

TOWN OF BROOKLINE

MASSACHUSETTS

Lodging House Regulations



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LODGING HOUSE REGULATIONS - TOWN OF BROOKLINE

_____ [date voted]

1. Authority and Scope: The following lodging house regulations have been adopted by the Board of Selectmen, the licensing authority for the Town of Brookline, pursuant to the provisions of Massachusetts General Laws (“M.G.L.”), Chapter 140. Any and all licenses issued by the Board shall be governed by, and subject to the licensee’s compliance with all applicable federal, state and local laws, regulations and by-laws, including but not limited to the M.G.L., these regulations, the Town of Brookline’s By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses. Where there is conflict between these regulations and a condition on the license, the condition shall govern unless it is inconsistent with the law. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing.

2. Definitions:

1) Lodging House: Every dwelling or part thereof which contains one or more rooming units in which space is let or sublet for compensation by the licensee, owner or operator to four or more persons not within the second degree of kindred to the person compensated. The term Lodging House shall include: boarding houses, rooming houses, inns, bed and breakfast establishments, dormitories, fraternity houses and other similar dwelling places.

2) Lodger: A lodger is any person residing in a rooming unit including any person listed as a lodger on any lease agreement for said unit.

3) Rooming Unit: The room or group of rooms let to an individual or household for use as living and sleeping quarters.

4) Licensee: That person(s) or entity listed on the lodging house license and the owners of the land and building where the lodging house is operated.

3. Application for a License

All applications must contain complete and truthful information. Submission of an application containing false information shall 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 Board until it is fully complete. Filing fees shall be payable prior to processing of an application. Annual license fees shall be payable immediately upon approval of the license by the Board. All filing fees and license fees shall be paid by

certified check. Filing fees are non-returnable once an application has been accepted by the Board. License fees shall not be prorated and are not refundable.

No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract.

Application and license fees shall be in an amount established by the Board pursuant to M.G.L. c. 40, s. 22F.

In determining whether or not to grant a request for a new license, the Board may consider the adequacy of the facilities, the applicant's record in running lodging houses, and the qualifications and character of the applicant and supervisor. The Board shall not deny a license based on general grounds of adverse impact on the neighborhood.

Prior to issuing a license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate, and shall hold a public hearing on the application.

The Board may deny an application for renewal of a license where there is cause for doing so. Prior to issuing a renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, and Building Department.

The licensee's failure to comply with any federal, state or local law, regulation, or by-law shall be cause for denial of the application.

4. Taxes and Charges

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 months past due.

5. Transfers / Sales of Licenses

No licensee may transfer to another person or entity a license issued pursuant to these regulations except upon application to and approval by the Board of the transfer.

Any such transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.

6. **Display of Licenses**

All licenses issued by the Town pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.

7. **Responsibilities of Licensee:** The licensee shall be responsible for the proper supervision, operation, and maintenance of the lodging house in accordance with the requirements of these regulations and of all other pertinent laws and by-laws. The appointment of an agent shall in no way relieve the licensee from responsibility for full compliance with all the foregoing laws and regulations. These regulations and the penalties imposed by them shall apply with equal force to the keeper of any lodging house required to be licensed.

8. **Agent(s):** If the licensee because of health, other employment, non-residence on the premises, frequent or extended absences from the premises or other reason, is unable to exercise proper supervision of the premises, he/she shall designate one or more agent(s) to carry out all or part of his/her responsibilities. The Board of Selectmen shall approve such agent(s) prior to assuming such responsibilities. Based on the qualifications of the agent(s) designated and the extent of the responsibilities, the board may require that more than one agent be provided. If, for any reason, an agent ceases to exercise his/her responsibilities, the licensee shall at once notify the Board of Selectmen and take immediate steps to provide proper interim supervision and obtain a suitable replacement.

The agent(s) shall be available on a 24-hour basis and must post his/her telephone or beeper number in a conspicuous place inside the Lodging House. The agent must also respond to calls from the town within a reasonable time (with respect to emergency issues, immediately (within one hour), and with respect to all other issues, by the end of the day). The agent must also notify the Selectmen's Office, Police Department, Health Department, Fire Department and Building Department of his/her beeper or telephone number.

Each educational institution shall submit to the Board of Selectmen the name of the Dean of Residences or other school official having jurisdiction over each dormitory, specifying the location thereof. Educational institutions must designate and list the Dorm Director for each assigned building. (This includes off-campus housing facilities leased or rented by the institution.)

Each fraternity shall submit to the Board of Selectmen the names of the officers or other members living on the premises who are responsible for the operation of the fraternity house, the university with which the fraternity is affiliated, and the Dean of Residence or other university official having jurisdiction over the fraternity.

The foregoing requirements for approval of agents shall not apply to those lodging houses that are dormitories of educational institutions or fraternities.

9. Mandatory Training for Licensees and Agents:

- A) All Licensees and their Agent(s), including in the case of educational institutions, the Resident Agent or Dean of Residence, shall complete a one-time training program conducted by the Brookline Health Department along with representatives from the Town’s Building Department, Fire Department and Police Department.
- B) The training program shall be offered once per year and will be an instructional program which will educate the licensee and the agent(s) with regard to the requirements of the Town’s lodging house regulations and any other laws or related topic(s) as the participating Town officials deem necessary for the safe and proper operation of lodging houses.
- C) If at any time there is a change in the Licensee, Agent, Resident Agent or Dean of residence, the newly designated person(s) shall be required to complete the training program.
- D) The Health Department shall send a list of all persons completing the training program to the Board of Selectmen.
- E) Failure to complete the training program may result in a fine of the license holder not to exceed \$500.00 or the suspension or revocation of the lodging house license, as the Board of Selectmen after notice and hearing may determine.

10. Registers, Card Files and Rosters: The licensee of every lodging house, except dormitories of educational institutions and fraternities, shall keep or cause to be kept, in permanent form, a register. Such register shall contain the true name or name in ordinary use and the last residence of every person engaging or occupying a private room together with a true and accurate record of the room assigned to such person and of the day and hour of check-in and check-out. The entry of the names of the person engaging a room and the lodgers of said room shall be made by said person engaging said room or by an lodger thereof.

Until the entry of such name and the record of the room has been made such person shall not be allowed to occupy privately any room upon the licensed premises.

In addition, each licensee shall keep or cause to be kept a card file containing current information on each lodger including full name, date and time of registration, room number, former address, place of employment, registration number, state of registration, and make of automobile, and the name and telephone number of the person to be notified in case of emergency. These cards should be kept for a minimum of one year after departure of the lodger.

Licensees of dormitories and/or fraternities shall maintain a roster of all persons residing therein.

The register, card file, and roster required in this section shall be available for inspection at all times by any town official.

The register and card file or the roster shall be stored in a fireproof depository at all times. Registers, card files and rosters, shall be kept electronically, both on and off site, if not stored in a fireproof safe. Copies of these records should always be maintained and be available for inspection by any Town official.

11. Minors: No room shall be let to any person under eighteen (18) years of age, except one who is a full-time University or College student, or married, or gainfully employed, or has the written consent of his/her parent or guardian. In cases where the licensee or agent is unable to determine whether the lodger is a minor, he/she shall notify the Police Department.

12. Town Inspections: Town inspections shall be made on an annual basis by authorized inspectional departments to determine compliance with applicable state and local laws, regulations and code. Annual inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints or related non-compliance issues. Inspections may include all areas related to the licensed facility and associated apartments, leased units and other occupied and non-occupied space. Inspections shall be conducted in conformity with applicable federal, state and local law.

13. Minimum Standards: These regulations are minimum standards intended for the maintenance and enforcement required for the protection of health, safety and welfare of all persons concerned. If there is any conflict with state or local law the stricter provision shall apply.

All lodging houses shall comply with the requirements of Article II of the State Sanitary Code, Minimum Standards of Fitness for Human Habitation, which is incorporated herein by reference, and to the requirements of these regulations, whenever they are in addition to or more stringent than the requirements of Article II of said code.

All lodging houses in which meals are served to lodgers shall comply with the requirements of Article X of the State Sanitary code, Minimum Sanitation Standards for Food Establishments, which is incorporated herein by reference, or to such lesser standards as may be approved in writing by the Director of Public Health.

14. Bathroom Facilities: Bathroom facilities, as required by the Sanitary Code, shall be located on the same floor as the individuals who are to use them.

15. Lighting and Electrical Facilities: The electrical service to the building shall conform with the rules and regulations issued by the Commonwealth of Massachusetts, Department of Public Safety, Board of Fire Prevention Regulations, known as the Massachusetts Electrical Code, which is incorporated herein by reference. Specific questions regarding the requirements of the Massachusetts Electrical Code may be directed to the Town of Brookline Electrical Inspector.

- 16. Space and Use:** Every room occupied for sleeping purposes shall contain at least 70 square feet of floor area and shall have a minimum width of 8 feet. Existing rooms in lodging houses having at the time of adoption of these regulations may have a minimum width of not less than 6 feet, but no existing room having a minimum width of 8 feet or more shall be reduced in width to less than 8 feet.

Every room occupied for sleeping purposes by more than one person shall contain at least 60 square feet of floor area for each lodger except that, in fraternities or dormitories where other living space is provided, this requirement maybe reduced by the amount of such common living space per lodger, but in no case shall it be reduced to an amount less than 80 square feet of floor area for the first lodger and 60 square feet of floor area for each additional lodger.

17. Room Furnishings:

I. Every room occupied for living and sleeping purposes shall contain:

- (a) a bed, in good repair, with a firm and even mattress provided by the Owner or the Lodger may choose to provide his/her own bed and mattress;
- (b) a dresser with at least 16 cubic feet of storage space;
- (c) at least 6 cubic feet of closet space per lodger including at least 3 feet of hanging rod; and
- (d) an unperforated, non-combustible waste basket.

If freestanding wardrobes within the room provide the required closet space, the floor area occupied by such wardrobes shall not be included in the computation of required room size under Space and Use, par. 12, above.

II. It is recommended that the following items be included with the room furnishings or provided in a common area:

- (a) a desk or table, at least 19 inches wide with a top of not less than 6 square feet and a straight back chair;
- (b) a lounge chair;
- (c) an individual towel rack;
- (d) a suitable floor covering.

18. House Rules & Supervision: Licensees and their agent(s) must:

- (a) Exercise due care in the selection of lodgers.
- (b) Inspect all common areas at least daily and all occupied rooms at every change of lodger to insure that all such areas are in a clean and orderly condition and without violation of regulations pertaining to obstruction of egress, cooking in rooms, and other health and safety hazards. A schedule of inspections must be posted at least forty-eight hours prior

to said inspection. Posting of the schedule for inspections shall not apply in the case of an emergency.

- (c) Institute and enforce such house rules as are necessary to prevent the lodging house from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighborhood.
- (d) Ensure that House Rules are in writing and **at a minimum** contain rules adequate to address the following matters:
 - 1) Noise Control including use of audio or other equipment which may disturb the peace;
 - 2) Disorderly behavior;
 - 3) Adherence to the Town's Lodging House Regulations and the consequences for repeated violations;
 - 4) Proper garbage disposal; and
 - 5) Cleanliness of rooming units and common areas.
- (e) File a copy of the house rules with the Board of Selectmen as part of the Licensee's license application or renewal thereof.
- (f) Post a copy of the House Rules in a common area of the lodging house.
- (g) Provide every lodger who intends to remain for thirty days or more with a copy of the house rules.
- (h) Meet with the lodgers on an annual basis to discuss house rules.
- (i) Take whatever steps necessary to stop Lodger(s) from repeatedly violating house rules or the requirements of these regulations up to and including eviction.

19. Housekeeping: It shall be the duty of the licensee and/or his/her agent to provide or cause to be provided:

- (a) Clean sheets and pillow cases to each lodger at least once a week and at each change of lodger.
- (b) Clean blankets and bedspreads to each lodger at each change of lodger and when otherwise necessary.
- (c) A clean mattress pad and/or mattress cover at each change of lodger and when otherwise necessary.
- (d) Daily cleaning of all common bathroom facilities and of community kitchen or laundry facilities.
- (e) Cleaning of all occupied rooms and private bathroom facilities at the change of each lodger or as otherwise necessary for sanitary purposes.
- (f) Cleaning, as necessary, of all other common areas.

If a room is let for thirty (30) consecutive days or more, the Licensee may modify the requirements in paragraphs (a) through (c) above.

20. Extermination: Facilities must have inspections performed by a licensed pest control operator (PCO) every 6 months (unless ordered to do so more frequently by the Health Department), PCO inspection reports must be kept on file for review. Inspections must include, but not be limited to bed bugs, insects, and rodents. The facility must take appropriate action to address any findings by the PCO.

21. Storage, Collection & Disposal of Waste: The Licensee and his/her agent(s) shall comply with the Town of Brookline's Regulations Governing the Handling, Storage, Collection and Disposal of Waste adopted on June 26, 1998, by the Director of Public Health and all other state or local laws pertaining to the proper storage, collection and disposal of waste. Responsibilities of the Licensee and Agent(s) include but are not limited to the following:

- (a) Storing garbage in watertight, rodent-proof receptacles with tight fitting covers.
- (b) Providing as many receptacles as are sufficient to contain accumulation of all garbage before final collection.
- (c) Locating garbage containers in an area where objectionable odors will not enter any dwelling.
- (d) Informing all lodgers of the rules regarding proper storage, collection and disposal of waste.
- (e) Placing garbage for collection in the designated location no later than 7:00 a.m. on the day of the scheduled collection, and no earlier than 3:30 p.m. of the day preceding the scheduled collection.
- (f) Removing all empty containers of any kind from the area of collection no later than midnight of the collection day.
- (g) Private curbside collection must be carried out on a schedule consistent with the Town's curbside collection service, with regard to the time and date of pick-up. The Commissioner of Public Works must approve any exceptions to this. This rule does not apply to private collection at locations other than curbside, such as at the rear or side of the property.
- (h) Town of Brookline Legal Holidays and Holiday Collection Schedule must be observed. A list of legal holidays can be found in Section V(D) of the Town's Regulations Governing the Handling, Storage, Collection and Disposal of Waste (copies of which are available from the Health Department). There will be no collections on legal holidays. Collections on or following a legal holiday will be done one day later for the remainder of that week.

Licensees and their agent(s) should familiarize themselves with the Town's Regulations Governing the Storage, Collection and Disposal of Waste, copies of which are available at the Brookline Health Department. Recycling should be a part of the licensee's solid waste management plan.

22. Egress Facilities: There shall be at least two separate and adequate ways of egress from each occupied story of a lodging house. The number and location of such ways of egress shall allow every lodger to reach the outside at ground level by a second way of

egress if the principal or customary egress is blocked by fire or smoke, or is otherwise obstructed. At least one of the required ways of egress shall be a protected interior egress and additional required ways of egress shall be either protected interior egresses or approved fire escapes that lead to a place of safety.

- 23. Protected Interior Egress:** A protected interior egress shall be: an interior stairway, including all halls or corridors connecting the flights of stairs or leading to an exterior door at ground level, or providing access from any room, group of rooms, or apartment, which interior stairway is provided with an automatic sprinkler installation approved by the Building Commissioner.
- 24. Approved Fire Escape:** An approved fire escape shall be an exterior stairway with balconies or landings at each floor, and having clear egress to a street, way or place of safety at ground level. Stairs, balconies and landings shall be constructed of non-combustible materials and landings shall be 2 feet in width of passage. Balconies and landings shall be not more than 9 inches below the top of exterior doorsills or windowsills with which they connect.
- A. Access to Approved Fire Escapes:** Access from any occupied story to an approved fire escape shall be through a door with approved hardware, T turn knob, lever or push bar which by one operation will release the door from the inside. Doors shall be a minimum of 5 feet in height and 2 inches in width or as otherwise approved by the Building Commissioner, and shall open in direction of egress so as to allow clear passage. If the top of the doorsill be more than 18 inches above the floor, approved steps permanently attached to the structure shall be provided. No storm or screen door shall be used in such locations. Except as above provided no devices that require unlocking from inside shall be used. Access to fire escapes shall be from a common hall or corridor, or otherwise accessible room, not a toilet or bathroom. Such common or accessible room shall lead directly to the aforementioned common hall or corridor having a door with hardware allowing release by one operation with no locking device, permitting opening at all times in direction of egress.
 - B.** No private room shall be used as access to a required fire escape unless the door to the room is equipped with an emergency exit lock of a type and model specially approved by the Building Department. No obstruction shall be permitted in the path of egress to a fire escape.
 - C.** Fire escapes are to be used for emergency purposes only. Use of fire escapes for general access to rooms is strictly prohibited.
- 25. Exit Signs:** Continuously illuminated Exit signs shall be provided. Location, illumination, graphics and power source of exit signs shall comply with 780CMR Mass State Building Code section 1011 EXIT SIGNS and shall be approved by the Building Commissioner.
- 26. Emergency Lighting:** Approved emergency lighting shall be provided along ways of egress. The number, type and location of emergency lighting units shall be as designated by the Building Commissioner.

- 27. Basements and Basement Stairs:** Basements or cellars shall be protected by automatic sprinklers. An automatic sprinkler shall protect interior stairs leading from abasement or cellar to the floor above.
- 28. Portable Fire Extinguishers:** Portable fire extinguishers of a type and capacity approved by the Chief of the Fire Department, shall be provided for each story and basement, one for each 2500 square feet of the floor area, or portion thereof, and maintained in a fully charged and operable condition at all times and kept in their designated places when not being used. Such fire extinguishers shall be inspected and serviced annually and after each use in accordance with NFPA 10. Fire extinguishers shall be conspicuously located where they will be readily accessible and immediately available in the event of fire. Preferably they shall be located along normal paths of travel, including exits from areas. Fire Extinguishers shall not be obstructed or obscured from view. Portable fire extinguishers other than wheeled types shall be securely installed on the hanger or in the bracket supplied, placed in cabinets or wall recesses. The hanger or bracket shall be securely and properly anchored to the mounting surface in accordance with the manufacturer's instructions. Fire extinguishers installed under conditions where they maybe subject to dislodging shall be installed in brackets specifically designed to cope with this problem.
- 29. Vertical Openings:** All vertical openings, including stairs other than the required stairs, dumbwaiters, vent shafts, and laundry chutes, shall be provided with sprinklers.
- 30. Hazardous Areas and Combustible Storage:** The Building Commissioner or the Fire Chief may require that kitchens, workshops, heater rooms, storerooms containing combustible materials, or other areas constituting a special hazard be protected by automatic sprinklers, fire resistive construction, additional approved portable fire extinguishing equipment, or other means as directed. Combustible or flammable material shall not be placed, stored or kept in any portion of an exit or elevator car or hoistway or at the bottom of a stairway, fire escape or other means of escape.
- 31. Electrical Use Policy:** All lodging houses shall establish and enforce an Electrical Use Policy that limits the amount of appliances that can be used in a room to the number of electrical receptacles in the room. The use of light gauge lamp cord extension cords and electrical strip receptacles shall be prohibited. The use of halogen lamps shall be prohibited.
- A. Cooking in Rooms:** The use of electric hot plates, gas plates, stoves using sterno or other fuel, electric percolators, grills, toasters, or other means of cooking is prohibited in any room other than a kitchen approved by the Building Commissioner. Lodgers may use microwaves in their rooming units with the approval of the Licensee.
- B. Candles:** The use of candles or other items that requires burning to be used (incense, odor oils, etc.) is prohibited.

C. **Portable Heaters:** The use of portable heaters is strictly prohibited.

32. Heating Systems: The owner shall provide and maintain in good operating condition the facilities for heating every habitable room and every room containing a toilet, shower or bathtub to such temperature as required by the State Health Code.

Central heating systems shall be provided with all the safety devices required for new installations under all applicable laws, by-laws, and regulations of any authority having jurisdiction thereof. The heater should be located in any area suitably ventilated to ensure the safe operation of the heater or burner.

33. Maintenance:

A. The building and all parts thereof shall be kept in good general repair and properly maintained. All exterior surfaces shall be kept painted where necessary for the purposes of preservation of structural elements or appearance. Interior walls and ceilings shall be periodically refinished in order to maintain such surfaces free from stains, marks, or visible foreign matter.

B. All outdoor areas not devoted to walks and drives or otherwise paved shall be landscaped and adequately maintained to prevent overgrowth or unsightly conditions.

C. Outdoor walks and drives and exterior ways of egress shall be kept unobstructed, free of litter, and clean. Accumulation of ice and snow shall be removed from such areas, including required ways of egress to provide safe walking surfaces and shall be removed in accordance with Article VIII, Section 19(b) of the Town of Brookline By-Laws, as may be amended. A copy of the by-law is available at the Town Clerk's Office.

34. Automatic Fire Alarm System: All lodging houses shall be equipped with automatic smoke or heat detectors. The design, installation, and performance of required fire warning systems, pursuant to M.G.L.C. 148 § 26C, shall be in accordance with NFPA 72.

35. Sprinkler Systems: Every lodging house shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. Fire protection systems shall not be disconnected or otherwise rendered unserviceable without first notifying the fire department. The design, installation, and performance of required fire warning systems, pursuant to M.G.L. c. 148, §26C, shall be in accordance with NFPA 72.

36. Carbon Monoxide Protection: All lodging houses shall be equipped with carbon monoxide protection and shall meet the requirements of 527 CMR 31.00: *Carbon Monoxide Alarms* and 248 CMR as listed in Chapter 35, in addition to this code. Carbon monoxide alarms, carbon monoxide detectors and combination smoke/carbon detectors

described in sections 916.1.1 through 916.1.4 shall be installed and maintained in accordance with the provisions of this code, 527 CMR 31.00, 248CMR, NFPA 72 and NFPA 720.

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- 37. Care and Maintenance of Fire Protection Systems:** The Licensee shall be responsible for the care and maintenance of all fire protection systems, including equipment and devices, to insure the safety and welfare of the lodgers. If required fire protection systems are temporarily out-of service for maintenance or repair, the Licensee or his/her agent(s) shall immediately advise the fire department and shall diligently restore the system to working order. Installation of, or modification to, any automatic fire protection system shall require a permit from the head of the fire department.

All lodging houses must submit to Fire Prevention the annual Fire Alarm and Sprinkler System tests for the facility at the annual inspection conducted every year.

Aisles, floors, halls, stairways, fire escapes, doors and windows shall be kept in good repair and ready for use, and shall be kept properly lighted.

No person shall shut off, disconnect, obstruct, remove or destroy, or cause or permit to be shut off, disconnected, obstructed, removed or destroyed, any part of any sprinkler system, water main, hydrant or other device used for fire protection in any building owned, leased or occupied by such person or under his control or supervision, without first procuring a written permit to do so from the head of the fire department.

38. Egress from and Access to Building:

Any obstacle that may interfere with the means of egress or escape from any building or other premises, or with the access to any part of said building or premises by the fire department in the case of fire, shall be removed from aisles, floors, halls, stairways and fire escapes. Doors and windows designated as exits shall be kept clear at all times.

No person shall at any time place an encumbrance of any kind before or upon any fire escape, balcony or ladder intended as a means of escape from fire. The means of egress from each part of the building, including stairways, egress doors, and any panic hardware installed thereon, aisles, corridors, passageways and similar elements of the means of egress, shall at all times be maintained in a safe condition and shall be available for immediate use and free of all obstructions.

All lodging houses shall establish and post an Evacuation Plan in compliance with the NFPA Protocol for residential occupancies on all levels of the building and near all exits. The facility is required to conduct at least two Evacuation Drills a year and submit documentation to Fire Prevention showing that they have been done.

All exterior bridges, steel or wooden stairways, fire escapes and egress balconies shall be maintained in accordance with 780 CMR 1028.0 and shall be examined and/or tested, and certified for structural adequacy and safety every five (5) years, by a Massachusetts registered professional engineer, or others qualified and acceptable to the Building Commissioner or his designee. The engineer or other party shall after inspection submit an affidavit to the building department.

39. Occupancy

No licensee shall vary the occupancy of the licensed premises as certified by the Building Department.

40. Town of Brookline Smoking By-Law: All lodging houses must conform to the requirements of Article 8.21 of the Town By-Laws regarding Tobacco Control, as may be amended. A copy of the By-Law is available in the Town Clerk's Office.

41. Town of Brookline Noise By-Law: All lodging houses must conform to the requirements of Article 8.15 of the Town By-Laws regarding Noise Control, as may be amended. A copy of the By-Law is available in the Town Clerk's Office.

42. Town of Brookline By-Law Pertaining to Disorderly Behavior: All Licensees and/or agent(s) must adopt and enforce house rules in order to conform to the requirements of Article 8.5 of the Town By-Laws regarding disorderly behavior. A copy of the By-Law is available in the Town Clerk's Office.

43. Town of Brookline Snow Removal By-Law: All lodging houses must comply with the requirements of Article 7.7.2 of the Town By-Laws regarding snow removal. A copy of the By-Law is available in the Town Clerk's Office.

44. Discrimination Prohibited

No licensee shall engage in unlawful discrimination on the basis of race, color, national origin, creed, disability, sex, sexual orientation, or ancestry.

45. Conflict With Other Laws or Regulations: Whenever any provision of these regulations is in conflict with a requirement of the Brookline Building Code or other law, by-law or regulation the more restrictive provision shall apply, unless a contrary intent is clearly stated.

- 46. **Variations in Specific Cases:** The Board of Selectmen may vary any provision of these regulations in a specific case, which appears to them not to have been contemplated by the regulations or in a case where manifest injustice would result. The decision of the Board in such cases shall not conflict with the spirit of any of the regulations or the purpose thereof. In each case, the Board of Selectmen shall make its decision only after consideration of any report, which may be filed with it by the appropriate Department(s).

- 47. **Certificates of Inspection:** The Board of Selectmen may require certificates of inspection certifying compliance with the various sections of the lodging house regulations.

- 48. **Severability of Provisions:** The invalidity, if so declared by a court of competent jurisdiction of any provision of these regulations shall not affect the validity of the remainder of them.

- 49. **Penalty:** Whoever refuses, neglects or fails to comply with any of these regulations shall be subject to license suspension, license revocation or to a fine not to exceed \$50.00 for each violation, and/or to the penalties imposed by General Laws, Chapter 140 § 22, *et seq.*, where applicable; and/or such other statutes: the State Sanitary Code, Fire Code, Building Code, Brookline by-laws and other regulations and fines applicable to the particular violation.

Approved and adopted on _____.

By the BOARD OF SELECTMEN:

