



## 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-SEVENTH day of MAY, 2014 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: Board of Selectmen

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Selectmen, 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 Selectmen, to enter into Compensating Balance Agreement(s) for FY2015 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

#### **ARTICLE 4**

Submitted by: Board of Selectmen

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: Board of Selectmen

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of 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 2015 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: Board of Selectmen

To see if the Town will:

- (A) Raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2014 budget or transfer funds between said accounts;
- (B) Appropriate a sum of money, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to and for additions to the Lawrence School.
- (C) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid.

or act on anything relative thereto.

**ARTICLE 8**

Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2015 Budget

Appropriate the sums, or any other sum or sums, requested or proposed by the Selectmen or by any other officer, board or committee, for the fiscal year 2015 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, and fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with the option to purchase, or installment purchase of equipment; stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with G.L. Chapter 44, Section 53E½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2015 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$270,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen, for the enhancement of town-wide hardware and software.
- 2.) Appropriate \$65,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.
- 3.) Appropriate \$580,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of Fire Engine #5.
- 4.) Appropriate \$325,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Stations.
- 5.) Appropriate \$40,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for a feasibility study of the construction of a fleet maintenance facility for the Fire Department and for renovations to the training facility located at Fire Station #6.
- 6.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Library Trustees, for development of a written

building program and a feasibility / concept study of renovations to the Coolidge Corner Library.

- 7.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for bicycle access improvements.
- 8.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for a study of MBTA Traffic Signalization.
- 9.) Appropriate \$1,550,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of streets.
- 10.) Appropriate \$290,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of sidewalks.
- 11.) Appropriate \$515,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the conversion of Town-owned streetlights to LED's.
- 12.) Appropriate \$90,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the design of the renovation of Pierce playground.
- 13.) Appropriate \$295,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 14.) Appropriate \$85,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town and School grounds.
- 15.) Appropriate \$170,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 16.) Appropriate from the Sale of Lots special revenue fund (SW01) \$100,000, or any other sum, to be expended under the direction of the Commissioner of

Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Cemetery Trustees, for the rehabilitation of roadways within Walnut Hills Cemetery.

- 17.) Appropriate \$60,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.
- 18.) Appropriate \$320,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for costs associated with mobile carts and mounted projection systems in the Brookline Public Schools.
- 19.) Appropriate \$65,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School facilities.
- 20.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.
- 21.) Appropriate \$160,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School facilities.
- 22.) Appropriate \$730,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School facilities.
- 23.) Appropriate \$375,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.
- 24.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
- 25.) Appropriate, borrow or transfer from available funds, \$1,000,000, or any other sum, to be expended under the direction of the Building Commission, with the

approval of the Board of Selectman and the School Committee for a feasibility study to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, for which feasibility study the Town may be eligible for a grant from the Massachusetts School Building Authority. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town.

- 26.) Appropriate \$1,750,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.
- 27.) Appropriate \$900,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of Fire Ladder #2.
- 28.) Appropriate \$4,600,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the capping of the Newton St. rear landfill.
- 29.) Appropriate \$1,200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, to pay costs of (i) traffic circulation improvements in Brookline Village and (ii) Riverway Park pedestrian and bicycle crossing improvements at Route 9 and the Riverway, including the payment of any and all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project, or to take any other action relative thereto.

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 Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, 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 9**

Submitted by: Arthur Wellington Conquest III and Brooks Ames

To see if the Town will vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from \$40,000 to the income limit established under G.L. c. 62, section 6(k) for the “circuit breaker” state income tax credit for single seniors who are not head of households.

To see if the Town will reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to 3%.

Or act on anything relative thereto.

**ARTICLE 10**

Submitted by: Selectmen’s Diversity, Inclusion, and Affirmative Action Committee

To see if the Town will revoke Article 3.14 of the Town By-laws and replace it with the following version of a new Article 3.14,

or act on anything relative thereto,

**DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION  
AND DEPARTMENT**

**SECTION 3.14.1  
ESTABLISHMENT AND MISSION**

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the “Commission”) and the Diversity, Inclusion, and Community Relations Department (the “Department”).

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

The mission of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy,

creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

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

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

The Commission shall consist of eleven (11) to fifteen (15) residents of the Town or students who attend a Brookline Public School, who shall be called Commissioners. Commissioners shall be appointed by the Board of Selectmen (the "BOS") and shall hold office for a period of three (3) years except that of the eleven (11) to fifteen (15) Commissioners first appointed; three or 1/3 of the total (3-5) shall be appointed for one (1) year, four or 1/3 of the total shall be appointed for two (2) years, and four or 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may expand the size of the Commission by adding additional non-voting auxiliary members as it determines to be necessary, which may include youth who reside in Brookline or attend a Brookline Public School. The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of appointed voting Commissioners.

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

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

candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.

#### SECTION 3.14.2

#### APPOINTMENT , ROLES AND RESPONSIBILITIES OF THE DIRECTOR OF THE DIVERSITY, INCLUSION AND COMMUNITY RELATIONS DIVISION AND THE CHIEF DIVERSITY OFFICER

The Town Administrator, in consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Diversity, Inclusion and Community Relations Division (the “Director”). The Director may also serve as the Chief Diversity Officer (“CDO”) for the Town. The Town Administrator, in consultation with the Commission may alternatively recommend to the BOS the appointment of a separate person to serve as CDO.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the Department Head shall ask for additional assistance to carry out that person's duties.

The CDO shall report to the Town Administrator. The CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads and work with the Human Resources office to promote diversity and inclusion.

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

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

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town

Counsel, or such other body as the CDO deems appropriate. The CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who come in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

### SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

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

- (i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;
- (ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;
- (iii) Work with the BOS, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;
- (iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director,

the Human Resources Board, and the School Committee on the implementation of the diversity, inclusion, equal employment opportunity, and affirmative action policy;

**(v) Complaints Against the Town:** Receive complaints, through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and initiate preliminary review of the alleged facts, without drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee; and after an affirmative vote by a majority of the Commission (1) present the alleged facts to the Town Administrator, the BOS, and/or the School Superintendent for further action or (2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Offices procedures;

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

- (1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;
- (2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;
- (3) Present any results of preliminary review of the alleged facts to the Town Administrator, the BOS, and/or the School Superintendent, and School Committee, in an appropriate case, for action;

**(vii)** The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

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

(ix) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing;

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

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

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

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

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

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

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

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

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the "Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the BOS at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

#### SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or concerns; and may provide procedures and standards for recommending to the BOS the removal of a Commissioner for cause, including missing a specified number of meetings.

#### SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

The Town Administrator shall be notified of all complaints that the Commission receives from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

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

**SECTION 3.14.6  
REPORT**

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

**SECTION 3.14.7  
FIVE YEAR REVIEW**

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

**SECTION 3.14.8  
SEVERABILITY**

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

**ARTICLE 11**

**Submitted by:** Neighborhood Conservation District Commission

To see if the Town will amend Article 5.10 of the Town's By-laws, Neighborhood Conservation District By-law, in the following manner:

By adding a Section 5.10.3.d.2 to establish the Greater Toxteth Neighborhood Conservation District:

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

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

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

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

- i. “Habitable Space” shall mean space in a building or structure suitable for living, sleeping, eating or cooking; otherwise used for human occupancy; or finished or built out and meeting the State Building Code requirements for height, light, ventilation and egress for human habitation or occupancy. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas shall not be excluded from Habitable Space solely because they are excluded from the definition of habitable space under the State Building Code.
- ii. “Base-line Living Area” shall mean the amount of Habitable Space above grade in a building as of the Effective Date of this legislation. The Neighborhood

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

- iii. “Reviewable Project” shall have the meaning given to it in the section below entitled “Projects Subject To Review.”
- iv. “Front Plane” shall mean the forward most plane of the main structure façade on any above grade floor containing Habitable Space.
- v. “Effective Date” shall mean the date that this Bylaw amendment is approved at Town Meeting and becomes effective.

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

- i. Any Addition or Alteration to the existing exterior envelope of a building that, for any single project, increases the existing Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 15% or more of the applicable Base-line Living Area. Multiple Additions or Alterations undertaken under separate building permits maybe deemed by the Commission to constitute a single project if the Commission reasonably determines that the intent is to break a larger project into smaller pieces in order to avoid being subject to review.
- ii. Any Addition or Alteration to the existing exterior envelope of a building that, when aggregated with any prior such projects, would have the effect of increasing the Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 33% or more over the Base-line Living Area. The purpose of this section is to prevent property owners from undertaking multiple smaller projects over time that would have the cumulative effect of adding volume to building and/or structures that is inconsistent in scale, massing and/or siting with other buildings in the district.
- iii. Construction of a new building or other improvements (whether constructed on vacant land or on land where prior improvements have been demolished), and construction to replace buildings or other improvements destroyed by fire or other casualty.
- iv. The addition of or to a front porch, or the enclosure of any portion thereof (such as to create a vestibule or a partially or fully enclosed porch) on an existing building.
- v. Any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements (including the enclosure of any existing or newly constructed porch) that would have the effect of advancing the Front Plane of the building toward the street than the condition existing as of the Effective Date.

Projects Exempt From Review. The Reviewable Projects set forth above shall be the only projects subject to review in the Greater Toxteth Neighborhood Conservation District. All other activities listed in the definition of “Reviewable Project” at Section 5.10.2(m) of these By-laws, when undertaken as an independent project, shall be exempt from review, provided, however, that such activities may be considered and be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by guidelines set forth below. In addition, all projects or activities listed in Section 5.10.6(c) shall be exempt from review, including renovations to the interior of a structure that do not impact the exterior of the structure.

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

- i. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level, provided, however, that the grade is not changed and such improvements are not to be used for parking between the street and the Front Plane of a building (or the principal side wall plane along the street in the case of a building that occupies a corner property).
- ii. Walls and fences in front yards four feet high or less as measured from the grade of the sidewalk or the surface of the ground immediately below the wall or fence, whichever grade is lower.
- iii. Replacement Doors and windows (including storm doors and windows), trelliswork, cladding, roofing material.
- iv. Flat skylights or solar collectors that are parallel to and in close contact with the plane of the roof.
- v. Permanent exterior lighting, provided that it is installed in a manner that limits direct light from shining onto any adjacent property.
- vi. Chimney caps.
- vii. Ordinary maintenance, repair or replacement of any exterior feature so long as it does not involve a change in scale, massing or open space.

Guidelines applicable to Reviewable Projects. The Greater Toxteth Neighborhood Conservation District shall be governed by the following design guidelines, and the Commission shall apply such guidelines to all Reviewable Projects in order to protect and preserve the unique neighborhood characteristics described above.

- i. Construction of any buildings or other improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner that is compatible with the existing historic patterns of scale, massing and siting in the district, and maintains streetscapes, view sheds and green open space. Open/green space should be safeguarded, and respect shall be given to adjoining properties and the district as a whole.
- ii. A Reviewable Project generally shall be deemed by the Commission not to be consistent with these design guidelines (including, but not limited to, the design

- guidelines immediately set forth above in Paragraph (i) of this section), and should therefore not typically be approved, to the extent that it results in an increase of Habitable Space within an expansion of the exterior building envelop above grade (including new habitable space created by adding dormers to the roof) by more than 33% of the Base-line Living Area (whether such increase results from a one-time activity or from the aggregated effect of two or more successive activities, such that all such activities shall be cumulative and considered in the aggregate relative to the Base-line Living area condition). Notwithstanding the foregoing, the Commission may find in some circumstances that due to the unique characteristics of a particular property, the Base line Living Area is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may find that an increase of more than 33% is appropriate, provided that such larger increase does not result in a derogation of the special character of the neighborhood intended to be protected by this By-law.
- iii. Construction of any buildings or improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner such that the back and side-yard setbacks are consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole. Such activity shall generally be deemed by the Commission to not be consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole, and should therefore not typically be approved, if it results in any part of a building or other improvements (such as porches, porticos, entryways, breezeways and bay windows) exceeding the established back and side-yard setback requirements for the house itself under the Town's applicable zoning by-laws. Notwithstanding the foregoing, in certain circumstances, owing to the unique setting of the property and the improvements situated thereon, the Commission may permit modest variations to such setbacks so long as the special character of the neighborhood is preserved.
  - iv. In the event that a lot existing as of the Effective Date is subdivided into two or more lots, then any new construction on such new lot or lots shall not be subject to Paragraph (ii) of this section, but shall otherwise be subject to these design guidelines in all respects. After such new construction has been approved, any additional Additions or Alterations that materially affect the massing, size or siting shall in general not be deemed to be consistent with these Bylaws.
  - v. All Reviewable Projects shall be done in such a manner so as to preserve and promote the existing streetscape condition characterized by generous front yard setbacks and the transition from the home to the street through open front porches that foster street level sociability. Therefore, no Addition or Alteration of an existing building or other improvements, or the construction of any new or replacement buildings or other improvements shall be deemed to be consistent with these by-laws if it results in:
    - a. The enclosure of an open porch in such a manner as to inhibit the transitional nature from the home to the street and the street level sociability fostered thereby.

- b. The Front Plane of a building being closer to the street as compared to the existing condition as of the Effective Date. Enclosure of an existing or newly constructed porch should be deemed to constitute such a change in the location of the Front Plane of the building, provided, however, that the creation of enclosed front door vestibules of less than fifty (50) square feet shall be deemed to be consistent with the character of the neighborhood. Notwithstanding the foregoing, the Commission may find in certain circumstances that, due to the unique characteristics of a particular property, the existing front yard setback is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may, with respect to a new building, permit or require an increase to the front yard setback.
- vi. In reviewing the siting, massing and design of any Reviewable Project, efforts shall be made to maintain front yard open space for each property in the district and ensure its compatibility with the streetscape pattern and preservation of neighborhood front and rear view corridors.
- vii. The Commission shall endeavor to apply the following principles when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:
  - a. Promote and support the mixed architectural vernacular of the neighborhood and acknowledge any historical significance.
  - b. Ensure that buildings, including and especially new buildings, respect the traditional scale, massing and configuration of the neighborhood, particularly as buildings relate to each other, to open space, and to the street. Buildings shall be similarly oriented, and have similar yard depths and distance between buildings as their existing counterparts. The Commission shall take into account that the neighborhood desires to embrace both traditional and contemporary architectural style and design, as well as both traditional and new building materials practices and technologies.
  - c. Take into account the imposition of a Demolition Delay under Brookline's Demolition Delay By-Law with respect to any Reviewable Project, and consider the special qualities of the property identified by the Preservation Commission.
  - d. Conserve and promote green space, including the tradition of mature trees and plantings, shading, green setbacks, topography, rear view corridors, streetscapes, and other landscape amenities of the neighborhood and the potential consequences to immediate neighbors of proposed changes.
  - e. Minimize the adverse visual and acoustical effects of trash/recycling containers, air conditioning compressors, transformers and other fixtures.
  - f. Consider traffic and parking impacts as they may affect traditional street patterns and use, pedestrian activity, and safety (particularly with respect to the Lawrence School area)
- viii. The Commission shall also consider the following specific factors when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:
  - a. The consistency of any proposed Alteration or Addition of an existing building or other improvement, or new or replacement building or other

- improvements with the scale, massing and configuration of surrounding properties;
- b. The significance to the neighborhood (e.g. historical, architectural, social), if any, of the existing buildings or structure(s);
  - c. The design of any proposed Addition or Alteration, or new or replacement building, including potential adverse effects of the Project on the surrounding properties and/or the district as a whole;
  - d. The extent to which the integrity of the established streetscape and its pattern and character are restored or enhanced;
  - e. The proximity of surrounding buildings and structures;
  - f. Provisions for green/open space and landscaping;
  - g. Provisions for and character of parking; and
  - h. If made, a claim of substantial hardship.

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

# Proposed Greater Toxteth Neighborhood Conservation District

Town of Brookline,  
Massachusetts  
March 2014

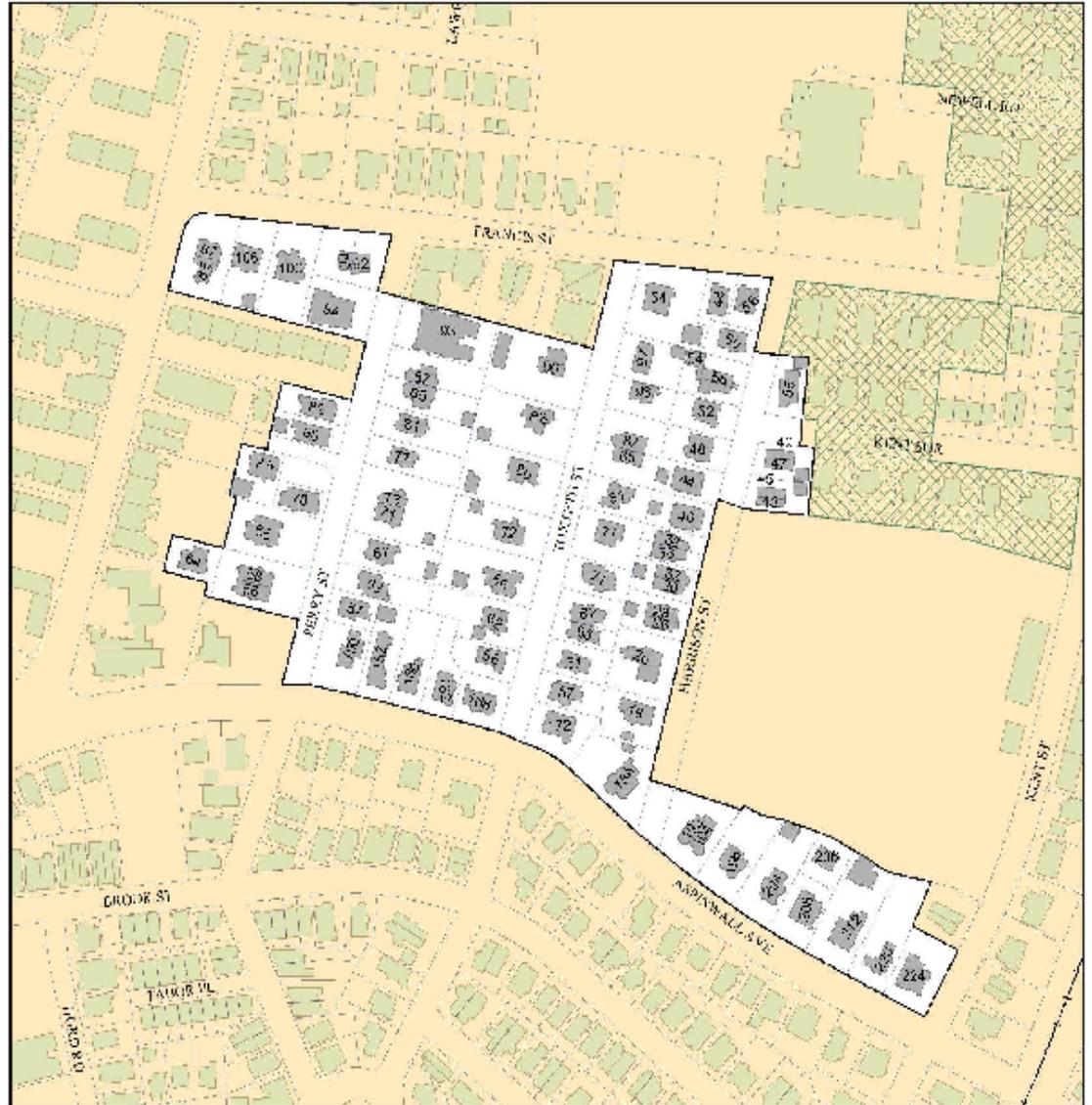


## Legend

- Buildings
- NCD Boundary
- Lawrence LID



1 inch = 200 feet



## ARTICLE 12

Submitted by: Fred Lebow

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

### ARTICLE 8.15 NOISE CONTROL

SECTION 8.15.1      SHORT TITLE

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

#### SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE

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

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

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

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

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

#### SECTION 8.15.3 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) Noise Injury: Any sound that:

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

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

(q) Noise Pollution: If a Noise source increases Noise levels 10 dBA or more above the Background Noise Level, it shall be judged that a condition of Noise Pollution exists. However, if the Noise source is judged by ear to have a tonal sound, an increase of 5 dBA above Background Noise Level is sufficient to cause Noise Pollution.

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

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

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

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

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

#### SECTION 8.15.3A MOTOR VEHICLE DEFINITIONS

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

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

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

#### SECTION 8.15.4 SOUND LEVEL EXAMPLES

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

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

80dBA	Loud music played at home
90dBA	The sound of a truck passing on the street
100dBA	The sound of a rock band
115dBA	Limit of sound permitted in industry by OSHA
120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at a distance of 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

SECTION 8.15.5 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS

(a) Departmental Actions

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

(b) Departmental Compliance with Other Laws

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

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

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

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

SECTION 8.15.6 PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

(a) Use Restrictions

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

All electric motor and internal combustion engine devices employed in yard and garden maintenance and repair.

Turf maintenance equipment employed in the maintenance of golf courses, snow blowers and snow removal equipment are exempt from this section.

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

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

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

MAXIMUM NOISE LEVEL dBA

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

(c) Construction and Maintenance Equipment:

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

<u>Construction Item</u>	<u>Maximum Noise Level dBA</u>	<u>Maintenance Item</u>	<u>Maximum Noise Level dBA</u>
Backhoe, bulldozer concrete mixer dumptruck, loader, roller, scraper,	90	Wood Chipper running concrete mixer, leaf vacuum	90

pneumatic tools, paver

Air compressor	85	Chainsaw, solid waste compactor, tractor (full-size)	85
Generator	80	Home tractor, snow blower	80
		Lawn mower, trimmer,	75
Electric drills, power tools, sanders, saws, etc.	75	Leaf blowers	67

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(d) Fixed Plant Equipment

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

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

(e) Electronic Devices and Musical Instruments

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

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

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

(f) Leaf Blowers

No person shall operate any portable Leaf Blower(s) which does not bear an affixed manufacturer's label or a label from the town indicating the model number of the Leaf Blower(s) and designating a Noise Level not in excess of sixty-seven(67)dBa when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) or IEC 61672-1 methodology. Any Leaf Blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the approved ANSI Noise Level limit or IEC Noise Limit under this By-law. However, any Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any portable Leaf Blower(s) that have been modified or damaged, determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the town as provided for in this section, even if the unit has an affixed manufacturer's ANSI, IEC or town label. Any portable Leaf Blower(s) must comply with the labeling provisions of this By-law by January 1, 2010. However, the owners of any Leaf Blower(s) operating after January 1, 2010 without a manufacturer's ANSI or IEC label on the equipment, may obtain a label from the town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. The testing will be provided by the town's designated person for a nominal fee and by appointment only. Testing will be provided only between the months of May and October. If the equipment passes, a town label will be affixed to the equipment indicating Decibel Level.

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

(g) Animals

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

(h) Additional Noise Sources

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

(i) Alternative Measurement Procedures

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

(j) Noise Level Exclusions

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

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

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

(k) Motor Vehicle Alarms

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

(l) Tonal Sound Corrections

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

SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

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

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

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

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

SECTION 8.15.8 HEARINGS ON APPLICATION FOR PERMITS FOR EXEMPTIONS

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

#### SECTION 8.15.9 PENALTIES

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

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

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

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

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

#### SECTION 8.15.10 SEVERABILITY

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

Or act on anything relative thereto.

### **ARTICLE 13**

Submitted by: Nathan Bermel

Whether the Town should amend Article 8.23 of the Town's General By-laws, *Tobacco Control*, as follows:

Article 8.23, Sec. 8.23.3: REGULATED CONDUCT

By amending paragraph (a)<sup>1</sup> of Section 8.23.3, *Public Places*, by adding the following subparagraph (4):

- (4) No person shall smoke in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds.

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

Article 8.23, Sec. 8.23.6: VIOLATIONS AND PENALTIES

By amending paragraph (a) of Section 8.23.6, *Violations and Penalties*, by adding the following sentence after the first sentence in said paragraph (a):

For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

Or act on anything relative thereto.

**ARTICLE 14**

Submitted by: Nathan Bermel

To see if the Town will amend Article 8.23, Section 8.23.2(d) of the Town's General By-laws, Tobacco Control, definition of Minor, by deleting the word "nineteen" and replacing it with the word "twenty-one",

or act on anything relative thereto.

**ARTICLE 15**

Submitted by: Selectmen's Brookline Place Advisory Committee

To see if the Town will amend the Brookline Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—"G" DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall

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<sup>1</sup> As amended at the November 19, 2013 Special Town Meeting.

include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements, attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in §5.06, paragraph 4, subparagraph b(3) relating to the parking in Coolidge Corner **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. For one-, two-, and three-family buildings where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR -2.0 DISTRICT, as follows:

Section 5.06-SPECIAL DISTRICT REGULATIONS, 4.d. General Business and Medical Research (GMR), as follows:

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI <sup>11</sup> NB ONLY	LOT WIDTH <sup>4</sup> MINIMUM (feet)	HEIGHT <sup>9</sup> MAXIMUM	PBI <sup>11</sup>		MINIMUM YARD <sup>3</sup> (feet)			OPEN SPACE (% of gross floor area)	
							B	NB	Front <sup>1,6</sup>	Side <sup>2,7</sup>	Rear <sup>8</sup>	Landsc.	Usable <sup>13</sup>
GMR-2.0	Any structure or principal use (dwelling-footnote 5)	none <sup>4</sup>	2.0 <del>4.0</del> 3.45 <sup>17</sup>	2.5 N/A	none	45 115 <sup>17</sup>	60 N/A	100 N/A	none	none	10+L/10	none	none <sup>5</sup>

FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

§5.06 – SPECIAL DISTRICT REGULATIONS

4. Special Districts

d. *General Business and Medical Research (GMR)*

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District ~~which exceed a floor area ratio of 2.5 or a height of 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet ~~and the maximum gross floor area shall not exceed 4.0. The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.~~

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to ~~landscaped and usable~~ open space, **consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance with trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such**

space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade.~~ The buildings shall be subject to the following special dimensional requirements, as illustrated in the Figure at the end of §5.06(4)d:

i) No buildings shall be constructed within the area defined by the north and west Pearl Street property lines, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area that it deems will best approximate the requirements of this subsection;

ii) Any development that has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width that is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed 65'-0" within the area defined by the Pearl Street north and east property lines, a line parallel to the north boundary line located 130'-0" from said boundary line, and a line perpendicular to the north boundary line located 115 feet from the intersection of the north and west boundary lines. It shall not exceed 55 feet within the portion of this area defined by the Pearl Street north and east property lines, and a line 30' from the east boundary line and parallel to said boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine an area that it deems will best approximate the requirements of this subsection. Only in the area in which the height of 65'-0" is permitted, substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The gross floor area of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or

**above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;**

**v) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.**

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In addition to review by the Planning Board, a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board~~ Director of Transportation and the Director of Parks and Open Space or its designee their designees.**

2) The parking requirements for applications in the GMR-2.0 District **shall be reviewed as a single lot without regard to lot ownership and** in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. of floor area

d) medical office use: one parking space per ~~350~~ **467** g.s.f. of floor area

**e) For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement (“TAPA”) that includes recognized Transportation Demand Management (“TDM”) programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required.**

**The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.**

~~The number of parking spaces for the above uses in a GMR-2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction. The Board of Appeals may also approve parking facilities that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town's Director of Engineering and Transportation.~~

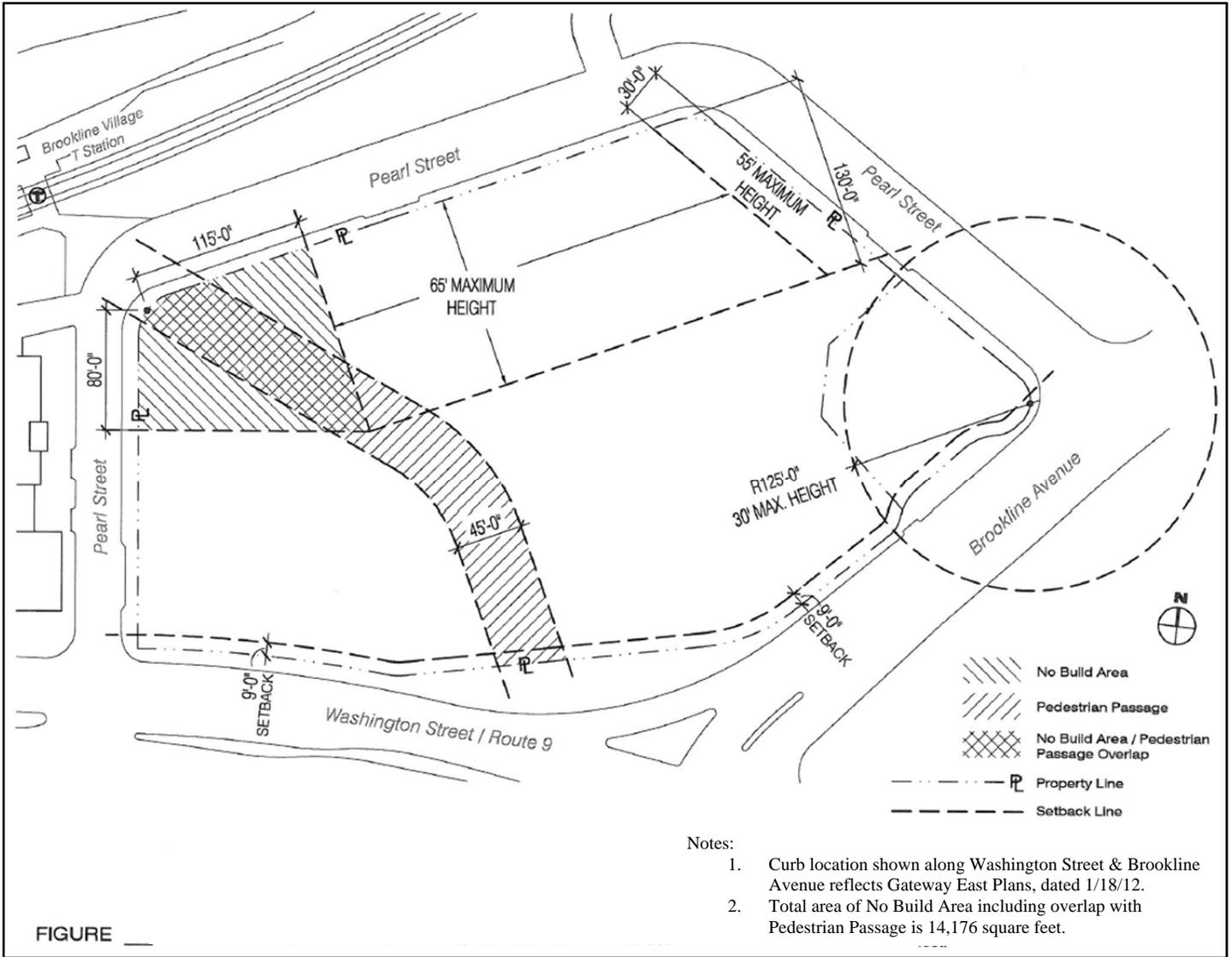
**f) The maximum number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones. The Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 20% additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.**

**3) All structures and uses in the GMR-2.0 District shall be subject to the following provisions, including both developments that constitute major impact projects and developments that do not constitute major impact projects:**

**a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height that it deems will best approximate the requirements of this subsection.**

**b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.**

- c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue property lines shall be no taller than 30 feet, as illustrated in the Figure at the end of §5.06(4)d. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area that it deems will best approximate the requirements of this subsection.**
- d) Prior to the issuance of any special permit for a major impact project under §5.06(4)d(1), the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact project under §5.06(4)d(1) that has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**
- 4) A special permit granted under this section as well as special permits granted under other sections of the Zoning By-law that are combined in a single decision with the special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.**
- 5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.**



**Figure XX – GMR-2.0 District Regulations**

**Illustration of §5.06(4)d(1)c(i-iii) and §5.06(4)d(3)c.**

Or act on anything relative thereto.

**ARTICLE 16**

Submitted by: Andrew Fischer

To see if the Town will amend the Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—“G” DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements,

attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in §5.06, paragraph 4, subparagraph b(3) relating to the parking in Coolidge Corner **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. For one- and two-family buildings where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR -2.0 DISTRICT (selected columns and Footnotes),

FLOOR AREA RATIO MAXIMUM	PBI <sup>11</sup> NB ONLY	HEIGHT <sup>9</sup> MAXIMUM	PBI <sup>11</sup>		MINIMUM YARD <sup>3</sup> (feet)	OPEN SPACE (% of gross floor area)	
			B	NB		Rear <sup>8</sup>	Landsc.
2.0	2.5	45	60	100	10+L/10	none	none <sup>5</sup>
<del>4.0</del> 2.90 <sup>17</sup>	N/A	115 <sup>17</sup>	N/A	N/A			

*[NOTE TO COMMITTEE: THE TABLE ABOVE WILL NEED TO EVENTUALLY BE FORMATTED TO SHOW THE ENTIRE EXISTING ROW IN THE DIMENSIONAL TABLE.]*

FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

Section 5.06-SPECIAL DISTRICT REGULATIONS, 4.d. General Business and Medical Research (GMR), as follows:

§5.06 – SPECIAL DISTRICT REGULATIONS

4. Special Districts

d. General Business and Medical Research (GMR)

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District ~~which exceed a floor area ratio of 2.5 or a height of 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet ~~and the maximum gross floor area shall not exceed 4.0~~. **The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to landscaped and usable open space, consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance in trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade~~. **The buildings shall be subject to the following special dimensional requirements:**

i) **No buildings shall be constructed within the area defined by the north and west boundaries of the GMR-2.0 District on Pearl Street, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area which it deems will best approximate the requirements of this subsection;**

ii) **Any development which has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width which is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;**

iii) **The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed:**

**35 feet within the area defined by the northwest boundary of the GMR 2.0 District on Pearl Street, and a parallel offset line 120 feet from said line; nor**

**25 feet within the area defined by the north and east boundaries of the GMR 2.0 District on Pearl Street, and lines perpendicular to said boundary lines, one line 20 feet from the intersection of the north and east boundary line on the north boundary line and the other line 60 feet from the intersection of the north and east boundary line on the east boundary line.**

**In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area which it deems will best approximate the requirements of this subsection. Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;**

iv) The maximum footprint of all space intended and designed for parking of motor vehicles shall not exceed 30,000 square feet;

v) The gross floor area use of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

vi) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a Lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In addition to review by the Planning Board,** a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board Director of Transportation and the Director of Parks and Open Space~~ **or its designee their designees.**

2) The parking requirements for applications in the GMR-2.0 District shall be reviewed as a single lot without regard to lot ownership and in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. of floor area

d) medical office use: one parking space per ~~350~~ **467** g.s.f. of floor area

e) **For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement (“TAPA”) that includes recognized Transportation Demand Management (“TDM”) programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner—objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.**

~~The number of parking spaces for the above uses in a GMR 2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction.~~

**f) The maximum number of parking stalls within the GMR-2.0 District shall not be greater than the following ratios:**

- i) office use:713 g.s.f. of floor area**
- ii) medical office use:416 g.s.f. of floor area**
- iii) all other uses: maximum shall be equal to the minimum parking requirements**

~~Where the applicant demonstrates an operational need to provide additional on-site vehicle accommodation, the Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 0 additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking facilities garages that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town's Director of Engineering and Transportation.~~

**3) All structures and uses in the GMR 2.0 District shall be subject to the following provisions, including both developments which constitute major impact projects and developments which do not constitute major impact projects:**

**a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height which it deems will best approximate the requirements of this subsection.**

**b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.**

**c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue shall be no taller than 30 feet. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area which it deems will best approximate the requirements of this subsection.**

**d) Prior to the issuance of any special permit for a major impact project under §5.06- 4.d.1, maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact projects under §5.06- 4.d.1 which has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**

4) A special permit granted under this section as well as special permits granted under other sections of the Zoning By-law which are combined in a single decision with the special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.

Or act on anything relative thereto.

**ARTICLE 17**

Submitted by: Board of Selectmen

To see if the Town will vote to accept a grant of easement from Children’s Brookline Place, LLC and Children’s One Brookline Place, LLC, each of which are Massachusetts limited liability companies with an address c/o The Children’s Hospital Corporation, 300 Longwood Avenue, Boston, Massachusetts 02115 over a portion of land located at 1 Brookline Place and 2-4 Brookline Place as the location of such easement is more particularly shown on that certain plan entitled “Conceptual Redevelopment Plan”, prepared by Elkus Manfredi Architects, LTD., and will be further described in the Easement Agreement that will be on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town with respect to the current proposed development of the site known as Brookline Place. Said easement is situated in Norfolk County and contains approximately 23,916 square feet as shown on said Plan. Said Plan and Easement Agreement to be recorded at the Norfolk Registry of Deeds and/or if required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment of the above properties, as more particularly set forth in the Memorandum of Agreement, and shall be supplemented with the final as-built plans all as further set forth in the Easement Agreement which is incorporated herein by reference. The description of the parcels of land being burdened by the easement described as follows:

**Legal Description of 2-4 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled “Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County” by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

- SOUTHEASTERLY  
and SOUTHERLY                   by Washington Street 213.30 feet;
  
- WESTERLY and  
NORTHWESTERLY               by Pearl Street 400.31 feet; and
  
- EASTERLY                       by Lot B shown on said plan by 3 courses measuring  
139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687<sup>B</sup>  
Lot D and Lot E on Land Court Plan 687<sup>C</sup>  
Lot B on Land Court Plan 3182<sup>A</sup>  
Lot A-1 on Land Court Plan 3182<sup>B</sup>  
Lot A2 on Land Court Plan 3182<sup>C</sup>

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

**Legal Description of 1 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled “Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County” by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;

WESTERLY by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;

NORTHWESTERLY  
NORTHERLY AND  
NORTHEASTERLY by Pearl Street, 393.75 feet; and

SOUTHEASTERLY  
EASTERLY AND  
SOUTHWESTERLY by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371<sup>A</sup> and a “way” shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Or act on anything relative thereto.

**ARTICLE 18**

Submitted by: Board of Selectmen

To see if the Town will accept a Restrictive Covenant from Children’s One Brookline Place, LLC and Children’s Brookline Place, LLC, each a Massachusetts limited liability company and the owners and/or entities having the option to purchase the properties located at 1 and 2-4 Brookline Place, Brookline, Massachusetts, respectively, which will be upon such terms and conditions as the Board deems in the best interests of the Town with respect to the current development of the site known as Brookline Place, and authorize the Board of Selectmen to enter into any necessary agreement in furtherance of the purposes of the Restrictive Covenant with respect to future tax-certainty of the land and buildings at Brookline Place and as more specifically set forth in the Restrictive Covenant. The description of the parcels of land being described as follows:

**Legal Description of 2-4 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled “Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County” by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY

and SOUTHERLY by Washington Street 213.30 feet;

WESTERLY and

NORTHWESTERLY by Pearl Street 400.31 feet; and

EASTERLY

by Lot B shown on said plan by 3 courses measuring 139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687<sup>B</sup>

Lot D and Lot E on Land Court Plan 687<sup>C</sup>

Lot B on Land Court Plan 3182<sup>A</sup>

Lot A-1 on Land Court Plan 3182<sup>B</sup>

Lot A2 on Land Court Plan 3182<sup>C</sup>

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

**Legal Description of 1 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;

WESTERLY by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;

NORTHWESTERLY  
NORTHERLY AND  
NORTHEASTERLY by Pearl Street, 393.75 feet; and

SOUTHEASTERLY  
EASTERLY AND  
SOUTHWESTERLY by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371<sup>A</sup> and a "way" shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Or act on anything relative thereto.

**ARTICLE 19**

Submitted by: Board of Selectmen

To see if the Town will authorize the Board of Selectmen to release the documents executed in connection with the acquisition of development rights in 2-4 Brookline Place entered into by and among the Town, Village Plaza Limited Partnership and Children's Brookline Place LLC, including, without limitation, that certain Tri-Party and Escrow Agreement recorded with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court on October 29, 2007, and the Development, Easement and Lease Agreement dated October 26, 2007, as well as the documents being held in escrow pursuant to the above-referenced Tri-Party and Escrow Agreement for the prior, so-called 2007 proposed Children's Hospital Project at Brookline Place, and to enter into any necessary agreement(s) and/or amendments to existing agreements to carry out the terms and conditions set forth in a certain Memorandum of Agreement among Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each a Massachusetts limited liability company and the entities owning and/or having the option to purchase the parcels of land and buildings thereon that make-up the so-called Brookline Place

properties, and upon such further terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

Or act on anything relative thereto.

**ARTICLE 20**

Submitted by: Daniel Simkovitz and Elena Budrene-Kac

To see if the Town will amend the Brookline Zoning By-Law and the Zoning Map as follows:

By amending the current zoning and map to change the current zoning district for the following three (3) parcels of property located at 273 Mason Terrace (Town Assessor's Parcel Id. No. 085-87-00); 277 Mason Terrace (Town Assessor's Parcel Id. No. 085-88-00); and 281 Mason Terrace (Town Assessor's Parcel Id. No.085-89-00); from an S-7 district to the adjacent T-6 zoning district as shown on the attached plan.

Or act on anything relative thereto.

**ARTICLE 21**

Submitted by: Submitted by: Diane Gold

To see if the Town will amend the Brookline Zoning By-Law by adding to Sec. 3.01.1, Classification of Districts, a new zoning district, S-4, as follows: (new language in bold)

Section 3.01 - Classification of Districts

1. Residence Districts

a. Single Family (S)

- 1) S-40
- 2) S-25
- 3) S-15
- 4) S-10
- 5) S-7
- 6) S-0.5P (Refer to Section 5.06, Special District Regulations)
- 7) S-0.75P (Refer to Section 5.06, Special District Regulations)
- 8) S-4**

And by modifying the Brookline Zoning Map10Z as follows: by changing the following T-5 properties to the new S-4 zoning district at: 6 Meadowbrook Rd (Block 341 Lot 13), 8 Forest St. (Block 341 Lot 11), 1 Forest St.( Block 342 Lot 01-02), 26 Meadowbrook Rd. (Block 345 Lot 15), 17 Larkin Rd. (Block 343, Lot 03), 14 Whitney St.( Block 343 Lot 08), 20 Whitney St.( Block 343 Lot 07), 15 Whitney St. (Block 344 Lot 03), 17 Whitney St. (Block 344 Lot 04), 21 Whitney St.( Block 344 Lot 05), and 25 Whitney St. (Block 344 Lot 06).

And by modifying Table 5.01, Table of Dimensional Requirements, by adding a new row for the S-4 district, after the SC-10 row, as follows: (new language in bold)

Table 5.01 - Table of Dimensional Requirements

						Min Yard			Open Space	
	Use	Min Lot Size	FAR Max	Lot Width Min	Height Max	Front	Side	Rear	Landsc	Usable
S-4	<b>1 - family detached dwelling</b>	<b>4,000</b>	<b>1.0</b>	<b>40</b>	<b>35</b>	<b>15</b>	<b>7.5</b>	<b>30</b>	<b>10%</b>	<b>30%</b>
	<b>Any other structure or principal use</b>	<b>5,000</b>	<b>1.0</b>	<b>50</b>	<b>35</b>	<b>25</b>	<b>20</b>	<b>40</b>	<b>30%</b>	<b>none</b>
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2 family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none <sup>2</sup>	30	10%	30%
	Any other structure or principle use	5,000	1.0	50	35	25	20	40	30%	none

Or act on anything relative thereto.

**ARTICLE 22**

Submitted by: Department of Planning and Community Development

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

Amending Section 4.07 – Table of Use Regulations, by modifying Use 25A (**new language in bold**):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
25. Gasoline service station	No	No	No	No	No	SP	SP	No	SP
<del>25A. Partially self-service gasoline stations.</del> <b>Gasoline service</b>	No	No	No	No	No	SP*	SP*	No	SP*

station with convenience store *See §6.08, paragraph 13, for additional regulations.									
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Amending Section 6.08 – Regulations Applying to Gasoline Service Stations by modifying paragraphs 1 and 11 and adding new paragraphs 13, 14 and 15 to read as follows (**new language in bold**):

§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS

Gasoline service stations shall be designed to conform to the following requirements:

1. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the ~~Building Commissioner~~ **Director of Transportation/Engineering** deems that access to or egress from a gasoline services station at such a location will create hazardous conditions.
2. The minimum lot area shall be 10,000 square feet.
3. The minimum frontage on a street shall be 100 feet.
4. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 20 feet.
5. The minimum distance of driveways, measured at lot line, shall be as follows:
  - a. From corner lot line, 20 feet;
  - b. From interior side lot line, 10 feet;
  - c. From other driveway on same lot, 20 feet.
6. The minimum setback of any building (including a canopy) from all street lot lines shall be 40 feet, except that the Board of Appeals by special permit may permit canopies over pump islands to have a minimum setback of 5 feet at gasoline service stations located on Boylston Street, Brookline Avenue, and Commonwealth Avenue.
  - a. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.
  - b. A raised curb at least six inches in height shall be constructed along all lot lines except at driveway openings.
7. Properties in residential districts which abut a gasoline service station shall be protected from headlight glare by either:
  - a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or
  - b. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

- c. Such screening shall be maintained in good condition at all time, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.
8. All illumination on outdoor areas shall be shielded so as not to shine upon any property in a residence district.
9. All washing, lubricating, and making of repairs shall be carried on inside the building.
10. No repairs such as body work shall be performed.
11. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises, **unless the Board of Appeals has issued a special permit for a gasoline service station with convenience store, Use 25A of §4.07 – Table of Use Regulations.**
12. The area of the lot not landscaped and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.
13. **No special permit for a gasoline service station with convenience store (Use 25A of §4.07 – Table of Use Regulations) shall be issued unless all of the following conditions are met:**
  - a. **The retail store shall have no more than 3,000 s.f. in gross floor area.**
  - b. **No drive-in use shall be allowed for the convenience store.**
  - c. **Parking for the gasoline service station with convenience store shall be provided in accordance with the parking requirements for Industrial uses as shown in §6.02, Paragraph 1, Table of Off-Street Parking Space Requirements. The parking spaces at the pumps for refueling vehicles may not be counted. If the need for fewer parking spaces can be demonstrated, a reduced parking requirement may be granted by special permit by the Board of Appeals.**
  - d. **No indoor seating shall be allowed.**
  - e. **The convenience store and gas station uses shall be operated under a single business or franchise name.**
  - f. **The convenience store shall not include the branded, franchised operations of a related or complementary business whose retail outlets are not primarily situated within convenience stores.**
14. **Gasoline service stations may operate either full-service or self-service pumps, or a combination of the two.**
15. **All gasoline service stations, regardless of self- or full-serve, shall provide customers with disabilities with refueling assistance without additional charge, and post clear signage indicating this assistance is available by signaling an employee.**

Or act on anything relative thereto.

**ARTICLE 23**

Submitted by: Department of Planning and Community Development

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

Amend Section 4.07 – Table of Use Regulations, Use 53, by changing “SP” into “No” for S zoning districts and removing the asterisk and accompanying wording (**new language in bold**):

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees.  <del>*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.</del>	<del>SP*</del> <b>No</b>	No	No	No	No	No	No	No	No

Or act on anything relative thereto.

**ARTICLE 24**

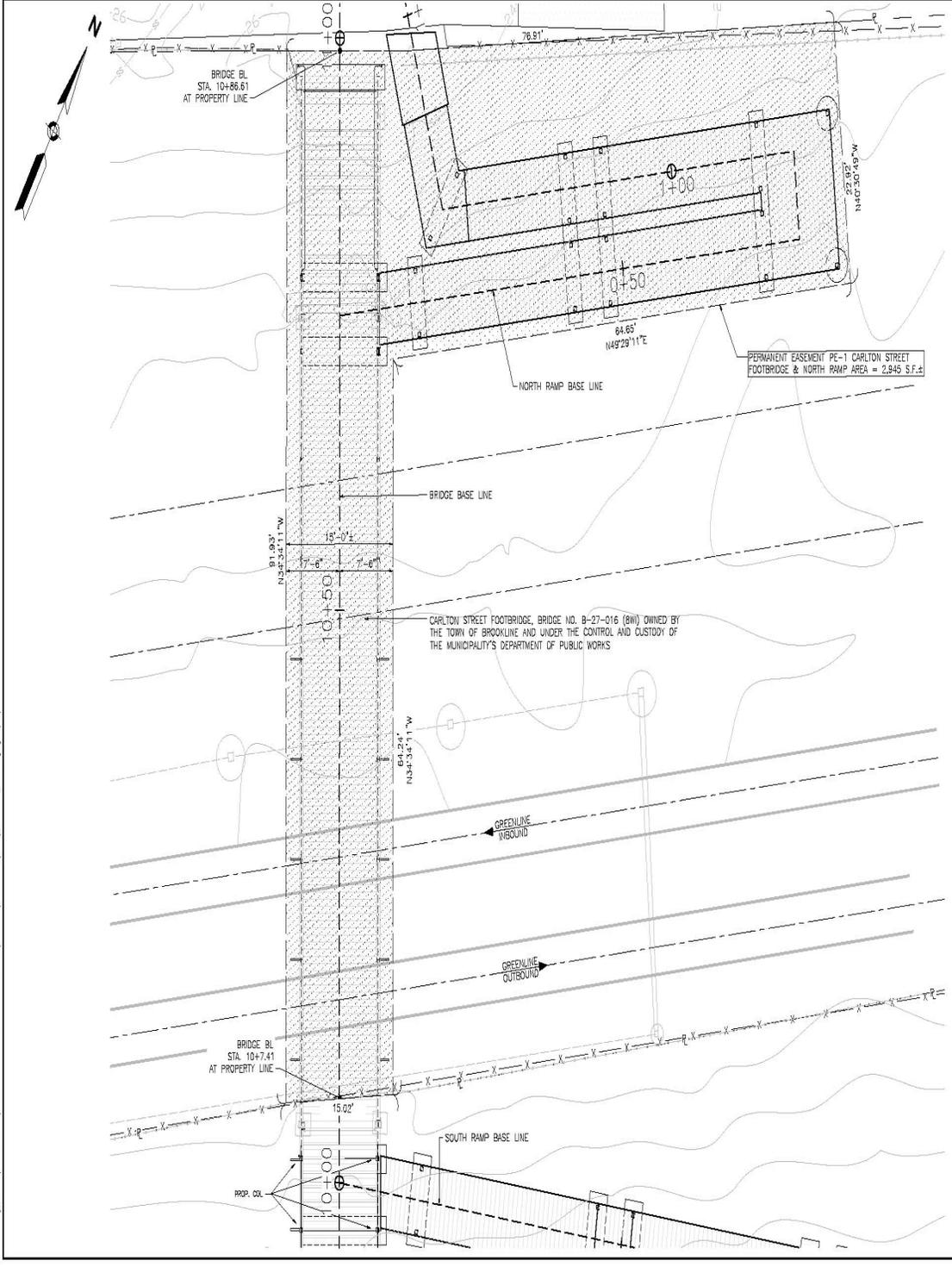
Submitted by: Department of Public Works

To see if the Town will vote to accept the grant of an easement for land and air rights for the reconstruction of the Carlton Street Footbridge, and associated structural footings and accessibility ramps, from the Massachusetts Department of Transportation, Rail and Transit Division, under which the Massachusetts Bay Transportation Authority (“MBTA”) operates, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts. Said easement is within the MBTA right of way.

Said easement shall reference, and serve to delineate and make current, the extant Release to the Town of Brookline from the Boston and Albany Railroad Company, an earlier Massachusetts corporation and predecessor to the present day MBTA, and then owner of the MBTA right of way, as contained in Book 655, pages 170-172, at the Norfolk County Registry of Deeds, and recorded on May 29, 1891.

Said easement is situated wholly within the Town of Brookline, in Norfolk County, in the Commonwealth of Massachusetts, and will be situated substantially as shown on a plan entitled “PRELIMINARY RIGHT-OF-WAY LOCATION PLAN,” prepared by the Town of Brookline, Department of Public Works, Engineering/Transportation Division, and included herewith.

Or act on anything relative thereto.



**BROOKLINE**  
**CARLTON ST. FOOTBRIDGE OVER MBTA**

STATE	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
MA		6	6
PROJECT FILE NO. 80518			

PRELIMINARY RIGHT-OF-WAY  
LOCATION PLAN

PLOTTED: 02/27/14 5:09PM PROJECT: MBTA  
 DRAWING: G:\CLIENTS\BROOKLINE\MA\0121218.DWG  
 CARLTON ST. FOOTBRIDGE\DRAWINGS\STRUCTURAL\WAD\PROPERTY\_SE.PWG [58] 02/27/14 1:09PM

PROPERTY\_SE.DWG  
 Printed on: 2/27/2014 5:09 PM

**ARTICLE 25**

Submitted by: Retirement Board

To see if the Town will accept the provisions of Section 20(6) *Retirement Board Members Compensation* of Massachusetts General Laws Chapter 32, as amended by Section 34 of Chapter 176 of the Acts of 2011, *An Act Providing for Pension Reform and Benefit Modernization* (“the Act.”)

Or act on anything relative thereto.

**ARTICLE 26**

Submitted by: John Harris

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

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

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

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

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

or act on anything relative thereto.

**ARTICLE 27**

Submitted by: Neil Gordon

To see if the Town will adopt the following resolution:

WHEREAS: The Town of Brookline owes a debt of gratitude to every resident who has honorably served in the Armed Forces of the United States (individually, a “Veteran”); and

WHEREAS: The Town of Brookline desires, in a modest way, to honor the memory of each such Veteran for his or her service; and

WHEREAS: The United States Department of Veterans Affairs provides, at no cost, a United States flag (“Burial Flag”) to drape the casket or accompany the urn of a deceased Veteran who has honorably served in the U.S. Armed Forces; and

WHEREAS: If a Burial Flag is not available then a suitable substitute can be made available by the Town at modest cost;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen, upon the reasonable request by a Veteran’s family or by any other appropriate party, to authorize, by specific resolution of the Board of Selectmen, the flying of a Burial Flag or suitable substitute provided by the Town, in memory of any deceased Veteran who was, at any time, a resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: such flag shall be flown at such place, for such time and with such ceremony as the Board of Selectman shall determine in their sole discretion; and

BE IT FURTHER RESOLVED THAT: in the case of a Burial Flag provided by a Veteran’s family or other appropriate party, such flag shall thereafter be promptly returned to the family or other appropriate party; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen shall promptly thereafter send a letter or certificate to the family or other interested party, such letter to include the text of the resolution of the Board of Selectmen authorizing the flying of a flag in memory of the honorable service in the U.S. Armed Forces of such former resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen use reasonable means to publicize the modest but meaningful memorial to Brookline’s Veterans described above;

Or act on anything relative thereto.

**ARTICLE 28**

Submitted by: Frank Caro

Proposed resolution on Slippery Sidewalks in Business Districts

Whereas: Section 7.7.1 of the Town’s bylaws requires that in a business district, the owner of land adjacent to a sidewalk maintain the sidewalk, in a non-slippery condition suitable for pedestrian travel within the first 3 daytime hours after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary,

Whereas: Section 7.7 of the bylaws requires owners of land adjacent to sidewalks to maintain the sidewalk in a non-slippery condition as necessary,

Whereas: A significant number of sidewalks in business districts are regularly in a slippery conditions after snow falls,

Whereas: The Town's complaint-driven system for enforcing its sidewalk snow-maintenance bylaw allows delays in enforcement of the bylaw,

Whereas: Delayed removal of snow and ice puts the safety of pedestrians at risk,

Whereas: The Town enforces some other bylaws by deploying enforcement officers with a mandate to identify violators,

Therefore be it resolved that the Town proactively deploy enforcement officers on foot in business districts beginning in the fourth daylight hour after snowfalls to enforce Section 7.7.1. of the Town's bylaws. These enforcement officers shall issue warnings and tickets on the basis of their own observations without waiting for complaints to be submitted to the Town.

Or act on anything relative thereto.

## **ARTICLE 29**

Submitted by: Brookline Local First

To see if the Town will adopt the following Resolution

### **WHEREAS**

The Town of Brookline has long been at the forefront of innovation ideas, creativity and most importantly action; and

### **WHEREAS**

The most critical action any town can take to diminish the effects of national economic crisis and assist its residents is to do everything possible to strengthen its local economy; and

### **WHEREAS**

Research has shown that \$2 of every \$3 spent at locally owned businesses stays in the local economy; however, only \$1 of every \$3 spent at chain stores or public companies stays in the local economy; and

### **WHEREAS**

The money spent at local independently owned businesses has given residents a more healthy, vibrant and sustainable community; and

### **WHEREAS**

Brookline is most fortunate to have many locally owned and independent businesses that are critical components to its local economy. However these locally owned businesses have had a difficult time in this economy; and

### **WHEREAS**

These difficulties necessitate a much more proactive approach by town government to support the local economic development for citizens to realize a positive impact, and now therefore be it

RESOLVED

That the Town of Brookline declare itself a "Local Economy Community" welcoming, and encouraging local entrepreneurship; and

RESOLVED

That the Town Administrator, School Department the Selectmen, and all departments:

1. Determine how the Town can increase procurement from Locally Owned Independent Businesses.
2. Ensure that locally or regionally owned banks participate and are given whatever preference is lawfully allowed when bids for town banking services are requested.
3. Support whatever efforts are made by the school committee to increase the percentage of locally grown and produced food served to students and staff; and

RESOLVED

That the Selectmen, Town Administrator, School Department, Department heads and members of locally owned independent businesses form a Task Force to identify and develop policies that directly support the growth and development of locally owned and independent businesses in Brookline,

RESOLVED

That the Town of Brookline declare an annual "Brookline Local Economy Week" that coincides with "Brookline Day", and that the Town Administrator, School Department and Town Department Heads confer to promote the steps all can take to contribute to fostering our local economic development during that week.

Or act on anything relative thereto.

**ARTICLE 30**

Submitted by: Scott Gladstone

To see if the Town will adopt the following Resolution:

WHEREAS obstetric fistula occurs when a girl or woman has a baby when they are too young or small and have no help from a birth attendant while in labor.

WHEREAS obstetric fistula is a medical condition that occurs from a prolonged obstructed labor where the baby gets stuck in the birth canal, compressing the tissue so no blood gets to it, causing it to die. This leaves a hole between the vagina and rectum, vagina and bladder or both, making the girl or woman unable to control her urine and/or feces.

WHEREAS a girl with obstetric fistula is forced to live on the outskirts of her village where she may be attacked by wild animals, die of starvation, and/or suffer from crippling psychological issues. She becomes an outcast and believes she is cursed by G-d.

WHEREAS obstetric fistula is preventable through medical interventions such as skilled midwives, providing access to family planning, as well as delaying early marriage and educating and empowering young women.

WHEREAS obstetric fistula can be surgically repaired, with success rates higher than 90 percent and at a cost of less than \$450, including post-surgical care.

WHEREAS, according to the State Department, “the health of women enhances their productivity and social and economic participation and also acts as a positive multiplier, benefitting social and economic development through the health of future generations.”

WHEREAS House Resolution 2888 the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 was introduced into the 113th Congress to authorize the President to provide assistance, including through international organizations, national governments, and international and local non-governmental organizations to address the social and health issues that lead to obstetric fistula and support treatment of obstetric fistula and to report to Congress on those efforts on an annual basis.

RESOLVED, that the Town Meeting of Brookline Massachusetts urges the members of its congressional delegation and other Massachusetts Congressmen to support the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013, and vote for passage of the Act.

RESOLVED, that the Town Meeting of Brookline urges Massachusetts Congressmen William Keating and Joseph Kennedy III, members of the House Foreign Affairs Committee, which is the Committee to which the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 has been assigned, to push for passage of the Act out of committee, and for a vote of the Act by the full House of Representatives.

RESOLVED, that the Selectmen promptly transmit this resolution to Congressmen Keating and Kennedy as well as to Senators Edward Markey and Elizabeth Warren.

Or act on anything relative thereto.

**ARTICLE 31**

Submitted by: Alex Coleman

To see if the Town of Brookline will adopt the following Resolution:

WHEREAS, the Town of Brookline, with its strong commitment to diversity and inclusion, promotes an environment that is free of discrimination and harassment for all its employees, residents, customers, and clients, and

WHEREAS, the Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and

WHEREAS, the town of Brookline finds that no individual should be denied equal treatment or opportunity due to discrimination, and

WHEREAS, the Town of Brookline finds that no individual should suffer harassment due to bias, and

WHEREAS, current local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression, and

WHEREAS, transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending, and

BE IT RESOLVED that the Town of Brookline consistent with its strong commitment to diversity and inclusion affirms its support for the prohibition of discrimination or harassment on the basis of gender identity and expression in employment, housing, public accommodations, credit and lending, and public education.

Or act on anything relative thereto.

**ARTICLE 32**

Submitted by: Frank Farlow and Byron Hinebaugh

To see if the Town will adopt the following resolution:

**WHEREAS** the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen’s Climate Action Committee;

**WHEREAS** the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO<sub>2</sub>) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

**WHEREAS** in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO<sub>2</sub> emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

**WHEREAS** scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO<sub>2</sub> must be limited to 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

**WHEREAS** fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government in order to avoid paying the true cost of the environmental damage they cause, and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

**WHEREAS** Senate Bill 1225 would require the Commonwealth’s Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel

companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been divested; now, therefore, be it

***RESOLVED***, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

***RESOLVED***, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline's congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline's state legislative delegation.

Or take any other action relative thereto.

**ARTICLE 33**

Reports of Town Officers and Committees

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

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

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this 18th day of March, 2014.

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BOARD OF SELECTMEN



**BY VIRTUE OF THIS WARRANT, I THIS DAY NOTIFIED AND WARNED THE INHABITANTS OF SAID TOWN TO MEET AT THE HIGH SCHOOL AUDITORIUM IN SAID TOWN ON TUESDAY, May 27, 2014 AT 7:00 P.M. BY POSTING TRUE AND ATTESTED COPIES OF THE WITHIN WARRANT IN TEN (10) PUBLIC PLACES. ALL OF THIS WAS DONE AT LEAST FOURTEEN (14) DAYS BEFORE SAID MEETING.**

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CONSTABLE

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DATE