

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-THIRD day of MAY, 2006 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

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

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the FY2007 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

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2007 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

ARTICLE 4

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; and rescind the unused portion of prior borrowing authorizations, or act on anything relative thereto.

- 1) Special Appropriation Closeouts
- 2) Rescind the bond authorization for water pollution abatement projects, through the Massachusetts Water Pollution Abatement Trust, authorized

under Article 13 of the 1997 Special Town Meeting, in the amount of \$200,000.

ARTICLE 5

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

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2007 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

To see if the Town will:

A.) Fiscal Year 2007 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 2007 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 53E ½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F ½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2007 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$27,823, or any other sum, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen, for furnishings and equipment for Town Buildings.
- 2.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.

- 3.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development and the Commissioner of Public Works, with the approval of the Board of Selectmen, for the design of pedestrian and vehicular circulation improvements in Brookline Village, for the so-called Gateway East project.
- 4.) Appropriate \$60,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the replacement of a Self-Contained Breathing Apparatus (SCBA) air compressor system.
- 5.) Appropriate \$135,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the replacement of firefighter turnout gear.
- 6.) Appropriate \$890,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a combined pumper and ladder truck for the Fire Department.
- 7.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the rehabilitation of Fire Department apparatus.
- 8.) Appropriate \$360,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for renovations to Fire Station #5 on Babcock Street.
- 9.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Police Chief, with the approval of the Board of Selectmen, for bullet proof vests.
- 10.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Board of Library Trustees, for the upgrade of the HVAC system at the Putterham Library.
- 11.) Appropriate \$103,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the modernization of the Washington Street / School Street / Cypress Street traffic signals.
- 12.) Appropriate \$25,700, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the modernization of the Harvard Street / Babcock Street traffic signals.
- 13.) Appropriate \$1,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.

- 14.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements.
- 15.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of sidewalks.
- 16.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for streetlight replacement and repairs.
- 17.) Appropriate \$350,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Park and Recreation Commission, for improvements to Soule Playground.
- 18.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 19.) Appropriate \$120,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town and School grounds.
- 20.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of tennis courts and basketball courts.
- 21.) Appropriate \$150,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the upgrade of lighting in parks.
- 22.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 23.) Appropriate \$60,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Trustees of the Walnut Hills Cemetery, for upgrades to the Walnut Hills Cemetery.
- 24.) Appropriate \$130,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for repairs to the Larz Anderson Skating Rink.

- 25.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Park and Recreation Commission, for the preparation of plans and specifications for renovations to the Waldstein Building.
- 26.) Appropriate \$25,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen and the School Committee, for school furniture upgrades.
- 27.) Appropriate \$80,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrades to energy management systems.
- 28.) Appropriate \$185,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School facilities.
- 29.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town and School buildings.
- 30.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.
- 31.) Appropriate \$100,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.
- 32.) Appropriate \$275,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for a Town and School facility roof repair and replacement program.
- 33.) Appropriate \$240,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for the preparation of plans and specifications for renovations to the High School and the Tappan Street Gym.
- 34.) Appropriate \$200,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for a feasibility study for the renovation of the Runkle School and for the preparation of a Needs Assessment Study for the Devotion School.

- 35.) Appropriate \$290,000, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for work at the Old Lincoln School.
- 36.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen and the School Committee, for trash compactors at various schools.
- 37.) Appropriate \$1,723,960, or any other sum, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the Park and Recreation Commission, for remodeling, reconstruction or making extraordinary repairs to the Evelyn Kirrane Aquatics Center.
- 38.) Appropriate \$2,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the Newton Street Landfill including, but not limited to, assessment and corrective action and remodeling, reconstruction or making extraordinary repairs to the Transfer Station.
- 39.) Appropriate \$6,000,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the construction of sewers and sewerage systems and for the lining of sewers constructed for sanitary drainage purposes and for sewage disposal.

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 7, or act on anything relative thereto.

ARTICLE 8

To see if the Town will discontinue the \$41.25 emergency quarterly fee initiated by the 1988 Brookline Town Meeting, or act on anything relative thereto.

ARTICLE 9

To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the creation, preservation and support of community housing, the acquisition, creation and preservation of open space, the acquisition, creation and preservation of land for recreational use, the acquisition, preservation,

rehabilitation and restoration of historic resources, and the rehabilitation and restoration of such community housing, open space and land for recreational use that is acquired or created as provided under said Act; to determine the amount of such surcharge on real property as a percentage of the annual real estate tax levy against real property; to determine whether the Town will accept any of the exemptions from such surcharge permitted under Section 3(e) of said Act; or to take any other action relative thereto.

ARTICLE 10

To see if the Town will vote to adopt a bylaw providing for the establishment of a Community Preservation Committee pursuant to G.L. c.44B, §5 and for the composition and duties thereof; and to take any other action relative thereto.

ARTICLE 11

To see if the Town will accept the provisions of General Laws, Chapter 32, Section 7, Subdivision (2), paragraph (e), as amended, to pay an additional yearly retirement allowance of \$15.00 for each year of creditable service or fraction thereof to any member of Group 1 or Group 2 or Group 4, who is receiving accidental disability retirement benefits and is a veteran as defined in section 1 of said Chapter 32, with the total amount of this additional allowance not to exceed \$300 per year, or act on anything relative thereto.

ARTICLE 12

To see if the Town will accept the provisions of Section 2 of Chapter 157 of the Acts of 2005, to pay the additional yearly retirement allowance of \$15.00 for each year of creditable service as provided by Chapter 32, Section 7, Subdivision (2), paragraph (e), as amended retroactive to the date of the member's retirement, in accordance with said Section 2 of Chapter 157 of the Acts of 2005, as amended, or act on anything relative thereto.

ARTICLE 13

To see if the Town will authorize and approve the filing of a petition with the General Court in substantially the following form:

An act permitting the Town of Brookline to participate in the health insurance programs administered by the Group Insurance Commission established by General Laws, Chapter 32A.

Section 1. Notwithstanding the provisions of any special or general law to the contrary, the Town of Brookline is hereby authorized to transfer individuals to which it provides health insurance pursuant to General Laws, Chapter 32B, including its employees, retirees, surviving spouses or dependents, who shall be referred to herein as subscribers, to the Group Insurance Commission ("GIC") established in General Laws, Chapter 32A for the purpose of participating in the health insurance programs administered by the GIC.

Section 2. The Town of Brookline's subscribers shall not transfer to the GIC until the Town has fulfilled its bargaining obligations, where applicable, with collective bargaining units that represent Town employees in accordance with General Laws, Chapter 150E, and such units have agreed with the Town to the transfer.

Section 3. Except as herein provided, once transferred to the GIC the Town's subscribers shall participate in the health insurance programs under the same conditions as those individuals eligible to participate in the GIC's health insurance programs pursuant to General Laws, Chapter 32A.

Section 4. The Town of Brookline shall determine its premium contribution rates for all subscribers, including town and school retirees, subject to fulfilling its bargaining obligations, if any, pursuant to M.G.L. c. 150E with each collective bargaining unit that represents town employees regarding premium contribution rates. Each subscriber shall pay his/her share of the total premium to the town. The Town of Brookline shall forward the full premium cost of coverage, including subscriber contributions, to the GIC in accordance with reasonable regulations promulgated by the GIC.

Section 5. This act shall take effect upon its passage.

or act on anything relative thereto.

ARTICLE 14

To see if the Town will authorize and approve the filing of a petition with the General Court in substantially the following form:

An act permitting the Town of Brookline to reimburse a prevailing party-plaintiff its attorney's fees in an appeal of a Zoning Board of Appeals decision pursuant to General Laws Chapter 40A, Section 17.

Section 1. Notwithstanding the provisions of any special or general law to the contrary, the Town of Brookline is hereby authorized to appropriate an amount not exceeding, in any one year one twentieth of one percent of its equalized valuation, as defined in section one of Chapter forty-four, to establish and maintain a legal fund from which the Town may reimburse a party plaintiff for his/her attorney's fees in an appeal brought pursuant to Massachusetts General Laws Chapter 40A, Section 17 from a decision of the Town of Brookline Zoning Board of Appeals, but only if the appealing party is successful after all rights of appeal have been exhausted.

Section 2. Any appropriation into said fund shall require a majority vote at any town meeting. Any appropriation out of said fund for the purpose of paying attorney's fees requires approval by the Board of Selectman and a two-thirds vote at any town meeting.

Section 3. This act shall take effect upon its passage.

or act on anything relative thereto.

ARTICLE 15

To see if the Town will approve the name of the new athletic facility within Harry Downes Field , a town park designated as Lot 300, Block 01-00 in the Town Assessor’s Atlas, as the “Kraft Family Athletic Facility at Harry Downes Field”, or act on anything relative thereto.

ARTICLE 16

To see if the Town Meeting will amend Brookline Town By-law Section 2.1.12 CHALLENGE TO THE VALIDITY OF AN ACTION TAKEN BY TOWN MEETING as follows:

(Language in bold and underlined is additional language to be inserted in the by-law and language in brackets [] to be deleted)

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

Neither the Board of Selectmen, nor any department or agency which reports to the Board of Selectmen, shall file any petition or other document with the Attorney General or commence any legal proceeding contending that any action taken by Town Meeting is invalid,

or shall insert an article in the Warrant for any Annual or Special Town Meeting that in effect, challenges or causes the reconsideration of a zoning action taken by Town Meeting within two years of the prior action.

unless the following conditions have been complied with:

(a) Such petition, zoning petition, [or] other document or the commencement of such legal proceeding or of causing the reconsideration of a prior zoning action by Town Meeting within two years of the original action shall have been authorized by the Board of Selectmen; and

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

No other elected Town board, nor any department or agency which reports to any such other elected Town board, shall file any petition or other document with the

Attorney General or commence any legal proceeding contending that any action taken by Town Meeting is invalid, unless such Town board first authorizes such action and complies with the conditions described in sub-paragraphs (a) and (b), above.

Neither the Board of Selectmen nor any other elected board shall utilize the services of Town Counsel for the purposes of challenging an action taken by Town Meeting or of causing the reconsideration of a prior zoning action taken by Town Meeting within a two years of the original action. Town Counsel shall use his or her best efforts to defend the action taken by the Town Meeting upon receipt of notice under this by-law.

[In the event that Town Counsel is unable for any reason to defend such action, including without limitation that Town Counsel has expressed the opinion that such action is illegal, the Moderator shall take such action as he or she deems necessary in order to present such defense, and Town Counsel may then represent the challenger on the Town Meeting action in controversy.]

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

or act on anything relative thereto.

ARTICLE 17

To see if the Town will amend Article 3.7 of the General By-Laws by adding the following language after the second sentence of Article 3.7.2 (b):

Recognizing that reduction in operating costs and increased environmental efficiency of Town buildings are in the Town's best interest, the cost estimate for the project (including life-cycle costs) shall include a comparative analysis of the cost of using conventional materials, applications and technology to the use of sustainable materials, applications and technology (commonly referred to as "green technology") as defined in the most current criteria of the LEED (Leadership in Energy and Environmental Design) Green Building Rating System[®] published by the United States Green Building Council, or comparable scoring system. This analysis shall give equal consideration to debt service and operating costs, including future utility costs adjusted for likely increases in the cost of energy. The format of this calculation shall be determined by the Building Commission, and the calculation of the initial investment and lifecycle costs for conventional and sustainable alternatives shall be documented and certified by the Chairman of the Building Commission or its representative, and made available to the public at least thirty days before appropriations are made for any subsequent phases.

or act on anything relative thereto.

ARTICLE 18

To see if the Town will amend the General By-Laws by adding an Article 3.19 as follows:

Article 3.19 MANDATORY EDUCATIONAL TRAINING FOR ALL ELECTED AND APPOINTED OFFICIALS

3.19.1 APPLICABILITY

This by-law is intended to apply to all elected officials (though not Town Meeting Members unless serving on a Board, Committee or Commission) including but not limited to members of the Board of Selectmen and School Committee and appointed members of all boards, commissions, committees or sub-committees however constituted (hereinafter referred to collectively as "Elected and Appointed Officials").

3.19.2 MANDATORY EDUCATIONAL TRAINING

All Elected and Appointed Officials shall within ninety (90) days of (prior to or post) their election or re-election to office or appointment or re-appointment to a board, commission, committee or sub-committee, attend an educational training seminar hosted by the Office of Town Counsel which shall include the requirements of the Open Meeting Law, Public Records Law, and Conflict of Interest Law, or in the alternative shall meet with Town Counsel or a member of his/her staff to receive such information and training.

3.19.3 NOTICE OF COMPLIANCE

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

3.19.4 NON-COMPLIANCE AND ENFORCEMENT

Should an Elected or Appointed Official fail to participate in the required training within the mandatory ninety (90) days (prior to or post-election or re-election or appointment or re-appointment) then the Town Clerk shall forthwith send written notice thereof to the Chair of each Board or Committee whose members are elected and, in the case of appointed officials, to the appointing authority responsible for appointing each board, commission, committee or subcommittee whose members are appointed, whether the Board of Selectmen or the Town Moderator, as well as the relevant Chairperson of the Board, Committee or Commission. It will be within the discretion of the appointing authority to extend the time of compliance an additional 30 days, or to exercise any rights or privileges of its discretionary authority. The Town Clerk shall maintain a Public

Record of Compliance by Elected and Appointed Officials, available for viewing by the Public upon request.

or act on anything relative thereto.

ARTICLE 19

To see if the Town will amend the General By-Laws by adding an Article as follows:

MANDATORY EVENING MEETINGS FOR TOWN MEETING-CREATED STUDY OR *AD HOC* COMMITTEES

APPLICABILITY

This by-law is intended to apply to any committee which was created by vote of Town Meeting, and whether appointed by the Board of Selectmen or the Town Moderator.

MANDATORY EVENING MEETINGS FOR TOWN MEETING-CREATED STUDY OR *AD HOC* COMMITTEES

All Committees or Studies, by whatever classification, created by vote of Town Meeting shall conduct at least half of its meetings during evening hours and shall be subject to all Public Meeting, Public Record, and Conflict of Interest laws. All meetings at which an Expert or Consultant to advise the committee is expected to attend shall be held during evening hours.

or act on anything relative thereto.

ARTICLE 20

Warrant Article for a Town By-Law to be added to “Section 4.1.3 AUDIT REPORTS”

All reports by the Independent Auditor shall be posted on the Town Website and shall be posted in a timely manner.

All reports by the Independent Auditor shall be placed in the BROOKLINE ROOM at the Main Library and shall be bound together with the Annual Report of the Town of Brookline of the same year. For example: the “2006 Brookline Annual Report” and “2006 Audit Report” are to bound together in one volume.

or act on anything relative thereto.

ARTICLE 21

To see if the Town will amend the General By-Laws by amending Article 4.3 – Contracts – Prohibited Practice by adding the following:

4.3.6 Former Municipal Employees Prohibited from Acting as Attorney or Agent in Certain Matters

Notwithstanding the provisions of General Laws Chapter 268A, Section 18, no former municipal employee as that term is defined by G.L.c.268A, Section 1 (g) shall receive compensation from or represent a third party in any particular matter in which he/she participated in as a municipal employee. Furthermore, a former municipal employee is prohibited for three years after their last employment or appointment with the Town has ceased, to appear personally before any Agency, Board, Commission or Committee of the Town on behalf of a third party if, within three years prior to his/her last day of employment/appointment the matter was under his/her general, official or overall responsibility. This Article shall take effect 1 July 2006.

or act on anything relative thereto.

ARTICLE 22

To see if Town Meeting will amend Town by-law Article 5.2 by repealing Articles 5.2.2, 5.2.3, 5.2.4(b), the word “residential” in the first sentence of 5.2.4(c), the last sentence of 5.2.4(d), and 5.2.5 and adding a new section as follows:

Article 5.2.2 APPLICABLE LAW

(a) The conversion of residential property to the condominium or cooperative form of ownership shall be regulated by Chapter 527 of the Acts of 1983, more commonly known as the State Condominium Conversion Law.

The remaining portions of Article 5.2 shall be recodified appropriately.

or to take any other action relative thereto.

ARTICLE 23

To see if the Town will amend Article 8.6 of the General By-Laws of the Town of Brookline as follows:

Section 8.6.7(a) Restraint of Dogs:

a. by deleting the so-called sunset provision language which reads:

“> Italicized language in Section 8.6.7(a) above will revert to language existing immediately prior to the amendment on June 30, 2006.”; and

- b. by changing all italicized language to regular font; and
- c. by adding the following paragraphs 5 and 6 at the end of Section 8.6.7(a):
 - 5. No area adjacent to a school shall be used as an off leash area without the approval of the School Committee.
 - 6. The Director of Parks and Open Space or his/her designee shall place a sign, in a conspicuous place, in all designated off leash areas which shall state the authorized hour(s) when such area may be used for such purpose and any other conditions of such use.

or act on anything relative thereto.

ARTICLE 24

To see if the Town will amend Article 8.17 of the General By-Laws as follows:

By deleting the year “2006” in the last sentence of Article 8.17 Focused Residence Picketing and inserting in its place the year “2007”.

or act on anything relative thereto.

ARTICLE 25

To see if the Town will amend the By-Laws by adding Article 8.27 as follows:

Article 8.27 Town of Brookline Wetlands Protection Bylaw

I. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Brookline by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, wildlife habitat, rare species habitat including rare plant species, and recreation values. This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth.

II. Definitions

The term “Alter” shall mean to change the condition of any resource area subject to protection under this bylaw. Examples of alteration include but are not limited to, the following:

- (a) the changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention areas;
- (b) the raising or lowering of the water level or water table;
- (c) the destruction of vegetation;
- (d) the changing of water temperature, salinity, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water.

The term “Bank” shall mean the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term “Buffer Zone” shall mean that area of land extending 150 feet horizontally outward from the boundary of a resource area, except that riverfront areas and vernal pools shall have no buffer zones.

The term “Isolated Vegetated Wetland” shall mean an isolated wetland that is not hydraulically connected to another resource area and is at least 2,500 square feet in size.

The term “Isolated Land Subject to Flooding” shall be consistent with the definition for ILSF as defined in the MWPA.

The term “Person” shall mean any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term “Pond” shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term “Rare Species” shall mean, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife,

regardless of whether the site in which they occur has been previously identified by the Division.

The term “Resource Areas” shall mean land under lakes, ponds, rivers or streams; any bank, marsh, wet meadow, bog or swamp bordering on any lake, pond, river or stream; land subject to flooding bordering on any lake, pond, river or stream; isolated vegetated wetlands; riverfront areas; and vernal pools.

The term “Resource Area Values” shall mean, without limitation, public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, wildlife habitat, rare species habitat including rare plant species, and recreation values.

The term “Riverfront Area” shall mean shall be consistent with the definition for Riverfront Area as defined in the Wetlands Protection Act, 310 CMR 10.58(2), as they may be amended.

The term “Stream” shall mean an open body of running water, including brooks and creeks, which moves in a definite channel, in the ground, due to a hydraulic gradient and flows within, into, or out of an Area Subject to Protection under this bylaw. Such bodies of running water that are intermittent are streams, except for those that serve only to carry the immediate surface runoff from stormwater or snowmelt. A portion of a stream may flow through a culvert or beneath a bridge. Where a stream or river runs thorough a culvert more than 200 feet in length, the buffer zone or riverfront area stops at a perpendicular line at the upstream end of the culvert and resumes at the downstream end.

The term “Vernal Pool” shall mean a confined basin depression that, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and that is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, and that is breeding habitat for amphibian species such as wood frog, spotted salamander, and fairy shrimp, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. A vernal pool does not have a buffer zone.

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

III. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall alter a resource area or a buffer zone. Resource areas shall be protected whether or not they border surface waters. Facilities constructed for

the purpose of and designated as reservoirs shall be exempt from the jurisdiction of this bylaw.

IV. Exemptions and Exceptions

The application and permit required by this bylaw shall not be required for the following activities:

1. maintaining, repairing, or replacing, but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission;
2. work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission;
3. for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
4. the application of herbicides as specifically set forth in 310 CMR 10.03(6) as may be amended.
5. facilities constructed for the purpose of and designated as reservoirs shall be exempt from the jurisdiction of this bylaw.
6. any bordering vegetated wetland, bank, land under water, land subject to flooding, or riverfront area created for the purpose of stormwater management shall not require the filing of a Notice of Intent or a Request for Determination of Applicability to maintain the stormwater management system, provided that the work is limited to the maintenance of the stormwater management system and that the area is not altered for other purposes.

Other than as stated in this section, the exceptions provided in the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

V. Applications for Permits, Requests for Determination and Consultant Fee

Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent or the Request for Determination of Applicability filed under the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission. Such requirements shall be consistent with those required under the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission may require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee will be called the "Consultant Fee." The Commission may impose a Consultant Fee only after a separate vote at an Annual Town Meeting to establish a Revolving Fund for the administration of such Fee as provided by G.L. c.44, §53E 1/2. The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

The Commission may require the payment of the Consultant Fee at any point in its deliberations prior to a final decision. If a revolving fund for consultant expenses and fees is authorized by the town meeting, or by any general or special law, the applicant's fee shall be put into such revolving fund, and the Commission may draw upon that fund for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the Consultant Fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

The exercise of discretion by the Commission in making its determination to require the payment of a Consultant Fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

The Commission may waive the Consultant Fee, costs, and expenses for a permit application or RFD filed by a government agency.

The maximum Consultant Fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

Project Cost	Maximum Fee
Up To \$100,000	\$500
\$100,001 - \$500,000	\$2,500
\$500,001 - \$1,000,000	\$5,000
\$1,000,001 - \$1,500,000	\$7,500
\$1,500,001 - \$2,000,000	\$10,000

Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged an additional \$2,500 maximum fee per increment.

The project cost means the estimated, entire cost of the project including, but not limited to, design, building construction, site preparation, landscaping, and all site improvements. The Consultant Fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

Until such time that a Revolving Fund pursuant to G.L.c.44, §53E 1/2 is established to administer the Consultant Fee as described above by way of a vote at an Annual Town Meeting the Commission may request an Applicant proposing a project, the cost of which is estimated at \$2,000,000 or more to retain and pay the fees for a Consultant to prepare a report for the Commission's review.

VI. Notice and Hearings

Any person filing a permit application or a RFD with the Commission shall at the same time give written notice thereof, by certified mail with return receipt requested, or hand delivered with signatures, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including

owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. c.131, § 40) and Regulations (310 CMR 10.00).

The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in §VII.

VII. Coordination with Other Boards and Commissions

Any person filing a permit application or RFD with the Commission shall provide written notification thereof at the same time to the town engineer, and building commissioner. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the Town engineer and Building Commissioner have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VIII. Permits and Conditions

If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Riverfront areas and buffer zones are presumed important to the protection of resource area values because activities undertaken in them have a high likelihood of adverse impact upon the wetlands or other resources, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. Such adverse impact from construction and use can include, without limitation, flooding, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip up to 50 feet wide of continuous, undisturbed vegetative cover within a riverfront area or buffer zone.

In the review of riverfront areas and buffer zones of streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose

(e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to §VI and §VII, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00).

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

IX. Regulations

After public notice and public hearing, the Commission shall promulgate regulations to effectuate the purposes of this bylaw and shall be effective when voted and filed with the town clerk. Failure by the Commission to promulgate such regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

X. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XI. Enforcement

No person shall alter a resource area or a buffer zone, or cause, suffer, or allow alteration, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

Only upon the filing of either an Request for Determination or a Permit under this bylaw the Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth. In the absence of the filing of a Request for Determination or a Permit the Commission, its agents, officers and employees shall consult with Town Counsel prior to entering upon privately owned land for the purpose of determining compliance with this by-law or for any other purpose in furtherance of the objectives of this by-law.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

In the case of civil action, the Commission with the approval of the board of selectmen may request the town counsel to take legal action as necessary to enforce the terms of this by-law under civil law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. c. 40, § 21D, which has been adopted by the Town in Article 10.3 of the general bylaws.

XII. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the permit application will not have unacceptable, significant, or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIII. Appeals

A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. c. 249, § 4.. This in no way alters or amends and applicants rights to appeal as set forth in the Massachusetts Wetlands Protection Act M. G.L. c.131 § 40.

XIV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. c. 131, § 40) and Regulations (310 CMR 10.00) thereunder.

XV. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination that has been issued previously.

or act on anything relative thereto.

ARTICLE 26

To see if the Town will amend Article 10.2 – Prosecutions and Enforcements, by amending the references to by-law articles as follows:

BUILDING COMMISSIONER

Part VI-Public Property

Delete: 6.8

Add: 6.10

Part VIII-Public Health & Safety
and

Delete: 8.17; 8.21; 8.22; 8.23
8.24

COMMISSIONER OF PUBLIC WORKS

Part VIII-Public Health & Safety

Delete: 8.17 and 8.23

Add: 8.18 and 8.26

DIRECTOR OF HEALTH & HUMAN SERVICES

Part VIII-Public Health & Safety

Delete: 8.21

Add: 8.23

or act on anything relative thereto.

ARTICLE 27

To see if the Town will amend Article 10.3 – Non-Criminal Disposition, by amending the following references to by-law articles as follows:

1. Change Article 5.8 Sign By-Law

Section 5.8.8	Penalty for Violation	\$100.00
as follows:		

Article 5.8 Sign By-Law

Section 5.8.9	Penalty for Violation	\$100.00
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2. Change Article 8.22 Tobacco Control

Section 8.22.5
Violations & Penalties

Part (A)	\$ 50.00
Part (B)	\$100.00
Part (C)	\$200.00
Part (D)	\$100.00

as follows:

Article 8.23 Tobacco Control

Section 8.23.5
Violations & Penalties

Part (A)	\$ 50.00
Part (B)	\$100.00
Part (C)	\$200.00
Part (D)	\$100.00

3. Change Article 8.23 Water Supply Emergencies

Section 8.23.6
Penalties

First Violation	\$ 50.00
Second & Subsequent Violations	\$100.00

as follows:

Article 8.24 Water Supply Emergencies

Section 8.24.6
Penalties

First Violation	\$ 50.00
Second & Subsequent Violations	\$100.00

4. Change Article 8.24 Water System Backflow and Cross Connections

Section 8.24.6 Enforcement \$100.00

as follows:

Article 8.25 Water System Backflow and Cross Connections

Section 8.25.6 Enforcement \$100.00

5. Change Article 8.25 Stormwater Management

First Violation	\$100.00
Second Violation	\$200.00
Third and Subsequent Violations	\$300.00

as follows:

Article 8.26 Stormwater Management

First Violation	\$100.00
Second Violation	\$200.00
Third and Subsequent Violations	\$300.00

or act on anything relative thereto.

ARTICLE 28

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

- (1) By deleting § 2.01(3), the definition of “Attic,” and replacing it with the following:

§ 2.01(3). ATTIC - The space between the ceiling beams, or similar structural elements, of the top story of a building and the roof rafters. The top story shall be the story at the highest level of the building.

- (2) By adding a new § 2.04(1/2), a definition of “Decommission,” as follows:

§ 2.04(1/2). DECOMMISSION - To make previously habitable space in an existing building uninhabitable by, including but not limited to, removing or blocking required access, light or ventilation or removing ceilings and floors. Space that has been decommissioned shall be included in the gross floor area of a building. The complete and permanent physical demolition of a portion of a building shall not be considered decommissioning and shall reduce the gross floor area by the floor area of the demolished portion of a building.

- (3) By deleting § 2.07(1), the definition of “Gross Floor Area,” and replacing it with the following:

§ 2.07(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, and penthouses 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 parking in Coolidge Corner, any floor space in accessory buildings or in the main building intended and designed for the 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 a basement; and (e) up to 100 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. 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.

- (4) By deleting § 2.08(1), the definition of “Habitable Space,” and replacing it with the following:

§ 2.08(1). HABITABLE SPACE - Space in a structure for living, sleeping, eating, or cooking; otherwise used for human occupancy; or finished or built out and meeting the State Building Code requirements for light, ventilation and egress for human habitation or occupancy.

- (5) By adding, immediately following existing § 2.16(2), a new § 2.16(2 1/2), a definition of “Porch, Enclosed and Unenclosed,” as follows:

§ 2.16(2 1/2). PORCH, ENCLOSED AND UNENCLOSED - A porch, balcony or deck shall be deemed to be unenclosed, whether roofed or unroofed, if open to the elements or if enclosed only by seasonally removable glass panels such as storm sashes or by screens. A roofed porch, balcony or deck, even if unheated, shall be deemed to be enclosed if enclosed by walls and/or permanently by glass, including without limitation fixed windows or movable casement, jalousie, double-hung, awning, hopper, slider or tilt-turn windows.

- (6) By adding, immediately following existing § 6.04(13), a new § 6.04(14):

§ 6.04(14). No more than 40% of the width, or twenty-four feet, whichever is less, of the façade of a building facing a way or within 45 degrees of parallel to a way may be devoted to parking or other vehicular use, including garage or drive-through space. The foregoing limitation shall not apply to a detached garage that

is entirely set back behind the entire façade facing the way of the principal building. The Planning Board upon the recommendation of the Planning Director may allow the foregoing limitation to be exceeded with respect to side facades on corner lots provided that the overall visual and other impact of the vehicular use would be less than locating the vehicular use on the front façade as of right, and may also allow the foregoing limitation to be exceeded upon reports from the Commissioner of Public Works and the Director of Transportation that modification of the limitation is necessary for safe vehicular use and the determination of the Planning Board that no other feasible design would permit safe vehicular use while reducing the visual or other impact of such use. In addition to complying with the other provisions of this by-law, including **§ 6.04, paragraph 4**, the surfaced area of parking and entrance and exit drives shall not exceed the width allowable pursuant to this section, and all remaining space between the building and street shall be landscaped open space as defined in **§ 2.15, paragraph 2**.

or to act on anything relative thereto.

ARTICLE 29

To see if the Town will amend Section 5.22, Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, of the Zoning By-law, by deleting the existing Section 5.22 and replacing it with the following:

§5.22- EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS

1. General Provisions

- a. Any expanded unit (individual residential units subject to an increase in gross floor area as per this Section) shall not be eligible to be subsequently divided into multiple units.
- b. Insofar as practicable, the additional floor area allowed pursuant to this Section shall be located and designed so as to minimize the adverse impact on abutting properties and ways, and interior conversions shall be considered preferable to exterior additions.
- c. Additional floor area shall be allowed pursuant to this Section only if the Certificate of Occupancy for the original construction, if any, was granted at least ten years prior to the date of the application for a special permit under this Section. If the limitation set forth in this paragraph 1, subparagraph c should be found invalid, § 5.22 shall be deemed null and void in its entirety, and no increase in gross floor area shall be allowed pursuant to § 5.22.
- d. Exterior modifications to accommodate an exterior addition or interior conversion shall include without limitation the addition of a dormer, penthouse, cupola,

windows, doors or the like. Such modifications shall also not conflict with any other provisions of the Zoning By-law.

- e. The interior conversion shall not result in the displacement of interior storage of equipment, vehicles, or materials to a location which is now exterior to the house.
- f. Interior conversion and exterior addition are terms defined in § 2.09. In determining the appropriate amount of space to be converted into habitable space, the Board of Appeals shall consider the extent of exterior modifications required to effectuate the proposed conversion and/or exterior addition and the impact thereof on abutting properties.
- g. Space that has previously been decommissioned shall not be converted under this Section.

2. Special Permit for Exceeding Maximum Gross Floor Area for Residential Dwellings

- a. The Board of Appeals may allow, by special permit, a maximum gross floor area greater than is permitted in **Table 5.01** (the “permitted gross floor area”) for an existing residential building(s) on a single lot, subject to the procedures, limitations, and conditions specified in **§5.09**, **§9.05**, and this Section for an existing residential building which meets the following basic requirements:
 - 1) The existing building(s) is located on a lot (or part of a lot) in a district with a permitted maximum floor area ratio no greater than 1.5.
 - 2) The existing building contains at least one residential unit but no more than four total units. For the purpose of this paragraph 2, subparagraph (a)(2), total units shall be defined to include all residential dwellings, offices, and commercial spaces within the building.
 - 3) The additional floor area allowed by special permit pursuant to this Section shall not include the floor area permitted by right under **Table 5.01**.
- b. The maximum increase in floor area allowed by special permit may be allowed only in accordance with the following conditions, which shall be in addition to the other conditions set forth in this Section and any other conditions that the Board of Appeals may prescribe. In no case shall the total resulting gross floor area of the building(s) after all conversions and additions be more than 150% of the permitted gross floor area:
 - 1) In all S and SC Districts, a special permit may be granted for an increase in floor area above the permitted gross floor area for only one of the following subparagraphs (such that the grant of a special permit under one subparagraph shall preclude the subsequent grant of a special permit under a different subparagraph, but shall not, to the extent the increase in floor area allowable under one subparagraph has not been fully utilized, preclude a subsequent

grant of an additional special permit under that same subparagraph so as to fully utilize the increase in floor area allowable under that subparagraph. Notwithstanding the foregoing, an applicant who has received a special permit under subparagraph (a) or (b) and has not fully utilized the allowable increase in floor area under that subparagraph may apply for a special permit under subparagraph (c), with the increased floor area previously allowed under subparagraph (a) or (b) counted against the floor area allowable under subparagraph (c)):

- a) an interior conversion that is less than or equal to 30% of the permitted gross floor area;
- b) an exterior addition that is less than or equal to 20% of the permitted gross floor area; or
- c) a combination of an interior conversion and exterior addition that is less than or equal to 30% of the permitted gross floor area, provided that the additional floor area attributable to exterior construction (which shall include the floor area included within dormers, penthouses, cupolas, and the like) does not exceed 35% of the additional floor area allowed by special permit.

The grant of a special permit under any prior version of Section 5.22 shall be deemed the grant of a special permit under this Section.

- 2) In all T Districts, M-0.5, M-1.0, and M-1.5 Districts, a special permit may be granted for a increase in floor area that is less than or equal to 20% of the permitted gross floor area, whether it be for an exterior addition, interior conversion, or a combination of the two. The total increase in floor area granted by special permit for all applications made under this paragraph 2, subparagraph (b)(2), or under any prior version of Section 5.22, shall not exceed 20% of the permitted gross floor area.
- c. If the application of the percentages in **paragraph 2, subparagraph b** results in a floor area increase of less than 350 square feet, a special permit may be granted for an increase in floor area of up to 350 square feet provided that the resulting gross floor area of the building(s) is not more than 150% of the permitted gross floor area. A grant of a special permit under **paragraph 2, subparagraph b**, or under this paragraph 2, subparagraph c, or a previous expansion permitted as of right or by special permit under any prior version of Section 5.22, shall preclude a subsequent grant of a special permit under this paragraph 2, subparagraph c.

or act on anything relative thereto.

ARTICLE 30

A Resolution Supporting the Improvement of the Gateway East Area

WHEREAS, pedestrians and cyclists are now unable to safely and swiftly cross Route 9 (Boylston Street) in the area known as “Gateway East;”

WHEREAS, vehicular traffic is a problem in Gateway East;

WHEREAS, in large part because of these pedestrian difficulties and traffic problems, Gateway East is less attractive and can be a difficult place to live in or near;

WHEREAS, improving the connection between the Emerald Necklace, the Brookline Village Train Station, Juniper Street and Pearl Street is desirable;

RESOLVE, that this Town Meeting supports the improvement of Gateway East by, among other things, improving the ability of pedestrians and cyclists to cross Route 9, taking necessary steps to reconfigure roadway and signage to improve traffic conditions, and beautifying the area, all of which will contribute to making Gateway East a safer, more attractive and livable place;

RESOLVE, that this Town Meeting supports the improvement of the connection between the Emerald Necklace, the Brookline Village Train Station, Juniper Street and Pearl Street,

or act on anything relative thereto.

ARTICLE 31

To see if the Town will adopt the following resolution:

A Resolution in Support of the Impeachment of President George W. Bush

Whereas, President George W. Bush has repeatedly violated his oath of office by failing to uphold, protect and defend the Constitution of the United States, in particular by directing and countenancing numerous violations of the Constitution and Laws of the United States, and by purposely misleading the citizens of the nation so as to cause the United States to commence war in Iraq; therefore be it

Resolved, that this Town Meeting urges our Representative in Congress to introduce and/or support a resolution impeaching President George W. Bush; and be it further

Resolved, that the Town Clerk send notice of the adoption of this resolution to all members of the Massachusetts Congressional Delegation within two weeks of its adoption.

or act on anything relative thereto.

ARTICLE 32

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 21ST day of March, 2006.

[Town Seal]


BOARD OF SELECTMEN