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## **The Town of Brookline Payment In Lieu of Tax (PILOT) Policy**

Brookline is home to, and welcomes a diverse mix of property owners: residential, commercial, governmental and non-profit charitable and educational. The Town's vibrant and growing non-profit sector both contributes to and benefits from the Town's overall quality of life. The Town provides a variety of critical services to all segments of the community, whether they are residents, businesses or non-profit organizations. While these services provide benefits to all, funding for town departments and services relies heavily on property tax revenues. In order to maintain the high standard of municipal services that Brookline has historically provided, the Board of Selectmen believes that all property owners should contribute a fair share toward the cost.

### Overview

*“Increasing the overall fiscal capacity of cities and towns turns out to be central to the future prosperity of the Commonwealth... providing communities with the resources to deliver the services and amenities is critical to the state's future development and prosperity ... (and) equally important is making sure that local municipalities have the ability to provide the economic and social environment that is attractive....”* Revenue Sharing and the Future of the Massachusetts Economy by the Northeastern University Center for Urban and Regional Policy (2006)

The Town of Brookline, through its various departments, provides a variety of services to its residential and commercial taxpayers and non-profit organizations located or conducting business within the Town. While municipal service requirements vary among these diverse groups, all benefit from the overall enhanced quality of life enjoyed by the community. However, the cost of municipal services is substantial, and the Commonwealth of Massachusetts has limited the sources of revenue available to municipalities. The property tax provides approximately 75% of municipal revenue used to support services. Revenue generated from property taxes is determined by law (Proposition 2 ½), mix of land uses, and geography.

The Town is approximately 6.8 square miles in size and is fully built out; therefore any development is based almost entirely on re-use. The current makeup of the Town based on land use is approximately 55% taxable land and 45% non-taxable. The largest share of the non-taxable land is owned by the Town and used for public buildings, streets/sidewalks, open space and other public uses. Other owners include the state and federal government, a foreign government (Japan), the MBTA, private educational and religious institutions, and charitable and benevolent organizations.

A taxable parcel that becomes tax-exempt does not reduce the Town's total tax levy. Instead, it shifts the tax burden to all remaining taxable parcels. It is a primary goal of the Town to preserve its taxable land, while at the same time continuing to support its rich cultural diversity. It is also a primary goal of the Town to have the cost burden of providing services borne by and shared among all residents, taxpayers, commercial entities and non-profit institutions, to the extent possible and reasonable.

The Commonwealth of Massachusetts and its political sub-divisions, including the Town of Brookline, have historically been recognized as leaders in the area of higher education, arts and culture, public health and religious freedom, and have encouraged non-profits to organize in the state to enrich the quality of life of its residents. The General Court of the Commonwealth created a series of property tax exemptions within the General Laws (M.G.L. Chapter 59 Section 5) as an incentive to support the often vital work of non-profit organizations.

The Town's location adjacent to Boston, and its easy access to mass transportation and major roadways, makes it attractive for non-profit institutions to locate in Brookline. This demand for land and buildings to operate non-profit organizations has absorbed taxable property in Brookline at an alarming rate. The Town is concerned that a continuing shift in tax burden to a diminishing tax base will have a negative impact on residents, local businesses and the overall Brookline community. In order to maintain a fair balance between the cost of town services and payment for those services, the Town has developed a policy to address the need for a payment-in-lieu-of-tax (PILOT) program for tax exempt properties.

### Policy

Brookline recognizes that non-profit organizations contribute directly to the quality of life within the community and welcomes them to the town. In order to maintain the financial health of the community so as to continue to provide a range of quality services, the Town must preserve its existing tax base and expand that revenue source where reasonably possible. It is the Town policy to distribute the burden of cost in a fair method among all users of services: citizens, taxpayers and non-profit institutions.

M.G.L. Chapter 59 section 5 enables the granting of tax exempt status to certain non-profit organizations. Once an organization is granted an exemption, the Town can not legally require that organization to pay a property tax or bind that organization to give up the rights to these legal exemptions. Therefore:

1. The Town will seek voluntary PILOT Agreements with all tax exempt institutions within the community that own real property, or that rent real property from the Town (pursuant to MGL Chapter 59 section 5, sub-section 2B);
2. These PILOT Agreements should be based upon fair market value and tax levy. PILOT Agreements should be established on the basis that the non-profit organization's payment amount is equal to the percentage of tax levy that supports the critical services of the Town's Police, Fire and Public Works operations. The Town has determined that this share is equal to at least 25% of the full levy;

3. In the event that a non-profit organization enters into a voluntary PILOT agreement, the Town may offer to phase in the impact over a period of time. The Town expects to negotiate PILOT agreements, whereby once the payment target is reached, the payment will annually increase by an escalation factor generally equal to the average historic growth in annual tax levy;
4. For smaller, community-based non-profit organizations with controlling interests in properties assessed at less than \$ 5 million in FY 2007 dollars, consideration for community service may be granted as part of an approach to establish the basis for a PILOT Agreement. This value ceiling would be inflated by 2.5% per year in subsequent years. The Town may base such a PILOT Agreement on less than 25% of the full levy.
5. A PILOT Agreement will remain in force for the entire tenure of its contractual term as long as the use and value established in the PILOT Agreement have not changed. All property under a PILOT Agreement must still meet all the requirements for eligibility for exempt status.
6. A PILOT Agreement does not replace the requirement that each organization seeking property tax exemption must file a "Return of Property Held for Charitable Purposes" form (State Tax Form #3ABC) with the Board of Assessors on or before March first of each year;

### Guidelines for PILOT Agreements

- Recognizing the financial limitations of non-profit organizations, the Town expects to initiate PILOT discussions with non-profit organizations when they are in the process of acquiring property or considering an expansion of existing real estate holdings or planning of new construction on existing property. This approach has the pragmatic advantage of allowing exempt institutions to include the cost of any PILOT Agreement in the financial planning of the new or expanded facility. Further, the Town may waive this approach in the event that a non-profit organization suffers an extraordinary or catastrophic loss, resulting in a financial hardship.
- In the event that a non-profit organization acquires property and plans new construction or substantial reconstruction, the eligibility for tax exemption cannot be determined until the construction is completed and eligible exempt use is determined. The exemption would then be applied to the next fiscal year.
- In the case of a significant physical change in the property resulting in a change in the property's fair market value that occurs after a PILOT Agreement has been established, the Town will adjust the PILOT Agreement to include a phased in change of the payment on the addition, per the agreement or per an agreed upon schedule.
- In the event that there is a change in the use of property under a PILOT Agreement, the Town may review the eligibility of the exemption, and the terms and conditions of the PILOT Agreement and propose such changes as may be needed to reflect the change in the value of the property.
- In the event that the non-profit gives up ownership of the parcel, the parcel will revert back to a taxable status. In the event that a non-profit organization purchases a parcel from a non-profit organization that has agreed to a PILOT Agreement, the parcel will revert back to a taxable status, pending submission of the state tax form (#3ABC), a determination by the Board of Assessors of its tax exemption eligibility, and the completion of a PILOT Agreement with the new owner. In this instance, the Town may elect to seek a voluntary PILOT agreement with the new non-profit acquirer of property.