



WARRANT

THE COMMONWEALTH OF MASSACHUSETTS TOWN OF BROOKLINE ANNUAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the TWENTY-SECOND day of MAY, 2018 at 7:00 o'clock in the evening for the Annual Town Meeting at which time and place the following articles are to be acted upon and determined by the representative town meeting:

ARTICLE 1

Submitted by: Select Board

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Select Board, or act on anything relative thereto.

ARTICLE 2

Submitted by: Human Resources

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

ARTICLE 3

Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Select Board, to enter into Compensating Balance Agreement(s) for FY2019 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

ARTICLE 4

Submitted by: Select Board

To see if the Town will authorize the Comptroller to close out either all or a portion of the unexpended balances in certain Special Appropriations and return said sums to the Surplus Revenue accounts, or act on anything relative thereto.

ARTICLE 5

Submitted by: Select Board

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

ARTICLE 6

Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2019 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

ARTICLE 7

Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2019 Budget

Appropriate the sums requested or proposed by the Select Board or by any other officer, board or committee, or any other sum or sums, for the fiscal year 2019 budget; without limiting the foregoing, appropriate the sums necessary for all town expenses, including the snow and ice budget, debt and interest, and operating expenses; fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with an option to purchase or installment purchase of equipment; appropriate to a stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with General Laws, Chapter 44, Section 53E½ and all Enterprise Funds in accordance with General Laws,

Chapter 44, Section 53F½; allocate available free cash; provide for a reserve fund; and establish the requirements for transfers among appropriations, interfund transfers, transfers for the purposes of salary adjustments, filling vacant positions and budgetary reporting.

B.) Fiscal Year 2019 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Chief Procurement Officer for town furniture upgrades.
- 2.) Appropriate \$125,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, for public safety building HVAC improvements.
- 3.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner for the rehabilitation of Town buildings.
- 4.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Building Commissioner and Planning and Community Development Director, with any necessary contracts over \$100,000 to be approved by the Select Board, for a study to reorganize the zoning by-law.
- 5.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Police Chief, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades to the Computer Aided Dispatch (CAD) system.
- 6.) Appropriate \$385,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board, for making extraordinary repairs to Fire Stations.
- 7.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board, for bathroom renovations at the Putterham Library.
- 8.) Appropriate \$85,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Select Board, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Select Board on a semi-annual basis.
- 9.) Appropriate \$176,775, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for bicycle access improvements.

- 10.) Appropriate \$1,710,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of streets.
- 11.) Appropriate \$320,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of sidewalks.
- 12.) Appropriate \$265,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for water meter transmission unit (MTU) replacements.
- 13.) Appropriate \$3,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for wastewater system improvements.
- 14.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements to the Netherland's Road facility.
- 15.) Appropriate \$240,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the design of the renovation of Cypress Field.
- 16.) Appropriate \$425,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements at Larz Anderson Park.
- 17.) Appropriate \$305,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of playground equipment, fields, and fencing.
- 18.) Appropriate \$155,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the rehabilitation of Town and School grounds.
- 19.) Appropriate \$230,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board and the Tree Planting Committee, for the removal and replacement of trees.

- 20.) Appropriate \$225,000, or any other sum, to be expended under the direction of the Director of Recreation, with any necessary contracts over \$100,000 to be approved by the Select Board, for the replacement of the Aquatics Center pool filter.
- 21.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Chief Procurement Officer for school furniture upgrades.
- 22.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for HVAC equipment in Town and School facilities.
- 23.) Appropriate \$225,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the School Committee for climate control projects in School facilities.
- 24.) Appropriate \$75,000, or any other sum, to be expended under the direction of the Building Commissioner for ADA renovations to Town and School facilities.
- 25.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.
- 26.) Appropriate \$180,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board for energy conservation projects in Town and School facilities.
- 27.) Appropriate \$125,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, for upgrades to energy management systems in Town and School facilities.
- 28.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board, for improvements to the fire alarm system in Town and School facilities.
- 29.) Appropriate \$130,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Board of Select Board and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.

- 30.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner, for trash compactor replacements in Town and School facilities.
- 31.) Appropriate \$230,000 or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board and the School Committee, for minor renovations / upgrades to school buildings.
- 32.) Appropriate \$1,500,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and the School Committee, for the schematic design services to construct or expand a school as determined by the outcome of the 9th School feasibility study.
- 33.) Appropriate \$1,165,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and the School Committee, for the expansion of classroom capacity in various schools.
- 34.) Appropriate \$2,450,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of Harry Downes Field & Playground/ and the Kraft Family Athletic Field Turf Replacement.
- 35.) Appropriate \$4,000,000 or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts over \$100,000 to be approved by the Select Board and the School Committee, for HVAC system improvements at the Driscoll School.
- 36.) Appropriate \$2,700,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Select Board, for the renovation of Larz Anderson Park.
- 37.) To see if the Town will vote to appropriate, borrow or transfer from available funds, 189,200,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee to renovate and expand Brookline High School, including the acquisition and reconstruction of the property located at 111 Cypress Street and renovations or repairs to Brookline High School, the Evelyn Kirrane Aquatic Center, the Unified Arts Building, the 66 Tappan Street Gym, and Cypress Field.

C.) Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and

authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Select Board, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, gifts, reimbursements, and aid from both federal, state, and other sources and agencies for any of the purposes noted in this Article, or act on anything relative thereto.

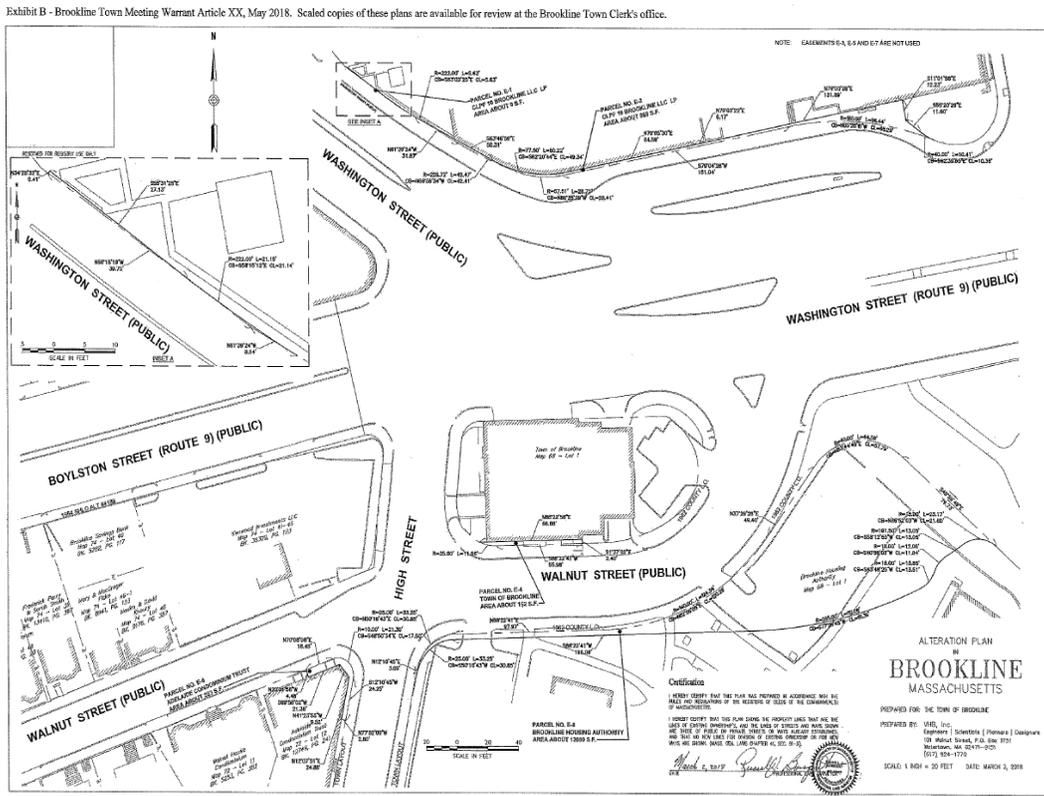
ARTICLE 8

Submitted by: Department of Public Works

To see if the Town will vote to accept as public ways the altered layouts of Walnut Street and Washington Street, to include within the layout of Walnut Street the parcels of land shown as E-4, E-6 and E-8 and to include within the layout of Washington Street the parcels of land shown as E-1, E-2, E-9 and E-10 on a plan entitled “Alteration Plan in Brookline Massachusetts Prepared For: The Town of Brookline,” dated March 2, 2018, prepared by VHB, Inc., as may be amended, said plan on file with the Town Clerk; and to authorize the Select Board to acquire, by gift, purchase, eminent domain or otherwise, permanent easements to use such parcels of land for all purposes for which public ways are used in the Town of Brookline,

or act on anything relative thereto.

Exhibit B: Town Alteration Plan, dated March 2, 2018 - as referenced in Warrant Article



Or take any other action relative thereto.

ARTICLE 9

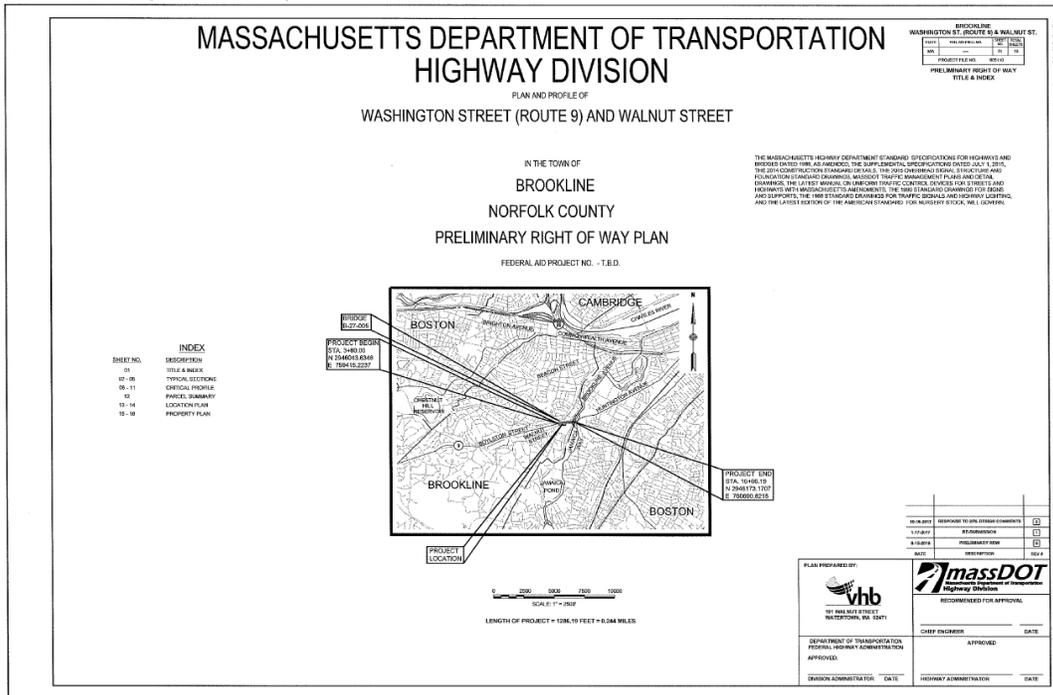
Submitted by: Department of Public Works

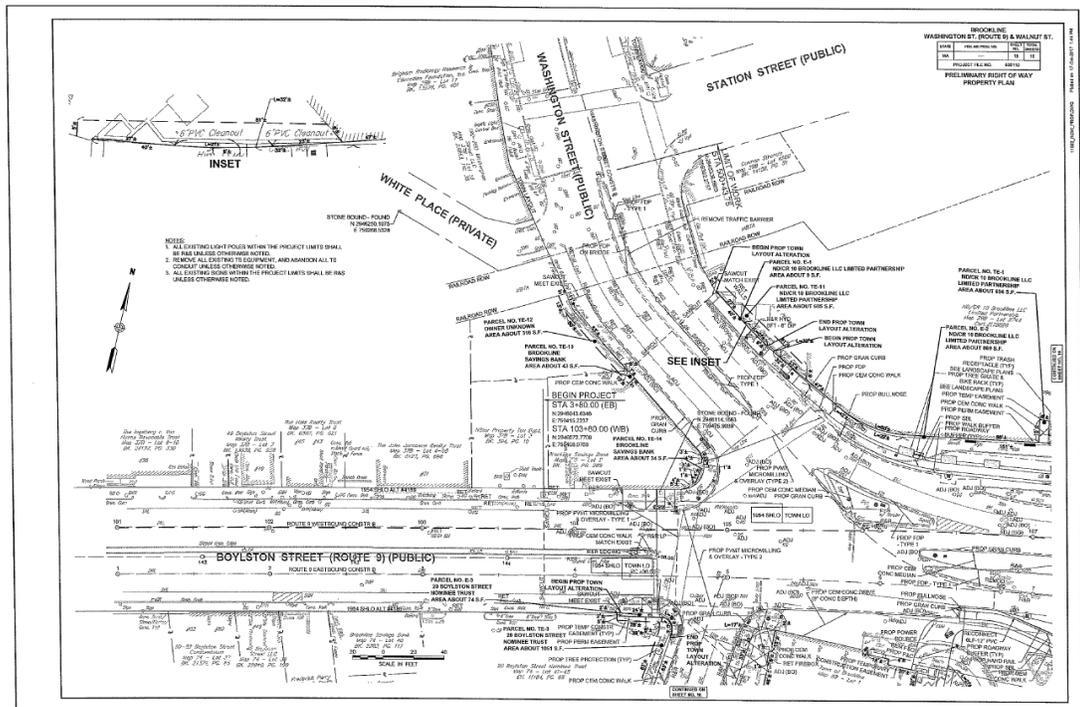
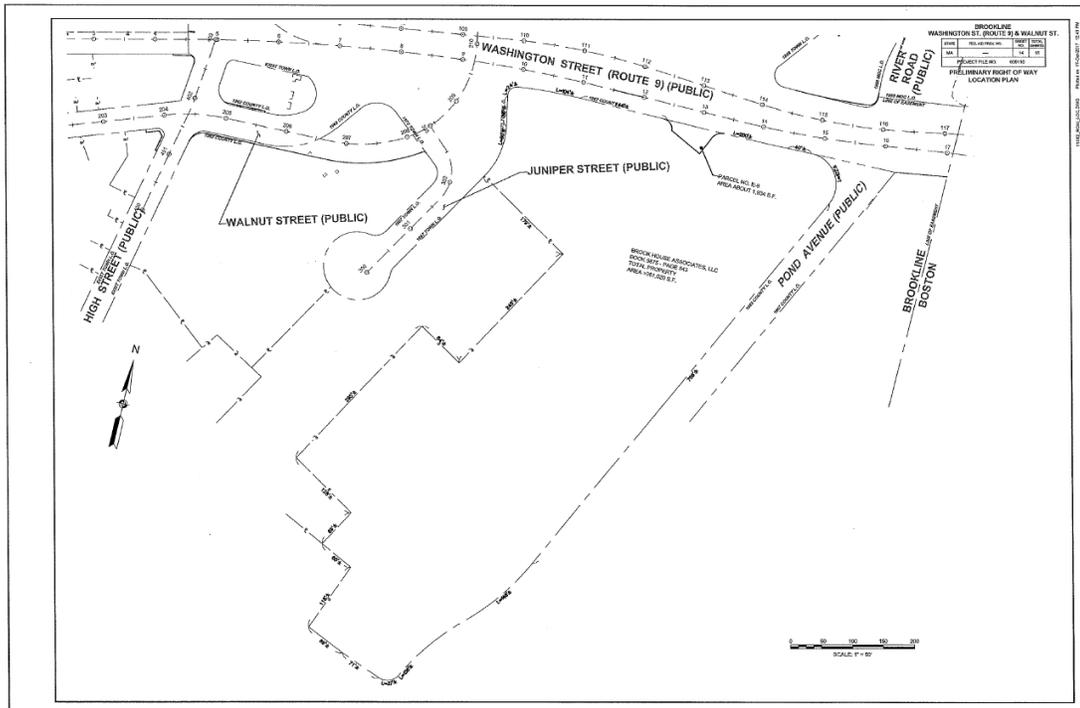
To see if the Town will vote to acquire by gift, purchase, eminent domain or otherwise, on such terms and conditions as the Select Board shall deem to be in the best interests of the Town, permanent and temporary easements on the parcels of land shown on plans entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Washington Street (Route 9) and Walnut Street in the Town of Brookline Norfolk County,” prepared by VHB, revised through October 16, 2017, as may be amended, said plans on file with the Town Clerk, for public way purposes, including, but not limited to, the construction, alteration, maintenance, improvement, repair and/or replacement of roads, sidewalks and landscaping; and, further, to raise and appropriate a sum or sums of money therefor, and determine whether such appropriation shall be raised by taxation, transferred from available funds, provided by borrowing, raised via a Section 108 program loan or provided by any combination of the foregoing; and, further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate to carry out this vote and other acts authorized herein,

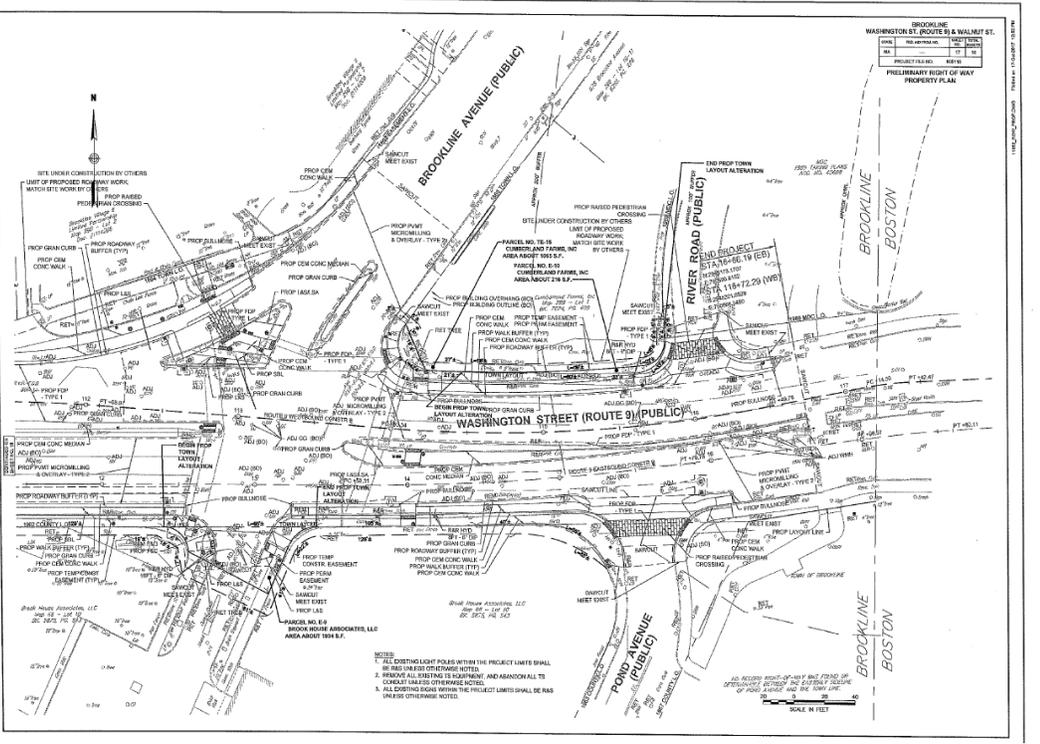
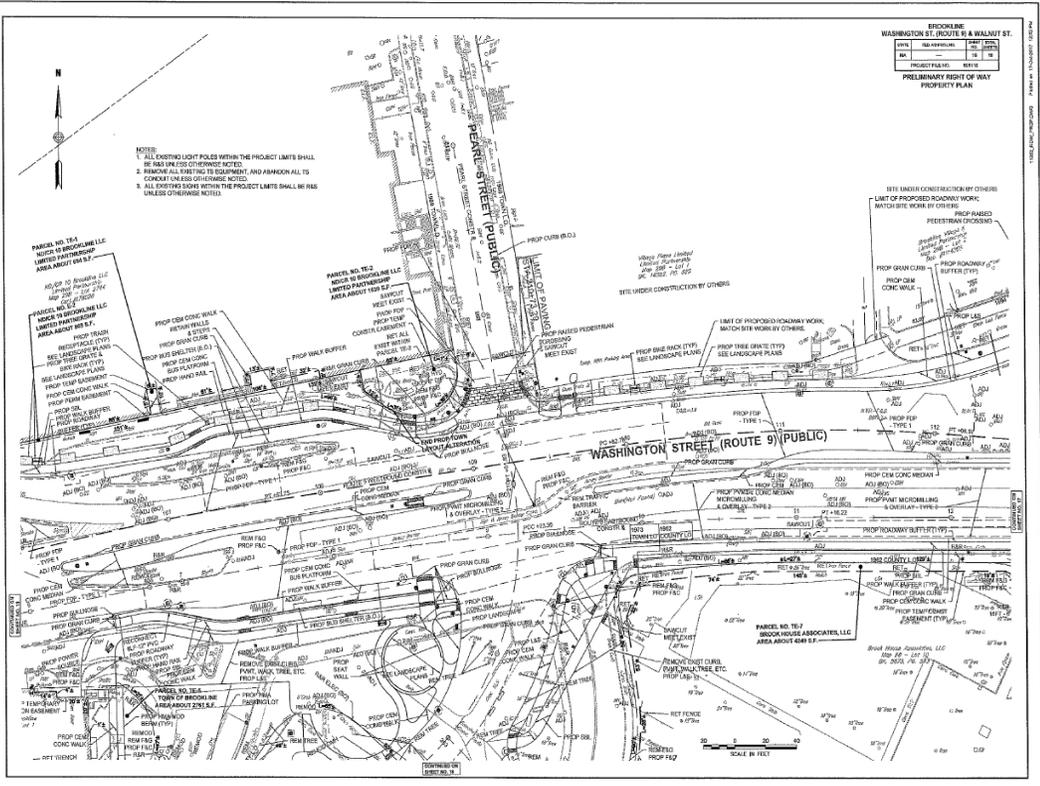
or act on anything relative thereto.

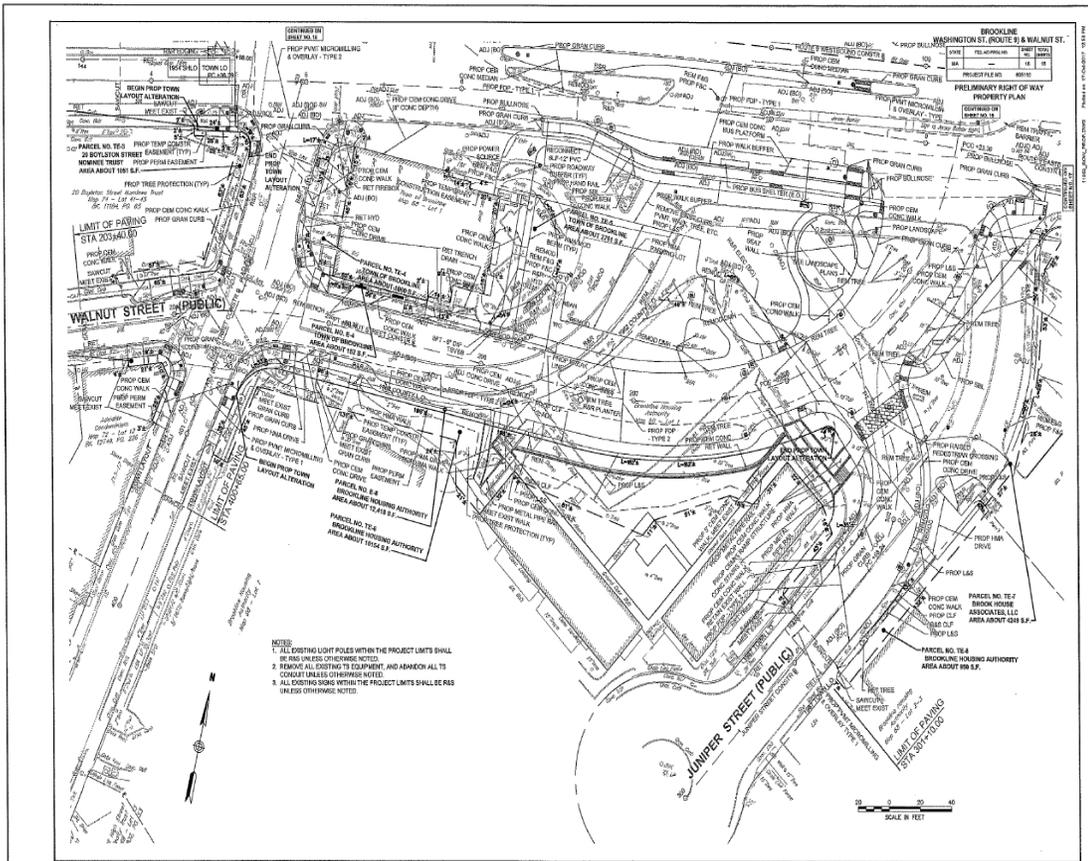
Exhibit A: Relevant sheets from plans referenced in the Warrant

Exhibit A - Brookline Town Meeting Warrant XX. A full set of these plans are available at the Brookline Town Clerk's office.









ARTICLE 10

Submitted by: Department of Public Works

To see if the Town will vote to release any and all interest in an easement containing 926 square feet, more or less, described in a Grant of Easement recorded with the Norfolk Registry of Deeds in Book 4995, Page 135, and shown on a plan entitled “Plan of Easement Washington Street Brookline, Mass.” dated August 23, 1972, prepared by the Commissioner of Public Works of the Town of Brookline, recorded with the Norfolk Registry of Deeds as No. 1544 of 1973 (Plan Book 240), said plan on filed with the Town Clerk; and authorize the Select Board to execute any and all instruments to release and convey said easement for such consideration as deemed appropriate, including nominal consideration, to CLPF Brookline Place LLC, its successor or assign,

or act on anything relative thereto.

Exhibit C: August 23, 1972 Plan of Easement; Illustrative photo with approximate easement location

Approximate Location of Pedestrian Bridge Easement

As Shown on Plan of Easement Dated August 23, 1972

NOT TO SCALE

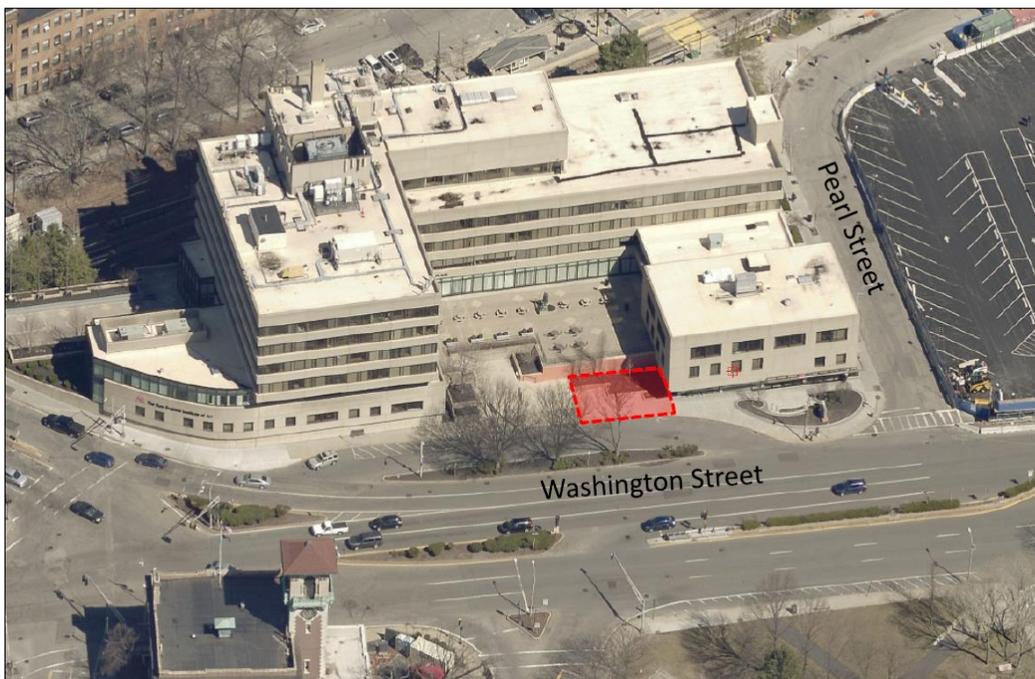


Exhibit C - Brookline Town Meeting Warrant Article XX, May 2018

ARTICLE 11

Submitted by: Department of Public Works

To see if the Town will vote to grant a permanent, exclusive easement for parking spaces upon property of the Town of Brookline, located at the relocated intersection of Washington Street (Route 9) and Walnut Street, as shown on plans submitted under Article 9 entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Washington Street (Route 9) and Walnut Street in the Town of Brookline Norfolk County,” prepared by VHB, revised through October 16, 2017 (Sheets 13 and 18), as may be amended, said parking easement to be appurtenant to property of Brookline Housing Authority, its successor or assign, said property described in a deed recorded with the Norfolk Registry of Deeds in Book 3905, Page 160, and authorize the Select Board to execute any and all instruments to convey said easement for such consideration as deemed appropriate, including nominal consideration,

or act on anything relative thereto.

ARTICLE 12

Submitted by: Department of Planning and Community Development

To see if the Town will vote to appropriate, borrow or transfer from available funds, or raise via a Section 108 program loan, the sum of \$250,000, or any other sum, to be expended under the direction of the Planning and Community Development Director, with any necessary contracts or any Municipal Agreement to be executed with the

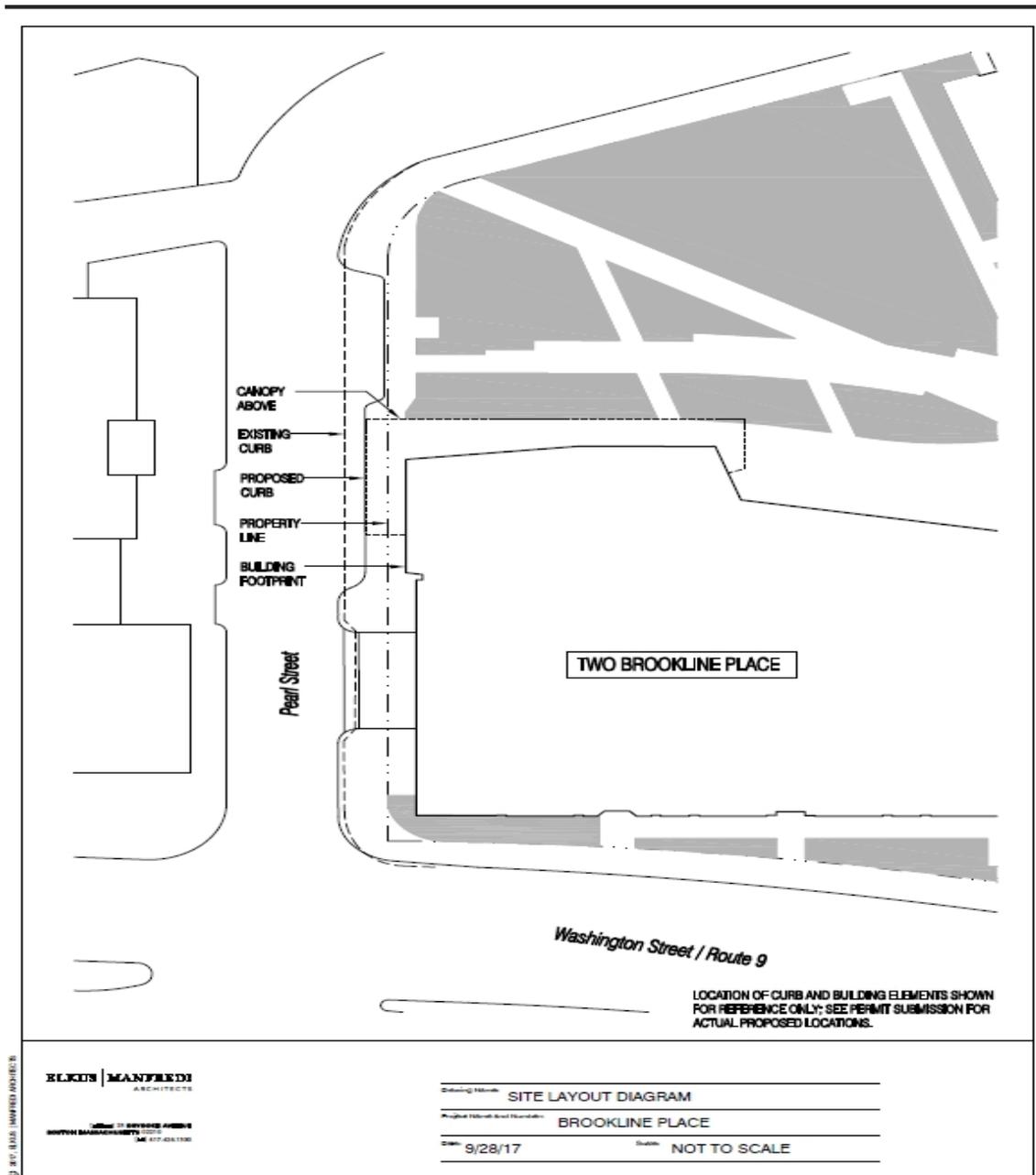
Massachusetts Department of Transportation over the amount of \$100,000 to be approved by the Select Board, with said sum to be used to fulfill a portion of the Town's one million dollar construction match for the Gateway East project,

or act on anything relative thereto.

ARTICLE 13

Submitted by: Children's Hospital

To see if the Town will vote to authorize the Select Board to grant, for a minimum amount of \$100.00, permanent easements over and/or vertical discontinuances of certain portions of Pearl Street for the construction of a canopy over the main entrance to the building located at 2-4 Brookline Place, as substantially shown on the plan submitted herewith entitled "Site Layout Diagram" and dated 9/28/17.

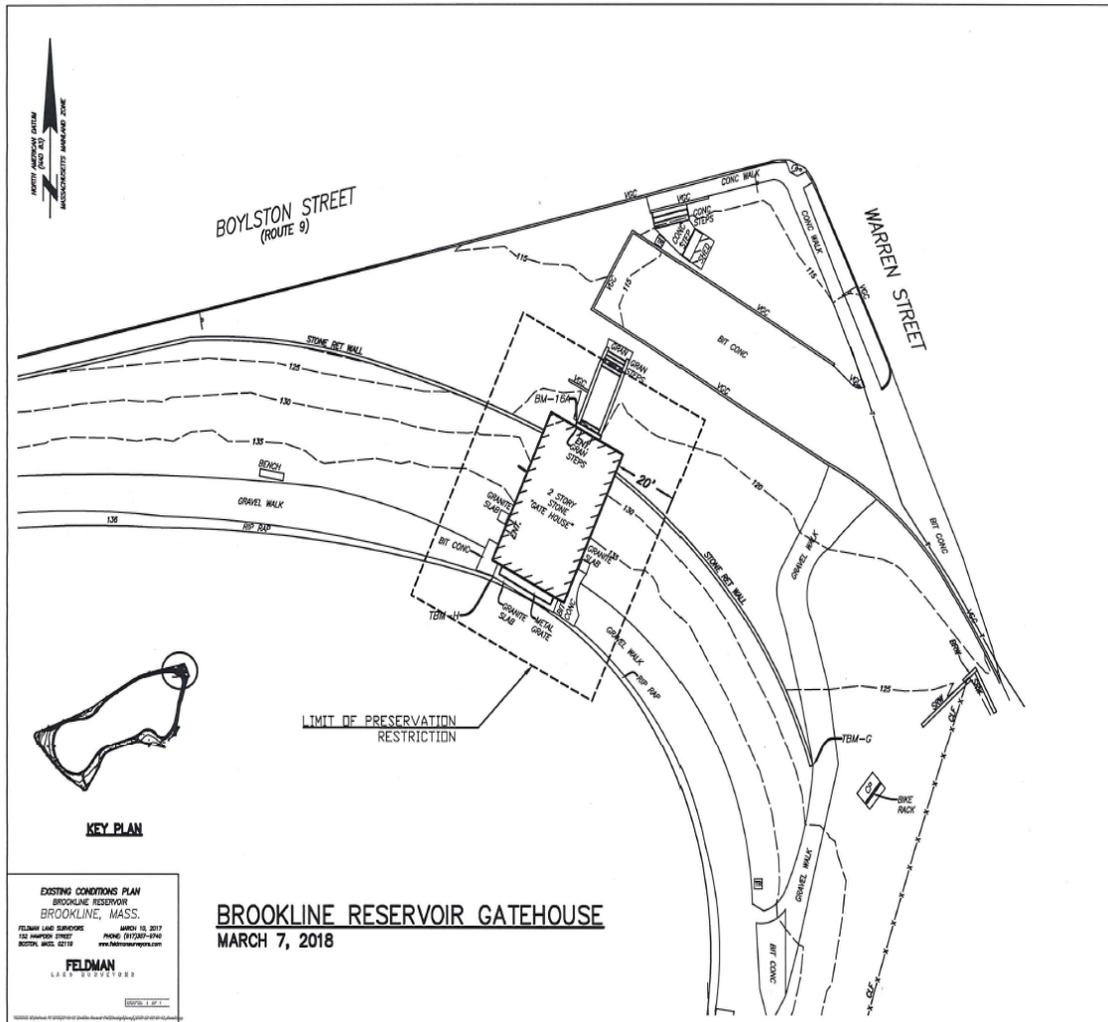


Or take any other action relative thereto.

ARTICLE 14

Submitted by: Commissioner of Public Works

To see if the Town will authorize and empower the Select Board to grant a preservation restriction to the Massachusetts Historical Commission in perpetuity on the structure generally known and referred to as the Brookline Reservoir Gatehouse, a two-story granite structure located at the southwest corner of Warren and Boylston Streets adjacent to the Brookline Reservoir, as well as the surrounding twenty-foot area, shown on the plan dated March 7, 2018 submitted herewith and entitled “Brookline Reservoir Gatehouse”, with the entire Reservoir shown on Sheet 76 of the Town’s 2005 Assessors Atlas as Parcel 10 in Block 324,



or act on anything relative thereto.

ARTICLE 15

Submitted by: Commissioner of Public Works

To see if the Town will amend the Brookline Stormwater By-Law, by:

Amending Section 8.26 of the General By-Law as follows: (new language in bold and underline; deleted language struck):

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**, 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) ~~A clear and definite delineation of any areas of vegetation or trees. Note all vegetation that is to be removed and all vegetation that is to be saved.~~
 - 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 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 measures¹
- b. Start of construction, removal of protected trees, or site clearing
- c. Completion of site clearing
- d. Completion of rough grading
- 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

¹ Only Notification required on minor projects.

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.

or act on anything relative thereto.

ARTICLE 16

Submitted by: Planning and Community Development Department, Contact: Trevor Johnson

To see if the Town will amend Section 7.00 of the Zoning By-law as follows (new and modified language in bold and italics, deleted language appearing in strikethrough)

ARTICLE VII

SIGNS, ILLUMINATION, & REGULATED FACADE ALTERATIONS

§7.00 - SIGN BY-LAW

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§7.00 – SIGN BY-LAW

1. Purpose: The purpose of this Article 7.00 is to improve pedestrian and traffic safety; to avoid the proliferation of signs; to minimize their adverse effect on nearby public and private property, to preserve the esthetic environment; to encourage the effective use of signs; and, to enable fair, consistent and content-neutral enforcement of this section.

Applicability: The following shall apply to all signs in all zoning districts.

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

Definitions: The following words and phrases used in this section shall have the meanings set forth below:

- a. 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.
 - v. *Customary displays of merchandise or objects and materials without lettering behind a store window.*
 - vi. *Signs not visible from a public way or residential dwelling.*
 - vii. *Bulletin boards, menu or announcement boards mounted to a building outside an entryway.*

- b. Regulated Façade Alteration: Any change intended to be permanent in the visual appearance of the facade including the blocking of the view through a street-level window and any change in door or window style, unless such change consists of an exact replication in terms of size, color, location and detail of the replaced element. A regulated alteration shall also include installation of a fence, wall or driveway. A regulated facade alteration shall include:
 - i. commercial building facades in all districts; and
 - ii. residential building facades on lots with frontage on Beacon Street, Boylston Street, Brookline Avenue, Commonwealth Avenue, Harvard Street, or Washington Street, with the exception of buildings on lots located in S, SC, and T districts.
- c. *Façade Sign: A sign consisting of letters, numbers or other graphics mounted directly to the façade of a building or mounted to a raceway, panel or sign-backer comprised of substantial materials that is mounted to the façade of a building.*
- d. *Banner Sign: A sign constructed of pliable fabric or similar material with no internal illumination or other mechanical function that is mounted perpendicular to a building as a decorative element via mounting poles or brackets.*
- e. *Projecting Sign: A sign constructed of wood, a composite of wood and plastic, metal, glass or another substantial material that is mounted perpendicular to a building façade.*
- f. *Window Sign: Any sign that is applied, painted, or affixed to a window, or placed inside a window, facing the outside of the building, and easily seen from the outside.*
- h. *Freestanding Sign: A sign mounted to a base structure, pole, or post that is anchored to the ground and is not attached to a building.*

§7.01 – SIGNS IN ALL DISTRICTS

- a. All regulated facade alterations shall be subject to the design review process in **§7.08**.
- b. *Signs, whether temporary or permanently attached to the exterior of buildings shall be made of substantial materials.*

- b. Signs with visible moving or moveable parts or with flashing animated or intermittent illumination are prohibited.
- c. Signs or parts thereof attached to a building, shall not exceed a height of 25 feet above ground level, **except as provided in §7.07.1.b.**
- d. ~~Projecting or banner signs attached to a building shall not be internally illuminated shall not exceed 12 square feet in area per face and shall not extend lower than a height of 8 feet.~~
- e. **Façade** Signs ~~attached to a building~~ shall not project above the roof or parapet line nor more than 12 inches out from the wall to which it is attached.
- e. Signs shall not be permitted on building walls not parallel or within 45 degrees of parallel to the street, **except as provided in §7.04.1.e.**
- g. No A-Frame or “Sandwich board” signs shall be permitted in any district.
- h. ~~Signs, whether attached to a building or free standing, shall have an aggregate area not exceeding two square feet for each foot of building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.~~
- i. The aggregate area of all signs in any window, whether temporary or permanent, shall not exceed 30% of the area of such window, and the area of permanent window signs shall be included in the aggregate sign area permitted in paragraph (h) above.
- h. All permanent **Freestanding** signs in excess of 1 square foot shall be set back one-half the depth of the required front yard setback from all street lot lines.
- i. ~~Permanent signs not attached to a building shall not exceed 30 square feet in area of each face exclusive of posts or other structural supports and shall not exceed 19 feet in height.~~
- j. Temporary, non-illuminated, signs may be placed on private property in all zoning districts, provided that the signs are in fact temporary, not involving any

substantial expense, and are displayed in a manner which will not deface the building facade.

k. Non-illuminated signs that do not exceed 1.5 square feet in area identifying allowed users of individual parking spaces may be placed in all zoning districts.

l. All lighting shall be installed and maintained so that no direct light or glare shines on any street or nearby property.

m. No neon type or exposed gas-illuminated tube type of sign which is red, yellow, or green shall be located within 100 feet of a traffic signal unless it is shielded from the line of sight of any driver of a motor vehicle approaching the traffic signal.

n. There shall be not more than one freestanding sign per property, except as provided in §7.07.1.c.

~~that the Board of Appeals by special permit may allow additional freestanding signs on a property with more than one building or more than one street frontage but not more than one sign per building per street frontage. Whenever possible, signs shall be combined or clustered to minimize their number.~~

~~q.~~ Signs, whether temporary or permanently attached to the exterior of buildings shall be made of substantial materials.

§7.02 – SIGNS IN S, SC, T AND F DISTRICTS

1. In any S, SC, T and F District, ~~no permanent on-premises sign or other permanent on-premises advertising device shall be permitted except as follows:~~

Permanent on premises signs and other permanent on premises advertising devices shall only be allowed in any S, SC, T and F Districts as permitted in §7.01 and as follows:

a. One sign located in a manner intended to identify the address and/or occupant of the premises not exceeding 1 square foot in area.

~~b. Two bulletin board or announcement board signs not exceeding 10 square feet in area.~~

§7.03 – SIGNS IN M DISTRICTS

1. ~~In any M District, no permanent on-premises sign or other permanent on-premises advertising device shall be permitted except as follows:~~

Permanent on premises signs and other permanent on premises advertising devices shall only be allowed in any M District as permitted in §7.01 and as follows:

- a. As permitted in S, SC, T and F districts.
- b. Two signs not exceeding a total aggregate of 20 square feet in area.
- c. Dwellings with more than 200 units may have an additional aggregate area of 5 square feet per 100 units above 100 units, up to a maximum aggregate area of 40 square feet.

§7.04 – SIGNS IN I, G, L AND O DISTRICTS

1. ~~In any I, G, L or O District, no permanent on-premises sign or other permanent on-premises advertising device shall be permitted except as follows:~~

Permanent on premises signs and other permanent on premises advertising devices shall only be allowed in any I, G, L and O Districts as permitted in §7.01 and as follows:

- a. As permitted in S, SC, T, F and M districts
- b. Signs attached to a building shall have an aggregate area not exceeding two square feet for each foot of building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.***
- c. The aggregate area of all signs in any window, whether temporary or permanent, shall not exceed 30% of the area of such window. and the area of permanent window signs shall be included in the aggregate sign area permitted in paragraph (h) above.***
- d. Signs on upper floors of attached to a building may have signage additional area in accordance with §7.07.1.a. - - above, if located at the second floor level, but not exceeding the height limit of 25 feet as stipulated in §7.01(c), at an additional aggregate area of a half a square foot for each foot of building face parallel or substantially parallel to a street lot line.—***

- e. ~~One-sign~~ **Signs** not parallel or within 45 degrees of parallel to a street, not exceeding twelve square feet in area for structures with a single business and not exceeding eighteen square feet in area for structures with more than one business provided that the sign is proportionate to the area of the building wall to which it will be attached. Where such building wall contains the main business entrance or entrances, the Planning Board may allow a larger sign or signs, but in no case shall the aggregate area of such signs exceed two square feet for each linear foot of building face of that wall.

- f. ~~Permanent signs not attached to a building~~ **Freestanding signs shall not exceed 30 square feet in area of each face exclusive of posts or other structural supports and shall not exceed 19 feet in height.**

§7.05 – TEMPORARY SIGNS

1. In all districts, no temporary on-premises sign or other temporary on-premises advertising device shall be permitted except as follows:

- a. The design and location of all temporary signs attached to or associated with a commercial property or use shall be subject to the approval of the Building Commissioner following guidelines approved by the Planning Board.

- b. Except as provided in **§7.07(b)**, the Building Commissioner may approve temporary signs attached to or associated with a commercial property or use for no more than a four month period in any calendar year.

- c. Temporary signs associated with a non-commercial property, dwelling or use not exceeding 12 square feet may be placed in all districts.

- d. Signs related to an event on a specific date or dates shall be removed within 7 days after the event.

§7.06 – ILLUMINATION

1. In all districts, no sign shall be illuminated except as follows:

- a. In any residence district, no sign shall be of the neon type or exposed gas-illuminated tube type; and any lighting of a sign shall be continuous, indirect white light installed in a manner that will prevent direct light from shining onto any street or nearby property. In S, SC, and T Districts no sign shall be illuminated after 11 p.m.

b. In an S, SC, T, M-0.5, M-1.0, or M-1.5 District, no outdoor floodlighting or decorative lighting shall be permitted except lighting primarily designed to illuminate walks, driveways, doorways, outdoor living areas, or outdoor recreational facilities.

c. New internally illuminated signs in L, G, I and O Districts may be illuminated via low intensity LED light bulbs from 5 am until 11 pm; or ½ hour past the close of business, whichever is later. In the case of a business that operates 24 hours per day; internally illuminated signs shall be dimmed between the hours of 11 pm and 5 am. Signs shall be installed with an automatic timer to comply with this Section.

§7.07 – EXCEPTIONS TO THE ABOVE

1. Signs in all districts shall comply with this section of the By-Law except as follows:

a. *Where an applicant can demonstrate that Signs* ~~In cases where an attached sign size larger than permitted in this Article VII is~~ *are* appropriate because of the size of a natural space for a sign on a facade or because of other architectural features of a building, *the Planning Board may approve such a larger attached signs up to but not more than 25% larger than permitted by the specific regulations in this Article may be allowed by the Planning Board in accordance with the procedures of §7.01(h) only if such an increase is necessary to fill the most appropriate sign area on the building and the sign location appropriate is a proper one for an larger oversized sign. No lettering or other advertising message shall be placed in the additional sign area authorized by this paragraph. The increase of the background up to 25% shall not in any event permit an increase in the size of the lettering had the background increase not been permitted.*

b. *Where an applicant can demonstrate that the granting of exception(s) to the requirements of this Article 7.00 would result in an improved design because of the nature or use of a lot, the architecture of a building or its location with respect to public ways, the Board of Appeals may grant a Special Permit to allow exception(s) to the limitations on the number, size, location and/or height of signs. A Special Permit to allow such exception(s) shall only be granted where the Planning Board finds that such exception(s) will result in an improved design with respect to the architecture of a building; the aesthetic of the signs and/or improved site circulation. The Planning Board may offer a written recommendation to the Board of Appeals to allow any such exception(s).*

c. The Planning Board of Appeals by special permit may allow additional freestanding signs on a property with more than one building or more than one street frontage but not more than one sign per building per street frontage. Whenever possible, signs shall be combined or clustered to minimize their number.

d. Upon the expiration of the initial four month period for a temporary sign for a commercial property or use, the Building Commissioner may permit a temporary sign for an additional four month period upon written application, if need is shown.

*e. Additional temporary signs on a construction or development site may be allowed by **the Building Commissioner** special permit of the Board of Appeals which **who** shall specify limits on the size and number of signs and the length of time to be maintained.*

f. Permanent decorative floodlighting of institutional or historic buildings may be permitted by the Board of Appeals by special permit. Any permanent lighting permitted by the preceding sentence shall be continuous, indirect, white light, installed in a manner that will prevent direct light from shining onto any street or nearby property.

§7.08 – DESIGN REVIEW PROCEDURES

All permanent signs permitted in **§7.02, 7.03 and 7.04**, except signs permitted in paragraph

7.02(a) shall be subject to the following design review process:

1. ALL APPLICATIONS

a. The applicant shall submit to the Planning and Community Development Department an application form, plans *and elevations including all dimensions* of the proposed sign, facade alterations, if any, and photographs showing the existing building or site, and such other material as may be required by the Assistant Director for Regulatory Planning or designee, Building Commissioner or Planning Board.

2. ADMINISTRATIVE APPROVAL

a. Within 10 working days, the Assistant Director for Regulatory Planning or designee may administratively approve an application only if it solely relates to either an in-kind or substantially similar replacement of an existing sign following the guidelines of the Planning Board with respect to size, color,

number, style, location and illumination. All administratively approved applications shall be subject to the notice and appeals procedures described in subparagraphs b, c, d, e and 3.b below.

- b. Within 5 working days of any administrative approval, notice shall be provided to the Building Commissioner and those Town Meeting Members set forth in subparagraph 3.b below.
- c. The address and a description of all administratively approved signs shall be noticed in the next Planning Board Design Review Meeting agenda.
- d. Upon receipt of the notice of administrative approval, the Building Commissioner may issue a permit for a sign which conforms to the administrative approval; regulations of the Zoning By-Law and such other technical requirements as are within the Building Commissioner's jurisdiction.
- e. An aggrieved party may appeal the administrative approval to the Planning Board within 15 days of the date of publication of the next Planning Board Design Review Meeting agenda containing the notice of approval by submitting a written request for Planning Board review of the application to the Assistant Director for Regulatory Planning.

3. PLANNING BOARD APPROVAL

- a. Within 10 working days, all applications not subject to administrative approval as described above as well as those for which an aggrieved party has requested Planning Board review, shall be referred to the Planning Board along with recommendations, and accompanying materials for review and approval and shall be subject to the notice and appeals procedures described in subparagraphs b, c and d below.
- b. After its receipt of the application and all required materials, the Planning Board shall review the application at its next public meeting for which legal notice can be given. At least seven days before such meeting, the Planning Board shall mail or deliver a notice of the meeting, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located, and to those Town Meeting Members of a precinct which is within 200 feet of such property as to which such application has been made. The notice requirements of this section shall be deemed satisfied if such notices are mailed and/or emailed to those individuals whose names appear as Town Meeting Members in the records of the Town

Clerk at the addresses as they appear in such records. The Planning Board shall submit its recommendations in writing to the applicant, aggrieved part(ies) and the Building Commissioner. The recommendations shall be based on the provisions of this Section of the Zoning By-law, the community and Environmental Impact and Design Standards in §5.09 and such design guidelines as the Planning Board may adopt.

- c. Upon receipt of the Planning Board's report or the lapse of thirty days from referral to the Board without such report, the Building Commissioner may issue a permit for a sign which conforms to the Planning Board's recommendations, if any, the regulations in the Zoning By-law, and such other technical requirements as are within the Building Commissioner's jurisdiction.
- d. If the applicant or other aggrieved party does not agree with the staff administrative approval, recommendations of the Planning Board or other requirements imposed by the Building Commissioner, he may appeal to the Board of Appeals within 30 days through the special permit procedure in Article IX.

§7.09 – NON-CONFORMANCE OF SIGNS

Signs legally erected may continue to be maintained, subject to the provisions of §5.83 of the Town of Brookline Sign By-law (Article 5.8); provided, however, that no such sign shall be permitted if it is enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages) redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this By-law; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this By-law. Any exemption provided in this Article VII shall terminate with respect to any sign which:

1. has been abandoned;
2. advertises or calls attention to any products, businesses or activities which are no longer sold or carried on at the particular premises; or
3. has not been repaired or properly maintained within thirty days after notice to that effect has been given by the Building Commissioner.

Or act on anything relative thereto.

ARTICLE 17

Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-law as follows:

By amending §2.13, “M” Definitions, as follows (additions are denoted in bold, italicized text, deletions are denoted in ~~stricken~~ text):

1. ~~MEDICAL MARIJUANA TREATMENT CENTER~~ — Any medical marijuana treatment center, to be known as a Registered Marijuana Dispensary (RMD), as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

1. ***MARIJUANA*** — ***As defined or amended by State regulations, 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.***
 - a. ***Marijuana, Hemp*** — ***As defined or amended by State regulations, 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.***

2. ***MARIJUANA ESTABLISHMENT*** – ***As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of***

Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.

- a. Marijuana Establishment, Craft Marijuana Cultivator Cooperative — As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the Cannabis Control Commission to cultivate, obtain, manufacture, process, package, and brand Marijuana and Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- b. Marijuana Establishment, Marijuana Cultivator — As defined or amended by State regulations, an entity licensed by the Massachusetts 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. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- c. Marijuana Establishment, Delivery-Only Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission as 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 Micro-Business.*
- d. Marijuana Establishment, Marijuana Independent Testing Laboratory — As defined or amended by State regulations, an entity licensed by the Massachusetts 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. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- e. Marijuana Establishment, Marijuana Micro-Business — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to act as a co-located licensed Marijuana Cultivator in an area less than 5,000 square feet, a licensed Marijuana Product Manufacturer, and a licensed Marijuana Delivery Service, in*

compliance with operating procedures for each such license and siting requirements for each type of licensee.

- f. Marijuana Establishment, Marijuana Product Manufacturer — As defined or amended by State regulations, an entity licensed by the Massachusetts 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. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- g. Marijuana Establishment, Marijuana Research Facility — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may be academic institutions, non-profit corporations and domestic corporations or entities authorized to do business in Massachusetts. A Marijuana Research Facility may hold a Cannabis Control Commission Marijuana Retailer License to sell Marijuana and Marijuana Products other than Marijuana cultivated under its research license. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- h. Marijuana Establishment, Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts 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. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- i. Marijuana Establishment, Social Consumption Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer licensed by the Massachusetts 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.*
- j. Marijuana Establishment, Marijuana Transporter — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Cannabis Control Commission to purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of*

transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers. This definition includes the foregoing uses described in this definition when conducted by Marijuana Establishments.

- k. Marijuana Establishment, Medical Marijuana Treatment Center — As defined or amended by State regulations, 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, as otherwise defined by State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
 - l. Marijuana Establishment, Standards Laboratory — As defined or amended by State regulations, a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.*
 - m. Marijuana Establishment, Storefront Marijuana Retailer — As defined or amended by State regulations, 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 Medical Use of Marijuana Program.*
- 3. MARIJUANA ESTABLISHMENT AGENT** — *As defined or amended by State regulations, 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, dispensing, or any other analogous uses of Marijuana.*
- 4. MARIJUANA PRODUCTS** — *As defined or amended by State regulations, 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.*
- 5. MARIJUANA, MANUFACTURE** — *As defined or amended by State regulations, to compound, blend, extract, infuse or otherwise make or prepare a Marijuana product.*

6. MARIJUANA, MARIJUANA MANUFACTURER RESIDENTIAL USE: Residential Marijuana Extraction by Non-licensed Establishments or Individuals utilizing extraction processes that pose an explosive or flammable danger, including solvent-based extraction and any method utilizing liquefied petroleum gas (“LPG”, as may be defined by NFPA1, including propylene, propane, butane, butylenes, and mixtures thereof).

And further, by amending §4.07, Table of Use Regulations, as follows (all uses are new):

Principal Uses	Residence					Business			Ind
	S	S C	T	F	M	L	G	O	I
<p>20B. Medical Marijuana Treatment Centers (see Section 4.13 for applicable definition), and uses analogous to Marijuana Retailer Uses Only Registered Marijuana Dispensary- (RMD)*</p> <p><i>* To be eligible for a special permit under Use 20B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, and Sec. 4.13, Marijuana Establishments, shall be met, as each may be applicable.</i></p>	No	N o	N o	No	N o	No	SP*2	SP*2	SP*
<p>20C. Delivery-Only Marijuana Retailers and Marijuana Transporters</p> <p><i>*To be eligible for a special permit under Use 20C, the requirements under Sec. 4.13, Marijuana Establishments, shall be</i></p>	No	N o	N o	No	N o	SP*1	SP*1	SP*1	SP*1

<i>met.</i>									
29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment <i>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>SP*1, 2</i>	<i>SP*1, 2</i>	<i>No</i>	<i>SP*1</i>
29B. Social Consumption Marijuana Retailers <i>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L c.94G, § 3(b).</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>SP*1, 2</i>	<i>SP*1, 2</i>	<i>No</i>	<i>SP*1</i>
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities <i>* To be eligible for a special permit under Use 36C, the requirements under Sec. 4.13, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>SP*1, 2</i>	<i>SP*1, 2</i>	<i>SP*1</i>
38D. Marijuana Cultivators <i>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>SP*1, 2</i>	<i>SP*1, 2</i>	<i>SP*1, 2</i>	<i>SP*1</i>
46B. Marijuana Product Manufacturers <i>* Permitted by special permit pursuant to Section 4.13, Marijuana</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>N</i> <i>o</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>SP*1</i>

<i>Establishments</i>									
Accessory Uses	Residence					Business			Ind
	S	S C	T	F	M	L	G	O	I
<i>65A. Marijuana Manufacturer Residential Uses</i>	<i>No</i>	<i>N o</i>	<i>N o</i>	<i>No</i>	<i>N o</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

FOOTNOTES:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.
2. No manufacturing of Marijuana is permitted in these districts.

And further, by creating a new §4.13, Marijuana Establishments with the following requirements:

§4.13 -Marijuana Establishments

1. Purpose

The intent of this section is to permit Marijuana Establishments to operate in locations and pursuant to local requirements that 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.

2. Definitions

See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended, as well as Section 2, Definitions, of the Zoning By-Law for further definitions of applicable terms.

3. Medical Marijuana Treatment Centers

Medical Marijuana Treatment Centers licensed prior to July 1, 2017 shall be subject to §2.13(1) (“Medical Marijuana Treatment Center”), §4.07, Use 20B, and §4.12 (“Registered Marijuana Dispensary (RMD)”) of the Zoning By-Laws and not this section, subject to the following: In the event that the medical Marijuana licensing process by the Select Board pursuant to Article 8.34 of the General By-Laws is discontinued in whole or in part, a medical Marijuana treatment center not subject to Select Board licensing pursuant to Article 8.34 shall then be subject to the requirements established for Storefront Marijuana Retailers.

4. Cap on the Number of Special Permits for Marijuana Retailers

The Zoning Board of Appeals shall not grant a special permit if doing so would result in a total number of outstanding special permits granted to Marijuana Retailers that exceeds any cap set by a General By-Law on the number of Select Board Marijuana Establishment licenses that can be issued to Marijuana Retailers.

If no such General By-Law is in effect at the time of a vote by the Zoning Board of Appeals on a special permit application, the Zoning Board of Appeals shall not issue a special permit if doing so would result in a total number of outstanding special permits that exceeds the following limitations: The Zoning Board of Appeals shall not issue more special permits in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 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.

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), and agreements between the Marijuana Establishment and the Town, including host community agreements.
2. Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any laws 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 special permit pending hearing or the opportunity therefore afforded to the Marijuana Establishment and pending further determination by the Zoning Board of Appeals.
3. 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.

B. Operational Requirements

1. All Marijuana Establishments' licensed operations shall be conducted within a building at a fixed location.
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. The hours of operation of Marijuana Establishments shall be those that are set by the Marijuana Establishment's host community agreement with the Town or a Select Board-issued license.
5. 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.
6. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
7. 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.
8. 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 Division 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.
9. 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.

10. 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.
11. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.
12. Marijuana Establishments 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.
13. 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 plans 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.
2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing the storage of Marijuana

products are restricted to employees and others permitted by the Marijuana Establishment to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents 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 Building Commissioner or designee, including an agent 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 Building Commissioner or designee, including 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) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

E. Additional Location Requirements for Marijuana Establishments

1. Marijuana Establishments shall not be located in a building that contains a pre-existing daycare center.
2. Marijuana manufacturing or extraction shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.
3. Delivery-Only Marijuana Retailers and Marijuana Transporters shall not occupy street-level space in Local or General Business districts.
4. The required distance from schools that serve Kindergarten through 12th grade, public or private, shall be:
 - a. 500 feet for i) Social Consumption Marijuana Retailers issued a primary use license; and ii) Storefront Marijuana Retailers.
 - b. No distance requirement applicable to i) Marijuana Research Facilities that do not hold a Marijuana Retailer license; ii) Marijuana Independent Testing Laboratories; and iii) Marijuana Standards Laboratories.
 - c. 200 feet for all other Marijuana Establishments.
 - d. Measured from lot boundary to lot boundary.
5. Density requirements for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall be:
 - a. A minimum of 200 feet from another Social Consumption Marijuana Retailer issued a primary use license or Storefront Marijuana Retailer if any portion of the establishment is located at street-level.
 - b. Allowed within 200 feet from another Social Consumption Marijuana Retailer issued a primary use license or Storefront Marijuana Retailer above or below street-level as long as the Zoning Board of Appeals determines that doing so will not have a detrimental impact on the vibrancy of the streetscape and all other applicable requirements are satisfied (applicable to uses 29A and 29B).
 - c. Measured from lot boundary to lot boundary.
6. Store Size Limitations for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall:
 - a. Not exceed a total gross floor area of 5,000 square feet per establishment.

- b. Not exceed a gross floor area of 3,500 square feet and no more than 5,000 square feet total gross floor area per establishment if any portion of the establishment is located at street-level.
- c. Not apply to Medical Marijuana Treatment Centers licensed to operate prior to July 1, 2017, who receive a State Storefront Marijuana Retailer license or Delivery-Only Marijuana Retailer license pursuant to M.G.L. c. 94G and the regulations promulgated thereunder, unless a licensed Medical Marijuana Treatment Center expands the licensed premises or building.

6. *Site Plan Review for Marijuana Establishments*

The following describes requirements for a Marijuana Establishment site plan review process to precede the Marijuana Establishment's application for a building permit and a special permit:

- A. Prior to applying for a building permit, the Marijuana Establishment shall have an initial informal meeting with the Planning Director and the Building Commissioner or designees to discuss development plans and relevant Zoning By-Law requirements.
- B. The appropriate site plan review process shall be determined at the initial meeting consistent with the Zoning By-Laws, which may include, but is not limited to, the process for Major Impact Projects and Design Advisory Teams.
- C. In addition, at the discretion of the Planning Director or designee, the Marijuana Establishment Site Plan Review process may entail submission of reports from all relevant departments and divisions, which may include the Health Department, the Police Departments, the Fire Department, the Building Department, the Department of Public Works (*e.g.*, the Transportation Division in the event that a Transportation Demand Management Plan may be contemplated, the Water Division, the Highway and Sanitation Division, as applicable), and/or any other Department that the Planning Director or designee determines to be appropriate to the project.
- D. The applicant is responsible for obtaining any Department report deemed necessary by the Planning Director or designee in connection with Marijuana Establishment Site Plan Review process and submitting the report to the Planning Department. The Planning Department will assist with identifying to the applicant information and documents that Departments may require in connection with issuing their reports. Departments responsible for reports may identify other needed information and documents needed from the applicant.
- E. Each Department designated by the Planning Department to issue a report will make its report available to the applicant no later than forty-five (45) calendar

days from the date the applicant has completed submission to the Department of all requested information and documents.

- F. In the event a Department designated by the Planning Department to issue a report does not do so within 45 days of when the applicant submitted all requested information and documents to the Department, the applicant may submit to the Planning Department, in lieu of the report, a letter showing evidence of the applicant's submission of requested information and documents to the Department or stating that no documents or information was requested, as the case may be.
- G. The Marijuana Establishment shall cooperate with requests for information or meetings by the Planning Director and/or by any of the Departments designated by the Planning Director to issue reports as part of the Marijuana Establishment Site Plan Review process, which information may include the Marijuana Establishment's application for a license from the Cannabis Control Commission or relevant State agency.
- H. Marijuana Establishments may not apply for a building permit until the Planning Director and Building Commissioner have issued a written Notice of Completion of Marijuana Establishment Site Plan Review.

7. *Special Permits*

The following apply to special permits to operate a Marijuana Establishment, in addition to the requirements set forth in §9 of the Zoning By-Laws.

- A. Application requirements: Marijuana Establishments shall include with their special permit application:
 - 1. Copies of any required licenses and permits relating to the operation of the Marijuana Establishment, or, if an application for a required license or permit is pending, a copy of the application.
 - 2. Evidence of the Marijuana Establishment's right to use the proposed site as a Marijuana Establishment, such as a deed or lease.
 - 3. A copy of the Notice of Completion of Marijuana Establishment Site Plan Review Process for Marijuana Establishments.
 - 4. Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning Department determines is necessary for review, such as Department reports or transportation studies or a license application.
- B. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

1. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (*see* subsection 4, *Cap on the Number of Special Permits for Storefront Marijuana Retailers* of this section) and any applicable density restrictions (*see* subsection 5, *General Requirements for Marijuana Establishments*, of this section). Issuance of a special permit must also comply with applicable State and local laws.
 2. The location is compliant with Section 4.13 in its entirety.
 3. The Board of Appeals is otherwise satisfied that the Marijuana Establishment has the ability to comply with the General Requirements for Marijuana Establishments set forth in Section 4.13, and 4.12 if applicable.
8. *Submittal Requirements prior to issuance of a Certificate of Occupancy*

The following information shall be provided to the Building Department:

- A. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and with access to the facility when it is closed, to enable contact if operating problems should arise.
- B. Proof that all security measures required by the special permit have been installed or implemented.
- C. Proof that the applicant is compliant with implementing any required transportation mitigation measures.

9. *Enforcement*

This section of the Zoning By-Law shall be enforced by the Building Commissioner or the Building Commissioner's designee, as may be consistent with law. This Section, 9. Enforcement, shall supersede any conflicting provision of the Zoning By-Laws that would otherwise be applicable to the enforcement of this section.

10. *Implementation*

This section shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500,

or act on anything relative thereto.

ARTICLE 18

Submitted by: Select Board

To see if the Town will amend the General By-Laws by adding the following article:

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 by 935 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:

F. General

4. 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).
5. 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.
6. 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.
7. 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.
8. 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.

G. Operational Requirements

14. All Marijuana Establishments' licensed operations shall be conducted within a building or fixed structure.
15. 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.
16. 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.
17. No Marijuana Establishment shall allow any person under 21 years of age to volunteer or work for the Marijuana Establishment.
18. 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.
19. 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.
20. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
21. 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.
22. 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.
23. 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.

24. 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.
25. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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.

H. Security-Specific Requirements

5. 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.
6. 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.
7. 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.
8. 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.

I. Access to Premises and Information/Reporting/Record-Keeping

4. 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.

5. 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.
6. 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.

or act on anything relative thereto.

ARTICLE 19

Submitted by: Select Board

To see if the Town will amend Article 8.37.4 of the General By-Laws to provide for a lower maximum number of marijuana retailers than that provided for in said section in language that follows, subject to Town approval in the manner and in conformity with the procedures specified by Massachusetts General Laws Chapter 94G, Section 3:

Section 8.37.4 **CAPS ON THE NUMBER OF SELECT BOARD LICENSES FOR MARIJUANA RETAILERS**

- a) Storefront Marijuana Retailers. The Select Board shall not issue more Marijuana Establishment licenses to Storefront Marijuana Retailers pursuant to Section 8.37.6 than a number that is, or is between, 1 and 3.
- b) Delivery-Only Marijuana Retailers. The Select Board shall not issue more Marijuana Establishment licenses to Delivery Only Marijuana Retailers pursuant to Section 8.37.6 than a number that is, or is between, 1 and 3.
- c) Social Consumption Marijuana Retailers. The Select Board shall not issue more Marijuana Establishment licenses to Social Consumption Marijuana Retailers than a number that is, or is between, 1 and 3.

Or act on anything relative thereto.

ARTICLE 20

Submitted by: Select Board

To see if the Town will amend the General By-Laws by adding the following article:

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.

- r. 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.

- s. Hemp Products — products that have been manufactured and contain Hemp or an extract from Hemp.
- t. Manufacture — to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.
- u. 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.
- v. 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.

ARTICLE 21

Submitted by: Werner Lohe, Alan Christ, and Kathleen Scanlon

To see if the Town will amend Article 10.2 (Prosecutions and Enforcement) of the General By-Laws as follows (additions are in bold underlining):

**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 bylaws and articles shall be by the following department head or their designees:

<u>DEPARTMENT HEAD</u>	<u>ARTICLE</u>
BUILDING COMMISSIONER	
....
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, <u>8.37</u>
DIRECTOR OF HEALTH & HUMAN SERVICES	
....
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, <u>8.37, 8.38</u>
<u>FIRE CHIEF</u>	
<u>Part VIII – Public Health & Safety</u>	<u>Articles 8.37, 8.38</u>

or act on anything relative thereto.

ARTICLE 22

Submitted by: Select Board

To see if the Town will accept the provisions of General Laws Chapter 64N, Section 3, “Local Tax Option,” at the maximum rate permitted by law.

or act on anything relative thereto.

ARTICLE 23

Submitted by: Deborah Brown, Anne Greenwald

To see if the Town will change the name of the Edward Devotion School to the Roland B. Hayes School, or other appropriate name consistent with 21st century values and the Town’s commitment to diversity and inclusion by September 1, 2018.

or act on anything relative thereto.

ARTICLE 24

Submitted by: David Lescohier, TMM11

To see if the Town will authorize and empower the Select Board, on such date and in such manner as required by the House Clerk, to file a petition for legislation to establish a Brookline Land Bank, which will be considered in the legislative session opening on the first Wednesday in January in the year 2019, provided that the General Court adopts this bill precisely as set forth below. The General Court may make only clerical or editorial changes of form to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court. The Select Board is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT TO ALLOW THE TOWN OF BROOKLINE, THROUGH ITS
SELECT BOARD, TO IMPOSE A REAL ESTATE TRANSFER TAX FOR THE
BROOKLINE LAND BANK

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

SECTION 1. For purposes of this act, the words and phrases set forth in this section shall have the following meanings:

“Affordable housing restriction”, a recorded instrument held by a qualified holder which encumbers or restricts a real property interest so that the real property interest is perpetually, or for a term of at least 30 years, limited to use as a residence occupied by a low or moderate income household. However, that a “qualified holder” shall be a governmental body or charitable corporation or trust that qualifies under the terms of chapter 184 of the General Laws to hold an affordable housing restriction complying with the definition and other requirements of said chapter 184.

The "Housing Trust Account" shall refer to a discrete fund or account, established by the Brookline Town treasurer under the provisions Town of Brookline General Bylaws, section 3.13.3.

"Commission", the Brookline Land Bank Commission established in section 3.

"Fund", shall refer to the Brookline Land Bank Fund, established under the provisions of section eight.

"Institutional lender", any bank defined in section one of chapter one hundred and sixty-seven of the General Laws, any insurance company defined in section one of chapter one hundred and seventy-five of the General Laws, and any mortgage company or investment company that made more than twenty mortgages in the calendar year preceding the year of the relevant mortgage for the purposes of subsection (-m-) of section twelve, and any national bank, federal savings and loan association, federal savings bank, bank holding company, or state or federally chartered credit union.

"Land bank", the Brookline Land Bank, established by Section two.

"Land", shall be construed to include the land and any buildings or other improvements located on such land.

"Purchaser", is the transferee, grantee or recipient of any real property interests.

"Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid or transferred; all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the transfer, determined at the time of transfer, but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of transfer; the fair market value, at the time of transfer, of any other consideration or thing of value paid or transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property, the interest of a partner or member in a partnership or limited liability company, the interest of a stockholder in a corporation, the interest of a holder of an option to purchase real property, the interest of a buyer or seller under a contract for purchase and sale of real property, and the transferable development rights created under chapter 183A of the General Laws; but shall not include any interest which is limited to any of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of less

than 30 years; any reversionary right, condition, or right of entry for condition broken; and the interest of a mortgagee or other secured party in any mortgage or security agreement.

"Seller", is the transferor, grantor, or immediate former owner of any real property interests.

"Time of transfer", of any real property interest shall mean, the time at which such transfer is legally effective as between the parties thereto, and, in any event, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of such recording or filing.

"Brookline Housing Advisory Board" shall refer to the board created by the Town of Brookline General Bylaws, section 3.13.1.

"Brookline Public Schools" shall refer to the school system, its property and programs, the Brookline School Committee manage under the terms of MGL Chapter 71.

"Town" shall refer to the Town of Brookline acting by and through the Select Board.

SECTION 2. There is hereby established a Brookline Land Bank, to be administered by a Commission established by section three, for the purpose of acquiring, holding and managing land and interests in land of the types set forth in section five, to acquire, hold, and manage land for the creation of housing which is, affordable to low, moderate and upper-moderate income persons and households and families, to enhance the Brookline Public Schools by the acquisition of land for educational purposes, and to promote economic development by the acquisition of land for development purposes. The land bank is hereby constituted a body politic and corporate and a public instrumentality and the exercise of powers herein conferred upon the land bank shall be deemed to be the performance of an essential governmental function.

SECTION 3. The Brookline Land Bank Commission shall be administered by the Brookline Select Board serving as the Brookline Land Bank Commissioners.

SECTION 4. The Commission shall, subject to the provisions of this act, have the power and authority to (-a-) purchase and acquire fee simple interests, and any lesser interests, in any land in Brookline, of the types set forth in section five, including any improvements thereon; (-b-) accept gifts of any such interests in land, or of funds to further the purposes of the Land bank; (-c-) dispose of all or any portion of its interests in any land or interests thereon held by it, subject to the provisions of Article XCVII (Article 97) of the articles of amendments to the Constitution of Massachusetts to the extent applicable; (-d-) incur debt, pledging the full faith and credit of the town of Brookline only after having been authorized to do so in each instance by a two-thirds vote of a town meeting of the town of Brookline; (-e-) hire such staff and obtain such professional services as are necessary in order to perform its duties; (-f-) administer, maintain, and manage land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural and scenic resources thereof; (-g-)

lease real property as may be held by the Land bank for purposes consistent with this act; (-h-) finance and construct recreational facilities, subject to the provisions of section six; (-i-) pay funds appropriated by Town Meeting into the Housing Trust Account subject to the terms in section 10 and not subject to the provisions of section six; (-j-) pay funds appropriated by Town Meeting into the Conservation Commission Fund account subject to the terms in section 10; (-k-) expend funds from the Land Bank revolving fund to acquire land for an educational and economic development purposes and meet other Land Bank Commission obligations appropriated by Town Meeting, subject to the terms of section eight, and not subject to the provisions of section six.

SECTION 4A. The Town of Brookline is hereby authorized to appropriate money to be deposited in the Brookline Land Bank Fund as provided in section eight and to provide funds to repay notes of the town issued pursuant to section four C and, when authorized by a two-thirds vote as defined in section one of chapter forty-four of the General Laws, to incur debt of the town for such purposes in accordance with the provisions of clause (3) of section seven of said chapter forty-four.

SECTION 4B. The land bank is hereby empowered to issue its bonds and notes, including notes in anticipation of bonds, for the purpose of acquiring land and interests in land as provided in section four. The proceeds of such bonds or notes may be used to pay, in whole or in part, acquisition costs; to provide reserves for debt service and other expenses; to pay consulting, appraisal, advisory and legal fees and costs incidental to the issuance and sale of such bonds or notes; to purchase, refund or renew bonds or notes previously issued; and to pay any other costs and expenses of the land bank necessary for the accomplishment of its purposes. Bonds or notes issued under this act shall be authorized by the Commission which shall have full power and authority to determine the amount, form, terms, conditions, provisions for the payment of interest and all other details thereof and to provide for their sale and issuance at such price and in such manner as the Commission shall determine, subject only to any limitations set forth in this act. Unless the town of Brookline shall have authorized by a two-thirds vote of a town meeting the pledging of the full faith and credit of the town of Brookline to secure an issue of bonds or notes of the land bank, all bonds or notes issued hereunder shall be payable solely from the taxes and other revenues of the land bank pledged to their payment and shall not be deemed a pledge of the full faith and credit of the town of Brookline, the commonwealth or any political subdivision thereof or therein.

The Commission may enter into any agreements, including without limitation a loan agreement and a trust agreement, necessary to effectuate and to secure any bonds or notes issued by the land bank. Such agreements may pledge or assign, in whole or in part, the revenues and other money held or to be received by the land bank. Such agreements may contain such provisions for protecting and enforcing the rights, security and remedies of the holders of such bonds or notes, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities and covenants setting forth the duties of, and limitations on, the land bank in relation to the custody, safeguarding, investment and application of money, the issuance of additional debt obligations, the use of any surplus proceeds of the borrowing, including any investment earnings thereon, and establishment of special funds and reserves.

The pledge of any such agreement shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made; the revenues, money, rights and proceeds so pledged and then held or thereafter acquired or received by the land bank shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the town, irrespective of whether such parties have notice thereof. No document by which a pledge is created need be filed or recorded except in the records of the land bank and no filing need be made under the Uniform Commercial Code.

The trustee with respect to any such trust agreement entered into pursuant to this section shall be a trust company or a bank having the powers of a trust company within the commonwealth. Any such trust agreement may provide that any money received thereunder may be held, deposited or invested by the trustee, notwithstanding the provisions of section eight, pending the disbursement thereof, in any deposits or investments which are lawful for the funds of savings banks and shall provide that any officer with whom or any bank or trust company with which such money shall be deposited shall act as trustee of such money and shall hold and apply the same for the purposes hereof and thereof, subject to such regulation or limitation as this act or such trust agreement may provide.

It shall be lawful for any bank or trust company within the commonwealth to act as depository of the proceeds of bonds or notes, revenues or other money hereunder and to furnish such indemnifying bonds or to pledge such security, if any, as may be required by the Commission. Any trust agreement entered into pursuant to this section may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual rights of action by any such holders. In addition to the foregoing, any such trust agreement may contain such other provisions as the Commission may deem reasonable and proper. All expenses incurred in carrying out the provisions of such trust agreement may be treated as part of the cost of operation of the land bank and paid from the revenues or other funds pledged or assigned to the payment of the principal of and the premium, if any, and interest on the bonds or notes or from any other funds available to the land bank. In addition to other security provided herein or otherwise by law, bonds or notes issued under this section may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the land bank by any bank, trust company or other financial institution, within or without the commonwealth, and the land bank may pledge or assign any of its revenues as security for the reimbursement by the land bank to the issuers of such letters or lines of credit, insurance or credit facilities of any payments made thereunder.

SECTION 4C. If at any time any principal or interest is due or about to come due on any bonds or notes of the land bank to secure which the full faith and credit of the town of Brookline shall have been pledged and funds to pay the same are not available, the Commission shall certify to the town treasurer the amount required to meet such obligations and the town treasurer shall thereupon pay over to the land bank the amount so certified from any funds in the treasury. For the purpose of providing or restoring to the treasury the sums so paid over to the land bank, the town treasurer, with the approval of the Commission, is authorized to incur debt outside the town's debt limit and issue

notes therefor for a period not exceeding two years and to renew or refund the same from time to time until the town shall have received from the land bank sufficient funds to repay such notes and the interest thereon in full. Whenever the town shall have been required to pay over any sums of money to the land bank under this section, the land bank shall be precluded from acquiring any additional property, or issuing any of its bonds or notes for purposes other than repaying the town, until the land bank shall have repaid the town in full for all sums paid to the land bank hereunder, including interest on any notes issued for such purpose, unless the town shall have appropriated sufficient funds for such purpose at a town meeting.

SECTION 4D. Bonds and notes issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds and notes are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law.

SECTION 4E. Notwithstanding any of the provisions of this act or any recitals in any bonds or notes issued under this act, all such bonds and notes shall be deemed to be investment securities under the Uniform Commercial Code.

SECTION 4F. Bonds and notes may be issued under this act without obtaining the consent of any department, division, Commission, board, bureau or agency of the town of Brookline, except that the full faith and credit of the town of Brookline shall not be pledged for the payment of such bonds or notes unless such pledge shall have been authorized by a two-thirds vote as provided in section four, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefor by this act. The validity of and security for any bonds and notes issued by the land bank shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

SECTION 4G. The land bank and all its revenues, income and real and personal property used solely by the land bank in furtherance of its public purposes shall be exempt from taxation and from betterments and special assessments and the land bank shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions. Bonds and notes issued by the land bank, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation within the commonwealth.

SECTION 5. Land to be acquired and held as part of the land bank, or interests in which are to be so acquired and held, shall be situated in Brookline, and may consist of any of the following types of land and interests therein; (-a-) pond frontage in the form of beaches and adjoining backlands; (-b-) land for pedestrian paths; (-c-) land for future public recreational facilities and use; (-d-) recreation land to protect existing wetlands,

future wellfields, and aquifer recharge areas; (-e-) land used or to be used for agricultural purposes; (f) stream banks and adjoining land; (g) land preserved as scenic landscapes or unique environments; (h) land for passive recreational use; (h) land containing wildlife habitat; (i) land for future park facilities and use; and (-j-) land used by a governmental body for a municipal, affordable housing, economic development, or an educational purposes.

SECTION 6. The Commission shall retain any real property interest relating to land consistent with any public, state, regional or local comprehensive land use or development plans affecting the land, which shall include the approval of plans that accommodate proposals by a governmental body for use of the land for a municipal purpose, including conservation, recreation, affordable housing, educational, and economic development.

SECTION 7. The Commission shall produce annually a plan which shall be, as far as possible, consistent with the town master plan and with any regional or town planning relating to the area. The Commission may, from time to time, amend such plan. The plan shall show all real property interests then currently held by the Commission including a description of the use thereof, and all acquisitions, improvements or dispositions of real property interests held by the Commission at any time during the year, including the reasons for such acquisition, improvement or disposition.

SECTION 8. The Commission shall meet its financial obligations, subject to Town Meeting appropriation, by drawing upon a Brookline Land Bank Fund, to be set up as a revolving or sinking account within the treasury of Brookline. Deposits into the fund shall include (-a-) funds appropriated to be deposited into the fund by vote of a Town Meeting of the town of Brookline; (-b-) voluntary contributions of money and other liquid assets to the fund; (-c-) revenues from taxes imposed upon the transfer of real property interests as set forth in section ten occurring after the effective date of this act as set forth in section fifteen, together with payments of interest and penalties under section thirteen; (-d-) proceeds from disposal of real property or interests and; (-e-) funds received from any federal, state, county, region, district or municipal source. The Commission is further authorized to accept state and federal funds to carry out the purposes of this Act as if the Commission were in fact a district, city, town, region, county, state, or state agency within the meaning of legislation authorizing any grant consistent with the purposes of this Act. All expenses lawfully incurred by the Commission in carrying out the provisions of this act shall be evidenced by proper vouchers and shall be paid by the treasurer only upon submission of warrants duly approved by the Commission. The treasurer shall prudently invest available assets of the fund, and all income thereon shall accrue to the fund. Real property held in the name of the Brookline land bank or its designee shall be exempt from property taxes as of the date of the acquisition of title by the Brookline land bank or its designee; and any taxes assessed against such real property interests shall be abated for that portion of any fiscal year during which the real property interests was owned by the Brookline land bank or its designee.

SECTION 9. (a) The Commission shall keep a full and accurate account of its actions including a record as to when, from or to whom, and on what account money has been

paid or received relative to this act, and as to when, from and to whom and for what consideration real property interests have been acquired, improved, or disposed of.

The treasurer shall keep a full and accurate account stating when, from or to whom, and on what account money has been paid or received relative to the activities of the Commission and the land bank.

(b) Schedules of beneficiaries of trusts, list of stockholders of corporations and lists of partnerships filed with the Commission for the purpose of determining or fixing the amount of the tax imposed under section ten or for the purpose of determining the existence of any exemption under section twelve shall not be public records for the purposes of section ten of chapter sixty-six of the General Laws.

SECTION 10. There is hereby imposed a tax, equal to a percentage not to exceed 1%, determined by the Commission, effective July 1 of each year, based on a due analysis of the financial requirements and condition of the fund and after a public hearing, of the purchase price upon the transfer of any real property interest in any real property situated in Brookline. Said tax shall be the liability of the purchaser of such real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing said tax shall not affect such liability of the purchaser. The tax shall be paid to the Commission, or its designee, and shall be accompanied by a copy of the deed or other instrument evidencing such transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the purchaser or his legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the tax imposed hereby. The Commission, or its designee, shall promptly thereafter execute and issue a certificate indicating that the appropriate tax has been paid or that the transfer is exempt from the tax, stating the basis for the exemption. The register of deeds for Norfolk county, and the assistant recorder for the registry district of Norfolk county, shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, to which has not been affixed such a certificate executed by the Commission or its designee. Failure to comply with this requirement shall not affect the validity of any instrument. The Commission shall deposit all taxes received hereunder with the Town treasurer. The treasurer shall, in accordance with Town Meeting appropriation, allocate such funds from the Brookline Land Bank revolving fund as follows: a portion in the Housing Trust Account administered by the Brookline Housing Advisory Board, a portion for acquisition of land for an educational purpose, a portion in the Conservation Commission Fund for the purchase of land/other interests in real estate and other conservation purposes, a portion for the purchase of land for economic development, and the remainder in the Land Bank Fund Account established in section eight for other municipal purposes. The Land Bank Commissioners shall recommend allocations to Town Meeting annually, to be effective on July 1. The Brookline Land Commission is hereby granted the discretionary authority, to recommend allocations in any given year, after due analysis of the best interest of the Town, aiming to keep overall allocations equitable and balanced as circumstances require and permit, after a public hearing. The tax imposed hereunder shall be due simultaneously with the time of transfer of the transfer upon which it is imposed.

Notwithstanding the foregoing, whenever there is a conveyance of real property interests and a conveyance of personalty related thereto at or about the same time, the allocations of payments between real estate and personalty agreed to by the purchaser and seller shall not determine the amount of the tax due pursuant to this section; instead, the Commission may require payment of the tax referred to in real property interests so conveyed as determined by the Commission.

SECTION 11. At any time within seven days following the issuance of the certificate of payment of the tax imposed by section ten, the purchaser or his legal representative may return said certificate to the Commission or its designee for cancellation, together with an affidavit signed under oath or under the pains and penalties of perjury that the transfer, with respect to which such certificate was issued, has not been consummated, and thereupon the tax paid with respect to such transfer shall be forthwith returned to the purchaser or his legal representative.

SECTION 12. The following transfers of real property interests shall be exempt from the tax established by section ten. The burden of proof that any transfer hereunder is exempt belongs to the purchaser, except as otherwise provided. Any otherwise exempt transfer shall not be exempt in the event that such transfer, by itself or as part of a series of transfers, was made for the primary purpose of evading the tax imposed by section 10.

(-a-) Transfers to the government of the United States, the commonwealth, and any of their instrumentalities, agencies or subdivisions are exempt.

(-b-) Transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made.

(-c-) Transfers made as gifts without consideration. In any proceeds to determine the amount of any tax due hereunder, it shall be presumed that any transfer for consideration of less than fair market value of the real property interests transferred was made as a gift without consideration to the extent of the difference between the fair market value of the real property interests transferred and the amount of consideration claimed by the purchaser to have been paid or transferred, if the purchaser shall have been at the time of transfer the spouse, the lineal descendant, or the lineal ancestor of the seller, by blood or adoption, and otherwise it shall be presumed that consideration was paid in an amount equal to the fair market value of the real property interests transferred, at the time of transfer.

(-d-) Transfer to the trustees of a trust in exchange for a beneficial interest received by the seller in such trust; distributions by the trustees of a trust to the beneficiaries of such trust.

(-e-) Transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest.

(-f-) Transfers made in partition of land and improvements thereto, under chapter two hundred and forty-one of the General Laws.

(-g-) Transfers to any charitable organization as defined in clause Third of section five of chapter fifty-nine of the General Laws, or any religious organization, provided that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purposes.

(-h-) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage.

(-i-) Transfers made to a corporation or partnership or limited liability company at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains an interest in the newly formed corporation which is equivalent to the interest the transferor held prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferor retains after such formation rights in capital interests and profit interests within such partnership or limited liability company which are equivalent to the interest the transferor held prior to the transfer.

(-j-) Transfers made to a stockholder of a corporation in liquidation or partial liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited liability company in dissolution or partial dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee receives property, including real property interests and other property received, which is the same fraction of the total property of the transferor corporation as the fraction of the corporation's stock owned by the transferee prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferee receives property, including real property interests and other property received, which is the same fraction of the property of the partnership or limited liability company as the fraction of the capital and profit interests in the transferor formerly owned by the transferee.

(-k-) Transfers consisting of the division of marital assets under the provisions of section thirty-four of chapter two hundred and eight of the General Laws or other provisions of law are exempt.

(-l-) Transfers of property consisting in part of real property interests situated in Brookline and in part of other property interests, to the extent that the property transferred consists of property other than real property situated in Brookline; provided that the purchaser shall furnish the Commission with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers.

(-m-) An amount determined by the Land Bank Commission, effective July 1 of each year, after due analysis of the range of real estate prices and after a public hearing and in no event less than \$500,000 of the purchase price of a transfer made to a purchaser as defined in section (1) when the purchaser shall make the real property interest which is the subject of the transfer the purchaser's actual domicile within 1 year of the time of transfer, and shall remain permanently or for an indefinite time and without any certain purpose to return to a former place of abode. In the event of a later transfer within 5 years of the transfer exempted from the tax under this paragraph, other than the transfer of a mortgage to an institutional lender, the tax exempted shall become due, together with the accumulated interest and penalties, and in addition to any tax otherwise due as a result of the later transfer. The purchaser shall certify as to the foregoing, and the Commission shall attach to the deed a certificate which shall recite the fact that there is running with the land a lien equal to the amount of the tax exempted plus accumulated interest and penalties until such time as all conditions of this subsection have been met.

(-n-) Transfers of minority interests in corporations, trusts, partnerships, or limited liability companies that are publicly traded, which trades are not part of a series of transfers which together constitute a transfer of control of a corporation, trust, partnership or limited liability company.

(-o-) Transfer of a real property interest that is subject to and used consistent with an affordable housing restriction; provided, however, that the affordable housing restriction has a term remaining at the time of the transfer of not less than 5 years; and provided further, that the purchaser shall make the real property interest, that is the subject of the transfer, the purchaser's actual domicile within 2 years of the time of transfer and shall remain permanently or for an indefinite time and without any certain purpose to return to a former place of abode for a period lasting not less than the fifth anniversary of the transfer. Notwithstanding this paragraph, if the real property interest is transferred again within 5 years and the later transfer complies with this paragraph, a tax, interest or penalty shall not be due. If the holder of an affordable housing restriction determines within 5 years of the transfer that the real property interest to which it pertains is not being used consistent with the requirements of the affordable housing restriction or if a later transfer within 5 years does not comply with this paragraph, the tax exempted hereunder shall become due, together with the accumulated interest and penalties calculated from the date of the transfer exempted hereunder. The purchaser shall certify as to the foregoing and the Commission shall attach to the deed a certificate that shall recite the fact that there is running with the land a lien equal to the amount of the tax exempted plus accumulated interest and penalties until such time as all conditions of this paragraph have been met.

(-p) Transfer of a real property interest when a purchaser provides evidence that the purchaser's actual domicile at the time of transfer and for at least five years prior to transfer has been in the Town of Brookline, provided that the purchaser shall make the real property interest, that is the subject of the transfer, the purchaser's actual domicile within 2 years of the time of transfer and shall remain permanently or for an indefinite time and without any certain purpose to return to a former place of abode for a period lasting not less than the fifth anniversary of the transfer. Notwithstanding this paragraph, if the real property interest is transferred again within 5 years and the later transfer complies with this paragraph, a tax, interest or penalty shall not be due.

SECTION 13. A purchaser who fails to pay all or any portion of the tax established by section ten on or before the time when the same is due shall be liable for the following additional payments in addition to said tax:

(-a-) Interest: The purchaser shall pay interest on the unpaid amount of the tax to be calculated from the time of transfer at a rate equal to fourteen per cent per annum.

(-b-) Penalties: Any person who, without fraud or willful intent to defeat or evade a tax imposed by this chapter, fails to pay all or a portion of the tax within thirty days after the time of transfer, shall pay a penalty equal to five per cent of the outstanding tax as determined by the Commission for each month or portion thereof thereafter that the tax is not paid in full; provided, however, that in no event shall the amount of any penalty imposed hereunder exceed twenty-five per cent of the unpaid tax due at the time of transfer. Whenever the Commission determines that all or a portion of a tax due under this chapter was unpaid due to fraud with intent to defeat or evade the tax imposed by this chapter, a penalty equal to the amount of said tax as determined by the Commission shall be paid by the purchaser in addition to said tax.

SECTION 14. (-a-) The Commission shall notify a purchaser by registered or certified mail of any failure to discharge in full the amount of the tax due under this Act and any penalty or interest assessed. The Commission shall grant a hearing on the matter of the imposition of said tax, or of any penalty or interest assessed, if a petition requesting such hearing is received by the Commission within thirty days after the mailing of said notice. The Commission shall notify the purchaser in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within fifteen days after said hearing. Any party aggrieved by a determination of the Commission concerning a deficiency, penalty or interest may, after payment of said deficiency, appeal to the district or superior court within three months after the mailing of notification of the determination of the Commission. Upon the failure to timely petition for a hearing, or appeal to said courts, within the time limits hereby established, the purchaser shall be bound by the terms of the notification, assessment or determination, as the case may be, and shall be barred from contesting the tax, and any interest and penalty, as determined by the Commission. All decisions of said courts shall be appealable. Every notice to be given under this section by the Commission shall be effective if mailed by certified or registered mail to the purchaser at the address stated in a recorded or registered instrument by virtue of which the purchaser holds any interest in land, the transfer of which gives rise to the tax which is the subject of such notice; and if no such address is stated or if such transfer is not evidenced by an instrument recorded or registered in the public records in Brookline, such notice shall be effective when so mailed to the purchaser in care of any person appearing of record to have a tax interest in such land, at the address of such person as set forth in an instrument recorded or registered in Brookline.

(-b-) All taxes, penalties and interest required to be paid pursuant to this chapter shall constitute a personal debt of the purchaser and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the Commission; said action, suit or proceeding shall be subject to the provisions of chapter two hundred and sixty of the General Laws.

(-c-) If any purchaser liable to pay the tax established by this act neglects or refuses to pay the same, the amount, including any interest and penalty thereon, shall be a lien in favor of the Commission upon all property and rights to property, whether real or personal, belonging to such purchaser. Said lien shall arise at the time of transfer and shall continue until the liability for such amount is satisfied. Said lien shall in any event terminate not later than six years following the time of transfer. Said lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor unless notice thereof has been filed by the Commission (-a-) with respect to real property or fixtures, in the registry of deeds for Norfolk county, or (-b-) with respect to personal property, in the office in which a security or financing statement or notice with respect to the property would be filed in order to perfect a nonpossessory security interest belonging to the person named in the relevant notice, subject to the same limitations as set forth in section fifty of chapter sixty-two C of the General Laws.

In any case where there has been a refusal or neglect to pay any tax, interest or penalties imposed by this act, whether or not levy has been made, the Commission, in addition to other

modes of relief, may direct a civil action to be filed in a district or superior court of the commonwealth to enforce the lien of the Commission under this section with respect to

such liability or to subject any property of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such liability.

The Commission may issue a waiver or release of any lien imposed by this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

SECTION 14A. Upon termination or dissolution of the land bank, the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all bonds, notes and other obligations of the land bank shall vest in the town of Brookline.

SECTION 14B. This act, being necessary for the welfare of the town of Brookline and their inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 14C. The provisions of this act are severable, and if any provision hereof, including without limitation any exemption from the tax imposed hereby, shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 14D. If the Commission has determined that a tax is due by asserting the application of the evasion of tax doctrine described in section 12, then the transferee shall have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the transfer, or series of transfers, possessed both: (i) a valid, good faith business purpose other than avoidance of the tax set forth in section 10 and (ii) economic substance apart from the asserted tax avoidance benefit. In all such cases, the transferee shall also have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the asserted non-tax-avoidance business purpose is commensurate with the amount of the tax pursuant to section 10 to be thereby avoided.

SECTION 15. Upon the passage of this special law, the act shall become effective by vote of a referendum of Brookline voters at the next regular municipal or state election. The town clerk or the state secretary shall place it on the ballot in the form of the following question: "Shall this town accept this special law?" The question shall set forth a fair, concise summary and purpose of the law to be acted upon, as determined by the town counsel, including in said summary the maximum allowable percentage of the real estate transfer tax to be imposed. If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in Brookline, but not otherwise.

or act on anything relative thereto.

ARTICLE 25

Submitted by: Susan Granoff, TMM7

To see if the Town will vote to authorize the Select Board to petition the Legislature for a

special act authorizing the Town, with respect to Brookline senior homeowners who: (1) meet all the requirements and qualifications of the Massachusetts Senior Circuit Breaker Income Tax Credit (“CB”), pursuant to M.G.L. Chapter 62, Section 6(k), except that their principal residence, which they must own and which must be located in Brookline, has an assessed valuation that is greater than the CB qualifying amount and (2) whose principal residence has an assessed valuation of not more than the average of all Brookline single-family residences plus 10% (the same formula used by the CB on a statewide basis), to grant to said qualifying seniors an exemption from their principal residence's property tax assessment in the amount of the CB credit for which they would otherwise qualify if their principal residence had an assessed valuation at or below the CB's qualifying amount, or act on anything relative thereto.

ARTICLE 26

Submitted by: Yolanda M. Rodriguez, Rhoda S. Goodwin

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature for a special act creating a new clause within M.G.L. Chapter 59, Section 5, allowing Brookline residents who are 65 years of age or older and whose income is less than or equal to the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of Section 6 of Chapter 62 for a husband and wife filing jointly, regardless of resident’s marital status, for the purposes of offering an exemption from future Town overrides and debt exclusions,

or take any other action relative thereto.

ARTICLE 27

Submitted by: Patricia Connors, TMM3

To see if the Town will amend Section 4.8.5 of Article 4.8, the Living Wage By-Law, of the General By-laws, as follows (addition appears in underlined bold text):

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.

The town's annual financial plan shall set forth the position titles and salary ranges of all employees exempted from the living wage under subsections (a), (b), (c), (d) and (f) of this Section 4.8.5.

or act on anything relative thereto.

ARTICLE 28

Submitted by: C. Scott Ananian, TMM 10

To see if the Town will adopt the following version of a new Article 4.10 of the Town By-laws,

or act on anything relative thereto.

ARTICLE 4.10

Community Control Over Police Surveillance and Militarization

SECTION 4.10.1 TOWN APPROVAL MANDATORY FOR MILITARY AND SURVEILLANCE EQUIPMENT FUNDING, ACQUISITION, OR DEPLOYMENT

A Town entity must obtain Select Board approval, subsequent to a mandatory, properly-noticed, germane, public Board hearing at which the public is afforded a fair and adequate opportunity to provide online, written, and oral testimony, prior to engaging in any of the following:

- (1) Seeking funds for new military or surveillance equipment, including but not limited to applying for a grant, or soliciting or accepting state or federal funds or in-kind or other donations or transfers;
- (2) Acquiring or borrowing new military or surveillance equipment, whether or not that acquisition is made through the exchange of monies or for other or no consideration;
- (3) Deploying or using new or existing military or surveillance equipment for a purpose or in a manner not previously approved by the Select Board in accordance with this Article, including the sharing of surveillance data therefrom;
or
- (4) Soliciting proposals for or entering into an agreement with any other person or entity to acquire, share, or otherwise use military or surveillance equipment or its surveillance data.

SECTION 4.10.2 MILITARY/SURVEILLANCE EQUIPMENT IMPACT REPORT AND USE POLICY SUBMISSION

As a part of the process of seeking Select Board approval, pursuant to Section 4.10.1, to fund, acquire, or deploy military or surveillance equipment or to enter into an agreement concerning such funding, acquisition, or deployment, a Town entity shall submit to the Select Board and make publicly available a Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy concerning the military or surveillance equipment at issue.

- (1) No use of military or surveillance equipment by a Town entity pursuant to Section 4.10.1, including the continuing use of previously acquired military or surveillance equipment, shall be permitted without the Select Board's express approval of the related Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy submitted by the Town entity pursuant to Section 4.10.2 and 4.10.5.
- (2) Prior to approving or rejecting a Military/Surveillance Equipment Impact Report or Military/Surveillance Equipment Use Policy submitted pursuant to Section 4.10.2, the Select Board may request revisions be made by the submitting Town entity.

SECTION 4.10.3 MILITARY/SURVEILLANCE EQUIPMENT IMPACT REPORT

A Military/Surveillance Equipment Impact Report submitted pursuant to Section 4.10.2 shall be a publicly-released, legally enforceable written report that includes, at a minimum, the following:

- (1) Information describing the military or surveillance equipment and how it works, including product descriptions from manufacturers;
- (2) Information on the proposed purpose(s) of the military or surveillance equipment;
- (3) If the military or surveillance equipment will not be uniformly deployed or targeted throughout the Town, what factors will be used to determine where the technology is deployed or targeted;
- (4) The fiscal impact of the military or surveillance equipment, including a comparison to alternatives; and
- (5) An assessment identifying with specificity:
 - (a) Any potential discriminatory, disparate, or other adverse impacts the military or surveillance equipment, if deployed, might have on the public's welfare, civil liberties, and civil rights; and
 - (b) What specific, affirmative measures will be implemented to safeguard the public from the potential adverse impacts identified pursuant to Section 4.10.3(5)(a).

SECTION 4.10.4 MILITARY/SURVEILLANCE EQUIPMENT USE POLICY

A Military/Surveillance Equipment Use Policy submitted pursuant to Section 4.10.2 shall be a publicly-released, legally enforceable written policy governing the Town entity's use of the military or surveillance equipment that, at a minimum, includes and addresses the

following:

- (1) Purpose: What specific purpose(s) the military or surveillance equipment is intended to advance.
- (2) Authorized Use: For what specific capabilities, deployments, and uses of the military or surveillance equipment is authorization being sought, and
 - (a) What legal and procedural rules will govern each authorized use;
 - (b) What potential deployments and uses of the military or surveillance equipment will be expressly prohibited; and
 - (c) Where applicable, how and under what circumstances will surveillance data that was collected, captured, recorded, or intercepted by the surveillance equipment be analyzed and reviewed.
- (3) Training: What course of training must be completed before any Town entity employee is permitted to use the specific type of military or surveillance equipment, so as to ensure the public's safety, civil rights, and civil liberties are fully protected and the provisions of the relevant Military/Surveillance Equipment Use Policy are fully adhered to, and what the annual cost of operating the training program are anticipated to be.
- (4) Data Collection:
 - (a) Where applicable, what types of surveillance data will be collected, captured, recorded, intercepted, or retained by the surveillance equipment;
 - (b) Where applicable, what surveillance data may be inadvertently collected during the authorized uses of the surveillance equipment, and what measures will be taken to minimize the inadvertent collection of data; and
 - (c) Where applicable, how inadvertently collected surveillance data will be expeditiously identified and deleted.
- (5) Data Protection: Where applicable, what safeguards will be used to protect surveillance data from unauthorized access, including encryption and access control mechanisms.
- (6) Data Retention: Where applicable, insofar as the privacy of the public can be severely compromised by the long-term storage of mass surveillance data, what rules and procedures will govern the retention of surveillance data, including those governing:
 - (a) For what limited time period, if any, surveillance data will be retained. Such information shall include a statement explaining why the designated retention period is no greater than that which is absolutely necessary to achieve the specific purpose(s) enumerated in the Military/Surveillance Equipment Use Policy;
 - (b) What specific conditions must be met to retain surveillance data beyond the retention period stated in Section 4.10.4(6)(a);
 - (c) By what process surveillance data will be regularly deleted after the retention period stated in Section 4.10.4(6)(a) elapses and what auditing procedures will be implemented to ensure data is not improperly retained;

- (7) Surveillance Data Sharing: Where applicable, if a Town entity is seeking authorization to share access to surveillance data with any other governmental agencies, departments, bureaus, divisions, or units, it shall detail:
- (a) How it will require that the collection, retention, and storage of surveillance data be conducted in compliance with the principles set forth in 28 C.F.R. Part 23, including but not limited to 28 C.F.R. Part 23.20(a), which states that a government entity operating a surveillance program “shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.”
 - (b) Which governmental agencies, departments, bureaus, divisions, or units will be approved for surveillance data sharing;
 - (c) How such surveillance data sharing is necessary for the stated purpose and use of the surveillance equipment;
 - (d) How it will ensure any entity receiving access to the surveillance data complies with the applicable Military/Surveillance Equipment Use Policy and does not further disclose the surveillance data to unauthorized persons and entities; and
 - (e) What processes will be used to seek approval of future surveillance data sharing agreements from the Town entity and Select Board.
- (8) Demands for Access to Surveillance Data: Where applicable, what legal standard must be met by government entities or third parties seeking or demanding access to surveillance data.
- (9) Auditing and Oversight: What mechanisms will be implemented to ensure the Military/Surveillance Equipment Use Policy is followed, including what independent persons or entities will be given oversight authority, and what legally enforceable sanctions will be put in place for violations of the policy.
- (10) Complaints: What procedures will be put in place by which members of the public can register complaints or concerns, or submit questions about the deployment or use of a specific type of military or surveillance equipment, and how the municipal entity will ensure each question and complaint is responded to in a timely manner.

SECTION 4.10.5. REVIEW OF PREEXISTING USES MANDATORY

No later than one hundred twenty (120) days following the effective adoption of this Article, any Town entity seeking to continue the use of any military or surveillance equipment that was acquired prior to the effective date of adoption of this Article, or the sharing of surveillance data therefrom, must commence a Select Board approval process in accordance with Section 4.10.1(3). If the Select Board has not approved the continuing deployment of the military or surveillance equipment, including the Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy submitted pursuant to Section 4.10.2, within one hundred eighty (180) days of their submission to the Select Board, the Town entity shall cease its use of the military or surveillance

equipment and the sharing of any surveillance data therefrom until such time as Select Board approval is obtained in accordance with this Article.

SECTION 4.10.6 LEAD ENTITY IDENTIFICATION

If more than one Town entity will have access to the military or surveillance equipment or its surveillance data, a lead Town entity shall be identified. The lead Town entity shall be responsible for maintaining the military or surveillance equipment and ensuring compliance with all related laws, regulations and protocols.

SECTION 4.10.7 STANDARD FOR APPROVAL

The Select Board shall only approve a request to fund, acquire, or use military or surveillance equipment if it determines the benefits of the military or surveillance equipment outweigh its costs, that the proposal will safeguard the public's welfare, civil liberties, and civil rights, and that the uses and deployments of the military or surveillance equipment will not be based upon discriminatory or viewpoint-based factors or have a disparate impact on any community or group. To assist the public in participating in such an analysis, all approved Military/Surveillance Equipment Impact Reports and Military/Surveillance Equipment Use Policies shall be made available to the public, at a designated page on the relevant Town entity's public website, for as long as the related military or surveillance equipment is available for deployment. An approval for the funding, acquisition and/or deployment of any military or surveillance equipment by the Select Board, where the risk of potential adverse impacts on the public's welfare, civil rights, or civil liberties has been identified in the Military/Surveillance Equipment Impact Report pursuant to Section 4.10.3(5)(a), shall not be interpreted as an acquiescence to such impacts, but rather as an acknowledgement that a risk of such impacts exists and must be proactively avoided.

SECTION 4.10.8 ANNUAL MILITARY/SURVEILLANCE EQUIPMENT REPORT

(A) A Town entity that obtains approval for the funding, acquisition, or deployment of any military or surveillance equipment must submit to the Select Board, and make available on its public website, an Annual Military Equipment Report for each specific military-grade law enforcement equipment acquired or deployed by the Town entity within twelve (12) months of Select Board approval, and annually thereafter on or before January 15. The Annual Military/Surveillance Equipment Report shall, at a minimum, include the following information for the previous calendar year for each type of military or surveillance equipment:

- (1) A summary of how the military or surveillance equipment was used;
- (2) Whether and how often collected surveillance data was shared with any external persons or entities, the name(s) of any recipient person or entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s);
- (3) Where applicable, a breakdown of where the military or surveillance equipment was deployed geographically, by individual census tract as defined in the relevant year by the United States Census Bureau. For each

- census tract, the municipal entity shall report how many individual days the military or surveillance equipment was deployed and what percentage of those daily-reported deployments were subject to (A) a warrant, and (B) a non-warrant form of court authorization;
- (4) Where applicable, and with the greatest precision that is reasonably practicable, the amount of time the surveillance equipment was used to monitor Internet activity, the number of people affected, and what percentage of the reported monitoring was subject to (A) a warrant, and (B) a non-warrant form of court authorization;
 - (5) A summary of complaints or concerns that were received about the military or surveillance equipment;
 - (6) The results of any internal audits, any information about violations of the Military/Surveillance Equipment Use Policy, and any actions taken in response;
 - (7) An analysis of any discriminatory, disparate, and other adverse impacts the use of the military or surveillance equipment may have had on the public's safety, civil rights, and civil liberties, including but not limited to those guaranteed by the Massachusetts Declaration of Rights and the First, Fourth, and Fourteenth Amendment to the United States Constitution; and
 - (8) Total annual costs for the military or surveillance equipment, including operating personnel, maintenance, and other ongoing costs, and what source of funding will fund the military or surveillance equipment in the coming year.
- (B) Within thirty (30) days of submitting and publicly releasing an Annual Military/Surveillance Equipment Report pursuant to Section 4.10.8(A), the Town entity shall hold one or more well-publicized and conveniently located community engagement meetings at which the general public is invited to discuss and ask questions regarding the Annual Military/Surveillance Equipment Report and the Town entity's acquisition and/or deployment of military and surveillance equipment.
- (C) Based upon information provided in the Annual Military/Surveillance Equipment Report, the Select Board shall determine whether each type of military or surveillance equipment identified in response to Section 4.10.8(A), as used by the report-submitting entity, has met the standard for approval set forth in Section 4.10.7. If it has not, the Select Board shall direct the use of the military or surveillance be discontinued or shall require modifications to the Military/Surveillance Equipment Use Policy that will resolve the observed failures.

SECTION 4.10.9 ANNUAL PUBLIC REPORT

The Annual Report of the Town shall containing the following information for the preceding calendar year:

- (A) The number of requests for approval submitted to the Select Board under this Article for the funding, acquisition, or new deployment of military and surveillance equipment;
- (B) The number of times the Select Board approved requests submitted under this Article for the funding, acquisition, or new deployment of military and surveillance equipment;
- (C) The number of times the Select Board rejected requests submitted under this Article for the funding, acquisition, or new deployment of military and surveillance equipment;
- (D) The number of times the Select Board requested modifications be made to Military/Surveillance Equipment Impact Reports and Military/Surveillance Equipment Use Policies before approving the funding, acquisition, or new deployment of military and surveillance equipment;
- (E) The total annual cost of all military and surveillance equipment, pursuant to Section 4.10.8(A)(8); and
- (F) All Annual Military/Surveillance Equipment Reports submitted pursuant to Section 4.10.8. Printed copies of the public report may contain pinpoint references to online locations where the Annual Military/Surveillance Equipment Reports are located, in lieu of reprinting the full reports.

SECTION 4.10.10 REMEDIES; PENALTIES; WHISTLEBLOWER PROTECTIONS

- (A) Any violation of this Article, including but not limited to funding, acquiring, or deployment of military or surveillance equipment that has not been approved pursuant to this Article or utilizing military or surveillance equipment in a manner or for a purpose that has not been approved pursuant to this Article, constitutes an injury and any citizen of the Town may institute proceedings for injunctive relief, declaratory relief, writ of mandate, or evidence suppression in any court of competent jurisdiction to enforce this Article.
- (B) Town employees or agents shall not use any military or surveillance equipment except in a manner consistent with policies approved pursuant to the terms of this Article, and may in no circumstances utilize military or surveillance equipment in a manner which is discriminatory, viewpoint-based, or violates the Massachusetts State Constitution or United States Constitution. Any Town employee who violates the provisions of this Article, or any implementing rule or regulation, may be subject to disciplinary proceedings and punishment. For Town employees who are represented under the terms of a collective bargaining agreement, this Article prevails except where it conflicts with the collective bargaining agreement, any memorandum of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- (C) Any person who knowingly violates this Article may be punished by a fine not exceeding \$300 per violation.

(D) Whistleblower protections: No municipal entity or anyone acting on behalf of a municipal entity may take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment, including but not limited to discriminating with respect to compensation, terms, conditions, access to information, restrictions on due process rights, privileges of employment, or civil or criminal liability, because the employee or applicant was perceived to, about to, or assisted in any lawful disclosure of information concerning the funding, acquisition, or deployment of military or surveillance equipment or sharing of surveillance data to any relevant municipal agency, municipal law enforcement, prosecutorial, or investigatory office, or Select Board Member, based upon a good faith belief that the disclosure evidenced a violation of this Article.

SECTION 4.10.11 CONFLICTING CONTRACTUAL AGREEMENTS PROHIBITED

It shall be unlawful for the Town or any Town entity to enter into any contract or other agreement that conflicts with the provisions of this Article, and any conflicting provisions in such contracts or agreements, including but not limited to non-disclosure agreements, shall be deemed void and legally unenforceable. Conflicting provisions in contracts or agreements signed prior to the adoption of this Article shall be deemed void and legally unenforceable to the extent permitted by law.

SECTION 4.10.12 CERTAIN PUBLIC-PRIVATE CONTRACTS PROHIBITED

It shall be unlawful for the Town or any Town entity to enter into any contract or other agreement that facilitates the receipt of military or surveillance equipment from, or provision of surveillance data to any non-governmental entity in exchange for any monetary or any other form of consideration from any source, including the assessment of any additional fees, interest, or surcharges on unpaid fines or debts. Any contracts or agreements signed prior to the adoption of this Article that violate this section shall be terminated as soon as is legally permissible.

SECTION 4.10.13 DEFINITIONS

- (A) “Discriminatory” shall mean (1) disparate treatment of any individual(s) because of any real or perceived traits, characteristics, or status as to which discrimination is prohibited under the Constitution or any law of the United States, or the constitution or any law of the State of Massachusetts, or because of their association with such individual(s), or (2) disparate impact on any such individual(s) having traits, characteristics, or status as described in subsection (1).
- (B) “Disparate impact” shall mean an adverse effect that is disproportionately experienced by individual(s) having any traits, characteristics, or status as to which discrimination is prohibited under the Constitution or any law of the United States, or the constitution or any law of the State of Massachusetts than by similarly situated individual(s) not having such traits, characteristics, or status.

- (C) “Military equipment” shall mean tactical equipment regularly acquired, maintained, or used by the United States military, including, but not limited to: (a) manned aircraft; (b) unmanned aerial vehicles; (c) wheeled or tracked armored vehicles, including mine-resistant and/or ambush-protected vehicles; (d) tactical vehicles and vessels; (e) command and control vehicles; (f) firearms and ammunition with a caliber of .50 caliber or higher; (g) firearms and ammunition under .50 caliber, other than service weapons, and ammunition therefor, issued to local police officers; (h) bayonets; (i) grenade launchers; (j) grenades, including stun and flash-bang; (k) explosives and pyrotechnics; (l) silencers; (m) breaching apparatus; (n) riot batons, helmets, and shields; (o) long-range acoustic devices (p) night-vision devices; and (q) camouflage uniforms. The enumeration of military equipment examples in this subsection shall not be interpreted as an endorsement or approval of their use by any Town entity
- (D) “Town entity” shall mean any agency, department, bureau, division, or unit of the Town of Brookline (“Town”).
- (E) “Surveillance data” shall mean any electronic data collected, captured, recorded, retained, processed, intercepted, analyzed, or shared by surveillance equipment.
- (F) “Surveillance equipment” shall mean an electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.
- (1) “Surveillance equipment” includes, but is not limited to: (a) international mobile subscriber identity (IMSI) catchers and other cell site simulators; (b) automatic license plate readers; (c) electronic toll readers; (d) closed-circuit television cameras; (e) biometric surveillance technology, including facial, voice, iris, and gait-recognition software and databases; (f) mobile DNA capture technology; (g) gunshot detection and location hardware and services; (h) x-ray vans; (i) video and audio monitoring and/or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras; (j) surveillance enabled or capable light bulbs or light fixtures; (k) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network; (l) social media monitoring software; (m) through-the-wall radar or similar imaging technology, (n) passive scanners of radio networks, (o) long-range Bluetooth and other wireless-scanning devices, (p) radio-frequency I.D. (RFID) scanners, and (q) software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software. The enumeration of surveillance technology examples in this subsection shall not be interpreted as an endorsement or approval of their use by any municipal entity.

- (2) “Surveillance equipment” does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a surveillance technology as defined in Section 4.10.13(F): (a) routine office hardware, such as televisions, computers, and printers, that is in widespread public use and will not be used for any surveillance or surveillance-related functions; (b) Parking Ticket Devices (PTDs); (c) manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video and/or audio recordings; (d) surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars; (e) Town databases that do not and will not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology; and (f) manually-operated technological devices that are used primarily for internal Town entity communications and are not designed to surreptitiously collect surveillance data, such as radios and email systems.
- (G) “Viewpoint-based” shall mean targeted at any community or group or its members because of their exercise of rights protected under the First Amendment of the United States Constitution or the Massachusetts Declaration of Rights.

SECTION 4.10.14 SEVERABILITY

The provisions in this By-law shall be deemed to be severable. If any part or provision of this Article, or the application of this Article to any person or circumstance, is held invalid, the remainder of this Article, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

ARTICLE 29

Submitted by: C. Scott Ananian, TMM 10

To see if the Town will adopt the following version of a new Article 3.24 of the Town By-laws,

or act on anything relative thereto.

ARTICLE 3.24

Community Advisory Committee on Military and Surveillance Equipment

SECTION 3.24.1 ESTABLISHMENT AND PURPOSE

The purpose of this Article is to establish the Brookline Community Advisory Committee on Military and Surveillance Equipment (the “Committee”) under the Town of Brookline’s General By-laws, and to establish principles and procedures for the governance of the Committee. The purpose of the Committee is to provide the Select Board with broad principles to help guide decisions about if and how military and

surveillance equipment should be acquired and deployed by the Town and its departments. The Committee shall work in conjunction with the Office of Diversity, Inclusion and Community Relations for purposes of resource allocation and administrative support.

SECTION 3.24.2: DEFINITIONS

- (A) “Disparate impact” shall mean an adverse effect that is disproportionately experienced by individual(s) having any traits, characteristics, or status as to which discrimination is prohibited under the Constitution or any law of the United States, or the constitution or any law of the State of Massachusetts than by similarly situated individual(s) not having such traits, characteristics, or status.
- (B) “Military equipment” shall mean tactical equipment regularly acquired, maintained, or used by the United States military, including, but not limited to: (a) manned aircraft; (b) unmanned aerial vehicles; (c) wheeled or tracked armored vehicles, including mine-resistant and/or ambush-protected vehicles; (d) tactical vehicles and vessels; (e) command and control vehicles; (f) firearms and ammunition with a caliber of .50 caliber or higher; (g) firearms and ammunition under .50 caliber, other than service weapons, and ammunition therefor, issued to local police officers; (h) bayonets; (i) grenade launchers; (j) grenades, including stun and flash-bang; (k) explosives and pyrotechnics; (l) silencers; (m) breaching apparatus; (n) riot batons, helmets, and shields; (o) long range acoustic devices (p) night vision devices; and (q) camouflage uniforms. The enumeration of military equipment examples in this subsection shall not be interpreted as an endorsement or approval of their use by any Town entity
- (C) “Town entity” shall mean any agency, department, bureau, division, or unit of the Town of Brookline (“Town”).
- (D) “Surveillance data” shall mean any electronic data collected, captured, recorded, retained, processed, intercepted, analyzed, or shared by surveillance equipment.
- (E) “Surveillance equipment” shall mean an electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.
 - (1) “Surveillance equipment” includes, but is not limited to: (a) international mobile subscriber identity (IMSI) catchers and other cell site simulators; (b) automatic license plate readers; (c) electronic toll readers; (d) closed-circuit television cameras; (e) biometric surveillance technology, including facial, voice, iris, and gait-recognition software and databases; (f) mobile DNA capture technology; (g) gunshot detection and location hardware and services; (h) x-ray vans; (i) video and audio monitoring and/or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras; (j) surveillance enabled or capable lightbulbs or

light fixtures; (k) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network; (l) social media monitoring software; (m) through-the-wall radar or similar imaging technology, (n) passive scanners of radio networks, (o) long-range Bluetooth and other wireless-scanning devices, (p) radio-frequency I.D. (RFID) scanners, and (q) software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software. The enumeration of surveillance technology examples in this subsection shall not be interpreted as an endorsement or approval of their use by any municipal entity.

- (2) "Surveillance equipment" does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a surveillance technology as defined in Section 3.24.2(E): (a) routine office hardware, such as televisions, computers, and printers, that is in widespread public use and will not be used for any surveillance or surveillance-related functions; (b) Parking Ticket Devices (PTDs); (c) manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video and/or audio recordings; (d) surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars; (e) Town databases that do not and will not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology; and (f) manually-operated technological devices that are used primarily for internal Town entity communications and are not designed to surreptitiously collect surveillance data, such as radios and email systems.

SECTION 3.24.3 POWERS AND DUTIES

The Community Advisory Committee on Military and Surveillance Equipment shall have the following responsibilities:

- 1) Research local issues with the funding, acquisition, or deployment of military or surveillance equipment, including use by neighboring communities, disparate impacts of such equipment, and current and anticipated future development;
- 2) Work in cooperation with the departments and agencies of the Town of Brookline, including preparing Warrant Articles where appropriate, to ensure funding, acquisition, or deployment of military and surveillance equipment should not occur without strong consideration being given to the significant impact such equipment may have on the public's welfare, civil rights, and civil liberties, including those rights guaranteed by the Massachusetts Declaration of Rights and the First, Fourth, and Fourteenth Amendments to the United States Constitution;
- 3) Encourage public awareness of local use of military and surveillance equipment, including awareness of measures the public may take to ensure their rights are protected and of mechanisms to report disparate impacts of such equipment;

- 4) Compose a mission statement for the Committee. Review the statement every five (5) years, and revise it as needed. Post the statement on the Committee's website;
- 5) Prepare written long term goals that are specific, measurable and relevant to the Committee's mission. Review these goals every five (5) years and revise as needed. Prepare written short term goals annually;
- 6) File an annual report which shall be printed in the Town's annual report, listing current members, summarizing Committee accomplishments, and including a Military/Surveillance Equipment Community Equity Impact Assessment and Policy Guidance. This report shall address, at a minimum, the following:
 - (A) What communities and groups in the Town, if any, are disproportionately impacted by the deployment of military and surveillance equipment, what disparities were perceived and/or experienced, and what were the resulting adverse impacts on the community's or group's safety, civil rights, and civil liberties;
 - (B) With respect to each perceived or experienced disparity identified in response to Section 3.24.3(6)(A), what remedial adjustments to by-laws and policies, including but not limited to prior approvals of military and surveillance equipment, should be made so as to achieve a more just and equitable outcome in the future.
 - (C) With respect to each remedial adjustment identified in response to Section 3.24.3(6)(B), what additional funding, implementation strategies, and/or accountability mechanisms would be needed to effectuate the adjustment; and
 - (D) In light of the collective responses to Section 3.24.3(6)(A)-(C), what new approaches and considerations should the Town bring to future reviews of military and surveillance equipment.
- 7) When needed, and as an aid to the Select Board, the Committee may recommend prospective Committee members for appointment by the Select Board. The Committee shall endeavor especially to solicit nominations that reflect the diversity of the Town's residents, and special efforts should be made to ensure communities that have historically been disproportionately subjected to targeting by military and surveillance equipment are well-represented. Members of the public are welcome to apply directly to the Select Board for appointment. A recommendation for appointment from the Committee shall only be advisory and not necessary to receive appointment to the Committee;
- 8) Take such action as the Committee considers appropriate to ensure the purposes of this By-law are met.

SECTION 3.24.4 MEMBERSHIP

The Committee shall consist of seven (7) or nine (9) volunteer members appointed by the Select Board. The majority of members shall consist of people without direct ties to law enforcement or prosecutors. One member shall be a member of the Select Board 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 Select Board and Town Clerk in writing. The Select Board shall fill any vacancy for the remainder of the unexpired term in the same manner as an original appointment. Any members of said Committee may, after a public hearing if so requested, be removed for cause by the Select Board. No member shall undertake to speak or act on behalf of the Committee without the approval of the Committee. All members shall have full voting rights.

SECTION 3.24.5 OFFICERS

Officers of the Committee shall include a chairperson, deputy chairperson, secretary and treasurer. Officers shall be elected annually by a majority vote of the Committee. 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 Committee members shall undertake these duties. The treasurer shall: regularly inform the Committee of the status of any funds from gifts received by the Committee (and approved by the Select Board), as well as the status of any other funding to which the Committee 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 Committee shall be held at least three (3) times a year. A quorum for a nine (9) member Committee shall consist of five (5) members; a seven (7) member Committee 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 Committee shall be made by a majority of those members present.

Section 3.23.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2023 and at least every five years thereafter, the Committee shall review this Bylaw 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.

ARTICLE 30

Submitted by: C. Scott Ananian, TMM 10

To see if the Town will adopt the following Resolution:

WHEREAS, the Town finds it is essential to have an informed public debate as early as possible about decisions related to the funding, acquisition, and deployment of military and surveillance equipment by local law enforcement;

WHEREAS, the Town finds that no decisions relating to the funding, acquisition, or deployment of military and surveillance equipment should occur without strong consideration being given to the significant impact such equipment may have on

the public's welfare, civil rights, and civil liberties, including those rights guaranteed by the Massachusetts Declaration of Rights and the First, Fourth, and Fourteenth Amendments to the United States Constitution;

WHEREAS, the Town finds that, while the deployment of military and surveillance equipment may threaten everyone's safety and privacy, throughout history, military and surveillance equipment has been used to intimidate and oppress certain communities and groups more than others, including those that are defined by a common race, ethnicity, religion, national origin, income level, sexual orientation, or political perspective;

WHEREAS, the Town finds that the local acquisition of military and surveillance equipment and their deployment in our Town can adversely impact the public's welfare, including creating significant risks to their physical and psychological well-being;

WHEREAS, the Town finds that decisions regarding if and how military and surveillance equipment is funded, acquired or deployed should not be made until meaningful public input has been solicited and given significant weight;

WHEREAS, the Town finds that legally enforceable safeguards, including robust transparency, oversight, and accountability measures, must be in place to protect the public's welfare, civil rights, and civil liberties before any military or surveillance equipment is funded, acquired, or deployed; and

WHEREAS, the Town finds that, should the acquisition or deployment of any military or surveillance equipment be approved, data reporting measures must be adopted that empower the Town and public to verify that the public's welfare, civil rights, and civil liberties safeguards have been strictly adhered to;

NOW, THEREFORE, BE IT HEREBY RESOLVED that all Town entities shall obtain approval, subsequent to a mandatory, properly-noticed, germane, public hearing at which the public is afforded a fair and adequate opportunity to provide online, written, and oral testimony, prior to engaging in any of the following:

- (1) Seeking funds for new military or surveillance equipment, including but not limited to applying for a grant, or soliciting or accepting state or federal funds or in-kind or other donations or transfers;
- (2) Acquiring or borrowing new military or surveillance equipment, whether or not that acquisition is made through the exchange of monies or for other or no consideration;
- (3) Deploying or using new or existing military or surveillance equipment for a purpose or in a manner not previously approved by the Town in accordance with this Resolution, including the sharing of surveillance data therefrom; or
- (4) Soliciting proposals for or entering into an agreement with any other person or entity to acquire, share, or otherwise use military or surveillance equipment or its surveillance data.

BE IT FURTHER RESOLVED that any Town entity seeking to continue the use

of any military or surveillance equipment that was acquired prior to the passage of this Resolution, or the sharing of surveillance data therefrom, must commence a Town approval process; and,

BE IT FURTHER RESOLVED that Town shall only approve a request to fund, acquire, or use military or surveillance equipment if it determines the benefits of the military or surveillance equipment outweigh its costs, that the proposal will safeguard the public's welfare, civil liberties, and civil rights, and that the uses and deployments of the military or surveillance equipment will not be based upon discriminatory or viewpoint-based factors or have a disparate impact on any community or group; and,

BE IT FURTHER RESOLVED that the Town shall appoint a Community Advisory Committee to provide the Town with broad principles to help guide decisions about if and how military and surveillance equipment should be acquired and deployed by the Town. The membership of the Community Advisory Committee on Military and Surveillance Equipment should reflect the diversity of the Town's residents, and special efforts should be made to ensure communities that have historically been disproportionately subjected to targeting by military and surveillance equipment are well-represented.

or act on anything relative thereto.

ARTICLE 31

Submitted by: Solid Waste Advisory Committee, contact Clint Richmond

To see if the Town will amend Article 8.32 of the General By-Laws by deleting Article 8.32 in its entirety and replacing it with the following:

Article 8.32
Sustainable Food Containers and Packaging

Section 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 2. PROHIBITED USE AND DISTRIBUTION OF FOOD WARE AND PACKAGING

(a) 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) 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 3. EXEMPTIONS

(ii) (a) Foods prepared or packaged outside the Town are exempt from the provisions of this chapter.

(iii) (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.

(iv) (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 expanded polystyrene disposable food service containers 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.

(v) Section 4. PENALTIES AND ENFORCEMENT

(vi) (a) Each Food or Retail establishment as defined above, operating in the Town of Brookline shall comply with this by-law.

(vii) (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.

(viii) (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.

(ix) (3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

1. A) \$50 for the first offense

2. 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.

(x) (4) No more than one (1) penalty shall be imposed upon a Food or Retail establishment within a seven (7) calendar day period.

(xi) (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.

(xii) Section 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.

(xiii) Section 6. EFFECTIVE DATE

(xiv) The provisions of this By-law shall take effect on January 1, 2019, except the provisions of Section 2(e), which shall take effect on January 1, 2020.

(xv) or act on anything relative thereto.

ARTICLE 32

Submitted by: Brookline Justice League Mariela Ames, Scot Huggins, Brooks Ames

To see if the Town will amend the General by-laws to prohibit the Select Board from entering into or authorizing nondisclosure agreements relating to claims of discrimination, retaliation, and harassment and to require the Town to publicize the amounts paid to settle those claims. This proposal requires amending Section 3.1.3 to include the following language in bold:

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 it shall act upon advice of counsel when the amount to be paid in any settlement exceeds one thousand dollars (\$1,000). It may employ special counsel in suits by or against the town whenever they deem it necessary.

The Select Board shall not enter into or authorize any agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment against the Town. The financial terms of any settlement agreement concerning such a claim shall be published in a newspaper of general circulation within the Town, shall be posted on the Town website, and shall be posted in ten public places in the Town within seven (7) days of the settlement.

Or act on anything relative thereto.

ARTICLE 33

Submitted by: John Doggett, TMM13, Neil Gordon TMM1, Dennis Doughty, TMM3

To see if the Town will adopt the following resolution:

Resolution urging a review of the Town's practices regarding non-electronic communications

WHEREAS, the capacity of Brookline residents to receive electronic communications has increased over time and is now nearly universal; and

WHEREAS, despite this capability, the Town continues to expend substantial sums on printing, postage and other costs relating to the dissemination of information in non-electronic forms; and

WHEREAS, the annual cost to the Town of printing and mailing letters and materials for all departments is estimated to be more than \$581,000; and

WHEREAS, it is not apparent, on inquiry of the Town's staff, which of these communications that are required by law, are required to be sent by non-electronic means; and

WHEREAS, substantial sums might be saved through a systematic reduction in non-electronic communications not required by law; and

WHEREAS the Town lacks an electronic system for efficient, timely and emergency communications, to the whole Town, or to precincts or to individual streets or to individual properties; and

NOW, THEREFORE, BE IT RESOLVED, that Town Meeting urges the Select Board to undertake a review of the Town's non-electronic communications to make:

- 1) recommendations as to savings through use of electronic communication systems; and
- 2) improvements for electronic communications with residents,

by charging an existing committee or establishing a new committee, accordingly; and

BE IT FURTHER RESOLVED, that such committee report its findings in a timely manner such that, if appropriate, Warrant Articles might be submitted for consideration at a Special Town Meeting to be held in November, 2018,

Or act on anything relative thereto.

ARTICLE 34

Submitted by: Neil Gordon, on behalf of Brookline PAX

To see if the Town will adopt the following Resolution:

Resolution honoring the "Boys of Brookline" who died in service to their country during World War I

WHEREAS, World War I, also known as the Great War, was a global war, originating in Europe in 1914, and ending on November 11, 1918; and

WHEREAS, during the course of that war, more than seventy million military personnel were mobilized, and over nine million combatants and seven million civilians died; and WHEREAS, on April 6, 1917, the United States entered the conflict, mobilizing over four million military personnel and suffering one hundred and ten thousand deaths; and

WHEREAS, one hundred years later, as we take pause and remember all of those who served, and all of those who suffered, it is particularly appropriate that we take pause and remember those from our town, who gave so much; now

THEREFORE, BE IT RESOLVED, that Brookline Town Meeting hereby, and with reverence, honors the memory of Carlton C. Baker, Allan G. Barton, Albert E. Bower, Barron Brainerd, Harold Bromsoe, John J. Campbell, Elwin F. Chapman, Ralph E. Chapman, Harmon Craig, Albert L. Crocker, James F. Cromie, Martin Crowe, Thaddius C. DeFriese 2nd, Henry J. Devaney, Dennis F. Donahue, John F. Dugan, Patrick J. Dunn, Charles R. Ellis, Newton S. Frothingham, William B. Hagan, Kenneth E. Henderson, William F. Herrick, Robert W. Hill, Joseph W. Homer Jr., Edward A. Hooper, William H. Jarboe, Branton H. Kellogg, James A. King, Frederick A. Lincoln, Max M. Lusic, William D. Lyon, Charles W. McCarthy, George F. McGillen, Alfonsus J. McGrath, Kenneth D. McKenzie, James B. McClellan, Eugene D. Morse, Norman I. Moulthrop, John L. Mulvey, John L. Norris 2nd, Frederic Owens, Edward C. Paine, Robert J. Palmer,

Sturgis Pishon, Stephen Potter, Norbert E. Rigby, Newell W. Rogers, Mathew J. Rowley, Stephen F. Rutledge, George K. Sabine Jr., Thomas W. Saunders, Albert E. Scott, Charles L. Smith, Alexander Stewart, Gordon Stewart, Horace S. Stevens, Timothy B. Sullivan, Joseph J. Waters, Henry D. Webb, Hallek Wells Jr., Robert Williams, and Donald F. Wright, sixty-two “Boys of Brookline,” who died in service to their country; and

BE IT FURTHER RESOLVED, that Town Meeting takes special note of Albert Edward Scott, “Scotty,” a Brookline newsboy and a graduate of the Devotion School, a member of Company H, 101st United States Infantry, Allied Expeditionary Force, and a recipient of the Distinguished Service Cross, who was killed in action in France, on July 23rd, 1918, at the age of sixteen; and

BE IT FURTHER RESOLVED, that the Brookline Select Board, through the Town’s Veterans Service Office, cause this Resolution to be read at the Town’s forthcoming Memorial Day Service, to be held on May 28, 2018, or act on anything relative thereto.

ARTICLE 35

Submitted by: Cornelia van der Ziel, TMM15, Edward Loechler, TMM8

TO SEE IF THE TOWN WILL ADOPT THE FOLLOWING RESOLUTION:

RESOLUTION TO CALL FOR THE UNITED STATES TO “PULL BACK FROM THE BRINK” AND PREVENT NUCLEAR WAR—AN EXISTENTIAL THREAT TO THE FUTURE OF HUMANITY AND THE PLANET

WHEREAS, since the height of the Cold War, the United States and Russia have dismantled more than 50,000 nuclear warheads, but approximately 15,000 of these weapons still exist and, thus, still pose an intolerable risk to human survival¹; and

WHEREAS, approximately 95 percent of these weapons are in the hands of the United States and Russia, while the remainder are held by 7 other countries, namely, China, France, India, Israel, North Korea, Pakistan, and the United Kingdom²; and

WHEREAS, nuclear war would directly kill hundreds of millions of people and cause unimaginable environmental damage³; and

WHEREAS, there is a high probability that such a nuclear war would lead to catastrophic climate disruption dropping temperatures across the planet to levels not seen since the last ice age, thus resulting in the starvation of the vast majority of the human race, quite possibly leading to our extinction and the extinction of multiple other species⁴; and

WHEREAS, even the use of a tiny fraction of these weapons would cause worldwide climate disruption and global famine; e.g., as few as a 100 Hiroshima-sized bombs (small by modern standards) would put at least 5 million tons of soot into the upper atmosphere and cause climate disruption across the planet, cutting food production and putting 2 billion people at risk of starvation⁵; and

WHEREAS, despite the popular notion that these arsenals exist solely to guarantee they will never be used, on multiple occasions nuclear armed states have proceeded to the brink of using these weapons, and their use was narrowly averted⁶; and

WHEREAS, nuclear weapons do not possess any magical qualities that prevents their use; and

WHEREAS, former Defense Secretary Robert McNamara—speaking about the Cuban Missile Crisis in The Fog of War—said, “It was luck that prevented nuclear war”; and

WHEREAS, U.S. nuclear policy must NOT be subject to the whims of “luck;” and

WHEREAS, the growing climate crisis is stressing communities around the world and intensifying the likelihood of conflict, and, thus, the danger of nuclear war⁷; and

WHEREAS, the planned expenditure of more than \$1 trillion dollars to enhance the U.S. nuclear arsenal will not only increase the risk of nuclear disaster but also fuel a global arms race and divert crucial resources needed to assure the well-being of the American people and people all over the world⁸; and

WHEREAS, there is an alternative to increasing nuclear arms proliferation; e.g., in July 2017, 122 nations called for the elimination of all nuclear weapons by adopting the Treaty on the Prohibition of Nuclear Weapons⁹.

BE IT RESOLVED THAT the Town of Brookline, Massachusetts, calls upon our federal leaders and our nation to embrace and sign the Treaty on the Prohibition of Nuclear Weapons and make nuclear disarmament a centerpiece of U.S. national security policy.

BE IT FURTHER RESOLVED that the Town Meeting of Brookline, Massachusetts, calls upon our federal leaders and our nation to spearhead a global effort to prevent nuclear war by:

- renouncing the option of using nuclear weapons first;
- ending the president’s sole, unchecked authority to launch a nuclear attack;
- taking U.S. nuclear weapons off hair-trigger alert;
- cancelling all plans to add weapons to the U.S. nuclear arsenal that will make it more likely that leaders will initiate nuclear war; and
- actively pursuing a verifiable agreement among nuclear armed states to eliminate their nuclear arsenals.

BE IT FURTHER RESOLVED that the Town Clerk shall cause a copy of this resolution be sent to our U.S. Congressional Representative Joseph P. Kennedy, III, U.S. Senator Elizabeth Warren, U.S. Senator Edward J. Markey, and President Donald J. Trump.

Or act on anything relative thereto.

¹<https://fas.org/issues/nuclear-weapons/status-world-nuclear-forces/>

²<https://fas.org/issues/nuclear-weapons/status-world-nuclear-forces/>

³<http://www.psr.org/assets/pdfs/projected-us-casualties-and-destruction.pdf>

⁴<http://climate.envsci.rutgers.edu/pdf/RobockNW2006JD008235.pdf>

⁵<http://www.psr.org/assets/pdfs/two-billion-at-risk.pdf>

⁶<http://www.ucsusa.org/sites/default/files/attach/2015/04/Close%20Calls%20with%20Nuclear%20Weapons.pdf>

⁷<http://www.scientificamerican.com/article/once-again-climate-change-cited-as-trigger-for-war/>

⁸<https://www.armscontrol.org/factsheets/USNuclearModernization>

⁹www.ican.org/treaty-on-the-prohibition-of-nuclear-weapons/

ARTICLE 36

Submitted by: Craig Bolon, TMM8

Resolution calling for consideration of renaming Washington Street

To see if the Town will adopt the following Resolution or will amend and adopt the Resolution or will act on anything relative thereto:

WHEREAS, Brookline has become increasingly concerned about slaveholding associated with people after whom Town features are named, and

WHEREAS, George Washington, after whom Washington Street was named, was a slaveholder during most of his life, including years when he served as our nation's first President,

NOW THEREFORE, BE IT HEREBY RESOLVED, AS FOLLOWS:

The Town calls on the Town's Naming Committee consider renaming all or parts of Washington Street, using the name or names of one or more notable people who have resided within the current area of the Town, and to report thereon to the next Special or Annual Town Meeting beginning on or after November 1, 2018.

Or act on anything relative thereto.

ARTICLE 37

Reports of Town Officers and Committees

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

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

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this 14th day of March, 2018.

SELECT BOARD



BY VIRTUE OF THIS WARRANT, I THIS DAY NOTIFIED AND WARNED THE INHABITANTS OF SAID TOWN TO MEET AT THE HIGH SCHOOL AUDITORIUM IN SAID TOWN ON TUESDAY, May 22, 2018 AT 7:00 P.M. BY POSTING TRUE AND ATTESTED COPIES OF THE WITHIN WARRANT IN TEN (10) PUBLIC PLACES. ALL OF THIS WAS DONE AT LEAST FOURTEEN (14) DAYS BEFORE SAID MEETING.

CONSTABLE

DATE