

WARRANT

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF BROOKLINE
SPECIAL 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 EIGHTEENTH day of NOVEMBER, 2008 at 7:00 o'clock in the evening for the Special 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, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of previous fiscal 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 2

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

To see if the Town will:

- A) Appropriate additional funds to the various accounts in the fiscal year 2009 budget or transfer funds between said accounts;
- B) To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money 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 John D. Runkle School located at 50 Druce Street in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 245/01-00 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;

- 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 4

To see if the Town will amend the General By-Laws by adding a Section 3.1.8 to Article 3.1 Board of Selectmen, as follows:

“SECTION 3.1.8 SELECTMEN HEALTH BENEFITS

a. Eligibility

For purposes of determining the eligibility of a Selectman for health benefits pursuant to M.G.L. c. 32B, (i) all payments received by a Selectman from the Town in connection with his or her serving as a Selectman, including but not limited to receipt of any annual stipend, shall be for the reimbursement of expenses and shall not constitute “compensation,” regardless of how such payments may otherwise be designated or treated by either the Town or such Selectman, and (ii) the duties of a Selectman do not require twenty hours or more, regularly, in the service of the Town during the regular work week.

b. Retirement

Notwithstanding length of prior service, no former Selectman shall be eligible to receive health care benefits from the Town or to enroll in any health insurance plan provided or sponsored by the Town, if on the last day of such Selectman's most recently completed term such Selectman was not eligible to receive such benefits or was not then enrolled in such a plan.”

or act on anything relative thereto.

ARTICLE 5

To see if the Town will take the following action:

“Resolved, that beginning with the fiscal year ending June 30, 2010, Town Meeting recommends that each Selectman shall receive an annual budget allocation and payment of \$5,000 (in lieu of all prior stipend arrangements) to reimburse expenses incurred in connection with serving as a Selectman that are not otherwise reimbursed, provided, however, that the Chairman of the Board of Selectmen shall receive an annual budget

allocation and payment of \$7,000 to reimburse such expenses, provided further, however, that no Selectman shall receive any such payment if at that time the Town is making any contribution on behalf of such Selectman for health insurance.”

or act on anything relative thereto

ARTICLE 6

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 TERMINATING THE HEALTH CARE BENEFITS AVAILABLE TO ANY SELECTMEN OF THE TOWN OF BROOKLINE UPON THEIR DEATH

Be it enacted, etc. as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, upon the death of any Town of Brookline Selectmen be they either currently serving as a Selectmen or a former Selectmen, who is also a member of the Town of Brookline’s group health insurance program, and under a so-called family plan, such healthcare benefits shall immediately terminate and the Town shall not be responsible for any further contributions toward such health care insurance.

SECTION 2. This act shall take effect upon its passage.

or act on anything relative thereto.

ARTICLE 7

To see if the Town will amend the General By-Laws by adding the following Article in Part VI, Public Property:

Article 6.11 Recycling Containers

The Town shall install recycling containers at all locations in town that have a trash waste barrel installed.

or act on anything relative thereto.

ARTICLE 8

To see if the Town will amend Article 6.8, Section 6.8.2(A) of the General By-Laws as follows (language to be deleted is in brackets and language to be added is in bold and underlined):

ARTICLE 6.8 NAMING PUBLIC FACILITIES

Section 6.8.1

Except as hereinafter provided, town buildings, parks, squares and other facilities, may be named only by Town Meeting when such action is proposed in a Warrant Article. The Library Trustees may, in accordance with guidelines adopted and from time to time amended by them, name rooms and associated spaces of library buildings. The School

Committee may, in accordance with guidelines adopted and from time to time amended by them name rooms and associated spaces of school buildings.

Section 6.8.2 REVIEW COMMITTEE

(A) Appointment - The Board of Selectmen shall appoint a Committee of [six] **five** members for staggered three year terms to review all proposals for naming public facilities except rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees as specified above in Section 6.8.1. The Committee shall include one member of each of the Advisory Committee, the Park and Recreation Commission, the Preservation Commission and the School Committee. **In addition, the Board of Selectmen may appoint one alternate member to the Committee. Such alternate shall be appointed for a three year term and shall be designated by the Chair of the Committee from time to time to take the place of any member who is absent or unable or unwilling to act for any reason.**

(B) General Duties – The Review Committee shall be responsible for reviewing and reporting its recommendations on proposals for naming public facilities. The Committee may also, from time to time initiate its own proposals for naming public facilities. All recommendations of the Committee shall be subject to criteria to be established by the Committee and approved by the Board of Selectmen.

or act on anything relative thereto.

ARTICLE 9

To see if the Town will amend Article 8.15 of the General By-Laws (The Noise Control By-Law) by deleting the current version in its entirety and replacing it with the following (changes from the current version are tracked and red-lined):

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 sound 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 sound may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive sound 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 sound 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.
2. Emergency generators used for power outages and testing are exempt from this By-law. However, generator testing must be done during daylight hours.
23. 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

~~DUTIES AND RESPONSIBILITIES OF TOWN~~
~~DEPARTMENTS/DEFINITIONS~~

(a) Ambient or Background Noise: 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 level measured over a period of not less than five minutes using a sound level meter set for slow response on the "A" weighting filter in a specific area of the town. In the absence of a specific measurement local ambient or background noise shall not be considered less than 30 dBA for interior spaces or 40 dBA for exterior areas.

(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 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 similar to the equipment i.e. generators, air conditioners, compressors, engines, pumps, refrigeration units, fans, boilers, heat pumps.

(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.

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

(l) Impulse Noise: Noise having a high peak of short duration of a sequence of such peaks. A sequence of impulses in rapid succession is termed repetitive impulsive noise.

(m) Intermittent Noise: The level suddenly drops to that of the background noise several times during the period of observation. The time during which the intermittent noise remains at levels different from that of the ambient is one second or more.

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

(o) Low-frequency noise: containing major components within the low frequency range (20Hz-250Hz) of the frequency spectrum.

(p) Leaf blowers: Any portable machine used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

(q) Noise: Sound which a listener does not wish to hear and exceeds the noise requirements located in the Noise By-Law.

(r) 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.

(s) Noise Level: All measurements shall be made with a Type I or II sound level meter as specified under American National Standard Institute (ANSI) standards.

(t) Noise Pollution: If a noise source increases noise levels 10 dB 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 dB above background noise level is sufficient to cause noise pollution.

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

(v) Reflection: Sound wave changed in direction of propagation due to a solid object obscuring its path.

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

(x) Sound absorption: The ability of a material to absorb sound energy through its conversion into thermal energy.

(y) Sound Level Meter: An instrument meeting American National Standard Institute (ANSI) standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.

(z) Sound Pressure Level: The level of noise, usually expressed in decibels, as measured by a standard sound level meter with a microphone.

(aa) 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.

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

<u>0dBA</u>	<u>The faintest sound we can hear</u>
<u>30dBA</u>	<u>A quiet library</u>
<u>45dBA</u>	<u>Typical office space</u>
<u>55dBA</u>	<u>Background noise of a typical urban environment at night</u>
<u>65dBA</u>	<u>Background noise of a typical urban environment during the day</u>
<u>70dBA</u>	<u>The sound of a car passing on the street</u>
<u>72dBA</u>	<u>The sound of two people speaking 4' apart</u>
<u>80dBA</u>	<u>Loud music played at home</u>
<u>90dBA</u>	<u>The sound of a truck passing on the street</u>
<u>100dBA</u>	<u>The sound of a rock band</u>
<u>115dBA</u>	<u>Limit of sound permitted in industry by OSHA</u>

120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

~~(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.~~

SECTION 8.15.4 DUTIES AND RESPONSIBILITIES OF TOWN

DEPARTMENTS

PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

(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 should 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 8.15.5 PROHIBITIONS AND MEASUREMENT OF NOISE

EMISSIONS

(a) Use Restrictions

1. The following devices shall be allowed to operate between prohibited from use during the hours of ~~89 (eightnine)~~ 8 ~~AP.M.~~ to 8 (eight) ~~PA.M.~~ Monday through Friday, and from ~~98 (nineeight)~~ 9 ~~AP.M.~~ to 8:~~030 (eight-thirty)~~ 30 ~~PA.M.~~ on Saturdays, Sundays and holidays:

All electric motor and internal combustion engined 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 be allowed to operate between prohibited from use during t the hours of 7 (seven) ~~AP.M.~~ to 7 (seven) ~~PA.M.~~ Monday through Friday, and from ~~8:306 (eight-thirtysix)~~ 8:30 ~~AP.M.~~ to ~~68:30 (sixeight thirty)~~ 6:30 ~~PA.M.~~ on Saturdays, Sundays and holidays:

(a) All devices employed in construction or demolition, subject to the maximum noise levels specified in Section 2b and 2c.

(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 source of 50 (fifty) feet from a stationery vehicle.

MAXIMUM NOISE LEVEL dB

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	<u>863</u>	<u>9087</u>
All motorcycles	<u>7982</u>	<u>7982</u>

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:

Construction Item	Maximum Noise Level dBA	Maintenance Item	Maximum Noise Level dBA
Backhoe, bulldozer concrete mixer dumptruck, loader, paver, pneumatic tools, roller, scraper	90	<u>Wood</u> Chipper (running concrete mixer, full speed but not chipping) leaf vacuum	90
Air compressor	85	Chainsaw, solid waste compactor, tractor tractor (full-size)	85
Generator	80	Home tractor, leaf blower, snow blower	80
Electric drills, power tools, sanders, saws, etc.	75	Lawn mower, trimmer	75
		<u>Leafblowers</u>	<u>65</u>

(d) Fixed Plant Equipment

No person owning, leasing or controlling the operation of any source of noise of the type listed below in this section shall operate such equipment in a manner not to exceed 10 dBA over the background level and not greater than 5 dBA of tonal sound over the background level. However, if the fixed equipment is operated during night time hours, the night time sound level measurement must not exceed the average daytime background levels to compensate for night time operations which is assumed to be 10dBA below daytime levels. See Definitions Section 8.15.3 (c). ~~willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the establishment or continuation of a condition of noise pollution.~~

—The following sources, and any other similar noise producing device not specified here, shall be considered as potential sources of noise pollution:

Air conditioners, pumps, fans, furnaces, compressors, engines and similar fixed plant equipment.

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.

(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 ~~music~~ musical instruments between 9 A.M. and 9 P.M. shall be exempt with the exception of drums.

(f) Leaf Blowers

No person shall operate any portable leaf blower(s) with a power rating of at or under 4.5 horsepower which does not bear an affixed manufacturer's label indicating the model number of the leaf blower(s) and designating a noise level not in excess of sixty-five(65)dBa when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) methodology. Any leaf blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the approved noise level 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 is 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 ANSI or town label. Any portable leaf blower(s) must comply with this by-law by January 1, 2010. However, any leaf blower(s) operating after January 1, 2010 without an ANSI label on the equipment, may obtain a label from the town by bringing the equipment to the town's service center or such 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 8.15.5(2)

(gf) 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.

(hg) Additional Noise Sources

No person shall emit noise so as to cause a condition of noise pollution or noise injury.

(ih) Alternative Measurement Procedures

If it is not possible to make a good noise level measurement at the distance as defined for specific equipment throughout Article 8.15, specified in Section 8.15.4, 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.

~~(i) 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.~~

(j) Maximum Noise Level Exclusions

Any equipment that is used to satisfy local, state, federal health, welfare, environmental or safety codes shall be exempt from maximum noise limitations for hours of operation. (See Section 8.15.5(a), except to the extent otherwise determined by the Board of Selectman. The following ~~device~~equipment shall also be exempt from Section 8.15.5(a): i.e.: Work involving routine maintenance or emergencies performed by the Department of Public Works~~maximum noise limitations (for time limits see Section 8.15.4(a):~~

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.

~~However, noise shields shall not be required for devices located on public or private rights of way.~~

(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 shall not apply to 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.~~65~~ PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

- (a) The Board of Selectmen, or designee, may give a special permit for any activity, otherwise forbidden by the provisions of this By-law. A person seeking such a permit should make a written application to the Board of Selectmen, or designee, on the appropriate form which shall be available at the office of the Selectmen.
- (b) The Board of Selectmen, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria 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.

- (c) The Board of Selectmen, or designee, may issue guidelines defining procedures to be followed in applying for an extension of time to comply with the provisions of these regulations and the criteria to be considered in deciding whether to grant a permit. A condition of the permit may require portable acoustic barriers during night time hours. The guidelines shall include reasonable deadlines for compliance.
- (d) In some instances, when it can be demonstrated that bringing a source of noise into compliance with the provisions of this By-law would create undue hardship on a person or the community, a special permit may be granted for an exemption from this By-law. A person seeking a special permit shall make written application within 5 (five) days of receiving notification from the Town that (s)he is in violation of the provisions of this By-law. If the Board of Selectmen find that sufficient controversy exists regarding the application, a public hearing may be held.
- (e) If the Board of Selectmen, or designee, orders abatement of a noise source not complying with this By-law, a person who feels (s)he cannot meet the stated time schedule for compliance may file an application for an extension of time. A written application shall be filed within 5 (five) days of receipt of notification of violation and shall propose a new compliance schedule. A person who claims that the allowance of a extension of time would have adverse effects may file a statement with the Board of Selectmen, or designee, to support this claim. If the Board of Selectmen, or designee, find that sufficient controversy exists regarding the application, a public hearing may be held.

SECTION 8.15.76 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 8.15.87 APPEALS

Appeals from a decision of the Board of Selectmen, or designee, shall be to the Superior Court. Judicial review shall be limited to whether the decision was supported by substantial evidence.

SECTION 8.15.98 PENALTIES

(a) Any person who violates any provision of this bylaw 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 Bylaw 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 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 Bylaw 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 issues 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 real property 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) An object that is the source of a noise violation may be seized by the Police if the violation is not mitigated within an hour and may be held until the fine is paid or for 60 days, whichever is sooner, and if unclaimed it may be sold at auction by the Town. Removal and storage costs of the object shall be paid by the person violating the Noise Bylaw, in addition to any fine imposed according to the schedule listed in Section (a).

N.B. The Health, Building, Police and Public Works Departments all have enforcement authority for the By-law. To report a violation, contact the appropriate department.

- ~~(a) — Any person who violates any provision of this By law if convicted, shall be guilty of a misdemeanor and shall be fined an amount not to exceed \$50.00 (fifty dollars), or the offending source shall be confiscated by the appropriate agency until the fine is paid, or for 60 (sixty) days, whichever is sooner, and, if unclaimed, may be sold at auction by the Police Department. Removal and storage costs of the offending source shall be in addition to the fine.~~
- ~~(b) — Each day that the offense continues shall be considered to be a separate violation.~~

~~SECTION 8.15.109 — DEFINITIONS~~

- ~~(a) — 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.~~
- ~~(b) — Electronic Devices: Any radio, tape recorder or player, television, phonograph, public address system, loud speaker, amplified musical instrument and any other similar device.~~
- ~~— Exemption: two-way communication radios.~~

- ~~(c)Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.~~
- ~~(d)Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.~~
- ~~(e)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.~~
- ~~(f)Motorcycle: Any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.~~
- ~~(g)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.~~
- ~~(h)Noise Injury: Any sound that:
 - ~~(a)endangers the safety of, or could cause injury to the health of humans; or~~
 - ~~(b)endangers or injures personal or real property.~~~~
- ~~(i)Noise Level: All measurements shall be made with a Type I or II sound level meter as specified under ANSI standards.~~
- ~~(j)Noise Pollution: If a noise source increases noise levels 10 dB 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 dB above background noise level is sufficient to cause noise pollution.~~
- ~~(k)Tonal Sound: Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.~~

~~SECTION 8.15.10—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.

Footnotes:

ADDITIONAL DEFINITIONS NOT USED IN THE CURRENT BYLAW

(a) Sound Transmission Class (STC): This is a measure of the extent of the sound reduction of noise going through a building element. It denotes the sound attenuation properties of walls, floors and ceilings used to construct building spaces. The higher the STC rating, the better the sound reduction performance of the construction.

(b) Structure Borne Noise: This refers to noise which is generated by vibrations induced in the ground and/or structure. These vibrations excite walls and slabs in buildings and cause them to radiate noise. This type of noise can not be attenuated by barriers or walls but requires the interposition of a resilient (acoustic isolators, springs, floating floors, etc.) break between the source and the receiver.

or act on anything relative thereto.

ARTICLE 10

To see if the town will amend the General By-Laws by adding in Part VIII Public Health and Safety a new Article 8.-- as follows: **By-Law**

Article 8. -- Leaf Blowers

Section 8.---.1: STATEMENT OF PURPOSE

Reducing the use of gasoline and other carbon- emitting fuels is a public purpose of the Town and the reduction of noise and emissions of particulate matter resulting from the use of leaf blowers are public purposes in protecting the health, welfare and environment of the Town. Therefore, this by-law shall limit and regulate the use of leaf blowers as defined and set forth herein.

Section 8.---.2: USE REGULATIONS

1. *Definitions.*

Leaf blower. Leaf blowers are defined as portable, handheld, backpack-style or other power equipment intended to be used in landscape maintenance, construction, property repair or maintenance for the purpose of blowing, moving, removing, dispersing or redistributing leaves, dust, dirt, grass clippings, cuttings, trimmings and the like from driveways, walkways, lawns, beds, trees and shrubs.

b. *Commercial leaf blower operator.* Any entity or organization that employs two (2) or more persons and that receives compensation for services that include the operation of one or more leaf blowers. Employees and agencies of the Town, and those operating under contract to the Town shall not be considered as commercial leaf blower operators.

2. *Limitations on Use.*

a. Leaf blowers shall not be operated except between March 15 and May 15 and between September 15 and November 15 in each year. The provisions of this subsection do not apply to the use of leaf blowers in accordance with the provisions of this Leaf Blower By-Law and any regulations promulgated hereunder by the Town and its contractors in municipal parks or open space, or performing emergency operations and clean-up associated with storms, hurricanes and the like.

b. The use of leaf blowers is permitted only between the hours of 8:00 a.m. and 5:00 p.m. Mondays through Fridays and 9:00 a.m. and 5:00 p.m. on Saturdays and Sundays.

c. Commercial leaf blower operators shall be permitted to operate leaf blowers, only upon approval of an operations plan submitted to the Commissioner of Public Works or his or her designee. Such operations plan shall include, but not be limited to the owner's or operator's efforts to mitigate the use of gasoline and other carbon emitting fuels and the impacts of noise and emissions upon citizens generally and particularly on the occupants and owners of nearby property, include an inventory of all leaf blowing equipment owned and to be used by the owner or operator, which shall comply with the noise and emission restrictions set forth in this By-Law and regulations promulgated hereunder, and include the owner's or operator's plan for educating users of its equipment on the proper use of equipment as well as the need to mitigate impacts upon others. The operations plan shall be reviewed by the Commissioner of Public Works or his or her designee, who shall ensure that it complies with the applicable provisions of this By-Law and the regulations promulgated hereunder, and shall impose such conditions that may be necessary for the purposes of this By-Law. .

d. Leaf blower operations shall not cause leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris to be deposited on any adjacent or other parcel of land, lot, or public right-of-way or property, other than the parcel, land, or lot upon which the leaf blower is being operated. Leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris shall not be blown, swept or raked onto or into an adjacent street or gutter, except by municipal employees or municipal contractors or leaf blower operators placing leaves, dust, dirt, grass clippings, cuttings and trimmings from trees and shrubs on a municipal street or sidewalk in appropriate containers for collection and pick-up, during municipal street and sidewalk sweeping and cleaning operations. In no event shall leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris be blown, swept or raked onto or into catch basins or on to vehicles, persons or pets. Deposits of leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris shall be removed and disposed of in a sanitary manner that will prevent disbursement by wind, vandalism or similar means.

e. All leaf blowers shall satisfy the emissions standards of the United States Environmental Protection Agency [THIS NEEDS A CITATION] and noise level standards as follows: the sound emitted from any leaf blower shall be rated by the manufacturer to be no greater than 65 decibels.

f. On parcels of 10,000 square feet or less, only one leaf blower at a time may be used, and on parcels larger than 10,000 square feet, only one leaf blower may be used within each 10,000 square foot area

3. *Fees.*

A fee for the Town to recover all costs connected with emission or sound testing and enforcement may be charged in an amount set by the Board of Selectmen.

4. *Regulations.*

The Commissioner of Public Works with the approval of the Board of Selectmen shall have the authority to promulgate regulations to implement the provisions of this Leaf Blower By-Law.

5. *Enforcement and Penalties*

a. This bylaw may be enforced in accordance with Articles 10.1, 10.2 and/or 10.3 of the General By-Laws by a police officer, the Building Commissioner or his/her designee, the Commissioner of Public Works or his/her designee and/or the Director of Public Health or his/her designee.

b. For the purposes of this section “person” shall be defined as any individual, company, occupant, real property owner, or agent in control of real property. Each violation shall be subject to fines according to the following schedule:

- (a) \$50.00 for the first offense;
- (b) \$100.00 for the second offense;
- (c) \$200.00 for the third offense;
- (d) \$200.00 for successive violations, plus
- (e) court costs for any enforcement action.

Each day of a continuing violation shall be considered a separate violation.

6. *Effective Date.*

The provisions of this Leaf Blower By-Law shall be effective in accordance with the provisions of G.L.c.40, s.32 or on March 1, 2009 except as to Town contracts now in effect, as to which the provisions of

this Leaf Blower By-Law shall be effective commencing on September 15, 2009 whichever occurs later.

or act on anything relative thereto.

ARTICLE 11

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

Article ____ MANDATORY BICYCLE REGISTRATION

All Town residents who own bicycles shall be required to register their bicycle(s) with the Town, by filling out a registration form provided by the Brookline Police Department Traffic Division. The registration form shall include, among other things, information such as make, color, size, model and serial numbers(s) of the bicycle(s). The Brookline Police Department Traffic Division shall provide a decal or similar small plate, that shall be attached to the bicycle. The owner shall be required to renew the registration annually. The fee for registration shall be set by the Board of Selectmen and made payable to the Town,

or act on anything relative thereto.

ARTICLE 12

To see if the Town will amend the General By-Laws by adding in Part VIII Public Health and Safety an Article as follows:

Article 8.___ Use of Green Cleaning Products in all Town Buildings

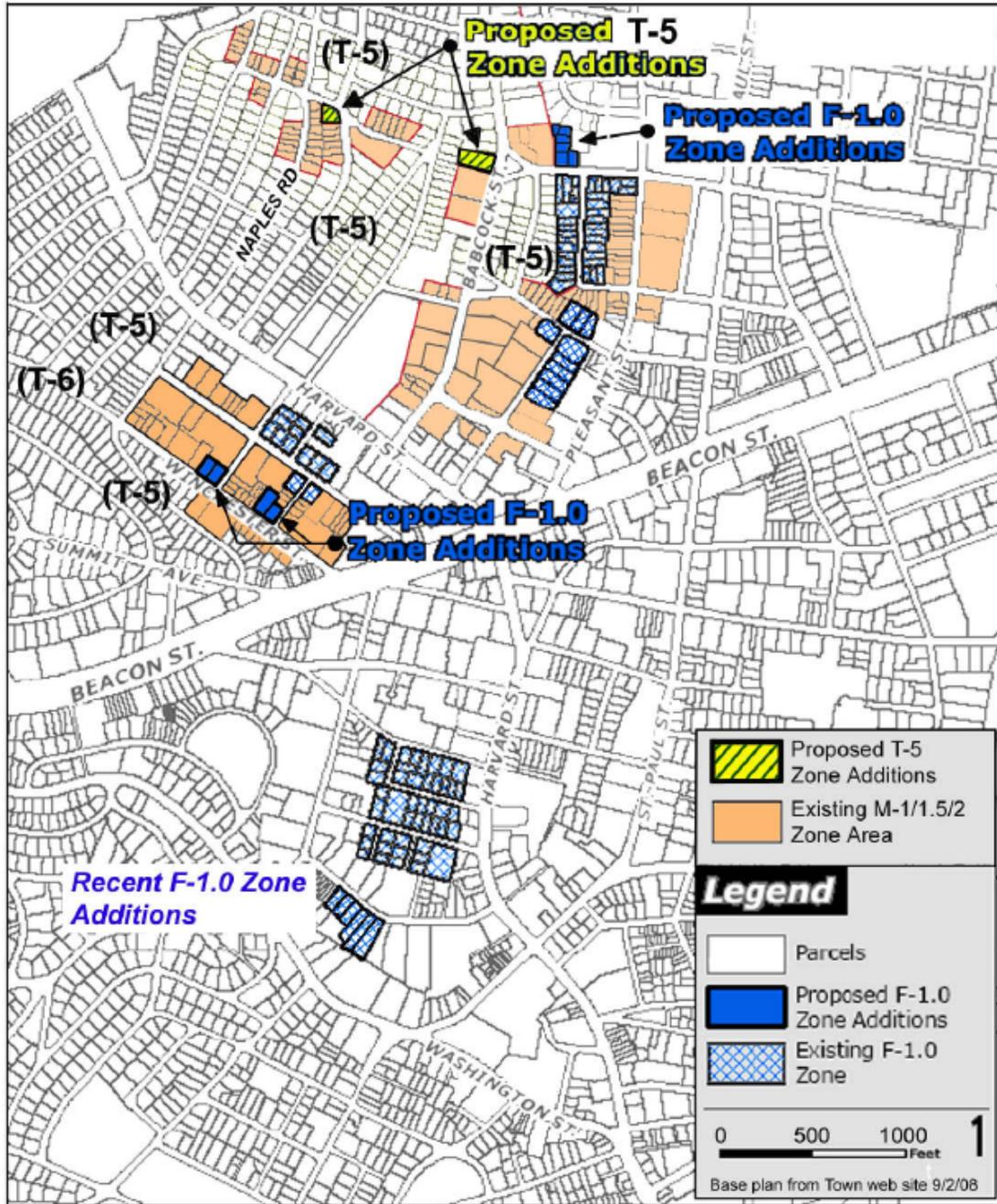
Section 8.___

The Town of Brookline shall use green cleaning products in all town owned buildings whenever a green product has been shown to work as well as the traditional cleaning product. A green product for the purposes of this by-law shall be defined as one which complies with the criteria in the Green Seal Standard GS-37 for Institutional and Industrial Cleaning Products, or in the event of its absence a comparable standard as the Director of Public Health shall certify. Any decision to continue using a traditional cleaning product when there exists a green cleaning product must be approved by the Superintendent of Schools or designee when used in school buildings, and by the Building Commissioner or designee when used in other town owned buildings, and only if the green product is not as effective as the traditional product. Such decision shall be made in writing and kept on file by the Superintendent of Schools and the Building Commissioner.

or act on anything relative thereto.

ARTICLE 13

To see if the Town will amend the Zoning By-Law by changing the zoning of certain parcels on the Zoning Map as follows:



Address*	Existing Zoning	Proposed Zoning
7, 9 Craig PL	M- 1.5	F-1.0
11, 13 Craig Pl	M- 1.5	F-1.0
15 Craig Pl	M- 1.5	F-1.0
17 19 Craig Pl	M- 1.5	F-1.0
219 Freeman St	M- 1.5	F-1.0
221, 223 Freeman St	M- 1.5	F-1.0
134 Babcock St	M- 1.5	T-5
106 Naples Rd	M- 2.0	T-5
37, 35 Winchester St	M- 2.0	F-1.0
43 Winchester St	M- 2.0	F-1.0
67 Winchester St	M- 2.0	F-1.0
73, 71 Winchester St	M- 2.0	F-1.0

*Parcel Address as listed in Brookline Assessor's Data.

or act on anything relative thereto.

ARTICLE 14

To see if the Town will amend the Zoning By-Law by adding a new principal use regulation in Section 4.07, Table of Use Regulations and amend Section 4.07 Use No.15A as follows (new language appears in **bold** deleted language is underlined):

§4.07 – TABLE OF USE REGULATIONS

Principal Uses	Residence					Business			In d.
	S	S C	T	F	M	L	G	O	I
15A. Family day care home defined as any private residence, operated by the occupant of that residence, which on a regular basis receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence. <u>*(Use 15 and 15A) A day care center or a family day care home shall be licensed in accordance with M.G.L. chapter 28A, §10. If such facility has</u>	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*

Principal Uses	Residence					Business			In d.
	S	S C	T	F	M	L	G	O	I
<p><u>an outdoor play area, that area shall be at such a distance and so screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance.</u></p>									
<p>15B. Large family day care home defined as any private residence, operated by the occupant of that residence, which on a regular basis receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the Commonwealth's Department of Early Education and Care; provided, however, in either case, that the total number of children under sixteen in a large family day care home shall not exceed ten, including participating children living in the residence.</p> <p>*(Use 15, 15A and 15B) A day care center or a family day care home shall be licensed in accordance with M.G.L. chapter 28A, §10. If such facility has an outdoor play area, that area shall be at such a distance and so screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance.</p>	No *	SP*	SP*	SP*	SP*	Yes *	Yes*	Yes*	Yes*

or act on anything relative thereto.

ARTICLE 15

To see if the Town will amend Section 4.08 of the Zoning By-law by adding the following sentence to the end of Paragraph 6.c.

Section 4.08 - Affordable Housing Requirements

6. Standards

c. The affordable units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is the smaller:

- 0 bedrooms: 500 square feet
- 1 bedroom: 700 square feet
- 2 bedrooms: 900 square feet
- 3 bedrooms: 1100 square feet
- 4 bedrooms: 1300 square feet

For purposes of this subparagraph only, square footage shall be calculated within the interior surfaces of the perimeter walls of the unit.

or act on anything relative thereto.

ARTICLE 16

To see if the Town will amend Section 5.09.3.d. of the Zoning By-law as follows:

Section 5.09 Design Review

3. Procedures

d. Design Advisory Teams

The Planning Board is authorized to appoint a Design Advisory Team (DAT) **to assist it in design review of any project that requires a special permit under Section 5.09, Design Review. In the case of a Major Impact Project, or substantial modification to a Major Impact Project as determined by the Building Commissioner or Planning and Community Development Director, the Planning Board shall appoint a DAT.** ~~The DAT that~~ shall consist of the following: one or more Planning Board member(s); professional architect(s), landscape architect(s) or other design related professional(s); and one or more neighborhood representatives. The DAT will provide professional design review assistance to the Planning Board and the Planning and Community Development Department in review of certain §5.09 projects which may have a significant impact on the character of the area. The Planning Board may, in its discretion, also appoint representatives from other appropriate Town boards and commissions to serve on a DAT, but only if deemed necessary to insure coordinated project review. The Planning Board shall appoint a DAT at a regularly scheduled meeting where public notice has been provided pursuant to Section 9.08. At the direction of the Planning Board, the applicant may be required to meet with the DAT to discuss resolution of design concerns. Following a meeting with the DAT, the applicant must include in any further submissions its responses to issues raised by the DAT. The DAT may also submit a report to the Planning Board and the Board of Appeals for consideration.

or act on anything relative thereto.

ARTICLE 17

To see if the Town will amend Section 6.02, subparagraph 1.b. of the Zoning By-law as follows:

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

1. Off-street parking facilities shall be provided for each type of land use, in accordance with the following table, which is part of this Article, except as otherwise permitted in this section, and subject to the further provisions of Article VI. Parking spaces for the physically handicapped shall meet the number and dimensional requirements set forth in the Rules and Regulations of the Architectural Access Board and any other applicable provisions of law.
 - a. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.
 - b. **The Board of Appeals by special permit may waive up to six required parking spaces for a non-residential use in a business district.** ~~Where the computed requirement for non-residential use in a business district is six space or less, the Board of Appeals by special permit may waive all or part of such computed requirement.~~ In determining whether a waiver of parking is appropriate, the Board of Appeals shall consider evidence which shall be provided by the applicant regarding the following items.
 1. the operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements;
 2. the peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;
 3. the need for and provision of employee parking; and
 4. the availability and/or shortage of existing public parking and transit facilities in the area.

or act on anything relative thereto.

ARTICLE 18

To see if the Town will delete Section 6.04 (14) of the Zoning By-law and replace it with the following:

Section 6.04 – Design of All Off-Street Parking Facilities

14. **That portion of a garage, parking area, driveway, or other vehicular use facing a street, and less than 50 feet from the front lot line, may not be greater than twenty-four feet (thirty-six feet in S-25 and S-40 districts) or 40% of the width of the principal building’s facade facing the street, whichever is less. The foregoing limitation shall not apply to a detached garage that is entirely behind the principal building. However, if all other provisions of this by-law are met, the Board of Appeals may waive these restrictions by special permit if the applicant can demonstrate that there is no other practical and safe way to provide parking or vehicular access, and the following criteria are met: the design shall minimize the visual impact on the streetscape and all remaining space between the garage, parking**

area or other vehicular use and the street shall be landscaped open space as defined in Section 2.15, paragraph 2.

or act on anything relative thereto.

ARTICLE 19

To see if the Town will accept, pursuant to the provisions of G.L.c. 82, §23 an alteration and widening of a portion of Heath Street as laid out by the Selectmen on October 21, 2008, and as shown on a plan dated October 3, 2008 prepared by Commonwealth Engineers and Consultants, Inc. and on file in the Town Clerk's office, and authorize the Selectmen to acquire the land within said way in fee simple and upon such other terms and conditions as the Selectmen determine to be in the best interests of the Town.

or act on anything relative thereto.

ARTICLE 20

To see if the Town will, pursuant to G.L. c.82A, §2, vote to designate the Commissioner of the Department of Public Works as the Town's officer to issue permits for the purpose of creating a trench as that term is defined by G.L. c.82A, §4 and 520 CMR 14.00. The fee collected for these permits shall be subject to the review and approval of the Board of Selectmen, as prescribed by G.L. c.40, §22F.

or act on anything relative thereto.

ARTICLE 21

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 AMENDING CHAPTER 317 OF THE ACTS OF 1974 (as amended on May 19, 2006) TO ALLOW THE TOWN OF BROOKLINE, THROUGH ITS BOARD OF SELECTMEN, TO SELL TAXI LICENSES

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. The purposes of this Act consist of the following:

- a) to generate revenue for the Town of Brookline by selling licenses to operate taxis, and in doing so, balance any competing interests in maintaining the continuity of existing taxi businesses, acknowledging the investment by existing taxi license holders in their businesses, and augmenting the portion of the taxi fleet serving the town that meets the needs of its elderly and disabled residents and that minimizes the fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a whole;
- b) notwithstanding the requirements of General Laws Chapter 40, Section 3, and General Laws Chapter 30B, to create a mechanism for the town to sell taxi licenses that expedites the process to the extent possible, giving due consideration to the interest of town residents, existing taxi businesses and other stakeholders in having input into the process.

SECTION 2. Section 1 of chapter 317 of the acts of 1974 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence: -

Except as otherwise provided herein, all statutes and by-laws applicable to transportation, vehicular licensing and traffic rules, regulations and orders shall apply to the division of transportation.

SECTION 3. Section 4 of chapter 317 of the acts of 1974 is hereby amended by striking out the first sentence of the first paragraph and inserting in place thereof the following sentence: -

Except as otherwise set forth herein with regard to taxi license sales, the Board shall have exclusive authority, generally consistent with the transportation policies of the Board of Selectmen and except as otherwise provided in this act, to take any and all of the following actions after public notice and at a public meeting, if it determines, by the vote of at least four members, that such actions serve the public safety, welfare, environment or convenience.

SECTION 4. Section 4 of chapter 317 of the acts of 1974 is hereby amended by striking out the second sentence of the second paragraph and inserting in place thereof the following sentence:-

The Board shall also have all authority previously granted to the Selectmen by virtue of the provisions of Section Twenty-Two for Chapter Forty of the General Laws, except with respect to the sale of taxi licenses as set forth in Section 4A below.

SECTION 5. Section 4 of chapter 317 of the acts of 1974 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Except as otherwise set forth herein with regard to taxi license sales, no such adoption, alteration or repeal of a rule or regulation shall take effect, except for special rules or regulations that are declared by the Board to be urgently required for public safety or welfare or are of temporary nature and are able to be effective for a period of not more than 60 days, until 30 days have expired after both publication in a newspaper published or distributed in the Town and action on any appeal petition filed under this section.

SECTION 6. Section 4 of chapter 317 of the acts of 1974 is hereby amended by inserting as the first sentence of the fourth paragraph the following sentence:-

Except as set forth herein with regard to taxi license sales, the following describes the appeal procedures applicable to any board action.

SECTION 7. Chapter 317 of the acts of 1974 is hereby amended by inserting after Paragraph 4 the following Paragraph 4A: -

Notwithstanding the provisions of General Laws Chapter 40, Section 3, General Laws Chapter 30B, or any other general or special law to the contrary, the board of selectman shall have the exclusive authority to sell taxi licenses by public auction, public sale,

sealed bid or other competitive process established by regulations promulgated by the board. The board of selectmen may entrust to the board broad discretion to take such actions as are necessary to implement this section and to sell taxi licenses, including, but not limited to, determining the number of licenses that shall be sold, the timing of any such sale(s), and any conditions and limitations pertaining to such sale(s) (including the power to revoke, suspend, renew and assign such licenses), except that the board of selectman shall approve sales prices and execute sales contracts. Proceeds from any such sale(s) of licenses shall be paid to the collector-treasurer of the town of Brookline for deposit into the general fund to be appropriated pursuant to the provisions of General Laws Chapter 40, Section 5. Notwithstanding the provisions of General Laws Chapter 30B, the board of selectmen may direct the board that in taking any action the board deems necessary to implement this section and to sell taxi licenses (including the adoption, alteration or repeal of rules and regulations), the board may balance, in its discretion, the interest of Brookline residents in the continuity of existing Brookline taxi businesses, the interest of existing license holders in their investment in their businesses, the interest of the town in augmenting the portion of the taxi fleet serving the town that meets the needs of its elderly and disabled residents and that minimizes the fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a whole, and the town's interest in maximizing revenue generated from sales of taxi licenses. The board of selectmen may consider these factors in determining whether to agree to a taxi license sales price. Any appeal from the board of selectmen's sale of a taxi license shall be to a court of competent jurisdiction.

The provisions of this section shall not apply to a license issued and outstanding on the effective date of this Act.

Any rules and regulations adopted, altered, or repealed by the board in connection with implementing this section, including any rules or regulations adopted, altered, or repealed for the purpose of creating a property interest in the licenses and of undertaking the sales of taxi licenses, shall not take effect until 30 days have expired after publication of such rules and regulations in a newspaper published or distributed in the town and on the town's website. Any appeal from the board's adoption, alteration, or repeal by the board in connection with implementing this section shall be to a court of competent jurisdiction.

SECTION 8. This act shall take effect upon its passage.

or act on anything relative thereto.

ARTICLE 22

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 AUTHORIZING THE TOWN OF BROOKLINE TO LEASE TOWN-OWNED PROPERTY FOR AN ADDITIONAL THIRTY YEARS

Be it enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the town of Brookline is hereby authorized to lease the town-owned property located at 86 Monmouth Street and shown as Parcel 28 in Block 112 on Sheet 24 of the Town's 2005 Assessors Atlas, to the Brookline Arts Center, Inc., for another period not exceeding thirty years. Said time period is in addition to the thirty year period previously granted pursuant to Chapter 79 of the Acts of 1977. Any such lease shall be upon such terms and conditions as the Board of Selectmen shall determine to be in the best interest of the town.

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

or act on anything relative thereto.

ARTICLE 23

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

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE TOWN-OWNED PROPERTY FOR AN ADDITIONAL TWENTY YEARS

Section 1 Notwithstanding any general or special law to the contrary, the Town of Brookline is hereby authorized to lease the town-owned property located at 19-25 Kennard Road, Parcel ID NO. 322/01-00 to Brookline Music School Inc. for another period not exceeding twenty years. Said time period is in addition to the twenty year period previously granted pursuant to Chapter 294 of the Acts of 1993. Any such lease shall be upon terms and conditions as the Board of Selectmen and School Committee shall determine to be in the best interest of the Town.

Section 2 This act shall take effect upon its passage.

or act on anything relative thereto.

ARTICLE 24

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 AUTHORIZING THE TRANSPORTATION BOARD OF THE TOWN OF BROOKLINE TO REGULATE VALET PARKING SERVICES IN THE TOWN OF BROOKLINE

Be it enacted, etc. as follows:

SECTION 1. Section 4 of chapter 317 of the acts of 1974, as amended, is hereby further amended by inserting the following paragraph between the second and third paragraphs thereof:

Also, notwithstanding the provisions of any general or special law to the contrary, the board shall have exclusive authority to adopt, alter or repeal rules and regulations relative to the operation, licensing or permitting of any valet parking service that utilizes any part of a town-controlled public way, public off-street parking area, or public property for the movement, transport, parking, standing, storage, pick-up, drop-off, or delivery of a motor vehicle, if it determines, by a vote of at least four members, that such actions serve the public safety, welfare, environment or convenience. For the purposes of this section, a valet parking service is defined as a parking service offered, with or without a fee, to an operator or owner of a motor vehicle who is a patron, customer, visitor, employee, guest, invitee or licensee of any restaurant, store, hotel, club, business, institution, or commercial establishment wherein the operator or owner delivers possession or control of the motor vehicle to an attendant commonly known as a valet who then transports, parks, stores, retrieves and/or delivers the motor vehicle.

SECTION 2. This act shall take effect upon its passage.

or act on anything relative thereto.

ARTICLE 25

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 AMENDING CHAPTER 534 OF THE ACTS OF 1973 RELATIVE TO THE OFFICE OF CHIEF OF THE FIRE DEPARTMENT OF THE TOWN OF BROOKLINE

Be It Enacted, etc., as follows:

Section 1. The first, second and third sentences in SECTION 5 in Chapter 534 of the Acts of 1973, are hereby deleted and replaced with the following:

SECTION 5. The board of selectmen shall appoint a chief of the fire department for a term of one year, unless a different term is otherwise determined in an employment contract established under the provisions of Section 1080 in Chapter 41 of the general laws.

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

or act on anything relative thereto.

ARTICLE 26

To see if the Town will adopt the following resolution:

Resolution to appreciate the role of the City of Tsuruga, Japan in the saving of over 2000 Jewish families rescued by Chiune Sugihara in 1941

WHEREAS, the leadership of the city of Tsuruga Japan supported the entry into Japan of over 2000 Jewish families (over 6000 Jews) with visas issued by Consul Chiune Sugihara in the spring and summer of 1941 in Lithuania.

WHEREAS, the current leadership of the City of Tsuruga, Japan continue to embrace this life-saving legacy of Consul Sugihara by reaching out to Consul Sugihara survivor Samuil Manski, a member of Temple Emeth of South Brookline.

WHEREAS, Consul Sugihara and the people of Tsuruga, Japan, epitomize the teachings of the Talmudic sages that if you save one life it is as if you have saved the world.

WHEREAS, the Jewish and Japanese communities of the Town of Brookline for the past decade have hosted celebrations of the heroism and righteousness of Consul Chiune Sugihara initiated by Samuil Manski through the good offices of Temple Emeth of South Brookline.

WHEREAS the Sugihara Commemoration Committee at Temple Emeth has created programming at Brookline Schools in conjunction with school staff and Facing History and Ourselves that teaches the ethics of Chiune Sugihara to a broad swath of students including those of Japanese descent in our community.

WHEREAS a monument celebrating the heroism of Chiune Sugihara located at Temple Emeth in South Brookline is recognized worldwide and has been visited by descendents of Chiune Sugihara.

NOW, THEREFORE, BE IT RESOLVED THAT Town Meeting recognizes the city of Tsuruga, Japan as a City of New Beginnings and requests that the Selectmen welcome officials of the city of Tsuruga to the Town of Brookline in the Fall of 2008 and declare a day of memorial to Chiune Sugihara.

or act on anything relative thereto.

ARTICLE 27

To see if the Town will adopt the following Resolution:

Resolution Seeking More Resident Sidewalk Snow & Ice Clearing

WHEREAS: despite many committees and Town Meeting articles over two decades, the Town remains fiscally unable to dramatically increase sidewalk snow removal and resident compliance with the removal By-Law remains erratic; and

WHEREAS: failure to remove sidewalk snow leaves many serious safety problems, especially for children, seniors, and people with disabilities who are forced to walk in streets; and

WHEREAS: the 2007 Moderator's Committee on Sidewalk Snow Removal urged that the "Town work to dramatically increase resident involvement in maintaining clear sidewalks," stating, "The actions to be taken should include increased enforcement of existing regulations and regular use of citations for failure to clear sidewalks"; and

WHEREAS: the Moderator's Committee urged the Town to "make procedural, contractual, and budget changes to allow for seasonal employees to assist with sidewalk snow removal. An annual budget of \$35,000 should be provided to maintain a pool of seasonal employees responsible for sidewalk snow removal"; and

WHEREAS: our systems for helping residents who are unable to shovel and for giving citations and warnings are both far from adequate -- the latter according to a May 29, 2008 Police Dept. memorandum, showing, "[a]s of this date, Permits Plus has 977 snow tickets issued in the Town since 2003. The breakdown is as follows: Health Dept. 615, DPW 501, Building 114, Police 108"; and a May 27, 2008 BPD memorandum, "Snow Enforcement Tickets Issued: 2005= 21, 2006 = 16, 2007 = 9, 2008 = 2";

NOW, THEREFORE BE IT RESOLVED that the Town Meeting urges that the Selectmen:

A. establish a unified snow removal enforcement/warning program so that far more citations -- especially warnings -- are issued, and that enforcement not be merely complaint-driven; and

B. as part of such program, prioritize town-wide enforcement by cruising police officers -- if necessary by recording date & time of violations, then afterwards issuing/delivering citations and warnings by mail or by DPW and/or Health Dept. officials; and

C. establish a credible, well-publicized, fair, and readily available fee-based program, and/or a pool of seasonal employees or laborers, Town-employed and/or independent contractors, to help residents who cannot clear their own abutting sidewalks; and

D. review at a public hearing each November the various departments' plans for public education, enforcement, and assistance for residents who need help.

or act on anything relative thereto.

ARTICLE 28

To see if the Town will adopt the following resolution:

RESOLUTION TO REDUCE THE PROLIFERATION OF INVASIVE PLANT SPECIES

Whereas, there exists certain plant species which are considered invasive because they starve out native species and plant material we work to maintain;

Whereas, these species are on the Massachusetts Prohibited Plant List as of January 2009 and are specifically banned from sale, propagation by the Commonwealth of Massachusetts Department of Agriculture. <http://www.mass.gov/agr/>;

Whereas, these species growing on private property may create offspring growing in Brookline parks, conservancies, or other public property or private property;

Whereas, these species kill trees and affect the life cycle of desirable wildlife and destroy the health of wetlands;

and

Whereas, these species are costly to control on public land and these costs will increase over time.

Therefore Be It Resolved, that the Selectmen of the Town of Brookline acknowledge that there is a need to control invasive species in the Town and that proliferation of invasive species on private property can have a direct effect on the number of such plants on public land and the cost of controlling them, and resolve to provide information to citizens on the Town Website and actively encourage through other appropriate media available to them the removal of invasive species from private land, and they encourage the continued training of Town workers in the recognition of and proper handling of invasive species.

Therefore, Be It Further Resolved, that the Town Meeting Members of the Town of Brookline have voted in favor of this invasive species resolution.

Or act on anything relative thereto.

ARTICLE 29

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 FOURTEEN DAYS at least before the day of said meeting.

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this sixteenth day of September, 2008.

BOARD OF SELECTMEN

