

ARTICLE 1

FIRST ARTICLE

Submitted by: Anthony Ishak TMM-1, Janice Kahn TMM-15, Petra Bignami TMM-12

To see if the Town will amend:

- 1) General Bylaw 6.6 as follows (language to be added appearing in bold and underline):

ARTICLE 6.6
DISCHARGING AND CARRYING FIREARMS

SECTION 6.6.1 Discharging Firearms.

No person shall fire or discharge any gun, fowling-piece, or firearm within two hundred feet of any street in the town of Brookline or on any private grounds, except with the consent of the owner thereof; provided, however, that this by-law shall not apply to the use of such weapons at any military exercise, in law enforcement or in the lawful defense of the person, family, or property of any person.

Section 6.6.2 Carrying Firearms

- (a) **For the purposes of this section, “firearm” shall mean any device, loaded or unloaded, designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including, but not limited to, a gun, pistol, shotgun or rifle.**
- (b) **No person shall carry a firearm in any place owned or under the control of the Town of Brookline for the purpose of government administration, including, but not limited to, a library, public playground, public park, pool, Town Hall, any location being used as an active polling or voting site, including use for the certification of votes and vote counting; events, rallies or protests, using any public ways, public property, public sidewalk, or other public areas and any special event that has been issued a license or permit by any governmental body.**
- (c) **This section shall not apply to: (i) law enforcement officers carrying a firearm on their person as part of their official duties; (ii) security guards carrying a firearm on their person as part of their official duties during work hours while at the location of their employment; (iii) active-duty military personnel; (iv) Town employees under written express consent of the Chief of Police or their designee; or (v) law enforcement officers who qualify to carry firearms under the federal Law Enforcement Officers Safety Act, 18 U.S.C. 926 C.**
- (d) **Signage should be visible from the entrance of all Town properties affected.**

2) Amend Article 6.6 of Article 10, Brookline’s General Penalty Provisions, as follows (language to be stricken appearing in strikeout, language to be added appearing in bold and underline):

Article 6.6	Discharging and Carrying Firearms	\$100.00
	<u>Section 6.6.1 Penalty</u>	<u>\$100.00</u> <u>300</u>
	<u>Section 6.6.2 Penalty</u>	<u>\$300.00</u>

Or take any action relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

This article proposes to amend Article 6.6 [Discharging Firearms] of the Town’s General By-laws by adding a new subsection 6.6.2 “Carrying Firearms” and adding the words “And Carrying” to the heading of Article 6.6.

In addition, this proposed warrant article would request signage to be visible at the entrance of all affected Town properties.

The proposed warrant article also amends The Table of Specific Penalties Under Article 10.3 (Non-Criminal Disposition), increasing penalty violations under Article 6.6.1 from \$100 to \$300 and adds a new 6.6.2 with a penalty violation of \$300.

SELECT BOARD’S RECOMMENDATION

Article 1 of the Special Town Meeting (hereinafter “Article STM1”), as amended following hearings at the Advisory Committee, is a petition to amend Articles 6.6 and 10.3 of the Town’s by-laws regarding firearms. Specifically, it bars the carrying of a firearm in any building owned by or under control of the Town, and at any gathering conducted on Town property. Exceptions are made for qualified law enforcement officers, military personnel where permitted by other laws, authorized security officers, and those with specific written permission of the Chief of Police. Violators of either provision of Article 6.6 (including the existing provisions regarding discharge of firearms) would be subject to a fine of \$300.00 per offense (increased from \$100.00 per discharge offense).

In debating Article STM1, the Select Board expressed general support for the aims of the proposed by-law and some concern that a court might find it unconstitutional, given the U.S. Supreme Court’s increasing hostility to any restrictions, reasonable or otherwise, on

the carrying of arms. The Board also noted, however, that the by-law's severability provision provides that any portion of the law not expressly found unconstitutional would survive such a challenge. The Board also questioned why military personnel were exempt, given that the carrying of arms by such personnel off-base is exceedingly rare. Petitioners noted in response that the amendments following prior public hearings limited such an exception to situations where the personnel were expressly permitted to carry arms by other state and federal laws.

With the above discussion, and following a public hearing on the matter, at a meeting held on April 25, 2023, the Select Board voted 4-0 to recommend FAVORABLE ACTION on the following motion:

MOVED: . That the Town amend:General Bylaw 6.6 as follows (language to be added appearing in bold and underline):

DISCHARGING AND CARRYING FIREARMS

SECTION 6.6.1 Discharging Firearms.

No person shall fire or discharge any gun, fowling-piece, or firearm within two hundred feet of any street in the town of Brookline or on any private grounds, except with the consent of the owner thereof; provided, however, that this by-law shall not apply to the use of such weapons at any military exercise, in law enforcement or in the lawful defense of the person, family, or property of any person.

Section 6.6.2 Carrying Firearms

- (a) **For the purposes of this section, "firearm" shall mean any device, loaded or unloaded, capable of firing a projectile using an explosive charge as a propellant, including, but not limited to, a gun, pistol, shotgun or rifle.**
- (b) **No person shall carry a firearm in any building owned by or under the control of the Town of Brookline, including, but not limited to, any location being used by the Town as an active polling or voting site, including use for the certification of votes and vote counting; at any Town of Brookline park, playground or recreational facility; or at any public gathering, public assembly, or special event conducted on Town of Brookline property, including but not limited to, a demonstration, march, rally, vigil, protest, or picketing event that requires the issuance of a permit from the Town of Brookline.**
- (c) **This section shall not apply to: (i) law enforcement officers duly qualified to carry a firearm on their person; (ii) security guards duly licensed to carry a firearm on their person as part of their official duties; (iii) active-duty**

military personnel where permitted by State and Federal law; (iv) Town employees or others under the express written consent of the Chief of Police or their designee; (v) law enforcement officers who qualify to carry firearms under the federal Law Enforcement Officers Safety Act, 18 U.S.C. 926 C; or (vi) to the carrying of firearms in any building or on the grounds of any school under the control of the Public Schools of Brookline, which conduct is expressly prohibited as provided in M.G.L. c. 269, s. 10(i).

(d) If any section, subsection, sentence, clause, phrase, word, provision or application of this bylaw shall be found to be invalid, illegal or unconstitutional, that finding shall not affect or undermine the validity of any other section, subsection, sentence, clause, phrase, word, provision or application of this bylaw.

2) Amend Article 10.3, TABLE OF SPECIFIC PENALTIES UNDER ARTICLE 10.3, as follows (language to be stricken appearing in strikeout, language to be added appearing in bold and underline):

Article 6.6	Discharging and Carrying Firearms	\$100.00
	<u>Section 6.6.1 Penalty</u>	<u>\$100.00300.00</u>
	<u>Section 6.6.2 Penalty</u>	<u>\$300.00</u>

ADVISORY COMMITTEE’S RECOMMENDATION

A report and recommendation on this article will be in the supplement.

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