TOWN OF BROOKLINE

GENERAL BY-LAWS

Inclusive through the May 21, 2019 Annual Town Meeting

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GENERAL BY-LAWS OF THE TOWN OF BROOKLINE

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TOWN OF BROOKLINE

Article 1.1

General Provisions

ARTICLE 1.1
GENERAL PROVISIONS

SECTION 1.1.1 SHORT TITLE

These By-laws, that do not include the zoning by-laws and the classification and pay plan, shall be known and may be cited as the By-laws of the Town of Brookline.

SECTION 1.1.2 AMENDMENTS

These By-laws may be amended, repealed or revised by a majority vote of Town Meeting. An amendment, revision or repeal shall be effective when approved and published as required by law.

SECTION 1.1.3 RULES FOR CONSTRUCTION

In construing these by-laws the following rules shall be observed, unless their observance would involve a construction which is inconsistent with the manifest intent of Town Meeting or would be repugnant to the context of the same by-law.

a. The repeal of a by-law shall not revive any previous by-law.

b. The repeal of a by-law shall not affect any punishment, penalty or forfeiture incurred before the repeal takes effect, or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed, or for the recovery of a penalty or forfeiture incurred, under the by-law repealed.

c. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

d. Words importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and words importing a specific gender may include the feminine, masculine and neuter.

e. Unless otherwise provided by law, words purporting to give a joint authority to, or to direct any act by, three or more public officers or other persons, including committees, shall be construed as giving such authority to, or directing such act by, a majority of such officers, persons or committees, provided a quorum is present.

f. The provisions of each section and smaller units of these by-laws shall be deemed severable, and if any unit, section or by-law shall be adjudged unconstitutional or invalid, such judgment shall not affect the other valid parts thereof.

SECTION 1.1.4 DEFINITIONS

In construing these by-laws the following words shall have the meanings herein given, unless a contrary intention clearly applies:

a. "Appointing authority", unless otherwise specifically provided by law, shall be the Select Board.

b. "By-laws" shall mean these by-laws, that do not include the zoning by-laws and the classification and pay plan, as amended from time to time.

c. "Committee" shall include an elected or appointed board, commission, council and trustees.

d. "Inhabitant" shall mean a resident in the town.

e. "Legislative body" shall mean the Town Meeting.

f. "Law", "General Laws" Or "Chapter" shall mean the law, statute or act referred to, as amended from time to time.

g. "Municipal officer" shall mean an elected or appointed official or member of a committee and a department head but shall not include Town Meeting Members and Town employees.

h. “Person” or “Whoever” shall include corporations, societies, associations, partnerships and clubs.

i. “Street” shall mean any public way, highway, street, avenue, boulevard, alley, court, lane, common or square located within the Town, but shall not include private drives and ways.

TOWN OF BROOKLINE

Article 1.2

Town Seal

ARTICLE 1.2
TOWN SEAL

The Town shall have a seal which shall be in the following style:

The Town Clerk shall be the keeper of the Town seal. Papers and documents issued from any Town agency may be attested by use of the Town seal.

TOWN OF BROOKLINE

Article 1.3

Town Flag

ARTICLE 1.3
TOWN FLAG

The Town shall have a flag which shall be in the following form:

The Town seal, in gold and maroon, on a white field with gold edging.

The Select Board shall have the general supervision of and control over the use of the Town Flag.

TOWN OF BROOKLINE

Article 2.1

Town Meetings

ARTICLE 2.1
TOWN MEETINGS

SECTION 2.1.1 CALLING OF MEETINGS

Every Town Meeting shall be called pursuant to a Warrant which shall state the time and place at which the meeting shall convene and the subjects which shall be acted upon.

SECTION 2.1.2 OPENING OF THE WARRANT

At least fourteen days prior to the opening of the Warrant for the Annual or a Special Town Meeting, the Select Board shall post notices of their intention to do so in at least ten places in the Town and shall notify each Town Meeting Member in writing of the opening date and closing date for submission of Articles to said Warrant and shall publish notice thereof in a newspaper of general circulation throughout Brookline. Such written notification by the Select Board shall be made by mail to the Town Meeting Member's address on file with the Town Clerk's office. No such notification shall be necessary where a Special Town Meeting has been called by a citizen's petition.

In lieu of the above mailing requirement, the Select Board may send the required notice electronically to any Town Meeting Member who so requests.

SECTION 2.1.3 FILING OF ARTICLES

All Articles for insertion in the Warrant for any Annual or Special Town Meeting shall be filed in the office of the Select Board prior to 12:00 noon on the 75th day preceding the scheduled date of the opening session of said meeting. On the 75th day preceding the scheduled date of the opening session of said meeting, the Warrant shall be closed, and as soon as practicable thereafter signed, including only those Articles filed by the 75th day preceding said scheduled date.

SECTION 2.1.4 WARRANT REPORTS FOR ARTICLES

There shall be filed with each Article intended for the Warrant a brief statement or explanation by the proponent. The Select Board shall prepare a report on the Articles in the Warrant to be included in the combined reports described in Section 2.5.2.

An Article submitted by the Select Board, or other Town Board, Commission or Department, shall be deemed to be incomplete and not acceptable for insertion in the Warrant unless all plans, specifications and estimates and other supporting data necessary for its consideration by Town Meeting, as well as the explanation of the purpose of the Article, are submitted prior to said deadlines. The insertion of such an Article in the Warrant by the Select Board shall be conclusive evidence of compliance with the condition set forth in the preceding sentence.

The Warrant for the Annual Town Meeting shall include an Article providing the opportunity to terminate and close out accounts for special appropriations of prior years that were authorized at a Town Meeting beginning 22 or more months before the start of said Annual Town Meeting.

The requirements of sections 2.1.2 through 2.1.4, inclusive, may be waived when the Select Board determine that emergency conditions, or a situation requiring immediate action or the provisions of any general or special law require such a waiver.

SECTION 2.1.5 NOTICE OF MEETINGS

(A) Notification. The Select Board shall cause copies of the Warrant for each Town Meeting to be filed with the Town Clerk, and shall direct the Town Clerk to publicly post such copies of the Warrant on the principal Town Bulletin Board at least fourteen(14)days before the Annual Town Meeting and at least fourteen (14) days before any Special Town Meeting is to convene. Such posting shall be deemed to be the legal notification of such meeting and the legal service of such warrant.

(B) Distribution. The Select Board shall cause a copy of the articles in the warrant for each Town Meeting to be published in a newspaper of general circulation within the Town, to be posted on the Town website, and to be delivered in hand, or mailed, either separately or as a part of the Combined Reports, to the Moderator and to the representative Town Meeting members, and shall cause the posting of copies of the same in ten public places in the Town,

at least seven (7) days before a Special Town Meeting is to convene and at least fifteen (15) days before an Annual Town Meeting is to convene. The requirements provided in this subsection (B) shall not be deemed to be a part of the legal notification of such meeting or the legal service of such warrant and the failure to comply with the provisions of this subsection (B) shall not serve to invalidate the proceedings of any Town Meeting.

SECTION 2.1.6 TIME OF MEETINGS

The Town shall meet in an Annual Town Meeting and in Special Meetings at such times as the Select Board may direct or as otherwise provided by law.

SECTION 2.1.7 THE ANNUAL TOWN ELECTION

Annually, not later than the third Tuesday in January, the Select Board shall determine a date for the Annual Town Election. Said election shall be called on either the first or second Tuesday in May. The Select Board may alter the date of the Annual Town Election to conform to the date of any Special State Primary, Special Presidential Preference Primary or Special State Election, which occur during April or May, without regard to the limitations of this by-law.

SECTION 2.1.8 REPRESENTATIVE TOWN MEETING

The representative Town Meeting shall be in accordance with the standard form set forth in General Laws, Chapter 43A.

SECTION 2.1.9 CONDUCT OF THE MEETINGS

The proceedings of Town Meetings shall be conducted in accordance with the handbook of parliamentary law, “Town Meeting Time” published by the Massachusetts Moderators Association, the traditions in Brookline and these by-laws.

SECTION 2.1.10 TOWN MEETING MEMBERS AT LARGE

Pursuant to the authority contained in Section 5 of Chapter 43A of the General Laws (Ter. Ed.) the following officers are designated as Town meeting members at large: (1) the members, inhabitants of the Town, who are the elected representatives of the Town in the General Court of the

Commonwealth of Massachusetts, (2) the moderator, (3) the town clerk, and (4) the Select Board.

SECTION 2.1.11 TOWN MEETING PROCEDURE

Before the opening session of any annual or special Town Meeting, except for a Special Town Meeting within the Town Meeting, the Town Meeting members who so desire shall be given the opportunity to recite the pledge of allegiance to the flag of the United States of America.

After the beginning of the first or opening session of any annual or special Town meeting, except for a Special Town Meeting within the Town Meeting, the Town Meeting members who so desire shall be given the opportunity, prior to consideration of any warrant articles, to sing the National Anthem.

There shall be no obligation or requirement imposed upon any individual Town meeting member or other person present to participate in any way if he or she does not desire to do so.

Any Town Meeting Member may, once recognized by the Moderator, request information from the Town Administrator or any Department Head; and the Town Administrator or his or her designee and when the subject matter before the meeting is the operation, management or funding of a department, the Department Head or his or her designee, shall be allowed to address the Meeting and respond to the request.

On matters requiring a two thirds vote by statute, the vote need not be counted unless the reported result of the vote is immediately questioned by seven or more town meeting members as provided in Chapter 39, section 15 of the General Laws.

SECTION 2.1.12 CHALLENGE TO THE VALIDITY OF AN ACTION TAKEN BY TOWN MEETING

Neither the Select Board, nor any department or agency which reports to the Select Board, shall file any petition or other document with the Attorney General or commence any legal proceeding contending that any action taken by Town Meeting is invalid, unless the following conditions have been complied with:

(a) Such petition or other document or the commencement of such legal proceeding shall have been authorized by the Select Board; and

(b) Subsequent to such authorization, the Town Moderator and Town Counsel shall have been notified in writing of such action, and provided with copies of such petition or document or the documents prepared for the purpose of such court action at least seven days before any such document is filed with the Attorney General or any court.

No other elected Town board, nor any department or agency which reports to any such other elected Town board, shall file any petition or other document with the Attorney General or commence any legal proceeding contending that any action taken by Town Meeting is invalid, unless such Town board first authorizes such action and complies with the conditions described in sub-paragraphs (a) and (b), above.

Neither the Select Board nor any other elected board shall utilize the services of Town Counsel for the purposes of challenging an action taken by Town Meeting. Town Counsel shall use his or her best efforts to defend the action taken by the Town Meeting upon receipt of notice under this by-law. In the event that Town Counsel is unable for any reason to defend such action, including without limitation that Town Counsel has expressed the opinion that such action is illegal, the Moderator shall take such action as he or she deems necessary in order to present such defense, and Town Counsel may then represent the challenger on the Town Meeting action in controversy.

Nothing in this Article shall be construed to prohibit any employee or elected official of the Town, acting in his or her individual capacity, from communicating with the Attorney General, filing a petition or other document with the Attorney General, or commencing legal proceedings, contending that any action taken by Town Meeting is invalid.

SECTION 2.1.13 PETITION ARTICLES

The Select Board shall insert in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by ten (10) or more registered voters in the Town.

SECTION 2.1.14 MANDATORY EDUCATIONAL TRAINING FOR TOWN MEETING MEMBERS

All Town Meeting Members shall, within one hundred and twenty (120) days after the effective date of this by-law for Town Meeting Members incumbent on that date, and within one hundred and twenty (120) days after their initial election for Town Meeting Members elected subsequent to that date, complete the on-line Conflict of Interest Law training provided by the State Ethics Commission. In the alternative, Town Meeting Members may attend an educational training seminar hosted by the Office of Town Counsel. This Article shall not apply to Town Meeting Members who have fulfilled the training requirements set forth in Article 3.20. Town Meeting Members shall not be required to receive such training more than once, unless they are otherwise required to do so as special municipal employees under the provisions of G.L. c. 268A. This by-law shall become effective on May 1, 2016.

2.1.15 TOWN MEETING COMMITTEES

Committees that are established pursuant to a vote of Town Meeting and are not considered by the Attorney General to be “Public Bodies” under the Open Meeting Law shall conduct their meetings in a manner that is consistent with the provisions and intent of the Open Meeting Law.

TOWN OF BROOKLINE

Article 2.2

Advisory Committee

ARTICLE 2.2
ADVISORY COMMITTEE

SECTION 2.2.1 APPOINTMENT OF MEMBERS

The Moderator shall, in June of each year, appoint citizens to serve on the Advisory Committee (herein the Committee) established under G.L.c. 39, Section 16, and this Bylaw. Members of the Committee shall serve without compensation. The Committee shall consist of not fewer than twenty nor more than thirty registered voters of the Town. At least sixteen Committee members shall be elected Town Meeting Members at the time of their appointment. At least one elected Town Meeting Member shall be appointed from each precinct. No more than eight members shall be appointed who are not elected Town Meeting Members at the time of their appointment. No more than four members of the Committee shall reside in the same precinct. No member of the Committee shall be an employee of the Town or a member of any standing Board or Committee having charge of the expenditure of money; but, this restriction shall not disqualify from appointment to the Committee, members of special committees, which may be created from time to time by Town Meeting, the Moderator or the Select Board to report on specific matters.

SECTION 2.2.2 TERMS OF APPOINTMENT

Members shall hold office from July 1st, in the year of their appointment, for three year staggered terms and until their successors are appointed. All vacancies shall be filled by the Moderator for the unexpired remainder of the term of the appointee's predecessor.

A member of the Committee shall cease to be a member upon the occurrence of any of the following events:

1. Removal of residence from the Town of Brookline.
2. Absence from seven or more duly called and held meetings of the Committee during any year of the member’s term, considering each period from July 1 to the following June 30 as a year for this purpose.

A member of the Committee who is a Town Meeting Member shall cease to be a member of the Committee effective the

30th day of June following the occurrence of any of the following events:

3. Removal of residence from the precinct from which elected a Town Meeting Member.
4. Failure of re-election as a Town Meeting Member.
5. Expiration of term as a Town Meeting Member.

Upon ascertaining that any of events 1-5 has occurred, the Chairman of the Committee shall notify the Secretary of the Committee who shall give written notice to the member in question. A copy of such notice shall be sent promptly to the moderator.

SECTION 2.2.3 COMMITTEE ORGANIZATION

The Committee shall hold its first meeting in each year no later than the fifteenth day of July, to be called by the Moderator, and shall hold such other meetings as it may deem advisable. It shall elect annually at its first meeting a Chairman and Vice-Chairman from its own members. The Vice-Chairman, upon the request of, in the absence of, or in the event of the death, disability or resignation of the Chairman, shall act as Chairman of the Advisory Committee until a new Chairman is elected. In the event of the death, disability, or resignation of the Chairman or Vice-Chairman, the committee shall at a meeting within twenty days elect a successor from its own members. The Committee shall appoint annually a Secretary who is not one of its members, who shall hold office until another Secretary is appointed. The duties of the Secretary shall be defined by the Committee. Subcommittees and the chairmen thereof shall be appointed by the Chairman not later than the thirtieth day of July in each year.

SECTION 2.2.4 SUB-COMMITTEE ASSIGNMENTS

The Chairman of the Committee may establish from time to time special committees of the Committee to carry out specific studies. Periodically during the tenure of a special committee and upon the request of the Chairman the special committee shall report back to the Committee its findings to date. The Chairman may excuse members of such special committees from the requirement that they attend meetings of the Committee. For purposes of computing a quorum at meetings of the Committee, those members with special committee assignments will be omitted, if the

Chairman has so excused them and if they are not present. Any member of a special committee, so excused, may nonetheless attend duly scheduled meetings and participate fully in the affairs of the Committee.

SECTION 2.2.5 GENERAL DUTIES

The Committee shall consider any and all municipal questions, including appropriation requests and proposed action under all articles in the warrant for a Town Meeting, for the purpose of making reports and recommendations to the Town. The Committee shall submit a budget at the Annual Town Meeting. It may examine the books and records of any board, committee or officer of the Town so far as permitted by law. The Superintendent of Schools (in the case of school appropriations) and the Town Administrator (in the case of all other appropriations) shall submit their requests for appropriations to the Committee by February 15th or the next town business day if said date falls on a weekend or holiday; or seven days after the Governor submits the annual budget to the General Court, whichever is later.

The Town Administrator’s Financial Plan shall be made available on the Town’s Website in accordance with these timelines and an email shall be sent to the Notification List(s) required under Section 3.21.2 that provides notification of the Financial Plan’s availability on the website or, upon request, in hard copy at Town Hall.

TOWN OF BROOKLINE

Article 2.3

Committee on Town Organization and Structure

ARTICLE 2.3
COMMITTEE ON TOWN ORGANIZATION AND STRUCTURE

SECTION 2.3.1 APPOINTMENT OF MEMBERS

There shall be a Committee on Town Organization and Structure (CTO&S) to consist of seven members appointed by the moderator for three year staggered terms.

SECTION 2.3.2 GENERAL DUTIES

CTO&S shall be responsible for reviewing and reporting its recommendations on all proposed changes in the organization and structure of municipal government in the Town. CTO&S may also review, from time to time, and make recommendations concerning modification and propose action to modify and change the organization and structure of the Town’s government, including operating departments and committees.

SECTION 2.3.3 VACANCIES

Whenever a vacancy occurs in CTO&S, the moderator shall fill the vacancy for the unexpired term.

TOWN OF BROOKLINE

Article 2.4

Moderator

ARTICLE 2.4
MODERATOR

SECTION 2.4.1 TERM OF OFFICE

The moderator shall be elected for a term of three years.

SECTION 2.4.2 DUTIES

The moderator shall preside and regulate the proceedings at all Town Meetings in accordance with these by-laws and the laws of the Commonwealth.

SECTION 2.4.3 APPOINTMENTS

The moderator may appoint tellers, assistants and committees to assist the moderator and Town Meeting in the performance and discharge of their duties and responsibilities.

TOWN OF BROOKLINE

Article 2.5

Reports

ARTICLE 2.5
REPORTS

SECTION 2.5.1 SPECIAL COMMITTEE REPORTS

All special committees created by a Town Meeting or the Moderator shall make a report of their findings and recommendations by filing a signed copy thereof with the Town Clerk. Forthwith upon the filing of any such report, the Town Clerk shall cause copies thereof to be delivered or mailed to the Moderator, the Select Board, and the Advisory Committee, and to every other elected officer, Town Meeting Member and appointed officer who requests a copy of the report.

In the absence of a final report, each such committee shall annually, at least thirty (30) days before the start of the Annual Town Meeting, file with the Town Clerk an interim report of its doings, and the Town Clerk shall cause one copy of the same to be printed and mailed out with the combined reports called for in Section 2.5.2 of this Article.

In lieu of the mailing requirement in paragraph 1 above, the Town Clerk may, at the request of any person listed above send the report(s) electronically.

SECTION 2.5.2 COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Select Board and the Advisory Committee (or in the alternative to the full Advisory Committee a subcommittee of the Advisory Committee) each shall hold at least one duly noticed public hearing prior to a final vote of the Select Board or the Advisory Committee, as the case may be, on any article in the Warrant. The Select Board and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the Warrant for a Town Meeting. The reports shall be included in the combined reports to be delivered or mailed as follows:

The Select Board shall cause one copy of the combined reports to be delivered or mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the Select Board on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.

The Combined Reports shall include, with each recommendation of the Select Board, a roll-call showing the vote of each member; and shall include, with each recommendation of the Advisory Committee, a statement of the number of members voting for and against the recommendation and the date of the vote. When a minority report is presented, the Combined Reports shall identify the members supporting the minority report.

The report of the Select Board on the article at an Annual Town Meeting providing for termination and close-out of prior special appropriations shall include a statement from the Comptroller listing each account for such an appropriation as falls within the scope of the article, the purpose of the appropriation, and the unexpended balance as of the last day of March in the year of said Annual Town Meeting.

SECTION 2.5.3 PERMANENT RECORD OF REPORTS

Copies of each report described in Section 2.5.1 and the combined reports described in Section 2.5.2 shall be kept permanently in the office of the Town Clerk and for at least five years, after its publication, in the Public Library and every Branch thereof, available for inspection by all interested persons.

SECTION 2.5.4 MISCELLANEOUS

Failure to comply with the provisions in Section 2.1.2 through Section 2.1.4, inclusive, Section 2.1.6 and in Article 2.5 shall not affect the legality of any town meeting or any action taken thereat.

TOWN OF BROOKLINE

Article 3.1

Select Board

ARTICLE 3.1
SELECT BOARD

SECTION 3.1.1 TERMS OF OFFICE

There shall be a Board of five Select Board Members, elected for three year staggered terms.

SECTION 3.1.2 GENERAL AUTHORITY

The Select Board shall exercise general supervision over all matters affecting the general and financial interest and welfare of the town.

SECTION 3.1.2.A POLICE AND FIRE COMMISSIONERS

In accordance with and to implement the Select Board Members' responsibilities under applicable laws, the Select Board shall bear the titles "Police Commissioners" and "Fire Commissioners" when exercising their responsibilities relating to the town's Police Department and Fire Department, respectively. The Select Board Members' responsibilities and authority are not enhanced, diminished, or altered in any fashion from those that exist under applicable Laws by virtue of bearing such titles, nor shall the Board be involved in the day-to-day administration, operations or management of the Police and Fire Departments.

SECTION 3.1.3 LITIGATION AND CLAIMS

The Select Board may institute, prosecute, defend, compromise and settle claims, actions, suits or other proceedings brought by, on behalf of, or against the town, provided, however, that they shall act upon advice of counsel when the amount to be paid in any settlement exceeds one thousand dollars ($1,000). They may employ special counsel in suits by or against the town and whenever they deem it necessary.

SECTION 3.1.4 STATE LEGISLATURE

The Select Board Members may appear (either personally or by counsel) before any committee of the legislature, or board or commission, to protect the interests of the town, but are not authorized by this By-Law to commit the town to any course of action.

SECTION 3.1.5 ASSOCIATE MEMBERS ON COMMITTEES

Except as otherwise provided by law or the by-laws of the Town, a committee appointed by the Select Board may request that the Selectmen appoint associate members. Such request shall contain a list of persons recommended for associate membership. The Select Board may act upon such request and may appoint one or more of the persons named on the list. Associate members shall be appointed and serve for a one year term and shall be non-voting members of the committee. The number of associate members on a committee shall not exceed two-thirds (2/3) of the number of voting members on that committee.

SECTION 3.1.6 PUBLIC BROADCAST IN SELECT BOARD

The Select Board shall request Brookline Access Television to broadcast their meetings except when in executive session.

SECTION 3.1.7 [Deleted]

SECTION 3.1.8 SELECT BOARD MEMBERS' HEALTH BENEFITS

(A) Eligibility

For purposes of determining the eligibility of a Select Board Member for health benefits pursuant to M.G.L. c. 32B, (i) all payments received by a Selectman from the Town in connection with his or her serving as a Select Board Member, including but not limited to receipt of any annual stipend, shall be for the reimbursement of expenses and shall not constitute "compensation," regardless of how such payments may otherwise be designated or treated by either the Town or such Selectman, and (ii) the duties of a Selectman do not require twenty hours or more, regularly, in the service of the Town during the regular work week.

(B) Effective Date

This by-law shall take effect on July 1, 2009.

TOWN OF BROOKLINE

Article 3.2

School Committee

ARTICLE 3.2
SCHOOL COMMITTEE

There shall be a School Committee, comprised of nine residents elected for three year staggered terms.

TOWN OF BROOKLINE

Article 3.3

Town Administrator

ARTICLE 3.3
TOWN ADMINISTRATOR

There shall be a Town Administrator, appointed by the Select Board, who shall be the Chief Administrative Officer of the Town, in accordance with Chapter 270 of the Acts of 1985, as amended.

TOWN OF BROOKLINE

Article 3.4

Town Clerk

ARTICLE 3.4
TOWN CLERK

SECTION 3.4.1 TERM OF OFFICE

There shall be a Town Clerk, elected for a three year term.

SECTION 3.4.2 GENERAL AUTHORITY

The Town Clerk shall have the care, custody and control of the records of all Town Meetings, of all births, marriages and deaths and of all registered voters in the Town. The Town Clerk shall perform and discharge all of the statutory duties assigned to that office.

SECTION 3.4.3 TOWN SEAL

The Town Clerk shall have the custody of the town seal.

All conveyances under seal, which may hereafter be executed by the town, pursuant to a vote of the town or otherwise, shall be sealed with such seal and subscribed by a majority of the Select Board.

SECTION 3.4.4 DEEDS AND CONVEYANCES

The Town Clerk shall keep a true copy (in a book to be kept for such purpose alone) of all deeds or conveyances executed by the Select Board.

It shall be the duty of the Town Clerk to see that every conveyance to the town of an interest in land is properly recorded in the Registry of Deeds.

SECTION 3.4.5 TOWN REPORTS

The Town Clerk shall cause one copy of the Annual Town Report for each year to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, and member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing.

Copies of each Annual Town Report shall be kept permanently in the office of the Town Clerk and for at least five years

in the Public Library and every Branch thereof, available for inspection by all interested persons.

In lieu of the mailing requirement in paragraph 1 above, the Select Board may, at the request of any person listed above send the report electronically.

SECTION 3.4.6 TOWN MEETING RESOLUTION NOTICES

If a resolution adopted at a Town Meeting calls for notice to be sent to any person or entity whether public or private, then, unless otherwise specified in the resolution, the Town Clerk shall prepare and send such notice by U.S. mail, with a copy to the principal petitioner(s) by electronic mail, within 30 days after the dissolution of such Town Meeting.

TOWN OF BROOKLINE

Article 3.5

Audit Committee

ARTICLE 3.5
AUDIT COMMITTEE

SECTION 3.5.1 APPOINTMENT

There shall be an Audit Committee consisting of six members with appointment not restricted to the ranks of the appointing bodies. The Select Board shall appoint one member, the Advisory Committee shall appoint one member, the School Committee shall appoint one member and the Town Moderator shall appoint three members. The membership shall elect a chairperson annually from among their number. Appointments shall be for a term of three years. All terms shall expire on August 31. Any vacancy occurring in the Committee shall be filled by the appropriate appointing body for the balance of the unexpired term.

SECTION 3.5.2 NON-VOTING MEMBERS

In addition to the six voting members, the Director of Finance, the Comptroller, the Superintendent of Schools or his or her designee, and the Town Administrator or his or her designee, shall serve as nonvoting members of the Committee.

SECTION 3.5.3 GENERAL RESPONSIBILITIES

The Committee shall serve as an advisor to the Select Board with respect to the town's financial condition, financial management systems and controls, and annual audit. In addition, the Committee shall report to Town Meeting as the Committee sees fit on matters within the scope of Town Meeting's concerns. Specific duties shall include but are not limited to the following:

(a) Make recommendations to the Select Board on the selection of, and scope of services for, an independent auditor.
(b) Review the annual financial statements and reports prepared by the independent auditor and make recommendations with respect thereto.
(c) Make recommendations for areas of operations where expanded scope audits or reviews of the internal controls may be appropriate.
(d) Review and make recommendations with respect to the town's financial management practices and controls.

(e) Report to the Annual Town Meeting on the recommendations the Committee has made during the preceding twelve months.

TOWN OF BROOKLINE

Article 3.6

Board of Appeals

ARTICLE 3.6
BOARD OF APPEALS

There shall be a Board of Appeals, as provided in General Laws Chapter 40A, Section 12, to consist of three members who shall be appointed by the Select Board, for terms of such length and so arranged that the term of one member shall expire each year. One member shall be an attorney and at least one of the remaining members shall be a registered architect, professional civil engineer or master builder.

The Zoning By-laws may provide for the appointment of associate members.

TOWN OF BROOKLINE

Article 3.7

Building Commission

ARTICLE 3.7
BUILDING COMMISSION; PROCEDURE FOR THE CONSTRUCTION AND ALTERATION OF TOWN BUILDINGS AND STRUCTURES

SECTION 3.7.1 APPOINTMENT OF MEMBERS

The Select Board shall appoint five citizens to serve as members of the Building Commission (the Commission), which shall have charge and direction of the construction, repair and alteration of all town buildings and all buildings and structures placed on town land. The members of said Commission shall hold office from the 1st of September following his or her appointment for three year staggered terms, and until a successor is appointed. Commission appointments shall be made to preserve three year staggered terms, with two members appointed one year, two members appointed the following year and one member appointed the third year. They shall serve without compensation. The Commission shall comprise a registered architect, a registered engineer, a licensed builder, and two other citizens. The Building Commissioners shall act as Secretary of the Commission. The Select Board shall have the power to fill any vacancy in the Commission. With respect to the selection of an architect, engineer, or other consultant (the consultant) for building projects, the Commission shall by regulation, adopt procedures, by regulation which conform to the requirements of the laws of Massachusetts.

SECTION 3.7.2 PROJECT PROCEDURES

Any town board, commission, or other agency intending to seek funds for the construction, alteration or repair of a town building or structure (a project) shall notify the Commission of its intention to do so. The town agency for whose use the building is proposed is hereinafter referred to as the Using Agency. Upon receipt of such notice from the Using Agency, the Building Commission shall decide whether or not the project shall be carried out in its charge. If the Commission declines to take charge of the project, the Using Agency may, subject to the Select Board’s approval and the appropriation of funds, carry out the project in its charge without regard to the following provisions of this Article. If the Commission decides to take charge, the Using Agency may appeal its decision to the Select Board, which shall make the final decision on the matter. In deciding whether or not the Commission

shall take charge of the project, the Commission, and the Select Board if appealed to, shall consider the size, cost, and complexity of the project and the personnel and experience of the Using Agency; it being the intent hereof that all but those projects clearly within the competence of the Using Agency to administer, will be placed in the Commission's charge. Any project in the Commission's charge shall be carried out in the following steps unless waived by the Select Board as hereinafter provided:

(a) Step 1: The Using Agency shall formulate a program in writing for the facility which shall include, but shall not be limited to, the function and needs which it is designed to fulfill, expanded services, auxiliary public use, additional personnel required to maintain the facility, annual maintenance costs, expected hours of the facility's availability, environmental and sustainability goals and objectives, and overall effect on the town all as appropriate for the project’s scope and budget. Environmental and sustainability goals and objectives include design and construction practices that explicitly consider Green technologies, site selection, waste minimization, energy efficiency, water conservation, indoor environmental quality, and other environmental and health factors that may provide financial, environmental, and occupant health and productivity benefits. In formulating such a program, the Using Agency, after consultation with the Commission and other agencies or authorities of the town having an interest in the use or development of the facility, shall prepare tentative size and cost requirements of the facility to accommodate such a program. Upon receipt of the program prepared by the Using Agency, the Commission shall decide if the town should hire a consultant for the work described in Step 2. If it decides against engaging such a consultant, it will, with the approval of the Select Board and after an appropriation has been authorized by the town meeting, proceed with the project, and without regard to the following provisions of this Section. If the Commission decides to engage such consultant, the Commission shall proceed to Step 2.

(b) Step 2: The Commission shall notify the Using Agency of its decision to engage a consultant. The Using Agency shall request that the town meeting appropriate funds for the purpose of compensating a consultant for the preparation of a feasibility study for the project, schematic design studies for the project, a cost estimate

for the project (including life-cycle costs), and any special studies which the Commission and the Using Agency jointly recommend. The work of the consultant shall consider the investigation, cost-benefit analysis, and recommendation of appropriate options that address the environmental and sustainability goals and objectives outlined in paragraph (a) above. Upon the appropriation of such funds, the consultant shall be selected in accordance with Step 3.

(c) Step 3: The Select Board shall appoint a committee of seven members (the "Committee"), of whom three shall be designated by and be members of the Commission and three shall be designated by and be members of the Using Agency. One member shall be designated by the Select Board, who shall serve as Chairman. The Committee shall meet promptly after it is appointed and proceed with the selection of a consultant in accordance with the procedures adopted by the Commission under Section 1 of this Article. Having made its selection in accordance with such procedures, the Committee shall report its selection to the Commission, the Using Agency, and the Select Board; and the Select Board shall thereupon discharge the Committee. The Commission shall then negotiate, on the town's behalf, a contract with the selected consultant, which shall be divided into three discrete phases of work: the first phase shall include those services for which the town meeting appropriated funds under step 2; the second phase shall include services necessary or appropriate to develop the design of the project to the point where bids can be received for the construction of the project; and the third phase shall include the administration of the construction contract. The contract shall provide for termination at will by the town at the end of each of the phases and shall provide that the parties will not proceed to the second phase or third phase without further appropriations by town meeting, as described in Step 4 and Step 5. The contract shall be subject to the Select Board's approval.

(d) Step 4: When the first phase of work has been completed and approved by the Using Agency, the Commission shall present the consultant's report to the town meeting. On the basis of the consultant's report, the Using Agency may request that the town meeting appropriate funds necessary to compensate the consultant for the second phase under the consultant's contract. Alternatively, the Commission or the Using Agency may recommend that the

contract be terminated and that a new consultant be appointed to carry the work forward. In the latter case, the new consultant shall be selected in accordance with the procedures set forth in step 3.

(e) Step 5: When the second phase of work has been completed and approved by the Using Agency, the Commission shall, on behalf of the town, submit the project as designed to bid in accordance with all applicable statutes and other requirements. Upon receipt of bids, the Commission, in consultation with the Using Agency, shall decide whether they are acceptable to it. If such bids are acceptable to the Commission and the Using Agency, the Using Agency shall then request that the town meeting appropriate funds for the construction of the project and to compensate the consultant under the third phase of the consultant's contract. The Using Agency shall at the same time request the appropriation of funds for equipping and furnishing the project, providing the town meeting with a detailed estimate for such furniture and equipment, and funds for any other additional expenses to the town estimated to be incurred when the facility becomes operational.

SECTION 3.7.3 CONTRACTS

The contracts for construction of a project shall be executed on behalf of the town by the Commission, with the approval of the Select Board. All expenditures made under this Article shall be made by the Commission with the approval of the Select Board.

SECTION 3.7.4 WAIVERS

The Select Board, if they deem it to be in the best interest of the Town, may, for any project with an estimated cost of less than $500,000.00 or mandated by either the State or
Federal Government, waive or consolidate any or all of the steps set forth in Section 3.7.2., with the exception of Step 5. Only Town Meeting may waive its rights in Step 5. If the Select Board elect to waive the appointment of the Committee, as described in Step 3, the Commission shall select the architect, engineer, or other consultant, with the approval of the Using Agency, in accordance with the procedures adopted by it under Section 3.7.1. Town Meeting

may, by a two-thirds vote, waive any or all of the requirements in Step 1, Step 2, Step 3 or Step 4.

TOWN OF BROOKLINE

Article 3.8

Building Department

ARTICLE 3.8
BUILDING DEPARTMENT

SECTION 3.8.1 BUILDING COMMISSIONER

The Building Department shall be under the supervision and control of the Building Commissioner, appointed by the Select Board.

SECTION 3.8.2 STATE CODES

The Building Department shall enforce the requirements of the State Building Code, electrical, plumbing, gasfitting, mechanical and sprinkler codes and regulations and all requirements for fire alarms, demolition permits and smoke detectors.

TOWN OF BROOKLINE

Article 3.9

Brookline Commission for Women

ARTICLE 3.9
BROOKLINE COMMISSION FOR WOMEN

SECTION 3.9.1 ESTABLISHMENT

There shall be a Brookline Commission for Women.

SECTION 3.9.2 FUNCTION AND PURPOSE

It shall be the function of the Commission to:

(a) Act as a centralizing force in the Town of Brookline and the community which will deal with all women's issues providing information, referral, guidance, and coordination to educate and to offer and provide technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination against women because of their status as women or as minority women.

(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]

SECTION 3.9.3 POWERS AND DUTIES

The powers and duties of the Commission shall include the following:

(a) To ensure equity in the status of women in

[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.

educational, economic, political, health, legal and social spheres.

(b) To design and implement programs that promote gender equity for all women in the Town.

(c) To develop recommendations and recommend policy to all departments, divisions and agencies of the Town, including the Select Board.

(d) To act as liaison with all departments and divisions of Town government on issues affecting women.

(e) To initiate and coordinate and monitor the enactment of legislation which promotes equal status of women on the Municipal, State, and Federal levels, and to assure that appropriate regulations are adopted and enforced pursuant to such legislation.

(f) To work with and assist the appropriate Town agencies in their investigation of incidents of discrimination against women.

(g) To obtain from Town departments, divisions, and agencies, information necessary to carry out the functions, purposes, programs, and activities of the Commission.

(h) To initiate public exhibits and media events in Town Hall, Town libraries, and other town-owned property as well as in other locations within and without the Town.

(i) To raise funds for the use of the Commission and to accept money, gifts and services for its exclusive use.

(j) To be a member of the National Association of Commissions on Women.

(k) To recruit and recommend prospective Commissioners for subsequent appointment by the Select Board.

(l) To appoint task forces to assist the Commission

in its operations.

(m) Such other powers and duties as may be agreed on by the Select Board and the Commission.

SECTION 3.9.4 MEMBERSHIP, APPOINTMENT, TERM

(a) The Commission shall consist of eleven members, all of whom shall be appointed by the Select Board to serve for a term of three years.

(b) The initial appointments shall be made for staggered terms as follows: the term of three members shall expire after one year, the term of four members after two years and the terms of four members after three years. When a vacancy occurs, an appointment shall be made by the Select Board. The Commission shall recommend to the Board of Selectmen candidates to fill vacancies. A person is not precluded from serving more than one term. Commissioners must be residents of the Town of Brookline.

SECTION 3.9.5 ELECTION OF CHAIR & BY-LAWS

The members of the Commission shall elect a Chair, vice-chair, treasurer and secretary, from among its members, and shall adopt by-laws for the Commission.

SECTION 3.9.6 ANNUAL REPORT

The Commission shall make an Annual Report of its program and activities to the Select Board.

TOWN OF BROOKLINE

Article 3.10

Council on Aging

ARTICLE 3.10
COUNCIL ON AGING

SECTION 3.10.1 ESTABLISHMENT

There is hereby established a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the local problems of the aging. Said Council shall cooperate with the Commonwealth of Massachusetts Executive Office of Elder Affairs and West Suburban Elder Services and shall be cognizant of all State and federal legislation concerning funding, information exchange, and program planning which exist for better community programming for the elderly.

SECTION 3.10.2 MEMBERSHIP

The Council on Aging shall consist of the Chair of the Select Board, Chair of the Park and Recreation Commission, Chair of the Housing Authority, Director of Public Health, Superintendent of Schools, Head Librarian, or their respective representatives, and, in addition, fifteen citizens reflecting the general composition of the citizenry of Brookline. The Citizen members shall be appointed by the Select Board after receiving recommendations from public and private agencies concerned with the welfare of older persons. Fifty-one percent of the members of the Council on Aging shall be composed of persons 60 years of age or over. The terms of office expire on August 31, unless otherwise specified by the Select Board or unless such appointment is for an indefinite term.

SECTION 3.10.3 TERMS AND CHAIR

Length of term of Citizen Members shall be determined in the following manner: Initial Citizen Membership shall be split as evenly as possible into thirds. One-third of the Citizen Members shall be initially appointed for a one year term. One-third of the Citizen Members shall be initially appointed for a two-year term. One-third of the Citizen Members shall be initially appointed for a three-year term. All subsequent Citizen Members shall be appointed for a three-year term.

The Select Board shall designate annually a Chairman of the Council. The Select Board shall appoint a director.

SECTION 3.10.4 NON-VOTING MEMBERS

The Seolect Board may appoint from time to time up to ten (10) non-voting members to the Council on Aging who shall be designated Associate Members. One-third of the Associate Members shall be appointed initially for a one year term; one-third of the Associate Members shall be appointed initially for a two year term; and one-third of the Association members shall be appointed initially for a three year term. All subsequent Associate Members shall be appointed for a three year term. The terms of office expire on August 31, unless otherwise specified by the Select Board or unless such appointment is for an indefinite term.

SECTION 3.10.5 GENERAL AUTHORIZATION

The members of the Council shall serve without compensation. The Director shall have the power and authority to engage or employ any clerical or other assistance which it may require for the discharge of its duties, but not in excess of the sum or sums which may from time to time be appropriated for the use of said Council.

SECTION 3.10.6 ANNUAL REPORT

The Council on Aging shall submit an Annual Report to the Board of Select Board with a copy of the Report directed to the Commonwealth of Massachusetts, Department of Elder Affairs.

SECTION 3.10.7 OFFICIAL NAME

The Council shall be known as Council on Aging.

TOWN OF BROOKLINE

Article 3.11A

Department of Finance

ARTICLE 3.11A
DEPARTMENT OF FINANCE

There shall be a Department of Finance in accordance with Chapter 25 of the Acts of 1993, as amended by Chapter 29 of the Acts of 2004. The Department shall be responsible for the overall management and administration of the Town's financial and administrative support services. The Department consists of the following divisions:

DIVISION	DIVISION HEAD
ACCOUNTS	COMPTROLLER
ASSESSING	CHIEF ASSESSOR
PURCHASING	CHIEF PROCUREMENT OFFICER
TREASURY	TREASURER/COLLECTOR

TOWN OF BROOKLINE

Article 3.11B

Information Technology Department

ARTICLE 3.11B
INFORMATION TECHNOLOGY DEPARTMENT

SECTION 3.11B.1 ESTABLISHMENT

The Information Technology Department, hereinafter referred to as the Department, is hereby established. The Department is responsible for the integration of all activities and resources designated as: 1. systems and data processing, comprised of computer-based systems design and implementation, applications, and operating software; 2. telecommunications systems and networks, comprised of the integration of planning, development, and implementation of all systems and network services; 3. delivery of applications and other information services products that meet the users' specifications in terms of quality and cost; 4. protection of the Town's computer data and information assets and resources; 5. identification of opportunities in the development and support of new and existing technologies; 6. training of employees in the use of various aspects of information technology; and 7. formulation of an annual Information Technology Capital Plan as part of the Capital Improvements Program (CIP).

SECTION 3.11B.2 PURPOSE

It is the intent and purpose of this By-Law to establish a department whose mission it is to assure that technology is used to enhance the delivery of town and school services and information to the community. The Department will work to attain efficiencies and economies of scale; reduce or eliminate duplication and overlapping of services, responsibilities, and functions; improve the coordination of planning for the use of technology between and among various town departments; and manage the implementation of all technology-related projects.

SECTION 3.11B.3 CHIEF INFORMATION OFFICER

(A) Appointment & Term of Office. There shall be a Chief Information Officer, hereinafter referred to as the “CIO”, recommended by the Town Administrator with the concurrence of the Superintendent of Schools for appointment by the Select Board in accordance with the provisions in Chapter 270 of the Acts of 1985. The appointment shall be made annually for a term of one year, commencing July 1 of each

year and continuing until the appointment and qualification of a successor.

(B) Qualifications. The CIO shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

(C) Powers & Duties. The CIO shall be responsible for the effective management, administration and coordination of all operations within the Department including financial affairs and the management, administration and control of all personnel assigned to the Department. In conjunction with the preparation of the annual Financial Plan, the CIO shall review all hardware and software requests for all Town departments. The CIO shall appoint and may remove all other personnel within the Department.

SECTION 3.11B.4 INFORMATION TECHNOLOGY ADVISORY COMMITTEE

The Select Board shall appoint five residents to serve on the Information Technology Advisory Committee, hereafter referred to as the “ITAC”, for three-year staggered terms. The ITAC shall be responsible for providing community input to IT decision making, periodically reviewing the IT Strategic Plan including annual updates, and evaluating lessons learned from major IT initiatives. The ITAC shall meet quarterly, and at other times deemed necessary by the CIO and / or the Chairman of the ITAC.

SECTION 3.11B.5 INTERDEPARTMENTAL INFORMATION TECHNOLOGY COMMITTEE

The CIO shall form an Interdepartmental Information Technology Committee, consisting of representatives from town and school departments that use information technology. The Committee will be responsible for fostering cross-departmental collaboration, promoting multilateral communication relating to IT issues among departments, and reviewing all proposed IT capital projects, thereby ensuring that an enterprise-wide approach to technology is undertaken, duplication of services and/or systems is eliminated, and the purchase of incompatible systems is avoided. The Committee shall meet at the discretion of the CIO.

TOWN OF BROOKLINE

Article 3.12

Department of Planning and Community Development

ARTICLE 3.12
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

SECTION 3.12.1 ESTABLISHMENT

The Department of Planning & Community Development, hereinafter referred to as the Department, is hereby established. The Department is responsible for the town's planning, development and redevelopment programs and duties, including, without limiting the foregoing: zoning under G.L. c. 40A; subdivision control and planning, under G.L. c. 41, Sections 81A to 81GG, inclusive; all grants & aid functions; the town's housing programs; the town's preservation programs authorized by and implemented under G.L.c. 40C, by the Preservation Commission, authorized by the Historic Districts By-Law and the Demolition By-Law; and the town's economic development programs. The Department shall be initially organized and this By-Law implemented on July 1, 1999.

SECTION 3.12.2 PURPOSE

It is the intent and purpose of this By-Law to consolidate all planning and development programs and duties, all grants and aid functions, all housing programs, all preservation and demolition regulations and requirements and all economic development functions and programs into a single department. The consolidation is designed to attain efficiencies and economies of scale, to reduce or eliminate duplication and overlapping of services, responsibilities and functions, and to improve communication and coordination for planning and development functions between and among the various offices and agencies of the town. It is also the intent of this By-Law to provide expanded planning and community development programs and services to the residents, the business community, the non-profit and the other institutions of the town.

SECTION 3.12.3 DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT

(A) Appointment & Term of Office. There shall be a Director of Planning and Community Development, hereinafter referred to as the "Director", appointed by the Select Board in accordance with the provisions in Chapter 270 of the Acts of 1985. The appointment shall be made annually for a term of one year, commencing July 1 of each year and

continuing until the appointment and qualification of a successor.

(B) Qualifications. The Director shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

(C) Powers & Duties. The Director shall be responsible for the effective management, administration and coordination of all operations within the Department, for all of the fiscal and financial affairs of the Department and the management, administration and control of all personnel assigned to the Department. The Director shall make recommendations to the Town Administrator concerning the appointment and removal of Assistant Directors by the Select Board. The Select Board may establish and, from time to time, change the number of Assistant Directors. Without limiting the foregoing, the initial Department organization shall include an Assistant Director of Planning and an Assistant Director for Housing. An Assistant Director for Economic Development shall be added when requested by the Town Administrator and authorized by the Select Board. The responsibility for providing administrative and professional assistance to the Preservation Commission, under Section 3.12.11, and the implementation and enforcement of the Historic Districts and Demolition By-Laws shall be added to and become part of duties and responsibilities of the Division of Planning when requested by the Town Administrator and authorized by the Select Board. The Director shall appoint and may remove all other personnel within the Department. The Select Board may appoint the Director to serve as the head of a division, as defined in Section 3.12.4.

In addition to supervising and directing the effective functioning of the Divisions, and without limiting the generality of the foregoing, the Director shall have the following specific powers and duties:

1. to direct, assign and reassign all personnel within the Department, including reassigning personnel between Divisions.
2. to be responsible for the efficient coordination and implementation of the town’s economic development, housing, open space, planning and preservation programs, and the administration and implementation of the town’s demolition, grants

and aid and historic districts decisions and policies.

3. to advise the Town Administrator and Select Board on all matters that are within the scope of the Department's activities and functions.
4. to be responsible for the preparation of the Department's annual budget request and town report, for all expenditures and receipts by the Department and for the administration of the town's personnel rules and orders within the Department.
5. to provide administrative and professional assistance to the Economic Development Advisory Board.
6. to provide administrative and professional assistance to the Housing Advisory Board.
7. to provide administrative and professional assistance to the Planning Board.
8. to provide administrative and professional assistance to the Preservation Commission.
9. to provide administrative and professional assistance to the Board of Appeals.
10. to provide the town with and, from time to time, amend Comprehensive Plans for land use, public and private transportation and parking, open space, recreation, urban renewal, telecommunications and utility services, economic development, housing, historic preservation and also for the future development and preservation of town resources consistent with its physical, social and economic requirements and the health, safety and welfare of its inhabitants.
11. to coordinate the town's planning and development functions with other local, regional and state plans and programs.
12. to supervise the work of consultants used to assist the Department.
13. to review and amend, when appropriate, rules and regulations and procedures relevant to the proper operation of the Department and the implementation of Comprehensive Plans.
14. to develop action standards, notice and hearing guidelines and decision filing procedures to ensure that notice, hearing, and filing requirements for the Department, the Divisions

and the boards and commissions that they service are satisfied.

15. to delegate the implementation of any one or more of the powers and duties assigned to the Department to an appropriate Division or Assistant Director.
16. to oversee Grants & Aid functions, including Federal CDBG and HUD programs.
17. to assist in the preparation of the annual capital improvements plan which is required under Chapter 270 of the Acts of 1985 and G.L.c. 41.
18. to report to the Town Administrator, on a regular basis, the current objectives and programs of the Department and the activities of the Department with regard to those objectives and programs.
19. to supervise and evaluate all Assistant Directors in the Department.
20. to provide planning and community development services and programs to the residents, the business community, the non-profit and the other institutions of the town.
21. to facilitate and maximize meaningful input to town boards and officials from Brookline citizens, civic associations and neighborhood organizations.
22. to perform such other duties as may be assigned to the Department by the Select Board or Town Administrator.

SECTION 3.12.4 DIVISIONS WITHIN THE DEPARTMENT

The Department shall consist of the following divisions: the Division of Planning, the Division of Housing, and the Division of Economic Development and Long-Term Planning. Each Division shall be under the general management and control of an Assistant Director. The Assistant Directors shall be subject to the authority and direction of the Director. They shall render reports to the Director on a regular basis, including in such reports a summary of current activities, a list of both current and long-range issues being reviewed or worked on by the Division and a summary of the objectives and programs being implemented by the Division. Each Division shall perform the duties prescribed by law, the town’s By-Laws and assigned to it by the Director.

SECTION 3.12.5 DIVISION OF PLANNING

The Division of Planning shall advise and assist in the administration and updating of municipal planning and zoning, in timely and continuing consultation with the public and private agencies and committees that have jurisdiction over the use or regulation of real property within the town. Municipal planning shall include the creation, the review, the revision and the implementation of Comprehensive Plans for open space, land use, for public and private transportation and parking, for telecommunications and utility services, for recreation, for the utilization of town resources, particularly with respect to housing, business and commercial development and redevelopment, and for the careful study, and, when necessary, the preparation of plans of the resources, possibilities and needs of the town. The Division shall assist with the maintenance and annual update of the Capital Improvement Plan in accordance with the requirements of the Town Administrator, Chapter 270 of the Acts of 1985, and G.L.c. 41. The Division shall assist the Planning Board with implementation of the Subdivision Control Law and shall provide administrative and professional assistance to the Planning Board.

The Assistant Director of the Division of Planning shall serve as the Secretary of the Planning Board and shall assist the Planning Board with the performance and discharge of the following duties:

(A) Creation, review and amendment of Comprehensive Plans in accordance with G.L.c. 41, §81D.

(B) Review, amendment and implementation of subdivision regulations under G.L.c. 41, §81Q.

(C) Review and report on Urban Renewal Plans under G.L.c. 121A.

(D) Review and report on matters pending before the Board of Appeals.

(E) Review and report on matters specified in or when required under the Zoning By-Law.

(F) Conducting of hearings and the filing of reports, with recommendations, concerning proposed amendments to the Zoning By-Law.

(G) Coordinate and facilitate open space planning and preservation within the town and among town officers and committees.

SECTION 3.12.6 PLANNING BOARD

The Select Board shall appoint seven residents to serve on the Planning Board for five year staggered terms. At least one of the appointees must be qualified for such appointment by virtue or relevant and significant experience or training in the field of environmental or urban planning.

The Planning Board is established under G.L.c. 41, §81A, and shall perform and discharge all of the statutory powers and duties required by law, including those set forth in The Zoning Act, G.L.c. 40A, in the Subdivision Control Act and other relevant sections in G.L.c. 41, Sections 81A to 81GG, inclusive, in Chapter 270 of the Acts of 1985 and in G.L.c. 41.

SECTION 3.12.7 DIVISION OF HOUSING

The Division of Housing shall initiate modifications and amendments of housing policies for the town, subject to the approval thereof by the Housing Advisory Board (HAB), the Director and the Select Board, and shall assist in the implementation of such policies. In housing matters, the Division shall maintain an effective and productive relationship among policy, programs and development, including affordable housing development under the Town’s inclusionary housing provisions in the Zoning By-Law. The Division shall provide administrative and professional assistance to HAB.

SECTION 3.12.8 HOUSING ADVISORY BOARD

The Housing Advisory Board, whose powers and duties are more fully set forth in Article 3.13, shall review the town’s housing policies and all modifications and amendments thereto proposed by the Division of Housing and shall make its recommendations and reports to the Director, the Town Administrator and the Select Board. HAB may initiate recommendations for amending or modifying the town’s housing policies and may make recommendations for changes in the town’s housing strategy.

SECTION 3.12.9 DIVISION OF ECONOMIC DEVELOPMENT AND LONG-TERM PLANNING

The Division of Economic Development and Long-term Planning shall, from time to time, recommend modifications and amendments to the economic development, redevelopment, renewal and long-term planning policies of the town. The Division shall initiate policies and programs for the promotion and enhancement of existing business and commercial areas, subject to the approval thereof by the Director, the Economic Development Advisory Board (EDAB) and the Select Board. The Division shall assist in the implementation of such policies and programs. The Division shall maintain a current Economic Development and Long-term Planning portfolio and a list of all completed projects, all projects in process and all projects awaiting implementation. The Division shall provide administrative and professional assistance to EDAB.

SECTION 3.12.10 ECONOMIC DEVELOPMENT ADVISORY BOARD

The Select Board shall appoint twelve residents to serve on the Economic Development Advisory Board (EDAB) for three year staggered terms. The present members of EDAB shall continue to serve for the remaining terms of their appointments. EDAB shall review the economic development, redevelopment and renewal policies of the town, and all modifications and amendments thereto proposed by the Division, and shall make its recommendations and reports to the Director, the Town Administrator and the Select Board. EDAB may also initiate recommendations for amending or modifying the town’s development, redevelopment and renewal policies and may make recommendations for changes in the town’s economic development strategy.

SECTION 3.12.11 PRESERVATION

The Department of Planning and Community Development shall provide the Preservation Commission, established under Article 5.6.4 in the By-Laws, with administrative and professional assistance with regard to the performance and discharge of the following duties:

(A) Promoting the educational, cultural, physical, economic and general welfare of the town through

the preservation and protection of its historical assets.

(B) Implementing and enforcing the Historic Districts and Demolition By-Laws.

TOWN OF BROOKLINE

Article 3.13

Housing Advisory Board

ARTICLE 3.13
HOUSING ADVISORY BOARD

SECTION 3.13.1 PURPOSE

There is hereby created in the Town of Brookline a Housing Advisory Board, hereinafter called the Board, to report to and advise the Select Board, for the following purposes:

a. to study and recommend housing policy for the town,
b. to advise on the coordination of housing policy and programs within the town,
c. to act as Trustees for funds received as gifts, grants, aid, reimbursements and payments for housing, including renewal, replacement and new construction,
d. to propose plans and programs for relieving congestion; substandard, decadent or blighted areas; unsanitary or unsafe buildings; and for providing safe and sanitary dwellings for families and elderly persons of low or moderate income at rentals which they can afford;
e. to promote the preservation and creation of housing which is, affordable to low, moderate and upper-moderate income persons and households and families, and
f. to administer the Housing Trust, hereinafter established.

SECTION 3.13.2 MEMBERSHIP

The Housing Advisory Board shall consist of seven residents of the town, five appointed by the Selet Bosard for three year staggered terms, and a member each of the Planning Board and Brookline Housing Authority. Vacancies shall be filled for unexpired terms. Of the Select Board's appointees, one should be a low or moderate income tenant who demonstrates a knowledge of tenant issues. The other Select Board's appointees should have knowledge or experience in one or more of the following areas: government housing programs, housing or real estate finances, affordable housing development, design or urban planning, real estate law. The Select Board should ensure that all of these areas of expertise are represented on the Housing Advisory Board.

SECTION 3.13.3 HOUSING TRUST

There is hereby created in the Town of Brookline a Housing Trust, whose funds are to be managed and expended under the supervision of the Housing Advisory Board. The Housing Trust may accept gifts, grants, aid, reimbursements, payments and appropriations for the purposes set forth in Section 3.13.1., and the Housing Advisory Board may expend the funds in the Housing Trust, with the approval of the Select Board, for such purposes. Without limiting the foregoing, and with the approval of the Select Board, the Board may employ consultants, full or part-time staff and contract for administrative and support services. All funds received for the Housing Trust shall be deposited with the Treasurer and held in a separate account known as the Housing Trust account. The Brookline Housing Trust fund shall be the sole designee and recipient of any and all developer cash contributions made to the Town for affordable housing purposes under Section 4.40 Affordable Housing Requirements of the Zoning By-law. No expenditures shall be made from the Housing Trust Fund without the prior approval of the Select Board.

SECTION 3.13.4 DUTIES

In addition to the duties given to the Board in Section 3.13.1., it shall also review and make recommendations to the Planning Board for projects under any so-called incentive zoning provisions. The Board shall, in appropriate cases, act as the negotiating agency with developers and owners regarding the financial aspects of the development or conversion of property. The Board may hold both real and personal property and, without limiting the foregoing, may hold interests in real and personal property, including mortgages, land leases, easements, restrictions and options. The Board shall have authority to apply for, receive and expend grants, aid, reimbursements, gifts and other funding for housing and conversion projects, including, without limiting the foregoing, preservation of existing housing, expansion of low, moderate and upper-moderate housing, and conversion of existing housing or non-housing structures to low, moderate and upper-moderate income housing. The Board shall report each year to the Select Board and the Annual Town Meeting on progress achieved in meeting any Town-wide goals and

priorities for housing in Brookline adopted by the Select Board and the Housing Advisory Board.

SECTION 3.13.5 POWERS

The Board may use the Housing Trust, or any additional funds that may be available to provide rent subsidies, mortgage interest payments, mortgage principal payments, condominium principal or interest payments, development subsidies and conversion subsidies. The Board may also use such funding for housing studies and reports, for the employment of experts and for such purposes it deems necessary or desirable to accomplish the purposes set forth in Section 3.13.1.

TOWN OF BROOKLINE

Article 3.14

Commission for Diversity, Inclusion and Community Relations And Office of Diversity, Inclusion and Community Relations

ARTICLE 3.14
COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS

SECTION 3.14.1 ESTABLISHMENT AND PURPOSE

This By-law establishes the Commission for Diversity, Inclusion, and Community Relations (“Commission” or “CDICR”) and the Office of Diversity, Inclusion, and Community Relations (“Office” or “ODICR”).

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (“Town”), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, “Brookline Protected Classes”).

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

The Commission shall consist of fifteen (15) residents of the Town, who shall be called Commissioners.

Commissioners shall be appointed by the Select Board and shall hold office for a period of not more than three (3) years with terms of office expiring on August 31 of an appropriate year in a staggered manner so that approximately one-third (1/3) of the terms of the Commissioners will expire each year. A Commissioner whose term is expiring is expected to submit their renewal application to the Select Board not later than August 1 of the expiration year. The term of a Commissioner who does not submit a renewal application in a timely manner shall expire on August 31 of that year. The term of a Commissioner who submits a timely renewal application shall then be extended until notified by the Town Administrator that the renewal application has been acted upon. If the application is denied, the term of that Commissioner shall expire five days after the date of the denial letter. If the application is approved, the term shall expire on August 31 of the year specified in the approval letter. The Select Board may appoint additional non-voting associate members (Section 3.1.5) as it determines to be necessary, which may include youth or persons who do not reside in Brookline but have a substantial connection to Brookline or to the Brookline Public Schools. The Select Board shall select one of its members to serve *ex officio* as a nonvoting member of the Commission. A quorum of the Commission shall consist of a majority of the serving members on the Commission, with a minimum of six.

The Select Board shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training necessary to enable the Commission to perform the duties assigned to it by this By-law. All Commissioners shall serve without compensation.

In the event of discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the Select Board candidates to fill such vacancies.

SECTION 3.14.2 APPOINTMENT, ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be an Office of Diversity, Inclusion and Community Relations ("Office"), which shall be a unit of the Select Board's Office, and led by a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Office of Diversity, Inclusion and Community Relations ("Director"), and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town. In the event of a vacancy in the position of Director, the Town Administrator, after consultation with the Commission, shall recommend to the Select Board a replacement with appropriate qualifications.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this By-law or any other By-law giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out the Director's duties. The Office shall be physically situated in whatever department the Town Administrator determines would most easily provide the Director any such assistance.

The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator.

The Director/CDO may bring a matter directly to the attention of the Select Board in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO work with the Human Resources Office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, or in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the Select Board of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO shall report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who comes in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after seeking the services of the CDO in said officer’s role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see Section 3.14.3(A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated

against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss with the Commission, in general terms, the problems or issues that such individual cases, provided, however, doing so does not violate any person's rights to privacy.

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

(i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

(ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;

(iii) Work with the Select Board, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, and awareness of and sensitivity to civil and human rights in all departments and agencies of Town government;

(iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the Select Board, including equal employment opportunity and affirmative

action procedures, or amendments or revisions thereto~~;~~, and make suggestions~~,~~ through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity and inclusion policy;

(v) Receive Complaints Against the Town, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see Section 3.14.2), and after notifying the Town Administrator, review and summarize the complaint and issues of concern to the Commission, without investigating or making determinations of fact, or drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee. The Commission/CDO, may in addition (1) present its summary and concerns to the Town Administrator and the Select Board for consideration of further action and/or (2) provide the complainant with information on complainant’s options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies. This By-law does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Office’s procedures;

(vi) Receive Complaints Against the Public Schools of Brookline, directly or through the CDO, against the Public Schools of Brookline, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, review and summarize the complaint and any issues of concern to the Commission, without investigating or making determinations of fact or drawing any

legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any School official or employee. The Commission/CDO, may in addition (1) present its summary and concerns to the School Superintendent and/or the School Committee for consideration of further action and/or (2) provide the complainant with information on complainant's options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

(vii) Receive Other Complaints~~:~~, according to procedures developed by the Commission and ~~as~~ approved by the Select Board, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission shall also have the authority, in its discretion, to take one or more of the following actions:

(1) Provide the complainant with information about complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agency;

(2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;

(3) Present any results of preliminary review of the alleged facts to the Town Administrator and/or the Select Board, in an appropriate case, for action;

(viii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v), (vi) and (vii) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the annual report filed with the Board pursuant to Section 3.14.6 of this By-law.

(ix) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt of such complaints and follow-up by the Commission;

(x) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this By-law in relation to its Fair Housing responsibilities, as authorized by law, under By-law 5.5;

(xi) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer’s role as ombudsperson, to facilitate changes that will reduce and eliminate violations of rights;

(xii) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xiii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies,

educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the Select Board and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;

(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town By-laws.

(C) At least every two years, prepare written organizational goals for the Commission ("Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) designated as either short term or long term, and (vi)

capable of being evaluated on a continuing basis and at the next goal setting point. The Commission’s Goals shall be submitted to the Select Board at a public meeting and posted on the Town’s website. The Commission shall receive and consider the comments of the Select Board at the public meeting and shall also receive and consider written comments from the community on the Commission’s Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission, with the approval of the Select Board, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues. The Commission may also establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing, with the approval of the Select Board, after review by Town Counsel. Such rules and regulations may further provide for the governance of the Commission with respect to matters such as the appointment~~s~~ of committees as necessary to deal with specific community issues or concerns.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Commission shall notify the Town Administrator of all complaints it records. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics

on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form. The Police Chief shall annually present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

With the assistance of the Director, the Commission shall submit an annual report to the Select Board, the School Committee, and the Board of Library Trustees~~,~~ detailing its activities and the results thereof. This report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission’s Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the implementation and achievement of the Commission’s Goals and its diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this By-law and any other related Town by-laws, in consultation with other pertinent departments, and propose changes if necessary, by preparation of appropriate Warrant Articles for consideration by Town Meeting.

SECTION 3.14.8 SEVERABILITY

The provisions of this By-law shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

SECTION 3.14.9 RESOLUTION OF CONFLICTING PROVISIONS

In case of any conflict between this By-law and other By-laws, the Provision(s) last adopted by Town Meeting shall prevail.

SECTION 3.14.10 APPLICATION OF THIS BY-LAW

Should any remedies in this By-law conflict with grievance or dispute resolution procedures in collective bargaining agreements with the Town’s unions, the provisions of the collective bargaining agreements shall apply so long as all members of Brookline Protected Classes are protected.

TOWN OF BROOKLINE

Article 3.15

Human Resources Program, Board and Office

ARTICLE 3.15
HUMAN RESOURCES PROGRAM, BOARD AND OFFICE

SECTION 3.15.1 PURPOSE AND INTENT

The purpose of this bylaw is to ensure the establishment of fair and equitable Human Resources policies for the Town of Brookline and its employees; and to provide a system of Human Resources administration that is uniform, fair, and efficient and which represents the mutual interests of the citizens of the Town and the employees of the Town.

SECTION 3.15.2 HUMAN RESOURCES PROGRAM TO BE CONSISTENT WITH ACCEPTED MERIT PRINCIPLES AND APPLICABLE STATE AND FEDERAL LAWS

The Town of Brookline Human Resources program shall be consistent with all applicable State and Federal Laws and with well accepted merit principles, which include, but are not limited to:

(a) the recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment;

(b) providing just compensation for all employees;

(c) providing training and development for employees, as needed, to assure the advancement and high quality performance of such employees;

(d) retaining employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(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;

(f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.

(g) In cooperation with the Office of Diversity, Inclusion and Community Relations, and the Commission for Diversity, Inclusion and Community Relations, striving for diversity in the Town workforce by, among other things, adhering to the Town's affirmative action guidelines, and generally assuring an environment throughout Town government that fosters community relations, mutual respect, understanding and tolerance.

SECTION 3.15.3 APPLICATION

All Town Departments and employees in those departments, except the School Department, and Department Heads/Senior Administrators as defined by the Select Board, shall be subject to the provisions of this by-law.

SECTION 3.15.4 CONFLICT WITH COLLECTIVE BARGAINING CONTRACTS

In the event of a conflict between the provisions of this bylaw and policies adopted hereunder and the provisions of any duly executed collective bargaining agreement, the provisions of the collective bargaining contract shall prevail.

SECTION 3.15.5 HUMAN RESOURCES BOARD

There shall be a Human Resources Board (the Board), comprised of five (5) residents of the town, for three (3) year staggered terms, appointed by the Select Board. No elected officials, except Town Meeting Members, no members of the Advisory Committee, no members of any standing Board or committee having charge of the expenditure of money, and/or employees and retirees of the Town shall be appointed to the Board. Members shall serve without compensation.

The Board shall hold meetings at least once a month at such time as it may determine unless there is not current business before it. Additional meetings may be held at such times as the Board may determine.

Annually, at its first meeting after the annual appointment process, the Board shall organize by electing a chairman and a secretary, who shall be members of the Board and shall hold office for one (1) year, or until their successors are elected and qualified.

Members of the Personnel Board at the time of the adoption of this bylaw shall be members of the Human Resources Board for the duration of their term(s), and shall be eligible for reappointment.

Candidates for the Human Resources Board must be qualified for such appointment by virtue of relevant and significant experience or training, including service as Human Resources executives, as labor or employment law lawyers; as business executives; or as Human Resources/employment or labor law academicians; or by equivalent qualifications.

The Select Board/Town Administrator shall provide sufficient staff assistance to the Board so that it can accomplish its tasks.

SECTION 3.15.6 FUNCTIONS OF THE HUMAN RESOURCES BOARD

The Human Resources Board shall 1) provide general recommendations for the Human Resources program; 2) adjudicate grievances and/or complaints arising under the provisions of this bylaw or policies/plans established hereunder; 3) adjudicate grievances arising under the provisions of the Town labor contracts as provided by such contracts or as assigned by the Select Board; 4) Review and approve, subject to staffing levels established by the Select Board, the title or classification and pay grade of each new or changed position subject to this bylaw, prior to Select Board final budget review and/or the effective date of any of the title/classification or pay grade changes; 5) perform special studies or projects as requested by the Select Board; 6) report at least annually to the Select Board regarding the human resources program/practices and any recommended changes therein, and 7) consider and recommend to the Select Board the adoption, modification and elimination of Human Resources policies.

SECTION 3.15.7 HUMAN RESOURCES OFFICE

There shall be a Human Resources Office (the Office) which shall be a unit of the Select Board's Office. The Human Resources Director (the Director) appointed by the Select Board on recommendation of the Town Administrator in accordance with the Town Administrator Enabling Act, Chapter 270 of the Acts of 1985, as amended, shall be responsible for the administration of the Office and the Human Resources Program, including attendance at all meetings of the Human Resources Board.

The Human Resources Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator.

SECTION 3.15.8 FUNCTIONS OF THE HUMAN RESOURCES OFFICES

The functions of the Human Resources Director shall include, but not be limited to the following: staff responsibility for negotiation and administration of labor contracts; recruitment and employment of employees; administration of sexual harassment policy; group health and life insurance; worker's compensation; safety; unemployment compensation; employee training and evaluation; monitoring and administration of employee leave; and other Human Resources programs or benefits and any other function assigned by the Town Administrator.

The Human Resources Director shall ensure that all Human Resources activities are conducted in accordance with current professional standards.

SECTION 3.15.9 HUMAN RESOURCES POLICIES

Written policies to implement the Town's Human Resources program, as approved by the Select Board, shall be developed and adopted under the authority of this bylaw.

Written Human Resources Policies including, without limitation, existing classification and salary grade plans, miscellaneous regulations affecting salaries and the general provisions of the pay plan, existing at the time of adoption of this bylaw shall remain in effect until changed or abolished.

Human Resources Policies may be adopted, changed, or deleted by the Select Board upon recommendation by the Human Resources Board or Human Resources Director. All policies shall be in written format and copies shall be filed and available in the Human Resources Office for review by the public at reasonable times during normal business hours.

Any new/modified Human Resources polices which require the expenditure of Town funds shall not be implemented until such funds have been appropriated by Town Meeting.

Employees may request adoption, modification, or deletion of policies by written request to the Human Resources Board. In such cases, the Human Resources Board shall meet with the employees to discuss the requests.

SECTION 3.15.10 POSITION CLASSIFICATION AND PAY PLAN

A position Classification and Pay Plan for all employees covered by this bylaw shall be established by the Human Resources Director and approved by the Human Resources Board and the Town Administrator. The Plan shall be in written format and copies shall be available in the Human Resources Office for review by the public at reasonable times during normal business hours. Only job titles specified in the Classification and Pay Plan, or abbreviations approved by the Human Resources Director, shall be used for all official purposes.

The Classification and Pay Plan may be amended by additions, changes or deletions by the Human Resources Director with approval of the Human Resources Board and the Town Administrator.

Any changes in the Classification and Pay Plan which require expenditure of Town funds shall not be implemented until such funds have been appropriated by Town Meeting, except in emergency cases with the approval of the Select Board and the Advisory Committee.

Employees may request changes to the Classification and Pay Plan by written request to the Human Resources Director. In such cases the Human Resources Director shall meet with the employees to discuss the requests. The Human Resources Director shall advise the Human Resources Board of all requests denied by the Director and the reasons therefore.

The Human Resources Board may request reconsideration if deemed appropriate.

No person shall be newly appointed, promoted, employed or paid as an employee in any position subject to the provisions of this bylaw except for short periods of emergency service unless such position, on a case by case basis, has been reviewed by the Human Resources Director and a determination made that the position is properly classified and graded.

SECTION 3.15.11 GRIEVANCE PROCEDURE

The following grievance procedure shall be available to those employees of the Town whose rights under the Human Resources bylaw have, in their opinion, been prejudiced in any way and covering all grievances except those that would properly be under the jurisdiction of the Civil Service Commission or other duly established appeal boards or agencies. As used in this section, the word “grievance” shall be construed to mean any dispute between an employee and his supervisors arising out of an exercise of administrative discretion by such supervisor or supervisors. Expressed time limits must be observed except in cases where it is impossible to do so, or where the parties mutually agree in writing to extend the time limits.

Step I. The employee shall take up his grievance orally with his immediate supervisor within fifteen (15) calendar days of the occurrence of the grievance. The supervisor shall reach a decision and communicate it orally to the employee within seven (7) calendar days of the date of the submission of the grievance.

Step II. If the grievance is not settled at Step I, the employee shall within five (5) working days present his grievance in writing to his supervisor who shall forward it to the Department Head who shall hold a hearing within five (5) working days if required. At this hearing there shall be present the employee and one (1) representative if he requests it, his supervisor, the Department Head and the Human Resources Director, who

shall also be the recorder. Within five (5) working days of the hearing, the Department Head shall render his decision in writing to the employee.

Step III. If the grievance is not settled at Step II, all records and facts in the case shall be referred to the Human Resources Board for adjudication. Those present at Step II shall appear at this hearing. The Human Resources Director shall be the recorder. Within ten (10) working days of the hearing which shall be the next regular meeting of the Board except in cases of emergency, the employee shall be notified in writing through the Department Head as to the decision of the Board which shall be final.

TOWN OF BROOKLINE

Article 3.16

Park and Recreation Commission

ARTICLE 3.16
PARK AND RECREATION COMMISSION

SECTION 3.16.1 PARK AND RECREATION AREA PROGRAMS

The Park and Recreation Commission shall, at least annually, (a) promulgate a proposed Program for such substantial construction, alteration or repair of the parks and recreation areas in the Town over the following six years as it may consider appropriate, including estimates of expected costs; (b) advertise such proposed program at least twice in a newspaper of general circulation in the Town; (c) conduct a public hearing concerning such proposed program at a time and place specified in such advertisement; and (d) after such public hearing and such further revision as it may consider necessary, submit such proposed program for approval to the Select Board.

SECTION 3.16.2 OPEN SPACE DESIGN REVIEW PANEL

In order to ensure that all plans for the substantial construction, alteration or repair of a park or recreation area under the jurisdiction of the Commission respect the historical, cultural, aesthetic, and open space values of the Town and serve the expressed needs of the primary community to be served by the improvement, the Commission shall appoint a Park and Open Space Design Review Panel, hereinafter called the review panel, for each such plan. The review panel shall consist of four members to be appointed by the Commission from its membership, and three members to be appointed by the Commission who represent those people who are the likely passive and active users of the improvement including, when appropriate, people from the neighborhood where the improvement is located. One of the seven shall be trained in landscape architecture or in another relevant field. The review panel shall choose its chairperson. The review panel shall meet promptly after its appointment and shall carry out the following functions: recommendation of a consultant for the plan, if such a consultant is to be hired; convening of at least two public hearings; and review of the plan before contracts for the work are to be let.

TOWN OF BROOKLINE

Article 3.17

Public Works Department Organization

ARTICLE 3.17
PUBLIC WORKS, DEPARTMENT ORGANIZATION

SECTION 3.17.1 ORGANIZATION

There shall be a Department of Public Works in accordance with Chapter 32 of the Acts of 1981, as amended. The Department has the following divisions:

Engineering
Highway/Sanitation
Parks, Forestry, Cemetery & Conservation
Transportation
Water and Sewer

SECTION 3.17.2 PROCEDURES FOR FIXING WATER AND SEWER RATES

The Select Board shall conduct a public hearing annually, giving notice in accordance with the provisions of M.G.L. c. 30A, s. 20. At least 21 days before such a hearing, the Board shall make known to town meeting members and the general public estimates of any proposed changes for the coming fiscal year to any such water and sewer fees, charges, and rates, in order to satisfy the requirements of this bylaw. The estimated changes shall be based on best available information using the most recent available preliminary MWRA water and sewer assessments. The Select Board shall distribute to all town meeting members and make available to the public an annual report on the operations of the Water and Sewer Division of the Department of Public Works. The report shall enumerate the estimated differential impact of the proposed fees on costs to consumers, as determined by the commissioner of public works.

TOWN OF BROOKLINE

Article 3.18

Sealer of Weights and Measures

ARTICLE 3.18
SEALER OF WEIGHT AND MEASURES

SECTION 3.18.1 APPOINTMENT

The Select Board shall appoint a Sealer of Weights and Measures.

SECTION 3.18.2 COMPENSATION

The Sealer of Weights and Measures shall be paid such annual salary as the Town from time to time may vote. He shall account for the pay into the Treasury of the Town all fees received by him by virtue of his office.

SECTION 3.18.3 SCHEDULE OF FEES

The Select Board shall establish, and may from time to time amend, the schedule of fees for services provided by the Sealer of Weights and Measures.

TOWN OF BROOKLINE

Article 3.19

Community Preservation Committee

ARTICLE 3.19
COMMUNITY PRESERVATION COMMITTEE

(NOTE: The Community Preservation Committee, taken under Article #10, at the Annual Town Meeting called for May 23, 2006 and passed by a Majority Vote on May 24, 2006 and approved by the Attorney General, on September 26, 2006, did not become effective because Sections 3 to 7, inclusive, of Chapter 44B of the General Laws (the Massachusetts Community Preservation Act) were not accepted by the Town in the manner required by such Act.)

TOWN OF BROOKLINE

Article 3.20

Mandatory Educational Training for all Elected and Appointed Officials

ARTICLE 3.20
MANDATORY EDUCATIONAL TRAINING
FOR ALL ELECTED AND APPOINTED OFFICIALS

3.20.1 APPLICABILITY

This by-law is intended to apply to all elected and appointed officials (hereinafter collectively referred to as "Elected and Appointed Officials") who are elected or appointed after the effective date of this by-law. This by-law shall not apply to School Committee members under any circumstances or Town Meeting Members unless serving on a Committee as defined in Section 1.1.4 (c) of these By-Laws, or to Design Advisory Teams (DAT's), or to committees formed in individual schools, however constituted.

3.20.2 MANDATORY EDUCATIONAL TRAINING

All Elected and Appointed Officials shall within one hundred and twenty (120) days before or after their election or appointment to a Committee or Sub-committee, attend an educational training seminar hosted by the Office of Town Counsel which shall include the requirements of the Open Meeting Law and Conflict of Interest Law. In the alternative, members may meet with Town Counsel, or a member of his/her staff, to receive such information and training.

3.20.3 NOTICE OF COMPLIANCE

Upon completing the required training, Town Counsel shall notify the Town Clerk and Town Administrator, in writing, of the names of those Elected and Appointed Officials who have completed the training.

3.20.4 NON-COMPLIANCE AND ENFORCEMENT

Should an Elected or an Appointed Official fail to participate in the required training within the mandatory one hundred and twenty (120) days, the Town Administrator shall notify in writing the appointing authority, the appropriate Chairman, and the Town Clerk of the names of the individuals in non-

compliance. It will be within the discretion of the appointing authority to extend the time of compliance an additional 30 days. The Town Clerk shall maintain a Public Record of Compliance and Non-Compliance by Elected and Appointed Officials, available for viewing by the Public upon request.

TOWN OF BROOKLINE

Article 3.21

READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS AND RECORDS

ARTICLE 3.21
READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS AND RECORDS

Section 3.21.1 Purpose and Applicability

This by-law applies to the meetings of all Brookline governmental bodies subject to the Open Meeting Law, now G.L. c. 39, §§23A et seq. (hereinafter, respectively, "meetings" and "OML"), and is intended (a) to take advantage of the internet and its increasing use; (b) to better implement the spirit of the OML; and (c) to the extent reasonably practical, to improve opportunities for broader and more meaningful citizen participation in the business of Town governmental bodies.

Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the Town website’s Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

Section 3.21.3 Meeting Notices and Agendas

(a) Each meeting "notice" required by OML shall not only be "posted" under the OML at least forty-eight hours before the meeting but, additionally, shall be posted in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. To the extent possible, each posting shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed, and (ii) the name of a contact person along with contact information for further inquiries, for forwarding messages to the relevant governmental body, for obtaining background information to the extent readily

available, and for obtaining contact information (or a website link containing such information) for all of members of the governmental body.

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to citizens who join the aforementioned notification list(s).

Section 3.21.4 Records

Records of meetings of all Town governmental bodies shall be reasonably descriptive of the business conducted. and shall include a summary of discussions, in addition to indicating actions taken and other requirements of the OML, and shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue.

Section 3.21.5 Enforcement

As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall periodically notify their appointees in writing of the requirements of this by-law. No additional enforcement powers are hereby conferred upon the Norfolk County District Attorney beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML.

Section 3.21.6 Effective Date

The requirements of this by-law shall become effective on July 01, 2008.

TOWN OF BROOKLINE

Article 3.22

The Public's Right To Be heard On Warrant Articles

ARTICLE 3.22

THE PUBLIC'S RIGHT TO BE HEARD ON WARRANT ARTICLES

Any committee as defined in section 1.1.4, before taking its first or only vote with respect to an Article on the Warrant, must hold a duly noticed public hearing with respect to the Article, and the committee's permanent record must record that a duly noticed public hearing with respect to such Article occurred before such vote.

Due notice of the public hearing shall be satisfied if the due notice complies with the Open Meeting Law (G.L. C. 30A, secs. 18 et seq.) and By-law 3.21.3(a).

The vote may take place at any time or date after the completion of the duly noticed public hearing.

This Article shall not apply to the plenum of the Advisory Committee or School Committee, provided a subcommittee of those bodies assigned to review and report to the full Committee on a warrant article complies with the by-law by holding a duly noticed public hearing before any vote on said warrant article.

TOWN OF BROOKLINE

Article 3.23

Brookline Commission on Disability

ARTICLE 3.23
BROOKLINE COMMISSION ON DISABILITY

SECTION 3.23.1 ESTABLISHMENT AND PURPOSE

The purpose of this Article is to establish the Brookline Commission on Disability (the "Commission") under the Town of Brookline's General By-laws, and to establish principles and procedures for the governance of the Commission. The purpose of the Commission is to bring about the integration and participation of people with disabilities in the Town of Brookline in coordination with programs of the Massachusetts Office on Disability. The Commission shall work in conjunction with the Office of Diversity, Inclusion and Community Relations for purposes of resource allocation and administrative support. The Town's ADA Coordinator, a staff position located within the Office of Diversity, Inclusion and Community Relations, shall be an *ex officio* member of the Commission, shall attend Commission meetings and shall serve as the primary conduit of communication with the Town of Brookline's Chief Diversity Officer.

SECTION 3.23.2: DEFINITIONS

Person with a disability shall mean any person who has a physical or mental impairment that substantially limits a major life activity; has a record of such an impairment; or is regarded as having such an impairment.

People with disabilities shall for the purpose of this by-law mean the plural of "person with a disability."

SECTION 3.23.3 POWERS AND DUTIES

The Commission on Disability as established under M.G.L. Chapter 40, Section 8J, and shall perform and discharge all of the powers and duties set forth in said Section 8J. These powers and duties include:

(1) Research local problems of people with disabilities;

(2) Advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;

(3) Coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts office on disability;

(4) Review and make recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of said city or town as they affect people with disabilities;

(5) Provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;

(6) Coordinate activities of other local groups organized for similar purposes;

(7) Work in cooperation with the departments and agencies of the Town of Brookline to bring about maximum participation of people with disabilities;

(8) Initiate, monitor, and promote legislation at the city, state and federal level which advances the equal status of people with disabilities and ensure that appropriate regulations are adopted and enforced pursuant to such legislation;

(9) Encourage public awareness of disability issues;

(10) Compose a mission statement for the Commission. Review the statement every five (5) years, and revise it as needed. Post the statement on the Commission's web site;

(11) Prepare written long term goals that are specific, measurable and relevant to the Commission's mission. Review these goals every five (5) years and revise as needed. Prepare written short term goals annually;

(12) File an annual report which shall be printed in the Town's annual report, listing current members and summarizing Commission accomplishments;

(13) When needed, and as an aid to the Board of Selectmen, the Commission may recommend prospective Commission members for appointment by the Board of Selectmen.

The Commission shall endeavor especially to solicit nominations that reflect diversity in type of disability to the greatest extent possible. Members of the public are welcome to apply directly to the Board of Selectmen for appointment. A recommendation for appointment from the Commission shall only be advisory and not necessary to receive appointment to the Commission on Disability;

(14) Take such action as the Commission considers appropriate to ensure the purposes of this By-law are met.

SECTION 3.23.4 MEMBERSHIP

The Commission shall consist of seven (7) or nine (9) volunteer members appointed by the Board of Selectmen. The majority of members shall consist of people with disabilities. One member shall be a member of the immediate family of a person with a disability. One member shall be a member of the Board of Selectmen or a Department Head. All members shall serve three-year terms. Terms shall be staggered to preserve continuity. Resignations shall be made by notifying the Board of Selectmen and Town Clerk in writing. If any member is absent from three or more regularly scheduled meetings in any one calendar year, a recommendation shall be made by the chairperson to the Board of Selectmen that such member be removed from the Commission, unless any or all absences are excused for good cause by the chairperson. Good cause shall include, but not be limited to: illness, a death in the family, severe weather, and professional responsibilities. The Board of Selectmen shall fill any vacancy for the remainder of the unexpired term in the same manner as an original appointment. Any members of said Commission may, after a public hearing if so requested, be removed for cause by the Board of Selectmen. No member shall undertake to speak or act on behalf of the Commission without the approval of the Commission. All members, with the exception of the Town’s ADA Coordinator, shall have full voting rights.

SECTION 3.23.5 OFFICERS

Officers of the Commission shall include a chairperson, deputy chairperson, secretary and treasurer. Officers shall be elected annually by a majority vote of the Commission. One member may hold more than one office. The

chairperson shall: develop meeting agendas in coordination with the other officers and staff; preside over all meetings; appoint subcommittees as needed; and authorize expenditures as needed. The deputy chairperson shall: perform all the functions of the chairperson in the chairperson's absence. The secretary shall: create and maintain minutes of all meetings; maintain copies of correspondence; and make sure all meetings are posted. In absence of a secretary, other Commission members or the ADA Coordinator shall undertake these duties. The treasurer shall: regularly inform the Commission of the status of any funds from gifts received by the Commission (and approved by the Board of Selectmen), as well as the status of any other funding to which the Commission may have access, and prepare a financial report for inclusion in the annual report, as needed.

SECTION 3.23.6 MEETINGS

Regular meetings of the Commission shall be held at least ten (10) times a year. A quorum for a nine (9) member Commission shall consist of five (5) members; a seven (7) member Commission quorum shall consist of four (4) members. Meeting minutes shall be reviewed approved, and posted in a timely manner. Special meetings may be called by the chairperson or by any three (3) members. Votes on all matters concerning the Commission shall be made by a majority of those members present.

TOWN OF BROOKLINE

Article 4.1

Accounts and Audits

ARTICLE 4.1
ACCOUNTS AND AUDITS

SECTION 4.1.1 ACCOUNTING SYSTEM

All accounts of the Town shall be kept in accordance with a uniform accounting system approved by the Massachusetts Department of Revenue.

SECTION 4.1.2 AUDIT

The accounts of the Town shall be audited by an independent auditor retained by the Town at such times and in such manner as determined by the Select Board, with the advice of the audit committee.

SECTION 4.1.3 AUDIT REPORTS

All reports by the independent auditor shall be available for inspection by citizens of the Town during regular business hours at the Town’s offices. The audit report shall also be made available at the Main Library.

TOWN OF BROOKLINE

Article 4.2

Annual Reports

ARTICLE 4.2
ANNUAL REPORT

SECTION 4.2.1 ANNUAL REPORT

There shall be an annual report prepared under the direction of the Select Board.

SECTION 4.2.2 CALENDAR YEAR REPORTS

The Annual Report shall be presented on a calendar year basis, except that financial reports and audits may be based upon and presented as fiscal year reports.

SECTION 4.2.3 DATE WHEN REPORTS ARE TO BE READY

The contracts for printing the Annual Town Reports and the pamphlets described in Article 1 shall be made by the Select Board. All annual report and all other reports intended to be bound up with the Annual Town Report shall be sent to the Select Board not later than January 15th, in each year.

SECTION 4.2.4 DISTRIBUTION OF REPORTS

The Select Board shall cause one copy of the Annual Town Report for each year to be delivered or mailed not later than the fifteenth day prior to the commencement of the Annual Town Meeting, to the residence of every elected and appointed Town Meeting Member, member of the Advisory Committee, and to the residence of every resident, real estate owner and town employee who requests a copy in writing. In lieu of the preceding mailing requirement, the Select Board may, at the request of any person listed above send the report(s) electronically.

SECTION 4.2.5 ILLUSTRATIONS

No illustrations shall hereafter be introduced in reports of the town officers, boards, or committees, except where the use of an illustration is expressly authorized by the Select Board.

SECTION 4.2.6 PERMANENT RECORD

A COPY of each Annual Town Report shall be kept permanently in the office of the Town Clerk. Each annual report shall

be kept available for use by the public, for at least five years, after its publication, in the Public Library and every Branch thereof.

SECTION 4.2.7 ASSESSORS' REPORT

The Assessors shall append to their annual report a table of the valuation, real, personal and total, the rate of taxation, and the amount of money raised.

SECTION 4.2.8 SCHOOL COMMITTEE'S REPORT

The School Committee shall append to their annual report a statement of the total number of children who have attended the public schools during the year, indicating the number of students in each grade and pregrade.

SECTION 4.2.9 SELECT BOARD'S REPORT

The annual report of the Select Board shall, unless such information is contained in other reports to be published with the Annual Town Report or as part of the Annual Town Meeting process, state what action has been taken as to the following matters. In regard to town ways, county ways and sewers, it shall state specifically what have been laid out and constructed, what have been altered, what damages have been assessed and paid, what claims are outstanding, and what claims are in suit against the town. It shall also state what ways or sewers that have been ordered, laid out, or accepted, remain to be constructed. It shall also contain a detailed statement of the repairs made upon public buildings. It shall also contain a two-part section, with one part stating the full text of each Resolution which was adopted by Town Meeting during the year of the Report. The second part shall (1) list all prior Resolutions, beginning in 2001, adopted by Town Meeting which call for any action by the Select Board or Town departments; (2) summarize the “whereas” and “resolved” or action clauses of each; and (3) summarize the pertinent results and actions taken for each during the year of the Report; except that any such Resolution which, by vote of the Select Board, is deemed moot or inappropriate for further action need subsequently be listed, and so noted, only until and in the year of such vote.

SECTION 4.2.10 TOWN CLERK’S REPORT

The Town Clerk shall make a full index of the reports, and it shall be a part of his official duty to prepare a report upon the vital statistics for publication in the Annual Report.

The Town Clerk shall, within one week after the final adjournment of any town meeting, or as soon as practicable thereafter, submit to the Select Board the official record of such meeting, and the Select Board shall cause the same to be prepared for publication in the Annual Town Report.

SECTION 4.2.11 TREASURER'S REPORT

The Treasurer shall make an annual report that will outline the current debt of the town. The report may reference the financial statements and reports that deal with the accounts and financial condition of the Town, provided, that a financial statement is not required to be published in the Annual Report but shall be available for public inspection.

SECTION 4.2.12 LIBRARY TRUSTEES’ REPORT

The Trustees of the Public Library shall append to their annual report an account of the amounts received and expended, including principal and income balances and expenditures from library trust funds, and the object of their expenditures for the support of the town library during the year being reported.

TOWN OF BROOKLINE

Article 4.3

Contracts-Prohibited Action

ARTICLE 4.3
CONTRACTS - PROHIBITED ACTION

SECTION 4.3.1 PROHIBITED PRACTICE

No municipal officer of the town authorized to borrow money or to make any contract or purchase in behalf of the town shall be personally interested in any loan, contract, or purchase which he or any board of which he is a member makes on behalf of the town.

SECTION 4.3.2 SELECT BOARD MEMBERS' PROHIBITIONS

No member of the Select Board, either personally or through any of his employees, or through any other person, shall receive any compensation, except his official salary, for work done or materials furnished by him or them for the town.

SECTION 4.3.3 PROHIBITIONS OF SALES

No municipal officer and no salaried employee of the town shall sell material or supplies to the town without the permission of the Select Board expressed in a vote which shall appear on their records with the reasons therefore.

SECTION 4.3.4 PROHIBITIONS ON COMPENSATION

No municipal officer and no salaried employee of the town shall receive any compensation or commission for work done by him for the town, except his official salary and fees allowed by law, without the permission of the Select Board expressed in a vote which shall appear on their records with the reasons therefore.

SECTION 4.3.5 AUDIT COMMITTEE

The Audit Committee in their annual report shall call attention to any apparent violation of this By-Law which may come to their notice.

TOWN OF BROOKLINE

Article 4.4

Fair Employment Practices With Regard To Contracts

ARTICLE 4.4
FAIR EMPLOYMENT PRACTICES WITH REGARD TO CONTRACTS

SECTION 4.4.1 CONTRACT PROVISIONS AND REQUIREMENTS

Subject to the exceptions hereinafter stated, all contracts awarded by the Town and all agencies and departments thereof, shall include the following provisions:

During the performance of this Contract, the Contractor, for himself, his assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

(a) The Contractor will comply with the provisions of Chapter 151B, as amended, of the General Laws of Massachusetts relative to non-discrimination which are incorporated herein by reference and made a part of this Contract.

(b) In the performance of work under this Contract, the Contractor shall not discriminate in employment practices or in the selection or retention of 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 to each labor union or representative of 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.

(e) In the event the Contractor fails to comply with the foregoing non-discrimination provisions of this Contract, the contracting agency of the Town, upon advice and counsel of the Human Relations Commission, shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:

(1) withholding of payment due the Contractor under this contract until the Contractor complies, and/or
(2) cancellation, termination or suspension of this Contract, in whole or in part.

For the purposes of this section the contracting agency of the Town shall accept as proof of noncompliance with the provisions of Section 4.4.1(a), only final orders or decisions of the Massachusetts Commission Against Discrimination.

(f) The provisions of this section shall be deemed supplementary to, and not in lieu of, or in substitution for, the provisions of Massachusetts Law relating to non-discrimination, and other applicable

Federal, State or Town law, by-law, rule, regulation and directive relative thereto. In the event of a conflict between the provisions of this section and, where inserted or incorporated in this contract, an applicable state or federal law, rule, regulation or directive, the conflicting provisions of the latter shall control.

SECTION 4.4.2 EXEMPTIONS

The requirements of Section 4.4.1 shall not apply to the following contracts:

(a) Whenever work is to be or has been performed outside the state and no recruitment of workers within the state is involved
(b) those involving standard commercial supplies or raw materials
(c) When the contractor is a club exclusively social, or a fraternal association or corporation, if such club, association or corporation is not organized for private profit
(d) when the contractor employs fewer than six persons
(e) when the total value of the contract is less than $10,000.00
(f) contracts involving joint purchases with the state
(g) contracts with the Commonwealth for construction of public works
(h) contracts for financial assistance with a government or governmental agency
(i) notes and bonds of the Town
(j) employment by the Town of officers and employees of the Town
(k) whenever it is deemed necessary or appropriate the Select Board, upon the advice and counsel of the Human Relations Commission, may exempt any contract not covered by the foregoing exemptions from the operation of this By-law in whole or in part.

SECTION 4.4.3 REQUEST FOR PROPOSALS

All requests for proposals for contracts subject to the provisions of this Article shall include a statement notifying all bidders that the contract awarded pursuant to the proposal is subject to the provisions of this Article of the By-laws, relating to non-discrimination in employment.

TOWN OF BROOKLINE

Article 4.5

Discrimination Prohibition With Regard To Contracts

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.

SECTION 4.5.2 CERTIFICATION OF CONTRACTOR

Any person or employer proposing to contract with the Town, as set forth in Section 4.5.1, shall file with the contract documents a certification made under the pains and penalties of perjury that the person or employer does not discriminate against any individual, as set forth in Section 4.5.1.

SECTION 4.5.3 AWARD OF CONTRACT

Unless otherwise required by law, no contract shall be executed until the certification required under Section 4.5.2 has been filed with the awarding authority. The provisions of Article 4.4 shall, when applicable, apply to this Article 4.5.

TOWN OF BROOKLINE

Article 4.6

Public Relations and Information

ARTICLE 4.6
PUBLIC RELATIONS AND INFORMATION

The Town may appropriate a sum not to exceed $1,500.00 in any year to be expended by the Personnel Board, with the approval of the Select Board, for the purpose of furnishing information including, without limitation, the results of its investigations, its opinions and recommendations, to the inhabitants of the town or to Town Meeting members, pertaining to an article or articles in the Warrant for a town meeting which relate to wages, hours or other conditions of employment of town employees.

TOWN OF BROOKLINE

Article 4.7

Nonpayment of Local Taxes, Fees and Charges

ARTICLE 4.7
NONPAYMENT OF LOCAL TAXES, FEES & CHARGES

SECTION 4.7.1 DENIAL OR REVOCATION OF LOCAL LICENSE OR PERMIT

(a) The local licensing authority may deny any application for, or revoke or suspend any local license or permit including renewals and transfers for any person who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. This By-Law shall not apply to those licenses and permits exempted from regulation hereunder by G.L. c.40, §57, as amended.

(b) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(c) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said

list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(d) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(e) The Select Board may waive such denial, suspension or revocation if it finds there is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

SECTION 4.7.2 MUNICIPAL CHARGES LIEN

The town may impose a Municipal Charges Lien on real property located within the Town for any of the following local charges or fees that have not been paid by the due date:

(a) personal property taxes

(b) excise taxes
(c) payments due under affordable housing requirements or agreements
(d) payment due under licenses or leases of town-owned property

TOWN OF BROOKLINE

Article 4.8

Living Wage By-Law

ARTICLE 4.8
LIVING WAGE BY-LAW

SECTION 4.8.1 TITLE

This By-Law shall be known as the “Living Wage By-Law.”

SECTION 4.8.2 LIVING WAGE

(a) The town of Brookline (“town”) shall pay each of its employees no less than $10.30 an hour except as provided in Section 4.8.5 and in collective bargaining agreements with the town under G.L. c. 150E, section 7.

(b) The wage prescribed in paragraph (a) of this Section 4.8.2 shall be known as the “living wage” and shall be adjusted annually by the same percentage and on the same schedule relative to wage adjustments given to full-time, nonunion town employees on the town’s general pay schedule, beginning in the year 2003.

(c) The living wage shall also be adjusted annually at the time of and after the adjustment set forth in paragraph (b) of this Section 4.8.2 if necessary to insure that as so adjusted, it is at least one dollar more than the state minimum wage in effect under G.L. c.151 at the time of such adjustment.

SECTION 4.8.3 MINIMUM WAGE

The compensation of employees exempted from the living wage under paragraphs (a), (b), (c) (d) and (f) of Section 4.8.5 shall be adjusted annually at the same time as the adjustment referred to in paragraph (b) of Section 4.8.2 if necessary to insure that the hourly wage is at least one dollar more than the state minimum wage in effect under G.L. c.151 at the time of such adjustment.

SECTION 4.8.4 NOTICE

The town shall provide each employee with a fact sheet about this By-Law and shall post current notices about the By-Law in conspicuous locations in town buildings and link

such notices conspicuously on the home web pages of the town's Human Resources and Purchasing Departments as well as those of the Human Resources and Administration and Finance Offices of the Public Schools of Brookline (PSB). These fact sheets and postings shall include:

(a) notice of the living wage amount;

(b) notice of the town minimum wage amount under Section 4.8.3;

(c) a summary of the By-Law provisions;

(d) notice that a person claiming to be aggrieved by a violation of this By-Law may file a grievance under the town's Human Resources By-Law (Section 3.15.11) or, if a PSB employee, a complaint with the Assistant Superintendent for Human Resources or such other person with similar authority and duties or, if a covered employee under Section 4.8.6(a), a complaint with the town's Chief Procurement Officer or the Select Board as provided under Section 4.8.6(c); notice that upon exhaustion of this administrative remedy, such person may seek appropriate legal relief.

SECTION 4.8.5 EXCEPTIONS

The town shall not be required to pay the living wage to the following persons:

(a) seasonal employees who work less than six months in any twelve-month cycle;

(b) employees participating in a work-study or cooperative educational program;

(c) employees whose positions are funded, in full or in part, by Community Development Block Grant or State Elder Services Grant monies;

(d) town library Junior Library Pages;

(e) Putterham Meadows Golf Course rangers;

(f) town junior, part-time positions funded by a Recreation revolving fund, specifically, Jr.

Swim Coach, Jr. Swim Instructor, Jr. Lifeguard, Jr. Skate Guard, Jr. Referee, Jr. Assistant Recreation Leader, Jr. Camp Counselor, Jr. Camp Instructor, Jr. Skate Concessions;

(g) volunteers and all persons appointed or elected to town committees;

(h) elected officers of the town.

SECTION 4.8.6

a. Definitions:

In construing SECTION 4.8.6, the following words shall have the meanings herein given, unless a contrary intention clearly applies.

Covered employer means anyone who has been awarded a service contract or subcontract with the Town after the effective date of the By-law.

Covered Employee means any employee who performs direct services for the purpose of fulfilling the covered employer's contractual obligations, provided however, employees who perform services that are incidental to the execution of the contract are not covered employees.

Person means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this commonwealth,

Services means the furnishing of labor, time, or effort by a contractor and/or covered employer.

Service contract means a contract for services awarded to a vendor by the town for no less than the following amounts: (i) $25,000.00 for contracts commencing in fiscal year 2006, (ii) $10,000.00 for contracts commencing in fiscal year 2007 (iii) $5,000.00 for contracts commencing

in fiscal year 2008 and thereafter. Any bids opened prior to fiscal year 2006 shall not be subject to this article.

b. Application of Living Wage By-Law to Contracts

After the applicable date of this By-Law, the guidelines outlined in the Living Wage By-Law, Section 4.8.2 Living Wage, shall apply to all service contracts of the Town of Brookline.

These guidelines shall be followed to ensure that all covered employers shall pay their covered employees (both as defined above) providing services to the Town of Brookline and any of its Departments a Living Wage as defined in Article 4.8 Section 2.

c. Enforcement

Grievance procedures and nondiscrimination. Any covered employee who believes that his or her employer is not complying with requirements of this article applicable to the employer has the right to file a complaint with the town's Chief Procurement Officer or Select **Board**. Complaints of alleged violations may also be filed by concerned citizens or by a town official or employee. Complaints of alleged violations may be made at any time and shall be investigated promptly by or for the officer or board that received the Complaint. To the extent allowed under the Public Records Law, G.L.c.66, statements, written or oral, made by a covered employee, shall be treated as confidential and shall not be disclosed to the covered employer without the consent of the covered employee.

Investigations. The Chief Procurement Officer or Select Board who received a complaint, as aforesaid, shall investigate or have the complaint investigated and may, in conjunction with the Town Counsel, require the production by the covered employer of such evidence as required. The covered employer shall submit payroll records (meaning records that relate to wages paid) upon request, and the failure to comply with the request may be a basis for terminating any contract between the parties. Upon receipt by the town of information of possible noncompliance with the provisions of this article, the covered employer shall permit representatives of the Chief Procurement Officer or

Select Board to observe work being performed upon the work site, to interview employees and to examine payroll records, the books and records relating to the payrolls being investigated, to determine whether or not the relevant payment of wages complies with this By-Law.

Retaliation and Discrimination Barred. A covered employer shall not discharge, reduce the compensation of, or otherwise discriminate against any employee for making a complaint to the Town or otherwise asserting his or her rights under this article, participating in any of its proceedings or using any civil remedies to enforce his of her rights under the article. The Town shall investigate allegations of retaliation or discrimination and may, in conjunction with Town Counsel, and in accordance with the powers herein granted, require the production by the employer of such evidence as may be deemed necessary or desirable during such investigation.

d. Remedies

In the event that the town shall determine, after notice and hearing, that any covered employer has failed to pay the living wage or has otherwise violated the provisions of this article:

(1) The town may pursue the following remedies and relief:

a. Fines not to exceed $300.00 for each week, for each employee found to have not been paid in accordance with this article; and

b. Suspension of ongoing contract and subcontract payments.

(2) If the covered employer has failed to pay the living wage, the town may terminate all service contracts with the covered employer unless appropriate relief, including restitution to each affected covered employee, is made within a specified time.

(3) If the covered employer has discharged, reduced the compensation or otherwise discriminated against any covered employee for making a complaint to the town,

otherwise asserting his or her rights under this article, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the ordinance, the town may terminate all service contracts with the covered employer unless appropriate relief, including restitution to each affected covered employee and reinstatement of each discharged covered employee, is made within a specified time.

SECTION 4.8.7 SEVERABILITY

If any portion or provision of this By-Law is declared invalid or unenforceable by a court of competent jurisdiction or the Office of the Attorney General, the remaining provisions shall continue in full force and effect.

TOWN OF BROOKLINE

Article 4.9

Election Campaigns

ARTICLE 4.9
ELECTION CAMPAIGNS

(A) Definitions

(1) As used herein, the term “person” shall refer to any natural person, firm, corporation, partnership, union, association, organization, political committee or campaign, governmental entity, trust, educational institution, financial institution, or any other entity, however constituted.

(2) As used herein, the term “Chapter 55” shall refer to Chapter 55 of the Massachusetts General Laws and those regulations promulgated pursuant thereto, as the same may be amended from time to time.

(3) As used herein, the terms “ballot question committee,” “candidate,” “candidate’s committee,” “contribution,” and “expenditure” shall have the same meanings ascribed to said terms in Chapter 55, unless the context in which such term is used indicates otherwise.

(4) As used herein, the term “State Campaign Finance Report” shall refer to a report required to be filed by a ballot question committee, candidate or candidate’s committee under Chapter 55.

(5) Should any ambiguity arise regarding any term not expressly defined herein, that term shall be construed consistently with the manner in which it is used in Chapter 55, unless the context in which it is used herein indicates otherwise.

(B) Campaign Finance Reports

On or before the fifteenth day preceding the Annual Town Election and in the case of a ballot question committee any Town election for which an applicable ballot question appears on the ballot, each ballot question committee and each candidate for the office of Selectman, School Committee, Library Trustee, Housing Authority, Moderator, Town Clerk and Constable shall file with the Town Clerk a Town Campaign Finance Report on a form prescribed by and made available to candidates by the Town Clerk. The

reporting periods for the Town Campaign Finance Report shall begin (i) in the case of ballot question committees and candidates that have not previously filed a Massachusetts Campaign Finance Report as of the date of their first receipt, expenditure or “in-kind” contribution and end 25 days preceding the *relevant* election.

The Town Campaign Finance Report shall be substantially in the same format and require the same information as that required by (i) Schedule A – Receipts, (ii) Schedule B – Expenditures, (iii) Schedule C – “In-kind” Contributions, and (iv) Schedule D – Liabilities of the State Campaign Finance Report.

(C) Publication of Campaign Finance Reports

Each campaign finance report filed with the Town Clerk pursuant to Chapter 55 and this By-Law shall be posted by the Town Clerk on the Town website within two business days of its filing. Any failure to file such a report on a timely basis shall likewise be posted by the Town Clerk on the Town website within one business day of the date by which it should have been filed.

(D) Provision of Information to Candidates by Town Clerk

The Town Clerk shall provide each ballot question committee and each candidate for the office of Selectman, School Committee, Library Trustee, Housing Authority, Moderator, Town Clerk and Constable with a copy or written summary of the requirements and restrictions pertaining to such campaigns prescribed by Chapter 55 and this By-Law. Said copy or written summary shall state that the requirements, restrictions, and other provisions of this By-Law are additional to those of Chapter 55. It shall be provided by the Town Clerk to incumbents and known challengers within thirty days of the effective date of this Article and, thereafter, within fourteen days of the filing of a statement of organization by a ballot question committee or a candidate’s committee organized on behalf of new candidates pursuant to Chapter 55.

(E) Interpretation

(1) The requirements, restrictions, and other provisions set forth in this By-Law are intended to be in addition to all requirements, restrictions, and other provisions set

forth in Chapter 55 and other applicable provisions of the constitutions, laws, and regulations of the United States and of the Commonwealth.

(2) The provisions of this By-Law are intended to be interpreted in such a way as to make them conformable to the constitutions and laws of the United States and of the Commonwealth and enforceable to the maximum extent permitted by law.

(F) 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.

(G) Committee on Campaigns

(1) There shall be a Committee on Campaigns consisting of not less than five nor more than seven members: the Town Clerk or his designee; an appointee of the Board of Selectmen who may be a member of the Board; and not less than three nor more than five Brookline residents appointed by the Moderator for three-year staggered terms. No holder of or candidate for the office of Selectman, School Committee, Library Trustee, Housing Authority, Moderator, Town Clerk or Constable shall be eligible for appointment by the Moderator to the committee. Should any individual vacate his office as committee member, the applicable appointing authority shall appoint another individual to fill his or her unexpired term.

(2) The responsibilities of said committee shall include the following:

(a) analyzing information provided on campaign finance reports filed by candidates for Town office pursuant to Chapter 55 and this By-Law;

(b) publicly reporting such information and the results of such analysis;

(c) considering and recommending to Town Meeting measures that may be taken by the Town to improve upon this ByLaw and ensure its effective implementation, and to establish a

system of electronic reporting and accessible electronic posting of campaign finance information;

(d) considering additional measures that may be taken by the Town to improve the process by which Town officials are elected;

(e) examining the feasibility and potential parameters of a system of public financing with respect to campaigns for Town office.

(3) Additional activities that may be undertaken by the Committee include, but are not limited to, the following: receiving public comment and conducting public forums concerning the process by which Town officials are elected; providing vehicles for publicizing, and working with local media to publicize, information concerning elections and candidates for Town office; and examining the relationship between campaign finance and appointments to Town boards and commissions.

TOWN OF BROOKLINE

Article 5.1

Alarm Systems

ARTICLE 5.1
ALARM SYSTEMS

SECTION 5.1.1 DEFINITIONS

For the purpose of this by-law, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) The term "Alarm System" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this by-law.

(b) The term "Alarm User" or "User" means any person on whose premises an alarm system is maintained within the town except for alarm systems on motor vehicles. Excluded from this definition and from the coverage of this by-law are central station personnel and persons who use alarm systems to alert or signal persons within the premises, in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system", as that term is used in this by-law, and shall be subject to this by-law. (Alarm systems for motor vehicles are subject to the noise control regulations in Article 8.15)

(c) The term "Automatic Dialing Device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

(d) The term "Central Station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

(e) The word "Town" means Town of Brookline.

(f) The term "Communications Console" means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

(g) The term "Direct Connect" means an alarm system which has the capability of transmitting system signals to and receiving them at the Brookline Police Department Communications Center.

(h) The term "False Alarm" means 1) the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents; 2) any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in a response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, malfunction of telephone transmission lines, and similar conditions.

(i) The term "interconnect" means to connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(j) The term "Police Chief" means the Chief of Police of the Town of Brookline or his designated representative.

(k) The term "Police" or "Police Department" means the Town of Brookline Police Department, or any authorized agent thereof.

(l) The term "Public Nuisance" means anything which annoys, injures or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.

SECTION 5.1.2 ADMINISTRATIVE RULES

The Police Chief may promulgate such rules as may be necessary for the implementation of this by-law.

SECTION 5.1.3 AUTOMATIC DIALING DEVICES – INTERCONNECTION TO POLICE DEPARTMENT

(a) No automatic dialing device shall be interconnected to any telephone numbers at the police department after the effective date of this by-law.

(b) Within six (6) months after the effective date of this by-law, all automatic dialing devices interconnected to any telephone numbers at the police department shall be disconnected therefrom. The user of each such device shall be responsible for having the device disconnected upon notification by the Police Chief.

SECTION 5.1.4 AUTOMATIC DIALING DEVICES – INTERMEDIARY SERVICES

Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

(a) a central station;
(b) an answering service;
(c) any privately-owned or privately-operated facility or terminal.

SECTION 5.1.5 DIRECT CONNECTION TO POLICE DEPARTMENT

(a) All alarms must be authorized by the Police Chief prior to being connected to the police department.

(b) In accordance with the normal practices in effect in the town, the Police Chief shall have the authority to request bids or proposals from alarm companies in order to furnish, at no cost to the town, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department. Each of the said bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console, except that no fee shall be assessed to the municipality for any alarms or connections to the console from properties owned by the municipality.

Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (B) relate solely to the aforementioned communications console, connections to the said console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on his premises.

(c) The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line

between the alarm user's premises and the alarm-receiving equipment at the police department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.

(d) The provisions of this Article concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal, county and state agencies and religious organizations.

SECTION 5.1.6 CONTROL AND CURTAILMENT OF SIGNALS EMITTED BY ALARM SYSTEMS

(a) Every alarm user shall submit to the Police Chief and the alarm company who maintains the system at the police communications console the names and telephone numbers of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. The names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and the alarm company.

(b) All alarm systems directly connected to the Police station shall be equipped with a test device which will give a ten-second delay or longer prior to alarm system activation in order to warn the alarm user of an open alarm circuit.

(c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The Police Chief shall cause to record the names and

addresses of all complainants and the time each complaint was received.

In the event that the Police Chief is unable to contact the alarm user, or member of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the Police Chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property 1) shall not conduct, engage in, or undertake any search, seizure, inspection or investigation while he is upon the property; 2) shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and 3) shall leave the property immediately after the audible signal has ceased. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed $50.00.

Within ten (10) days after abatement of a nuisance in accordance with this section the alarm user may request a hearing before the Select Board and may present evidence showing that the signal emitted by this alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the costs of the abatement should not be assessed to him; or the requirements of this section were not fulfilled. The Select Board shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to this property necessitated by the abatement, or excuse the alarm user from paying the costs of abatement.

(d) Effective July 1, 1992, all alarm systems shall be equipped with a built-in, recycle, cut-off, timer. This timer shall be adjusted so that any audible emissions, flashing lights, or beacons designed to signal to persons outside the premises shall cease such alarm function after fifteen (15) minutes of operation.

SECTION 5.1.7 TESTING OF EQUIPMENT

No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm.

SECTION 5.1.8 EMERGENCY NOTIFICATION LIST

Every business establishment within the Town whether alarmed or not shall provide written notice to the Police Chief listing the names, addresses, and telephone numbers of at least two persons who may be reached at any time, day or night and who are authorized to respond to any emergency which has caused the police to be dispatched to said premises. Such notice shall be kept current at all times reflecting any changes in authorized personnel. Owner-residents shall be excluded from this paragraph.

SECTION 5.1.9 FALSE ALARMS

(a) When emergency messages are received by the police department that evidence false alarms, the Police Chief shall take such action as may be appropriate under paragraphs (b), (c), (d), and (e) of this section, and, when so required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.

(b) After the police department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Police Chief shall notify the alarm user, in person, by telephone, or by mail of such fact and require the said user to submit, within fifteen (15) days after receipt

of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the town, or on any other reasonable basis, requests an extension of time for filing the report, the Police Chief may extend the fifteen (15) day period for a reasonable period. If the said user fails to submit such a report within fifteen (15) days or within any such extended period, the Police Chief shall order the use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

(c) In the event that the Police Chief determines that a report submitted in accordance with paragraph (B) of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the Police Chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

(d) In the event that the police department records five (5) false alarms within the calendar year from an alarm system, the Police Chief may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected. In the event that police department records eight (8) false alarms within the calendar year from an alarm system, the Police Chief shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.

(e) Any user of an alarm system which transmits false alarms shall be assessed a penalty of one hundred ($100.00) dollars for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the

Town Treasurer for deposit in the general fund. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment, the Police Chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

(f) Any user of an alarm system who has, in accordance with this section, been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Select Board. Notice of an appeal shall be filed with the Town Clerk within ten (10) days of the date of the order of discontinuance. Thereafter the Select Board shall consider the merits of the appeal, and in connection therewith shall hear evidence presented by all interested persons. After hearing such evidence, the Select Board may affirm, vacate or modify the order of discontinuance.

SECTION 5.1.10 PENALTIES

The following acts and omissions shall constitute violations of this by-law punishable, by fines of up to $100.00:

(a) failure to obey an order of the Police Chief to discontinue use of an alarm system, after exhaustion of the right of appeal;

(b) Failure to disconnect an automatic dialing device from any telephone numbers at the police department within six (6) months after the effective date of this by-law;

(c) interconnection of an automatic dialing device to any telephone numbers at the police department after the effective date of this by-law;

(d) failure to pay two (2) or more consecutive fines assessed under this by-law within sixty (60) days from the date of assessment;

(e) failure to comply with the requirements of Section 5.1.6;

(f) failure to comply with the requirements of Section 5.1.8.

Each day during which the aforesaid violations continue shall constitute a separate offense.

TOWN OF BROOKLINE

Article 5.2

Condominium Health and Safety At Time of Conversion

ARTICLE 5.2
CONDOMINIUM HEALTH AND SAFETY AT TIME OF CONVERSION

SECTION 5.2.1 NOTICE OF CONVERSION

Within forty-eight hours after the recording of a master deed under G.L. c. 183A, the owner or owners who create a condominium shall file a copy of the master deed with the Building Department of the Town of Brookline and the Town shall thereupon inspect the condominium premises in the following manner:

(a) The Health Department shall make an inspection within a reasonable time of said premises to determine if the same are in compliance with all applicable provisions of Article II of the State Sanitary Code as the same may be amended from time to time and all applicable rules and regulations of said Health Department; and

(b) The Building Department shall make an inspection within a reasonable time of said premises to determine if the same are in compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies.

SECTION 5.2.2 DEFINITIONS

“Owner”, includes a legal or beneficial owner, lessor, sub-lessor, manager, assignee, or other person receiving or entitled to receive rent for the use or occupancy of any housing accommodation or an agent of any of the foregoing.

SECTION 5.2.3 ENFORCEMENT

(a) The Building Department shall be responsible for enforcing the provisions of Section 5.2.1 and may issue orders and promulgate regulations to effectuate the purposes of Section 5.2.1 and to establish procedures thereunder.

(b) Any owner who converts property in violation of Section 5.2.1 or of any regulation adopted or order

issued pursuant thereto shall be punished by a fine of not more than fifty dollars. Each unit converted in violation of Section 5.2.1 and each day of continued violation for such unit shall constitute a separate offense.

(c) The District Court Department, Brookline Division, and the Superior Court Department shall have jurisdiction over any action arising from any violation of Section 5.2.1 or any regulation adopted or order issued pursuant thereto and shall have jurisdiction in equity to restrain any such violation.

SECTION 5.2.4 TENANT PROTECTIONS

The protection of tenants of residential properties undergoing conversion to the condominium form of ownership shall no longer be regulated by this Article but instead shall be regulated by Chapter 527 of the 1983 Massachusetts Acts and Resolves as the same may be amended from time to time.

SECTION 5.2.5 SEVERABILITY

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

TOWN OF BROOKLINE

Article 5.3

Demolition By-Law

ARTICLE 5.3
DEMOLITION DELAY BY-LAW

SECTION 5.3.1 INTENT AND PURPOSE

This by-law is adopted to preserve and protect Significant Buildings within the Town which reflect distinctive features of the architectural, cultural, political, economic or social history of the Town and/or Commonwealth; to encourage property owners of Significant Buildings to seek ways to preserve, rehabilitate or restore such buildings rather than demolish them; and by furthering these purposes, to preserve the resources of the Town and promote the public welfare. To achieve these purposes, the Brookline Preservation Commission and the Building Commissioner are empowered with respect to the issuance of demolition permits as provided in this by-law.

SECTION 5.3.2 DEFINITIONS

The following terms when used in this by-law, shall have the meanings set forth below, unless the context otherwise requires:

a. “Applicant”- any person or entity who files an Application for a Demolition Permit.

b. "Application" - an Application to the Building Department for a demolition permit.

c. "Building" - any combination of materials having a roof and permanent foundation and forming a shelter for persons, animals or property.

d. “Building Commissioner” - the person occupying the office of Building Commissioner or otherwise authorized to issue Demolition Permits.

e. "Business Day" - a day which is not a legal municipal holiday, Saturday or Sunday.

f. "Commission"- the Brookline Preservation Commission or its successor.

g. "Commission Staff" - the persons(s) regularly providing staff services for the Commission whom the Commission has

designated Commission Staff for the purposes of this by-law.

h. "Demolition" – (i) the act of pulling down, destroying, removing or razing a Building or a significant portion thereof, by substantially removing or substantially covering one side or removing 25% or covering 25% of the exterior walls of the building, or substantially removing or substantially altering the roof;(ii) moving a Building from its site with no permitted new location for said Building; (iii) in the case of a Building within Section 5.3.5(b), substantially gutting (as defined by the Preservation Commission per section 5.3.14) an interior space that has generally been open to the public and is integral to the historic character of the building; (iv) in the case of a building within Section 5.3.5(b), the systematic removal, effacement, or destruction of the exterior architectural elements which define or contribute to the historic character of the Building, or (v) commencing any of the foregoing work. "Demolition" as used herein shall be deemed to include Demolition by Neglect.

i. “Demolition by Neglect” - a process of ongoing damage to the fabric, viability and/or functionability of a building leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the building from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

j. "Demolition Permit" - a building permit issued by the Building Commissioner allowing the total or partial demolition of a building pursuant to an Application.

k. "Initial Determination" - any determination contemplated in Section 5.3.5 of this by-law made by the Commission or its staff.

l. "Local Historic District" - Cottage Farm Local Historic District, Pill Hill Local Historic District, Graffam McKay Local Historic District, Chestnut Hill North Local Historic District, Harvard Avenue Local Historic District or any other historic district which from time to time may be established under M.G.L. Ch. 40C.

m. “Mitigation” – actions taken to partially compensate for the demolition of a Significant Building, including without limitation: removal of the building to a new location; offering the building for removal to a new location; monetary support for same; incorporation of part or all of the building into a new building; submitting any replacement building to design review by the Commission; and recordation and visual documentation of the existing building.

n. "Significant Building" - any existing building, including without limitation any interior space that has generally been open to the public and is integral to the historic character of the building, within the Town which the Commission determines, as provided in Section 5.3.5 and 5.3.8 of this by-law, to be in the public interest to be preserved or rehabilitated, and whose demolition would be detrimental to the historical and/or architectural heritage and resources of the Town or in the case of a building that has been demolished without a Demolition Permit any building which the Commission determines in a public hearing would have met said criteria.

SECTION 5.3.3 PROCEDURE

General - No permit for the demolition of a building shall be issued other than in conformity with the provisions of this by-law, notwithstanding the provision of other codes and by-laws applicable to demolition of buildings and permits issued therefore, except with respect to buildings in Local Historic Districts for which MGL 40c and section 5.6 the Town’s by-laws shall take precedence, where applicable.

SECTION 5.3.4 APPLICATION

a. An Application to the Building Department for a Demolition Permit shall be made or co-signed by the owner of record at the time of Application and shall contain or be accompanied by the following information, without which it shall not be deemed complete:

i. The address of the building to be demolished.
ii. The owner's name, address and telephone number.
iii. A description of the type of building.
iv. The scope of the proposed demolition.

b. A separate Application shall be made for each building on the property.

c. The Applicant shall deliver a copy of said Application to the Commission, and the submission of said copy shall be a precondition to completing an Application for a Demolition Permit to the Building Department.

d. An application for a Demolition Permit is valid only with respect to the owner(s) of record at the time it is delivered to the Preservation Commission Staff, unless otherwise provided for in this section. In the event of an arm's length transfer of ownership and control of a Significant Building, no Demolition Permit shall be issued until the new owner files a new application and complies with the procedures set forth in Section 5.3.3 through Section 5.3.12. An applicant for a Demolition Permit shall certify to the satisfaction of Preservation Commission Staff, immediately prior to its issuance, that there has been no change as the result of an arm's length transfer of ownership and control subsequent to the delivery of the application to the Preservation Commission Staff, and the Building Commissioner shall not issue a Demolition Permit without Preservation Commission Staff certification or evidence that the applicant intends to take advantage of the exemption listed below in this section. Notwithstanding the foregoing, if the Commission has, pursuant to its discretion in Section 5.3.10, voted to lift a stay based on a design submitted by a previous owner, the Building Commissioner, in conjunction with the Preservation Commission Staff, may approve and issue a Demolition Permit without having the new owner file a new Demolition Permit application for that design.

SECTION 5.3.5 INITIAL DETERMINATION

Within ten Business Days of the receipt of the Application by the Commission, the Commission Staff in consultation with the Chair of the Commission, shall make an Initial Determination as to whether the building falls into one or more of the categories listed as (a) through (d) of this section, and shall notify in writing the Commission, the Building Commissioner, Town Clerk, Planning Director the owner of record as indicated on the Application and the Applicant if different from owner of record, of its initial

determination. The categories shall be as follows:

a. The building is located within any Local Historic District;

b. The building is listed on or is within an area listed on the National or State Registers of Historic Places; is eligible for listing on the National or State Registers of historic places; or is a building for which a preliminary determination of eligibility has been made by the Massachusetts Historical Commission;

c. The building is associated with one or more significant historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Town or Commonwealth; or

d. The building is historically or architecturally significant in terms of its period, style, method of building construction, or its association with a significant architect or builder, either by itself or as part of a group of buildings.

SECTION 5.3.6 WITHHOLDING OF DEMOLITION PERMIT

The Building Commissioner shall not issue a Demolition Permit until the procedural requirements of Sections 5.3.3 through 5.3.12, inclusive, have been satisfied unless:

a. The Building Commissioner receives written notice from the Commission Staff that the building does not fall into one or more of the categories in Section 5.3.5;

b. The Building Commissioner fails to receive written notice from the Commission Staff of its Initial Determination required by Section 5.3.5 within the specified time period;

c. The Building Commissioner receives written notice from the Commission Staff that while the building falls into one or more of the categories in Section 5.3.5, the building clearly could not be deemed significant by the Commission or;

d. The Building Commissioner receives written notice from the Commission Staff that the proposed work is not Demolition as defined by Section 5.3.2(h).

SECTION 5.3.7 PUBLIC HEARINGS

Within 30 Business Days of an Initial Determination that the building falls into one or more of the categories in Section 5.3.5, the Commission shall review the Application and Initial Determination, without reference to any proposed replacement use or design, at a public hearing with notice given as provided in Section 5.3.12 to determine whether the building is significant as defined in Section 5.3.2.

SECTION 5.3.8 FINAL DETERMINATION

If the Commission determines after a public hearing that a building is a Significant Building it shall notify the Building Commissioner, Town Clerk, Planning Director, the owner of record as indicated on the Application, and the Applicant if different from owner of record, of its final determination within 15 Business Days from the date of the public hearing.

SECTION 5.3.9 EXTENDED WITHHOLDING OF DEMOLITION PERMIT

The Building Commissioner shall withhold the Demolition Permit for a period of one year, or for a period of eighteen months if the building meets the criteria of Section 5.3.5(b), from the date upon which the final determination was made that a building is a Significant Building except as provided in Section 5.3.11.

SECTION 5.3.10 ALTERNATIVES TO DEMOLITION AND MITIGATION

If the Commission makes a final determination that the building is Significant, the Commission chairman and staff shall invite the owner of record of the building, the Building Commissioner, and the Planning Director to participate in an investigation of alternatives to demolition including but not limited to incorporation of the building into the future development of the site; adaptive reuse of the building; utilization of financial incentives to rehabilitate the building; seeking a new owner willing to purchase and preserve, restore or rehabilitate the building; or moving the building.

SECTION 5.3.11 EXCEPTIONS TO WITHHOLDING OF DEMOLITION PERMIT / EMERGENCY DEMOLITION

a. Notwithstanding the provisions of Section 5.3.9, the Building Commissioner may issue a Demolition Permit for a Significant Building at any time after receipt of written advice from the Commission to the effect that the Commission is satisfied that there is no reasonable likelihood that the building can be preserved, restored, rehabilitated or moved, the issuance of said permit being subject to such stipulations, if any, as the Commission and the Applicant may have agreed upon as Mitigation for said demolition.

b. Nothing in this by-law shall restrict the Building Commissioner from immediately ordering the demolition of any building in the event of imminent danger to the public's safety or health due to deteriorated conditions. Prior to such demolition the structure shall be inspected by the Building Commissioner, and findings and reasons for immediate demolition shall be recorded in a written report, a copy of which shall be forwarded promptly to the Commission.

SECTION 5.3.12 NOTICE

Notice of any public hearing required by this by-law shall be given by the Commission to the owner of record; the Applicant for the demolition permit (if different from the owner of record); the immediate abutters to the subject property, the owners of land directly opposite on any public or private street, and abutters to the abutters within three hundred feet of the property line of the subject property as they appear on the most recent applicable tax list; to each elected Town Meeting member for the precinct in which the subject property is located; the Building Commissioner; Town Clerk; Planning Director; and to such other persons as the Commission may determine. The Commission may among other forms of notice require that the Applicant maintain on the subject building a notice, in a form designated by the Commission visible from the nearest public way, of any hearing upon the subject matter of such Application.

SECTION 5.3.13 ENFORCEMENT

The Building Commissioner shall institute any and all actions and proceedings as may be necessary and appropriate to obtain compliance with the requirements of this by-law

or to prevent a violation or threatened violation thereof.

SECTION 5.3.14 ADMINISTRATION

The Commission may from time to time adopt such rules and regulations as are necessary to administer the terms of this bylaw. The amount of the fee for costs associated with the administration of this bylaw shall be established, and may be amended from time to time, by the Select Board.

SECTION 5.3.15 NON-COMPLIANCE

Anyone who demolishes a Significant Building except pursuant to court order without complying fully with the provisions of this by-law shall be subject to a fine not to exceed $300. Each day from the date of the commencement of demolition to the final determination by a court of competent jurisdiction shall constitute a separate offense. In addition, no building permit may be issued for such premises while such court action is pending, or within two years of a judicial determination that there has been a violation of this by-law. Notwithstanding the foregoing, a building permit may be issued at any time for new construction that would faithfully replicate the exterior of the demolished Significant Building. Such replication shall be subject to prior review and approval by the Commission, whose review shall consider use of materials, design, dimensions, massing, arrangement of architectural features, execution of decorative details, and other relevant factors. As used herein, premises refers to the parcel of land upon which the demolished building was located and all abutting parcels of land under common ownership or control on or subsequent to the date that this by-law was adopted by Town Meeting.

SECTION 5.3.16 HISTORIC DISTRICTS

If any of the provisions of this by-law shall conflict with the Historic Districts Act, M.G.L. Ch. 40C, the state statute shall prevail.

SECTION 5.3.17 VALIDITY

The invalidity of any section or provision of this by-law shall not render invalid any other section or provision of this by-law.

TOWN OF BROOKLINE

Article 5.4

Commercial and Institutional Deliveries

ARTICLE 5.4
COMMERCIAL AND INSTITUTIONAL DELIVERIES

The collection of refuse and the pickup, delivery, loading, unloading and collection of goods or materials and waste materials to or from any commercial or institutional property shall be prohibited between the hours of 11:00 P.M. and 7:00 A.M.

The Select Board is authorized to promulgate regulations to implement this bylaw. The regulations may include definitions of the terms used in this bylaw as well as exempt certain deliveries and/or pickups in cases of hardship or emergency.

TOWN OF BROOKLINE

Article 5.5

Fair Housing By-Law

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 (“Town”) that all members of Brookline Protected Classes, as defined in Section 3.14.1 of this By-law, 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 persons in the Town by the elimination of prejudice and discrimination in the area of housing.

SECTION 5.5.2 EXERCISE OF POLICE POWER

This By-law shall be deemed an exercise of the police power of the Town for the protection of the public welfare, prosperity, health and peace of its people.

SECTION 5.5.3 DEFINITION OF TERMS

"Commission" means the Town’s Commission for Diversity, Inclusion and Community Relations, its agents and employees.

To "discriminate" means to design, promote, implement or carry out any policy, practice or act which by design or effect segregates, separates, distinguishes or has a disproportionate impact on one or more members of Brookline Protected Classes.

"Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers and the Town of Brookline and all boards, commissions, offices, and agencies thereof.

"Housing Accommodation" means any building or structure or portion thereof or any parcel of land, developed or undeveloped, which is occupied or to be developed for occupancy as the home~~,~~ or residence for one or more persons.

"Disability", which includes the term “Handicap”, is any person’s physical or mental impairment that substantially limits one or more major life activities, or is regarded as having such an effect or having had such an effect.

"Age" includes any duration of time since an individual's birth of greater than 40 years.

SECTION 5.5.4 UNLAWFUL HOUSING PRACTICES

It shall be an unlawful housing practice:

(a) for any owner, lessee, sub-lessee, assignee, managing agent, real estate agent, or other person having the right to sell, rent, lease, or manage a housing accommodation or an agent of any of those:

1. to discriminate or directly or indirectly make or cause to be made any written or oral inquiry concerning the membership in a Brookline Protected Class 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 person, such housing accommodation because of membership in a Brookline Protected Class;

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 because of membership in a Brookline Protected Class;

4. to directly or indirectly discriminate against any person because of membership in a Brookline Protected Class 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) for any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured:

1. to discriminate or to directly or indirectly make or cause to be made any written or oral inquiry concerning the membership in a Brookline Protected Class of any person 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 membership in a Brookline Protected Class;

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 membership in a Brookline Protected Class.

(c) for any person, agent, firm, corporation or association whether or not acting for monetary gain, to directly or indirectly induce, attempt to induce, prevent or attempt to prevent the sale, purchase, rental, or letting of any housing accommodation by:

1. implicit or explicit representations regarding the existing or potential proximity of real property owned, used or occupied by a member or members of a Brookline Protected Class;

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 membership in a Brookline Protected Class.

(d) except where based on a valid affirmative action program or record keeping or reporting requirement approved by any government or adopted pursuant to a court decree for any person, agent, manager, owner, or developer of any apartment or housing unit, complex or development, whether commercial or residential:

1. to directly or indirectly make or keep a record of any applicant's, prospective tenant's or existing membership in a Brookline Protected Class;

2. to use any form of housing or loan application which contains questions or entries directly or indirectly pertaining to membership in a Brookline Protected Class;

3. to establish, announce or follow a pattern, practice, or policy of denying, excluding or limiting housing accommodations by any means whatsoever because membership in a Brookline Protected Class.

(e) for any person to discriminate in any manner against any person or to otherwise deny or to withhold from such person housing accommodations because said person has opposed any practice forbidden by this By-law or has made a charge, testified, or assisted in any manner in any investigation or proceedings under this By-law;

(f) for any person, whether or not acting for monetary gain, to aid, abet, incite, compel or coerce the performance of any act declared by this By-law to be an unlawful housing practice, or to obstruct or prevent any person from complying with the provisions of this By-law or any regulations or orders issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful housing practice.

SECTION 5.5.5 EXERCISE OF PRIVILEGE – EXEMPTIONS

Notwithstanding anything herein contained, the following specific actions shall not be violations of this By-law:

1. for a religious organization or institution to restrict any of its housing accommodations which are

operated as a direct part of religious activities to persons of the denomination involved;

2. for the owner of a housing facility devoted entirely to the housing of individuals of one gender~~,~~ to restrict occupancy and use on the basis of that gender or gender identity;

3. the operation or establishment of housing facilities designed for the exclusive use of persons with disabilities and/or seniors or the establishment of programs designed to meet the needs or circumstances of persons with disabilities and/or seniors, or self-contained retirement communities of at least twenty acres in size a minimum age requirement for residency of at least fifty-five years;

4. the operation or establishment of housing facilities owned by an educational institution and designed and used for the exclusive use of students of that particular institution.

SECTION 5.5.6 COMMISSION FOR DIVERSITY,INCLUSION AND COMMUNITY RELATIONS

This By-law shall be administered by the Commission for Diversity, Inclusion and Community Relations. The Commission shall have all powers given to it under other Town By-laws, as well as those given to it by this By-law.

SECTION 5.5.7 FUNCTIONS, POWERS AND DUTIES OF THE COMMISSION

(a) All persons who wish to file complaints for violations of this Article 5.5 shall be strongly encouraged to refer their complaints to the Chief Diversity Officer for assistance in resolving the complaint. If for good cause shown to the CDO or to the Commission’s Complaint Screening Committee, the complainant does not wish to refer the complaint to the CDO, or if the CDO requests recusal, the complaint shall then be handled according to the procedures developed under Section 3.14.3(A) and approved by the full Commission, with the approval of the Select Board, after review by Town Counsel. Complaints against the Town or its employees shall follow the procedures developed for 3.14.3(A)(v) – Complaints

Against the Town; complaints against other persons, groups, entities or businesses in the Town shall follow the procedures developed for 3.14.3(A)(vii) – Other Complaints.

(b) Whenever the Commission receives a complaint that is or appears to be within the jurisdiction of the Massachusetts Commission Against Discrimination hereinafter "MCAD", the Commission shall inform the complainant of his/her right to file a complaint at the MCAD with the Commission's assistance.

(c) In addition to the aforementioned complaint-processing responsibilities, the Commission shall have the following additional functions, powers and duties:

1. to make studies and survey and to issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination in housing against persons who are members of a Brookline Protected Class.

2. to develop courses of instruction for presentation in public and private schools, public libraries and other suitable places, devoted to eliminating prejudice, intolerance, bigotry and discrimination in housing and showing the need for mutual respect and the achievement of harmonious relations among various groups in the Town of Brookline.

3. to render each year to the Select Bosard a full report of all the Commission's activities and recommendations regarding this By-law;

4. to create such committees from the members of the Commission as, in the Commission's judgment, will best aid in effectuating the policy of this By-law;

5. to enter into cooperative working agreements with federal, state and other municipal agencies, and to enlist the cooperation of the various racial, religious and ethnic groups, civic and community organizations and other groups in order to effectuate the policy of this By-law with respect to Brookline Protected Classes.

SECTION 5.5.8 RULES, REGULATIONS AND PROCEDURES OF COMMISSION

The Commission may adopt rules and regulations consistent with this By-law and the laws of the Commonwealth to carry out the policy and provisions of this By-law and the powers and duties of the Commission.

Any charge filed under this By-law must be filed within 180 days of the alleged act of discrimination.

All Commission records shall be public except those that are necessary to insure privacy rights under other local, state or federal laws and those records that must be kept confidential in compliance with laws and rules of evidence.

SECTION 5.5.9 SEVERABILITY

If any provision or section of this By-law shall be held to be invalid, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this By-law, which shall remain in full force and effect.

TOWN OF BROOKLINE

Article 5.6

Preservation Commission and Historic Districts By-Law

ARTICLE 5.6
PRESERVATION COMMISSION & HISTORIC DISTRICTS BY-LAW

SECTION 5.6.1 TITLE

This By-law shall be known and may be cited as the Historic Districts By-law under the authority of Massachusetts General Laws, Chapter 40C, as amended.

SECTION 5.6.2 PURPOSE

The purpose of this By-law is to promote the educational, cultural, physical, economic and general welfare of the public through the preservation and protection of the historical assets of Brookline, including buildings, sites and districts of historical and architectural interest; through the maintenance of such landmarks of the history of Brookline, the Commonwealth and the Nation, and through the development of appropriate uses and settings for such buildings and places.

SECTION 5.6.3 ESTABLISHMENT OF HISTORIC DISTRICTS

(a) Cottage Farm Historic District

There is hereby established an Historic District, entitled the "Cottage Farm Historic District", the boundaries of which shall be as shown on the map entitled "Brookline Historic District" which accompanies and is hereby declared to be a part of this By-law.

(b) Pill Hill Historic District

There were established and are hereby reaffirmed historic districts, plans showing the boundaries of which are on file in the Preservation Commission office. Copies of the plans follow at the end of this by-law, which plans are incorporated herein by reference and are hereby declared to be a part of this By-law.

(c) Graffam-McKay Local Historic District

There is hereby established an Historic District, to be entitled the "Graffam-McKay Historic District", the boundaries of which shall be shown on the map entitled

"Graffam-McKay Historic District", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(d) Chestnut Hill North Local Historic District

There is hereby established an Historic District, to be entitled the "Chestnut Hill North Historic District", the boundaries of which shall be shown on the map entitled " Chestnut Hill North Historic District", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(e) Harvard Avenue Local Historic District

There is hereby established an Historic District, to be entitled the "Harvard Avenue Historic District", the boundaries of which shall be shown on the map entitled " Harvard Avenue Historic District", a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(f) Lawrence Local Historic District

There is hereby established an Historic District, to be entitled the “Lawrence Historic District”, the boundaries of which shall be shown on the map entitled “Lawrence Historic District”, a copy of which is on file with the Town Clerk’s office, which accompanies and is hereby declared to be part of this By-law.

(g) Wild-Sargent Local Historic District

There is hereby established an Historic District, to be entitled the ‘Wild-Sargent Local Historic District,’ the boundaries of which shall be shown on the map entitled ‘Wild-Sargent Local Historic District,’ a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(h) Crowninshield Local Historic District

There is hereby established an Historic District, to be entitled the ‘Crowninshield Local Historic District,’ the boundaries of which shall be shown on the map entitled ‘Crowninshield Local Historic District,’ a copy of which is on file with the Town Clerk's office, which accompanies and is hereby declared to be part of this By-law.

(i) Other Historic Districts

Other Historic Districts within the Town may be established from time to time in accordance with the procedures set forth in Chapter 40C of the Massachusetts General Laws, as amended from time to time.

SECTION 5.6.4 MEMBERSHIP OF THE PRESERVATION COMMISSION

The Brookline Preservation Commission, hereinafter referred to as the Preservation Commission, shall consist of seven (7) members appointed by the Select Board. The terms of office expire on August 31, unless otherwise specified by the Select Board or unless such appointment is for an indefinite term.

The membership of the Preservation Commission shall be made up as follows:

"One member who is selected from two (2) nominees submitted by the Brookline Preservation Commission; one member, if possible, who is selected from two (2) nominees whose names are submitted by the American Institute of Architects; one member, if possible, who is selected from two (2) nominees whose names are submitted by the Greater Boston Real Estate Board; and four (4) members, if possible, who are residents of an Historic District and, to the extent possible, at least one of whom resides in each established Historic District in the Town."

If membership cannot be appointed as designated above, these positions shall be filled without designation.

All nominees shall be residents of the Town of Brookline. One member, if possible, shall be an attorney.

When the Preservation Commission is first established, two (2) members shall be appointed for one (1) year term, two (2) members shall be appointed for two (2) year terms, and the remaining members shall be appointed for (3) year terms, and all members shall serve until a successor is appointed and confirmed. At the expiration of their terms, the Select Board shall appoint successors for three (3) year terms in the manner described in the preceding paragraphs. Vacancies for any unexpired term shall be filled in the same manner as in the original appointment.

The Preservation Commission shall elect annually a Chairman and Vice-Chairman from its own number and a Secretary from within or without its number.

All members shall serve without compensation.

The Select Board may also appoint up to four (4) alternate members of the Preservation Commission, who need not be from the organizations designated above as entitled to nominate members but who shall, to the extent possible, consist of residents of each Historic District. Such alternates shall be appointed for three year terms and shall be designated by the chairman of the Preservation Commission from time to time to take the place of members who are absent or unable or unwilling to act for any reason.

Each member and alternate member shall continue in office after the expiration of his or her term and until his or her successor is duly appointed and qualified." The terms of office expire on August 31, unless otherwise specified by the Select Board or unless such appointment is for an indefinite term.

SECTION 5.6.5 DEFINITIONS

As used in this By-law, the following words and phrases shall include the meanings indicated below:

(a) The word "altering" shall include "rebuilding, reconstructing, restoring, removing, demolishing, changing exterior color, and any combination of the

foregoing.

(b) The word "constructing" shall include the terms "building," "erecting," "installing," "enlarging" and "moving".

(c) The word "building" shall mean a combination of materials forming a shelter for persons, animals or property.

(d) The word "structure" shall mean a combination of materials other than a building, including but not limited to a sign, fence, wall, terrace, walk or drive-way, tennis court and swimming pool.

(e) The words "exterior architectural feature" shall mean such portion of the exterior of a building or structure as is open to view from a public street, public way or public park, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surface and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

(f) The term "Historic District" or "Historic Districts" shall mean the established "Historic Districts in the Town, collectively.

(g) The word "Commission" shall mean the Brookline Preservation Commission acting as such.

SECTION 5.6.6 ADMINISTRATION OF HISTORIC DISTRICTS

No building or structure within the Historic District shall be constructed, demolished, moved or altered in any way that affects exterior architectural features and no building shall be moved into an Historic District unless the Commission shall first have issued a Certificate of Appropriateness, a Certificate of Hardship or a Certificate of Non-Applicability with respect to such construction, alteration or movement. The Building Inspector shall not issue a permit within an Historic District unless one of the certificates noted above has first been issued by the Preservation Commission or the proposed improvement is exempted from these provisions by Section 5.6.7.

SECTION 5.6.7 EXEMPTIONS TO REVIEW

The authority of the Preservation Commission is not extended to the review of the following:

(a) Temporary signs or structures subject to requirements of the local zoning code and/or planning board.

(b) Terraces, walks, driveways, sidewalks and other similar structures provided that the structure is at grade level with the qualification that on-grade areas intended for parking more than four motor vehicles are subject to review by the Preservation Commission to assure that adequate planting, earth berms, walls or similar structures are implemented to screen or regulate the physical scale of the areas and to minimize their visual impact as viewed from public ways.

(c) Storm doors and windows; screen doors and windows; window air conditioners, antennae and similar appurtenances, any one or more of them with the qualification that free standing lighting fixtures are subject to review by the Preservation Commission.

(d) Color of paint.

(e) Signs used for residential occupation or professional purposes which are not more than one foot square in area, provided that:

1. Only one sign is displayed for each building or structure;
2. The sign consists of letters painted on wood without a symbol or trademark; and
3. If illuminated, is illuminated only indirectly.

(f) Reconstructions of a building, structure or exterior architectural feature which has been damaged or destroyed by fire, storm or other disaster, provided that:

1. The exterior design is substantially similar to the original;

2. The reconstruction is begun within one year after the damage occurred and is carried on with "due diligence";

3. Replacement of deteriorated roofing components shall match as nearly as possible the original materials and new materials colored other than in the brown, black, gray or slate ranges shall be subject to review by the Preservation Commission. Use of roof solar heating panels are similarly subject to commission review;

4. Reconstructions utilize the original foundations placed in the same location so as to respect the character of the massing of the original volume(s). The authority of the commission is limited to the exterior architectural features within the district which are visible from one or more designated public streets, public ways, public parks or public water bodies.

SECTION 5.6.8 POWER OF THE PRESERVATION COMMISSION

The District Commission shall have all the powers of an Historic Preservation Commission as described in Chapter 40C of the Massachusetts General Laws. The Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with Chapter 40C of the General Laws, or with the purpose of this By-law.

The Preservation Commission may receive and accept appropriations, grants and gifts for furthering of the purposes of this By-law.

The Preservation Commission shall propose changes in Brookline Historic District boundaries as it deems appropriate. Massachusetts General Laws, Chapter 40C, will guide the procedures for these activities.

SECTION 5.6.9 SEVERABILITY

In case any section, paragraph or part of the By-law be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

SECTION 5.6.10 SCHEDULE OF FEES

A filing fee shall be included with all applications for certificates. Said fees shall be set, and may be amended from time to time, by the Select Board.

PLANS OF THE HISTORICAL DISTRICTS ARE ON FILE
WITH THE BROOKLINE PRESERVATION COMMISSION

COPIES ARE ON THE FOLLOWING SEVEN PAGES

Cottage Farm Local Historic District

Town of Brookline
Massachusetts

1

- Cottage Farm LHD
- Building Footprints
- Property Lines
- Street Edges
- Town Boundary

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map

0 50 100 200 300 400 Feet

BROOKLINE
GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS on January 2005
projects/historic/cottagefarm-bw8.5x11.mxd

Pill Hill Local Historic District

Town of Brookline
Massachusetts

1

- Phill Hill LHD
- Building Footprints
- Property Lines
- Street Edges
- Town Boundary

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map

0 50 100 200 300 400 Feet

BROOKLINE GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS on January 2005
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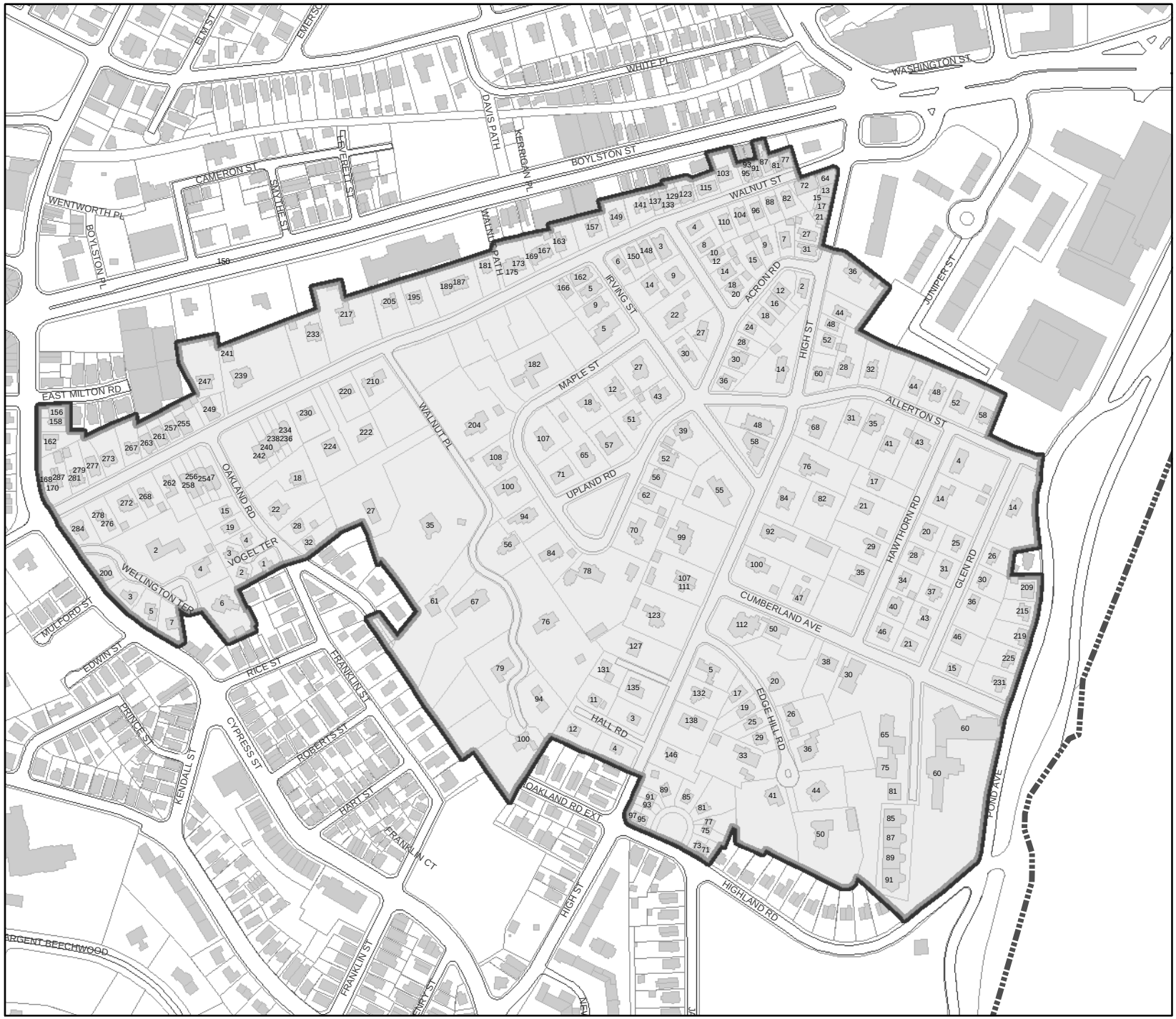


Graffam-McKay Local Historic District

Town of Brookline
Massachusetts

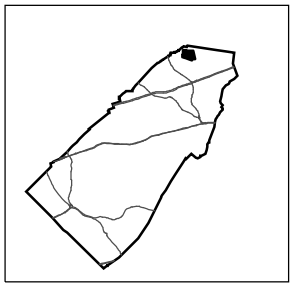
1

- Local Historic District
- Building Footprints
- Property Lines
- Street Edges
- Town Boundary

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map



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BROOKLINE
GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

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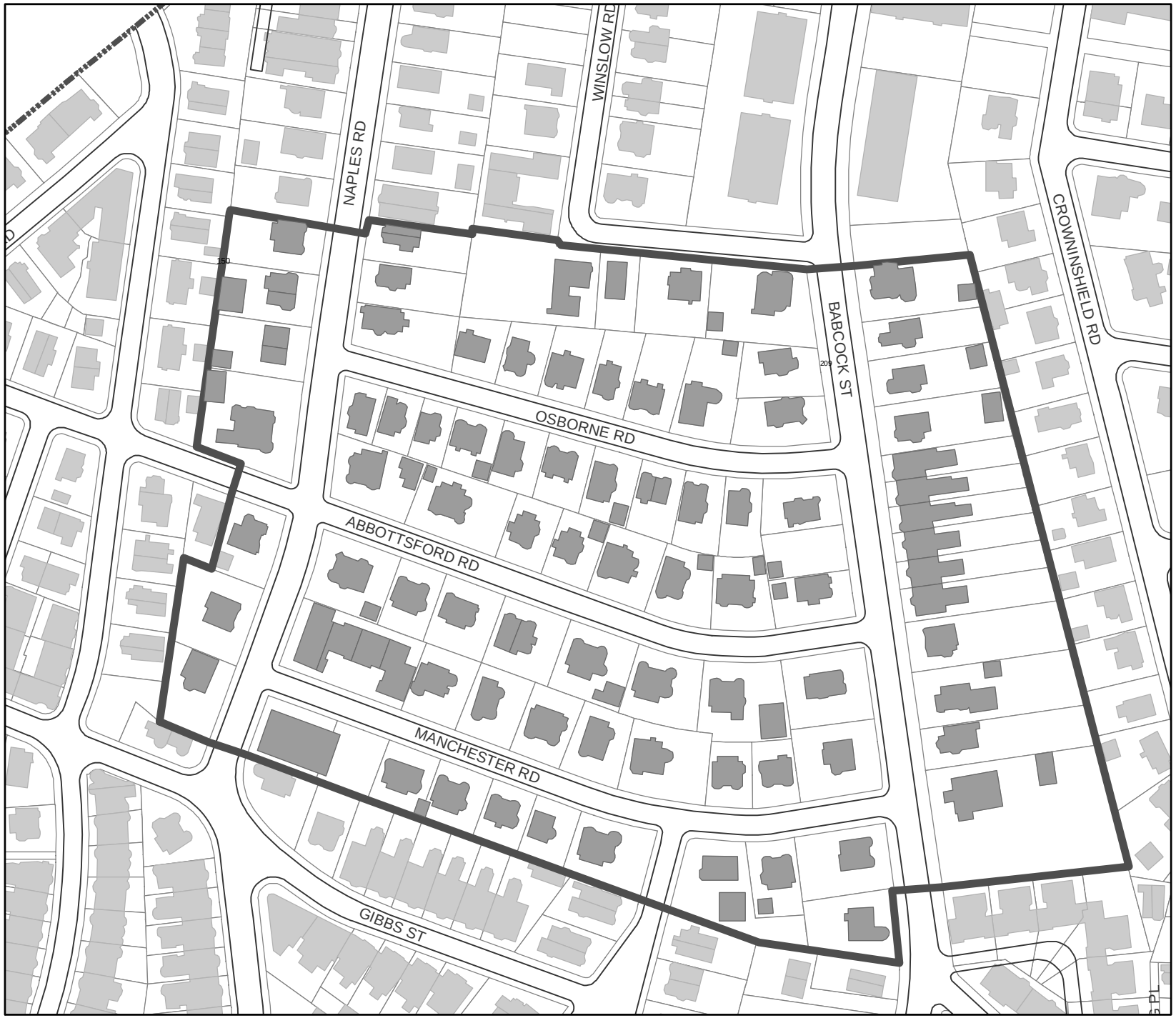


Chestnut Hill North Local Historic District

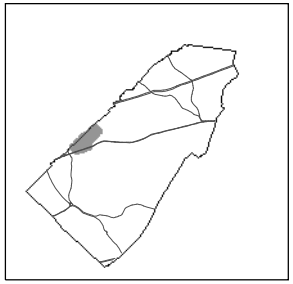
Town of Brookline
Massachusetts

Chestnut Hill LHD
Building Footprints
Property Lines
Street Edges
Town Boundary

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map



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BROOKLINE
GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS on 5/12/2005
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Harvard Avenue Local Historic District

Town of Brookline
Massachusetts

Harvard Avenue LHD
Building Footprints
Property Lines
Street Edges

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map

0 50 100 200 Feet

BROOKLINE GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS January, 2005
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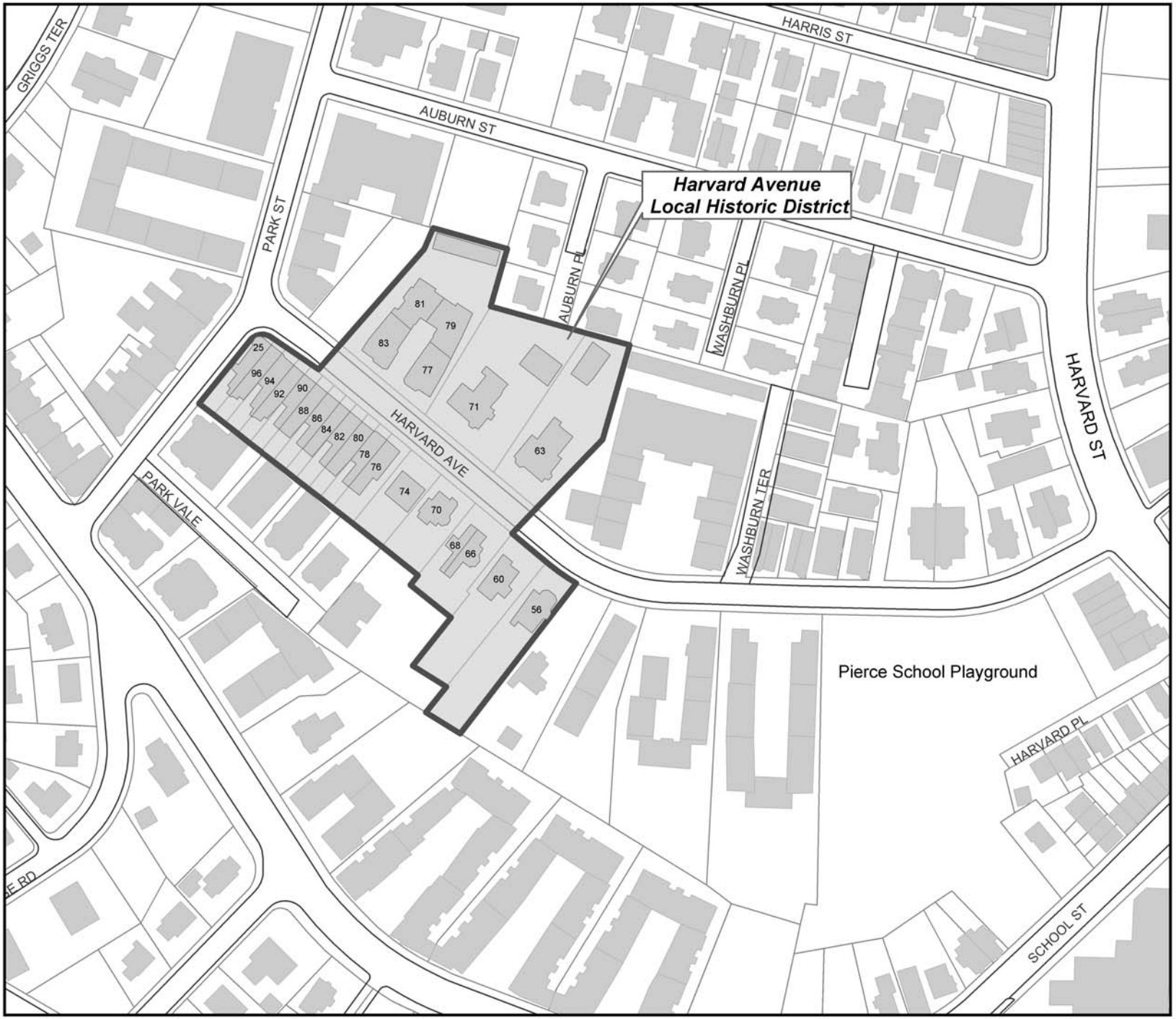


Lawrence Local Historic District

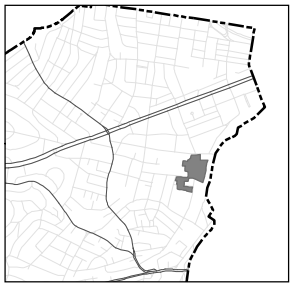
Town of Brookline
Massachusetts

Lawrence LHD
Building Footprints
Property Lines
Street Edges
Town Boundary

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map



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BROOKLINE GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS on 7/7/2011
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Wild-Sargent Local Historic District

Town of Brookline
Massachusetts

- Wild-Sargent LHD
- Building Footprints
- Property Lines
- Street Edges
- Town Boundary

Data Sources

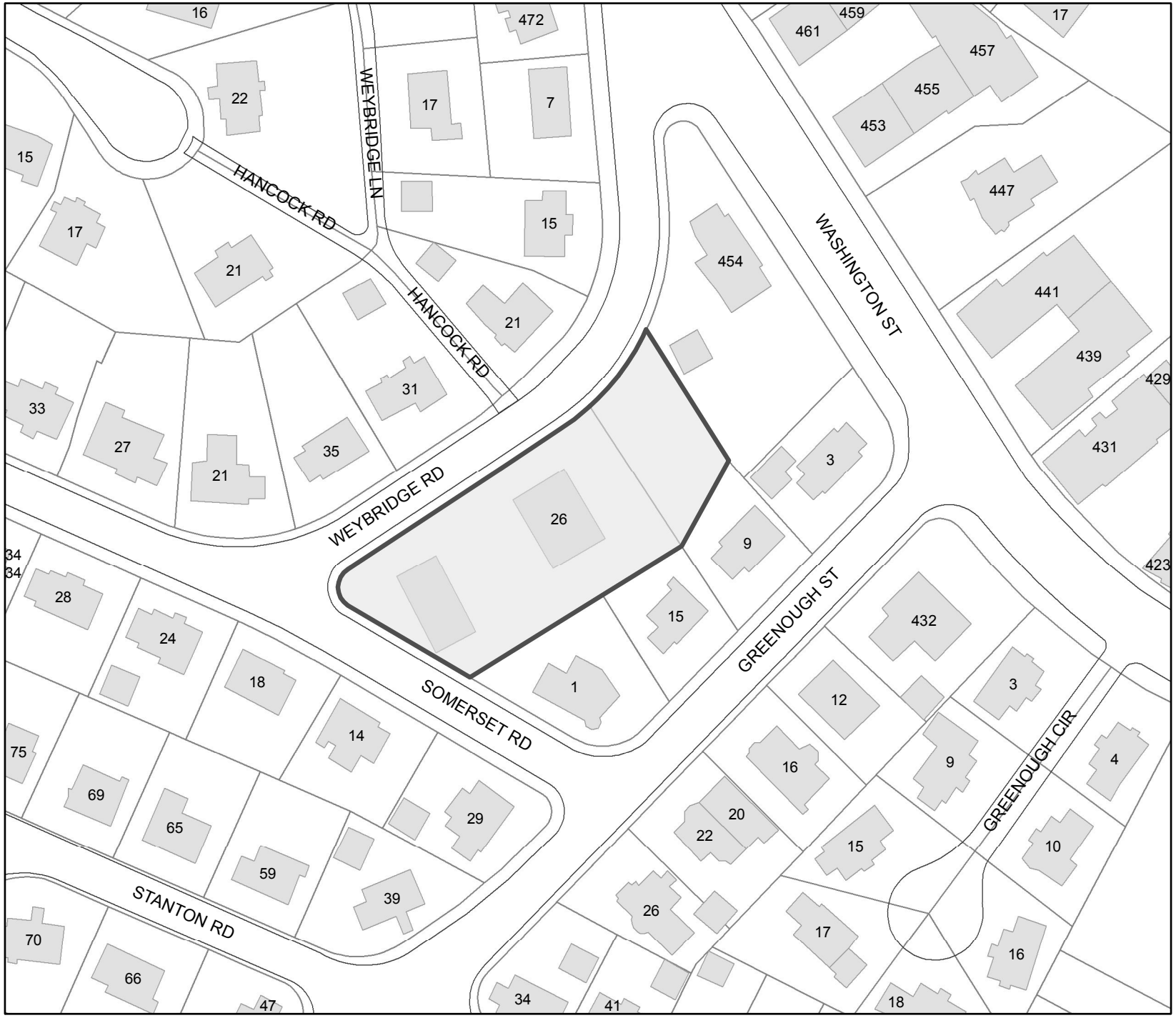
The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map

0 50 100 Feet

BROOKLINE GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS on 6/14/2012



Crowninshield Local Historic District

Town of Brookline
Massachusetts

Crowninshield LHD
Building Footprints
Property Lines
Street Edges
Town Boundary

Data Sources

The information shown on this map is from the Brookline Geographic Information System(GIS) database

Locus Map

BROOKLINE GIS
"Mapping Our Community"
http://www.town.brookline.ma.us/gis

Map created by Brookline GIS on 2/3/2015

TOWN OF BROOKLINE

Article 5.7

Licenses

ARTICLE 5.7
LICENSES

SECTION 5.7.1 TYPE AND LICENSING AGENT

Pursuant to the authority granted by Chapter 270, Section 5, of the Acts of 1985, the Town hereby delegates the listed licensing authority, as set forth in the following table, to be performed and discharged by the Agent designated in the following table:

Type of License	Licensing Agent
Auctioneer	Town Administrator
Beano	Town Administrator
Builders License Commissioner	Building
Coffee or Tea Houses* Lunch Carts	Select Board
Common Victualler*	Select Board
Coin Operated Amusement Devices Keeping and operating pin ball machines and video and electronic games	Select Board
Dancing Schools	Town Administrator
Drain Layer	Commissioner of Public Works
Entertainment*	Select Board
Explosives and Inflammables	Fire Chief
Food Vendor*	Select Board
Hawker's and Peddlers	Town Administrator
Innholder*	Select Board
Intelligence Offices	Town Administrator

Liquor* All Kinds/Package Wine/Malt Package Wine/Malt Common Victualler All Kinds/Common Victualler All Kinds/Innholder All Kinds/Clubs	Select Board
Lodging House*	Select Board
Non-Intoxicating Beverages	Town Administrator
Open Air Parking*	Select Board
Operation of Billiard and Pool Tables and Bowling Alleys	Select Board
Pawn Brokers	Town Administrator
Picnic Groves	Director of Recreation
Public Amusement*	Select Board
Second Hand Articles Collectors of, dealers in or keepers of shops for the purchase, sale or barter of Second Hand Articles and Antiques	Town Administrator
Second Hand Motor Vehicles*	Select Board
Skating Rinks	Director of Recreation
Theater*	Select Board
Transient Vendor	Town Administrator
Miscellaneous - Fairs, Block Parties, Tag Days, Yard Sales	Town Administrator

* Reserved to Select Board by Chapter 270, Acts of 1985.

SECTION 5.7.2 GENERAL LICENSING STANDARDS

In acting upon license requests, including original and renewal applications, the licensing agent shall consider and apply those standards set forth in the applicable statute, and when applicable, the following:

1. the impact of its action upon the neighborhood including noise, traffic, congestion, odors, sanitary and waste disposal requirements and facilities, parking, dust and fumes;

2. the impact of its action upon the character of the neighborhood and the Town;

3. the general welfare and convenience of the community.

SECTION 5.7.3 REVIEW

Unless a statutory form of review is provided, any person aggrieved by the action or failure to act of a licensing agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a licensing agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

TOWN OF BROOKLINE

Article 5.8

Sign By-Law

ARTICLE 5.8
SIGN BY-LAW

SECTION 5.8.1 PURPOSE

Pursuant to the authority conferred by General Laws, Chapter 93, Section 29, and every other power and authority thereto pertaining, the Town of Brookline adopts this Bylaw for the regulation and restriction, signs within the Town, on Town property, and on public ways.

SECTION 5.8.2 DEFINITIONS

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, attract attention to or announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. For the purposes of this by-law, the term “sign” shall not include the following:

i. Official traffic control devices required, maintained, or installed by a Federal, State or local governmental agency.
ii. Town of Brookline government signs, and signs permitted by the Town on Town property.
iii. Building markers indicating the name of a building and date and incidental information about its construction, which marker is cut into a masonry surface or made of other permanent material.
iv. Flags, holiday lights and decorations.

Sign, Area of:

(a) For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. (b) For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols together with any backing of a different color than the finish material of the building face. (c) Where the sign consists of individual letters or symbols attached to or painted on a

surface, building, wall or window, the areas shall be considered to be that of the smallest rectangle or other convex shape which encompasses all of the letters and symbols.

Zoning By-law: The Zoning By-law of the Town of Brookline which as from time to time is in force and effect.

SECTION 5.8.3 SIGNS

Signs shall be permitted as regulated and permitted by the Zoning By-law. The Zoning By-law is incorporated herein by reference.

No person shall erect, display or maintain a temporary or permanent sign upon any property owned by the Town of Brookline or upon the public way of any other governmental body.

SECTION 5.8.4 PERTINENCE TO OTHER LAWS

All signs shall be subject to the State Building Code and when applicable, the Town's Zoning By-law and the Regulations of the Select Board regulating signs, etc. projecting into, on, or over a public street or way. This Article shall not be construed in any manner that is inconsistent with the provisions in M.G.L. c. 93, ss. 29 through 33, or M.G.L. c. 85, s. 8, or 700 CMR 3.00". Attention is called to the Rules and Regulations of the Outdoor Advertising Board for signs which may also be subject to the Rules and Regulations of said Board.

SECTION 5.8.5 ENFORCEMENT

This By-law shall be enforced by the Building Commissioner. The Building Commissioner shall not issue a permit for the erection, maintenance, enlargement or alteration of any sign which is not in conformance with this By-law.

SECTION 5.8.6 PENALTY FOR VIOLATION

Whoever violates any provision of this By-law shall be punished by a fine of not more than $100.00, and whoever after conviction of such violation unlawfully maintains such a billboard, sign or other device for twenty (20) days thereafter shall be punished by a fine of not more than $300.00.

SECTION 5.8.7 SEVERABILITY

The invalidity of section or provision of this By-law shall not invalidate any other section or provision thereof.

TOWN OF BROOKLINE

Article 5.9

Stretch Energy Code

ARTICLE 5.9
STRETCH ENERGY CODE

Section 5.9.1 Purpose

The purpose of this by-law and 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

Section 5.9.2 Definitions

a) International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

b) Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 as may be amended from time to time.

Section 5.9.3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

Section 5.9.4 Authority

The Town of Brookline hereby adopts 780 CMR 120 AA in order to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR Appendix 120 AA and mandates adherence to said Appendix as may be amended from time to time.

Section 5.9.5 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Brookline General Bylaws, Article 5.9. The Stretch Code is enforceable by the Building Commissioner or his/her designated Building Inspector(s).

TOWN OF BROOKLINE

Article 5.10

Neighborhood Conservation Districts

ARTICLE 5.10
NEIGHBORHOOD CONSERVATION DISTRICTS

5.10.1. TITLE AND PURPOSE

This by-law shall be known as and may be titled the Brookline Neighborhood Conservation District By-law. The Town of Brookline hereby establishes the category of Neighborhood Conservation District ("NCD").

This by-law is enacted for the purposes of preserving and protecting groups of buildings and their settings that are architecturally or historically significant; preserving and protecting the layout of neighborhoods or historical subdivisions of neighborhoods, vehicular and pedestrian circulation patterns, green spaces, open spaces, landscapes, and viewsheds that are historically significant or significant to the character of the town or its neighborhoods; preserving and protecting distinctive features of the architectural, environmental, cultural, economic, political or social history of the town and its neighborhoods, and limiting the detrimental effect of alterations, additions, demolitions and new construction on the character of the town and its neighborhoods. Through this by-law, alterations, additions, demolition and new construction may be reviewed for compatibility, including without limitation design, massing, topography, scale and materials, with the existing buildings, green spaces, open spaces, courtyards, landscapes, neighborhood and subdivision plans and layouts, circulation patterns, viewsheds, settings and neighborhood character. This by-law seeks to encourage the protection of the natural and built environment including without limitation buildings, viewsheds, cultural landscapes, land use patterns and neighborhood plans through regulatory review. This by-law promotes the public welfare by making the town a more attractive and desirable place in which to live and work by preserving the distinctive history and character of its built, landscaped and natural environment.

Each NCD identified in Section 5.10.3 shall be geographically defined. Each such district shall be subject to a set of design guidelines specific to that district established as set forth herein.

5.10.2. DEFINITIONS

As used in this by-law the following terms shall have the following meanings (whether or not capitalized in text):

a. *ADDITION* - An extension or increase in gross floor area, number of stories, height or size of a building or structure.

b. *ALTER or ALTERATION* - Any change to an existing building or other structure other than repair, or other changes to a site or property set forth in the definition of "Reviewable Project" (including without limitation Sections 5.10.2.m(iv) to 5.10.2.m(ix). Alteration shall include, without limitation, the moving or complete or partial demolition of an existing building or structure (as defined in Sections 5.3.2(h) and (i) of these By-Laws, except as exempted below.

c. *APPLICATION* - The complete document(s) and supporting material(s) to be submitted by an applicant desiring to obtain a Certificate of Appropriateness. A complete application shall include information reasonably deemed necessary by the Commission to enable it to make a determination.

d. *BUILDING* - A combination of materials forming a shelter for persons, animals or property.

e. *CERTIFICATE OF APPROPRIATENESS* - A document granted by the Neighborhood Conservation District Commission in order to permit a Reviewable Project to proceed, including without limitation to obtain a building (including demolition) permit.

f. *COMPATIBLE* - A Reviewable Project that meets the design guidelines of the Neighborhood Conservation District.

g. *DESIGN GUIDELINES* - The guidelines applicable to each Neighborhood Conservation District and used by the Commission to determine whether the design of a proposed Reviewable Project is compatible with the district. Such guidelines are set forth in Section 5.10.3 with

respect to each district created under this by-law.

h. *DISTRICT* - Any Neighborhood Conservation District as established in this by-law.

i. *NEIGHBORHOOD CONSERVATION DISTRICT (“NCD”)* - A property or group of properties designated in Section 5.10.3.

j. *NEIGHBORHOOD CONSERVATION DISTRICT COMMISSION (“the Commission” or “the NCD Commission”)* - A member or members of the Brookline Preservation Commission, as supplemented by any additional individuals appointed in accordance with Section 5.10.4, acting as the body making determinations under this by-law regarding applications for Certificates of Appropriateness in a particular NCD. With respect to any NCD the composition of the NCD Commission may be specific to that NCD.

k. *PERSON AGGRIEVED* - An applicant and any immediate abutter whether inside or outside the NCD.

l. *REPAIR* - The reconstruction or renewal of any part of an existing building or other structure for the purpose of its maintenance without change in material, design or dimensions.

m. *REVIEWABLE PROJECT* - Except to the extent that the particular design guidelines for a specific NCD set forth in section 5.10.3 of this by-law may exempt some of these activities from review within that NCD, the following shall be subject to review, regardless of whether any demolition or other building permit is required: (i) a change to a building or other structure or part thereof such as removal, construction, reconstruction, restoration, renovation, replication, rehabilitation, addition, alteration, partial or total demolition and other similar activities, or the construction of a new building or other structure or part thereof; (ii) painting of previously unpainted masonry; (iii**)** addition or replacement of doors and windows, or tinting or altering glass reflectivity unless excluded in Section 5.10.6.c.11**;** (iv) a change to

a site that includes constructing, placing, erecting, installing, enlarging or moving a building or other structure or other similar activities; (v) the removal or addition of streets, driveways, parking areas, walkways or paved surfaces; (vi) removal of trees more than eight inches in diameter at 56″ height (d.b.h.); (vii) substantial or complete removal of areas of vegetation specifically identified in the design guidelines at or after the creation of the NCD; (viii) removal of ledge or other rock outcroppings with at least one foot exposure in height; or (ix) changes in grade elevation of more than three feet. The activities set forth in Section 5.10.6 shall be exempt from review.

n. *STRUCTURE* - That which is built or constructed, including buildings, walls, retaining walls, fences, walkways, driveways or parking areas, paving and curbs, street name signs, any signs larger than one square foot, swimming pools, tennis courts, freestanding HVAC equipment, and outdoor lighting that shines on any adjacent property.

o. *SUBSTITUTE SIDING* - Exterior building cladding such as vinyl, aluminum or cement board not original to the date of construction of that portion of the building.

p. *TEMPORARY BUILDING OR STRUCTURE* - A building or other structure, necessary for a specific event, incident or project, erected for a period of no more than 6 months, unless otherwise agreed to by the Commission, the installation and removal of which will cause no permanent change.

5.10.3. DISTRICTS AND GUIDELINES

a. A Neighborhood Conservation District shall encompass a geographically defined area that, at the time of its establishment, is located in its entirety within one or more residence districts as defined in section 3.01.1 of the Zoning Bylaw. Additional NCDs may be added by majority vote of Town Meeting and each such NCD and the design guidelines for such NCD shall be set forth in part d of this Section 5.10.3, as it may be amended. The boundaries of each NCD shall be set forth on a map on file with the

Town Clerk. The NCD Commission, Town Counsel or Town Clerk shall, in addition, promptly present a copy of the map and applicable by-law for filing in the Norfolk County Registry of Deeds.

b. The design of each Reviewable Project in a Neighborhood Conservation District shall be subject to the particular design guidelines set forth in this Section 5.10.3 for such district.

c. The Commission may impose dimensional requirements that further the purposes of this by-law, including without limitation preventing Reviewable Projects inconsistent with the historic or architectural aspects, scale or massing, neighborhood or subdivision plan or layout, circulation patterns, or green space, open space, landscape, vegetation or viewshed character of the NCD.

d. Specific districts and guidelines.

1. There shall be a Neighborhood Conservation District, to be entitled the “Hancock Village Neighborhood Conservation District”, the boundaries of which are shown on the map entitled “Hancock Village Neighborhood Conservation District”, a copy of which is on file with the Town Clerk’s office, which is hereby declared to be part of this By-law.

The first and largest garden city apartment complex in Brookline, Hancock Village (1946-1949) is significant as a far-sighted, historically important collaboration between the town of Brookline and the Boston-based John Hancock Mutual Life Insurance Company to provide both employment and housing for returning World War II veterans. The development, which straddles the Brookline-Boston line, consists of 789 two-story attached townhouses, most of which are located in Brookline. In consideration of a zoning change by the Town which allowed the development to proceed, the development was designed and built as a high-quality development in the “garden village” style, meaning that each dwelling unit had a separate entrance to the exterior; the units were town-homes of two stories with peaked roofs; there was substantial open space; and there was a “greenbelt” serving as a buffer between the development and adjacent single-family homes. Such elements were embodied in commitments made on behalf of John Hancock Insurance by its president Paul F. Clark, including an agreement with the Town of Brookline executed

March 11, 1946. The landscape design was by Olmsted Associates, a Brookline firm with international experience and reputation. Significantly, Hancock Village remains the quality housing development conceived in those commitments and original design, and therefore remains internally coherent in design and compatible in scale, siting and impact with the adjacent neighborhood of single-family homes and with the D. Blakely Hoar Wildlife Sanctuary, especially due to the retention in Hancock Village of open lawns, courtyards and common areas, pedestrian paths, consistent town-house style buildings of modest scale, unobstructed sky planes, buffer zones, and significant landscape features such as puddingstone outcrops. Retaining integrity of location, design, setting, materials, workmanship, feeling, and association, the Hancock Village Neighborhood has as such remained an important historic property in Brookline and a compatible part of the fabric of the community and the adjacent neighborhood.

The Hancock Village Neighborhood Conservation District shall be governed by the following design guidelines. Any further development shall be compatible with the existing development of the district and its relationship to the adjacent neighborhood:

i. Architectural style and character. The architectural design and building materials of any proposed Reviewable Project shall be compatible with the existing garden-village town-house architecture within the district, with, for example, each dwelling unit having a separate entrance to the exterior.

ii. Building size, height and massing. The size, height and massing of a building or other structure which is part of any proposed Reviewable Project shall be compatible with existing buildings and other structures within the district and the adjacent neighborhood, and the elements considered shall include but not be limited to the volume and dimensions of any buildings or other structure; the scale, clustering and massing of any building or other structure in relation to its surroundings, including existing buildings and other structures and nearby landscape and other open spaces; and compatibility of

design and materials with existing buildings and other structures. Compatible building size, height and massing shall include, not be limited to limited to:

a. No building over 2 ½ stories in height, measured from the highest point of the finished grade of each unit, shall be constructed.

b. In relation to any abutting single-family, detached homes, any new single-family homes shall be similarly oriented, have similar rear yard depths, and similar distance between dwelling units.

iii. Façade. The number, size and location and design of windows, doors and solid elements, trim work, piers, pilasters, soffits, cornices, decks, porches and canopies, and the design of window and door details, including trim, muntins, mullion and sills, need not replicate but shall be compatible with the existing buildings within the district. Alterations necessary for handicap accessibility shall be compatible to the extent reasonably feasible.

iv. Roof treatment. The shape, pitch, style, and type of surfacing of roof areas shall be compatible with those of buildings within the district. Including buildings in any Reviewable Project, buildings with flat or approximately flat roofs will not exceed 25% of the total number of buildings in the entire NCD.

v. Streetscape, topography and landscape. Any proposed Reviewable Project (including demolition, removal, new construction or other alteration) shall maintain the spatial organization of the district and shall not have a significant negative impact on historic architectural or landscape elements, including structures, open spaces, green spaces, topography, walls and fences, circulation patterns including pedestrian circulation separated from vehicular traffic, viewsheds, park areas, play areas, courtyards and other landscaped areas previously accessible and

usable in common, significant trees as defined in this by-law, and buffer areas. The existing spatial organization and land patterns of the landscape shall be preserved, including the curvilinear circulation patterns and views from roads, sidewalks, pathways and buildings. Significant negative impacts shall include, but not be limited to:

a. Removal or alteration of rock outcroppings greater than 200 square feet in contiguous area;

b. Alteration of existing grades by more than three feet in vertical height;

c. Removal of existing pedestrian paths that separate pedestrians from vehicular traffic;

d. Addition of new impervious surfaces within 100 feet of abutting properties, including the Hoar Sanctuary or single-family homes; and

e. Loss of open space through building coverage exceeding 20% of the area of the district or through loss of the “greenbelt” now serving as a buffer to the abutting single-family detached homes.

Nothing in this Section 5.10.3.d.1 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.1 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.1 shall be deemed to be severable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

2. There shall be a Neighborhood Conservation District, to be entitled the “Greater Toxteth Neighborhood Conservation District” the boundaries of which are shown on the map entitled “Greater Toxteth Neighborhood Conservation District”, a copy of which is on file with the Town Clerk’s office, which is hereby declared to be a part of this By-law.

The purpose of the Greater Toxteth Neighborhood Conservation District is to preserve and protect the unique character of the neighborhood and the individual properties and buildings located therein in ways that are not typically protected by the Zoning Bylaws or other By-laws of the Town of Brookline.

Neighborhood Characteristics. The pattern of development of the Greater Toxteth Neighborhood Conservation District includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most homes sit back farther from the street than is required under current zoning and cover less of their lots than is permitted by underlying zoning. This pattern contributes to a sense of open space and a wider street, with homes still close enough to actively contribute to the neighborhood's street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses, thereby mitigating the effect of the upper stories on abutting properties. Homes are generally respectfully positioned on their lots, address the street, and most have open porches that promote an active transition from the home to the street, which enhances the neighborhood's social fabric and fosters street level sociability. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (such as Coolidge Corner, Brookline Village and the Harvard Street corridor).

Special Definitions. With regard to the Greater Toxteth Neighborhood Conservation District, the following terms shall have the meaning given to them below.

i. "Habitable Space" shall mean space in a building or structure suitable for living, sleeping, eating or cooking; otherwise used for human occupancy; or finished or built out and meeting the State Building Code requirements for height, light, ventilation and

egress for human habitation or occupancy. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas shall not be excluded from Habitable Space solely because they are excluded from the definition of habitable space under the State Building Code.

ii. "Base-line Living Area" shall mean the amount of Habitable Space above grade in a building as of the Effective Date of this legislation. The Neighborhood Conservation District Commission shall use reasonable efforts to create and maintain a record of such baseline Habitable Space for each property in the district. The Commission may use Assessor records, building permits and such other Town records and information as it deems appropriate to create such record. In the event of demolition or destruction of a building that was existing as of the Effective Date, the Base–line Living Area of such building shall be used as the measurement for any new construction on that property.

iii. "Reviewable Project" shall have the meaning given to it in the section below entitled "Projects Subject To Review."

iv. "Front Plane" shall mean the forward most plane of the main structure façade on any above grade floor containing Habitable Space.

v. "Effective Date" shall mean the date that this Bylaw amendment is approved at Town Meeting and becomes effective.

Projects Subject To Review. Section 5.10.2(m) sets forth the activities that are reviewable in a neighborhood conservation district unless otherwise exempted. In the Greater Toxteth Neighborhood Conservation District, only the following activities shall be reviewable. The term Reviewable Project, when used in this Section 5.10.3(d)(2) shall refer only to the following activities.

i. Any Addition or Alteration to the existing exterior envelope of a building that, for any single project, increases the existing Habitable Space above grade (including new Habitable Space created by adding

dormers to the roof or new stories) by 15% or more of the applicable Base-line Living Area. Multiple Additions or Alterations undertaken under separate building permits maybe deemed by the Commission to constitute a single project if the Commission reasonably determines that the intent is to break a larger project into smaller pieces in order to avoid being subject to review.

ii. Any Addition or Alteration to the existing exterior envelope of a building that, when aggregated with any prior such projects, would have the effect of increasing the Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 33% or more over the Base-line Living Area. The purpose of this section is to prevent property owners from undertaking multiple smaller projects over time that would have the cumulative effect of adding volume to building and/or structures that is inconsistent in scale, massing and/or siting with other buildings in the district.

iii. Construction of a new building or other improvements (whether constructed on vacant land or on land where prior improvements have been demolished), and construction to replace buildings or other improvements destroyed by fire or other casualty.

iv. The addition of or to a front porch, or the enclosure of any portion thereof (such as to create a vestibule or a partially or fully enclosed porch) on an existing building.

v. Any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements (including the enclosure of any existing or newly constructed porch) that would have the effect of advancing the Front Plane of the building toward the street than the condition existing as of the Effective Date.

Projects Exempt From Review. The Reviewable Projects set forth above shall be the only projects subject to review in the Greater Toxteth Neighborhood Conservation District. All other activities listed in the definition of “Reviewable Project” at Section 5.10.2(m) of these By-laws, when undertaken as an independent project, shall be exempt from

review, provided, however, that such activities may be considered and be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by guidelines set forth below. In addition, all projects or activities listed in Section 5.10.6(c) shall be exempt from review, including renovations to the interior of a structure that do not impact the exterior of the structure.

Activities affecting the following elements shall be exempt from review when undertaken as an independent project, but such activities may be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by the guidelines set forth below.

i. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level, provided, however, that the grade is not changed and such improvements are not to be used for parking between the street and the Front Plane of a building (or the principal side wall plane along the street in the case of a building that occupies a corner property).

ii. Walls and fences in front yards four feet high or less as measured from the grade of the sidewalk or the surface of the ground immediately below the wall or fence, whichever grade is lower.

iii. Replacement Doors and windows (including storm doors and windows), trelliswork, cladding, roofing material.

iv. Flat skylights or solar collectors that are parallel to and in close contact with the plane of the roof.

v. Permanent exterior lighting, provided that it is installed in a manner that limits direct light from shining onto any adjacent property.

vi. Chimney caps.

vii. Ordinary maintenance, repair or replacement of any exterior feature so long as it does not involve a change in scale, massing or open space.

<u>Guidelines applicable to Reviewable Projects</u>. The Greater Toxteth Neighborhood Conservation District shall be governed

by the following design guidelines, and the Commission shall apply such guidelines to all Reviewable Projects in order to protect and preserve the unique neighborhood characteristics described above.

i. Construction of any buildings or other improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner that is compatible with the existing historic patterns of scale, massing and siting in the district, and maintains streetscapes, view sheds and green open space. Open/green space should be safeguarded, and respect shall be given to adjoining properties and the district as a whole.

ii. A Reviewable Project generally shall be deemed by the Commission not to be consistent with these design guidelines (including, but not limited to, the design guidelines immediately set forth above in Paragraph (i) of this section), and should therefore not typically be approved, to the extent that it results in an increase of Habitable Space within an expansion of the exterior building envelop above grade (including new habitable space created by adding dormers to the roof) by more than 33% of the Base-line Living Area (whether such increase results from a one-time activity or from the aggregated effect of two or more successive activities, such that all such activities shall be cumulative and considered in the aggregate relative to the Base-line Living area condition). Notwithstanding the foregoing, the Commission may find in some circumstances that due to the unique characteristics of a particular property, the Base line Living Area is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may find that an increase of more than 33% is appropriate, provided that such larger increase does not result in a derogation of the special character of the neighborhood intended to be protected by this By-law.

iii. Construction of any buildings or improvements (including, without limitation, any Addition or Alteration of an existing building or other

improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner such that the back and side-yard setbacks are consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole. Such activity shall generally be deemed by the Commission to not be consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole, and should therefore not typically be approved, if it results in any part of a building or other improvements (such as porches, porticos, entryways, breezeways and bay windows) exceeding the established back and side-yard setback requirements for the house itself under the Town's applicable zoning by-laws. Notwithstanding the foregoing, in certain circumstances, owing to the unique setting of the property and the improvements situated thereon, the Commission may permit modest variations to such setbacks so long as the special character of the neighborhood is preserved.

iv. In the event that a lot existing as of the Effective Date is subdivided into two or more lots, then any new construction on such new lot or lots shall not be subject to Paragraph (ii) of this section, but shall otherwise be subject to these design guidelines in all respects. After such new construction has been approved, any additional Additions or Alterations that materially affect the massing, size or siting shall in general not be deemed to be consistent with these Bylaws.

v. All Reviewable Projects shall be done in such a manner so as to preserve and promote the existing streetscape condition characterized by generous front yard setbacks and the transition from the home to the street through open front porches that foster street level sociability. Therefore, no Addition or Alteration of an existing building or other improvements, or the construction of any new or replacement buildings or other improvements shall be deemed to be consistent with these by-laws if it results in:

a. The enclosure of an open porch in such a manner as to inhibit the transitional nature from the home to the street and the street level sociability fostered thereby.

b. The Front Plane of a building being closer to the street as compared to the existing condition as of the Effective Date. Enclosure of an existing or newly constructed porch should be deemed to constitute such a change in the location of the Front Plane of the building, provided, however, that the creation of enclosed front door vestibules of less than fifty (50) square feet shall be deemed to be consistent with the character of the neighborhood. Notwithstanding the foregoing, the Commission may find in certain circumstances that, due to the unique characteristics of a particular property, the existing front yard setback is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may, with respect to a new building, permit or require an increase to the front yard setback.

vi. In reviewing the siting, massing and design of any Reviewable Project, efforts shall be made to maintain front yard open space for each property in the district and ensure its compatibility with the streetscape pattern and preservation of neighborhood front and rear view corridors.

vii. The Commission shall endeavor to apply the following principles when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:

a. Promote and support the mixed architectural vernacular of the neighborhood and acknowledge any historical significance.

b. Ensure that buildings, including and especially new buildings, respect the traditional scale, massing and configuration of the neighborhood, particularly as buildings relate to each other,

to open space, and to the street. Buildings shall be similarly oriented, and have similar yard depths and distance between buildings as their existing counterparts. The Commission shall take into account that the neighborhood desires to embrace both traditional and contemporary architectural style and design, as well as both traditional and new building materials practices and technologies.

c. Take into account the imposition of a Demolition Delay under Brookline’s Demolition Delay By-Law with respect to any Reviewable Project, and consider the special qualities of the property identified by the Preservation Commission.

d. Conserve and promote green space, including the tradition of mature trees and plantings, shading, green setbacks, topography, rear view corridors, streetscapes, and other landscape amenities of the neighborhood and the potential consequences to immediate neighbors of proposed changes.

e. Minimize the adverse visual and acoustical effects of trash/recycling containers, air conditioning compressors, transformers and other fixtures.

f. Consider traffic and parking impacts as they may affect traditional street patterns and use, pedestrian activity, and safety (particularly with respect to the Lawrence School area.

viii. The Commission shall also consider the following specific factors when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:

a. The consistency of any proposed Alteration or Addition of an existing building or other improvement, or new or replacement building or other improvements with the scale, massing and configuration of surrounding properties;

b. The significance to the neighborhood (e.g. historical, architectural, social), if any, of the existing buildings or structure(s);

c. The design of any proposed Addition or Alteration, or new or replacement building, including potential adverse effects of the Project on the surrounding properties and/or the district as a whole;

d. The extent to which the integrity of the established streetscape and its pattern and character are restored or enhanced;

e. The proximity of surrounding buildings and structures;

f. Provisions for green/open space and landscaping;

g. Provisions for and character of parking; and

h. If made, a claim of substantial hardship.

Nothing in this Section 5.10.3.d.2 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.2 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.2 shall be deemed to be severable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

5.10.4. NEIGHBORHOOD CONSERVATION DISTRICT OVERSIGHT

a. Each Neighborhood Conservation District shall be overseen by a Neighborhood Conservation District Commission consisting of no less than five members, which shall not preclude overlapping membership in whole or in part between commissions for various NCDs if appropriate to provide consistency, continuity, economy or other benefits in NCD administration Town-wide. If deemed appropriate by the Select Board for the administration of a specific NCD after consultation with the chair of the Brookline Preservation Commission, the size of an NCD Commission may be increased to seven members and the specific membership shall be determined

within the limits set forth below. In the case of a five-member NCD Commission, up to three members but no less than one member shall be representatives of the Brookline Preservation Commission as described in Section 5.6.4 of the Town By-laws, and the remaining members (and their alternates) shall be appointed by the Select Board. In the case of a seven-member NCD Commission, up to four members but no less than one member shall be representatives of the Brookline Preservation Commission and the remaining (and their alternates) shall be appointed by the Select Board. The member or members of an NCD Commission representing the Preservation Commission may be either regular or alternate members of the Preservation Commission, and shall be designated by the chair of the Preservation Commission to serve on a particular NCD Commission. The Select Board's appointees shall be residents of the Town and may be, as appropriate, individuals such as members of other Boards and Commissions, residents and/or property owners within the NCD, residents of abutting areas, or residents of the Town with additional expertise in the issues specific to a particular NCD, such as architecture, historic landscape preservation, landscape architecture, agriculture, horticulture or forestry, urban planning or history. Such Select Board's appointees (including alternates) shall initially be appointed to one-, two-, or three-year terms so as to minimize the number of terms that expire in the same year, and at the expiration of the initial terms, appointments shall be for three-years. Each NCD Commission shall elect a chair and vice-chair from within its own number, and a clerk from within or without its own number. In the absence of an NCD Commission member representing the Preservation Commission, the NCD Commission chair may appoint any regular or alternate Preservation Commission Member to act for that absent member. In the absence of an NCD Commission member appointed by the Select Board, the NCD Commission chair may appoint any alternate appointed by the Select Board to act for that absent member. Prior to the appointment by the Select Board of the Select Board-appointed NCD Commission members or alternates or in the event of the unavailability of such Select Board's appointees, those positions shall be filled on an interim basis by regular or alternate members of the Preservation Commission appointed by the chair of the Preservation Commission, so that an NCD at all times has the requisite number of five (or seven, if applicable) members.

The Commission for each NCD shall exercise its powers in administering and regulating the alteration of buildings,

other structures and natural and manmade elements within such NCD as set forth under the procedures and criteria established in this by-law.

The Commission for each NCD shall review all Reviewable Projects in the NCD, including without limitation new construction, demolition or alterations that affect the landscape or topography, the exterior architectural features of buildings and other structures, or the mass and siting of buildings and other structures. The authority of the Commission shall be binding except with regard to the categories of structural, landscape or architectural features exempted by Section 5.10.6 or that may be otherwise exempted by the particular design guidelines for a specific district set forth in Section 5.10.3 of this by-law.

An NCD Commission, or the Town on behalf of any such commissions, may receive and accept appropriations, grants and gifts to further the purposes of this by-law. An NCD Commission, or the Town on behalf of any such commissions, is also authorized to the extent permissible by law to require the collection of funds as part of an application to be placed in a separate account. These funds may be used to fund Town review of a Reviewable Project, including the retention of consultants or the funding of staff required to complete review of an application.

b. An NCD Commission, after a public hearing duly noticed at least 14 days in advance, may adopt, and from time to time amend, reasonable rules and regulations not inconsistent with the provisions of this by-law or other by-laws governing the Commission. Such rules and regulations shall set forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, the process for collecting and utilizing funds including without limitation application fees and funds required to fund Town review, hearing procedures and other matters. Such rules and regulations may also include a set of design review standards, not inconsistent with the applicable design guidelines and exemptions contained herein under Sections 5.10.3 and 5.10.6, to refine and clarify the application of the design guidelines during the design review process. The NCD Commissions for various NCDs within the Town may adopt common rules and regulations for the conduct of their business, consistent with the specific design guidelines applicable to each NCD, including

coordinating or integrating procedures for review of applications. The Commission promulgating any such rules and regulations shall file a copy thereof with the office of the Town Clerk.

5.10.5. PROJECTS PROHIBITED WITHOUT A CERTIFICATE

Except as this by-law provides, no building, other structure, site, property or part thereof within a Neighborhood Conservation District shall be altered (which term includes complete or partial demolition and new construction) and no other Reviewable Project may proceed unless the Commission shall first have issued a Certificate of Appropriateness. A building permit (which shall include permits for demolition) or an occupancy permit may not be issued for an altered building, structure, site or property or other Reviewable Project without the prior issuance of a Certificate of Appropriateness.

5.10.6. ALTERATIONS EXEMPT FROM COMMISSION REVIEW

a. It shall be the responsibility of the staff of the Commission, with the concurrence of the Chair of the Commission, to determine whether a proposed alteration or other project is exempt from review and they shall have ten business days to make this determination. Any alteration or project that is exempt from review shall receive a Certificate of Exemption that will permit such alteration or project to go forward without further review under the Neighborhood Conservation District By-Law. The Commission may establish regulations to define projects that are of insufficient significance to warrant Commission review, and Commission staff may issue a Certificate of Exemption for such a project.

b. Nothing herein shall be deemed to limit review to features visible from a public way unless such a limitation is set forth in the particular design guidelines for a specific district set forth in Section 5.10.3.d of this by-law.

c. The following projects or portions of Reviewable Projects are exempt from Commission review in all NCD districts:

1. Temporary buildings and structures subject to time limits (no longer than 6 months) and size limits determined by the Neighborhood Conservation District Commission.

2. One-story detached accessory structures without permanent foundations used as tool and storage sheds, playhouses, and similar uses provided the floor area does not exceed 100 square feet. This exemption shall not apply to garages, parking structures or other structures for vehicular use nor to structures to shelter or visually shield HVAC equipment.

3. Interior Alterations, including interior demolition as defined in Sections 5.3.2(h)(iii) and (iv) (such sections shall continue to be applicable to the Demolition Delay By-Law).

4. Ordinary maintenance and repair of architectural features that match the existing conditions including materials, design and dimensions.

5. Removal of substitute siding provided, however, that any replacement siding and trim shall be reviewable.

6. Reversible changes of color (such as staining or repainting of wood siding or trim, but not work such as painting of previously unpainted masonry).

7. Removal, replacement or installation of the following exterior elements (this exemption shall not apply to replacement windows which may include storms or screens):

    a. Exterior storm windows and exterior storm doors

    b. Exterior window screens or exterior screen doors

    c. Gutters and downspouts

    d. Removable window air conditioners, but not permanently installed HVAC equipment whether as part of a building or freestanding.

    e. Satellite dishes or antennae less than 3 feet in maximum width.

8. In-kind replacement of plant material.

9. Removal of public shade trees or removal of plant material that is severely damaged or dying due to weather-related events or natural causes.

10. Reconstruction, substantially similar in exterior design, of a building, damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within the time period specified in Section 8.03.1 of the Zoning By-Law and carried forward with due diligence.

11. Replacement windows and doors, and windows and doors installed in an addition or new construction, whether including single-pane glass or multiple-pane insulating glass, provided that (a) the exterior appearance is consistent in size, scale and detailing with that of pre-existing windows and doors on the building and adjacent buildings, as through the use of true divided lites or exterior muntins adhered to the exterior glass surface, and (b) reflective or tinted glass is not used, unless used in the pre-existing windows and doors.

5.10.7. PROCEDURES FOR REVIEW

Any Reviewable Project not exempted above requires the submittal of an application for regulatory review by the Commission. The application shall be accompanied by a filing fee as may be determined from time to time by the Select Boiard. As may reasonably be deemed necessary by the Commission to enable it to make its determination on the application, the application may be required to include (a) drawings and/or photographs showing existing conditions, including existing buildings and other structures, landscape features and vegetation, open spaces and pedestrian and vehicular paths, and (b) plans, elevations, specifications, photographs, descriptions of materials and other supporting information of the proposed changes.

Within forty-five business days of the submittal of a complete application, including all required supporting information, the Commission shall hold a public hearing on

the application. At least fourteen days before said public hearing, public notice shall be given. Such notice shall identify the time, place and purpose of the public hearing.

At or subsequent to the public hearing, the Commission shall determine whether the proposed alteration or other Reviewable Project, including any modification thereof agreeable to the applicant, is compatible with the specific design guidelines of the applicable district and the purposes of this by-law. The Commission may waive or modify the application of a design guideline in a particular case if such waiver will not derogate the protections provided by this by-law to the neighborhood and abutters.

If the Commission determines that the alteration is compatible with the design guidelines for the district, the Commission shall issue a Certificate of Appropriateness. If deemed necessary to ensure that an alteration is compatible with the design guidelines, the Commission may attach appropriate conditions to the Certificate of Appropriateness. The concurring vote of a majority of Commission members, including voting alternates (i.e., not less than three votes for a five-member commission and not less than four votes for a seven-member commission) shall be required to issue a Certificate of Appropriateness.

If the Commission does not determine that the alteration is compatible with the design guidelines for the district, the Commission shall deny the Certificate of Appropriateness. The Commission shall provide the applicant with the reasoning for its denial including the manner in which the alteration does not meet the applicable design guidelines in Section 5.10.3.d or the purposes of this by-law.

The Commission may further delay or totally prohibit demolition in addition to any delay provided by the Brookline Demolition Delay By-Law. In considering an application to demolish a building or structure, the Commission shall consider the architectural or historical significance of the building, including, if any, the findings of the Preservation Commission under the Demolition Delay By-Law; the siting and significance of the building or structure in relation to its surroundings and surrounding buildings either by itself or as a component as a group of buildings or structures; and the design and siting of any replacement building or structure.

5.10.8. PROCEDURES FOR ISSUANCE AND FILING OF CERTIFICATES

Each Certificate issued by the Commission shall be dated and signed by its chairperson or such other person designated by the Commission to sign such Certificates on its behalf. The Commission shall send a copy of its Certificate or denial to the applicant and shall file a copy of the Certificate or denial with the office of the Town Clerk and the Building Commissioner. The date of issuance of a Certificate or denial shall be the date of the filing of a copy of such Certificate or denial with the office of the Town Clerk.

If the Commission should fail to make a determination within sixty business days of the filing of a complete application for a Certificate including all required supporting information, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Appropriateness due to failure to act.

5.10.9. ENFORCEMENT AND PENALTIES

The Commission is specifically authorized to institute any and all actions, including proceedings in law and in equity, as it deems necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

The Commission may designate the Building Commissioner to act on its behalf and to enforce this by-law under the direction of the Commission.

Any owner of a property subject to this by-law that has altered a building or other structure or proceeded with a Reviewable Project without first obtaining a Certificate of Appropriateness in accordance with the provisions of this by-law shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until the alteration is corrected, the addition is removed, a faithful restoration of the demolished building or structure is completed, suitable replacement trees are planted, or the property is otherwise returned to its original condition unless otherwise agreed to by the Commission.

5.10.10. APPEAL PROCEDURE

Any applicant or person aggrieved by a determination of the Commission may appeal as provided for in the Massachusetts General Laws.

5.10.11. VALIDITY AND SEEVERABILITY; OTHER BY-LAWS

The provisions of this by-law shall be deemed to be severable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder of this by-law shall continue to be in full force and effect. Nothing in this by-law shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this by-law imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail.

TOWN OF BROOKLINE

Article 6.1

Advertising Placards

ARTICLE 6.1
ADVERTISING PLACARDS

No person shall place or carry, or cause to be placed or carried, in any street or other public place, any showboard, placard, or sign, for the purpose of there displaying or attracting attention to the same, without having first obtained permission so to do from the Chief of Police.

TOWN OF BROOKLINE

Article 6.2

Alcoholic Beverages on Public Property

ARTICLE 6.2
ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY

SECTION 6.2.1 PROHIBITION

No person shall drink, consume or have an open container of any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws, while in or upon any land owned by the Town of Brookline, upon any way to which the public has a right to access, or any place to which members of the public have access as invitees or licensees, without the written permission of the Select Board, as hereinafter provided, or on private land, without the consent of the owner or person in control thereof.

All alcoholic beverages being used in violation of this ordinance shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

SECTION 6.2.2 PENALTY

Whoever violates any provision of this By-law shall be liable to a fine not to exceed fifty dollars ($50.00) for each offense.

SECTION 6.2.3 ARREST

Whoever remains in, on, or upon any premises described herein after violating Section 6.2.1 or in willful violation of this By-law, may be arrested without a warrant, in accordance with Chapter 272, Section 59 of the General Laws by an officer authorized to serve criminal process in the place where the offense is committed, if such person is unknown to such officer.

SECTION 6.2.4 EXCEPTIONS

The prohibition shall apply in, on or outside of an automobile or other motor vehicle but shall not apply in or upon:

(a) Any private parking lot or private way to which the public has access where prior consent has

been obtained from the owner or authorized person in control thereof, and provided further that no disturbance or annoyance is created thereby.

(b) Any public property specified in Section 6.2.1 where prior written consent has been issued from the Select Board or its duly authorized agent in accordance with the provisions of Section 6.2.5 and provided that no disturbance or annoyance is created thereby.

SECTION 6.2.5 PERMITS

Permits for the public consumption of alcoholic beverages; procedures and fee:

(a) Any person(s) seeking a permit under Section 4(b) shall make an application in writing to the Select Board of. The application shall specify the name and address of the applicant(s), the date, hour and location, number and ages of persons and nature of the function associated with the proposed use.
(b) Prior to the issuance of a permit, the Select Board shall request and receive the approval or denial of any other municipal board, agency or department which has jurisdiction. Any permit or consent given under Paragraphs (a) through (d) may be revoked by the Select Board without prior notice, when, with probable cause in the opinion of the Board, a disturbance or other probable nuisance may or shall occur.
(c) In the instance of a group or organization function, one permit may be issued to an officer or duly appointed representative of said group or organization in lieu of individual permits.
(d) The Select Board shall not be required to issue such permit if, in its opinion, after proper investigation, it appears that a public disturbance or annoyance may be created thereby, or that the public welfare, convenience or necessity will not be subserved thereby.
(e) There shall be a charge imposed for the issuance of such permits. Such permits shall be in a form and for a fee duly determined by the Select Board.
(f) A permit issued in accordance with the terms of this Section shall be valid only for the date, time, place and individuals or groups set forth in the approved application. Anyone found guilty of violation of this

By-law shall be punished by a fine of not more than fifty dollars ($50.00) for each such violation.

TOWN OF BROOKLINE

Article 6.3

Damage to Grass Borders

ARTICLE 6.3
DAMAGE TO GRASS BORDERS

No person shall maliciously or negligently injure, or permit or suffer any animal or vehicle under his care to injure any grass borders or other ornamental borders upon the streets, parks or other public places in the town.

TOWN OF BROOKLINE

Article 6.4

Damage to Trees

ARTICLE 6.4
DAMAGE TO TREES

No person shall in any manner cut or mutilate any tree, not his own, standing in any street or public place in the town, nor shall any person tie or fasten any animal or attach any object to such tree.

TOWN OF BROOKLINE

Article 6.5

Defacing Public Ground

ARTICLE 6.5
DEFACING PUBLIC GROUND

SECTION 6.5.1 DEFACING PUBLIC GROUNDS

No person shall willfully deface or injure any public playground, planting space, flower bed, guidepost or guideboard, official sign, post, or signaling device for the direction of traffic, lamp post or lamp or lantern, or any building, fence or monument or other thing situated, erected, or made for the use or ornament of the town.

SECTION 6.5.2 CLIMBING TREES

No person, except an employee of the town or of a telephone, telegraph, or electric light company, shall climb any tree on any public way or in any public place in the town without having first obtained permission so to do from the Chief of Police.

SECTION 6.5.3 DRINKING FOUNTAINS

No person shall place on any drinking fountain, trough, or basin of water, set up or established in any public way or other public place for the use of men or beasts, any dirt, stone, ashes, rubbish, or other material; nor shall any person unnecessarily waste or use the water in such drinking fountain, trough, or basin.

TOWN OF BROOKLINE

Article 6.6

Discharging Firearms

ARTICLE 6.6
DISCHARGING FIREARMS

No person shall fire or discharge any gun, fowling-piece, or firearm within two hundred feet of any street in the town of Brookline or on any private grounds, except with the consent of the owner thereof; provided, however, that this by-law shall not apply to the use of such weapons at any military exercise, in law enforcement or in the lawful defense of the person, family, or property of any citizen.

TOWN OF BROOKLINE

Article 6.7

Fireworks

ARTICLE 6.7
FIREWORKS

No person, unless licensed by the Select Board shall discharge, explode or cause to be discharged or exploded any fireworks within the town.

TOWN OF BROOKLINE

Article 6.8

Naming Public Facilities

ARTICLE 6.8
NAMING PUBLIC FACILITIES

Section 6.8.1

Except as hereinafter provided, town buildings, parks, squares and other facilities, may be named only by Town Meeting when such action is proposed in a Warrant Article. The Library Trustees may, in accordance with guidelines adopted and from time to time amended by them, name rooms and associated spaces of library buildings. The School Committee may, in accordance with guidelines adopted and from time to time amended by them name rooms and associated spaces of school buildings.

Section 6.8.2 REVIEW COMMITTEE

(A) Appointment - The Select Board shall appoint a Committee of five members for staggered three year terms to review all proposals for naming public facilities except rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees as specified above in Section 6.8.1. The Committee shall include one member of each of the Advisory Committee, the Park and Recreation Commission, the Preservation Commission and the School Committee. In addition, the Select Board may appoint one alternate member to the Committee. Such alternate shall be appointed for a three year term and shall be designated by the Chair of the Committee from time to time to take the place of any member who is absent or unable or unwilling to act for any reason.

(B) General Duties – The Review Committee shall be responsible for reviewing and reporting its recommendations on proposals for naming public facilities. The Committee may also, from time to time initiate its own proposals for naming public facilities. All recommendations of the Committee shall be subject to criteria to be established by the Committee and approved by the Select Board.

TOWN OF BROOKLINE

Article 6.9

Numbering Houses

ARTICLE 6.9
NUMBERING HOUSES

The Select Board may order numbers to be affixed to or painted on the buildings on any public or private way, in their discretion. The owner of every house shall comply with such order within ten days thereafter.

TOWN OF BROOKLINE

Article 6.10

Removing Vehicles in Parks and Private Ways

ARTICLE 6.10
REMOVING VEHICLES IN PARKS AND PRIVATE WAYS

SECTION 6.10.1 PROHIBITION

No person shall leave a vehicle unattended or park any vehicle within 10 ft. of a hydrant in a park or private way or leave unattended for more than five minutes any vehicle within the limits of a private way furnishing means of access to any building, so as to obstruct the free passage or use of any vehicle of fire apparatus or other vehicle used for services required in behalf of the public health or safety in or through such way. A vehicle found within the limits of a private way which does not leave a free and unobstructed way, at least ten feet wide, for the passage of vehicles shall be deemed to obstruct the free passage or use of vehicles in said way.

SECTION 6.10.2 REMOVAL

A vehicle found in violation of the provisions of this section may be removed to a convenient place, including a parking area or public garage, under the direction of an officer of the Police Department as hereinafter provided and the owner of the vehicle so removed or towed away shall be liable for the reasonable cost of such removal and storage charges, if any, resulting therefrom. The owner of any vehicle removed or towed away shall also be subject to the penalties hereinafter provided in this section.

SECTION 6.10.3 TOWING AUTHORIZATION

The Chief of Police of the Police Department or such Sergeants or other officers of higher rank in the Police Department as he may from time to time designate, shall be authorized to direct the towing or removal of vehicles found in violation of this section.

SECTION 6.10.4 OWNER’S RESPONSIBILITY

If any vehicle is found upon any park or private way in violation of any provision of this Article, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

SECTION 6.10.5 PENALTY

Whoever violates any provision of this Article shall pay a fine not exceeding fifty ($50.00) dollars for each offense, provided, however, that such person may be dealt with as provided in General Laws, Chapter 90, Section 21D , as now or hereafter amended, (providing for visible tagging and non-criminal disposition of charges) in which event the fine for each violation shall be $50.00.

TOWN OF BROOKLINE

Article 7.1

Alcoholic Beverages

ARTICLE 7.1
ALCOHOLIC BEVERAGES

No persons shall drink any alcoholic beverage, as defined in General Laws Chapter 138, §1, as amended, while in or upon any street or sidewalk. All alcoholic beverages being used in violation of this Section shall be seized and safely held by the police until final disposition of the charge against the person or persons charged with violating this Section, at which time they shall be returned to the person or persons entitled to possess them.

TOWN OF BROOKLINE

Article 7.2

Bands, Parades and Gatherings

ARTICLE 7.2
BANDS, PARADES AND GATHERINGS

SECTION 7.2.1 STREET MUSIC

No person, other than a professional musician or a member of a regularly organized band or other musical organization, shall play upon or make a noise with any kind of musical instrument in any street OR way without having first obtained permission so to do from the Chief of Police.

SECTION 7.2.2 PARADES

No person shall take part in any parade, pageant, or procession on any street in the town unless permission has been granted for such parade, pageant, or procession by the Chief of Police.

SECTION 7.2.3 PUBLIC GATHERINGS IN STREETS

No street in the town shall be used for the purpose of any public meeting or public gathering of any kind if it interferes with safe and free passage, except by permission of the Chief of Police.

TOWN OF BROOKLINE

Article 7.3

Construction in Streets

ARTICLE 7.3
CONSTRUCTION IN STREETS

SECTION 7.3.1 PERMIT REQUIRED

No person, unless he or she is the holder of a permit issued by the Select Board and is acting in accordance with the terms and conditions of that permit, shall construct, reconstruct, install or repair anything that is on, over or under any street or shall place in or within a street any structure, house or other building.

SECTION 7.3.2 PUBLIC SAFETY

Before undertaking any work, including, without limitation of the foregoing, construction, repair, maintenance or reconstruction work, in, within or affecting a street, the person responsible for such work or in charge of those performing such work, shall review such work with the Chief of Police, or his designee, to determine whether or not such work will result in the disruption of the normal flow of traffic or cause a safety hazard to pedestrian or vehicular traffic. If the Chief of Police, or his designee, determines that such work will result in the disruption of a normal flow of traffic or cause to exist a safety hazard to pedestrian or vehicular traffic, the person responsible for such work or in charge of those performing such work shall observe the safety precautions ordered by the Chief, or his designee, including the hiring of a Brookline Police Officer, under the existing regulations governing private paid police details, to direct traffic and minimize the vehicle safety hazards connected with such work.

SECTION 7.3.3 PENALTY

No work shall be commenced in, within or affecting a street until the requirements of this Article 7.3 have been complied with. The Town of Brookline is exempt from the requirements of this Article. Whoever violates the provisions of this Article shall be subject to a fine not to exceed $200.00.

TOWN OF BROOKLINE

Article 7.4

Damage to Streets

ARTICLE 7.4
DAMAGE TO STREETS

No person traveling on a street within the town shall break or injure the surface thereof including, but without limiting the foregoing, by use of brakes, chains or other mechanisms so applied to the wheels of any vehicle under his control, as to cause said wheels to slide, slip or coast on said way.

TOWN OF BROOKLINE

Article 7.5

General Prohibitions

ARTICLE 7.5
GENERAL PROHIBITIONS

SECTION 7.5.1 PROHIBITED ACTIVITIES

No person shall throw stones, snowballs, sticks, or other missiles, kick a football, play ball, or play at any game at which a ball of any kind is used or fly kites on any street of the town.

No person shall engage in the business or activity of purchasing, selling or reselling merchandise, tickets or other articles in or within any street or public property, unless licensed, authorized by the local licensing authority or acting under the authority of law or a by-law of the town. If a person, observed purchasing, selling or reselling merchandise, tickets or other articles in or within any street or on public property, in violation of this section, is unknown or is without sufficient identification to permit the police officer observing such purchasing, selling or reselling to identify him or her, that person may be arrested by that officer without a warrant.

SECTION 7.5.2 ATTACHING TO A STREET CAR OR VEHICLE

It shall be unlawful for any person traveling upon any bicycle, coaster, sled, roller skates or any toy vehicle to cling to, attach himself or such conveyance to any other moving vehicle or street car upon any street.

SECTION 7.5.3 AUTOMOBILE HORN

No person shall sound an automobile or motor vehicle horn between the hours of 10 P.M. and 7 A.M. anywhere in the Town of Brookline except in cases of emergency.

SECTION 7.5.4 DELIVERY FROM A STREET

Any person or corporation intending to deliver coal, oil or other materials to any premises, abutting on any street and desiring to make use of any portion of the said street by placing thereon slides, pipes, or other devices shall give notice thereof to the Select Board who may thereupon grant a permit to occupy such portion of the said street to be used for such purpose as in their judgment the necessity of the case demands and the security of the public allows, the

same to be granted for such length of time and upon such conditions as the Select Board may require.

SECTION 7.5.5 HANDICAPPED PARKING SPACES IN OFF-STREET PARKING AREAS

(a) Any person or body that has lawful control of a private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees shall reserve parking spaces in said off-street parking area for any vehicle, used exclusively for noncommercial purposes, owned or leased by and used by a blind person or a person who has suffered a disability or handicap that qualifies such person to an identification plate for handicapped persons, under General Laws, Chapter 90, section 2, as amended, and displays an identification plate in accordance with said section 2, according to the following formula:

> If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four, more than two hundred but not more than five hundred, two percent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces but not less than ten; more than two thousand but less than five thousand, three-fourths of one percent of such spaces but not less than twenty; and more than

five thousand, one-half of one percent of such spaces but not less than thirty.

(b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

(c) No unauthorized vehicle may be left within parking spaces designated as reserved for use by handicapped persons or disabled veterans under (a) and (b) above.

(d) The penalty for violation of this by-law shall not be less then twenty-five dollars nor more than one hundred dollars. Any vehicle parked in violation of this by-law may be removed according to the provisions of section one hundred and twenty D of chapter two hundred and sixty-six of the General Laws.

SECTION 7.5.6 HAULING REFUSE

No person, unless he is the holder of a permit issued by the Board of Health and except in accordance with the terms and conditions of such permit, shall carry in or through any of the streets, sidewalks or public places in the town any refuse in excess of the refuse contained in two standard size (32 gallon) trash barrels.

SECTION 7.5.7 HAZARDOUS MATERIALS

Whoever transports hazardous materials in such quantity as requires notification of the State Department of Public Health, shall give notice to the Chiefs of the Fire and Police Departments at least twenty-four (24) hours before such proposed transportation, stating the quantity, type of material, degree of radioactivity and shipping routes and time of such transport. Such shipments shall not leave a

State or Interstate highway except under the direction of the Chiefs of the Fire and Police Departments.

SECTION 7.5.8 IDLING OF MOTOR VEHICLES

No person shall cause, suffer, allow or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped, on a private way or on private property, for a foreseeable period of time in excess of five minutes. This prohibition shall not apply to (a) vehicles being serviced, provided, that the operation of the engine is essential to its proper repair, or (b) vehicles engaged in the delivery or acceptance of goods, wares or merchandise for which engine assisted power is necessary and substitute alternate means cannot be made available, or (c) vehicles engaged in an operation for which the engine power is necessary for an associate power need other than movement and substitute alternate power means cannot be made available, provided, that such operation does not cause or contribute to a condition of air pollution.

SECTION 7.5.9 LIQUID TRANSPORT

No person shall transport any liquid, substance or material of any kind in any vehicle on any street within the town in such a manner that such liquid, substance, or material leaks, overflows, or falls from such vehicle into such streets.

SECTION 7.5.10 MISSILES

No person shall shoot or use a bow and arrow or air gun in any street of the town, and no person shall have in possession, any toy pistol, or device for throwing missiles of any kind, with intent to use the same to the injury of persons or property, or to the annoyance or discomfort of any person, upon any street of the town.

SECTION 7.5.11 OBSTRUCTIONS

No person shall place or cause to be placed in any street or upon any sidewalk of the town, any lumber, coal, iron, trunk, bale, box, crate, cask, package, article, or anything whatsoever so as to obstruct a free passage for travelers, nor allow any of the same to remain more than one hour after being notified by a police officer to remove

it, except that nothing herein contained shall be construed to prevent the use of streets and sidewalks for building purposes upon obtaining a permit from the Select Board.

SECTION 7.5.12 PARKING METERS

The Traffic Rules and Regulations of the Town of Brookline may be amended to provide for the installation of meters that provide for metered parking in excess of two hours in specifically designated areas; subject to Town Meeting approval and funding of the purchase of said meters.

SECTION 7.5.13 PERMIT PARKING

No person shall park a vehicle at any time upon any of the streets of the Town designated in The Traffic Rules and Regulations of the Town of Brookline for permit parking only, and on which streets signs are posted in each block which give notice of permit parking, without a permit issued by the Town Clerk's Office. Said Rules and Regulations shall include a fee scheduled for the permits which will cover the cost of administering the permit parking program.

SECTION 7.5.14 POLICE OFFICER’S DIRECTIONS

No person having charge of a vehicle in any street shall neglect to stop the same or to place the same when stopped as directed by a police officer of the town, nor shall neglect or refuse to go upon that part of said way to which such person is directed by a police officer of the town. All persons using a street shall obey the lawful directions of a police officer.

SECTION 7.5.15 REPAIRS TO VEHICLES

No person shall repair, wash, or clean vehicles or cause them to be repaired, washed or cleaned in or on any street of the town, nor shall any person occupy any part of any street as storage room for a vehicle of any kind; except in an emergency temporary repairs may be made.

SECTION 7.5.16 RESERVATIONS

No person driving or having charge of any vehicle shall drive or permit the said vehicle to go upon any street-car reservation or other well-defined reservation in the town.

SECTION 7.5.17 RUBBISH AND TRASH COLLECTION

No person shall place, or cause to be placed, rubbish and trash, put out for collection, within or near a street or private way, except after 3:30 p.m. on the day prior to collection.

SECTION 7.5.18 SIDEWALKS

No person shall ride a horse, drive, wheel, or draw any coach, cart, wheelbarrow, handcart (except children's carriages drawn by hand) upon any sidewalk in the town.

SECTION 7.5.19 SNOW AND ICE

No person shall lay, throw, or place, or cause to be laid, thrown, or placed, any ice or snow on that portion of any street within the town which has been cleared or plowed for travel.

SECTION 7.5.20 UNATTENDED VEHICLES IN PRIVATE WAYS

No person having charge of any vehicle shall leave such vehicle unattended for over five minutes within the limits of any private way or alley way furnishing access to any part of a tenant house or apartment house as defined in Section 2 of Chapter 145 of the General Laws of the Commonwealth, or to two or more dwelling houses, or to two or more buildings or any type in separate ownership so as to obstruct the free passage or use of any piece of fire apparatus or other vehicle used for services required in behalf of the public health, safety or morals, by or through such ways.

SECTION 7.5.21 USES OF STREETS FOR BUILDING PURPOSES

(a) Permits for Street Use: Any person who intends to erect, repair, or take down any building on land abutting on any street which this town is obliged to keep in repair, and desires to make use of any portion of said street for the purpose of placing thereon

building materials or rubbish, shall give notice thereof to the Select Board. And thereafter the Select Board, upon payment to the town of a fee of fifteen dollars ($15) for every thirty days or fraction hereof, ay grant a permit to occupy such a portion of said street to be used for such purpose as in their judgment the necessity of the case demands and the security of the public allows; such permit in no case to be in force longer than ninety days, and to be on such conditions as the Select Board may require; and especially, in every case, upon condition that during the whole of every night, from twilight in the evening until sunrise in the morning, lighted lanterns or lights shall be so placed as effectually to secure all travelers from liability to come in contact with such building materials or rubbish.

(b) No person shall use any portion of any street which the town is obliged to keep in repair for the purpose named in the next preceding section without the permit, in writing, of the Select Board, as above provided, nor having obtained such permit, shall fail to comply with the conditions thereof; and in addition to any penalty to which he may be subjected under these by-laws for such failures, he shall reimburse the town for all expenses and damages which the town may be compelled to pay by reason of such unauthorized use, or of any failure to comply with said conditions.

TOWN OF BROOKLINE

Article 7.6

Newsracks Regulations

ARTICLE 7.6
NEWSRACK REGULATION

SECTION 7.6.1 DEFINITIONS

The following terms shall be defined, for the purposes of this By-law, as follows:

Person - Any individual, corporation, society, association, partnership, organization or other entity circulating printed matter;

Printed Matter - Any newspaper, directory, handbill, advertising matter, magazine, circular, flyer, book, pamphlet, catalogue or other publication;

Newsrack - Any container, box, bin, vending machine, display, stand, rack or other device used for the purpose of dispensing printed matter with or without cost to the consumer;

Commissioner - The Commissioner of Public Works of the Town of Brookline or his designee;

Public Way - The entire width between property lines of every street or highway that is open to the public for purposes of travel;

Sidewalk - That portion of a public way that is set aside for pedestrian travel;

Roadway - That portion of a public way that is intended for the use of motor vehicles;

Crosswalk Curb Return - The point at which the crosswalk pavement markings meet the sidewalk.

SECTION 7.6.2 PERMITS

(a) Any person who places a newsrack or causes a newsrack to be placed upon any sidewalk or public way in the town prior to the effective date of this By-law and who wishes to maintain said newsrack on and after said date shall, within sixty (60) days after said date, apply for a permit from the Commissioner in accordance with the provisions of this By-law.

(b) No person, on or after the effective date of this By-law, shall place a newsrack or cause a newsrack to be placed on a sidewalk or public way in the town without a valid permit received from the Commissioner in accordance with the provisions of this By-law. A newsrack on a sidewalk or public way without such permit affixed to it may be removed immediately by the Commissioner.

(c) The Commissioner shall provide a permit application form which shall be completed by every person who places or maintains a newsrack on a public way in the Town of Brookline. The form shall require the applicant to provide the following information:

(1) a description sufficient to show the precise address and location of each newsrack and whether or not it is attached to town-owned property;

(2) the name, address, email address and telephone number of the owner of each newsrack and the name, address, email address and telephone number of a person responsible for the maintenance and operation of the newsrack who may be contacted in an emergency; and

(3) a certification that the specified location and the newsrack comply with the provisions of this By-law.

(d) Each applicant for a permit or renewal of a permit shall prepare a single application form upon which all newsracks owned by that person and located on a public way or sidewalk in the town shall be listed.

(e) Permits shall be valid only during the calendar year for which they are issued and, upon application, may be renewed by the Commissioner on an annual basis. Renewal applications must be received by the Commissioner with all required fees and payment of any outstanding fees and fines prior to December 1st to ensure timely renewal for the following calendar year. The owner shall ensure that newsracks are in compliance with this By-law at the time of permit issuance and any renewal.

(f) Each person granted a permit or renewal thereof under this By-law shall thereafter give notice to the Commissioner of any change in the location of a newsrack or the installation of a newsrack in a location not previously listed on a permit by the submission of a quarterly amendment application to the Commissioner. Upon receipt by the Commissioner, the amendment application shall constitute an amendment to the permit subject, however, to all other applicable provisions of this By-law. The Commissioner shall specify on the permit the dates for receipt of such quarterly amendment applications provided that they occur at intervals of not less than ninety (90) days commencing on the date the permit was issued.

(g) The Select Board is authorized to establish reasonable fees for original permit applications, annual renewal applications and amendment applications provided that such fees do not exceed the actual cost of administering this By-law. Newsracks owned by the Town of Brookline shall be exempt from fees. No permit shall be issued, renewed or amended without payment of the required fees and any outstanding fees and fines. No permit shall be affixed to any newsrack that is not in compliance with this By-law.

(h) Within 14 days after receipt of an application for a permit or renewal of a permit under this By-law, the Commissioner shall either issue or renew the permit or deny the application by giving written notice and a statement of reasons to the applicant. A denial shall be based upon the failure of the applicant to satisfy the requirements set forth in this By-law.

(i) If the Commissioner has not acted on a permit application within 14 days of receipt thereof, pursuant to subsection (h), the permit will be deemed issued or renewed subject, however, to all other applicable provisions of this By-law.

(j) If the Commissioner denies an application, in whole or in part, the applicant may appeal the Commissioner's decision to the Select Board by giving written notice to the Board within 10 days after receipt of notice of the Commissioner's decision.

(k) The Select Board shall hold a public hearing on the appeal no later than 30 days after receipt of said notice by the Board and shall, within 14 days after a public hearing, issue an order affirming, reversing or modifying the Commissioner's decision. If an order has not been issued by the Board within 14 days after hearing, the Commissioner's decision shall be deemed affirmed.

SECTION 7.6.3 STANDARDS FOR PLACEMENT OF NEWSRACKS

(a) No person shall place, cause to be placed or maintain a newsrack on any public way or sidewalk:

(1) within 5 feet of a handicapped access ramp;
(2) within or overhanging the roadway;
(3) within 6 inches of a curb;
(4) within 5 feet of the curb return of any marked crosswalk;
(5) within 5 feet of any fire hydrant or fire hose connection;
(6) within 3 feet of any manhole, service gate, valve cover, sewer grate or other access panel or cover located in a public way or sidewalk;
(7) within 5 feet of a driveway;
(8) immediately adjacent to a designated loading zone; a handicapped parking space; a zone reserved for emergency vehicles;
(9) so as to reduce the width of a sidewalk to less than 4 feet for the passage of travelers unless the width of the sidewalk is otherwise reduced to less than 4 feet, as determined by the Commissioner, in which case the newsrack may be installed so as to avoid further reducing the width of the sidewalk;
(10) so as to impede egress from legally parked motor vehicles;
(11) so as to impede the operation of standard sidewalk snow plows in use by the Town of Brookline except where said sidewalk snow plows would be otherwise impeded, as determined by the Commissioner;
(12) within 4 feet of the door of any building measured in a line perpendicular from the

horizontal line made by the door when closed;

(13) so as to create an imminent danger of harm to persons or property as demonstrated by specific facts;

(14) directly abutting a public flower bed, memorial or sculpture;

(15) so that it is attached to a town-owned tree, traffic control signal device, police or fire call box;

(16) directly in front of and on the same side of the street as any parcel zoned solely for residential use as defined in the Town of Brookline Zoning By-law, except at designated bus stops and MBTA railroad platforms, crossings and parking lots. This restriction shall not apply to parcels zoned for a mixed residential and business use.

(17) in a manner that violates any provision of local, state or federal law.

(18) in a manner such that the town permit is not visible from the public way.

(b) Newsracks may be secured to one another provided that they are no more than six inches apart and provided that the newsracks are aligned in a row that is parallel to the nearest curb line. Individual newsracks shall be installed parallel to the nearest curb line. Newsracks may be clustered back-to-back to form two rows provided that the rows are parallel to the nearest curb line, that the town permit is visible from the public way and that the newsracks otherwise comply with the provisions of this By-law.

(c) Newsracks may only be attached or secured to town-owned property with the express permission of the Commissioner and then, only if the newsrack is otherwise in compliance with the provisions of this By-law.

(d) Newsracks shall not exceed the following dimensional requirements: Height: 4 1/2 feet from the ground; Width: 2 feet; Length: 2 feet. Newsracks shall be contracted and maintained so that they do not constitute a hazard or safety problem for travelers and others using the sidewalks and public ways. They shall be removed if their use is discontinued and

shall be maintained in good repair and clean and safe condition such that each newsrack:

1. is regularly serviced;

2. is kept free of accumulations of outdated printed materials, trash, rubbish or debris;

3. is kept free of stickers (other than the town permit) and graffiti, with graffiti being entirely removed or, in the case of graffiti on an opaque surface, covered with paint matching the color of the surface on which the graffiti has been placed;

4. is kept reasonably free of chipped, faded, peeling, or cracked paint and of rust or corrosion;

5. is maintained so that its clear glass or plastic parts, if any, through which the printed material being dispensed is visible are not broken and are kept free of stickers, graffiti, tears, peeling and/or fading;

6. is maintained so that its structural parts are not broken or misshapen.

(e) No newsrack shall bear any advertising other than that directly relating to the printed matter dispensed by the newsrack. A newsrack may dispense more than one publication (printed matter) if it is published by the owner of the newsrack or an affiliate thereof and the newsrack may bear advertising directly related to each publication dispensed by the newsrack.

SECTION 7.6.4 VIOLATIONS

(a) No person shall place, cause to be placed or maintain a newsrack upon any sidewalk or public way in the town in violation of the provisions of this By-law. In the event that a newsrack is determined to be in violation of any of the provisions of this By-law,

1. the Commissioner shall provide written, email and/or telephone notice to the owner or the owner's agent that the newsrack is in violation of this By-law. Such notice shall state the substance of the violation and, except as provided in Sections 7.6.4(b), Parts (3) and (4), which provide for immediate or expedited removal, shall set a date for compliance which shall not be less than 14 days after the date notice is given; and

2. if the Commissioner determines that the violation has not been corrected on or after the date for compliance, the Commissioner may remove the newsrack in accordance with the provisions of section (b), below, and may assess a fine in accordance with provisions of section 7.6.5.

(b) 1. Except as provided in Sections 7.6.4(b), Parts (3)and (4), the commissioner may remove and store at the owner's expense any newsrack that remains in violation after the date for compliance specified in Section 7.6.4(a)(1) provided that the Commissioner shall give email or written notice of removal to the owner stating the date the newsrack was removed; the reasons for removal; the storage location; and the procedure for claiming the newsrack.

2. Except as provided in Section 7.6.4(b), Parts (3) and (4), the owner of any newsrack may avoid removal of the newsrack by:

(i) correcting the violation and so informing the Commissioner; or

(ii) by making a written request for a hearing on the violation before the Commissioner prior to the date set for compliance in which case the newsrack may remain in place pending the Commissioner's decision on the matter. Said hearing shall be held no later than 10 days after receipt of a written request for a hearing and a decision shall be rendered within 10 days thereafter. A request for hearing shall not preclude the assessment of a fine in accordance with the provisions of Section 7.6.5, unless the

Commissioner finds that the newsrack was in fact not in violation of this By-Law on the date set for compliance.

3. Notwithstanding any other provisions of this By-law, if the Commissioner or a public safety official determines (a) that a newsrack has been placed or maintained on a sidewalk or public way without a valid permit affixed to it, or that a newsrack is not in compliance with this By-law at the time that an initial or renewal permit would be affixed to such newsrack, or (b)that a newsrack constitutes an imminent danger of harm to persons or property, the Commissioner or a public safety official may remove the newsrack provided that the owner of the newsrack shall be notified of such removal and provided that the newsrack shall be stored for a reasonable period of time so that the owner can retrieve it.

4. If maintenance, repair, or construction of a public way, sidewalk or public or private property in or adjacent to the public way cannot be accomplished without the removal of a newsrack, the Commissioner shall give written, email and/or telephone notice to the newsrack's owner ordering removal of the newsrack provided that said notice shall specify the reason for the removal and the date for compliance which shall not be less than 10 days after the date of notice. If the Commissioner determines that delay would cause an unreasonable risk of harm to persons or property or would cause a delay in the maintenance, repair or construction work, the Commissioner may remove the newsrack, provided that the owner of the newsrack shall be notified of the removal; that the newsrack shall be stored for a reasonable period of time so that the owner can retrieve it and further provided that the owner may replace the newsrack when said maintenance, repair or construction is completed.

5. The Commissioner, with the approval of the Select Board, is authorized to establish fees for the removal and storage of newsracks that are removed at the direction of the Commissioner or public

safety officials in accordance with provisions of this By-law provided that said fees do not exceed the actual cost of removal and storage.

6. If a newsrack remains unclaimed for more than 60 days after notice of removal is sent to the owner or for more than 60 days after the newsrack is removed if the owner is unknown, then possession of the newsrack shall be transferred to the police department and the newsrack shall be disposed of as unclaimed property in accordance with law.

SECTION 7.6.5 PENALTY

In the event that a newsrack is not in compliance with any of the provisions of this By-law as of the date set for compliance under section 7.6.4(a)(1) of this By-law, then the owner of such newsrack shall be subject to a fine of $25.00 per day for each day of non-compliance until the date the violations are corrected and proof of such correction is submitted to the Commissioner or the newsrack is removed.

SECTION 7.6.6 SEVERABILITY

The provisions of this By-law are severable. If any provision of the By-law is held invalid, invalidity shall not affect other provisions of this By-law which shall remain valid.

TOWN OF BROOKLINE

Article 7.7

Removal of Snow and Ice From Sidewalks

ARTICLE 7.7
REMOVAL OF SNOW AND ICE FROM SIDEWALKS

SECTION 7.7.1 BUSINESS AND INDUSTRIAL DISTRICTS

In all Business and Industrial Districts, as defined and delineated in the Zoning By-law, the owner, or his/her agent, of any land abutting upon or contiguous to a sidewalk of a street shall cause said sidewalk to be maintained in a non-slippery condition suitable for pedestrian travel by clearing all snow and ice from a pathway at least thirty-six (36) inches in width along the length of said sidewalk within the first three hours between sunrise and sunset after such snow and ice has come upon such sidewalk, and shall maintain said portion of sidewalk in a non-slippery condition by application(s) of sand and/or melting agents as may be necessary for this purpose.

SECTION 7.7.2 MULTI-FAMILY DWELLINGS

The owner, or his/her agent, of any building designed or occupied as a residence by more than four families or which contains more than four dwelling units, as defined in the Zoning By-law, shall cause all sidewalks of a street which are contiguous to the land upon which the building is situated to be maintained in a non-slippery condition suitable for pedestrian travel by clearing all snow and ice from a pathway at least thirty-six (36) inches in width along the length of said sidewalk within the first three hours between sunrise and sunset after such snow and ice has come upon such sidewalk, and shall maintain said portion of sidewalk in a non-slippery condition by application(s) of sand and/or melting agents as may be necessary for this purpose.

SECTION 7.7.3 GENERAL REQUIREMENT

Except as set forth in Subsections (a) and (b) above, the owner, or his/her agent, of any land abutting upon or contiguous to a sidewalk of a street shall cause said sidewalk to be maintained in a non-slippery condition suitable for pedestrian travel by clearing all snow and ice from a pathway at least thirty-six (36) inches in width along the length of said sidewalk within thirty (30) hours

of the cessation of each storm that results in the accumulation of snow and/or ice on such sidewalk, and shall maintain said portion of sidewalk in a non-slippery condition by application(s) of sand and or melting agents as may be necessary for this purpose. The Commissioner of Public Works, or his/her designee, may grant a waiver from the terms of this Section 7.7.3 for good cause.

SECTION 7.7.4 NO ICE AND SNOW TO BE PLACED ON STREET

No person, unless authorized by the Commissioner of Public Works, shall place or cause to be placed ice or snow upon any street of the Town. Without limiting the generality of the foregoing, no person, unless authorized by the Commissioner of Public Works, shall place or cause to be placed ice or snow upon any sidewalk of the Town.

SECTION 7.7.5 PENALTIES

The violation of any provision of Sections 7.7.1 and 7.7.2 of this Article 7.7 shall be subject to a fine of $100.00 for the first violation, $150.00 for the second violation, and $200.00 for the third and subsequent violations in any fiscal year. The violation of any provision of Section 7.7.3 of this Article 7.7 shall be subject to a fine of $50.00 for the first violation and $100.00 for the second and subsequent violations in any fiscal year. The violation of any provision of Section 7.7.4 of this Article 7.7 shall be subject to a fine of $250.00.

SECTION 7.7.6 COMPLIANCE DELAY

Depending upon the severity of a storm and other factors, the Commissioner of Public Works may delay the period for compliance with Sections 7.7.1, 7.7.2, or 7.7.3 of this by-law. In the event of initiating a compliance delay, the Commissioner of Public Works shall post a notice prominently on the Town of Brookline’s Internet home page and make other good faith efforts to notify the public including, but not limited to, social media outlets, the cable access television station, e-mail list serves, and the emergency telephone notification system.

SECTION 7.7.7 ANNUAL REPORT

The Select Board shall include in the Annual Report of the Town a summary of the Town’s efforts and results

during the past year in implementing Sections 7.7.1, 7.7.2, and 7.7.3, including, but not limited to, public education, enforcement and assistance to owners.

TOWN OF BROOKLINE

Article 7.8

Removal of Vehicles From Streets

ARTICLE 7.8
REMOVAL OF VEHICLES FROM STREETS

SECTION 7.8.1 REMOVING VEHICLES

The Commissioner of Public Works or his designee, for the purpose of removing or plowing snow, or, removing ice from any street or way may remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work. He shall keep or cause to be kept records of the registration number of each vehicle so removed and the place to which it is removed, and shall within forty-eight hours after the removal of any such vehicle send notice by mail to the owner of such vehicle, at his address as recorded at the Registry of Motor Vehicles, of the place to which such vehicle has been removed. If the owner of the vehicle be unknown or be not on record at the Registry of Motor Vehicles for this Commonwealth, the Commissioner of Public Works or his desingee shall on the business day following the day of removal publish, at least once in a newspaper published and having a general circulation in Brookline or Boston, notice of the removal, the registration number, if any, the type of vehicle and the place to which the same was removed.

SECTION 7.8.2 RETRIEVING TOWED VEHICLES

Before the owner or his agent shall be permitted to remove a vehicle which has been removed as aforesaid to a public garage or other convenient place, he shall:

(a) Furnish satisfactory evidence to the owner or person in charge of said public garage or to the Commissioner or his assignee of his identity and ownership or right to possession of said vehicle;

(b) Pay the reasonable cost of removing said vehicle to the place of storage and all storage charges, if any, together with the cost of publishing or sending any notices hereunder.

TOWN OF BROOKLINE

Article 7.9

Snow Parking Ban

ARTICLE 7.9
SNOW PARKING BAN

No person shall allow any vehicle to remain in or within a street or way when a snow emergency parking ban has been declared by the Chairman of the Select Board, or in the absence of the Chairman, by a Selectman.

A Snow Emergency Parking Ban may be declared by the Chairman of the Select Board, or in the absence of the Chairman, by a Select Board member, whenever there are indications that the threat of substantial snow is imminent, whenever there has been a substantial snow and snow removal operations are underway or are about to commence, or whenever a substantial snow creates conditions that require a vehicular driving or parking ban throughout the town. Upon the declaration of a Snow Emergency Parking Ban notice thereof shall be given to the Town Clerk's office, the Police Department, the Fire Department and the Department of Public Works. Reasonable action shall also be taken to notify and warn the inhabitants of the town of the ban.

TOWN OF BROOKLINE

Article 7.10

Through Ways

ARTICLE 7.10
THROUGH WAYS

The following streets are hereby declared to constitute "through ways":

Beacon Street from St. Mary's Street to Boston line at Chestnut Hill

Harvard Street from Harvard Square to the Boston line, in Allston.

St. Paul Street, entire length.

Cypress Street, beginning at the southwesterly side of Washington Street and extending southerly to the southerly side of Brington Road and again commencing at the northwesterly side of Milton Road and East Milton Road and extending southerly to the southeasterly side of High Street.

Every vehicle immediately before entering the limits of a through way except at a terminus thereof shall be brought to a full stop except when the driver is otherwise directed by a police officer, or by a traffic regulation sign, device or signal.

TOWN OF BROOKLINE

Article 7.11

Vehicles
Abandoned and Improper Storage

ARTICLE 7.11
VEHICLES - ABANDONMENT AND IMPROPER STORAGE

SECTION 7.11.1 GENERAL PROHIBITION

Except as to vehicles for which other provisions are made under the laws of the Commonwealth, no person shall abandon any vehicle at any place within the town and no person shall leave any vehicle at any place within the town for such time and under such circumstance as to cause it to reasonably appear that such vehicle has been abandoned.

Except as to vehicles for which other provisions are made under the laws of the Commonwealth, no person shall leave any partially dismantled, wrecked, junked, non-operative or discarded vehicle upon any street or other public grounds in the town or upon any property therein without the permission of the owner or lessee of said property.

SECTION 7.11.2 STORAGE

No person in charge or control of any property in the town, whether as owner, occupant, lessee or otherwise, shall allow any partially dismantled, wrecked, junked, non-operative or discarded vehicle to remain on such property longer than (10) days after written notice to the owner has been given by the Town of Brookline, except (i) a vehicle which is in an enclosed building or in an area unexposed to the view of the public or any abutter, (ii) a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprises, (iii) a vehicle in an appropriate storage place or depository maintained by the town or with the consent of the town, (iv) or a vehicle upon property covered by a class (3) license, duly in effect under General Laws, Chapter 140, Section 58.

SECTION 7.11.3 REMOVAL

Vehicles which are apparently abandoned or reasonably appear to have been left on any property within the town in violation of any provisions of this by-law or appear to be lost, stolen or unclaimed may be removed in accordance with provisions of chapter 135 of the General Laws relating to lost, unclaimed or abandoned property, or the provisions of General Laws, Chapter 90, Section 22c.

TOWN OF BROOKLINE

Article 8.1

Alcoholic Beverages

ARTICLE 8.1
ALCOHOLIC BEVERAGES

No person shall have any alcoholic beverage in an open container or shall drink any alcoholic beverage (as defined in G.L. c.138, §1, as amended) while in or upon any park, playground or other public place in the town or while in or upon any private land or place in the town without the consent of the owner or person having control thereof. All alcoholic beverages being used in violation of this section shall be seized and safely held by the police until final disposition of the charge against the person or persons charged with violating this section, at which time they shall be returned to the person or persons entitled to possess them.

TOWN OF BROOKLINE

Article 8.2

Bonfires

ARTICLE 8.2
BONFIRES

No person shall make a bonfire in any street or public place without first having obtained in writing the permission of the Chief of the Fire Department.

TOWN OF BROOKLINE

Article 8.3

Dwelling Houses used In Common

ARTICLE 8.3
DWELLING HOUSES USED IN COMMON

SECTION 8.3.1 MEMBER IN CHARGE

Every club or association using, occupying or maintaining dwelling houses used in common by any of its members shall appoint some member to be in charge of such dwelling houses and to have authority to see that the regulations herein contained shall be carried out and enforced.

SECTION 8.3.2 GOOD ORDER

Members of such clubs or associations shall maintain good order in and around such dwelling houses and no member shall engage in any action or behave in any manner which disturbs the peace and quiet of the neighborhood.

SECTION 8.3.3 SLEEPING ROOMS

Every room used for sleeping purposes in such dwelling houses shall contain not less than ninety square feet of floor area, and the window area in such sleeping room shall be equal to one tenth of the superficial floor area of the room. No such sleeping room shall contain less than four hundred cubic feet of air space for each person sleeping therein.

SECTION 8.3.4 BASEMENT ROOMS

No room in the basement or cellar of such dwelling houses shall be used for living purposes without a written permit from the Board of Health.

SECTION 8.3.5 ACCESS

Two separate and independent ways of entrance and egress shall be provided for each story in such dwelling houses and such ways of entrance and egress shall be kept in good repair and unobstructed.

SECTION 8.3.6 WALLPAPER

No wallpaper shall be placed upon a wall or ceiling of any room in such dwelling houses unless all wallpaper shall be first removed therefrom and the wall and ceiling thoroughly cleaned.

SECTION 8.3.7 CLEANLINESS

Every part of such dwelling houses shall be kept clean and free from any accumulation of dirt, filth and garbage, or other refuse matter, including the cellars, halls, passages, rooms, areas, yards, and spaces appurtenant thereto. Every part of such dwelling houses shall be thoroughly cleansed whenever ordered by the Board of Health.

TOWN OF BROOKLINE

Article 8.4

Disturbing Public Safety Aids

ARTICLE 8.4
DISTURBING PUBLIC SAFETY AIDS

No person shall, except as authorized or required by law, remove, alter the position of, deface, or disturb in any manner, any barrier, sign, manhole cover, or grating, placed or installed in or on any street, sidewalk or public place within the town in the interests of safety or necessity.

TOWN OF BROOKLINE

Article 8.5

Disorderly Behavior
and
Disturbing the Peace

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 of any residential premises 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 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 §8.5.1.

SECTION 8.5.4 SPECIFIC PENALTY FOR VIOLATION OF SECTIONS 8.5.1 THROUGH 8.5.3

A violation of the provisions of 8.5.1 through 8.5.3 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 8.5.5 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 8.5.6 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 8.5.7 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 8.5.8 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 8.5.9 VANDALISM AND THE DEFACEMENT OF PUBLIC AND PRIVATE PROPERTY

SECTION 8.5.9.1 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 8.5.9.2 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 8.5.9.3 Prohibited Conduct

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

SECTION 8.5.9.4 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 8.5.9.5 Enforcement

Failure to remove the graffiti or make a written request to the Commissioner of Public Works in accordance with the requirements of Section 8.5.9.4 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 8.5.9.4 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 8.5.9.4 remaining unpaid after sixty days of notice of such charge shall be subject to the provisions of G.L. c. 40, s. 58.

TOWN OF BROOKLINE

Article 8.6

Dog Control

ARTICLE 8.6
DOG CONTROL

SECTION 8.6.1 GENERAL PROHIBITION

No person shall own or keep in the town any dog which by biting, barking or howling, or in any other manner, disturbs the peace or quiet of any neighborhood or endangers the safety of any person.

SECTION 8.6.2 PROHIBITED BEHAVIOR

The owner or keeper of a dog or both may be prosecuted for the following violations of this Article and/or the dog may be impounded:

(a) If found without a license when a license is required by law;
(b) If found at large;
(c) For having bitten, injured or physically molested any person;
(d) For having bitten or injured any domestic animal;
(e) For chasing any vehicle on a public way or open to public traffic in the town;
(f) For repeatedly causing a nuisance such as, but not limited to, barking, or littering.
(g) If found, not muzzled, off the property of its owner or keeper while a muzzling order with respect to it is in effect under Section (c), above.
(h) For having defecated on a public sidewalk or on private property, other than that of its owner, without the permission of the owner of such property.

SECTION 8.6.3 RELEASE FROM IMPOUNDMENT

The owner or keeper may obtain the release of an impounded dog as follows:

(a) In the case of a violation of Section 8.6.2(a), upon obtaining a license as required by law and by payment of a late filing fee.

(b) In the case of a violation of subparagraphs (b) through (h), inclusive, of Section 8.6.2, upon the agreement of the owner or keeper to undertake such

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(b) In the case of a violation of subparagraphs (b) through (h), inclusive, of Section 8.6.2, upon the agreement of the owner or keeper to undertake such

restriction or control of the dog as the dog officer shall require;

(c) In addition to compliance with subparagraphs (a) and (b), above, all pound fees and fines, if any, must be paid before the dog is released.

SECTION 8.6.4 NOTICE OF IMPOUNDMENT

Not later than two days after the impoundment of any dog, the owner or keeper shall be notified, or if the owner or keeper of the dog is unknown, or, after reasonable efforts, is not contacted, written notice shall then be posted for ten consecutive days on a K-9 bulletin board in the office of the Town Clerk describing the dog and the place and time of taking.

SECTION 8.6.5 UNCLAIMED DOGS

Dogs impounded and unclaimed by the owner or keeper after such a ten day period, shall be disposed of in accordance with the provisions of General Laws, Chapter 140, s. 151A, as amended.

SECTION 8.6.6 CONTROL OF DOGS IN OESTRUS CYCLE

If the dog officer determines that a dog in her oestrus cycle, (even when confined to the property of the owner or keeper), is attracting other dogs to the area, which condition causes disturbance on or damage to neighboring property or public areas, he may impound the dog for the duration of the oestrus cycle, releasing it thereafter to the owner or keeper upon the payment of pound fees; or the dog officer may require the owner or keeper to place and keep such dog, while in such cycle, in a kennel or to remove it from the area so that the nuisance is abated.

SECTION 8.6.7(a) RESTRAINT OF DOGS

Any person owning or harboring a dog shall not suffer or allow it to run at large in any of the streets or public ways, or places in the Town of Brookline, or upon the premises of any one other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be allowed on private property, unless specific permission has been granted. No dog shall be permitted in any public

place or street within the Town of Brookline unless it is effectively restrained by a chain or leash not exceeding 7 feet in length.

However, in areas officially designated as designated off leash area by the Park and Recreation Commission, or its designee, a dog shall be allowed to be off the leash under the following conditions:

1. the dog must at all times be accompanied by and under the control of a person;

2. any dog left unattended may be impounded,

3. the person in charge of a dog inside a designated off leash area must remove any fecal material deposited by that dog in the designated off leash area, before taking the dog from the designated off leash area; and

4. the person in charge of a dog inside a designated off leash area must control the animal so that it does not disturb the surrounding area by barking or other action and so that it does not disturb or threaten others using the designated off leash area and the area surrounding the designated off leash area.

5. no area adjacent to a school shall be used as an off leash area without approval of the School Committee.

6. the Director of Parks and Open Space or his/her designee shall place a sign, in a conspicuous place, in all designated off leash areas which shall state the authorized hour(s) when such area may be used for such purpose and any other conditions of such use.

7. the dog must be registered with and accompanied by proof of current registration in the Town’s off leash program in order to participate, which participation shall be subject to compliance with publicly available rules established by the Director of Parks and Open Space.

This section is subject to the Town's legal obligations to make reasonable accommodations for people with disabilities.

SECTION 8.6.7(b) REMOVAL OF DOG WASTE

It shall be the duty of each person who owns, possesses or controls a dog to pick up and dispose of any feces left by such dog on any sidewalk, tree lawn, gutter, street, park or other public area, or on any private property that is not owned or occupied by such person. No person owning, possessing or controlling a dog shall appear with such dog on any sidewalk, tree lawn, gutter, street, park or other public area without having the means of removal of any feces left by such dog in his or her possession. For the purposes of this section, the "means of removal" shall be any container, tool, implement or other device that is carried for the purpose of picking up, containing, and disposing of dog feces in an appropriate receptacle. Penalties for violation of this section shall be in accordance with the penalties appearing in Section 8.6.9 of these By-laws. The provisions of this section shall not apply to persons with working guide dogs.

SECTION 8.6.8 MUZZLING OF DOGS

The dog officer may order the owner or keeper of a dog to muzzle such dog for either of the following causes:

(a) For having bitten, injured, or physically molested any person; or
(b) For having done substantial injury to any domestic animal.

The dog officer may remove an order to muzzle a dog if the owner or keeper thereof satisfies him that the dog is unlikely to repeat its offense.

SECTION 8.6.9 PENALTY

First Violation	$25.00
Second Violation	$50.00
Third Violation	$75.00

SECTION 8.6.10 DEFINITIONS

(a) "At Large" means a dog which is (i) unaccompanied by a person of adequate age and discretion to properly control its actions and (ii) is unrestrained by a leash or chain of less than seven feet in length.

(b) "Oestrus Cycle" is the technical term for the common expression "in heat".

SECTION 8.6.11 LICENSES

Annual Dog License Fee: $20.00

Late Filing Fee for Failure to File Prior to April 1

Late Fee $20.00

Substitute Tag Fee

Substitute Tag $2.00

TOWN OF BROOKLINE

Article 8.7

Food Stores - Hours of Operation

ARTICLE 8.7
FOOD STORES - HOURS OF OPERATION

SECTION 8.7.1 SALES BY A PERSON

No person shall, except as hereinafter provided, sell any food, to be consumed on or off the premises, between the hours of 2:00 a.m. and 5:30 a.m.

SECTION 8.7.2 SALES BY AN ESTABLISHMENT

No store, restaurant, or place of business, engaged in the sale of food, shall, except as hereinafter provided, be open for the transaction of retail business between the hours of 2:00 a.m. and 5:30 a.m.

SECTION 8.7.3 DEFINITION OF FOODS

The term food used in this By-law shall include any article or commodity, however stored or packaged, intended for human consumption, on or off the premises, and shall include beverages.

SECTION 8.7.4 PENALTIES

Violators of this Article shall be subject to a fine of $50 for each violation. For purposes of this Article, every calendar day on which a store, restaurant or business shall remain open, in violation of this by-law, shall be deemed a separate offense, and each separate sale of food shall be deemed a separate offense. In the event of the sale of several items at one time to one customer, only one sale shall be deemed to have taken place.

SECTION 8.7.5 WAIVERS

In cases where, in their opinion, the public good requires it, the Select Board may issue a special permit allowing a store, restaurant or place of business, engaged in the sale of food; to remain open for the transaction of such business to an hour, specified in the permit, later than 2:00 a.m., or to remain open 24 hours a day. Such special permit shall remain in effect for a period of one year. Application for such special permit shall be made on forms supplied by the Select Board and shall be accompanied by a non-refundable fee set by the Select Board.

TOWN OF BROOKLINE

Article 8.8

Food Establishments
Handling of Refuse

ARTICLE 8.8
FOOD ESTABLISHMENTS HANDLING OF REFUSE

SECTION 8.8.1 STORAGE OF REFUSE

All establishments which prepare food for consumption on or off its premises shall provide and maintain a sufficient number of closed receptacles, such as dumpsters, for the storage of all refuse on the premises. All refuse on said premises shall be stored in covered receptacles, such as dumpsters. The covered receptacles shall be constructed and maintained so that refuse is kept within the receptacle and is not blown or otherwise removed therefrom by wind, animals or other cause, other than for removal by authorized persons.

SECTION 8.8.2 REMOVAL OF REFUSE

All restaurants and commercial establishments which prepare food for consumption on or off its premises shall provide for the removal of all refuse from the premises during each day of operation. No refuse shall be allowed to remain on the premises for more than twenty-four hours. Religious and municipal organizations are exempt from this by-law provision.

TOWN OF BROOKLINE

Article 8.9

Toilet Facilities -Restaurants

ARTICLE 8.9
TOILET FACILITIES - RESTAURANTS

All food service establishments holding a Common Victualler’s license shall, during licensed hours of operation, provide access for patrons to adequate restroom facilities.

Upon written application for a licensee, a waiver of this requirement may be granted by written approval of the Select Board. Waivers may be as to conditions or time limits on access to toilet facilities and may be granted for reasons of public health or safety.

TOWN OF BROOKLINE

Article 8.10

Food Vendors License

ARTICLE 8.10
FOOD VENDORS LICENSE

SECTION 8.10.1 REGULATION BY LICENSE

No person shall offer food for sale to the Public in a food service establishment, as hereinafter defined, unless licensed as a common victualler or an innholder under the provisions of c. 140 of the General Laws, without first obtaining a Food Vendors License under the provisions of this by-law. Any person who violates this section shall be liable to a fine of $50 per violation. Each day of operation without a Food Vendor's License shall constitute a separate violation.

SECTION 8.10.2 FOOD SERVICE ESTABLISHMENT DEFINED

Food service establishment shall include any fixed or mobile place, structure or vehicle whether permanent, transient, or temporary, private, public, or non-profit, routinely serving the public; or any other eating and drinking establishment or place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere.

SECTION 8.10.3 APPLICATION FOR LICENSE

Each applicant for such license shall submit, on forms to be provided by the Select Board, the following information: name and address of applicant, name and address of place of business, evidence, in form satisfactory to the Select Board, that the applicant has upon the premises the necessary implements and facilities for cooking, preparing and furnishing food to the public, and such other information as the Select Board shall require. The Select Board may require applicants to submit a plan showing, if any, the location of fixtures and other facilities including bathrooms and the general arrangement of the premises including, in the case of applications for premises not yet completed, estimates of the cost of the proposed arrangement and of the facilities indicated on the plan.

SECTION 8.10.4 LICENSE DISCRETION

Such license shall not be issued or be valid until it has been signed by a majority of the Select Board. The Select

Board may refuse to grant such a license if, in their opinion, the public good does not require it.

SECTION 8.10.5 TERM AND APPLICATION FEE

Food Vendor's Licenses shall be valid for a term of one year from the first day of January until the 31st day of December. A non-refundable fee of $25 shall be submitted with the application for such license. The Select Board may in their discretion suspend the requirement of the fee for hospitals.

SECTION 8.10.6 SUSPENSION OR REVOCATION OF LICENSE

If, in the opinion of the Select Board, a licensee ceases to be engaged in the activity licensed hereunder, or fails to maintain upon the premises on which such activity is licensed the implements and facilities required by these by-laws, the Select Board shall immediately revoke his license. If the licensee at any time conducts his licensed business in an improper manner, the Select Board, after notice to the licensee and public hearing, may, upon satisfactory proof thereof, suspend or revoke his license.

SECTION 8.10.7 PLAN OF PREMISES

No license shall be issued under this Article until the applicant submits a plan acceptable to the Licensing Authority that establishes procedures and requirements for the control and elimination of litter. The plan must set forth requirements for the pick-up and disposal of litter resulting from or generated by the sale of food under the license.

SECTION 8.10.8 USE OF SIDEWALKS AND OUTDOOR PREMISES

The Select Board may, upon written application by a licensed Food Vendor, after notice and hearing, grant, upon such terms and conditions as they determine to be necessary and desirable, that Licensed Food Vendor the right to use the outdoor portion of the licensed premises and/or a portion of a town sidewalk that is contiguous to the licensed premises for outside seating for Patrons. Prior to such a grant, the Select Board shall seek advisory reports from the Planning Board, Building Commissioner, Police Department and Commissioner of Public Works. No such grant shall be for more than six months in any license

year. No such grant shall extend beyond the term of the license. Any right granted hereunder shall be subject to revocation if the exercise of the grant interferes with public safety and convenience.

TOWN OF BROOKLINE

Article 8.11

Gaming Implements

ARTICLE 8.11
GAMING IMPLEMENTS

No person shall expose in or place upon any street, public grounds, or other public places, any table or device of any kind by means of or upon which any game of hazard or chance shall be played; nor shall any person play in such game at such table or device in or upon any street, public grounds, or other public places in the town.

TOWN OF BROOKLINE

Article 8.12

Hawkers and Peddlers

ARTICLE 8.12
HAWKERS AND PEDDLERS

SECTION 8.12.1 PROHIBITED WITHOUT LICENSE

No person shall go from place to place in this town selling or bartering, or carrying or exposing for sale or barter, any fruits, vegetables, or fish in or from any cart, wagon, or other vehicle, or in any other manner, without license, therefor from the Town Administrator, provided, however, that this section shall not apply to any person who sells only fruits or vegetables raised or produced by himself or his family, or fish which is obtained by his own labor or the labor of his family.

SECTION 8.12.2 LICENSING

The Town Administrator shall have authority to grant such license to any person of good repute for morals and integrity who is or has declared his intentions to become a citizen of the United States. Said license, unless sooner revoked by the board or officer granting the same, shall expire one year from the date of issue, and each person so licensed shall pay therefore a fee of twenty-five dollars.

SECTION 8.12.3 REGISTRATION OF NAME FOR SALE OF FOOD

No hawker or peddler shall sell or offer or expose for sale any article for human consumption including food and drink, or any article used for the preparation of the same, until he has recorded his name and residence with the Board of Health or such other board or officer as may be designated by the Town Administrator. Every person licensed under the provisions of the preceding sections as a hawker or peddler of fruits, vegetables, and fish shall record his name and residence in like manner with such board or officer.

SECTION 8.12.4 NO DISTURBING THE PEACE

No person hawking, peddling, or carrying or exposing any article for sale shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the town, nor shall carry or convey such articles (in any manner that will tend to injure or disturb the public health or comfort nor) otherwise than in vehicles and receptacles which are neat and clean and do not leak.

SECTION 8.12.5 BADGE AND NUMBER

Every hawker and peddler licensed as above shall be assigned a number and shall be provided with a badge which shall be conspicuously worn by him. Every other such hawker and peddler shall provide himself with a badge of such type and design as may be approved by said board or officer, which he shall wear in like manner. Whoever neglects to wear, or wears such badge without authority, shall be punished by the penalty provided by these by-laws. Each badge shall display the number assigned to the hawker and peddler wearing that badge.

SECTION 8.12.6 LICENSE NUMBER ON VEHICLE

Every vehicle or other receptacle used by a licensee as a conveyance for articles offered or exposed for sale by him shall have attached thereto on each side a number plate, or to be furnished by the town with his license, bearing the number of such license.

SECTION 8.12.7 CERTIFIED WEIGHING AND MEASURING DEVICES

No person shall be registered or assigned a badge or number under the provisions of THIS by-law until he presents a certificate from the sealer of weights and measures stating that all weighing and measuring devices intended to be used by such person have been duly inspected and sealed as required by law. The use of, or possession by such person with intent to use, any false unsealed weighing or measuring devices shall be sufficient cause for the revocation of his license or the cancellation of his registration.

SECTION 8.12.8 FAILURE TO EXHIBIT LICENSE

Any licensee who fails, neglects, or refuses to exhibit his license when the same is demanded of him by a commissioner, inspector, sealer of weights and measures, town treasurer, Town clerk, constable, police officer or justice of the peace, shall be subject to the same penalty as if he had no license.

SECTION 8.12.9 STATE LAW

Nothing in these By-laws shall be construed as conflicting with any license issued under the authority of the Commonwealth.

SECTION 8.12.10 REVOCATION OF LICENSE

Any license granted under these By-laws may be revoked for cause or any violation of this by-law by the board or officer granting the same, after notice and hearing.

TOWN OF BROOKLINE

Article 8.13

Inflammable Material

ARTICLE 8.13
INFLAMMABLE MATERIAL

The Fire Department, after consultation with or in response to initiation from the Conservation Commission, shall have the power, subject to the approval of the Select Board, to promulgate rules and regulations governing the issuance and renewal of any permit or license issued, or the renewal of any permit or license issued or renewed in accordance with the laws of the Commonwealth, including the provisions of Chapter 148 of the General Laws, relative to the storage of fuel oil, liquid chemicals and/or gasoline.

TOWN OF BROOKLINE

Article 8.14

Dealers in Junk, Second Hand Articles & Antiques

ARTICLE 8.14
DEALERS IN JUNK, SECOND HAND ARTICLES AND ANTIQUES

SECTION 8.14.1 LICENSING REQUIREMENTS

No person shall deal in junk, antiques or second hand articles or keep a shop for the purchase, sale, resale, barter or taking on consignment of junk, antiques or second hand articles without a license, issued by the Town Administrator, to deal in such transactions. The following provisions shall apply in all licensing under this section:

(a) Upon receipt of an application for a license, the Brookline Police Department shall conduct a background check to determine if the applicant is a suitable person to deal in junk and second hand articles.

(b) Any person issued a license hereunder shall display the license in a conspicuous place at his or her place of business.

(c) No person shall conduct a business, under a license issued hereunder, that involves items made of gold, silver, or platinum unless the license specifically authorized transactions involving items of those metals.

(d) No licensee hereunder shall purchase any secondhand articles under his or her license from a minor.

(e) No licensee hereunder shall purchase any junk, antiques or secondhand articles on the business premises from a private party, until the seller provides a driver's license as a positive identification, or if the seller has no driver's license, then such other suitable photo identification. For purposes of this article, a private party is defined as a person who has no valid state Tax Registration number.

(f) All licensees shall keep a report and record book, in a form approved by the Police Chief, in which the following information shall be recorded for each purchase taking place on the business premises from a private party:

1. the date and time of purchase,

2. the name and address of the seller,
3. the type of identification given by the seller,
4. the date of birth and any identification number provided by the seller,
5. a description of the article purchased by the licensee, including, where applicable, the size, setting, brand name, model, serial and inspection number, if any, and
6. the purchase price paid by the licensee.

The dealer shall also keep a permanent record of all other purchases not covered by the record book requirement, showing the date of purchase, the purchase price of the article or group of articles, and the name and address of the seller.

(g) The report and record book, required in Section (f) above, for purchases taking place on the business premises from a private party, shall provide a suitable space for each seller to sign his or her name and record his or her address prior to payment of the purchase price by the licensee. All entries in the report and record book shall be in ink. No entries shall be erased or obliterated. For all purchases made in the Town of Brookline, the licensee shall pay all sellers by check or money order.

(h) The Town Administrator or the Select Board may adopt rules and regulations governing the issuance and conduct of business under said license. Any license issued hereunder may be revoked, after a hearing, for cause or the violation of any of the terms and conditions set forth herein or any rules or regulations adopted hereunder.

(i) Licenses issued hereunder shall run from January 1st to December 31st, inclusive, of each year. Renewal applications must be filed with the Town Administrator on or before November 1st in each licensing year.

(j) The report and record book shall be available for inspection by a police officer of the town during normal working hours and during those hours business is transacted under said license. Use of this information shall be for police purposes only.

(k) 1. Licensee shall be required to hold and not sell for a period of at least fifteen (15) days from date of purchase the following items purchased by the licensee from a private party: electronic equipment bearing serial numbers including televisions, VCRs, stereos, computers; items made of gold, silver or platinum; decorative porcelain figurines; oriental rugs; and furs. Furniture purchased on the premises from a private party shall be held for a period of seven (7) days from date of purchase. Purchases accompanied by a written proof of ownership, such as a sales receipt from a business, or an insurance policy describing the item, shall be exempt from any hold period. Such proof of ownership shall be retained by the licensee.

2. In addition, each licensee shall file a weekly secondhand dealer's report with the Chief of Police listing any item purchased during the preceding week which is subject to the hold requirements of subsection (1) of this Section (k.).

3. The following are exempt from holding period requirements or the weekly report: auction purchases, purchases transacted outside of Massachusetts, or estate purchases from an executor, lawyer for the estate, or legal heir.

SECTION 8.14.2 INSPECTION OF ARTICLES

All articles purchased but not sold by the licensee shall be available for inspection by an officer of the Brookline Police Department at the licensee's premises.

SECTION 8.14.3 ADDITIONAL PROVISIONS

(a) All shops or places of business licensed hereunder shall be subject to inspection by an officer of the Brookline Police Department at all reasonable times.

(b) All shops or places of business licensed hereunder shall display the license in a suitable and conspicuous place at the licensee's premises.

(c) The terms "junk" and "second hand articles" shall include but not be limited to the following:

> Used electronic equipment bearing serial numbers, furniture, jewelry, old metals, items made of gold, silver or platinum, decorative porcelain figurines, furs, rugs, one of a kind objects of art, but shall not include stamps, coins, books, clothing, or factory made mass produced ceramics, glass and decorative items.

(d) A violation of any of the terms or provisions set forth in Article 8.14 or any rules or regulations established pursuant to said Article shall be punished by a fine not to exceed $200 for each violation.

TOWN OF BROOKLINE

Article 8.15

Noise Control

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 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.

4. Noise regulations concerning Leaf Blowers are found in Article 8.31.

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.

(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 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) 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, 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 RESPONSIBLITIES 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.

	MAXIMUM NOISE LEVEL dBA	
Vehicle Class	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:

Construction Item	Maximum Noise Level dBA	Maintenance Item	Maximum Noise Level dBA
Backhoe, bulldozer concrete mixer dump truck, 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		

(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) "Text Deleted"

(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 Select Board. 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 Select Board, 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 Select Board, or designee. The Town will make all reasonable efforts to notify all direct abutters prior to the date of the Select Board 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 Select Board. The Select Board, 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 Select Board, 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 Select Board, 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 Select Board.

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.

TOWN OF BROOKLINE

Article 8.16

Collection and Recycling of Waste Materials

ARTICLE 8.16
COLLECTION AND RECYCLING OF WASTE MATERIALS

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 Select Board 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. Regulations may also include temporary waiver provisions for cause.* Prior to the adoption or amendment of any such regulations the Select Board 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.

NOTE: All references to permitted private haulers, temporary waiver provisions for cause, and commercial buildings, as noted by an asterisk (*), become effective November 1, 2015.

TOWN OF BROOKLINE

Article 8.17

Focused Residence Picketing

ARTICLE 8.17
FOCUSED RESIDENCE PICKETING

It is unlawful for any person to engage in picketing focused on, and taking place in front of or about, a particular residence in the Town of Brookline. Focused picketing taking place solely in front of or about a particular residence is prohibited.

TOWN OF BROOKLINE

Article 8.18

Posters and Circulars

ARTICLE 8.18
POSTERS AND CIRCULARS

SECTION 8.18.1 PROHIBITED WITHOUT PERMISSION

No person, unless required by law so to do, shall make any marks, letters, figures, of any kind, or place any sign, advertisement, or placard upon or against any wall, fence, post, ledge, stone, building, or structure, in or upon any public way in the town without the permission of the owner thereof, nor upon any sidewalk or upon any property of the town without the consent of the Select Bord.

SECTION 8.18.2 PROHIBITED IN STREETS

No person shall deposit papers, circulars, or advertising matter of any kind in the streets of the town, nor distribute the same through the town in such manner as to create a disturbance or litter.

TOWN OF BROOKLINE

Article 8.19

Selling in a Public Place

ARTICLE 8.19
SELLING IN A PUBLIC PLACE

No person shall place or keep any table, stall, booth, cart, or other structure, in any street or other public place in the town or upon any sidewalk, for the sale of food, fruit, merchandise or other thing, without permission first being obtained from the Chief of Police.

TOWN OF BROOKLINE

Article 8.20

Sales in Public Places

ARTICLE 8.20
SALES IN PUBLIC PLACES

No person shall, on any street or other public place sell or offer for sale any tag, badge or other article of any intrinsic value for the purpose of obtaining money, without having obtained permission to do so from the Chief of Police.

TOWN OF BROOKLINE

Article 8.21

Solicitors and Canvassers

ARTICLE 8.21
SOLICITORS AND CANVASSERS

SECTION 8.21.1 REGISTRATION REQUIRED

It shall be unlawful for any person to engage in or conduct business as a canvasser or solicitor, calling at residences without the previous consent of the occupant for the purpose of soliciting orders, sales, subscriptions, or business of any kind without first having registered in the office of the Chief of Police. The registrant shall give his complete identification, his signature, the name of his employer, the nature of the products or services in which he is interested, the names of the manufacturers of such products, or of the organization which he is representing, and the proposed method of operation in the Town.

SECTION 8.21.2 NON-COMMERCIAL SOLICITORS

No person shall seek information or donations without first having registered in the office of the Chief of Police. The registration required hereunder shall include the solicitor’s or canvasser’s name, address and the name and address of the organization he or she represents.

SECTION 8.21.3 CERTIFICATE

Each applicant who shows evidence of good character and, if required, pays the fee provided for herein shall be furnished a certificate indicating that he or she has registered and showing the dates covered by such registration.

Such registration certificate shall expressly require and be issued only upon the condition that each person who intends to solicit or canvas in the town after the hour of five o'clock in the afternoon shall on every such day inform the office of the Chief of Police of the streets or neighborhoods in which the intended solicitation is to occur.

Each person shall at all times while soliciting or canvassing in the town carry upon his person the registration certificate and the same shall be exhibited by such registrant, whenever he is required to do so by any police officer or by any person solicited.

SECTION 8.21.4 EXCEPTIONS

The provisions of this article shall not apply to officers or employees of the town, country, state or federal government, or any subdivision thereof, when on official business, or to a person soliciting solely for religious, charitable or political purposes.

SECTION 8.21.5 REVOCATION

Any such registration may be revoked by the Select Board or the Chief of Police because of any violation by the registrant of this by-law or of any other by-law of the town, or of any state or federal law, or whenever the registrant shall cease to possess the qualifications and character required in this by-law for the original registration.

TOWN OF BROOKLINE

Article 8.22

Taxicab Licensing

ARTICLE 8.22
TAXICAB LICENSING

SECTION 8.22.1 HACKNEY LICENSES

In the Town of Brookline, no person, firm or corporation driving or having charge of a taxicab or other private vehicle shall offer the vehicle for hire for the purpose of transporting, soliciting and/or picking up a passenger or passengers unless said person is licensed as a hackney driver by the Chief of Police and unless said vehicle is licensed as a hackney carriage by the Transportation Board. However, nothing herein contained shall be construed as prohibiting a driver of a taxicab or other private vehicle licensed outside the Town of Brookline from driving through said Town, or from accepting or other merchandise if summoned by or at the request of said passenger or client by telephone, or by radio dispatch from the owner or operator's principal place of business outside the town of Brookline.

SECTION 8.22.2 VIOLATIONS

Any police officer witnessing a violation of Section 8.21.1 of this By-Law may arrest the driver of the vehicle and seize evidence of said violation. Such evidence shall include but is not limited to, meters, whether mechanical or electrical, for the computation of fares based on mileage or predetermined periods of time. Any officer who seizes such items as evidence of a violation of Section 8.22.1 of this By-Law shall take them to a place of safety until they are produced or used as evidence in any trial or other court proceedings. All such property seized shall be disposed of as the court orders, and may be forfeited, sold or destroyed in the discretion of the court.

TOWN OF BROOKLINE

Article 8.23

Tobacco Control

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 and e-cigarette products within the Town of Brookline.

SECTION 8.23.2 - DEFINITIONS

a. Tobacco - Any product containing, made, or derived from tobacco that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco or snuff. “Tobacco” does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

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.

c. 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.

d. 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 products without assistance from an employee or store personnel.

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

g. Employee - An individual who performs services for an employer.

h. Employer - An individual, partnership, association, corporation, trust or other organized group of individuals that utilizes the services of one (1) or more employees.

i. Workplace - 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.

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

k. 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.

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

m. 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.

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

o. Blunt Wrap - Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

p. Characterizing flavor - A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco or e-cigarette products or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product or the provision of ingredient information.

q. Component part - Any element of a tobacco or e-cigarette products, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

r. Constituent - Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco or e-cigarette products during the processing, manufacturing or packaging of the tobacco or e-cigarette products. Such term shall include a smoke constituent.

s. Distinguishable - Perceivable by either the sense of smell or taste.

t. Smoke Constituent: Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco or e-cigarette product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco or e-cigarette product.

u. Flavored tobacco or e-cigarette product - Any tobacco product or e-cigarette component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco or e-cigarette products, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco or e-cigarette products, that such tobacco or e-cigarette products has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco or e-cigarette products is a flavored tobacco or e-cigarette products.

v. Retail tobacco store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, tobacco and/or e-cigarette products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Brookline Board of Health.

w. Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

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 100% of individual dwelling units or rooms as non-smoking.

(4) The use of tobacco or e-cigarette products by minors or school personnel 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 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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. 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 PRODUCTS

a. Permit – No Entity otherwise permitted to sell tobacco 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. Effective September 1, 2017 or upon the approval of the Attorney General if later, the Director of Public Health shall not issue any new tobacco sales permits to first-time permit applicants with ~~new~~ businesses not currently licensed. Holders of tobacco sales permits on the effective date of this section may continue to use such permits. All such holders must apply for renewal of their permits according to the procedures of the Department. Those who fail to apply for renewal in a timely manner will receive written notification from the Department and then those permits may be revoked or fines imposed after such procedure as set forth in the procedures of the Department. Any such action may be appealed to the Board of Selectmen within thirty (30) days. However, applicants who acquire a business that is the holder of a tobacco sales permit on the effective date of this section may apply, within sixty (60) days of such acquisition, for a tobacco sales permit such as that held by the previous owner of the business, only if the buyer intends to sell tobacco products and will be operating a substantially similar business, and subject to rules and requirements of the Health Department.

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. Self-Service Displays – All self-service displays as defined by 8.23.2 (e) 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.

h. Required Signage

1. The owner or other person in charge of an entity authorized to sell tobacco or e-cigarette products at retail shall conspicuously post signage provided by the Town of Brookline that discloses current referral information about smoking cessation.

2. The owner or other person in charge of an entity authorized to sell tobacco or e-cigarette products at retail shall conspicuously post a sign stating that “The sale of tobacco or e-cigarette products to someone under the minimum legal sales age of 21 years of age is prohibited.” The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment in such a manner so that they may be readily seen by a person standing at or approaching the

cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than eight (8) feet from the floor.

i. Tobacco Sales

1. No Tobacco Product Sales Permit holder shall allow any employee to sell tobacco or e-cigarette products until such employee has received a copy of this By-law and federal and state laws regarding the sale of tobacco and e-cigarette and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state and federal laws.

2. Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older.

3. All retail sales of tobacco or e-cigarette products within the Town of Brookline must be face-to-face between the seller and the buyer and occur at the permitted location.

4. Original Cigar Package Price - All single cigars shall be sold for no less than two dollars and fifty cents ($2.50). No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at $5.00 or more. This section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Brookline.

5. No entity shall sell or distribute or cause to be sold or distributed any flavored tobacco or e-cigarette products, except in retail tobacco stores.

6. No entity shall sell or distribute or cause to be sold or distributed blunt wraps.

SECTION 8.23.6 - VIOLATIONS AND PENALTIES

a. Any person who 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 $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 $100 for a first offense, $200 for a second offense, and $300 for a third or subsequent offense.

c. Employees who violate any provision of Section 8.23.3(b) shall be punished by a fine of $100 per day for each day of such violation.

d. Any entity violating any other section of this by-law shall receive a fine of $300.00 for each offense.

e. Violations of this by-law may be dealt with in a noncriminal 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.

TOWN OF BROOKLINE

Article 8.24

Water Supply Emergencies

ARTICLE 8.24
WATER SUPPLY EMERGENCIES

SECTION 8.24.1 AUTHORITY

This By- Law is adopted by the Town of Brookline, under its home rule powers, its police powers to protect public health and welfare and its specific authorization under Massachusetts General Laws, Chapter 40, Section 21 and 21D.

SECTION 8.24.2 PURPOSE

The purpose of this By-Law is to protect, preserve and maintain the public health, safety and welfare whenever there is, in force, a state of water supply emergency, by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department and included in the Town's Contingency Plan, approved by the Department to abate the emergency.

SECTION 8.24.3 DEFINITION

As used in this By-Law, the following words and phrases shall include the following meanings:

(a) The phrase "state of water supply emergency" shall mean a state of water supply emergency declared by the Department of Environmental Quality Engineering pursuant to Massachusetts General Law Chapter 21G, Section 15, Chapter 111, Section 160, or by the Governor.

(b) The term "enforcement authority" shall mean the Brookline Select Board, or any authorized agent thereof.

(c) The term "Town" shall mean the Town of Brookline.

(d) The word "Department" shall mean the Department of Environmental Quality Engineering.

SECTION 8.24.4 DROUGHT CONTINGENCY AND WATER CONSERVATION PLAN

The Select Board is hereby authorized to adopt and from time to time amend a Drought Contingency and Water Conservation Plan for the Town and establish effective

dates for the imposition of the Plan. The Board shall include in it's Annual Report to the Town a report respecting the operation of the Plan.

SECTION 8.24.5 APPLICABILITY

The following shall apply to all water users supplied by the Town.

(A) Following notification by the Town, of the existence of a state of water supply emergency, no person shall violate any provision, condition, requirement or restriction included in the Drought Contingency Plan for the Town which has as its purpose the abatement of a water supply emergency.

(B) Notification of any provision, restriction, requirement or condition with which users of water supplied by the Town are required to comply to abate a water supply emergency shall be sufficient for purposes of this By-Law, if it is published in a newspaper of general circulation with the Town, or by such other notice as is reasonably calculated to reach and inform all users of the Town water supply.

SECTION 8.24.6 PENALTIES

Any person or entity who violates any provision, condition, requirement or restriction of Section 4, of this By-Law shall be liable to the Town in the amount of $50.00 for the first violation and $100.00 for each subsequent violation. Each separate instance of non-compliance following the issuance of any citation, pursuant to this section, shall constitute a separate violation.

TOWN OF BROOKLINE

Article 8.25

Water System Backflow and Cross Connectors

ARTICLE 8.25
WATER SYSTEM BACKFLOW AND CROSS CONNECTIONS

SECTION 8.25.1 AUTHORITY

Under Public Law 93-523, the Safe Drinking Water Act of 1974, and Massachusetts Reg. 310 CMR, Section 22.22 of the Drinking Water Supply Regulations, the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.

SECTION 8.25.2 PURPOSE

The purpose of this By-Law is:

(a) To protect the public potable water supply served by the Brookline Water Division from the possibility of contamination or pollution by isolating within its customer's internal distribution system(s) such contaminants or pollutants which could backflow or backsiphon into the public water supply system.

(b) To promote the elimination or control of existing cross connections, actual or potential, between its customer's inplant potable water system(s) and non-potable systems.

(c) To provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems by cross connection.

SECTION 8.25.3 RESPONSIBILITY

The Water Division shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants. If, as a result of a survey of the premises, the Division determines that an approval back-flow prevention device is required, at the Town's water service connection to any customer's premises, for the safety of the water system, the Division or its designated agent shall give notice in writing to said customer to install such an approved back-flow

prevention device at each service connection to his premises. The customer shall, within 60 days, install such approved device or devices at his own expense, and failure, refusal or inability on the part of the customer to install said device or devices, within 60 days, shall constitute a ground for disconnecting water service to the premises until such device or devices have been properly installed.

SECTION 8.25.4 DEFINITIONS

(a) Approved - Accepted by the Water Division as meeting an applicable specification stated or cited in this regulation, or as suitable for this proposed use.

(b) Backflow - The flow of water or other liquids, mixtures or substances under pressure into the distributing pipes of a potable water supply system from any source or sources other than intended source.

(c) Back-Siphonage - The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

(d) Back-Flow Preventer - A device or means designed to prevent back-flow or siphonage.

1. Air-Gap - The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood rim of said vessel.

2. Reduced Pressure Principle Device - An assembly of two independently operating check valves with an automatically operating differential relief valve between the two check valves, two shut-off valves plus properly located test cocks.

3. Double Check Valve Assembly - An assembly of two independently operating approved check valves with shut-off valves on each side of the check valves, plus properly located test cocks.

4. Pressure Vacuum Breakers - A device designed to prevent back-siphonage only and is used under static line pressure, plus properly located test cocks.

(e) Contaminant - A physical, chemical, biological or radiological substance or matter in water.

(f) Cross Connection - Any actual or potential connection between a distribution pipe of potable water from a public water system and any pipe of non-potable water.

(g) Department - The Massachusetts Department of Environmental Quality Engineering.

(h) Division - The Town of Brookline, Department of Public Works, Water Division as the operator of the Brookline Water System.

(i) Hazard, Degree of - The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

1. Hazard - Health (High Hazard) - Any conditions, device, or practice in the water supply system and its operation which could create, or, in the judgment of the Division, may create a danger to the health and well being of the water consumer.

2. Hazard - Plumbing (High Hazard) - A plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or back flow prevention device. Unprotected plumbing type cross connections are considered to be a health hazard.

3. Hazard - System (Low Hazard) - All actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but, which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but, would not be dangerous to health.

(j) Owner - Any person maintaining a cross connection installation or owning premises on which cross connections can or do exist.

(k) Water - Potable - Water from a source which has been approved by the Mass. Water Supply and Pollution Control Commission for Human Consumption.

(L) Water - Non-Potable - Water which is not safe for human consumption or which is of questionable potability.

SECTION 8.25.5 REQUIREMENTS

(a) WATER DIVISION

1. On new installations, the Division will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, and notify the owner of plan approval requirements by the appropriate reviewing authority.

2. For premises existing prior to the start of this program, the Division will perform surveys of the premises and reviews of as-built plans and issue a cross connection violation form to the owner detailing any corrective action required, the method of achieving the correction, and the time allowed for the correction to be made. The time period allowed shall depend upon the degree of hazard involved.

3. The Division will not allow any cross connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.

4. If the Division determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

(b) OWNER

1. The Owner shall be responsible for the elimination or protection of all cross connections on his premises.

2. The Owner shall be responsible for applying for and obtaining all necessary approvals and permits for the maintenance of cross connections and installation of backflow prevention devices, and applying annually for the renewal of each permit.

3. The Owner shall have any device that fails an inspection or test repaired by a licensed plumber.

4. The Owner shall inform the Division of any proposed or modified cross connection and also any existing cross connections of which the owner is aware but has not been found by the Division.

5. The Owner shall not install by-pass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.

6. The Owner shall install backflow preventers in a manner approved by the Department and by the Division.

7. The Owner shall install only reduced pressure backflow preventers and double check valve assemblies approved by the Department.

8. The Owner shall be responsible for the payment of all fees for permits, device testings, retestings in the case that the device fails to operate correctly, and second re-inspections for non-compliance with Division or Department requirements.

(c) TESTING

1. Reduced pressure backflow preventers and double check valve assemblies shall be tested and inspected at least semi-annually by the Division's certified tester, at the expense of the Owner.

2. Reduced pressure backflow preventers and double check valve assemblies must be tested annually by the Owner, independent of the semi-annual test by the water supplier, and said test must be conducted by a certified tester.

3. Any backflow preventer which fails during a periodic test must be repaired or replaced by a licensed plumber. When repairs are necessary, upon completion of the repair, the device will be retested at the Owner's expense to insure proper operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than fourteen days after the test date will be established. The Owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of the Owner insuring that uninterrupted water service remains during testings or repair of devices and is strongly recommended when the owner desires such continuity.

SECTION 8.25.6 ENFORCEMENT

(a) The Division shall not allow a cross connection to exist with the public water system unless it is considered necessary and all appropriate approvals and permits have been issued.

(b) Failure of the Owner to comply with any applicable section of this By-Law will constitute a violation of 310 CMR 22.22 and will be subject to termination of water service by the Town.

TOWN OF BROOKLINE

Article 8.26

Stormwater Management

ARTICLE 8.26
STORMWATER MANAGEMENT

SECTION 8.26.1 DISCHARGES TO THE MUNICIPAL DRAIN SYSTEM

1. Purpose

The purpose of Section 8.26.1 is to eliminate non-stormwater discharges to the Town of Brookline's Municipal Storm Drain System (storm drain). Non-stormwater discharges contain contaminants and supply additional flows to the Town of Brookline's Storm Drain System. Non-stormwater discharges are major causes of:

a. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
b. contamination of drinking water supplies;
c. alteration or destruction of aquatic and wildlife habitat; and
d. flooding.

Regulation of illicit connections and discharges to the storm drain system is necessary for the protection of the Town of Brookline's, natural resources, municipal facilities, general health, safety, welfare, and the environment.

The objectives of this section are:

a. to prevent pollutants from entering the storm drain;
b. to prohibit illicit connections and unauthorized discharges to the storm drain
c. to remove all such illicit connections;
d. to comply with state and federal statues and regulations relating to stormwater discharges; and
e. to establish the legal authority to ensure compliance with the provisions of this section through inspection, monitoring, and enforcement.

2. Definitions

Unless a different definition is indicated in sections 8.26.2 and 8.26.3, the following definitions and provisions shall apply throughout Article 8.26, also referred to in Article 8.26, as this by-law.

a. AUTHORIZED ENFORCEMENT AGENCY – The Department of Public Works (hereafter DPW), its employees or agents designated to enforce this by-law.

b. BEST MANAGEMENT PRACTICE (BMP) – An activity, procedure, restraint, or structural improvement that helps reduces the quantity or improve quality or stormwater runoff.

c. CLEAN WATER ACT – The Federal Water Pollution Control Act (33 U.S.C. section1251 *et seq.*) and as it amended from time to time.

d. DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the storm drain or into waters of the United States or Commonwealth from any source.

e. GROUNDWATER: Water beneath the surface of the ground. Except where the water under the ground is the result of a perched water table.

f. ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the storm drain, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

g. ILLICT DISCHARGE: Direct or indirect discharge to the storm drain that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire fighting activities

exempted pursuant to Section 7, subsection d, part 1, of Section 8.26.1

h. IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

i. MUNICIPAL STORM DRAIN SYSTEM (storm drain) or Municipal Separate Storm Sewer System (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Brookline.

j. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by the United States Environmental Protection Agency or jointly with the State of Massachusetts that authorizes the discharge of pollutants to waters of the United States or Commonwealth.

k. NON-STORMWATER DISCHARGE: Discharge to the storm drain not comprised entirely of stormwater.

l. PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

m. POLLUTANT: Any element or property of sewage, residential, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any storm drain system, waters of the United States, and/or Commonwealth. Pollutants shall include without limitation:

1) paints, varnishes, solvents;
2) oil, grease, antifreeze, other automotive fluids and/or products;
3) non-hazardous liquid and solid wastes;
4) refuse, garbage, litter, rubbish, yard wastes, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5) pesticides, herbicides, and fertilizers;
6) hazardous materials and wastes;
7) sewage;
8) dissolved and particulate metals;
9) metal objects or materials;
10) animal wastes;
11) rock, sand, salt, soils, or other products/materials that mobilize in surface water runoff;
12) and construction wastes and/or residues.

n. PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

o. RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

p. STORMWATER: Runoff from precipitation or snowmelt.

q. TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare or to the environment. Toxic or hazardous material including without limitation:

1. any synthetic organic chemical;
2. petroleum products;

3. heavy metals;
4. radioactive or infectious waste;
5. acid and alkali substances;
6. any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000;
7. and any substance listed as hazardous under 40 CFR 261.

r. WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

s. WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

t. WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

3. Applicability

This section shall apply to flows entering the municipally owned and/or operated storm drainage system.

4. Authority

Article 8.26 is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.

5. Responsibility for Administration

The DPW shall administer, implement and enforce Article 8.26. Any powers granted to or duties imposed upon the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

6. Regulations

The DPW may promulgate rules and regulations to effectuate the purpose of Article 8.26. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

7. Prohibited Activities

ILLICIT DISCHARGES - No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the storm drain system, into a watercourse, or into waters of the United States and/or Commonwealth.

ILLICIT CONNECTIONS – No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

OBSTRUCTION OF THE MUNICIPAL STORM DRAIN SYSTEM – No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the DPW.

EXEMPTIONS

Discharge of flow resulting from fire fighting activities and DPW ice and snow control operations.

The following non-stormwater discharges or flows are considered exempt provided that the source is not a significant contributor of pollution to the municipal storm drain system:

i. waterline flushing;
ii. flow from potable water sources;
iii. springs;
iv. natural flow from riparian habitats and wetlands;
v. diverted stream flow;
vi. rising groundwater;

vii. uncontaminated groundwater infiltrating as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

viii. water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

ix. discharge from landscape irrigation or lawn watering;

x. water from individual residential car washing;

xi. discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;

xii. discharge from street sweeping;

xiii. dye testing, provided verbal notification is given to the DPW prior to the time of the test;

xiv. non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;

xv. and discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare, and the environment.

8. Emergency Suspension of Storm Drainage System Access

The DPW may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency

may take all reasonable steps to prevent or minimize harm to the public, health, safety, welfare or the environment.

9. Notification of Spills

Any spills or releases that require notification under local, state or federal law will be the responsibility of the person responsible for a facility or operation, or for an emergency response for a facility or operation (i.e., construction). In the event of a spill or release which may result in a discharge of pollutants or non-stormwater discharge to the municipal storm drain system, waters of the United States, and/or waters of the Commonwealth, the responsible parties, potentially responsible parties, or any person or persons managing a site or facility shall take all necessary steps to ensure containment, and remediate any municipal storm drains that have been impacted. However, if in the opinion of DPW, there is an excessive amount of pollutants in the stormdrain system, the DPW can require remediation by the responsible party regardless of other state or federal regulations. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall take all necessary steps to ensure containment, clean-up of the release, retain on-site a written record of the discharge, and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

10. Enforcement

The DPW or an authorized agent of the DPW shall enforce Article 8.26, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

a) Civil Relief – If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the DPW may seek injunctive relief in a court of competent

jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

b) Orders – The DPW or an authorized agent or the DPW may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:

a) elimination of illicit connections or discharges to the MS4;

b) performance of monitoring, analyses, and reporting;

c) that unlawful discharges, practices, or operations shall cease and desist;

d) and remediation of contamination in connection.

If the enforcing person determines that abatement or remediation of contaminations is required and is the responsibility of the property *owner*, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Brookline may, at its option, undertake such work, and expenses times three thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Brookline, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with The DPW within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within

thirty (30) days following a decision of the DPW affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owners property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, section 57 after the thirty-first day at which the costs first become due.

c) PENALTY – Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine as set forth in Part X "Penalties and Enforcement" of the By-laws of the Town of Brookline.

d) ENTRY TO PERFORM DUTIES UNDER THIS BY-LAW – To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under Article 8.26 and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary

e) APPEALS – The decision or orders of the DPW shall be final. Further relief shall be to a court of competent jurisdiction.

f) REMEDIES NOT EXCLUSIVE – The remedies listed in Article 8.26 are not exclusive of any other remedies available under any applicable federal, state or local law.

11. Severability

The provisions Article 8.26 are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of Article 8.26 or the application thereof to any person, establishment, or circumstances shall be held invalid, such

invalidity shall not affect the other provisions or application of Article 8.26.

SECTION 8.26.2 EROSION AND SEDIMENT CONTROL

1. Purpose

The purpose of this section is to eliminate or reduce the adverse effects of soil erosion and sedimentation on the environment, public welfare/health, and municipal facilities. These adverse effects may be the result of managed construction and other activities including but not limited to earth alteration, excavation, removal of vegetation and general construction activities.

2. Definitions

AGRICULTURE – The normal maintenance or improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations

CLEARING—Any activity that removes the vegetative surface cover

DRAINAGE WAY—Any channel that conveys surface runoff throughout the site

DBH- Diameter at Breast Height- The measuring point for the diameter of a tree, which shall be 4.5’ above ground level.

EROSION CONTROL—A measure that prevents erosion

EROSION AND SEDIMENT CONTROL PLAN—A set of plans prepared by or under the direction of a licensed professional engineer, certified professional in erosion and sediment control, or other appropriately licensed and experienced professional,

indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction

GRADING—Excavation or fill of material, including the resulting conditions thereof

OWNER – a person with a legal or equitable interest in property

PERIMETER CONTROL—A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to an on-site sediment trap or basin

PHASING—Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next

PROTECTED TREE-Any tree 8 inches or greater in diameter, as measured at DBH.

SEDIMENT CONTROL—Measures that prevent eroded sediment from leaving the site or entering off-site drainage structures

SITE—A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation

STABILIZATION—The use of practices that prevent exposed soil from eroding

START OF CONSTRUCTION—The first land-disturbing activity associated with a development, including but not limited to land preparation such as clearing, tree removal, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages

TREE REMOVAL-The removal of any tree 8″ DBH or greater down to ground level including the entire stem

and crown. If more than 80% of the stem and crown are removed it shall be deemed a removal for the purposes of this bylaw.

VEGETATION-All living woody and herbaceous plants growing in a particular place taken as a whole.

WATERCOURSE—Any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water

WATERWAY—A channel that directs surface runoff to a watercourse or to the public storm drain

3. Jurisdiction

No person shall excavate, cut, grade or perform any land-disturbing activities of significance, including tree removal, clearing, grubbing, and stripping, without an approved Erosion and Sediment Control Plan. Activities of significance are those which meet or exceed the following thresholds:

a. Any change of existing grade of more than 2500 sq. ft. or 25% of the lot whichever is smaller.
b. Removal of existing vegetation of more than 2500 sq. ft. or 25% of the lot whichever is smaller
c. Storage of more than 100 cubic yards of excavate or fill.
d. Removal of protected tree(s)32″ DBH or greater, either in the aggregate or a single tree.

Activities which are exempt from the requirement of an approved Erosion and Sediment Control Plan are as follows:

a. Emergency activities for the protection of life, property, or natural resources
b. Existing permitted nursery and agricultural operations

c. Pruning undertaken on trees in accordance with the ANSI 300 Pruning Standard, as amended

4. Erosion and Sediment Control Plan

a. Activities which require the change of existing grade or removal of existing vegetation on any parcel of less than 20,000 sq. ft. or storage of excavate or fill between 100 and 1300 cubic yards shall be deemed a project of minor significance and will require that the following information to be included on the Erosion and Sediment Control Plan:

1) Name, address and telephone number of owner, civil engineer and person responsible for implementation of the plan
2) Property lines.
3) Location of all existing and proposed building and impervious surfaces.
4) Location of all existing and proposed stormwater utilities, including structures, pipes, swales and detention basins.
5) All trees 8″ DBH or greater in diameter shall be identified on the plan showing the location of the trunk, a notation of the DBH and species, and the approximate edge of the canopy drawn to scale. All protected trees that are proposed to be removed and all protected trees that are proposed to be saved should be identified on the plan.
6) Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sediment transport, including provisions to preserve topsoil and limit disturbance.
7) Design details for both temporary and permanent erosion control structures.
8) The Department of Public Works may require any additional information or data deemed appropriate and/or may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of Chapter 52, the Manual of

Standards, or the preservation of public health and safety.

b. Activities which require, 1.) the change of existing grade or removal of existing vegetation on more than 20,000 sq. ft. or 2.) storage of excavate or fill in excess of 1300 c.y. shall be deemed a project of significant impact and will require that the Erosion and Sediment Control Plan include all of the information required of projects of minor significance plus the following additional information:

1) An attached vicinity map showing the location of the site in relationship to the surrounding area's watercourses, water bodies and other significant geographic features, and roads and other significant structures.

2) Suitable contours for the existing and proposed topography.

3) All trees 8″ DBH or greater in diameter shall be identified on the plan with the location of the trunk, a notation of the DBH and species, and the approximate edge of the canopy drawn to scale. All protected trees that are proposed to be removed and all protected trees that are proposed to be saved should be identified on the plan.

4) A clear and definite delineation of any wetlands, natural or artificial water storage detention areas, and drainage ditches on the site.

5) A sequence of construction of the development site, including stripping and clearing; protective measures for the trees to remain, rough grading; construction of utilities; infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas

of clearing, and establishment of permanent vegetation.

5. Performance Standards

A construction project shall be considered in conformance with this section if soils or other eroded matter has been prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse. The design, testing, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards and specifications contained in the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas dated March 1997 or the latest edition thereof.

6. Review and Approval

An Erosion and Sediment Control review is triggered by a building permit application or other activity that falls within the jurisdiction described in paragraphs 3 and 4 above. Applicants are referred by the permit issuing agency to the Engineering Division of the Department of Public Works to conduct the Erosion and Sediment Control review. Activities that fall within the jurisdiction described in paragraphs 3 and 4 above that do not require a permit from any Town department are not exempt from this provision. In this situation, the applicant must seek Erosion and Sediment Control review directly from the Department of Public Works.

The Department of Public Works will review each Erosion and Sediment Control Plan to determine its conformance with the provisions of this section. Within 30 calendar days after receiving an application, the Department of Public Works shall, in writing:

a. Approve the plan as submitted.
b. Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the

objectives of this regulation, and issue the permit subject to these conditions; or

c. Disapprove the plan, indicating the reason(s) and procedure for submitting a revised application and/or submission.

Failure of the Department of Public Works to act on an original or revised plan within 30 calendar days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the Department of Public Works. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Department of Public Works.

7. Inspections

The Commissioner of Public Works, or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the owner or person responsible for the implementation of the plan wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, tree removal as well as protective measures for the trees to remain, and filling work bearing the stamp of approval of the Department of Public Works shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Department of Public Works at least two working days before the following:

a. Installation of sediment and erosion control measures[1]
b. Start of construction, removal of protected trees, or site clearing
c. Completion of site clearing
d. Completion of rough grading

[1] Only Notification required on minor projects.

e. Close of the construction season
f. Completion of final landscaping

The person responsible for implementation of the plan shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Department of Public Works at the time interval specified in the approved permit.

The Commissioner of Public Works or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed as noted above.

8. Enforcement

Suspension of Construction or Site Alteration Activity—In the event that the activity at a site violates the conditions as stated or shown on the approved Erosion and Sediment Control Plan in such a manner as to adversely affect the environment, public welfare/health and municipal facilities, then the Commissioner of Public Works may suspend work until the violation is corrected. Corrective actions may include, but will not be limited to, regrading, installation of additional erosion controls, replacement of vegetation, or other remedial actions as determined by the Commissioner of Public Works.

SECTION 8.26.3 POST CONSTRUCTION STORMWATER MANAGEMENT

1. Purpose

The purpose of this section is to establish minimum requirements and controls to protect and safeguard the

environment, natural resources, general health, safety, and welfare of the public residing in watersheds within the Town's jurisdiction from the adverse impacts of stormwater runoff. Stormwater management controls are typically permanent features of a complete project, and as such require maintenance and management. This section seeks to meet that purpose through the following objectives:

a. to minimize stormwater runoff from any development;

b. to minimize nonpoint source pollution caused by stormwater runoff from development;

c. to provide for groundwater recharge where appropriate; and

d. to ensure controls are in place to respond to objectives a and b and are properly operated and maintained.

2. Definitions

ACCELERATED EROSION—Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

APPLICANT—For the purpose of this Section, APPLICANT shall refer to a property owner or agent of a property owner who has filed a stormwater management plan.

BUILDING—For the purpose of this Section, BUILDING shall refer to any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property and occupying more than 100 square feet of area.

CHANNEL—A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

DEDICATION—The deliberate appropriation of property by its owner for general public use.

DETENTION—The temporary storage of storm runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DETENTION FACILITY—A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

DEVELOPER—A person who undertakes land disturbance activities.

DRAINAGE EASEMENT—A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

EROSION AND SEDIMENT CONTROL PLAN—A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

FEE IN LIEU—A payment of money in place of meeting all or part of the storm water performance standards required by this section.

HOTSPOT—An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

HYDROLOGIC SOIL GROUP (HSG)—A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

IMPERVIOUS COVER—Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT—A National Pollutant Discharge Elimination System (NPDES) issued to a commercial industry or group of industries which regulates the pollutant levels associated with

industrial stormwater discharges or specifies on-site pollution control strategies.
INFILTRATION—The process of percolating stormwater into the subsoil.

INFILTRATION FACILITY—Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

JURISDICTIONAL WETLAND—An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation.

LAND DISTURBANCE ACTIVITY—Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural man-made watercourse.

LANDOWNER—The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding propriety rights in the land.

OPERATION AND MAINTENANCE PLAN – A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

NONPOINT SOURCE POLLUTION—Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

ON-SITE FACILITY—A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

PERSON—For the purpose of this Section, PERSON shall refer to any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of Massachusetts or other political subdivision thereof to the extent subject to Town by-laws, administrative agency, public or quasi-public corporation or body, the Town of Brookline and any other legal entity, its legal representatives, agents or assigns.

RESOURCE AREA—Any area protected under the Massachusetts Wetlands Protection Act or Massachusetts Rivers Act.

RECHARGE—The replenishment of underground water reserves.

REDEVELOPMENT—Any construction, alteration, or improvement exceeding one acre in area where existing land use is high density commercial, industrial, institutional or multi-family residential.

STOP WORK ORDER—An order issued which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT—The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

STORMWATER RETROFIT—A stormwater management practice designed for the existing development site that previously had either no stormwater management practice in a place or a practice inadequate to meet the stormwater management requirements of the site.

STORMWATER RUNOFF—Flow on the surface of the ground, resulting from precipitation.

STORMWATER TREATMENT PRACTICES (STPs)—Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

WATER QUALITY VOLUME (WQ)—The storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically (WQ) will vary as a function of long term rainfall statistical data.

WATERCOURSE—A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

3. Jurisdiction

No person shall conduct land disturbance activities which would exceed the following thresholds without an approved Stormwater Management Plan:

a. Any land disturbance activity greater than 2500 sq. ft. which would result in an increased amount of stormwater runoff from the property to public/private property or resource areas.

b. Any activity which would increase the flow to the municipal storm or sanitary sewer systems.

c. Any activity which would alter or modify an existing drainage system.

Activities which are exempt from the requirements of an approved Stormwater Management Plan are:

a. Emergency repairs to any stormwater structure.

b. Maintenance of existing gardens or lawns.

c. Construction of utilities, other than drainage, which would not alter the terrain, ground cover or drainage patterns.

4. Stormwater Management Plan

A Stormwater Management Plan, which meets the design requirements of this By-Law, shall be prepared by a licensed professional engineer and submitted to the Department of Public Works. The plan shall include, but not be limited to, the items listed below and, at a minimum, be designed to provide sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information, in addition to the Name, address and telephone number of the owner, civil engineer and person responsible for implementation of the plan, submitted for support of a stormwater management plan shall be as follows:

a. Locus map.

b. Drainage area map showing drainage area and stormwater flow paths.

c. Location of existing and proposed utilities.

d. Location of all existing and proposed stormwater utilities, including structures, pipes, swales and detention basins.

e. Topographic survey showing existing and proposed contours.

f. Soils investigation, including borings or test pits, for areas where construction of infiltration practices will occur.

g. Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.

h. Delineation of 100-year floodplains, if applicable.

i. Groundwater levels at the time of probable high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration.

j. Existing and proposed locations, cross sections, and profiles of all brooks, streams, drainage swells and the method of stabilization.

k. Location of existing and proposed easements.

l. Proposed improvements including location of buildings or other structures, impervious surfaces and storm drainage facilities, if applicable.

m. Structural details for all components of the proposed drainage systems and stormwater management facilities.

n. Timing schedules and sequences of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.

o. Operation and maintenance schedule.

p. Notes on drawings specifying materials to be used, construction specifications, and typicals.

q. Location of areas to be cleared of more than 50 percent of the vegetation.

The applicant should review the scope of work of the proposed project with a representative of the Department of Public Works to determine the requirements of the Stormwater Management Plan.

The DPW may waive any section or all of the stormwater management plan if it determines that the activity involved has a deminimus impact on the Town's stormwater management system.

5. Design Requirements and Performance Standards

a. Performance Standards—Control of stormwater runoff shall meet the performance standards for both flood control (volume and peak discharge)

and nonpoint source pollution reduction as defined in the Massachusetts Stormwater Management Policy dated March 1997 as amended. All assumptions, methodologies and procedures used to design BMP's and stormwater management practices shall accompany the design. All activities, project design, BMP's, and stormwater management practices should aim to minimize stormwater runoff, maximize infiltration and recharge where appropriate, and minimize pollutants in stormwater runoff.

b. Major and Minor Projects—Activities will be classified as major and minor projects. Major projects are defined as projects which have activities result in the land disturbance of one (1) acre or more. All other activities will be considered minor projects. Requirements for major and minor projects are as follows:

1) Major projects must either meet the requirements of the stormwater management standards or demonstrate that an equivalent level of environmental protection is provided in the event that one or more of the standards are not met.

2) Minor projects must meet the stormwater management standards, however, at the discretion of the DPW, certain aspects of the Stormwater Management Plan may be waived. In general, projects which fall into this category will not require the submission of an operation and maintenance plan.

6. Review and Approval

The Department of Public Works will review the Stormwater Management Plan to determine its conformance with the provisions of this section. For major projects, the Conservation Commission shall also review the Stormwater Management Plan. Within 30 days after receiving the plan, the Department of Public Works shall, in writing:

a. Approve the plan as submitted.

b. Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation and approve the plan subject to these conditions.

c. Disapprove the plan indicating the reason(s) and procedure for submitting a revised plan and/or submission.

Failure of the Department of Public Works to act on an original or revised application within calendar 30 days of receipt shall authorize the applicant to proceed in accordance with the plan as filed unless such time is extended by agreement between the applicant and the Department of Public Works. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Department of Public Works.

7. Inspections

The Commissioner of Public Works, or designated agent shall make inspections as hereinafter required. To obtain inspections, the applicant shall notify the Department of Public Works at least two working days before the following:

a. Start of construction

b. Installation of Stormwater controls

c. Close of construction season

d. Completion of final grading and landscaping

The applicant shall submit an “as-built” plan for the stormwater controls after the final construction is completed. The plan must show the final design specifications of all stormwater management controls and must be prepared by a professional engineer.

8. Enforcement

When the Department of Public Works determines that an activity is not being carried out in accordance with the requirements of this by-law, a written notice of

non compliance to the applicant shall be issued which, at a minimum, will contain the following:

a. The name and address of the applicant

b. The street address or description of the building, structure or land upon which the non compliance is occurring

c. A statement specifying the nature of the non compliance

d. A description of the remedial measures necessary to bring the activity into compliance with this by-law and a time schedule for the completion

Applicants receiving a notice of non compliance will be required to halt all construction activities. This “stop work order” will be in effect until the Department of Public Works confirms that the activity involved in the non compliance has been satisfactorily addressed. Occupancy permits, if applicable, will not be granted until the requirements of this by-law are complied with.

In the event that damages occur to the environment, natural resources, municipal facilities, and/or general health, safety and welfare of the public due to improper installation, operation or maintenance of stormwater controls, a fine may be imposed by the Town in accordance with the appropriate sections of Part X “Penalties and Enforcement” in the By-Laws of the Town of Brookline.

TOWN OF BROOKLINE

Article 8.27

Wetlands Protection

SECTION 8.27
WETLANDS PROTECTION BYLAW

8.27.1 Purpose

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Brookline by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, wildlife habitat, rare species habitat including rare plant species, and recreation values. This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth.

8.27.2 Definitions

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

a. ALTER – To change the condition of any resource area subject to protection under this bylaw. Examples of alteration include but are not limited to, the following:

   1) the changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention areas;
   2) the raising or lowering of the water level or water table;
   3) the destruction of vegetation;

4) the changing of water temperature, salinity, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water.

b. BANK – The land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

c. BUFFER ZONE – That area of land extending 150 feet horizontally outward from the boundary of a resource area, except that riverfront areas and vernal pools shall have no buffer zones.

d. ISOLATED VEGETATED WETLAND – An isolated wetland that is not hydraulically connected to another resource area and is at least 2,500 square feet in size.

e. ISOLATED LAND SUBJECT TO FLOODING – Land as so defined in the Wetlands Protection Act and 310 CMR 10.57(2)(b), as they may be amended.

f. PERSON – Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

g. POND – A water body as so defined in the Wetlands Protection Act and 310 CMR 10.04, except that a size threshold of 5,000 square feet shall apply.

h. RARE SPECIES – Without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

i. RESOURCE AREAS - Land under lakes, ponds, rivers or streams; any bank, marsh, wet meadow, bog or swamp bordering on any lake, pond, river or stream; land subject to flooding bordering on any lake, pond, river or stream; isolated land subject to flooding; isolated vegetated wetlands; riverfront areas; and vernal pools.

j. RESOURCE AREA VALUES – Without limitation, public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, wildlife habitat, rare species habitat including rare plant species, and recreation values.

k. RIVERFRONT AREA – Land as so defined in the Wetlands Protection Act and 310 CMR 10.58(2), as they may be amended.

l. STREAM – An open body of running water, including brooks and creeks, which moves in a definite channel, in the ground, due to a hydraulic gradient and flows within, into, or out of an Area Subject to Protection under this bylaw. Such bodies of running water that are intermittent are streams, except for those that serve only to carry the immediate surface runoff from stormwater or snowmelt. A portion of a stream may flow through a culvert or beneath a bridge. Where a stream or river runs thorough a culvert more than 200 feet in length, the buffer zone or riverfront area stops at a perpendicular line at the upstream end of the culvert and resumes at the downstream end.

m. VERNAL POOL – A confined basin depression that, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and that is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, and that is breeding habitat for amphibian species such as wood frog, spotted salamander, and fairy shrimp, regardless of whether the site has been certified by the Massachusetts Division

of Fisheries and Wildlife. A vernal pool does not have a buffer zone.

8.27.3 Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall alter a resource area or a buffer zone. Resource areas shall be protected whether or not they border surface waters. Facilities constructed for the purpose of and designated as reservoirs shall be exempt from the jurisdiction of this bylaw.

8.27.4 Exemptions and Exceptions

The application and permit required by this bylaw shall not be required for the following activities:

a. maintaining, repairing, or replacing, but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission;
b. work performed for normal maintenance or improvement of land which is lawfully in agricultural use;
c. for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an

emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

d. the application of herbicides as specifically set forth in 310 CMR 10.03(6) as may be amended.
e. facilities constructed for the purpose of and designated as reservoirs shall be exempt from the jurisdiction of this bylaw.
f. any bordering vegetated wetland, bank, land under water, land subject to flooding, or riverfront area created for the purpose of stormwater management shall not require the filing of a Notice of Intent or a Request for Determination of Applicability to maintain the stormwater management system, provided that the work is limited to the maintenance of the stormwater management system and that the area is not altered for other purposes.

Other than as stated in this section, the exceptions provided in the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

8.27.5 Applications for Permits, Requests for Determination and Consultant Fee

a. Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw. Projects shall not be segmented.

b. The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent or the Request for Determination of Applicability filed under the

Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

c. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission. Such requirements shall be consistent with those required under the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

d. The Commission may request an Applicant, submitting an application for a permit, the project cost of which is estimated at $2,000,000 or more to retain and pay the fees for a Consultant to prepare a report for the Commission’s review. The project cost means the estimated, entire cost of the project including but not limited to design, building construction, site preparation, landscaping, and all site improvements.

8.27.6 Notice and Hearings

a. Any person filing a permit application or a RFD with the Commission shall at the same time give written notice thereof, by certified mail with return receipt requested, or hand delivered with signatures, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

b. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the

person making the request.

c. The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.

d. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.

e. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

f. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. c.131, § 40) and Regulations (310 CMR 10.00).

g. The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in §VII.

8.27.7 Coordination with Other Boards and Commissions

Any person filing a permit application or RFD with the Commission shall provide written notification thereof at the same time to the town engineer, and building commissioner. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the Town Engineer, Zoning Administrator and Building Commissioner have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and

recommendations, and to respond to them at a hearing of the Commission, prior to final action.

8.27.8 Permits and Conditions

a. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

b. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship, financial or otherwise, on the applicant by reason of denial, as presented at the public hearing.

c. Riverfront areas and buffer zones are presumed important to the protection of resource area values because activities undertaken in them have a high likelihood of adverse impact upon the wetlands or other resources, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the

activities. Such adverse impact from construction and use can include, without limitation, flooding, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip up to 50 feet wide of continuous, undisturbed vegetative cover within a riverfront area or buffer zone.

d. In the review of riverfront areas and buffer zones of streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

e. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

f. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a

request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

g. For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to §VI and §VII, and a public hearing.

h. The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

i. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

8.27.9 Regulations

After public notice and public hearing, the Commission shall promulgate regulations to effectuate the purposes of this bylaw and shall be effective when voted and filed with the town clerk. Failure by the Commission to promulgate such regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

8.27.10 Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and

observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

a. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

b. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

8.27.11 Enforcement

a. No person shall alter a resource area or a buffer zone, or cause, suffer, or allow alteration, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

b. Only upon the filing of either an Request for Determination or a Permit under this bylaw the Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth. In the absence of the filing of a Request for Determination or a Permit the Commission, its agents, officers and employees shall consult with Town Counsel prior to entering upon privately owned land for the purpose of determining compliance with this by-law or for any other purpose in furtherance of the objectives of this by-law.

c. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

d. In the case of civil action, the Commission with the approval of the Select Board may request the town counsel to take legal action as necessary to enforce the terms of this by-law under civil law.

e. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

f. Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

g. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. c. 40, § 21D, which has been adopted by the Town in Article 10.3 of the general bylaws.

8.27.12 Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the permit application will not have unacceptable, significant, or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

8.27.13 Appeals

A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. c. 249, § 4. This in no way alters or amends an applicants rights to appeal as set forth in the Massachusetts Wetlands Protection Act M. G.L. c.131 § 40.

8.26.14 Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00) thereunder.

8.27.15 Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination that has been issued previously.

TOWN OF BROOKLINE

Article 8.28

Restriction on use of Artificial Trans Fat

ARTICLE 8.28
RESTRICTION ON USE OF ARTIFICIAL TRANS FAT

SECTION 8.28.1 ARTIFICIAL TRANS FAT RESTRICTED

No foods containing artificial trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item or served in any food service establishment or by any mobile food unit commissary, except food that is being served directly to patrons in a manufacturer's original sealed package.

SECTION 8.28.2 DEFINITION

For the purposes of this section, a food shall be deemed to contain artificial trans fat if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists the trans fat content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat.

SECTION 8.28.3 EFFECTIVE DATE

This section shall take effect on November 30, 2008, with respect to oils, shortenings and margarines containing artificial trans fat that are used for frying or in spreads; except that the effective date of this section with regard to oils or shortenings used for deep frying of yeast dough or cake batter, and with regard to all other foods containing artificial trans fat, shall be April 30, 2009.

In the event that compliance with the effective dates of this by-law is not feasible for a food service establishment or mobile food unit commissary, because of either unavailability of alternatives to trans fat or economic hardship, the Director of Health and Human Services may grant a waiver of not more than six months upon application of the owner or the owner's representative. The waiver may be extended upon the showing of continued infeasibility as set forth above.

TOWN OF BROOKLINE

Article 8.29

Nuisance Control

ARTICLE 8.29
NUISANCE CONTROL

Section 8.29.1 Purpose

In order to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on Property Owners and other responsible persons for the nuisances and harm caused by loud and unruly Gatherings on private property and shall prohibit the consumption of alcoholic beverages by underage persons at such Gatherings.

Section 8.29.2 Definitions

Eviction means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the Premises.

Gathering is a party or event, where two or more persons have assembled or are assembled for a social occasion or social activity.

Premises means any residence or other private property, place, or location, including any commercial or business property.

Property Owner means the legal owner of record of a Premises as listed by the tax assessor’s records.

Public Nuisance means a Gathering of persons on any Premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood. Behavior constituting a Public Nuisance includes, but is not limited to excessive noise and excessive pedestrian and vehicular traffic related thereto, obstruction of public ways by crowds or vehicles, illegal parking, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and littering.

Response Costs are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering which has resulted in a Public Nuisance as set forth in a schedule of costs established by the Select Board.

Section 8.29.3 Mailing of Notice to Property Owner and Others

In the event police or other local officials have responded to a Gathering constituting a Public Nuisance, a notice of response shall be made within ten (10) days of the Gathering as follows:

(a) Property Owners: The Chief of Police shall mail a notice of response by Certified Mail to the Property Owner of the Premises where the Gathering occurred as listed on the Town of Brookline property tax assessment records and shall advise the Property Owner that the second such response on the same Premises within a one year period, as measured from the date of the first notice, shall result in liability of the Property Owner for all penalties and Response Costs associated with such response as more particularly described in sections 8.29.4 and 8.29.4.1 below.

(b) Educational Institutions: The Chief of Police shall send a notice of response to the president/headmaster or his/her designee of an educational institution if the persons who are liable in Section 8.29.4 and 8.29.4.1 are students at such educational institution. Such notice shall be sent by mail or other appropriate means.

(c) Persons Cited: The Chief of Police shall send a notice of response to any person who was personally cited at the time of the offense. Such notice shall be sent by mail or other appropriate means to the address stated on the individuals' government issued identification.

Section 8.29.4 Liability for a First Response to a Gathering Constituting a Public Nuisance on a Premises

If the police department or other local officials have responded to a Gathering constituting a Public Nuisance on a Premises, the following persons shall be jointly and severally liable for fines as set forth below, provided that no previous Gathering constituting a Public Nuisance has occurred at the Premises within the previous one year period. Response Costs may also be assessed at the discretion of the Chief of Police. In lieu of issuing a fine(s) a police officer may issue a written warning if the response to the complaint occurs prior to 10:00 p.m.

(a) The person or persons residing on or otherwise in control of the premises where such Gathering took place whether present or not.

(b) The person or persons who organized or sponsored such Gathering.

(c) All persons attending such Gatherings who engage in any activity resulting in the Public Nuisance.

Section 8.29.4.1 Liability for a Second and Subsequent Response to a Gathering Constituting a Public Nuisance

If the police department is required to respond to a Gathering constituting a Public Nuisance on the Premises more than once in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response Costs may also be assessed.

(a) The person or persons residing on or otherwise in control of the Premises where such Gathering took place whether present or not.

(b) The person or persons who organized or sponsored such Gathering.

(c) All persons attending such Gatherings who engage in any activity resulting in the Public Nuisance.

(d) The person, persons or business entity which at the time of the Gathering owned the Premises where the Gathering constituting the Public Nuisance took place, provided that notice of the first and subsequent responses has been mailed to the Property Owner of the Premises as set forth herein and the Gathering occurs at least fourteen (14) days after the mailing of the first such notice. The Property Owner of the Premises shall not be held responsible for any violation and penalties if the Property Owner is actively pursuing Eviction from the Premises of a tenant who controlled, organized, sponsored or attended the Gathering. The one year time period for violations for a Premises shall pertain only to the same residents occupying the Premises who have had the prior violation(s). New

residents shall start a new time cycle of one year should they violate the bylaw.

Section 8.29.5 Consumption of Alcohol by Underage Persons is Prohibited in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any underage person to:

(a) Consume any alcoholic beverage at any public place or any place open to the public; or

(b) Consume any alcoholic beverage at any place not open to the public.

Section 8.29.6 Hosting, Permitting, or Allowing a Public Nuisance or Party, Gathering, or Event where Underage Persons Consume Alcoholic Beverages is Prohibited

(a) It is the duty of any person having control of any Premises who knowingly hosts, permits, or allows a Gathering at said Premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the Gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the Gathering; controlling the quantity of alcoholic beverages present at the Gathering; verifying the age of persons attending the Gathering by inspecting driver’s licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the Gathering; and supervising the activities of underage persons at the Gathering.

(b) A Gathering constituting a Public Nuisance may be abated by all reasonable means including, but not limited to, an order by the Police requiring the Gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.

(c) It is unlawful for any person having control of any Premises to knowingly host, permit, or allow a Gathering to take place at

said Premises where at least one underage person consumes an alcoholic beverage, provided that the person having control of the Premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person consumed an alcoholic beverage and the person having control of said Premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person.

(d) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian as set forth in G.L. c.138, § 34.

(e) This Section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any Premises regulated by the Massachusetts Alcoholic Beverage Control Commission.

Section 8.29.7 Enforcement

This bylaw shall be enforced by the noncriminal disposition process of M.G.L. c.40 § 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Brookline. If enforced pursuant to noncriminal disposition, the following fines shall apply per person cited under sections 8.29.4 and 8.29.4.1:

First response:	$100
Second and subsequent response(s):	$300

The Town of Brookline may additionally seek administrative costs and Response Costs associated with enforcement of this bylaw.

The provisions of this bylaw are enforceable without reference to the Brookline Noise Control Bylaw 8.15 and without reference to the fact that the police officer issuing a citation has not obtained a scientific noise measurement prior to issuing the citation. No such scientific noise measurement is required under this bylaw and the lack of a measurement shall not constitute a defense.

Sections 8.29.5 and 8.29.6 shall not limit the authority of police officers to make arrests for any criminal offense arising out of

conduct regulated by Sections 8.29.5 and 8.29.6, nor shall they limit the Town of Brookline or the Commonwealth of Massachusetts' ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Sections 8.29.5 and 8.29.6.

Section 8.29.8 Local Authority and Severability

Nothing in this bylaw shall be construed to conflict with anything in MGL Chapter 138 in regard to underage drinking.

No provision of this bylaw shall apply where prohibited or preempted by state or federal law.

If any provision of this bylaw, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this bylaw which can be given effect without the invalid provisions or application, to this end the provisions of this bylaw are severable.

TOWN OF BROOKLINE

Article 8.30

FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS

ARTICLE 8.30

FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS

Section 8.30.1 Purpose/Authorization

In order to protect the health, safety, and welfare of the inhabitants of the Town of Brookline, and as authorized by chapter 256 of the Acts of 2010, this by-law shall require a) applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in Section 8.30.2 below to submit to fingerprinting by the Brookline Police Department, b) the Police Department to conduct criminal record background checks based on such fingerprints, and c) the Town to consider the results of such background checks in determining whether or not to grant a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this by-law.

Section 8.30.2 Applicant’s Submission to Fingerprinting by the Brookline Police Department

Any applicant for a Town of Brookline license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Brookline Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

Liquor Licensee;
Manager or Alternate Manager of a Liquor Licensee;
Registered Marijuana Dispensary (RMD) Licensee;
RMD Executives, Directors, and Managers;
Hawker and Peddler;
Hackney Carriage (Taxi) Operator;
Door-to-Door Solicitor;
Automobile Dealer; and

Ice Cream Truck Vendor

At the time of fingerprinting, the Police Department shall notify the individuals fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

Section 8.30.3 Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results

The Police Department shall transmit fingerprints it has obtained pursuant to Section 8.30.2 of this by-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in Section 8.30.2.

As further detailed in the Town's policy applicable to Town licensing-related criminal record background checks, the Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal record background check and supply the applicant the opportunity to complete, or challenge the accuracy of, the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI identification records. In no event shall the Police Department render a suitability evaluation pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with the Town's policy applicable to Town licensing-related criminal record background checks.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall in addition render to the licensing authority its evaluation of the applicant's suitability for the proposed occupational activity based upon the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability. The Police Department shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability, or any felony or misdemeanor

that involved force or threat of force, controlled substances or a sex-related offense.

Section 8.30.4 Reliance on Results of Fingerprint-Based Criminal Record Background Checks

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in Section 8.30.2. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

Section 8.30.5 Compliance with Law, Regulation, and Town Policy

Implementation of this by-law and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

Section 8.30.6 Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be set by the Select Board pursuant to G.L.c.40, s.22F. A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B ½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

TOWN OF BROOKLINE

Article 8.31

Leaf Blower Control

Article 8.31
Leaf Blower Control

SECTION 8.31.1: STATEMENT OF PURPOSE

The reduction of noise and emissions of particulate matter resulting from the use of leaf blowers as well as reducing the use of gasoline and oil fuels and reducing carbon emissions into the environment are public purposes of the Town, as are protecting the health, welfare and environment public purposes of the Town. Therefore, this By-law shall limit and regulate the use of leaf blowers as defined and set forth herein.

SECTION 8.31.2: DEFINITIONS

a. “Leaf Blowers” governed by this By-law are defined as any portable powered machine used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

b. “Property Owner” as used in this By-law shall mean the legal owner of record of real property as listed by the tax assessor’s records.

c. “Property Manager” shall mean any tenant in possession or person or entity in control of real property, including, but not limited to, a condominium association.

d. “User” means the person or entity using the Leaf Blower at the time of the violation.

SECTION 8.31.3: LIMITATIONS ON USE

a. No Property Owner or Property Manager shall authorize or permit the operation of leaf blowers on property under their control, or on the sidewalks or ways contiguous to such property, nor shall any person operate a leaf blower, except between March 15th and May 15th and between October 1st and December 31st in each year, and except for leaf blowers powered by electricity which are exempt from this seasonal usage limitation. The provisions of this Section 3.a. shall not apply to nonresidential property owners but only with respect to parcels of land that contain at least five acres of open space.

b. No Property Owner or Property Manager shall authorize or permit the operation of leaf blowers on property under their control, or on the sidewalks or ways contiguous to such property, nor shall any person operate a leaf blower, except between the hours of 8 (eight) A.M. to 8(eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 6 (six) P.M. on Saturdays, Sundays and legal holidays.

c. On land parcels equal to or less than 7,500 (seven thousand five hundred) square feet in size, no Property Owner or Property Manager or User shall operate or authorize the operation of more than 2 (two) leaf blowers on such property simultaneously. This limitation shall also apply to sidewalks and roadways contiguous to such parcel.

d. No Property Owner or Manager shall authorize the operation of any leaf blower and no person shall operate a leaf blower which does not bear an affixed manufacturer’s label or a label from the Town indicating the model number of the leaf blower 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) methodology on their property. Any leaf blower bearing such a manufacturer’s label or Town label shall be presumed to comply with the approved ANSI Noise Level limit under this By-law. However, 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 leaf blower(s) that have been modified or damaged, as 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 or Town label. The Controller of any leaf blower without a manufacturer’s ANSI label on such 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. Such testing will be provided by the Town’s designated person for no more than a nominal fee (which shall be non-refundable) and by appointment only at the Town’s discretion. If the equipment passes, a Town label will be affixed to the equipment indicating Decibel Level. In the event that the label has been destroyed, the Town may replace it after verifying the specifications listed in the Controller’s manual that it meets the requirements of this By-law.

The provisions of this Article 8.31.3 shall not apply to the use of leaf blowers by the Town, its employees or contractors while performing work for the Town.

SECTION 8.31.4: REGULATIONS

a. The Commissioner of Public Works shall have the authority to promulgate regulations to implement the provisions of this By-law, subject to the approval of the Select Board
b. The Commissioner of Public Works shall have the authority to waive temporarily any of the limitations on the use of Leaf Blowers set forth in this By-law in order to aid in emergency operations and clean-up associated with severe storms. In the event of issuing a temporary waiver, the Commissioner of Public Works shall post a notice prominently on the Town of Brookline’s internet home page and make other good faith efforts to notify the public including, but not limited to, social media.

SECTION 8.31.5: DUTIES AND RESPONSIBLITIES 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 objectives of this By- law.

b. Departmental Compliance with Other Laws

All Town departments and agencies shall comply with federal and state laws and regulations to the same extent that any person is subject to such laws and regulations.

c. Town Exemption

The Department of Public Works shall be exempt for day and night time operations for routine maintenance. However, the DPW shall make every effort to reduce noise in residential areas, particularly during the limited use hours set forth in Section 8.31.3.b of this By-law.

d. Town Leaf Blower Equipment

Prior to purchasing new equipment, the Town must consider equipment with the lowest Decibel rating for the performance standard required.

SECTION 8.31.6: PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

(a) The Select Board, or its designee, may grant a special permit to a Property Owner or Property Manager: (i) for any activity otherwise prohibited under 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,

(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 Property Owner or Manager ~~or~~ seeking such a permit should make a written application to the Select Board, or its designee. The Town will make reasonable efforts to notify all direct abutters prior to the date of the Select Board's meeting at which the issuance of a permit will be heard.

(b) The Select Board, 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 use.

(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.

(6) If the Select Board, or its 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 Select Board, or designee, to support this claim.

SECTION 8.31.7: HEARINGS ON APPLICATION FOR SPECIAL PERMITS

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, if any, issued by the Select Board, or designee.

SECTION 8.31.8: ENFORCEMENT AND PENALTIES

a. This By-law may be enforced in accordance with Articles 10.1, 10.2 and/or 10.3 of the General By-laws by a police officer, the Building Commissioner or his/her designee, the Commissioner of Public Works or his/her designee and/or the Director of Public Health or his/her designee.

b. Violations of this By-law shall be subject to the following penalties:

1) For the first violation in each calendar year a written warning will be issued

2) For second and subsequent in each calendar year, both the Property Owner or Property Manager and the User shall be fined according to the table below:

	Property Owner or Property Manager	User, if other than Property Owner or Property Manager
First Offense	Written Warning	Written Warning
Second Offense	$50.00	$50.00
Third Offense	$100.00	$100.00
Each Subsequent Offense	$150.00	$150.00

3) Applicable court costs for any enforcement action taken.

SECTION 8.31.9: EFFECTIVE DATE

The provisions of this By-law shall be effective as provided in M.G.L. c. 40, s.32.

TOWN OF BROOKLINE

Article 8.32

Sustainable Containers and Packaging

Article 8.32
Sustainable Food Containers and Packaging

Section 8.32.1: DEFINITIONS
The following words and phrases shall, unless context clearly indicates otherwise, have the following meanings:

BIODEGRADABLE Entirely made of organic materials such as wood, paper, bagasse or cellulose; or bioplastics that meet the American Society for Testing and Materials (ASTM) D7081 standard for Biodegradable Plastics in the Marine Environment or any other standard that may be developed specifically for an aquatic environment and are clearly labeled with the applicable standard.

CATERER Refers to a food establishment with a catering license issued by the Town that derives at least 50% of its revenues from catering orders.

COMPOSTABLE Refers to bioplastic materials certified to meet the American Society for Testing and Materials International Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standards (such as Vinçotte) for home composting. Any compostable product must be clearly labeled with the applicable standard on the product.

DISPOSABLE FOOD SERVICE WARE All food and beverage containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, film wrap, and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and leftover food from partially consumed meals prepared at food establishments.

DIRECTOR refers to the Director of the Department of Public Health or the Director’s designee.

FOOD ESTABLISHMENT An operation that stores, prepares, packages, serves, vends, or otherwise provides food for

human consumption. This includes, without limitation, restaurants and food trucks.

PACKING MATERIAL Polystyrene foam used to hold, cushion, or protect items packed in a container for shipping, transport, or storage. This includes, without limitation, packing "peanuts"; and shipping boxes, coolers, ice chests, or similar containers made, in whole or in part, from polystyrene foam that is not wholly encapsulated or encased within a more durable material.

POLYSTYRENE There are two basic forms, Foam and Rigid Polystyrene. Foam includes without limitation blown, expanded (EPS), and extruded foams such as "Styrofoam," a Dow Chemical Co. trademarked form of insulation. Foam Polystyrene is generally used to make opaque cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. Rigid or oriented polystyrene is generally used to make clear clamshell containers, cups, plates, straws, lids and utensils.

PREPARED FOOD Food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, bottled, frozen, squeezed or otherwise prepared on the food establishment’s premises within the Town, regardless of whether it is consumed on or off the premises.

RECYCLABLE Material that can be sorted, cleansed, and reconstituted using the Brookline curbside municipal collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RETAIL ESTABLISHMENT Any commercial business facility that sells goods directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores and vendors selling clothing, food, and personal items, and dry cleaning services.

REUSABLE Products that will be used more than once in its same form by a food establishment. Reusable food service ware includes: tableware, flatware, food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor and customer that is

provided take-out containers. Reusable materials include aluminum and glass. Reusable also includes cleanable durable containers, packages, or trays used on-premises or returnable containers brought back to the food establishment.

Section 8.32.2: PROHIBITED USE AND DISTRIBUTION OF FOOD WARE AND PACKAGING

(a) Effective January 1, 2020, Food establishments are prohibited from providing prepared food to customers using polystyrene or polyvinyl chloride food service ware. Catering orders provided by Caterers shall be exempt from the provisions of this paragraph (a).

(b) Effective January 1, 2020, Food establishments using any disposable food service ware shall use biodegradable, compostable, reusable or recyclable food service ware. Catering orders provided by Caterers shall be exempt from the provisions of this paragraph (b). All food establishments are strongly encouraged to use reusable food service ware in place of using disposable food service ware for all food served on premises.

(c) Retail establishments and caterers are prohibited from selling or distributing foam polystyrene food service ware to customers.

(d) Retail establishments are prohibited from selling or distributing polystyrene foam packing material to customers.

(e) Effective January 1, 2020, Food Establishments are prohibited from providing prepared food to customers using any food service ware made of polyethylene terephthalate. Catering orders provided by Caterers shall be exempt from the provisions of this paragraph (e).

Section 8.32.3: EXEMPTIONS

(a) Foods prepared or packaged outside the Town are exempt from the provisions of this chapter.

(b) Food establishments and retail establishments will be exempted from the provisions of this Article for specific items or types of disposable food service ware if the

Department of Health Director or designee finds that a suitable biodegradable, compostable, reusable, or recyclable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of disposable food service ware would cause undue hardship to the establishment.

(c) Any establishment may seek an exemption from the requirements of this chapter by filing a request in writing with the Department of Health Director or designee. The Department of Health Director or designee may waive any specific requirement of this chapter for a period of not more than one year if the establishment seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. For purposes of this chapter, an “undue hardship” is a situation unique to the food establishment where there are no reasonable alternatives to the use of disposable food service ware and compliance with this provision would cause significant economic hardship to that food establishment. An establishment granted an exemption must re-apply prior to the end of the one-year exemption period and demonstrate continued undue hardship if the establishment wishes to have the exemption extended. The Health Department Director’s decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.

Section 8.32.4: PENALTIES AND ENFORCEMENT

(a) Each Food or Retail establishment as defined above, operating in the Town of Brookline shall comply with this by-law.
(1) If it is determined that a violation has occurred the Department of Health Director shall issue a warning notice to the Food or Retail establishment for the initial violation.
(2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Department of Health Director shall issue a notice of violation and shall impose a penalty against the Food or Retail establishment.
(3) The penalty for each violation that occurs after the

issuance of the warning notice shall be no more than:
A) $50 for the first offense
B) $100 for the second offense and all subsequent offenses.
Payment of such fines may be enforced through civil action in the Brookline District Court as provided in Article 10.3 of the Town’s General By-laws.
(4) No more than one (1) penalty shall be imposed upon a Food or Retail establishment within a seven (7) calendar day period.
(5) A Food or Retail establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

Section 8.32.5: SEVERABILITY

If any provision or section of this By-law shall be held to be invalid, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this by-law, which shall remain in full force and effect.

Section 8.32.6: EFFECTIVE DATE

The provisions of this By-law shall take effect on January 1, 2019, except the provisions of Section 2(a), 2(b) and 2(e), which shall take effect on January 1, 2020.

TOWN OF BROOKLINE

Article 8.33

Sustainable Bags

ARTICLE 8.33
SUSTAINABLE BAGS

SECTION 8.33.1 Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

“Director”, the Director of Public Health Services or his/her designee.

“ASTM D6400”, the American Society for Testing and Materials (ASTM) International “Standard Specification for Compostable Plastics”.

“ASTM D7081”, ASTM International “Standard Specification for Biodegradable Plastics in the Marine Environment”.

“Checkout bag”, a carryout bag provided by a store to a customer at the point of sale.

“Compostable plastic bag”, a plastic bag that (1) conforms to the current ASTM D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) conforms to any other standards deemed acceptable by this section.

“Department”, the Brookline Department of Public Health.

“Marine degradable plastic bag”, a plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability; and conforms to any other standards deemed acceptable by the Director, provided additional, Director-approved standards are as stringent as ASTM D7081.

“Product Bag” bags in which loose produce, bulk items, unwrapped baked goods or prepared food, or other products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

“Reusable bag”, a bag that is either (a) made of cloth or other machine washable fabric; or (b) made of plastic other than polyethylene or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 4 mils thick.

“Reusable check-out bag”, a sewn reusable bag with stitched handles can carry 25 pounds over a distance of 300 feet.

“Retail establishment”, any retail store that satisfies at least one of the following requirements: (a) a retail space of 2,500 square feet or larger or at least three (3) locations under the same name within the Town of Brookline that total 2,500 square feet or more; or (b) a retail pharmacy with at least two locations under the same ownership within the Town of Brookline; or (c) a full-line, self-service supermarket that had annual gross sales in excess of $1,000,000 during the previous tax year, and which sells a line of dry grocery, canned goods or nonfood items and some perishable items;

SECTION 8.33.2 BAG COMPLIANCE AND PROMULGATION OF RULES AND REGULATIONS

(a) If a retail establishment as defined in Section 1 provides checkout bags to customers, the bags shall comply with the requirements of being either a recyclable paper bag, a reusable checkout bag, or a plastic bag that is compostable as well as marine degradable.

(b) If a supermarket, a retail establishment described in the definition set forth in section 8.33.1, with more than 6,000 square feet of retail space, provides product bags to customers, the bags shall comply with the requirements of being either a recyclable paper bag, reusable bag, or a compostable plastic bag.

(c) The Director may promulgate rules and regulations to implement this section.

SECTION 8.33.3 PENALTIES AND ENFORCEMENT

(a) Each Retail Establishment as defined in Section 1, above, located in the Town of Brookline shall comply with this by-law.

(1) If it is determined that a violation has occurred the Director shall issue a warning notice to the Retail Establishment for the initial violation.

(2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment.

(3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

A) $50 for the first offense

B) $100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the Brookline District Court.

(4) No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.

(5) A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

SECTION 8.33.4 EFFECTIVE DATE

All of the requirements set forth in this by-law shall take effect July 1, 2017. In the event that compliance with the effective date of this by-law is not feasible for a food service establishment because of either unavailability of alternative checkout bags or economic hardship, the Director may grant a waiver of not more than six months upon application of the owner or the owner’s representative. The waiver may be extended for one (1) additional six-month period upon showing of continued infeasibility as set forth above.

TOWN OF BROOKLINE

Article 8.34

Registered Marijuana Dispensary (RMD) Licenses

ARTICLE 8.34

REGISTERED MARIJUANA DISPENSARY (RMD) LICENSES

Section 8.34.1 PURPOSE

The purpose of this By-Law is to prevent and minimize any possible adverse public health and safety consequences that could result from the establishment of Registered Marijuana Dispensaries ("RMDs") within the Town pursuant to Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" (the "Act"), while at the same time recognizing the purpose of the Act to make medical marijuana available to qualifying patients.

Section 8.34.2 LICENSE

No person shall operate an RMD within the Town unless licensed to do so by the Select Board of Selectmen ("Board"). An RMD license shall be valid for a term of one year from the first day of January.

Each day of operation without an RMD license shall constitute a separate violation.

An RMD license shall be subject to the RMD's compliance with Massachusetts and Town laws, by-laws, regulations, and codes, including, but not limited to, 105 C.M.R. 725, the Town's Zoning By-Law, and any Town regulations adopted pursuant to this By-Law.

Section 8.34.3 REGULATIONS

The Board may issue regulations for the implementation of this By-Law.

Section 8.34.4 APPLICATIONS FOR NEW OR RENEWED RMD LICENSES

The Board shall specify the process and forms to be used by applicants for new and renewed RMD licenses. The Board or its designee may inspect an RMD and affiliated vehicles prior to the issuance of an RMD license or renewal of a license. All areas of an RMD and all RMD records may be subject to inspection consistent with applicable law.

The Board may, to the extent permitted under applicable law (including any Town regulations promulgated hereunder), consider whether an applicant for a license is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this By-Law. An applicant’s non-compliance with Massachusetts and Town laws, by-laws, regulations, and codes, including, but not limited to, 105 C.M.R. 725, the Town’s Zoning By-Law, and any Town regulations adopted pursuant to this By-Law, may be cause for denial of an application for a new or renewed RMD license.

Section 8.34.5 IMPLEMENTATION

This By-Law shall not be implemented in a manner that conflicts or interferes with the Act or with 105 C.M.R. 725.

TOWN OF BROOKLINE

Article 8.35

Drinking Water Access By-Law

ARTICLE 8.35
DRINKING WATER ACCESS BY-LAW

SECTION 8.35.1 ACCESS TO TAP WATER

All indoor Common Victualler Licensees in the Town of Brookline shall be required to offer Town tap water to customers upon request.

SECTION 8.35.2 PENALTIES AND ENFORCEMENT

(a) Each establishment as defined in Section 1, above, located in the Town of Brookline shall comply with this by-law.

(1) If the Director of the Brookline Department of Public Health determines that a violation has occurred, the Director (or designee) shall issue a warning notice to the licensee for the initial violation.

(2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the licensee.

(3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

A) $50 for the first offense

B) $100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through non-criminal disposition, as set forth in Article of 10.3 of the General By-Laws.

(4) No more than one penalty shall be imposed upon a licensee within a seven calendar day period.

(5) A licensee shall have twenty-one (21) calendar days after the date that a notice of violation is issued to pay the penalty.

SECTION 8.35.3 EFFECTIVE DATE

All of the requirements set forth in this by-law shall take effect January 1, 2016.

TOWN OF BROOKLINE

Article 8.36

Bottled Water By-Law

ARTICLE 8.36
Bottled Water By-law

SECTION 8.36.1 DEFINITIONS

"Bottled Water" means non-sparkling, unflavored drinking water in a single-serving container with a volume of 1 liter or less that is made in whole or in part of plastic resin codes 1 through 6 (excluding the label or cap).

"Town Funds" means all monies or other assets received and managed by, or which are otherwise under the control of the Town's Treasurer/Collector, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the Town.

"Director", means the Director of the Brookline Department of Public Health or the Director's designee or successor.

SECTION 8.36.2 BARRING USE OF TOWN FUNDS FOR PURCHASE OF BOTTLED WATER.

(a) No Town officer, department, or agency (collectively, "department") shall use Town Funds to purchase Bottled Water for the department's own general use in offices. A department may use Town Funds to purchase Bottled Water for uses specifically exempted from or allowed under Section 8.36.4.

SECTION 8.36.3 EXCLUSIONS

The provisions of this by-law shall not apply where the Director finds that relying on Bottled Water is necessary in a given situation to protect the public or occupational health or safety.

SECTION 8.36.4 EFFECTIVE DATE

The provisions of this by-law shall take effect on June 1, 2016.

TOWN OF BROOKLINE

Article 8.37

Marijuana Establishments

ARTICLE 8.37
MARIJUANA ESTABLISHMENTS

Section 8.37.1 PURPOSE

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

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

Section 8.37.2 DEFINITIONS

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

a. Cannabis Control Commission — the Massachusetts Cannabis Control Commission.

b. Delivery-Only Marijuana Retailer — a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Marijuana Micro-Business.

c. Hemp — the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

d. Manufacture — to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.

e. Marijuana — all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "Marijuana" shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

f. Marijuana Cultivator — an entity licensed by the Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers.

g. Marijuana Establishment — a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Marijuana Independent Testing Laboratory, or any other type of Cannabis Control Commission-licensed Marijuana-related business or entity.

h. Marijuana Establishment Agent — a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.

i. Marijuana Independent Testing Laboratory — an entity licensed by the Cannabis Control Commission that is (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise approved by the Cannabis

Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

j. Marijuana Product Manufacturer—an entity licensed by the Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.

k. Marijuana Products — products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

l. Marijuana Retailer— an entity licensed by the Cannabis Control Commission to purchase and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers.

m. Medical Marijuana Treatment Center— an entity that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.

n. Mixed Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a Cannabis Control Commission Mixed Use Social Consumption Marijuana Retailer license (as may be further provided by 935 CMR, any commercial enterprise for which 50% or less of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).

o. Social Consumption Marijuana Retailer — a Marijuana Retailer licensed by the Cannabis Control Commission to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.

p. Primary Use Social Consumption Marijuana Retailer — a Marijuana Retailer that is in possession of a Cannabis Control Commission Primary Use Social Consumption Marijuana Retailer license (as may be further provided by935 CMR, any commercial enterprise for which 51% or more of average monthly revenue shall be derived from the sale of marijuana products to be consumed on the premises).

q. Storefront Marijuana Retailer — a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Massachusetts Medical Use of Marijuana Program.

Section 8.37.3 MEDICAL MARIJUANA TREATMENT CENTERS

Medical Marijuana Treatment Centers licensed prior to July 1, 2017 may be licensed pursuant to Section 8.37. 6 below or under Article 8.34 of the General By-Laws, as the Select Board may determine in conformity with applicable State and local laws.

Section 8.37.4 CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR MARIJUANA RETAILERS

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

Section 8.37.5 GENERAL REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

Marijuana Establishments shall comply with the following requirements:

A. General

1. Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit).

2. Marijuana Establishments shall execute and maintain a Host Community Agreement with the Town which shall include the conditions for having the Marijuana Establishment within the Town in conformity with applicable law. Prior to entering into a Host Community Agreement, the Town shall make a preliminary assessment regarding whether the proposed Marijuana Establishment complies with applicable State and local law, including the Town's Zoning By-Law and General By-Laws. The Town may request additional information (including surveys, studies or other data) as it may deem reasonably necessary for making the preliminary assessment. The Town shall be under no obligation to enter into a Host Community Agreement if it determines that the proposed Marijuana Establishment may violate applicable State or local law. Should the Town determine to enter into a Host Community Agreement, nothing in this Section shall limit the ability of the Town subsequently to require additional information or exercise its discretion under the General By-Laws and the Zoning By-Law.

3. Marijuana Establishments shall maintain all permits and licenses required by State and local laws, including, but not limited to, a valid, current license in good standing from the Cannabis Control Commission. Any voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or

relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license, shall result in an automatic suspension of the Select Board license pending hearing or the opportunity therefore afforded to the Marijuana Establishment.

4. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.

5. Any Marijuana Establishment licensee wishing to close a place of business or cease operations , whether on a temporary or permanent basis, may do so only if permitted by State law and must submit to the Select Board a written request for the Select Board's permission to do so, stating the reason for and length of such closing or inactivity. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancelation of the license.

B. Operational Requirements

1. All Marijuana Establishments' licensed operations shall be conducted within a building or fixed structure.

2. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft or other optical aids.

3. Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.

4. No Marijuana Establishment shall allow any person under 21 years of age to volunteer or work for the Marijuana Establishment.

5. The hours of operation of Marijuana Establishments shall be set by the Select Board. The licensee shall not change its hours of operation without Board approval.

6. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.

7. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.

8. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.

9. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Department Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.

10. Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.

11. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:

a) prior to surrendering its State-issued license; or
b) within six (6) months of ceasing operations.

12. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.

13. Marijuana Retailers are required to engage in patron age verification using legally-acceptable proof of age as may be further specified by the Select Board license.

14. Marijuana Retailers shall not sell or offer for sale Marijuana or Marijuana Products in a quantity that exceeds the limits established by 935 CMR 500.

15. Marijuana Establishments shall not supply Marijuana or Marijuana Products free of charge or in connection with a commercial or promotional endeavor within the Town of Brookline. Such endeavors include, but are not limited to, product "giveaways", or distribution of Marijuana or Marijuana Products as an incentive, prize or bonus in a game, contest or tournament involving skill or chance.

16. Marijuana Retailers are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.

17. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board

in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

C. Security-Specific Requirements

1. Marijuana Establishments shall maintain compliance with any Town Police Department-approved security and public safety plan as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment (related or unrelated to the business or the establishments), providing access to and transfer of video footage from the establishment's video surveillance system to the Police Department when the Police Department so requests (which request may be made when the Police Department has a reason to believe that such footage may be of assistance in an ongoing investigation related or non-related to the business of the establishment), a requirement to connect an alarm system to a third party monitoring system and to notify the Town's Chief of Police about said third party monitoring system, and any other notifications and security-related measures as may be required by the Police Department and the Select Board.

2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing Marijuana is restricted to employees and others permitted by the Marijuana Establishment to access the area and to agents of the Cannabis Control Commission or state and local law enforcement officers and emergency personnel.

3. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and

prevent theft of Marijuana, Marijuana Products and Marijuana accessories.

4. Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.

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

1. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Select Board and agents of the Select Board from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week-days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

2. Marijuana Establishments shall cooperate and comply with requests for information made by the Select Board and its agents from the Planning, Building, Health, Police, Fire and Public Works Departments.

3. Within twenty-four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of

correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health (DPH)) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the DPH Certificate of Registration.

Section 8.37.6 MARIJUANA ESTABLISHMENT SELECT BOARD LICENSE

a. No person shall operate a Marijuana Establishment or sell Marijuana within the Town unless licensed to do so by the Select Board. Unless the Select Board license states a different duration, a Marijuana Establishment license shall be valid for a term of one year from the first day of January. Each day of operation without a Select Board license shall constitute a separate violation.

b. A Select Board license shall be subject to the Marijuana Establishment's compliance with this Article 8.37 and with any conditions placed on the Marijuana Establishment's license. An applicant's or licensee's violation of this Article 8.37 and applicable State and local law shall be good cause for and may result in the Select Board's denial of an application or sanction of a license to the extent permitted by law, including, but not limited to, the imposition of additional conditions on a license, a reduction or modification of the licensee's approved hours of operations, or a suspension, non-renewal, revocation, forfeiture, or cancellation of a license. No sanction shall be made except after notice and opportunity for hearing.

c. The Select Board may issue regulations for the implementation of this By-Law.

d. The Select Board shall specify the process and forms to be used by applicants for new and renewed licenses.

e. All license applications must contain complete and truthful information. Submission of an application containing material false information may be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Select Board until it is fully complete.

Annual license fees shall be payable immediately upon approval of the license by the Select Board. License fees shall not be prorated and are not refundable. Application and license fees shall be in an amount established by the Select Board pursuant to M.G.L. c. 40, § 22F.

f. No Select Board licensee may transfer a license to another person or entity, or transfer the license or operations to another location, without Select Board approval. A Select Board licensee must obtain Select Board approval for a change to or addition of Board Member, Executive, Director and/or Managers, as may be determined by the Select Board. Any transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.

g. A Select Board licensee must apply for and obtain the approval of the Select Board or its designee prior to making any structural change to the premises.

h. The Select Board licensee shall display its license on the premises in a conspicuous place where it can be easily read.

i. The Select Board or its designee may inspect a Marijuana Establishment and affiliated vehicles prior to the issuance of a Marijuana Establishment license or renewal of a license.

j. All areas of a Marijuana Establishment may be subject to inspection consistent with applicable law.

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

Section 8.37.8 FINES

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

Section 8.37.8 IMPLEMENTATION

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

TOWN OF BROOKLINE

Article 8.38

Marijuana and Hemp and Marijuana and Hemp Products

ARTICLE 8.38
MARIJUANA AND HEMP, AND MARIJUANA AND HEMP PRODUCTS

SECTION 8.38.1 DEFINITIONS

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

a. Hemp – the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

b. Hemp Products – products that have been manufactured and contain Hemp or an extract from Hemp.

c. Manufacture – to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.

d. Marijuana – all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "Marijuana" shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) the weight of any other ingredient

combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

e. Marijuana Products – products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

SECTION 8.38.2 GENERAL PROHIBITIONS

No person shall:

(1) smoke, ingest, consume, or otherwise use Marijuana or Marijuana Products while in or upon any public street, sidewalk, footway, passageway, stairs, bridge, park, playground, recreation area, building, school house, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town, or while in or upon any private way to which the public has a right of access as invitees or licensees.

(2) possess an open container of Marijuana or Marijuana Products in the passenger area of any motor vehicle or in any bus or other passenger conveyance operated by a common carrier that is in or upon a public way or a private way to which the public has a right of access as invitees or licensees. For purposes of this section, “open container” shall mean that the package containing Marijuana or Marijuana Products has its seal broken or from which the contents have been partially removed or consumed and “passenger area” shall mean the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position; provided however that the passenger area shall not include a motor vehicle’s trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

(3) smoke Marijuana or Marijuana Products where smoking tobacco is prohibited by law. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

(4) sell Marijuana or Marijuana Products, or test, Manufacture, or cultivate Marijuana or Marijuana Products to be sold, without being duly licensed in good standing by the Commonwealth of Massachusetts and the Town of Brookline, as applicable, to do so.

(5) cultivate, Manufacture, process, test, or sell Marijuana, Marijuana Products, Hemp or Hemp products in or upon any land or property owned by or under the control of the Town.

SECTION 8.38.3 PERSONAL CULTIVATION AND PROCESSING OF MARIJUANA AND HEMP AND MARIJUANA AND HEMP PRODUCTS

(1) No person shall Manufacture Marijuana or Hemp or engage in Marijuana or Hemp extraction utilizing any process that poses an explosive, combustible or flammable danger, including solvent-based extraction and extraction utilizing flammable liquids (a liquid with a flash point below 100 degrees Fahrenheit) such as liquefied petroleum gases (*e.g.,* propylene, propane, butane, butylenes and mixtures thereof).

(2) The possession, growing, and processing of Marijuana or Hemp plants shall not be observable from the exterior of a residence, including, but not limited to:

a. Common visual observation;
b. Odors, smells, fragrances, or other olfactory stimulus associated with such activities;
c. Light pollution, glare, or brightness that disturbs others.

(3) Use of supplemental carbon dioxide and/or ozone is prohibited.

(4) The cultivation, manufacturing and testing of Marijuana, Hemp or Marijuana or Hemp Products may not occur outside of a building or structure that is secured with a lock or other security device to prevent unauthorized access.

(5) The possession, growing and processing of Marijuana and Hemp plants shall comply with applicable State and local laws, regulations, by-laws and codes.

SECTION 8.38.4 FINES

Any person violating this By-Law shall be fined in the amount of $100 for each violation, except that a person violating Section 8.38.3(1) of this By-Law shall be fined in the amount of $300. Each day of a continuing violation shall count as a separate violation.

TOWN OF BROOKLINE

Article 8.39

Menstrual Hygiene Products Access By-Law

Article 8.39
MENSTRUAL HYGIENE PRODUCTS ACCESS BY-LAW

SECTION 8.39.1 DEFINITIONS

"Menstrual hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

"Public building restrooms" means restrooms established for use by members of the public (as differentiated from staff restroom facilities).

"Public Building" for the purposes of this by-law means any facility owned or leased by the Town of Brookline that contains restrooms for the general public and over which the Town has care, maintenance, custody, and/or control. This shall include, but not be limited to: Public Libraries, the Town Hall Complex (including the Public Health Bldg), the Public Safety Bldg, Recreational Facilities, and Parks.

"Female-bodied" means any individual who experiences a menstrual cycle.

SECTION 8.39.2 ACCESS TO MENSTRUAL HYGIENE PRODUCTS

The Town of Brookline shall make available and accessible at no charge menstrual hygiene products (tampons and pads/napkins) in its public building restrooms that serve female-bodied members of the public.

SECTION 8.39.3 MANNER OF DISPENSING

Machine dispensers for menstrual hygiene products provided under this by-law shall be chosen in consultation with the Building Department and Department of Public Health, but must comply with ADA and other equity-of-access laws and considerations.

Menstrual hygiene products made available at no charge from an employee, office, or other site in a public building upon in-person request does not constitute compliance with this by-law.

SECTION 8.39.4 GREEN PRODUCTS

Tampons with plastic applicators may not be provided under this by-law.

SECTION 8.39.5 EFFECTIVE DATE

This by-law shall take effect July 1, 2021. It will become effective for the Public Schools of Brookline upon adoption by the Brookline School Committee.

TOWN OF BROOKLINE

Article 9.1

Domestic Partners

ARTICLE 9.1
DOMESTIC PARTNERS

SECTION 9.1.1 DEFINITIONS

When used in this article, the following words and phrases shall have the meanings set forth herein:

(a) “Domestic partnership” shall mean two persons who meet all of the following requirements and who register their domestic partnership in accordance with Section 9.1.2:

1. They have made a commitment of mutual support and caring for each other;
2. They reside together and intend to do so indefinitely;
3. They share basic living expenses;
4. They are at least eighteen (18) years of age;
5. They are competent to enter into a contract;
6. They are each other's sole domestic partner; and
7. They are not married to anyone or related to each other by blood closer than would bar marriage in the Commonwealth of Massachusetts.

(b) “Dependents” shall mean a child or step-child of either domestic partner.

(c) “Basic living expenses” shall mean the cost of food, shelter, utilities and essential household goods. The individuals need not contribute equally to the cost of these expenses. Labor or services in kind shall be recognized as contributions to basic living expenses.

(d) “Domestic Partner” shall mean a person who meets the requirements set forth in Section 9.1.1(a) of this by-law and registers pursuant to Section 9.1.2 of this by-law.

SECTION 9.1.2 REGISTRATION

(a) Statement of Domestic Partnership

1. Domestic partners who meet the requirements set forth in Section 9.1.1(a) of this by-law may make an official record of their domestic partnership by completing, signing and submitting to the Town Clerk a statement of domestic partnership. Persons submitting a statement of domestic partnership must declare under penalty of perjury that they meet the requirements set forth in Section 9.1.1(a) of this by-law.

2. The domestic partnership statement shall be on a form prescribed by the Town Clerk, which form shall include, but shall not be limited to, the names of the domestic partners and the date on which they became each other's domestic partners.

3. There is no requirement for registering dependents.

(b) Amendment or Termination of a Domestic Partnership

Domestic partners shall notify the Town Clerk of the termination of their domestic partnership. Either member of a domestic partnership may terminate the domestic partnership by filing a termination statement with the Town Clerk. Termination of a domestic partnership shall become effective ninety days (90) days after the termination statement is filed with the Town Clerk; provided, however, that a domestic partnership shall terminate immediately upon the death of one of the partners. Any person filing a termination statement must declare under the pains and penalties of perjury that the domestic partnership is thereby terminated and that the other domestic partner has been notified of such termination either personally or by mailing a copy of the termination statement to the other domestic partner's last and usual address by certified mail.

(c) New Statements of Domestic Partnership

No person may file a statement of domestic partnership until any previous domestic partnership of which he or she was a member has been effectively terminated.

SECTION 9.1.3 TOWN CLERK

(a) Records

The Town Clerk shall maintain records of the registration, amendment and termination of domestic partnerships as permanent records. The Town Clerk shall provide appropriate forms for a Statement of Domestic Partnership, for the registration of the Statement and for the amendment and termination of a domestic partnership.

(b) Fees for Statements

The Town Clerk shall charge a fee for filing a domestic partnership equal to the fee charged to file a marriage license. Payment of the filing fee shall entitle the person filing the statement on behalf of the domestic partnership to receive one copy of the statement certified by the Town Clerk. The fee for additional certified copies of the statement, or for copies of amendment or termination statements, shall be the same fee charged for additional certified copies of a marriage license.

SECTION 9.1.4 INTERPRETATION

It is the intention of this by-law that its provisions shall be enforceable to the maximum extent permitted by law.

SECTION 9.1.5 RECIPROCITY

All rights, privileges and benefits shall be extended to domestic partnerships registered pursuant to similar laws enacted in other jurisdictions.

SECTION 9.1.6 NON-DISCRIMINATION

No person who seeks the benefit of this by-law, registers pursuant to its provisions, or assists another person in obtaining the benefits of this by-law shall be discriminated against in any way for doing so.

SECTION 9.1.7 SEVERABILITY

The provisions of this by-law are severable. If any of its provisions are held invalid by the Attorney General, a court of competent jurisdiction or other reviewing authority, all other provisions shall continue in full force and effect.

TOWN OF BROOKLINE

Article 10.1

General Penalty Provision

ARTICLE 10.1
GENERAL PENALTY PROVISION

Any person violating any of the provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed three hundred ($300.00) dollars for each offense, unless a different fine is specified and provided for in a particular Article or Section of these by-laws. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

TOWN OF BROOKLINE

Article 10.2

Prosecutions and Enforcement

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following by-laws and articles shall be by the following department head or their designees:

DEPARTMENT HEAD		ARTICLE
BUILDING COMMISSIONER		
Part V-Private Property	Articles	5.2, 5.3, 5.4, 5.6, 5.7, 5.8
Part VI-Public Property	Articles	6.1, 6.5, 6.9, 6.10
Part VII-Streets & Ways	Articles	7.3, 7.5, 7.7, 7.8, 7.9
Part VIII-Public Health & Safety	Articles	8.3, 8.6, 8.7, 8.8, 8.9, 8.11, 8.13, 8.14, 8.15, 8.16,8.37
COMMISSIONER OF PUBLIC WORKS		
Part VI-Public Property	Articles	5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 6.9
Part VII-Streets & Ways	Articles	7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10,7.11
Part VIII-Public Health & Safety	Articles	8.2,8.8, 8.14, 8.15,8.16, 8.18,8.24, 8.25,8.26

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

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Part VI-Public Property	Articles	6.1, 6.5, 6.9, 6.10
Part VII-Streets & Ways	Articles	7.3, 7.5, 7.7, 7.8, 7.9
Part VIII-Public Health & Safety	Articles	8.3, 8.6, 8.7, 8.8, 8.9, 8.11, 8.13, 8.14, 8.15, 8.16,8.37
COMMISSIONER OF PUBLIC WORKS		
Part VI-Public Property	Articles	5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 6.9
Part VII-Streets & Ways	Articles	7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10,7.11
Part VIII-Public Health & Safety	Articles	8.2, 8.6.7,8.8 8.14,8.15,8.16 , 8.18,8.24,

DIRECTOR OF HEALTH & HUMAN SERVICES

Part V-Private Property	Articles	5.1, 5.2, 5.4, 5.5, 5.7
Part VI-Public Property	Articles	6.2, 6.6
Part VII-Streets & Ways	Articles	7.1, 7.5
Part VIII-Public Health & Safety	Articles	8.1, 8.2, 8.3, 8.4, 8.6, 8.7, 8.8, 8.9, 8.10,8.11, 8.12,8.13, 8.14, 8.15, 8.16, 8.22, 8.23, 8.32, 8.37, 8.38

FIRE CHIEF

Part VIII – Public health & Safety	Articles	8.37, 8.38

PRESERVATION COMMISSION

Part V-Private Property	Articles	5.3, 5.6

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS

Part V-Private Property	Article	5.5

DIRECTOR OF HEALTH & HUMAN SERVICES

Part V-Private Property	Articles	5.1, 5.2, 5.4, 5.5, 5.7
Part VI-Public Property	Articles	6.2, 6.6
Part VII-Streets & Ways	Articles	7.1, 7.5
Part VIII-Public Health & Safety	Articles	8.1, 8.2, 8.3, 8.4, 8.6, 8.7, 8.8, 8.9, 8.10,8.11, 8.12,8.13, 8.14, 8.15, 8.16, 8.22, 8.23, 8.32, 8.37, 8.38

FIRE CHIEF

Part VIII – Public health & Safety	Articles	8.37, 8.38

PRESERVATION COMMISSION

Part V-Private Property	Articles	5.3, 5.6

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS

Part V-Private Property	Article	5.5

TOWN OF BROOKLINE

Article 10.3

Non-Criminal Disposition

ARTICLE 10.3
NON-CRIMINAL DISPOSITION

A violation of any provision of these by-laws, the violation of which is subject to a specific penalty under Section 10.1 or in the specific provision which has been violated, except when otherwise provided by law, or any rule or regulation of any municipal officer, board or department may be dealt with as a non-criminal offense in accordance with the provisions of General Laws, Chapter 40, section 21d. If not subject to a specific penalty in the following table, each violation shall be subject to a specific penalty of fifty ($50.00) dollars for each offense, unless a different penalty is provided in the specific by-law, rule or regulation provision being enforced. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense hereunder. Violations of this Article 10.3 may be enforced by any police officer of the town, by the department head or his or her designee as set forth with particular reference to specific articles in Article 10.2, above, and, when a violation involves a rule or regulation of any municipal officer, board or department, by that municipal officer or by that board or the head of that department, by his or her designee, and in all instances, in accordance with the requirements set forth in General Laws, Chapter 40, section 21d.

TABLE OF SPECIFIC PENALTIES UNDER ARTICLE 10.3

Article 5.1	Alarm Systems		
	Section 5.1.9	False Alarms	$100.00
	Section 5.1.10	Penalties	$100.00
Article 5.8	Sign By-Law		
	Section 5.8.9	Penalty For Violation	$100.00

Article 6.2	Alcoholic Beverages On Public Property	
	Section 6.2.2 Penalty	$100.00
Article 6.3	Grass Borders	$ 75.00
Article 6.4	Damage To Trees	$100.00
Article 6.5	Defacing Public Grounds	$ 75.00
Article 6.6	Discharging Firearms	$100.00
Article 7.1	Alcoholic Beverages	$100.00
Article 7.3	Construction In Streets	
	Section 7.3.3 Penalty	$100.00
Article 7.6	Newsrack Regulation	
	Section 7.6.5 Penalty	$ 25.00
Article 7.7	Removal of Snow and Ice From Sidewalks	

Section 7.7.5 Penalties

For Section 7.7.1 and 7.7.2

First Violation	$100
Second Violation	$150
Third and Subsequent Violations	$200

For Section 7.7.3

First Violation	$50
Second and Subsequent Violations	$100

For Section 7.7.4 $250

Article 7.8	Removal Of Vehicles From Streets	$ 25.00
Article 7.9	Snow Parking Ban	$100.00
Article 8.3	Dwelling Houses Used In Common	$100.00

Article 8.5 Disorderly Behavior

Section 8.5.5 Specific Penalty $100.00

Article 8.6 Dog Control

Section 8.6.9 Penalty

First Violation	$ 15.00
Second & Third Violations	$ 25.00
Fourth & Subsequent Violations	$ 50.00

Article 8.7 Food Stores – Hours Of Operation $ 50.00

Article 8.8 Food Establishments Handling Of Refuse $100.00

Article 8.9 Toilet Facilities – Restaurants $ 50.00

Article 8.23 Tobacco Control

Section 8.23.5
Violations & Penalties

For each violation under Article 8.23 –Three Hundred Dollars ($300.00.

Article 8.24 Water Supply Emergencies

Section 8.24.6
Penalties

First Violation	$ 50.00
Second & Subsequent Violations	$100.00

Article 8.25 Water System Backflow And Cross Connections

Section 8.25.6 Enforcement $100.00

Article 8.26 Stormwater Management

First Violation	$100.00
Second Violation	$200.00
Third and Subsequent Violations	$300.00

Article 8.35 Drinking Water Access By-Law

Initial Violation	Warning
First Offense	$50.00
Second and Subsequent Offenses	$100.00

HEALTH DEPARTMENT REGULATIONS

Regulations Governing the Handling, Storage, Collection and Disposal of Waste

1. Violations and Penalties for Owners of Commercial Businesses, Corporations and Buildings Containing More Than Three Dwelling Units

First Violation	$100.00
Second Violation	$200.00
Third & Subsequent Violations	$300.00

2. Violations and Penalties for Owners of Single, Two and Three Unit Dwellings

First Violation	$20.00
Second Violation	$35.00
Third & Subsequent Violations	$50.00