vote YES on legalization of marijuana. In the ensuing period, Brookline, along with many other MA cities and towns, have granted licenses but many of the licenses went to corporations with big bucks, not applicants from minority or disadvantaged communities. None of the retail marijuana stores are owned by an applicant from a disadvantaged community.

### **Granting Additional Licenses**

This will not address “the war on drugs” on minority and disadvantaged communities because the underlying factors keeping minority and disadvantaged applicants from participating have not been addressed. And now, with over 190 businesses in Massachusetts devoted to recreational cannabis, the market is close to saturation. As in many new markets, after a period of rapid entry, the industry may enter a period of consolidation where competition for market share shakes out weaker entrants. In the ensuing battle, marketplace competitors may turn to advertising, product innovation, loyalty programs, price wars and other incentive schemes to capture and maintain market share.

### **Following Another Big Tobacco**

For a product such as marijuana, for which the health effects are not well known, the unintended consequences may be similar to the trajectory of the tobacco industry. Tobacco, which has been used since the 15<sup>th</sup> century, was at the height of popularity in the post-WW2 years during which tobacco was included in c-rations. The dangers of tobacco were known in the 1600's but it wasn't until 1964 when the Surgeon General declared a link between tobacco and lung disease that public opinion began to shift, culminating in the 2009 passage of the Family Smoking Prevention and Tobacco Control Act which regulated tobacco. It took many, many years to understand and acknowledge the negative health effects of tobacco use. **And the industry fought back each step of the way**; and as some critics have pointed out, continually sought to attract young people through advertising and social acceptance. In the last year Bigbelly trash bins had cannabis delivery ads on them around Coolidge Corner and St. Mary's even across from Florida Ruffin Ridley School. Some residents were concerned of the thousands of children passing these advertisements multiple times a day and addressed this. Residents received cannabis delivery mailers in the mail and Brookline children have come home with mailers in their homework folder with store logos on them. Advertising **will increase** with more cannabis stores.

### **Excise Tax**

In addition to a desire to address economic disadvantage, tax revenue is another argument cited by those in favor of additional licensing. In FY22, Brookline collected \$1,010,239.04 in excise tax revenue. Additional licenses are unlikely to

increase the amount of excise tax collected by the Town because the market is increasingly saturated. New licenses may instead increase competition which could result in unintended and likely negative consequences as marketing and promotion is ramped up in the fight for market share and the *fight to increase market size*.

Retail sales of marijuana in MA are subject to three taxes – a 10.75% marijuana excise tax, up to 3% marijuana local tax option, and a 6.25% sales tax, with medical marijuana being exempt from most taxes. The total tax burden on retail marijuana is about 20%. All pending proposals in Congress seeking federal legalization of cannabis seek to add an accompanying federal tax.

The cost of one ounce of marijuana in MA is over \$340. Typically, one ounce will last consumers one month. Ironically, despite legalization, the black market for marijuana is still alive as the price for legal marijuana is significantly higher due to the cost burden associated with taxation and regulations associated with operations.

### **Health Unknowns**

Although products sold through licensed retailers are regulated unlike black market marijuana, the THC levels are much higher- 3, 4, 5, 7 times stronger than they used to be in the 60's-90's. There is much we don't as yet know about marijuana and the short- and long-term effects of high THC marijuana on health, especially on those under twenty-five.

### **Teenagers and Use**

Adults may freely weigh the benefits of marijuana against various mental and physical health risks associated with its use and - similar to alcohol and tobacco - choose if, when and how to participate. Teenagers on the other hand, may be unduly influenced by social factors such as peer pressure, general acceptability, availability, popularity (flavored products, celebrity endorsed products, etc), detection avoidance (vape, edibles), and other factors that may encourage "experimentation."

What has also been widely reported is that in 2019, 37% of US high school students reported use of marijuana and 22% reported use in the past 30 days. Past-year vaping of marijuana also remained steady in 2020 following large increases in 2018 and 2019. And large percentages of middle and high school students reported past-year marijuana vaping - 8% of eighth graders, 19% of 10th graders, and 22% of 12th graders.

Given the prevalence of teen use of marijuana with high THC concentration, researchers are studying the impact marijuana may be having on developing brains. The initial studies indicate high THC marijuana use by those under 25 years of age is connected with increased risk of mental health disorders, psychosis, suicidal ideation and has strong additive potential. See list of links below to learn more.

## **Conclusion**

In 2016 when the community voted on marijuana, they were told about disadvantaged communities and a bountiful revenue stream. Many people voted for these reasons. 6 years later, now that we see disadvantaged communities have not greatly benefited from the new industry and the excise tax collected from the sale of recreational marijuana in Brookline represents less than 1% of the total Town budget (FY20-\$1.8mm, FY21-\$1.0mm and FY22-\$1.01mm).

Some residents may want to reassess and have another opportunity to have a say in the Town's decisions regarding marijuana. WA 15 caps storefronts to 4, allowing voters to decide if 4 cannabis stores is enough in Brookline or if they want more. Some residents may be concerned because they didn't realize there could be four+ cannabis retailers. Now that the community has more experience with the local impacts of the State regulations, the voters should have the opportunity to weigh in, as state law provides. Let the voters decide on this important decision. The passing of WA 15 at the Fall 2022 Town Meeting will give our residents the opportunity to vote and decide the cannabis footprint of Brookline. WA18 explicitly states that 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, 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 **no more than 4** Marijuana Retailers.

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