



WARRANT
THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF BROOKLINE
SPECIAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the EIGHTEENTH day of NOVEMBER, 2014 at 7:00 o'clock in the evening for the Special Town Meeting at which time and place the following articles are to be acted upon and determined by the representative town meeting:

ARTICLE 1

Submitted by: Board of Selectmen

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of previous fiscal years, which may be legally unenforceable due to the insufficiency of the appropriations therefor, and appropriate from available funds, a sum or sums of money therefor.

Or act on anything relative thereto.

ARTICLE 2

Submitted by: Human Resources

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town.

Or act on anything relative thereto.

ARTICLE 3

Submitted by: Board of Selectmen

To see if the Town will:

- A) Appropriate additional funds to the various accounts in the fiscal year 2015 budget or transfer funds between said accounts;

B) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid.

Or act on anything relative thereto.

ARTICLE 4

Submitted by: Department of Public Works

To see if the Town will vote to abandon, in place, the existing sewer(s) and extinguish the easements for the common sewer which runs across the end of Eliot Street and through the rear of the lots at 405, 411, 419 and 433 Clinton Road, across land now formerly of the Boston & Albany Railroad and land of the West End Railway Company, and only upon the satisfaction of such other terms and conditions as the Board of Selectmen deem in the best interests of the Town. Said easements are more accurately shown as several parcels having areas of approximately 5,900 square feet, 855 square feet and 1,410 square feet more or less on a plan entitled "Common Sewer Between Norfolk Road and Beacon Street" dated March 23, 1892 by Alexis H. French. Said easements are recorded in the Norfolk Registry of Deeds in Book 1014, Page 164.

Or act on anything relative thereto.

ARTICLE 5

Submitted by: Department of Public Works

To see if the Town will vote to release any of its rights, duties and responsibilities in the 18 inch sewer running through the City of Boston and extending from the land of the West End Street Railway Company to the terminus of the present sewer at the Town Line as it existed in 1892, being a portion of the sewer as shown on a plan entitled "Common Sewer Between Norfolk Road and Beacon Street" dated March 23, 1892 by Alexis H. French. Said Plan is on file at the Brookline Engineering Division of the Department of Public Works. Said release to be effective only upon the satisfaction of any terms and conditions as the Board of Selectmen may deem to be in the best interests of the Town.

Or act on anything relative thereto.

ARTICLE 6

Submitted by: Board of Selectmen

To see if the Town will authorize the Board of Selectmen to enter into any necessary agreement(s) and/or amendments to existing agreements, and to authorize, ratify and affirm such existing agreements in order to carry out the terms and conditions set forth in a certain Payment in Lieu of Taxes (PILOT) and Development Agreement

between First General Realty Corp. and the Town of Brookline dated May 24, 2011 as amended on July 22, 2014 pertaining to the parcels of land and buildings thereon that make-up the so-called former Cleveland Circle Cinema property at 375-399 Chestnut Hill Avenue, and upon such other terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as the former Cleveland Circle Cinema site.

Or act on anything relative thereto.

ARTICLE 7

Submitted by: Board of Selectmen and Alex Coleman

To see if the Town will amend Articles 3.9, 3.15., 4.4, 4.5 and 5.5 of the Town's General By-laws, by adding the following new language (new language is underlined):

Article 3.9 (Brookline Commission for Women)

Section 3.9.2

(b) Take such action as the Commission considers appropriate to advance the aims of the State Equal Rights Amendment to ensure the equal status of women of every race, creed, color, national origin, age, gender identity or gender expression, and sexual orientation.

(c) The term "women" in this Article 3.9 shall include all women, whether by assignment at birth, or gender identity as defined in G.L. c. 4, s. 7, cl. Fifty-ninth.¹

Article 3.15 (Human Resources Program, Board and Office)

Section 3.15.2 (Function and Purpose)

(e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, gender, gender identity or gender expression, sexual orientation, marital status, handicap or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and;

Article 4.4 (Fair Employment Practices with Regard to Contracts)

(b) In the performance of work under this Contract, the Contractor shall not discriminate in employment practices or in the selection or retention of

¹ G.L. c. 4, s. 7, cl. Fifty-ninth provides, in relevant part, as follows: "Gender identity" shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth.

subcontractors or in the procurement of materials or rental of equipment on the grounds of race, color, religion, gender identity or gender expression, or national origin, or on the grounds of age or sex except when age or sex is a bona fide occupational qualification.

The Contractor will send workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of such notice in conspicuous places available to employees and applicants for employment.

(c) In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract and for the procurement of materials and equipment, each potential subcontractor or supplier shall be notified in writing by the Contractor of the Contractor's obligations under this Contract relative to non-discrimination on grounds of race, color, religion, gender identity or gender expression, national origin, age or sex, and his obligations to pursue an affirmative course of action as required by paragraph (d).

(d) The Contractor will pursue an affirmative course of action as required by affirmative action guidelines adopted by the Human Relations Commission in effect on the effective date of the contract, or when calls for proposals are made, whichever is sooner, which are herein incorporated by reference, attached hereto, and made a part of this contract and to the nature and size of his work force, to insure that applicants are sought and employed, and that employees are treated, during their employment, without regard to their race, color, gender identity or gender expression, national origin or ancestry, or religion. No changes in affirmative action guidelines hereinafter adopted by the Commission shall be effective with respect to contracts already in effect, without the express written consent of the contractor.

Article 4.5 (Discrimination Prohibition with Regard to Contracts)

Section 4.5.1 (Unlawful Practice)

It shall be an unlawful practice for a person proposing to enter into a contract with the Town, under General laws, Chapter 30b, that exceeds \$10,000.00, to discriminate against any individual because of the race, color, religious creed, national origin, sex, gender identity or gender expression, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age or ancestry of any individual.

Article 5.5 (Fair Housing By-law)

Section 5.5.1 (Policy of the Town of Brookline)

It is hereby declared to be the policy of the Town of Brookline that each individual regardless of race, color, creed, religion, sex, handicap, children, marital status,

sexual orientation, source of income, military status, age, ancestry, gender identity or gender expression, and/or national origin shall have equal access to housing accommodations within the Town. Further it is the policy of the Town to encourage and bring about mutual understanding and respect among all individuals in the Town by the elimination of prejudice and discrimination in the area of housing.

Section 5.5.3 (Definition of Terms)

To “discriminate” includes to design, promote, implement or carryout any policy, practice or act which by design or effect segregates, separates, distinguishes or has as disproportionate impact according to race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin.

Section 5.5.4 (Unlawful Housing Practices)

- (a)
1. to discriminate directly or indirectly make or cause to be made any written or oral inquiry concerning the race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, military status, age, ancestry, gender identity or gender expression, and/or national origin of any prospective purchaser, occupant, or tenant of such housing accommodations;
 2. to discriminate or directly or indirectly to refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual, such housing accommodation because of race, color, creed, religion, sex, handicap, marital status, children, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin;
 3. to discriminate or to directly or indirectly print or publish or cause to be printed or published, circulated, broadcasted, issued, used, displayed, posted, or mailed any written, printed, painted, or oral communication, notice, or advertisement relating to the sale, rental, lease, or let of such housing accommodation which indicates any preference, denial, limitation, specification, qualification, or discrimination, based upon race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin;
 4. to directly or indirectly discriminate against any person because of race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin in the terms, conditions or privileges of the sale, rental, lease, or let of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

- (b) 1. to discriminate or to directly or indirectly make or cause to be made any written or oral inquiry concerning the race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, military status, age, ancestry, gender identity or gender expression, and/or national origin or any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodation;
2. to discriminate directly or indirectly in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance because of race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin;
3. to discriminate or to directly or indirectly deny or limit such application for financial assistance on the basis of an appraiser's evaluation, independent or not of the property or neighborhood under consideration, when such evaluation is based on race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin.
- (c) 1. implicit or explicit representations regarding the existing or potential proximity of real property owned, used or occupied by persons of any particular race, color, creed, religion, sex, handicap, marital status, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin, or the presence of children.
2. implicit or explicit representations regarding the effects or consequences of any such existing or potential proximity including, but not limited to, the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other facilities;
3. implicit or explicit false representations regarding the availability of suitable housing within a particular neighborhood or area, or failure to disclose or offer to show all properties listed or held for sale, rent, lease, or let within a requested price range, regardless of location, on the basis of race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin.
- (d) 1. for any person, agent, manager, owner, or developer of any apartment or housing unit, complex or development, whether commercial or residential, to directly or indirectly make or keep a record of any applicant's prospective tenant's or existing tenant's race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, receipt of rental housing

assistance or other public assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin;

2. to use any form of housing or loan application which contains questions or entries directly or indirectly pertaining to race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, age, ancestry, gender identity or gender expression, and/or national origin;

3. to establish, announce or follow a pattern, practice or policy of denying excluding or limiting by any means whatsoever housing accommodations because of race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, military status, age, ancestry, gender identity or gender expression, and/or national origin.

Section 5.5.7 (Functions, Powers and Duties of the (Human Relations-Youth Resources Commission)

(c) 1. To make studies and survey and to issue such publications and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination in housing because of race, color, creed, religion, sex, handicap, children, marital status, sexual orientation, source of income including rental housing assistance, military status, age, ancestry, gender identity or gender expression, and/or national origin.

Or act on anything relative thereto.

ARTICLE 8

Submitted by: Police Chief

To see if the Town will amend the General By-laws, Article 8.5, Disorderly Behavior, as follows (additions appear in underlined bold text, and deletions appear in stricken bold text):

ARTICLE 8.5
DISORDERLY BEHAVIOR **and DISTURBING THE PEACE**

SECTION 8.5.1 DEFINITION

A person is "disorderly," as used in Article 8.5, if, with purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, that person: A. engages in fighting or threatening, or in violent or tumultuous behavior; or B. makes unreasonable noise, or disturbs the peace **and quiet enjoyment** of any residential premises, ~~or makes offensively coarse utterance, gesture or display, or addresses abusive language to any person present;~~ or C. creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor. **A person "disturbs the peace," as used in Section B of the foregoing, if the person engages in conduct that (a) most people would find to be unreasonably disruptive, such as making loud and disturbing noise, and (b) did in fact annoy or disturb at least one person or interfered with at**

least one person's right to be undisturbed. This definition of "disorderly" shall only relate to activities that involve no lawful exercise of a First Amendment right.

SECTION 8.5.2 DISORDERLY ACTION

No person shall behave in a disorderly manner in any street, public place or place which the public has a right of access.

~~SECTION 8.5.3 LANGUAGE~~

~~No person shall use offensive or disorderly language to threaten or annoy persons of the opposite sex or make any threats, or use of other language to create a breach of the peace in any street, public place or place to which the public has a right of access.~~

SECTION 8.5.34 PRESENT TO DISTURB

No person shall be, or remain, upon any street, sidewalk, or upon any doorstep, portico, or other projection of any house or building not owned by such person, to annoy or disturb any person as defined above in §5.2.b.

SECTION 8.5.45 SPECIFIC PENALTY FOR VIOLATION OF SECTIONS 8.5.1 THROUGH 8.5.34

A violation of the provisions of 8.5.1 through 8.5.34 may be dealt with as a non-criminal disposition under Article 10.3 of these by-laws and each violation shall be subject to a specific penalty of \$100.00.

SECTION 8.5.56 SOLICITING RIDES

No person, whether for the purpose of soliciting a ride from the operator of any vehicle, or otherwise, shall stand on any sidewalk or street in such a manner as to obstruct a free passage for pedestrians or vehicles.

SECTION 8.5.67 ACTIVITIES IN STREETS

No person shall engage in any game, sport, or amusement, in any street, whereby the free, safe, and convenient use thereof by travelers thereon shall in any way be interrupted.

SECTION 8.5.78 PEEPING

No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon in any manner any person or persons therein.

SECTION 8.5.89 SLIPPERY SURFACE

No person shall throw or place upon any sidewalk or crosswalk, any banana skin, orange peel, or any slippery or greasy substance.

SECTION 8.5.~~910~~ VANDALISM AND THE DEFACEMENT OF PUBLIC AND PRIVATE PROPERTY

SECTION 8.5.~~910~~.1 Purpose and Intent

Vandalism and the existence of graffiti within the Town are considered a public and private nuisance. The purpose of this by-law is to protect public and private property from acts of vandalism and defacement by prohibiting the application of graffiti on such property and by requiring property owners to remove publicly visible graffiti from their property within a reasonable period of time.

SECTION 8.5.~~910~~.2 Definitions

For the purposes of this by-law, “graffiti” is intended to mean the intentional painting, marking, scratching, etching, coloring, tagging, or other defacement of any public or private property without the prior written consent of the owner of such property.

SECTION 8.5.~~910~~.3 Prohibited Conduct

The application of graffiti to the real or personal property of another is prohibited.

SECTION 8.5.~~910~~.4 Removal of Graffiti

Upon determining that graffiti exists on any private or other non-Town owned property and that such graffiti can be viewed from a public place within the Town, the Chief of Police or his designee may mail or deliver a notice to the owner of the property on which the graffiti exists advising the owner that the graffiti must be removed within fourteen days.

In the case of graffiti on private residential property consisting of thirty dwelling units or less, the property owner shall, within fourteen days of delivery of the notice, either remove the graffiti or submit a written request to the Commissioner of Public Works along with a release, requesting the Town to enter the property and assist in removing the graffiti. Upon receipt of the property owner’s written request and release, the Commissioner of Public Works or his designee shall determine whether the graffiti can be safely removed, and, if so, whether it is appropriate to remove it. If the Town assists in the removal of such graffiti, the Town shall charge the property owner a fee in the amount of the actual cost of removal or one hundred dollars, whichever is less, provided that the property owner shall reimburse the Town for the Town’s actual costs of removing such graffiti from any funds forfeited by the offender to the property owner under any related criminal or non-criminal enforcement action. Absent any forfeiture of funds to the property owner, as stated above, the Town shall not assess more than a total of two hundred dollars in fees per property per owner in any 12 month period. If the Commissioner of Public Works or his designee determines that the graffiti cannot be safely removed or that

it is not appropriate for the Town to remove it, he shall notify the property owner of his determination in writing and the property owner shall remove the graffiti within fourteen days of delivery of such notice.

In the case of graffiti on commercial property or private residential property consisting of more than thirty dwelling units, the property owner shall, within fourteen days of delivery of the notice, remove the graffiti at his own expense.

Notwithstanding any other provisions contained herein, if such graffiti is within an Historic District established under Section 5.6 of the Town's By-laws, then any guidelines or Rules or Regulations adopted by the Preservation Commission pertaining to the removal of graffiti shall apply if and to the extent not inconsistent with this by-law.

SECTION 8.5.~~910~~.5 Enforcement

Failure to remove the graffiti or make a written request to the Commissioner of Public Works in accordance with the requirements of Section 8.5.~~910~~.4 within fourteen days of delivery of the notice may be deemed a violation of this section and shall be dealt with as a non-criminal offense in accordance with the provisions of G.L. c. 40, s. 21D and Article 10.3 of these By-laws.

Owners who repeatedly violate the provisions of Section 8.5.~~910~~.4 may be prosecuted under the provisions of Article 10.1 of these By-laws.

Any fee charged by the Town for the cost of graffiti removal under section 8.5.~~910~~.4 remaining unpaid after sixty days of notice of such charge shall be subject to the provisions of G.L. c. 40, s. 58.

Or act on anything relative thereto.

ARTICLE 9

Submitted by: Fred Lebow

To see if the Town will amend the General By-laws, Article 8.15, Noise Control, as follows (language to be deleted appears as a strike-out and new language is underlined):

**ARTICLE 8.15
NOISE CONTROL**

SECTION 8.15.1 SHORT TITLE

This By-law may be cited as the "Noise Control By-law of The Town of Brookline".

SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE

(a) Whereas excessive Noise is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive Noise may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive Noise that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the Town of Brookline to prevent excessive Noise which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(b) Scope. This By-law shall apply to the control of all sound originating within the limits of the Town of Brookline.

1. Provisions in this By-law shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities, and in the performance of public safety activities.

2. Emergency generators used for power outages, ~~or testing~~ [or required by the latest edition of the State Building Code](#) are exempt from this By-law. However, generator testing must be done during daylight hours.

3. Noncommercial public speaking and public assembly activities as guaranteed by state and federal constitutions shall be exempt from the operation of this By-law.

SECTION 8.15.3 DEFINITIONS

(a) Ambient or Background Noise Level: Is the term used to describe the Noise measured in the absence of the Noise under investigation. It shall be calculated using the average lowest sound pressure level measured over a period of not less than five minutes using a sound pressure level meter set for slow response on the "A" weighting filter in a specific area of the town under investigation. [Background Noise Level at Night for the purpose of enforcement of this By-Law shall be 10 dBA lower than Background Noise Level measured during the Day.](#)

(b) Construction and Demolition: Any site preparation, assembly erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.

(c) Day: 7:01 AM - 10:59 PM and Night: 11:00 PM – 7:00 AM

(d) Electronic Devices: Any radio, tape recorder, television, CD, stereo, public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment.

Exemption: two-way communication radios used for emergency, safety and public works requirements.

(e) Emergencies: Any occurrence or set of circumstances necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

(f) Decibels (dB): The decibel is used to measure sound pressure level. The dB is a logarithmic unit used to describe a ratio of sound pressure, loudness, power, voltage and several other things.

(g) Decibels "A" weighted scale (dBA): The most widely used sound level filter is the "A" weighted scale. This filter simulates the average human hearing profile. Using the "A" weighted scale, the meter is less sensitive to very low and high frequencies.

(h) Decibels "C" weighted scale (dBC): The "C" filter uses little filtering and has nearly a flat frequency response (equal magnitude of frequencies) throughout the audio range.

(i) Fixed Plant Equipment: Any equipment such as generators, air conditioners, compressors, engines, pumps, refrigeration units, fans, boilers, heat pumps and similar equipment.

(j) Frequency response: Is the measure of any system's response at the output to a signal of varying frequency but constant amplitude at its input. The theoretical frequency range for humans is 20 - 20,000 cycles/second (Hz).

(k) Hertz (Hz): Cycles per Second (cps).

(l) Loudness: A rise of 10dB in sound pressure level corresponds approximately to doubling of subjective loudness. That is, a sound of 65dB is twice as loud as a sound of 55dB.

(m) Leaf blowers: Any portable machine carried by hand or configured as a backpack used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

(n) Noise: Sound which a listener does not wish to hear and is under investigation that may exceed the Noise requirements located in this Noise By-law.

(o) Noise Injury: Any sound that:

- (1) endangers the safety of, or could cause injury to the health of humans;
- or
- (2) endangers or injures personal or real property.

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards.

(q) Noise Pollution: If a Noise source increases Noise levels 10 dBA or more above the Background Noise Level, it shall be judged that a condition of Noise Pollution exists. However, if the Noise source is judged by ear to have a tonal sound, an

increase of 5 dBA above Background Noise Level is sufficient to cause Noise Pollution.

(r) Person: Any individual, company, occupant, real property owner, or agent in control of real property.

(t) Sound: A fluctuation of air pressure which is propagated as a wave through air.

(u) Sound Level Meter: An instrument meeting Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.

(v) Sound Pressure Level: The level of Noise, normally expressed in decibels, as measured by a sound level meter.

(w) Tonal Sound: Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

SECTION 8.15.3A MOTOR VEHICLE DEFINITIONS

(a) Gross Vehicle Weight Rating (GVWR): The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating, (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(b) Motorcycle: Any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

(c) Motor Vehicle: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

SECTION 8.15.4 SOUND LEVEL EXAMPLES

The following are examples of approximate decibel readings of every day sounds:

0dBA	The faintest sound we can hear
30dBA	A typical library
45dBA	Typical office space
55dBA	Background Noise of a typical urban environment at night
65dBA	Background Noise of a typical urban environment during the day
70dBA	The sound of a car passing on the street
72dBA	The sound of two people speaking 4' apart
80dBA	Loud music played at home
90dBA	The sound of a truck passing on the street

100dBA	The sound of a rock band
115dBA	Limit of sound permitted in industry by OSHA
120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at a distance of 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

SECTION 8.15.5 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS

(a) Departmental Actions

All town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this By-law.

(b) Departmental Compliance with Other Laws

All town departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this By-law respecting the control and abatement of Noise to the same extent that any person is subject to such laws and regulations.

(c) The Department of Public Works is exempt for Day and Night time operations for routine maintenance including but not limited to snow removal, street cleaning, litter control, and graffiti removal, etc. However, the DPW shall make every effort to reduce Noise in residential areas, particularly at night.

(d) Prior to purchasing new equipment, the Department of Public Works must consider equipment with the lowest Decibel rating for the performance standard required.

(e) Any proposed new or proposed upgrade for a park or recreation facility must incorporate appropriate and feasible Noise abatement measures during the design review process.

SECTION 8.15.6 PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

(a) Use Restrictions

1. The following devices shall not be operated except between the hours of 8 (eight) A.M. to 8(eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 8(eight) P.M. on Saturdays, Sundays and holidays:

All electric motor and internal combustion engine devices employed in yard and garden maintenance and repair.
Turf maintenance equipment employed in the maintenance of golf courses, snow blowers and snow removal equipment are exempt from this section.

2. The following devices shall not be operated except between the hours of 7(seven) A.M. to 7(seven) P.M. Monday through Friday, and from 8:30(eight-thirty) A.M. to 6(six) P.M. on Saturdays, Sundays and holidays:

All devices employed in construction or demolition, subject to the maximum Noise Levels specified in Section 8.15.6b and 8.15.6c.

(b) Vehicular Sources: Maximum Noise Levels Measurements shall be made at a distance of 50 (fifty) feet from the closest point of pass-by of a Noise source or 50(fifty) feet from a stationary vehicle.

Vehicle Class	<u>MAXIMUM NOISE LEVEL dBA</u>	
	Stationary Run-up or Speed Limit 35 mph or less	Speed Limit 35-45 mph
All vehicles over 10,000 lbs. GVWR or GCWR	83	87
All motorcycles	79	79
Automobiles and light trucks	75	75

(c) Construction and Maintenance Equipment:

Maximum Noise Levels
Noise measurements shall be made at 50 (fifty) feet from the source. The following Noise Levels shall not be exceeded:

<u>Construction Item</u>	<u>Maximum Noise Level dBA</u>	<u>Maintenance Item</u>	<u>Maximum Noise Level dBA</u>
Backhoe, bulldozer concrete mixer dumptruck, loader, roller, scraper, pneumatic tools, paver	90	Wood Chipper running concrete mixer,leaf vacuum	90
Air compressor	85	Chainsaw, solid waste compactor, tractor (full-size)	85

Generator	80	Home tractor, snow blower	80
		Lawn mower, trimmer,	75
Electric drills, power tools, sanders, saws, etc.	75	Leaf blowers	67

(d) Fixed Plant Equipment

Any person shall operate such equipment in a manner not to exceed 10 dBA over the Background Noise and not greater than 5 dBA of Tonal sound over the Background Noise. However, if the fixed equipment is operated during night time hours, the night time Sound Pressure Level of the Fixed Plant Equipment must not exceed the average daytime Background Noise to compensate for night time operations, which is assumed to be 10dBA below daytime Background Noise. See Definitions Section 8.15.3(c).

Noise measurements shall be made at the boundary of the property in which the offending source is located, or at the boundary line of the complainant if the complainant is not a direct abutter.

(e) Electronic Devices and Musical Instruments

No person owning, leasing or controlling the operation of any electronic device shall willfully or negligently permit the establishment or condition of Noise Injury or Noise Pollution.

In public spaces, the existence of Noise Injury or Noise Pollution is to be judged to occur at any location a passerby might reasonably occupy. When the offending Noise source is located on private property, Noise Injury or Noise Pollution judgments shall be made at the property line within which the offending source is located.

Any and all Decibel Levels of sound caused by playing non-electrified musical instruments between 9 A.M. and 9 P.M. shall be exempt with exception of drums.

(f) Leaf Blowers

No person shall operate any portable Leaf Blower(s) which does not bear an affixed manufacturer's label or a label from the town indicating the model number of the Leaf Blower(s) and designating a Noise Level not in excess of sixty-seven(67)dBA when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) or [IEC 61672-1](#) methodology. Any Leaf Blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the

approved ANSI Noise Level limit or IEC Noise Limit under this By-law. However, any Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any portable Leaf Blower(s) that have been modified or damaged, determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the town as provided for in this section, even if the unit has an affixed manufacturer's ANSI, IEC or town label. Any portable Leaf Blower(s) must comply with the labeling provisions of this By-law by January 1, 2010. However, the owners of any Leaf Blower(s) operating after January 1, 2010 without a manufacturer's ANSI or IEC label on the equipment, may obtain a label from the town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. The testing will be provided by the town's designated person for a nominal fee and by appointment only. Testing will be provided only between the months of May and October. If the equipment passes, a town label will be affixed to the equipment indicating Decibel Level.

Whether the equipment passes or not, the testing fee is non-refundable. Leaf blowers may be operated only during the hours specified in Section 8.15.6(a)(1). In the event that the label has been destroyed, the Town may replace the label after verifying the specifications listed in the owner's manual that it meets the requirements of this By-law.

(g) Animals

No person owning, keeping or controlling any animal shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the existence of Noise Pollution or Noise Injury.

(h) Additional Noise Sources

No person shall emit noise so as to cause a condition of Noise Pollution or Noise Injury.

(i) Alternative Measurement Procedures

If it is not possible to make a good Sound Pressure Level measurement at the distance as defined for specific equipment throughout Article 8.15, measurement may be made at an alternate distance and the level at the specified distance subsequently calculated. Calculations shall be made in accordance with established engineering procedures.

(j) Noise Level Exclusions

Any equipment that is used to satisfy local, state, federal health, welfare, environmental or safety codes shall be exempt from limitations for hours of operation (See Section 8.15.6(a)), except to the extent otherwise determined by the Board of Selectman. The following equipment shall also be exempt from Section

8.15.6(a) if necessary for emergency work performed by the Department of Public Works:

jack hammers
pavement breakers
pile drivers
rock drills
or such other equipment as the DPW deems necessary,

providing that effective Noise barriers are used to shield nearby areas from excessive Noise.

(k) Motor Vehicle Alarms

The sounding of any horn or signaling device as a part of a burglar, fire or alarm system (alarm) for any motor vehicle, unless such alarm is automatically terminated within ten minutes of activation and is not sounded again at all within the next sixty minutes, is prohibited. Any motor vehicle located on a public or private way or on public or private property whose alarm has been or continues to sound in excess of ten minutes in any sixty minute cycle is hereby deemed to be a public nuisance subject to immediate abatement. Any police officer who observes that the alarm has or is sounding in excess of ten minutes in any sixty minute cycle, who, after making a reasonable effort, is unable to contact the owner of such motor vehicle or, after contact, such owner fails or refuses to shut-off or silence the alarm or authorize the police officer to have the alarm shut-off or silenced, may abate the nuisance caused by the alarm by entering the vehicle to shut off or disconnect the power source of the alarm, by authorizing a member of the fire department or a tow company employee to enter such vehicle to shut off or disconnect the power source of the alarm and, if such efforts are unsuccessful, such officer is authorized to abate the nuisance by arranging for a tow company to tow the motor vehicle to an approved storage area or other place of safety. If a motor vehicle's alarm is shut off or disconnected from its power source and a police officer determines that the motor vehicle is not safe in its then location and condition, the police officer may arrange for a tow company to tow the motor vehicle to an approved storage area or other place of safety. The registered owner of the motor vehicle shall be responsible for all reasonable costs, charges and expenses incurred for the shutting-off or silencing of the alarm and all costs of the removal and storage of the motor vehicle. The provisions of Article 10.1 or Section 8.15.10 shall not apply to this paragraph (k).

(l) Tonal Sound Corrections

When a Tonal Sound is emitted by a Noise source, the limit on maximum Noise levels shall be 5 dB lower than specified.

SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

- (a) The Board of Selectmen, or designee, may give a special permit
- (i) for any activity otherwise forbidden by the provisions of this By-law,

- (ii) for an extension of time to comply with the provisions of this By-law and any abatement orders issued pursuant to it, and
- (iii) when it can be demonstrated that bringing a source of Noise into compliance with the provisions of this By-law would create an undue hardship on a person or the community. A person seeking such a permit should make a written application to the Board of Selectmen, or designee. The Town will make all reasonable efforts to notify all direct abutters prior to the date of the Selectmen's meeting at which the issuance of a permit will be heard.

(b) The applications required by (a) shall be on appropriate forms available at the office of the Selectman. The Board of Selectmen, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered:

- (1) the cost of compliance will not cause the applicant excessive financial hardship;
- (2) additional Noise will not have an excessive impact on neighboring citizens.
- (3) the permit may require portable acoustic barriers during Night.
- (4) the guidelines shall include reasonable deadlines for compliance or extension of non-compliance.
- (5) the number of days a person seeking a special permit shall have to make written application after receiving notification from the Town that (s)he is in violation of the provisions of this By-law.

(c) If the Board of Selectmen, or designee, finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that any special permit granted under (a) would have adverse effects may file a statement with the Board of Selectmen, or designee, to support this claim.

SECTION 8.15.8 HEARINGS ON APPLICATION FOR PERMITS FOR EXEMPTIONS

Resolution of controversy shall be based upon the information supplied by both sides in support of their individual claims and shall be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen, or designee.

SECTION 8.15.9 PENALTIES

(a) Any person who violates any provision of this By-law shall be subject to a fine pursuant to Article 10.3 (Non-Criminal Disposition) in accordance with GL c.40. Section 21d or they may be guilty of a misdemeanor in accordance with Article 10.1 of the Town By-law and each violation shall be subject to fines according to the following schedule:

- (1) \$50.00 for first offense;
 - (2) \$100.00 for the second offense;
 - (3) \$200.00 for the third offense;
 - (4) \$200.00 for successive violations;
- plus (5) court costs for any enforcement action.

Each day of a continuing violation shall be considered a separate violation. Fines that remain unpaid after 30 days shall accrue interest at the statutory rate of interest.

(b) If a person in violation of the Noise Control By-law at a real property is an occupant but not the record owner of the real property, the Police, Health, or Building Departments may notify the owner of record of the real property of the violation. If a fine is issued in connection with excessive Noise at real property to someone other than the record owner of the property then the record owner of that property shall be notified. If there are any successive violations at least 14 days after the notification of the record owner but within a one-year period, then the record owner of the property shall also be subject to the fine schedule delineated in Section (a).

(c) The Health, Building, Police and Public Works Departments shall have enforcement authority for the By-law. To report a violation, contact the appropriate department.

SECTION 8.15.10 SEVERABILITY

If any provisions of this article or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Or act on anything relative thereto.

ARTICLE 10

Submitted by: Alan Christ

To see if the Town will amend Article 8.16 of the Town's General By-laws, by adding the following language (new language is underlined), such amendment to be effective November, 2015:

SECTION 8.16.1 PURPOSE

Article 8.16 is enacted to maintain and expand the Town's solid waste collection and recycling programs under its Home Rule powers, its police powers to protect the health, safety and welfare of its inhabitants and General Laws, Chapter 40, Section 21; Chapter 21A, Sections 2 and 8; Chapter 111, Sections 31, 31A and 31B and to comply with the Massachusetts Waste Ban, 310 CMR 19.

SECTION 8.16.2 SCOPE

This By-Law and the regulations adopted hereunder shall govern and control all aspects of the collection, storage, transportation and removal of solid waste and recyclable materials in the Town. The requirements in 8.16, and in the regulations adopted hereunder, are applicable to all owners and occupants of all property in the Town, including, without limiting the foregoing, owners and occupants of all residential units whose waste is collected as a Town service or by a permitted private hauler; all property managers acting on behalf of owners or occupants of residential units; all owners and occupants of commercial facilities whose waste is collected as a Town service or by a permitted private hauler; and all haulers permitted to collect municipal waste and recyclables in the Town.

SECTION 8.16.3 RULES AND REGULATIONS

The Board of Selectmen may adopt regulations governing the collection, storage, transportation and removal of solid waste and shall adopt regulations to implement a recycling program in the Town. The regulations adopted by the Board may be amended, from time to time, and may add other categories of waste materials to be separated and recycled, as the Town develops programs and the capacity to collect and recycle new categories of waste materials. Prior to the adoption or amendment of any such regulations the Board of Selectmen shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing such notice in a newspaper of general circulation in the town once in each of two successive weeks the first publication to be not less than fourteen days prior to the date set for such hearing or by the posting of such notice on the town's bulletin board in the Town Hall not less than fourteen days prior to the date set for such hearing.

SECTION 8.16.4 SEPARATION OF WASTE MATERIALS

In order to implement recycling in conjunction with the Town's solid waste collection programs, owners, residents, and occupants of every household, residential unit, commercial facility or other building, whose waste is collected as a Town service or by a permitted hauler, shall separate for collection, in the manner set forth in this By-Law and the regulations adopted hereunder, the categories of waste materials defined as Recyclable Materials in the Town of Brookline Solid Waste Regulations.

SECTION 8.16.5 MANDATORY SYSTEMS FOR COLLECTION, STORAGE AND REMOVAL OF RECYCLABLES IN RESIDENTIAL AND COMMERCIAL BUILDINGS

All owners, landlords and property managers of residential and commercial buildings shall set up systems for the collection, storage, and removal of recyclables generated by the occupants and residents in their buildings, in accordance with the regulations adopted hereunder.

SECTION 8.16.6 PERMITTED HAULERS TO COMPLY WITH ALL REGULATIONS AND TO PROVIDE RECYCLING REMOVAL SERVICES FOR RESIDENTIAL AND COMMERCIAL PROPERTIES

Every permitted solid waste hauler, as a precondition to receiving a permit to collect solid waste within the Town of Brookline, shall be required to comply with Article 8.16, and the regulations adopted hereunder, and all Department of Public Works and Brookline Health Department regulations for the storage, collection and removal of solid waste and recyclables. Every permitted hauler shall be required to provide its residential and commercial customers with the services of collecting and properly disposing of recyclables.

SECTION 8.16.7 UN-SEPARATED WASTE MATERIAL

If solid waste (a) is not separated for recycling as required herein and in the regulations promulgated hereunder; or (b) is not separated for recycling, as described in (a) above, and is put out for waste collection; or (c) is not separated for recycling, as described in (a) above, is put out for waste collection and is not collected by the town or a permitted hauler, the owner, manager and occupants of the property (the Property) shall be individually and collectively responsible for removing that solid waste from on or about the public or private way, within twelve (12) hours after the scheduled collection time for such solid waste, and storing it on the Property in a sanitary and safe manner, until it is separated for recycling and removed by the town or a permitted hauler. The owner, manager or occupants of the Property responsible for any one or more of the conditions described in (a) or (b) or (c) above, shall be subject to the enforcement provisions in Article 10.2 and the noncriminal disposition provisions in Article 10.3. Each day any one the conditions described in (a) or (b) or (c) continues shall constitute a separate violation.

Or act on anything relative thereto.

ARTICLE 11

Submitted by: Thomas J. Vitolo

To see if the Town will amend the General By-laws, Article 8.23, Tobacco Control as follows (language to be deleted appears as a strike-out and new language is underlined).

**ARTICLE 8.23
TOBACCO CONTROL**

SECTION 8.23.1 PURPOSE

In order to protect the health, safety and welfare of the inhabitants of the Town of Brookline, including but not limited to its younger population, by restricting the sale of and public exposure to tobacco and e-cigarette products known to be related to various and serious health conditions such as cancer, this by-law shall

limit and restrict the sale of and public exposure to ~~Tobacco Products~~ tobacco and e-cigarette products within the Town of Brookline.

SECTION 8.23.2

DEFINITIONS

a. Tobacco - Cigarettes, cigars, snuff or tobacco in any of its forms.

b. E-Cigarette – Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery, and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid, with or without nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, hookah pens, or under any other product name.

~~bc.~~ Smoking - Lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other tobacco product, or non-tobacco product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette shall be considered smoking under this by-law.

ed. Tobacco Vending Machine - A mechanical or electrical device which dispenses tobacco or e-cigarette products by self-service, with or without assistance by a clerk or operator.

e. Self-Service Display – Any display from which customers may select a tobacco or e-cigarette product without assistance from an employee or store personnel.

df. Minor - A person under twenty-one years of age.

~~eg.~~ Employee - A person who performs work or services for wages or other consideration. An individual who performs services for an employer.

fh. Employer - ~~A person~~ individual, partnership, association, corporation, trust or other organized group of individuals, including the Town of Brookline and any department or agency thereof, which that utilizes the services of one (1) or more employees.

~~gi.~~ Workplace - Any enclosed area of a structure in the Town of Brookline, at which one or more employees perform services for an employer. An indoor area, structure or facility or a portion thereof, at which one or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; where the employer has the right or authority to exercise control over the space.

hj. Food Service Establishment - An establishment having one or more seats at which food is served to the public.

ik. Health Care Institution - An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Health under M.G.L. c. 112. Health care institution

includes hospitals, clinics, health centers, pharmacies, drug stores and doctors' and dentists' offices.

jl. Entity - any single individual, group of individuals, corporation, partnership, institution, employer, association, firm or any other legal entity whether public or private.

km. Educational Institution - any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

ln. Retail Establishment - any store that sells goods or articles of personal services to the public.

SECTION 8.23.3 REGULATED CONDUCT

a. Public Places

(1) To the extent that the following are not covered by applicable State laws or regulations, no person shall smoke in any rooms or interior areas in which the public is permitted. This includes, but is not limited to, any food service establishment, health care institution, classroom, lecture hall, museum, motion picture theater, school, day care facility, reception area, waiting room, restroom or lavatory, retail store, bank (including ATMs), hair salons or barber shops and meetings of government agencies open to the public.

(2) Taxi/Livery services licensed by the Town of Brookline shall be provided in smoke-free vehicles.

The restriction of smoking in taxi/livery vehicles applies to drivers as well as passengers. Vehicles shall be posted in such a manner that their smoke-free status can be readily determined from the outside of the vehicle.

(3) Licensed Inns, Hotels, Motels and Lodging Houses in the Town of Brookline must provide smoke-free common areas. Licensed Inns, Hotels and Motels in the Town of Brookline must designate ~~at least 90%~~ 100% of individual dwelling units or rooms as non-smoking.

(4) The use of tobacco or e-cigarette products by ~~Ne-minors~~ or school personnel ~~shall smoke is prohibited~~ in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds.

The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph (4). Such signage shall be erected so as to notify the public of the smoking prohibition and the areas affected thereby.

b. Workplaces

(1) Smoking in workplaces is prohibited.

(2) Notwithstanding subsection (1), smoking may be permitted in ~~the following places and circumstances:~~

~~a. Private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age child care center, school age day or overnight camp, or a facility licensed by the department of early education and care or as a health care related office or facility;~~

~~b. A guest room in a hotel, motel, inn, bed and breakfast or lodging home that is designed and normally used for sleeping and living purposes, which is rented to a guest and designated as a smoking room.~~

~~(3) Hotels must establish and post a workplace policy that states "Employees are not required to work in rooms in which smoking is allowed." Employees who do not want to work in such rooms must so inform their employer in writing, and employers must abide by their employees' stated wishes in this regard.~~

(4) Every establishment in which smoking is permitted pursuant to this by-law shall designate all positions where the employee's presence in an area in which smoking is permitted to be "smoking positions." The establishment shall notify every applicant for employment in a smoking position, in writing, that the position may cause continuous exposure to secondhand smoke, which may be hazardous to the employee's health.

(5) No establishment in which smoking is permitted pursuant to this by-law may require any employee whose effective date of employment was on or before November 1, 1994 to accept a designated smoking position as a condition of continued employment by the employer.

(6) No establishment in which smoking is permitted pursuant to this by-law may discharge, refuse to hire, or otherwise discriminate against any employee or applicant for employment by reason of such person's unwillingness to be subjected to secondhand smoke exposure unless the employee has been hired for a designated smoking position and has been so notified in writing at the time of hiring.

(7) It is the intent of this by-law that a designated smoking position shall not be considered suitable work for purposes of M.G.L. c. 151A, and that an employee who is required to work in a smoking position shall have good cause attributable to the employer for leaving work.

~~(8) Each establishment in which smoking is permitted pursuant to 8.23.3(b)(2)(b) shall post, and make available to all job applicants, a statement inviting employees and job applicants to notify the Board of Selectmen regarding any violation of the policies in this section (8.23.3(b)).~~

c. E-cigarette Usage – Locations Prohibited

(1) In addition to the smoking prohibitions set forth in this bylaw, the use of e-cigarettes is further prohibited wherever smoking is prohibited under M.G.L. Chapter 270, Section 22 (the “Smoke-Free Workplace Law”), and in all locations listed in Section 8.23.3 of this by-law. The Director of Health and Human Services and/or his or her designee(s) shall enforce this section in accordance with Section 8.23.6.

SECTION 8.23.4 POSTING REQUIREMENTS

Every person having control of a premises where smoking is prohibited by this by-law, shall conspicuously display on the premises, including the primary entrance doorways, signs reading "Smoking Prohibited By Law." Posting of the international symbol for "No Smoking" shall be deemed as compliance.

SECTION 8.23.5 SALE AND DISTRIBUTION OF TOBACCO AND E-CIGARETTE PRODUCTS

a. Permit Requirement – No Entity otherwise permitted to sell tobacco or e-cigarette products shall sell such products within the Town of Brookline without a valid tobacco sales permit issued by the Director of Public Health. Permits must be posted in a manner conspicuous to the public. Tobacco sales permits shall be renewed annually by June 1st, at a fee set forth in the Department’s Schedule of Fees and Charges.

b. Prohibition of Tobacco Vending Machines – The sale of tobacco or e-cigarette products by means of vending machines is prohibited.

c. Restrictions on the Distribution of Tobacco or e-cigarette Products - No person, firm, corporation, establishment or agency shall distribute tobacco or e-cigarette 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 a tobacco or e-cigarette product as an incentive, prize, award or bonus in a game, contest or tournament involving skill or chance.

d. Prohibition of Sales to Minors - No person, firm, corporation, establishment, or agency shall sell tobacco or e-cigarette products to a minor.

~~e. Restrictions on Advertising and Promotion—From and after January 1, 1995, free-standing tobacco product displays in retail locations, where a tobacco product is accessible to the public, shall be within twenty feet and the unobstructed view of a check-out or cash register location.~~

e. Self-Service Displays – All self-service displays of tobacco products as defined herein are prohibited. All commercial humidors including, but not limited to walk-in humidors must be locked.

f. Prohibition of the Sale of Tobacco Products and e-cigarettes by Health Care Institutions - No health care institution located in the Town of Brookline shall sell or cause to be sold tobacco or e-cigarette products. Additionally, no retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco or e-cigarette products.

g. Prohibition of the Sale of Tobacco and e-cigarette Products by Educational Institutions - No educational institution located in the Town of Brookline shall sell or cause to be sold tobacco or e-cigarette products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

SECTION 8.23.6 VIOLATIONS AND PENALTIES

a. Any person who ~~knowingly~~ violates any provision of this by-law, or who smokes in any area in which a "Smoking Prohibited By Law" sign, or its equivalent, is conspicuously displayed, shall be punished by a fine of ~~not more than \$50~~\$100 for each offense. For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

b. Any person having control of any premises or place in which smoking is prohibited who allows a person to smoke or otherwise violate this bylaw, shall be punished by a fine of ~~not more than \$100 for each offense.~~a first offense, \$200 for a second offense, and \$300 for a third or subsequent offense.

c. Any entity violating any other section of this by-law shall receive a fine of ~~three hundred dollars (\$300.00)~~ for each offense.

d. Employees who violate any provision of Section 8.23.3(b) shall be punished by a fine of ~~not more than \$100~~ per day for each day of such violation.

e. Violations of this by-law may be dealt with in a non-criminal manner as provided in PART X of the Town by-laws.

f. Each calendar day an entity operates in violation of any provision of this regulation shall be deemed a separate violation.

g. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Brookline Health Department or a Town department or Board from suspending, or revoking any license or permit issued by and within the jurisdiction of such departments or Board for repeated violations of this by-law.

SECTION 8.23.7 SEVERABILITY

Each provision of this by-law shall be construed as separate to the extent that if any section, sentence, clause or phrase is held to be invalid for any reason, the remainder of the by-law shall continue in full force and effect.

Or act on anything relative thereto.

ARTICLE 12

Submitted by: Petition of Gordon Bennett

To see if the Town will amend the Brookline Zoning By-Laws, Article 4.12, Registered Marijuana Dispensary (RMD), to make Brookline's requirements consistent with the generally-applicable statewide requirements for the location of registered marijuana dispensaries as set forth in Commonwealth of Massachusetts Regulations at 105 CMR 725.110(A)(14), as follows (language to be deleted appears as strike-out and new language is in bold):

Sec. 4.12 – Registered Marijuana Dispensary (RMD)

1. Purpose

The intent of this section is to establish RMDs in appropriate locations and under strict safeguards to mitigate any possible adverse public health and safety consequences related to the establishment of RMDs in the Town of Brookline, in conformity with Chapter 369 of the Acts of 2012 (Question #3 on the November 6, 2012 ballot).

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. General Restrictions

An RMD shall:

- a. Have a valid license or permit as may be required by law, including 105 CMR 725 and the Town By-Law, and comply with all state provisions.
- b. Be located more than 500 feet from an elementary or secondary school, public or private, **daycare center, or any facility in which children commonly congregate**, as measured from lot boundary to lot boundary.
- c. ~~Not be located in a building that contains a day care center.~~ d. Not have direct access from a public way to the portion of the RMD where marijuana or related products or supplies are dispensed.
- d. e.—Have signage that conforms to the state regulations, is not internally illuminated, and is approved by the Brookline Planning Board under Article VII of the Brookline Zoning By-Law.
- e. f.—Require that if an RMD cultivates marijuana in Brookline, it shall be in an entirely enclosed building for security purposes.

- f. ~~g.~~—Submit a detailed description of security measures for the RMD, such as lighting, fencing, gates, and alarms, etc., comply with the requirements of 105 CMR 725, to ensure the safety of persons and protect the premises from theft.

Or act on anything relative thereto.

ARTICLE 13

Submitted by: Bobbie Knable and Ruthann Sneider

To see if the Town will amend Article IX of the Zoning By-Law as follows (new language in bold print):

Article IX, Section 9.08

1. At least seven days before any public hearing on an application for a variance, a special permit, or an extension of time pursuant to s.9.07, the Board of Appeals shall mail or deliver a notice of such hearing, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located and to those Town Meeting Members within all immediately adjoining precincts. At least seven days before any Planning Board Meeting, whether preliminary or final, on an actual or future application for a variance, special permit, or extension of time, the Planning Board shall mail or deliver a notice of such meeting to the applicants, to immediate abutters to the subject property, to each elected Town Meeting Member for the precinct in which the subject property is located, and to Town Meeting members within all immediately adjoining precincts, to all neighborhood associations registered with the Planning and Community Development Department and to all those specified on the Planning Board interoffice and distribution lists which may be amended from time to time. Notice to Town Meeting Members shall be in accordance with the names and addresses in the records of the Town Clerk.
2. **The Board of Appeals shall mail or deliver a notice to each elected Town Meeting Member for the precinct in which the property is located, to those Town Meeting Members within all immediately adjoining precincts, and to others requesting such notice, upon the occurrence of the following events:**
 - a. **When the Board of Appeals grants a continuance to the applicant, including notification of the date certain when the hearing will be resumed;**
 - b. **When the applicant withdraws the appeal before the Board of Appeals renders its decision, but after the application has been noticed;**
 - c. **When the applicant withdraws the appeal after public notice or after a public hearing has begun.**
 - d. **When the Board of Appeals renders a decision either granting or denying the application.**

3. **Minutes of all Board of Appeals hearings shall be part of the public record and shall be accessible electronically from the Town's website within 21 days of the hearing, including those resulting in a continuance of the hearing or withdrawal of the application.**
4. **The results of all Board of Appeals hearings resulting in a decision or withdrawal shall be accessible electronically from the Town's website within 21 days of such hearing.**

Or act on anything relative thereto.

ARTICLE 14

Submitted by: Naming Committee

To see if the Town will approve the name of the athletic fields at the Cypress Street Playground, a town playground designated as Lot 195, Block 09-00 in the Town Assessor's Atlas, as the "Thomas P. Hennessey Fields at Cypress Street Playground", such name to terminate ten years after passage by Town Meeting,

or act on anything relative thereto.

ARTICLE 15

Submitted by: John Harris

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT TO REPEAL THE BOARD OF SELECTMEN'S AUTHORITY TO SELL
TAXI MEDALLIONS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. Strike IN ITS ENTIRETY sec. 4a of the 1974 Mass. Acts ch. 317, as amended by 2010 Mass. Acts ch. 51 sec. 6, authorizing the Board of Selectmen to have exclusive authority to sell taxi licenses [MEDALLIONS] by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by the board; as further amended by 2012 Mass. Acts ch. 52 sec. 3, which established a separate Taxi Medallion Fund.

Section 2: This act shall take effect IMMEDIATELY upon its passage.

or act on anything relative thereto.

ARTICLE 16

Submitted by: David Lescohier

Proposed resolution regarding the transition from the current taxi business and hackney license system to a mixed medallion and hackney license system in the Town of Brookline

To see if the Town will adopt the following resolution:

Whereas Town Meeting adopted Article 21 of the fall 2008 session, a home rule petition seeking an amendment, inserting section 4A, into chapter 317 of the acts of 1974, this home rule petition known as Chapter 51 of the acts of 2010, An Act Relative to the Sale of Taxi Licenses in the Town of Brookline.

Whereas Chapter 317, section 4A of the acts of 1974, as amended, states that: "The board of selectmen may direct the board [of transportation] that in taking any action the board considers necessary to implement this section and to sell taxi licenses, including the adoption, alteration or repeal of rules and regulations after public hearing, the board may balance, in its discretion, the interest of Brookline residents in the continuity of existing Brookline taxi businesses, the interest of existing license holders in their investment in their businesses, the interest of the town in augmenting the portion of the taxi fleet serving the town that meets the needs of its elderly and disabled residents and that minimizes the fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a whole, and the town's interest in maximizing revenue generated from sale of taxi licenses."

Whereas Article 21, Special Town Meeting, 2008, selectmen's recommendation states that: "The idea of converting our license-based system to a medallion-based system similar to the cities of Boston and Cambridge was first proposed to the Town by its hackney business license holders over five years ago to the Transportation Board."

Whereas the Transportation Board chair assembled an ad hoc working group and the selectmen's recommendation states "...this article seeks exemption from this law [MGL 30B] in recognition that the working group's stated goals will most likely lead to a lower per medallion price than an unrestricted medallion."

Whereas Article 21, Special Town Meeting, 2008, selectmen's recommendation states: "The \$300 administrative fee charged to the business license holder for each taxi cab is below the current cost to the Town in staffing time needed to properly regulate the industry."

Whereas Article 21, Special Town Meeting, 2008, selectmen's recommendation states that the taxi regulatory control under the transportation division and the police department hackney division are understaffed.

Whereas, many Brookline taxicab drivers have worked many years loyally serving the residents of Brookline and surrounding communities yet face increasingly difficult, sometimes dangerous, working conditions and inadequate, decreasing rewards for their labor and service and little opportunity to provide for their future.

Whereas the Brookline taxi businesses have been innovative and effective in growing their businesses, and have been able, because of effective marketing, to offer Brookline a highly reliable and responsive taxi fleet with more than triple the capacity warranted for a community of Brookline's size.

Whereas the emergence of unregulated asymmetrical transportation services employing smart phone-based apps is creating new challenges for taxi businesses in Brookline. The Brookline taxicab companies have reported a marked, recent decline in demand.

Whereas the Brookline taxi businesses depend on their ability to maintain a stable, ongoing partnership with the Town as a prerequisite to long term planning, strategic improvements, and continuing investments in their businesses.

Therefore, be it RESOLVED that town meeting favors the view that the interest of Brookline residents in the continuity of existing taxi businesses refers to the collective capacity of Brookline taxicab companies to deliver high quality, responsive, service, at a competitive price.

RESOLVED, that town meeting urge all relevant boards with jurisdiction contemplating action regarding changes in the regulation of the Brookline taxicab industry consider it mandatory, not optional, to proactively, with diligence, and affirmatively take care to implement in an equitable, balanced manner the entire interests enumerated chapter 317 of the acts of 1974 section 4A, as amended. Specifically, any board or committee should act to limit undue maximization of additional revenue for the Town when it would thereby result in excessive sacrifice of the entirety of enumerated interests in chapter 317 of the acts of 1974 section 4A, as amended.

RESOLVED, town meeting favors, in view of widely known proposals to convert to a medallion system, that all relevant boards with jurisdiction, in order to preserve continuity of existing taxicab service in Brookline, urgently consider actions likely to promote enhanced driver retention and recruitment. Specifically, town meeting recommends fair and just recognition that board decisions and actions promoting improved working conditions, a better life, and a more secure future through an opportunity to own a stake in the taxicab business for Brookline taxicab drivers has a direct bearing on taxicab driver retention and recruitment.

RESOLVED, town meeting urges all relevant boards with jurisdiction contemplating action regarding changes in the regulation of the Brookline taxicab industry take steps to revise license fees and increase staffing devoted to taxicab regulation and public safety.

Or act on anything relative thereto.

ARTICLE 17

Submitted by: Claire Stampfer and Heather Hamilton

To see if the Town will adopt the following resolution pertaining to Town lighting;

Whereas the Town of Brookline is in the process of converting public exterior and interior lighting to Light-Emitting Diode (LED) lighting;

Whereas LED lighting technology is a significant improvement over other forms of electric illumination, because it is more energy efficient; and

Whereas different wavelengths of light, both natural and electric, have been found to affect circadian rhythms, including the sleep-wake cycle; and

Whereas adequate restful sleep is a vital component of human health and well-being; and

Whereas the public health effects of light should be taken into consideration when both exterior and interior municipal lighting is selected;

Now therefore, be it resolved that the Town Meeting requests that the Brookline Department of Public Health, Department of Public Works, and the Building Department work together to select daytime and nighttime-appropriate lighting by:

- 1) Keeping abreast of new scientific findings in studies of health effects of lighting, including LEDs;
- 2) Monitoring new technological developments in light bulb and fixture design. For example, bulbs capable of emitting multiple wavelengths may be programmable to produce different wavelengths and intensities of light for daytime and nighttime activities. Thus the wavelength and dimness or brightness may be adjusted for the requirements of time of day and the tasks to be done; and
- 3) Recommending the selection of light bulb specifications appropriate for daytime use in buildings and outside, and nighttime use in buildings and outside for the Town of Brookline and take any other action relative thereto.

ARTICLE 18

Submitted by: Stephen Vogel, for The Acting for Economic Justice Committee of the Boston Workmen's Circle

RESOLUTION ARTICLE IN SUPPORT OF RESPECT AND DIGNITY FOR DOMESTIC WORKERS

TO SEE IF THE TOWN WILL ADOPT THE FOLLOWING RESOLUTION:

Whereas, Massachusetts' domestic workers – comprised of housekeepers, nannies, and caregivers and service providers for children, persons with disabilities, and the elderly – work in private households to care for the health, safety and well-being of the most important aspects of our lives, our families and to our homes; and

Whereas, domestic workers play a critical role in Massachusetts' economy, working to ensure the health and prosperity of our families and freeing others to participate in the workforce, which is increasingly necessary in these difficult economic times; and

Whereas, domestic workers usually work alone, behind closed doors, and out of the public eye, leaving them isolated, vulnerable to abuse and exploitation, and unable to advocate collectively for better working conditions; and

Whereas, domestic workers often labor under harsh conditions, work long hours for low wages without benefits or job security, and face termination without notice or severance pay, leaving many suddenly without both a job and a home; and

Whereas, most domestic workers work to support families and children of their own and more than half are primary income earners, yet two-thirds of domestic workers earn low wages or wages below the poverty line; and

Whereas, many employers desire to treat their caregivers and housekeepers fairly, but do not have the information to guide them in setting terms of employment, and may never develop a formal contract or clearly establish the rights and obligations each party owes to the other; and

Whereas, the Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), which Congress acted to ensure a fair day's pay for a fair day's work, intentionally excluded domestic workers from its protections to appease politicians from Southern states who would not support extending workers' rights to domestic workers many of whom were African American women; and

Whereas, the Commonwealth of Massachusetts has passed sweeping legislation also known as the Domestic Workers' Bill of Rights to rectify past exclusions and to assure state laws are responsive to the unique needs of domestic workers; and

THEREFORE, be it resolved, that the Town of Brookline supports respect and dignity for all domestic workers and pledges its support to ensure that domestic workers who are employed in Brookline are aware of their new rights and will collaborate with domestic worker led committees to help eliminate trafficking, exploitation and forced labor in Brookline.

Or act on anything relative thereto.

ARTICLE 19

Submitted by: Carol Oldham and Ed Loechler

Resolution Opposing the Expansion of Natural Gas through Pipelines and Hydraulic Fracturing in Massachusetts

To see if the Town will adopt the following Resolution

WHEREAS, natural gas is a non-renewable fossil fuel which generates significant carbon emissions and other pollutants when burned;

WHEREAS, natural gas is primarily composed of methane, which can be lethal, is highly flammable, and leaks at every step of production and distribution where it is at least 30 times more potent than carbon dioxide in terms of climate change;

WHEREAS, natural gas might be obtainable in Massachusetts by hydraulic fracturing (“fracking”), a drilling method that contaminates ground water, and harms human health through its chemical byproducts;

WHEREAS, the so-called Northeast Energy Direct Project of the Tennessee Gas Pipeline is a new high-pressure natural gas pipeline (hereafter “the Pipeline”) proposed by Tennessee Gas Pipeline Company LLC, a subsidiary of Kinder Morgan, Inc. that would run from New York through Massachusetts to nearby Dracut;

WHEREAS, the Pipeline would likely transport natural gas obtained in New York and Pennsylvania through hydraulic fracturing;

WHEREAS, said Pipeline would divide and destroy large amounts of forest, conservation land, wetlands, and farmland, which may be obtained through eminent domain;

WHEREAS, the \$2-3 billion cost of the Pipeline could be borne by all ratepayers including those in Brookline through a tariff;

WHEREAS, said expansions of natural gas represent a new, long-term commitment to fossil fuels that does not honor state and local commitments to renewable energy;

BE IT RESOLVED THAT the Town of Brookline:

1. Stands in opposition to the Northeast Energy Direct Project of the Tennessee Gas Pipeline and all similar projects that may be later proposed.
2. Affirms the need for public policy at the local, state and federal levels to encourage renewable energy and combat climate change, and supports legislation to ban or impose a long-term moratorium on hydraulic fracturing as well as storage, treatment or disposal of hydraulic fracturing fluid or byproducts within the Commonwealth.
3. Shall cause a copy of this resolution to be presented to the Town’s state and Federal legislative representatives, the Governor, Massachusetts Secretary of Energy and Environmental Affairs, and Federal Energy Regulatory Commission asking them to take action to prevent the construction of the Pipeline within the borders of the Commonwealth of Massachusetts.

ARTICLE 20

Reports of Town Officers and Committees

AND YOU ARE DIRECTED TO SERVE THIS WARRANT IN ACCORDANCE WITH THE BY-LAWS OF THE TOWN OF BROOKLINE.

HEREOF FAIL NOT, and make due return of this WARRANT, with your doings thereon, to the Selectmen FOURTEEN DAYS at least before the day of said meeting.

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this Ninth day of September, 2014.

BOARD OF SELECTMEN



BY VIRTUE OF THIS WARRANT, I THIS DAY NOTIFIED AND WARNED THE INHABITANTS OF SAID TOWN TO MEET AT THE HIGH SCHOOL AUDITORIUM IN SAID TOWN ON TUESDAY, NOVEMBER 18, 2014 AT 7:00 P.M. BY POSTING TRUE AND ATTESTED COPIES OF THE WITHIN WARRANT IN TEN (10) PUBLIC PLACES. ALL OF THIS WAS DONE AT LEAST FOURTEEN (14) DAYS BEFORE SAID MEETING.

CONSTABLE

DATE