

Advisory Committee - Administration and Finance Subcommittee
Warrant Article 17 - Increase Storefront Cannabis Retailers for Equity Applicants
Public Hearing: April 24, 2023 & May 5, 2023

Attendance: Kelly Hardebeck, Neil Gordon and Joslin Murphy; Subcommittee members; Susan Park, Regina Frawley, Bruce Levin, Aone Wang, Lesly Archabal, Perry Grossman, Ranch Kimball, Petra Bignami, Ana Albuquerque, Rui Albuquerque and Kate Silbaugh

Recommendation: The Administration and Finance subcommittee recommends NO ACTION on increasing the cap on Storefront Cannabis Retailer licenses by a vote of 2-0-1 and recommends FAVORABLE ACTION on the addition of a definition for cannabis to Section 8.37.2 by a vote of 3-0-0

Executive Summary:	<p>WA 17 proposes two changes to the Town By-Laws regulating Marijuana:</p> <ul style="list-style-type: none"> ● Amend Section 8.37.4 to allow the Select Board to issue 2 additional Storefront Cannabis Retailer licenses for Equity Applicants as defined by the Select Board Cannabis Equity Policy ● Amend Section 8.37.2 (Definitions) to include a definition for cannabis and, in Section 8.37.4, change references to marijuana to cannabis
Voting Yes will...	<ul style="list-style-type: none"> ● Grant the Select Board the authority to issue up to 2 additional Storefront Cannabis Retailer licenses to equity applicants ● Change marijuana to cannabis in Section 8.37.4 of the Town By-law and insert a definition for cannabis in Section 8.37.2
Voting No will...	<p>Retain the existing number of retail storefront licenses and limit equity applicants to the available licenses for marijuana delivery operators or marijuana couriers.</p>
Financial impact [if any]	<p>Because WA 17 could increase the number of cannabis retailers in Brookline, there is the potential for increased revenue under the Host Community Agreement.</p> <p>If Brookline were found to be out of compliance with the state Cannabis Equity law, the Town could be fined the annual total community impact fees received. In FY22, the total amount collected was \$1.86M.</p>
Legal implications [if any]	<p>Legal Implications of No Action:</p> <p>Per Town Counsel, Brookline’s obligation under the new state law is for the Town to establish policies and procedures to promote and encourage full participation in the regulated marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and to adhere to regulations promulgated by the state. Town Counsel believes the Select Board’s Cannabis Equity Policy adopted on April 4, 2023 fulfills the Town’s obligation for establishing policies and procedures and notes the state has not yet established further regulations.</p> <p>Legal Implications of Favorable Action:</p> <p>Even with the passage of Ballot Question 3 on May 2, 2023, Town Meeting has the authority to modify the number of allowed storefront marijuana retailer licenses</p>

Recording:
April 24, 2023

May 5, 2023:

https://brooklinema.zoomgov.com/rec/play/VswU1W_yk8CjzbryxDIIImSmwzDlzDwffaidiYTkKrl8Larw_UPSqHwq5g48M0TLm-2um7HAgDlaoUIVc.74AOEaFJ4uADXsc0?continueMode=true

Introduction

Warrant Article 17 seeks to diversify the local cannabis industry by increasing the cap of available Cannabis Retail licenses by 2 for equity applicants as defined by the Select Board’s Cannabis Equity Policy. WA 17 also seeks to insert a definition for cannabis into the By-law and replace marijuana with cannabis in Section 8.37.4 of the Town’s By-laws.

In August 2022, Massachusetts became the first state to mandate full participation in the legal cannabis industry by communities that have been disproportionately harmed by marijuana prohibition and enforcement and established a Social Equity Program to provide technical assistance and training and a Social Equity Trust Fund to provide funding to entrepreneurs. To comply with the new state law, the Select Board adopted a Cannabis Equity Policy to provide opportunities to local and diverse applicants for Marijuana Establishment licenses within Brookline. Specifically, the Select Board will only accept and consider applications for Marijuana Establishment licenses from equity applicants for the next 3 years. An equity applicant is defined as an individual or entity that has received either Economic Empowerment Status or Social Equity Status from the state’s Cannabis Control Commission.

	Description	Time in Effect
Warrant Article 17	The Select Board may increase the foregoing limitation in (a) by two (2) as to Storefront Cannabis Retailers in the event it is granting the additional license(s) to an Equity Applicant as defined in a Select Board Cannabis policy or regulation then in effect.	In perpetuity or until by-law is modified by Town Meeting
Select Board Cannabis Equity Policy	For any available Marijuana Establishment license in any category, the Town will exclusively accept and consider applications for Host Community Agreements from Equity Applicants for the 3 years following the adoption of this policy.	Three years from adoption of policy or April 4, 2026
Ballot Question 3	Limit the number of Storefront Marijuana Retailer licenses to no more than four	In perpetuity or until by-law is modified by Town Meeting

Under the Select Board’s policy, any type of license – Storefront Retailers, Delivery Operators, Couriers and Social Consumption Retailers – would be available to equity applicants exclusively for 3 years. Before the passage of Ballot Question 3, Brookline had 5 Storefront Cannabis Retailer licenses and had awarded licenses to 4 applicants – NETA, Mission Massachusetts, Sanctuary and Comm Ave Canna. The 5th license had generated inquiries from equity applicants, but, due to the ballot question, no applications were accepted. That license is no longer available due to the passage of Question 3.

Thus, Brookline has only Marijuana Couriers and Delivery Operators licenses available which are regulated as follows: Marijuana Couriers are allowed by Special Permit in Local Business (L), General Business (G), Business and Professional Office (O) and Industrial (I) Zones. Per Section 4.13 of the Zoning By-Laws, Marijuana Couriers are not permitted at street-level in L and G districts. Marijuana Delivery Operators are allowed by Special Permit in O and I Zones only and must have at least one dedicated loading space for the loading of delivery vehicles.

Discussion

WA 17 was created to ensure equity applicants have access to all categories of Marijuana Establishment licenses in Brookline. Massachusetts is the first state that seeks to establish greater equity in the legal cannabis industry by establishing programs and funding that create pathways for people from communities that have been harmed by marijuana prohibition and enforcement. A host community that does not adhere to policies and procedures that promote and encourage full participation from these individuals or entities can be fined an amount equal to the total amount of community impact fees received. The funds will go to the Cannabis Social Equity Trust Fund which is used to make grants and loans to social equity program participants.

The Select Board has supported diversifying the local cannabis industry for several years and filed a warrant article in 2021 to increase the number of available retail licenses specifically for equity applicants. The current Select Board voted favorable action on WA 17 by a vote of 4-0-0 at their meeting on April 25, 2023.

The subcommittee held two public hearings on WA 17. The discussion at the initial public hearing centered around understanding how other communities were fulfilling their obligations under the state's Cannabis Equity legislation, the total funds received annually by Brookline through Host Community Agreements, and the impact of Ballot Question 3 on the warrant article.

The subcommittee learned that Boston's Cannabis Equity program established an Equity Fund to provide funding and a Technical Assistance Program to offer consulting services. Additionally, Boston's regulations stipulate the city maintain an "equal or greater number of equity applicant licensees to licensees who do not qualify as equity applicants" Newton approved an application from certified social equity applicant, Rolling Releaf, for a marijuana delivery operator license.

In terms of funds received, Melissa Goff shared that the HCA Stabilization fund balance is reported in the annual budget book and that Brookline collected \$1.86M in FY22. In response to the subcommittee's questions about the impact of Q3 on Town Meeting's ability to increase the amount of licenses, Town Counsel indicated that Town Meeting has the authority to increase the number of Storefront Marijuana Retailers.

At the May 5th public hearing, comments were made by both opponents and proponents of WA 17. Ranch Kimball, a resident and supporter of Question 3, commented that Brookline was the first town in Massachusetts to have a medical dispensary and also was the first to fill its available retail licenses. He also cited the vote totals that resulted in the passage of Ballot Question 3 and advocated for no action on WA 17. Susan Park reiterated the numbers from the vote on Question 3 and urged the subcommittee to vote no action on the warrant article. Perry Grossman commented that Town Meeting voted against rounding down and supports the warrant article as a way to increase equity and market competition. Other

residents spoke in favor of no action as a way to respect the vote and the will of the people to cap the number of stores.

The subcommittee discussed the categories of licenses and expressed concerns about the challenges of locating either a courier or delivery operator in Brookline due to the very limited availability of space zoned for Industrial or Office use. Members of the subcommittee expressed their support for increasing equity in Brookline's Marijuana Establishments and for adding cannabis to the by-law, but voted to recommend no action by a vote of 2-0-0. The subcommittee supported adding the definition of cannabis to the by-law and voted for favorable action by a vote of 3-0-0.

Evaluation Methodology/Research

- Massachusetts General Laws establishing Cannabis Social Equity Trust Fund and Social Equity Program (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G/Section14A>)
- Massachusetts General Laws establishing requirement for host communities to establish policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and enforcement (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G/Section3>)
- Select Board Cannabis Equity Policy as voted April 4, 2023 (https://meetings.brooklinema.gov/OnBaseAgendaOnline/Documents/Downloadfile/4.4.23_Select_Board_Meeting_1540_Agenda_Packet_4_4_2023_5_00_00_PM.pdf?documentType=5&meetingId=1540&isAttachment=True)
- Massachusetts Cannabis Control Commission Social Equity Program (<https://masscannabiscontrol.com/equity/social-equity-program/>)
- CCC Social Equity Program eligibility requirements (<https://masscannabiscontrol.com/equity/getting-started/>)
- CCC Economic Empowerment Applicants (<https://masscannabiscontrol.com/equity/eea/>)
- Ordinance Establishing Equitable Regulation of the Cannabis Industry in Boston (<https://www.boston.gov/sites/default/files/file/2019/12/Cannabis%20Ordinance%20with%20Criteria.pdf>)
- Brookline Annual Town Election Ballot May 2, 2023 (<https://www.brooklinema.gov/DocumentCenter/View/40894/Sample-Ballots-May-2-2023>)
- Annual Town Election Official Results (<https://www.brooklinema.gov/DocumentCenter/View/41390/Official-Annual-Town-Election-Results-May-2-2023-PDF>)