



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
www.mass.gov/ago

October 21, 2021

Ben Kaufman, Town Clerk  
Town of Brookline  
333 Washington Street  
Brookline, MA 02445

**Re: Brookline Annual Town Meeting of May 19, 2021 -- Case # 10315  
Warrant Articles # 14, 20, 21, 23, 24, 25, 26, and 30 (Zoning)  
Warrant Articles # 11, 12, 13, 16, 17, 19, 22, 29, 32, and 33 (General)**

Dear Mr. Kaufman:

**Article 11** - We approve Article 11 from the May 19, 2021 Brookline Annual Town Meeting.

**Articles 12, 13, 14, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 32, and 33** - We have retained these Articles for further review, and we will issue our decision on them on or before December 1, 2021.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) **general** by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) **zoning** by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,  
MAURA HEALEY  
ATTORNEY GENERAL

*Kelli E. Gunagan*

By: Kelli E. Gunagan  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600

cc: Town Counsel John Buchheit



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### ARTICLE 11 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTION 2.1.11 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #11 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### SECTION 2.1.11 TOWN MEETING PROCEDURE

Before the opening session of any annual or special Town Meeting, except for a Special Town Meeting within the Town Meeting, the Town Meeting members who so desire shall be given the opportunity to recite the pledge of allegiance to the flag of the United States of America.

After the beginning of the first or opening session of any annual or special Town meeting, except for a Special Town Meeting within the Town Meeting, the Town Meeting members who so desire shall be given the opportunity, prior to consideration of any warrant articles, to sing the National Anthem.

There shall be no obligation or requirement imposed upon any individual Town meeting member or other person present to participate in any way if they do not desire to do so.

Following the singing of the National Anthem, an acknowledgement of the history of Indigenous people in Brookline shall be read by the chair or a designee of the Indigenous People Celebration Committee.

Any Town Meeting Member may, once recognized by the Moderator, request information from the Town Administrator or any Department Head; and the Town Administrator or their designee and when the subject matter before the meeting is the operation, management or funding of a department, the Department Head or their designee, shall be allowed to address the Meeting and respond to the request.

On matters requiring a two thirds vote by statute, the vote need not be counted unless the reported result of the vote is immediately questioned by seven or more town meeting members as provided in Chapter 39, section 15 of the General Laws.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk

:



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December 1, 2021

Ben Kaufman, Town Clerk  
Town of Brookline  
333 Washington Street  
Brookline, MA 02445

**Re: Brookline Annual Town Meeting of May 19, 2021 – Case # 10315**  
**Warrant Articles # 14, 20, 21, 23, 25, 26, and 30 (Zoning)**  
**Warrant Articles # 11, 12, 13, 16, 17, 19, 22, 24, 29, 32, and 33 (General)**

Dear Mr. Kaufman:

**Articles 12, 13, 14, 16, 21, 23, 24, 29, 30, and 32** - We approve Articles 12, 13, 14, 16, 21, 23, 24, 29, 30, and 32 from the May 19, 2021 Brookline Annual Town Meeting.<sup>1</sup>

**Articles 17, 19, 20, 22, and 33** - The Attorney General's deadline for a decision on Articles 17, 19, 20, 22, and 33 is extended for an additional 60 days under the authority conferred by G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000. The agreement with Town Counsel for a 60-day extension is attached hereto. We will issue our decision on Articles 17, 19, 20, 22, and 33 on or before **January 30, 2022**.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) **general** by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) **zoning** by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

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<sup>1</sup> In a decision issued on October 21, 2021, we approved Article 11. In a letter issued on November 1, 2021, we extended our deadline for a decision on Articles 25 and 26 for ninety days until March 1, 2022.

Very truly yours,  
MAURA HEALEY  
ATTORNEY GENERAL

*Kelli E. Gunagan*

By: Kelli E. Gunagan  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600

cc: Town Counsels John Buchheit and Jonathan Simpson



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October 21, 2021

Ben Kaufman, Town Clerk  
Town of Brookline  
333 Washington Street  
Brookline, MA 02445

**Re: Brookline Annual Town Meeting of May 19, 2021 -- Case # 10315  
Warrant Articles # 14, 20, 21, 23, 24, 25, 26, and 30 (Zoning)  
Warrant Articles # 11, 12, 13, 16, 17, 19, 22, 29, 32, and 33 (General)**

Dear Mr. Kaufman:

**Article 11** - We approve Article 11 from the May 19, 2021 Brookline Annual Town Meeting.

**Articles 12, 13, 14, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 32, and 33** - We have retained these Articles for further review, and we will issue our decision on them on or before December 1, 2021.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) **general** by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) **zoning** by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,  
MAURA HEALEY  
ATTORNEY GENERAL

*Kelli E. Gunagan*

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cc: Town Counsel John Buchheit



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

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333 Washington Street  
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(617) 730-2010 Fax (617) 730-2043

### ARTICLE 12 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTION 2.5.2 and SECTION 2.2.6 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #12 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### SECTION 2.5.2

#### COMBINED REPORTS

The explanation and relevant data submitted by the petitioners for a petition article shall be included, together with article, in the combined reports. The Select Board and the Advisory Committee (or in the alternative to the full Advisory Committee a subcommittee of the Advisory Committee) each shall hold at least one duly noticed public hearing prior to a final vote of the Select Board or the Advisory Committee, as the case may be, on any article in the Warrant. The Select Board and the Advisory Committee shall prepare written reports, stating their recommendations and the reasons therefor, for all articles in the Warrant for a Town Meeting. The reports shall be included in the combined reports to be delivered or mailed as follows:

The Select Board shall cause one copy of the combined reports to be delivered or mailed not later than the seventh day prior to each special Town Meeting and not later than the fifteenth day prior to the start of each Annual Town Meeting, to the residence of every elected officer, Town Meeting Member and member of the Advisory Committee, and to the residence of every appointed officer, resident, real estate owner and town employee who requested, in writing, a copy of that combined reports. The combined reports shall contain each article in the warrant for such Town Meeting followed by the report of the

Select Board on such article and then the report of the Advisory Committee on such article and every report made, not later than the twenty-second day prior to such Town Meeting and after the twenty-second day prior to the previous Town Meeting, by a Special Committee created by a Town Meeting or the Moderator.

The Combined Reports, and any supplement thereto, shall include, with each recommendation of any Town board, committee, or commission, a roll-call showing the vote of each member. When a minority report is presented by any Town board, committee, or commission, the Combined Reports, and any supplement thereto, shall identify the members supporting the minority report.

The report of the Select Board on the article at an Annual Town Meeting providing for termination and close-out of prior special appropriations shall include a statement from the Comptroller listing each account for such an appropriation as falls within the scope of the article, the purpose of the appropriation, and the unexpended balance as of the last day of March in the year of said Annual Town Meeting.

SECTION 2.2.6                      RECORDED VOTES

- (i) Whenever the Advisory Committee shall have voted on a recommendation, the record of such vote shall accompany any report of such recommendation and shall be included in the minutes of the Advisory Committee, in each case showing the date of such vote and those members who voted in favor, opposed, or abstained.
- (ii) Whenever the Advisory Committee shall have voted on a transfer of funds, the record of such vote shall be included in the minutes of the Advisory Committee, in each case showing those members who voted in favor, opposed, or abstained.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk

:





# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### **ARTICLE 13 – SUBMISSION #3**

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTION 3.14.8 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #13 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### **ARTICLE 3.14**

##### **COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS AND OFFICE OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS**

###### **SECTION 3.14.1 ESTABLISHMENT AND PURPOSE**

This By-law establishes the Commission for Diversity, Inclusion, and Community Relations ("Commission" or "CDICR") and the Office of Diversity, Inclusion, and Community Relations ("Office" or "ODICR").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in

contact with the Town of Brookline ("Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

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

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

The Commission shall consist of fifteen (15) residents, who shall be called Commissioners.

Commissioners shall be appointed by the Select Board and shall hold office for a period of not more than three (3) years with

terms of office expiring on August 31 of an appropriate year in a staggered manner so that approximately one-third (1/3) of the terms of the Commissioners will expire each year. A Commissioner whose term is expiring is expected to submit their renewal application to the Select Board not later than August 1 of the expiration year. The term of a Commissioner who does not submit a renewal application in a timely manner shall expire on August 31 of that year. The term of a Commissioner who submits a timely renewal application shall then be extended until notified by the Town Administrator that the renewal application has been acted upon. If the application is denied, the term of that Commissioner shall expire five days after the date of the denial letter. If the application is approved, the term shall expire on August 31 of the year specified in the approval letter. The Select Board may appoint additional non-voting associate members (Section 3.1.5) as it determines to be necessary, which may include youth or persons who do not reside in Brookline but have a substantial connection to Brookline or to the Brookline Public Schools. The Select Board shall select one of its members to serve *ex officio* as a nonvoting member of the Commission. A quorum of the Commission shall consist of a majority of the serving members on the Commission, with a minimum of six.

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

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

SECTION 3.14.2 APPOINTMENT, ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be an Office of Diversity, Inclusion and Community Relations ("Office"), which shall be a unit of the Select

Board's Office, and led by a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Office of Diversity, Inclusion and Community Relations ("Director"), and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town. In the event of a vacancy in the position of Director, the Town Administrator, after consultation with the Commission, shall recommend to the Select Board a replacement with appropriate qualifications.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this By-law or any other By-law giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out the Director's duties. The Office shall be physically situated in whatever department the Town Administrator determines would most easily provide the Director any such assistance.

The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator. The Director/CDO may bring a matter directly to the attention of the Select Board in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO work with the Human Resources Office to promote diversity and inclusion.

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

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

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO shall report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who comes in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after seeking the services of the CDO in said officer's role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see Section 3.14.3(A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss with the Commission, in general terms, the problems or issues that such individual cases, provided, however, doing so does not violate any person's rights to privacy.

#### SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

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

- (i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;

- (ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;
- (iii) Work with the Select Board, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, and awareness of and sensitivity to civil and human rights in all departments and agencies of Town government;
- (iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the Select Board, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto, and make suggestions through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the implementation of the diversity and inclusion policy;
- (v) Receive Complaints Against the Town, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see Section 3.14.2), and after notifying the Town Administrator, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board, Library Trustees or Moderator as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies. This By-law does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Civilian Complaint Procedure or the Human Resources Office's procedures;

(vi) Receive Complaints Against the Public Schools of Brookline, directly or through the CDO, against the Public Schools of Brookline, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Superintendent and/or School Committee as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition provide the complainant with information on complainant's options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.

(vii) Receive Other Complaints from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. After receiving such a complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board within 90 days of receipt of the complaint. The Commission/CDO may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies.

(vii) The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v), (vi) above, provided that such publication contains public record information only

and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the annual report filed with the Board pursuant to Section 3.14.6 of this By-law.

- (viii) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt of such complaints and follow-up by the Commission to the extent not inconsistent with the procedures set forth in paragraphs (v) and (vi);
- (ix) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this By-law in relation to its Fair Housing responsibilities, as authorized by law, under By-law 5.5;
- (x) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson, to facilitate changes that will reduce and eliminate violations of rights;
- (xi) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;
- (xiii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

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



- (i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;
- (ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the Select Board and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;
- (iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;
- (iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town By-laws.

(C) At least every two years, prepare written organizational goals for the Commission ("Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) designated as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the Select Board at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the Select Board at the public meeting and shall

also receive and consider written comments from the community on the Commission's Goals.

SECTION 3.14.4                    RULES AND REGULATIONS

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

SECTION 3.14.5                    INFORMATION, COOPERATION, AND DIALOGUE

The Commission shall notify the Town Administrator of all complaints it records. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5

form. The Police Chief shall annually present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

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

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this By-law and any other related Town by-laws, in consultation with other pertinent departments, and propose changes if necessary, by preparation of appropriate Warrant Articles for consideration by Town Meeting.

SECTION 3.14.8 EFFECTIVE DATE OF DECEMBER 12, 2019 AMENDMENTS

The amendments, as indicated in strikethrough, bold and underlined, adopted on December 12, 2019, become effective July 1, 2022.

SECTION 3.14.8 SEVERABILITY

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

SECTION 3.14.9 RESOLUTION OF CONFLICTING PROVISIONS

In case of any conflict between this By-law and other By-laws, the Provision(s) last adopted by Town Meeting shall prevail.

SECTION 3.14.10 APPLICATION OF THIS BY-LAW

Should any remedies in this By-law conflict with grievance or dispute resolution procedures in collective bargaining agreements with the Town's unions, the provisions of the collective bargaining agreements shall apply so long as all members of Brookline Protected Classes are protected.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk

:



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### ARTICLE 14 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTION 2.19, SECTION 2.16, SECTION 4.07, and SECTION 4.14 of the Zoning By-laws of the Town of Brookline, as amended by the actions taken under Article #14 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### **§2.19 – “S” DEFINITIONS**

1. Short-Term Rental Short-Term Rental (or “STR”) – The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.  
In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes: (a) properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment, and (b) Accessory Dwelling Units (as defined and permitted otherwise by the Town’s Zoning Bylaw) or their associated primary dwelling units.
2. Short-Term Rental Operator – Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.
3. Short-Term Rental Unit – A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

4. SIGN—"Sign" shall mean and include any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.
5. SIGN, AREA OF
  - a. For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself.
  - b. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols together with any backing of a different color than the finish material of the building face.
  - c. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other convex shape which encompasses all of the letters and symbols.
6. SIGN, ON-PREMISES—A sign or other advertising device which advertises or indicates only the person occupying the premises on which it is located, the merchandise for sale, or the activity conducted thereon.
7. STREET—A public or private way, alley, lane, court, or sidewalk which is open or dedicated to public use and parts of public squares and places which form traveled parts of highways.
8. STRUCTURE—A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part thereof".

**§2.16 – "P" DEFINITIONS**

1. PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL—A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or non-commercial motor vehicles used by the users of a lot or lots devoted to a use or uses not permitted in a residential district.
2. PARKING GARAGE OR PARKING AREA, RESIDENTIAL—A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles, or any vehicle owned or leased by a Car Sharing Organization with a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less and which satisfies paragraphs (a) to (e) of the definition of non-commercial motor vehicles, used by the users of a lot or lots devoted to a use or uses permitted in a residence district.
3. 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 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.

4. Primary Residence – Any property at which a resident resides for at least 183 days of the calendar year.
5. PRIVATE CLUB OR LODGE—A private club, lodge, or organization operated not for profit, and for members only.
6. PROFESSION, RECOGNIZED—Architecture, engineering, law, medicine, dentistry, or other activity in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and also possessing evidence of professional capability such as membership in a professional society requiring standards of qualification for admission.

**§4.07 – TABLE OF USE REGULATIONS**

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
<u>51C. Short-Term Rentals in possession of a valid Town Certificate of Registration and in accordance with §4.14 only.</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>

**§4.14 – SHORT-TERM RENTALS**

5. Purpose

This section is intended to protect the health and safety of visitors and residents, ensure that the primary use of these properties remains as a residence, and to minimize the effect Short-Term Rentals have on the character and livability of residential neighborhoods and the well-being of surrounding residents.

6. Applicability

c. The requirements of this section shall apply to any Short-Term Rental. No property shall be offered as a Short-Term Rental except in compliance with each of the provisions of this By-Law.

d. Nothing in this By-Law shall be construed to make the Town responsible for compliance with or enforcement of condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

7. Requirements

Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes, including, but not limited to, the Town’s General By-law entitled “Short-Term Rentals”.

8. Severability

If any provision(s) of this section is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

These amendments to the Zoning by-law shall take effect on January 1, 2022.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk

:





# Town of Brookline

## Massachusetts

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### ARTICLE 16 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of ARTICLE 10.2 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #16 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

### ARTICLE 10.2 PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following by-laws and articles shall be by the following department head or their designees:

<u>DEPARTMENT HEAD</u>		<u>ARTICLE</u>
<b>BUILDING COMMISSIONER</b>		
Part V-Private Property	Articles	5.2, 5.3, 5.4, 5.6, 5.7, 5.8, 5.11 (5.11 ("Short-Term Rentals") to be effective 1/1/22)
Part VI-Public Property	Articles	6.1, 6.5, 6.9, 6.10
Part VII-Streets & Ways	Articles	7.3, 7.5, 7.7, 7.8, 7.9

Part VIII-Public Health & Safety	Articles	8.3, 8.6, 8.7, 8.8, 8.9, 8.11, 8.13, 8.14, 8.15, 8.16,8.37
<b>COMMISSIONER OF PUBLIC WORKS</b>		
Part VI-Public Property	Articles	5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 6.9
Part VII-Streets & Ways	Articles	7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10,7.11
Part VIII-Public Health & Safety	Articles	8.2, 8.6,7,8.8 8.14,8.15,8.16, 8.18,8.24,
<b>DIRECTOR OF HEALTH &amp; HUMAN SERVICES</b>		
Part V-Private Property	Articles	5.1, 5.2, 5.4, 5.5, 5.7, 5.11 (5.11 ("Short- Term Rentals") to be effective 1/1/22)
Part VI-Public Property	Articles	6.2, 6.6
Part VII-Streets & Ways	Articles	7.1, 7.5
Part VIII-Public Health & Safety	Articles	8.1, 8.2, 8.3, 8.4, 8.6, 8.7, 8.8, 8.9, 8.10,8.11, 8.12,8.13, 8.14, 8.15, 8.16, 8.22, 8.23, 8.32, 8.37, 8.38
<b>FIRE CHIEF</b>		
Part VIII - Public health & Safety	Articles	8.37, 8.38
Part V-Private Property	Articles	5.11 (5.11 ("Short-Term Rentals") to be effective 1/1/22)
<b>PRESERVATION COMMISSION</b>		
Part V-Private Property	Articles	5.3, 5.6
<b>COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS</b>		
Part V-Private Property	Article	5.5
<b>TOWN ADMINISTRATOR</b>		
Part V-Private Property	Article	5.11 (5.11 ("Short-Term Rentals") to be effective 1/1/22)

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk

:



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### ARTICLE 21 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTIONS 2.04, 4.07, 5.06 of the Zoning By-laws of the Town of Brookline, as amended by the actions taken under Article #21 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### § 2.04 "D" DEFINITIONS

- 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 previously included in gross floor area only to the extent that the exterior dimensions are reduced.
- 1 . DORMITORY — A building designed or occupied as a residence for students or staff of charitable, educational, or philanthropic institutions owned or operated by or for such institutions.

2. **DRIVE-IN USES** — A retail or consumer service use of land or a building in which the business transacted is conducted by a customer or client from within his/her automobile.
3. **DWELLING**
  - a. **Dwelling, Attached:** A building designed or occupied as a residence and separated from another attached dwelling on one or both sides either by a vertical party wall or walls or by a contiguous wall or walls without side yards.
  - b. **Dwelling, Detached:** A building which is designed or occupied as a residence and is substantially separated by side yards from any other structure or structures except accessory buildings.
  - c. **Dwelling, Multiple:** A building or structure designed or occupied as a residence by more than three families, but not including groups of attached dwellings; an apartment house.
  - d. **Dwelling, Live/Work Space:** A building or any portion thereof containing common work space areas and/or dwelling units measuring no more than 900 square feet in gross floor area per unit that are used by at least one occupant as both their primary residence and primary work/artist studio space, including use 46 (Light Non-Nuisance Manufacturing) and 58A (Home Office) as certified annually by the property owner with the Building Commissioner.
4. **DWELLING UNIT** — A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, and eating.

**§ 4.07 TABLE OF USE REGULATIONS**

Principal Uses	S	Residence					Business		Ind. I	
		SC	T	F	M	L	G	O		
<b>RESIDENCE USES</b>										
1. Detached dwelling on a separate lot and occupied by not more than one family	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No
1A. Cluster subdivisions, designed groups of single-family dwellings, and estate conversions permitted pursuant to the regulations and conditions of § 5.11.	SP	SP	No	No	No	No	No	No	No	No

Principal Uses	S	SC	Residence				Business			Ind. I
			T	F	M	L	G	O		
2. Detached dwelling on a separate lot originally constructed for single-family occupancy prior to the effective date of this By-law and containing a minimum gross floor area of 2,400 square feet and converted for occupancy by not more than two families, provided there is no external evidence of occupancy by more than one family.	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	
3. Detached dwelling converted for two-family occupancy conforming to the requirements of the preceding item except that external evidence of conversion is required to conform to other codes.	No	SP	Yes	Yes	Yes	Yes	No	Yes	No	
4. Detached dwelling on a separate lot and occupied by two families, other than Uses 2 and 3 above.	No	No	Yes	Yes	Yes	Yes	No	Yes	No	
4A. Dwelling on a separate lot for three families or attached dwelling on a separate lot for two families.	No	No	No	Yes	Yes	Yes	Yes	No	Yes	
5. Attached dwelling occupied by not more than one family in each unit between side walls, provided that in T Districts no row of such units shall consist of more than two such units or more than three such units in F Districts. *Except as permitted by Use 1A above and <b>§ 5.11.</b>	No*	No	SP	SP	SP	SP	No	SP	No	
6. Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or	No*	No	No	No	Yes*	Yes*	Yes*	No	Yes*	

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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sorority.

\*Compliance with § 4.08 required if containing 6 or more dwelling units.

Permitted by special permit in S-0.5P and S-0.75P Districts subject to § 5.06.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use.

Within the Waldo-Durgin Overlay District, the percentage of such frontage devoted to residential use may be increased by special permit in accordance with § 5.06.4.k.

6A. Life care facilities, incorporating independent apartment living units for elders combined with supportive medical, nursing or other shared facilities.	SP*	SP*	SP*	SP*	SP	Yes	Yes	No	No
---	-----	-----	-----	-----	----	-----	-----	----	----

\*Allowed by special permit only on lots greater than 5 acres.

6B. Dwelling, Live/Work Space	No	No	No	No	No	No	No	No	No*
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\*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.

7. Lodging House, licensed*.	No	No	No	SP	SP	SP	SP	No	No
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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\*License is from Selectmen and conformance to Brook-line Lodging House Regulations required.

8. Hotel	No	No	No	No	No*	No	SP*	No	No**
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\*Permitted by special permit in M-2.5 Districts and in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC, or T District.

\*\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

8A. Limited Service Hotel	No	No	No	No	No	No	Yes	No	No
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\*Permitted by Special permit in M-2.5 and in the Cleveland Circle Hotel Overlay District and I-(EISD) District.

\*\*Permitted as of right only in the G-1.75 (LSH) Limited Service Hotel District, provided that the applicant for a building permit certifies to the Building Commissioner that (a) at least 20% of all on-site parking spaces will be available for overnight public parking at prevailing overnight public rates, (b) that all on-site parking spaces will be available between 8:00 a.m. and 6:00 p.m. at prevailing public meter rates and (c) at least 25% of the lot area is to be used for open space open to the public. Otherwise such use shall be by



Principal Uses	S	SC	Residence				Business			Ind. I
			T	F	M	L	G	O		

special permit in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC or T District. Permitted by Special Permit in G-(DP) District in accordance with **Section 5.06.4.g.**

**INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES**

9. Places of worship and other religious uses exempt from use regulation by **The Zoning Act, M.G.L. Ch. 40A, § 3.** Yes Yes Yes Yes Yes Yes Yes Yes Yes

10. Educational uses exempt from use regulation by **The Zoning Act, Ch. 40A, § 3.** Yes

11. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business. SP SP SP SP Yes Yes Yes Yes Yes

12. Recreational facility owned or operated by an agency of the Town or other government. Yes Yes Yes Yes Yes Yes Yes Yes Yes

13. Recreational facility owned or operated by a non-government agency, subject to the following provisions: SP SP SP SP SP Yes Yes Yes Yes

(a) The use shall not be conducted as a private gainful business.

(b) No outdoor active recreation area or parking area shall be located nearer to any lot line than the required front yard depth.

(c) Indoor or outdoor noisy

Principal Uses	S	SC	Residence			L	Business		O	Ind. I
			T	F	M		G			
activities such as bowling or gymnasium shall be at least 100 feet from any lot line and sound-insulated to meet the approval of the Board of Appeals so as to protect the neighborhood from inappropriate noise in any season.										
14. Adult education center or other similar educational facility other than Use 10, community center, meeting hall, or other similar facility, subject to the same limitations as specified in Use 13.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes
15. Day care center defined as any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage, under seven years of age, or under 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include any religious or educational use exempt from use regulation by <b>The Zoning Act, M.G.L. ch. 40A, § 3</b> , a family day care home, or other facility or program excluded from the definitions of "child care center" and "school-aged child care program" in M.G.L.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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ch. 15D, § 1A.

\*A day care center shall be licensed in accordance with **M.G.L. chapter 28A, § 10**. If such a facility has an outdoor play area, that area shall be screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance. If such a facility requires the use of a public play area, the Director of Parks and Open Space and the Director of Public Health, or designees, shall be required to approve the availability and use of the public space.

See also § 6.02.4 and § 9.12.

16. Entertainment and recreation facilities operated as a gainful business, including but not limited to bowling alley, theater, and concert hall, provided that such use is housed in a structure sufficiently sound-insulated so as to protect the neighborhood from inappropriate noise in any season.	No	No	No	No	No	No	SP	No	SP
17. Trade, professional or other school conducted as a private gainful business, excluding noisy accessory uses.	No	No	No	No	No	No	Yes	Yes	Yes
18. Private Club or Lodge	No	No	No	No	No	SP	SP	SP	SP
a) Health and fitness club, over 2,500 s.f. of gross floor area operated for profit and for members only, solely for the	No	No	No	No	No	Yes	Yes	Yes	Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services.

b) Private club or lodge, operated not for profit and for members only, other than use 13.

18A. Small group health and fitness club not exceeding 2,500 square feet of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services.	No	No	No	No	No	Yes	Yes	Yes	Yes*
--	----	----	----	----	----	-----	-----	-----	------

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

19. Licensed hospital or other licensed establishment for the care of sick, crippled, or convalescent persons.	No	No	No	No	SP*	No	No	No	No
--	----	----	----	----	-----	----	----	----	----

\*Not permitted in M-0.5 Districts. Permitted as of right (i.e. classification "Yes") with respect to any such hospital or establishment for which a building permit application has been filed with the Building Commissioner on or before the date of the adoption of this amendment by the Town Meeting, November 14, 1967.

**OFFICE USES**

20. Office or clinic for medical or dental examination or	No	No	No	No	No*	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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treatment of persons as out-patients, including laboratories incidental thereto.

\*Permitted by special permit in new residential construction in M-2.5 districts up to a maximum of 20% of total gross floor area.

20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. No

\*Verification of noise control shall include verification by a professional engineer (P.E.), utilizing an acoustical engineer under his/her supervision if necessary, that under worst-case (e.g., maximum number of animals, open windows if applicable) conditions neither daytime nor nighttime background noise levels, as defined in Article 8.15.3 of the Town By-Laws, will be exceeded at the boundary of the property where the use is located. Moreover, as a condition of a Special Permit, the ZBA shall require that further noise control measures be undertaken in the future if such background noise levels are exceeded during operation of the facility.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

20B. Medical Marijuana Treatment Centers (see <b>Section 4.13</b> for applicable definition), and uses analogous to Marijuana Retailer Uses Only	No	No	No	No	No	No	SP*2	SP*2	SP*
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\*To be eligible for a special permit under Use 20B, the requirements under **Sec. 4.12**, Registered Marijuana Dispensary, and **Sec. 4.13**, Marijuana Establishments, shall be met, as each may be applicable.

20C. Delivery-Only Marijuana Retailers and Marijuana Transporters	No	No	No	No	No	SP*1	SP*1	SP*1	SP*1
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Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F				G	O	

\*To be eligible for a special permit under Use 20C, the requirements under **Sec. 4.13**, Marijuana Establishments, shall be met.

21. Business, professional, or governmental office other than Use 20, 20A and 20B.	No	No	No	No	No	Yes	Yes	Yes*	Yes
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\*Provided no commodities are kept for sale on the premises.

**AUTOMOTIVE SERVICE USES (SUBJECT TO ARTICLE VI)**

22. Residential parking garage or parking area, whether as the sole use of a lot or as a secondary use, solely for the storage of cars of residents of other lots located within 1,400 feet.	No*	No*	SP*	SP*	SP*	Yes	Yes	Yes	Yes
--	-----	-----	-----	-----	-----	-----	-----	-----	-----

\*By right for five or fewer spaces.

22A. Parking garage or parking area for vehicles with a Gross Vehicle Weight Rating (GVWR) of no more than 6,000 pounds and satisfies **paragraphs (a) to (e)** of the definition of non-commercial motor vehicles, owned by a Car Sharing Organization (CSO), allowed whether as the sole use of a lot or as a secondary use, for up to 10% of the total on-site parking spaces, unless otherwise noted. All open air parking lots with CSO vehicles require an Open Air Parking Lot License to be valid for zoning purposes. A special permit is required for any CSO spaces that are not in an open air parking lot. See **§ 6.01.5**.

Yes or SP\*  
Yes SP

\*Where the use of a lot is a single, two, or three-family dwelling, one CSO parking space may be allowed by special permit only. For other uses, up to 10% of parking spaces on a lot are allowed by right for CSO vehicles, and an additional 2 CSO spaces are allowed by special permit beyond the 10% cap, but in no case shall there be a total of more than 4 CSO vehicles allowed.

23. Parking area abutting or across the street from a non-residence district, for the	No	No	SP	SP	SP	Yes	Yes	Yes	Yes
---	----	----	----	----	----	-----	-----	-----	-----

Principal Uses	S	SC	Residence			L	Business		Ind. I
			T	F	M		G	O	
parking of passenger cars of tenants, employees, customers, or guests of buildings or establishments in the adjoining non-residence district, provided no sales or service operations are performed.									
24. Non-residential parking garage or parking area, other than Use 23.	No	No	No*	No*	No*	Yes	Yes	No*	Yes
*Municipal parking facilities permitted in the district.									
25. Gasoline service station.	No	No	No	No	No	SP	SP	No	SP
25A. Partially self-service gasoline stations.	No	No	No	No	No	SP	SP	No	SP
26. Sale or rental of automobiles and other motor vehicles, or tires or other motor vehicle accessories, and accessory storage conducted entirely within an enclosed structure, provided any accessory repair operations shall be sufficiently sound-insulated to protect the neighborhood from inappropriate noise; and any flashing, fumes, gases, smoke, and vapor shall be effectively confined to the premises.	No	No	No	No	No	No	Yes	No	Yes
27. Outdoor storage of vehicles for sale or rent.	No	No	No	No	No	No	No	No	SP
28. Repair garage located principally within an enclosed structure, provided repair operations shall be sufficiently sound-insulated to protect the neighborhood from inappropriate noise, and any	No	No	No	No	No	No	SP	No	SP*

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flashing, fumes, gases, smoke, and vapor shall be effectively confined to the premises; and provided all storage shall be within the structure.

\*Permitted by right if a municipal facility or portion thereof.

28A. Car washing facility, either as a principal or an accessory use.	No	No	No	No	No	No	No	No	No	No
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**RETAIL AND CONSUMER SERVICE USES**

29. Store of less than 5,000 square feet of gross floor area per establishment, primarily serving the local retail business needs of the residents of the vicinity, including but not limited to grocer, baker, food store, package store; dry goods, variety, clothing; hardware, paint, household appliances; books, tobacco, flowers, drugs.	No	No	No	No	No	Yes	Yes	No	Yes*
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\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment	No	No	No	No	No	No	No	No	No	No
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\*Permitted by special permit pursuant to **Section 4.13**, Marijuana Establishments

29B. Social Consumption Marijuana Retailers	No	No	No	No	No	No	SP*1,2	No	SP*1
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\*Permitted by special permit pursuant to **Section 4.13**, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to



Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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M.G.L. c.94G, § 3(b).

30. Eating places of less than 5,000 square feet of gross floor area per establishment, primarily serving local needs, including but not limited to lunch room, restaurant, cafeteria, place for the sale and consumption of beverages, ice cream and the like, primarily in enclosed structures with no dancing, nor entertainment other than music.	No	No	No	No	No	Yes	Yes	No	Yes*
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\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

31. Bank.	No	No	No	No	No	Yes	Yes	Yes	Yes
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32. Service business primarily serving local needs, including but not limited to the following uses:	No	No	No	No	No*	Yes	Yes	No	Yes**
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(a) Barber, beauty shop, laundry and dry-cleaning pickup agency, shoe repair, self-service laundry, or other similar use.

(b) Hand laundry, dry-cleaning or tailoring, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time.

(c) Printing shop, photographer's studio, caterer, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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one time.

\*Permitted by special permit in an M-1.0 (CAM) District.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

32A. Domestic Household Animal Day Care Center, including grooming, training, walking and other accessory services, and excluding overnight kenneling. No outdoor facilities for the animals shall be permitted. Studies by recognized experts shall be submitted to ensure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. A recommendation from the Director of Public Health shall be required to address the size and location of the facility and any potential impacts. Additionally, annual licenses issued by the licensing authority are required, with the recommendation of the Director of Public Health, the Police Department's Animal Control Officer, and the Director of Parks and Open Space.	No	No	No	No	No	SP	SP	No	SP
33. Stores not exceeding 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise	No	No	No	No	No	No	Yes	No	No*

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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department store, furniture and household goods.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

33A. Stores over 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, supermarket, grocery store, furniture and household goods.	No	No	No	No	No	No	SP	No	SP*
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\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

34. Place for the sale and consumption of food and beverages exceeding 5,000 square feet of gross floor area, or providing dancing and entertainment.	No	No	No	No	No	No*	Yes	No	Yes**
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\*Permitted by Special Permit in the Cleveland Circle Hotel Overlay District.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

35. Office, display or sales space of a wholesale, jobbing, or distributing establishment, provided that no more than 25 per cent of floor space is used for assembling, packaging, and storing of commodities.	No	No	No	No	No	No	Yes	No	Yes
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Principal Uses	S	SC	Residence			L	Business		Ind. I
			T	F	M		G	O	
36. Radio or television studio, without transmitting facilities.	No	No	No	No	No	No	Yes	Yes	Yes
36A. Research laboratory for scientific or medical research not involving noxious or hazardous substances or processes, provided that the use is operated in compliance with all applicable town, state, and federal health and safety laws and regulations. At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports in accordance with the procedures in § 9.04.	No	No	No	No	No	No	SP	SP	SP
36B. Research laboratory for scientific or medical research, with a Biosafety Level of Level 1 or Level 2 as defined by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, and National Institutes of Health, provided the use is located on a lot with no less	No	No	No	No	No	No	SP*	No	No

Principal Uses	Residence						Business		Ind. I
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than 50,000 square feet and no more than 65,000 square feet in area and is operated in compliance with all town, state and federal health and safety regulations, and that thirty days prior to a Board of Appeals hearing on the use, and annually, a report detailing hazardous materials operations, processes, disposal and storage shall be reviewed and approved in writing by an independent recognized expert, the Fire Chief and Director of Public Health and Human Services.									
*Permitted by Special Permit only in a GMR-2.0 district.									
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities	No	No	No	No	No	No	SP*1,2	SP*1,2	SP*1
*To be eligible for a special permit under Use 36C, the requirements under <b>Sec. 4.13</b> , Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.									
37. Mortuary, undertaking or funeral establishment.	No	No	No	No	No	SP	SP	No	SP
38A. Agriculture, horticulture or floriculture on parcels of more than five acres, subject to the regulations specified in Use 57, and not including the retail sale of products or services.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
38B. Agriculture, horticulture or floriculture on parcels of not	No	No	No	No	No	No	No	No	No

Principal Uses	S	SC	Residence			M	L	Business		Ind. I
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more than five acres as a principal use.										
38C. Open-air use, other than commercial recreation facilities, seasonal outdoor seating for a licensed Food Vendor that does not exceed six months in each calendar year, and Uses 22 to 28 inclusive, including but not limited to the sale of flowers, garden supplies, or agricultural produce.	No	No	No	No	No	No	SP	SP	No	Yes
38D. Marijuana Cultivators	No	No	No	No	No	No	SP*1,2	SP*1,2	SP*1,2	SP*1

\*Permitted by special permit pursuant to **Section 4.13**,

Marijuana Establishments										
39. Drive-in use, other than Uses 22 to 28 inclusive, including only those uses permitted in Uses 29 to 32 inclusive.	No	No	No	No	No	No	SP	SP	No	SP

**UTILITIES AND COMMUNICATION**

40. Transformer station, substation, pumping station or automatic telephone exchange, provided that in a residence district such public service building is essential to service such residential area, and that no public business office nor any storage yard or storage building is operated in connection with it.	SP	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
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40A. Dish antenna not larger than 3 feet in diameter, provided it is not located in a front yard and it conforms to setback requirements for accessory structures. Yes

40B. Dish antenna larger than 3 feet in diameter, provided it is not located in a front yard, it conforms to setback requirements for accessory	No*	No*	No*	No*	SP*	SP*	SP*	SP*	SP*	SP*
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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structures, and it is located and/or screened so that it is not visible from nearby streets or properties within a 200 foot radius at ground level.

\*Permitted use for public agencies of the Town of Brookline and the Town's CATV licensee, provided the use is approved by the Board of Selectmen after public hearing.

40C. Wireless

Telecommunication Services, See § 4.09 for use regulations.

40D. Ground Solar Photovoltaic Installation, Large or Small

No	No	No	No	No	No	No	No	No	No
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\*Permitted in the Renewable Energy Overlay District under site plan review. See Section 5.06.4.h for use regulations.

41. Fire station.

Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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**INDUSTRIAL USES**

42. Steam laundry or dry cleaning plant.\*

No	No	No	No	No	No	No	No	No	Yes
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(\*See Asterisk After Use 46)

43. Wholesale business and storage, in a roofed structure.\*

									No	No
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(\*See Asterisk After Use 46)

44. Plumbing shop, carpentry shop, other similar service or repair establishment.\*

No	No	No	No	No**	SP	SP	No	Yes
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\*\*Permitted by special permit in an M-1.0 (CAM) District.

(\*See Asterisk After Use 46)

Principal Uses	S	SC	Residence			L	Business		Ind. I
			T	F	M		G	O	
45. Printing and publishing.*	No	No	No	No	No	No	No	No	Yes

(\*See Asterisk After Use 46)

46. Light non-nuisance manufacturing, provided that all resulting particulate matter, flashing light, fumes, gases, odors, liquid and/or solid wastes, smoke, and vapor are effectively confined to the premises or disposed of in a manner so as not to create a nuisance or hazard to safety or health and in compliance with all applicable town, state, and federal laws and regulations; further provided that no vibration is perceptible without instruments at a distance greater than 50 feet from such premises and that noise limits shall conform to the <b>Town's Noise By-law</b> . At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports	No	No	No	No	No	No	No	No	SP**
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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in accordance with the procedures in § 9.04.\*

\*For uses 42 to 46 inclusive, all storage of materials and equipment and all business operations, such as loading, parking, and storage of commercial vehicles, shall be within an enclosed building. This requirement may be modified by the Board of Appeals by special permit only, provided the requirements of § 6.04, paragraph 8. and § 9.05 are met. Such special permit may be rescinded or modified by the Board of Appeals after notice and hearing if noncompliance with the conditions of approval is determined.

\*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.

46B. Marijuana Product Manufacturers	No	No	No	No	No	No	No	No	No	SP*1
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\*Permitted by special permit pursuant to Section 4.13, Marijuana Establishments

47. Any trade, industry, or other use that is noxious, offensive, or hazardous by reason of vibration or noise or the emission of odors, dust, gas, fumes, smoke, cinders, flashing or excessively bright light, refuse matter or electromagnetic	No	No	No	No	No	No	No	No	No	No
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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radiation.

48. Any advertising sign or device, including off-premises signs and non-accessory signs as defined in this By-law or the Sign By-law of the Town of Brookline.	No	No	No	No	No	No	No	No	No
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49. Any use hazardous to health because of danger of flooding, inadequacy of drainage, high water table, or inaccessibility to fire fighting apparatus or other protective services.	No	No	No	No	No	No	No	No	No
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49A. In locations subject to periodic or occasional flooding by water from streams or brooks, including but not limited to the flood hazard district which is defined as all areas in the Floodplain District Boundaries in <b>4.10.4.a.</b> , any structure erected or any filling undertaken in such manner as to reduce or impede the run-off of flood waters to an extent that would increase the 100 year flood elevation or the hazard of flood damage (See under 49B.) Please refer to <b>§ 4.10, Floodplain Overlay District</b> , of the Zoning Bylaw for flood hazard requirements.	No	No	No	No	No	No	No	No	No
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49B. Any new construction, substantial improvement (the cost of which equals or exceeds 50% of the market value of the structure), or land alteration within said flood hazard district shall be subject to a special permit issued by the Board of Appeals, in accordance with the	SP	SP	SP	SP	SP	SP	SP	SP	SP
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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requirements of this By-law, the Zoning Enabling statute and FEMA National Flood Insurance program as cited in **the Code of Federal Regulations, Title 44, Chapter I, Subchapter B, part 60. Please refer to § 4.10, Floodplain Overlay District,** of the Zoning Bylaw for flood hazard requirements.

\*Please note: Any application under Use 49A or 49B shall be referred by the Town Clerk to the Conservation Commission, Town Engineer and Board of Appeals. Applications under this section may also be subject to **Massachusetts General Laws, Chapter 131, Section 40 (as amended), the Wetlands Protection Act.**

49C. Floodplain Overlay District Uses, See § 4.10, <b>Floodplain Overlay District, paragraph 7, Encouraged Uses,</b> for specific uses in this district. See § 4.10, paragraph 7., <b>"Encouraged Uses" of the Zoning Bylaw</b>	No	No	No	No	No	No	No	No	No
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50. Open-lot storage or sale of building material, coal, or other similar materials or junk or salvaged materials.	No	No	No	No	No	No	No	No	No
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50A. Commercial and non-commercial manned aircraft landing areas (including on structures)									No	No
51. Within a dwelling unit, the renting of not more than two rooms as a lodging without separate cooking facilities and for not more than two lodgers;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	

Principal Uses	Residence						Business		Ind. I
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in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in <b>§ 2.06, paragraph 1. 51A.</b> Within a dwelling unit in L, G, O, or I Districts, or in dwelling units of more than 2,000 square feet of gross floor area in T, F, and M Districts, the renting of not more than three rooms as a lodging without separate cooking facilities to not more than three lodgers; in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in <b>§ 2.06, paragraph 1. 51B.</b> Within a detached single-family owner-occupied dwelling in all zones or within an existing garage accessory to that dwelling, an Accessory Dwelling Unit as further defined and limited in <b>Section 4.05, paragraph 3.</b>	No	No	SP	SP	SP	SP	SP	SP	SP
52. Fraternity, sorority, or dormitory (except as provided in Use 52A) accessory to and located upon the campus of a permitted educational, religious or charitable institution, and provided no building shall be located nearer to the lot line of any lot in a residence district than twice the required front yard depth for that residence district.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
52A. Dormitory of a permitted	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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non-profit educational or religious institution, provided no building shall be located nearer to the side line of any lot in a residence district than the required front yard depth for that residence district.

\*Special permit required for such a dormitory not located upon the campus of such institution.

53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees.	SP*	No	No	No	No	No	No	No	No
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\*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.

54. An accessory private garage or parking area for noncommercial motor vehicles with not more than: three spaces per dwelling unit on that lot, except that there may be four spaces for a single-family dwelling on a 10,000 sq. ft. or larger lot; four spaces for a permitted nonresidential use.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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55. Other private garage* or parking for more non-commercial motor vehicles belonging to occupants or users of the lot than permitted in Use 54.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
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56. Garaging* or parking of not	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
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more than one commercial motor vehicle, boat, boat trailer, or camper on a lot containing less than 10 dwelling units, or not more than one such boat or vehicle for each 10 dwelling units on a lot containing more than 10 dwelling units, which boat or vehicle may not exceed 1 1/2 ton weight or capacity and which boat or vehicle shall be screened from all streets and adjoining properties.

\*Any private garage for four or more vehicles must also meet the requirements of the **M.G.L., Chapter 148, § 13 and 14.**

57. The keeping of horses, cows, goats, or other similar animals, other than pigs, or the keeping of poultry, pigeons, rabbits, or other similar birds or animals, or the keeping of bees, provided that no stable or enclosure for any animal may be less than 100 feet from any existing residence building on other premises in any district, or any obvious residence building site on other premises in an S, SC, T, F or M District; and provided that no stable or enclosure for more than four animals may be less than 100 feet from any premises occupied by a church, school, playground, library, or building of a public or eleemosynary institution, except where that distance is intersected by a street at least 60 feet wide; and further provided that no stable

Yes    Yes    Yes    Yes    Yes    Yes    Yes    Yes    Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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or enclosure in a S, SC, T, F or M District may be less than 100 feet from a street, nor contain more than 25 animals on the premises, and subject to such restrictions as to number, and as to location and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline.

58. Office within the place of residence of a physician or member of the clergy, subject to provisions of § 4.05, and if registered with the Building Commissioner.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
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\*Special permits required in residence districts for:

(a) a physician, or

(b) the use of more than one room or more floor area than 20% of the area of the ground floor of the dwelling unit, or

(c) the employment of a person who is not resident in the dwelling unit, or

(d) any clients visiting the premises. Members of the clergy are exempt from this provision.

58A. Office within the place of residence provided all of the following conditions are met, except that only condition (e) below needs to be met in the G-	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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(DP) and I-(EISD) Districts:

(a) the office occupies not more than one room;

(b) there are no nonresident employees;

(c) there are no clients visiting the premises (members of the clergy shall be exempt from this limitation);

(d) there are no signs nor other external evidence of the office; and

(e) there is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.

59. Office within the place of residence of a member of a recognized profession, other than a physician or member of the clergy, subject to provisions of § 4.05, and if registered with the Building Commissioner.

No	No	SP	Yes*	Yes*	Yes	Yes	Yes	Yes
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\*Special permits required in residence districts for:

(a) the use of more than one room or more floor area than 20% of the area of the ground floor of the dwelling unit, or

(b) the employment of a person who is not resident in the dwelling unit, or

(c) any clients visiting the



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	S	SC	T	F	M	L	G	O	

premises.

60. Customary home occupation for gain.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
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\*Special permit required if customers or pupils come to the house for business or instruction.

60A. Family child care home or Family child care plus home operated by an occupant of that household, as defined in draft <b>102 CMR 8.02</b> or its successor regulations, provided that no more than 6 children of less than school age, or up to 8 children if 2 are of school age, shall be cared for at one time, inclusive of children of the operator.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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60B. Large family child care home operated by an occupant of that household, as defined in draft <b>102 CMR 8.02</b> or its successor regulations, provided that no more than 10 children shall be cared for at one time, inclusive of children of the operator.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
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61. Non-commercial greenhouse, tool shed, Ground-Mounted Solar Photovoltaic Installation, or other similar accessory structure. To be considered an accessory use, Ground-Mounted Solar Photovoltaic Installations may not exceed 2,500 square feet of above-ground lot area nor	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F	G			O		

exceed 10% of the lot area, whichever is less, and shall be subject to use regulations described in **Section 5.06.4.h (3-13)** and the Town's Stormwater Management By-law. Additionally, in all districts, Ground-Mounted Solar Photovoltaic Installations that exceed 500 square feet of above-ground lot area, require a Special Permit.

\*Special permit required if in excess of 150 square feet of gross floor area except for Ground-Mounted Solar Photovoltaic Installations not attached to non-commercial greenhouse, tool shed or other similar accessory structure.

62. Swimming pool or tennis court except in required front yard (permitted in all districts*).	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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\*Special permit required for a swimming pool or tennis court in a required side or rear yard unless it is screened from side or rear lot lines by a strip of land at least four feet wide, densely planted with shrubs or trees which are of a type that may be expected to form a year-round dense screen at least six feet high for swimming pools and at least 10 feet high for tennis courts within three years.

63. Within a multiple dwelling, hotel or hospital containing more than 50 sleeping rooms or an office building in an O District: newsstand, barber	No	No	No	No	SP*	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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shop, dining room, and similar service primarily for occupants thereof, provided such use is conducted within and entered only from within the principal building.

\*Not permitted in M-0.5 Districts.

64. Retail sales and consumer services primarily for the occupants of an apartment development on a site of at least 6 acres, provided:	No	No	No	No	Yes	Yes	Yes	No	Yes
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(a) Not more than two per cent of the total gross floor area of all buildings on the same lot shall be devoted to such use;

(b) Not more than one-half of one per cent of such gross floor area shall be used for restaurant purposes including kitchen and services;

(c) Such facilities shall be developed and operated in harmony with the residential uses and shall not create an adverse environment for such residential uses by reasons of unsightliness, noise, congestion, odor, and similar factors.

65. Manufacture of goods for sale on the premises to the ultimate consumer provided in L Districts, except by special permit from the Board of Appeals, no products are processed for sale elsewhere	No	No	No	No	No	Yes	Yes	No	Yes
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
and personnel so engaged is limited to five persons at any one time.									
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No
66. Accessory laboratory.	No	No	No	No	SP*	SP*	SP	SP	SP**
*In permitted institutions only.									
**Permitted by special permit in I-(EISD) District in permitted institutions only and in accordance with <b>5.06.4.j</b> .									
67. Accessory outdoor storage of commodities or materials for processing or sale upon the premises, subject to such requirements for fencing or other screening as are deemed by the Board of Appeals to be necessary to protect the vicinity.	No	No	No	No	No	No	No	No	SP
68. The sale of gasoline and oil or making of minor repairs accessory to a permitted parking garage for more than 10 vehicles if carried on completely within the building.	No	No	SP	SP	SP	Yes	Yes	Yes	Yes
69. The stripping of loam or peat, except for re-use on the same property.	No	No	No	No	No	No	No	No	No
70. On-premises sign or other on-premises advertising device subject to the regulations of <b>Article VII</b> .	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
71. Other accessory use customarily incidental to a permitted principal use, and not normally conducted as an independent principal use or as an accessory to some other use,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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provided that any use accessory to a use permitted only under a special permit shall be established only if and as provided in such permit.

Footnotes:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.

2.

No manufact

**§ 5.06 SPECIAL DISTRICT REGULATIONS**

1. Purpose

The following Special District Regulations recognize that unique land use, environmental, architectural and other physical conditions present within the Town may require detailed neighborhood, district or site planning and design review to insure: orderly and planned growth and development; historic and natural resource conservation; residential neighborhood preservation; economic viability of commercial areas; and concurrent planning for transportation, infrastructure and related public improvements. To insure that the dimensional and related requirements of the Zoning By-Law address these unique conditions, Town Meeting, from time to time, in accordance with M.G.L. Chapter 40A, may establish Special District Regulations and the Board of Appeals may consider applications for Special Permits based on those regulations.

## 2. Establishment

The establishment of Special District Regulations shall be based on one or more of the following:

- a. A study of land use, building, environmental, economic, architectural, design or other physical features of an area or district that defines the conditions and purposes supporting the establishment of Special District Regulations and the geographic area that will be subject to the regulations.
- b. The Comprehensive Plan, neighborhood or commercial area plan that defines an area where Special District Regulations should be applied.
- c. A conceptual or schematic design plan for one or more parcels of land or buildings within a district that will benefit from Special District Regulations.

## 3. Procedures

Applicants for Special Permits, subject to Special District Regulations, shall submit to the Board of Appeals the supporting studies and plans defined by § 5.06.2.

## 4. Special Districts

### a. *Multiple or Attached Dwelling Development in S-0.75P District*

- 1) For a multiple or attached dwelling development in an S-0.75P District, in addition to the special permit findings in § 9.05, paragraph 1., the Board of Appeals must find that the development will preserve a substantial portion of the existing buildings on the site and significant architectural features thereof, particularly those buildings with historical significance.
- 2) Such developments shall be subject to the Community and Environmental Impact and Design Review procedures and standards of § 5.09, Design Review.
- 3) For such developments, the Board of Appeals may grant by special permit a maximum gross floor area and a number of dwelling units higher than permitted in Table 5.01 where any of the following conditions obtain, provided that the increase shall not exceed 10% for each condition below and shall not exceed 20% in total beyond what is permitted in Table 5.01, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements.
  - a) Setbacks of proposed buildings from abutting residential property: 1% bonus per 10% setback increase in excess of required. The setback shall be calculated as the weighted

average setback based on the length of the proposed building(s) from the nearest lot line abutting or across the street from residential property.

- b) Open space in excess of total required open space: 1% bonus per 10% extra open space (either landscaped, usable, or a combination thereof).
- c) Concealed parking: 1% bonus per 5% of required parking concealed below grade or within a residential structure.

b. *Coolidge Corner General Business District G-I.75 (CC)*

- 1) All applications in the G-I.75(CC) District shall be subject to **§ 5.09, Design Review**. The Preservation Commission, Transportation Board, or any other interested Town body may submit an advisory report to the Planning Board and Board of Appeals for their consideration. Any such reports shall be transmitted to the Board of Appeals with the Planning Board report and shall be considered therewith.
- 2) For such applications, the Board of Appeals may grant by special permit an increase in gross floor area subject to the procedures, limitations, and conditions of **Table 5.01** and **§ 5.21**.
- 3) For such applications, the gross floor area of the building used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in the main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements.
- 4) For such applications, the Board of Appeals may grant by special permit an increase in height in accordance with the procedures, limitations, and conditions of **Table 5.01** and **§ 5.32**.
- 5) For such applications, residential development shall be permitted above the first floor.
- 6) For such applications within the Waldo-Durgin Overlay District, the Board of Appeals may grant by special permit an increase in gross floor area or height subject to the procedures, limitations, and conditions of **§ 5.06.4.k**.

c. *Multiple or Attached Dwelling Development in S-0.5P District*

- 1) For multiple or attached dwelling developments in an S-0.5P District, in addition to the Special Permit findings in **§ 9.05, paragraph 1.**, the Board of Appeals must find that:

- a) the development will preserve a parcel of land of seven (7) acres or more as a single lot, with not less than 6 acres as open space, which may be in condominium ownership, and will preserve significant exterior architectural features of significant historical buildings on the site, but excluding minor buildings such as sheds, garages, greenhouses etc., located on said parcel and significant landscape and topographic features, and
  - b) at least seventy-five percent (75%) of all parking spaces required by the Zoning By-law will be located in a subsurface parking garage.
- 2) Such development shall be subject to the procedures and standards of § 5.09, **Design Review**.
- 3) For such development, the Board of Appeals may grant by Special Permit a maximum height greater than is permitted in **Table 5.01** for building(s) on a single lot, provided that the maximum height shall not exceed 70 feet. The Board of Appeals, however, may require a greater front yard setback for any part of the building taller than 40 feet if necessary to reduce the impact on abutting single family residences to a reasonable degree. Notwithstanding any other provision of this By-law, for the purpose of this § 5.06, **paragraph 3**, only, height is defined as the vertical distance to the top of the highest roof ridge from the average of finished ground level adjoining the building at all exterior walls.
- d. *General Business and Medical Research (GMR)*
- 1) All major impact applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District shall be subject to the requirements of § 5.09, Design Review, obtain a special permit per § 9.03, and meet the following requirements:
    - a) the maximum height shall not exceed 115 feet. The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.
    - b) no less than 35% of the total area of all lots within the GMR-2.0 District shall be devoted to open space, consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance with trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.



- c) The buildings shall be subject to the following special dimensional requirements, as illustrated in the Figure at the end of § 5.06(4)d:
- i) No buildings shall be constructed within the area defined by the north and west Pearl Street property lines, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area that it deems will best approximate the requirements of this subsection;
- ii) Any development that has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width that is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;
- iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed 65'-0" within the area defined by the Pearl Street north and east property lines, a line parallel to the north boundary line located 130'-0" from said boundary line, and a line perpendicular to the north boundary line located 115 feet from the intersection of the north and west boundary lines. It shall not exceed 55 feet within the portion of this area defined by the Pearl Street north and east property lines, and a line 30' from the east boundary line and parallel to said boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine an area that it deems will best approximate the requirements of this subsection. Only in the area in which the height of 65'-0" is permitted, substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;
- iv) The gross floor area of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;
- v) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in **Section 5.43**.

- d) no less than 25% of the provided parking spaces shall be offered to residents for overnight parking.
  - e) no less than 1% of the hard construction costs of constructing a building within the GMR-2.0 District (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation and community benefit mitigation measures. In addition to review by the Planning Board, a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees.
- 2) The parking requirements for applications in the GMR-2.0 District shall be reviewed as a single lot without regard to lot ownership and in light of the proximity to rapid public transit shall be as follows:
- a) retail use: one parking space per 533 g.s.f. of floor area
  - b) office use: one parking space per 800 g.s.f. of floor area
  - c) research laboratory use (Use 36B): one parking space per 1,250 g.s.f. of floor area
  - d) Medical office use: one parking space per 467 g.s.f. of floor area
  - e) For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement ("TAPA") that includes recognized Transportation Demand Management ("TDM") programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.

- f) The maximum number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones. The Board of Appeals may also approve, based on the criteria set forth in § 9.05, accommodation of up to 20% additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.
- 3) All structures and uses in the GMR-2.0 District shall be subject to the following provisions, including both developments that constitute major impact projects and developments that do not constitute major impact projects:
  - a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height that it deems will best approximate the requirements of this subsection.
  - b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.
  - c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue property lines shall be no taller than 30 feet, as illustrated in the Figure at the end of § 5.06(4)d. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area that it deems will best approximate the requirements of this subsection.
  - d) Prior to the issuance of any special permit for a major impact project under § 5.06(4)d(1), the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact project under § 5.06(4)d(1) that has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.
- 4) A special permit granted under this section as well as special permits granted under other sections of the Zoning By-law that are combined in a single decision with the special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

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

[\[Image\]](#)

**Figure 5.02a - Special Dimensional Requirements for the GMR District**

- e. *Fisher Hill Town-Owned Reservoir Site Mixed Income Housing Overlay*
  - 1) It is found that the Fisher Hill Town-Owned Reservoir Site (the "Site") has been identified in the Town's Comprehensive Plan and through a Fisher Hill Planning Process ("Planning Process") as an appropriate site for mixed-income housing development of a high quality and contextual design. For this reason, the development of the Site shall be permitted under the criteria of this section. It is further found that, due to the sensitive nature of the Site, a construction oversight committee of neighbors and other stakeholders will be charged to advise the Building Commissioner during construction.
  - 2) Any applicant may seek relief under this overlay, provided it meets the following requirements:
    - a) It contains no more than 40 units of housing.
    - b) More than 50% of the units on the Site shall be affordable, defined generally in accordance with **Section 4.08.2.c**, to households with incomes up to 120% of median income, defined in accordance with **Section 4.08.2.f**. These units shall include at least 25% of the units on the Site that shall be affordable to households with incomes up to 80% of median income and which shall also qualify for the Town's Subsidized Housing inventory as per Massachusetts General Laws Chapter 40B and 760 CMR 56., including requirements for minimum unit size. In no case, however, shall an affordable unit be smaller than those sizes listed in **Section 4.08.6.c** of the Zoning Bylaw. These affordable units shall, to the extent feasible, consist of an equal mix of 2 and 3 bedroom units.
  - 3) Any development plan that is created under this overlay district shall include the full design and/or design guidelines for each component of the development as well as landscape guidelines for the overall district. The Planning Board shall review and approve the guidelines with any modifications the Board sees fit. The approved design and/or guidelines shall be binding on any future purchaser or developer of any component of the development.
  - 4) A project that qualifies for use of this overlay district shall be subject to the following review criteria and process:

- a) The applicant shall apply for a Special Permit, which the Board of Appeals may grant if, upon review of a master site plan, it finds that the project meets the following criteria:
- 1) It has met all the requirements of **Section 9.05** of the Zoning Bylaw;
  - 2) It has met the requirements of **Section 5.09** of the Zoning Bylaw relating to Design Review for a Major Impact Project;
  - 3) It is consistent with the design guidelines **approved** by the Planning Board as per **5.06.4.e.3** above;
  - 4) It has a viable plan for maintaining affordability for the longest period permitted by law that has been approved by the Department of Planning and Community Development.
- b) A preliminary subdivision plan for the Site must be approved by the Planning Board. In addition, if any Approval Not Required lots are to be created along Fisher Avenue as part of this project, the Planning Board must complete its review of the ANR plan. A definitive subdivision plan that addresses any conditions placed on the preliminary plan and ANR lots may be submitted subsequent to receipt of this Special Permit. A Special Permit granted under this overlay shall be conditioned upon approval of the definitive subdivision.
- c) If this initial Special Permit is granted, and the land is subdivided as per the approved definitive subdivision plan, construction on each lot shall be permitted subject to the conditions set forth in the Special Permit, which shall include design review by the Planning Board. Such design review shall be conducted as per sign/facade review in **Section 7** of the Zoning Bylaw, and shall determine consistence with the project Special Permit, including design guidelines. The specific location of each single-family detached and attached dwelling unit within a parcel may be adjusted as part of this review, provided that it meets all setback requirements and is otherwise consistent with the dimensional requirements of the Special Permit and design guidelines.
- d) Any lot that is created as part of this process and is not built upon within 3 years of issuance of the Special Permit must be landscaped consistent with the overall landscape plan approved for the Site as part of the Special Permit.
- 5) Any Special Permit sought under this overlay district shall permit the following uses for lots located in their entirety more than 100 feet from Fisher Avenue:

- a) Principal Use 5 (attached dwelling unit). For this use, no side yard setback is required on the attached side of the structure.
- b) Principal Use 4A (dwelling in a separate lot for three families or attached dwelling on a separate lot for two families); however, only three-family dwellings shall be permitted; and
- c) Principal Use 6 (multiple or attached dwelling of four or more units), provided that no more than 4 units may be contained on any one lot other than as provided for in 5.06.e.6.a.4 below.

Any other uses sought shall be in accordance with other relevant sections of this Zoning Bylaw.

- 6) Any Special Permit sought under this overlay district shall permit development subject to the following dimensional requirements, superseding any conflicting requirements in Sections 5 and 6 of the Zoning Bylaw for the underlying zoning district.
  - a) Provided that the Site is laid out consistent with the design guidelines outlined above and in the Planning Process, the Site may be developed subject to the following restrictions:
    1. An overall maximum Floor Area Ratio of 0.4, or a maximum total of 72,000 square feet shall be permitted.
    2. No building located on any part of the Site other than the "Multifamily Lot" referred to in 5.06.e.6.4.a. below, shall be larger than 4,500 square feet of Gross Floor Area.
    3. No attached single-family dwelling unit shall be larger than 3,500 square feet.
    4. One lot ("the Multifamily Lot") shall be permitted to have a set of buildings under uses 4A, 5, and 6, provided the Gross Floor Area of these buildings does not exceed 36,000 square feet.
  - b) Minimum lot sizes and widths, yard setbacks, and open space requirements in the overlay may be reduced as part of the overall Special Permit provide the plan is consistent with the vision for the Site referred to in the Planning Process. However, no more than four lots on the site shall be smaller than the 15,000 square feet.
  - c) Consistent with the Town's Planning Process, more than one principal structure shall be permitted on the same lot, for the Multifamily Lot only. For that parcel only, the maximum height permitted may also be increased to 45 feet. For all other buildings, the base zoning district maximum height requirement of 35 feet shall apply.

- d) Consistent with the Town's Planning Process, parking requirements under **Article 6** of the Zoning Bylaw may be modified. In particular, the parking requirement for the affordable units shall be 1.75 spaces per unit. A significant majority of the parking shall be located below grade, in garages, or otherwise shielded from public view.
- e) Consistent with the higher level of affordability on this site required by the Town's Planning Process, **Section 4.08** of the Zoning Bylaw shall not apply to projects using this overlay, with the exception of the minimum unit sizes in **Section 4.08.6.c**.
- f) These dimensional restrictions apply to the overlay district as a whole and shall not be exceeded on the Site if it is developed by more than one applicant.

Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.

- 7) Once any lot in the Site is subdivided and conveyed to be used for construction of a single-family home or an attached dwelling unit (a "Sold Lot"), the Sold Lot shall not be in violation of this **Section 5.06.4.e** or any other provision of the Zoning Bylaw or any Special Permit granted with respect to the Site by virtue of any violation of any other lot in the Site. Likewise, no other lot in the Site shall be in violation of this **Section 5.06.4.e** or any other provision of the Zoning Bylaw or any Special Permit granted with respect to the Site by virtue of any violation of any Sold Lot.

[\[Image\]](#)

**Figure 5.02b - Height of Building Measurements in the G-(DP) District**

f. *Cleveland Circle Local Business District L-0.5(CL)*

- 1) It has been determined through study of the Local Business District in Cleveland Circle that there exists potential for redevelopment of much of this district. It has further been determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston, any redevelopment in this district would need to be closely analyzed for its impacts on the roadway, transit and pedestrian system and for its overall design taking into consideration previous mitigation due to traffic flow patterns within the district.
- 2) All applications in the L-0.5(CL) district shall be subject to **§ 5.09**, Design Review. Further, any development in this district shall, for the purposes of determining if it is a Major Impact Project under **§ 5.09.3.b.**, be viewed in its entirety, even if a portion of the project is located in another municipality.
- 3) All Major Impact Projects in this special district shall be required to submit a traffic impact and access study that clearly outlines the strategy for providing access to and from the proposed development and the impacts of that access on the transportation

system of the Town, the area's mass transit systems, pedestrian and bicycle circulation, and public safety in this area. The Board of Appeals may condition any Special Permit under § 5.09 on a specific plan for traffic mitigation that will take into consideration previous mitigation due to traffic patterns within the district and, if appropriate, compliance with an approved Transportation Demand Management program.

- 4) In any review of a project that is located across municipal boundaries, the project and improvements shall be reviewed as a single lot, without regard to municipal boundaries, in connection with parking requirements or setbacks. Additionally, any Design Review per **Section 5.09** shall include review and approval of the entire length of the facade facing the MBTA property line as well as any lighting proposed along this length, irrespective of municipal boundaries. Such facade shall be designed and constructed with care and quality of finishes equivalent to the northern facade.

*g. Davis Path Special District G- (DP)*

- 1) It has been found through study by the Davis Path Special District Zoning Study Committee that very specific rules are required to encourage appropriate redevelopment of the Davis Path Special District, due to the combination of the close proximity of the White Place National Register District, which contains residential uses on lots that are relatively shallow in depth, the substantial differences in elevation between the Davis Path Special District and the White Place district, the substantial differences in the scale of existing buildings in the White Place district and existing and proposed development in the Davis Path Special District, and the solar orientation of White Place district and the Davis Path Special District. Following a comprehensive study by financial, architecture, and transportation experts, the Committee further concluded that the concepts relating to Building Envelope, facade articulation, and parking requirements have only been deemed appropriate for this Special District, and not intended to affect other districts.
- 2) For the purposes of the Special District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet may be located in the same building as a Limited Service Hotel without being considered an accessory use.
- 3) Building Envelope
  - a) This section describes the three dimensional space within which all Building Construction must occur, subject to further limitations and exceptions as provided in this **Section 5.06.4.g**. Notwithstanding the provisions of **Section 5.31**, Building Construction shall include all portions of a structured parking area or building, including elevator penthouses, mechanical equipment enclosures, water tanks and



water towers, and cooling towers, with only the exceptions set forth in **Section 5.06.4.g.3.e** below.

- b) Minimum Yard Setbacks shall be defined as follows:
  - i. 20 feet from the property line bordering the MBTA property.
  - ii. 7 feet from the property line bordering Davis Path.
  - iii. 5 feet from the property line bordering Boylston Street for the ground floor (excluding support columns).
  - iv. 5 feet from the eastern property line of the G-(DP) District.
- c) Height of Building shall be measured from the District Record Grade rather than as prescribed in **Section 5.30**. The District Record Grade shall be the record grade of Boylston Street at the edge of pavement opposite the midpoint of the southern boundary of the G-(DP) district. The Height of Building shall be in no case taller than 65'. Additionally, any elevator penthouse, mechanical equipment enclosure, water tanks and water towers, or cooling towers may in no case be taller than 80' from the District Record Grade. Notwithstanding the foregoing, in no case may any Building Construction exceed the Building Envelope set forth in **Section 5.06.4.g.3.d** below, except as expressly provided in **Section 5.06.4.g.3.e** below.
- d) The Building Envelope shall be further restricted by an Angled Plane beginning at an elevation 20 feet above the District Record Grade and aligned with the MBTA property line, with such plane rising toward Boylston Street at an angle of one foot of vertical height for every 2.25 horizontal feet from the MBTA property line in a direction perpendicular to the MBTA property line.
- e) Exceptions to the Building Envelope may be permitted only as follows:
  - i. Flag poles and transmission towers not exceeding 5 feet in horizontal width including appurtenant equipment;
  - ii. railings up to 44" high provided they are at least 75% open (measured at 90 degrees to the vertical surface);
  - iii. Seasonal shading devices, including any awnings and canopies, provided they are removed between October 1st and April 1st; and
  - iv. if within 72' of the Boylston Street property line, a projection or projections containing no more than 4,000 square feet of total gross floor area, such floor area to be measured by the area of the floor immediately below any mass that penetrates the

Angled Plane, but in no case 15 feet above the Building Envelope at any point as shown in Figure 5.02d.

- 4) No relief by Special Permit may be approved for setbacks, height, floor area ratio, or projections above the defined Building Envelope beyond any provisions specified in this **Section 5.06.4.g**. For example, relief from setbacks per **Section 5.43** shall not be available for buildings within these provisions. Similarly, the "public benefit incentive" exceptions to floor area ratio and height regulations set forth in **Sections 5.21 and 5.32** shall not apply.
- 5) Any building facade parallel to or within 45° of parallel to any property line other than the eastern property line shall be designed and constructed with care and quality of design equivalent to the Boylston Street facade. Visual articulation shall be achieved for each such facade by (a) employing variations in materials and/or ensuring that no portion of any such facade is coplanar for more than 3,500 square feet without a change in depth of 2 feet or more in depth, or (b) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for reasons expressed in such written determination. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to facade design.
- 6) Nearby properties, including properties north of the MBTA property, shall be visually screened and protected from the lights of any parking lot or garage by compliance with the requirements of **Section 6.04.6**, notwithstanding the fact that such properties do not abut and are not across the street from any proposed parking lot or garage.
- 7) All applications for new structures, outdoor uses, and exterior alterations or additions in the G-(DP) District which seek a floor area ratio (FAR) greater than 1.0 or reduced parking requirements shall be permitted only on a lot no less than 28,000 square feet in contiguous area, shall be subject to the requirements of **Section 5.09**, Design Review, obtain a special permit pursuant to **Section 9.03**, and meet the following requirements:
  - a) All underlying provisions described in **Section 5.04.6.g.1 to 5.04.6.g.6** above.
  - b) An FAR above 1.0 may be increased by special permit up to 3.0 for Principal Use 8A (Limited Service Hotel), up to 2.0 for other residential uses, and up to 2.25 for all other uses. Where a building contains more than one use, the gross floor area attributable to each use (including an allocated portion of any common areas) shall be computed and divided by the total allowable gross floor area for such use to determine a percentage. The total of all percentages for all uses shall not exceed 100%.

- c) Parking and Vehicular Requirements.
  - i. Parking requirements may be reduced from **Section 6.02, Paragraph 1**, the Table of Off-Street Parking Space Requirements, for the following uses:
    - 1. Residential studio units that are less than 500 net square feet in size: 1.0 parking spaces per dwelling unit
    - 2. Residential units that are less than 700 net square feet in size and have less than 2 bedrooms: 1.25 parking spaces per dwelling unit
    - 3. Limited Service Hotel: 0.5 spaces per room and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes
    - 4. Retail: one space per 500 g.s.f.
    - 5. Office: one space per 600 g.s.f.
    - 6. Medical and Dental Office: one space per 400 g.s.f.
  - ii. In addition to relief available under **Section 6.04.14.c**, the width of a building facade facing or within 45 degrees of parallel to the Boylston Street property line devoted to the entrance or exit of a garage, carport, loading dock, parking area or other vehicular use may as of right:
    - 1. exceed twenty-four feet in width, provided, however, that no such individual entrance or exit shall exceed 30 feet in width and the total width of all entrances and exits shall not be more than 40% of the facade; and
    - 2. in the case of multiple entrances, the measurement shall not include the portion of any facade between the entrances that is usable floor area.
  - iii. Notwithstanding the provisions of **Section 6.06.6**, only one loading dock shall be required.
  - iv. Notwithstanding the provisions of footnote 1 of the **Table 5.01 Dimensional Requirements**, the entrance to a garage or covered vehicular passage facing the street shall be at least 5 feet from the street lot line.
- d) The applicant shall provide trees at regular intervals approximately every 25' along the public sidewalk of Boylston Street. The final design of landscaping along the public sidewalk shall be approved by the Director of Parks & Open Space or his/her designee.

- e) In addition to (d) above, the applicant shall devote no less than 1% of the hard construction costs (including any site work, above-ground or underground structures, but exclusive of tenant fit-up) towards improvements to the adjacent Davis Path and/or Boylston Street Playground, with such improvements subject to the review and approval of the Director of Parks & Open Space or his/her designee, or, in the alternative, the applicant shall make a cash payment to the Town in an equivalent amount to be utilized by the Town for such purposes.

[Image]

**Figure 5.02c - Angled Plane Diagram**

[Image]

**Figure 5.02d - Diagram of Allowable Projection Above Angled Plane**

- h. *Renewable Energy Overlay District (SOL)*
  - 1) The Town is interested in being designated a Green Community by the Commonwealth of Massachusetts. The Town is also committed to decreasing its carbon footprint by encouraging the development of alternative energy supplies. For these reasons, the Town has surveyed potential sites for a renewable energy facility and created this overlay district.
  - 2) Notwithstanding any other portion of the Zoning Bylaw, including **Section 4.07 - Table of Uses**, the location of renewable energy generation facilities in the form of ground-mounted solar photovoltaic arrays shall be permitted by-right in this district. While both large- and small-scale solar photovoltaic facilities are allowed, large-scale solar photovoltaic facilities are encouraged.
  - 3) **Compliance with Laws, By-laws and Regulations:** The construction and operation of all solar photovoltaic installations, large or small, shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
  - 4) No ground-based solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
  - 5) **Site Plan Review:** Such facilities shall be subject to site plan review by the Planning Board to ensure that the facility is adequately set back from neighboring properties, reasonably shielded from view, and that utility connections are adequately screened. Such site plan review shall be conducted in accordance with the design review

process outlined in **Section 7.03, paragraph 2**, of the Zoning Bylaw with the exception that such site plan review is not discretionary and any conditions attached cannot render a Large Scale Solar Facility (of at least 250 kW DC) infeasible. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, the project proponent shall provide to the Planning Board the following documents:

- a. A site plan showing:
  - i. Property lines and physical features, including roads, for the project site;
  - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
  - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - vi. Name, address, and contact information for proposed system installer;
  - vii. Name, address, phone number and signatures of the project proponent, as well as all co-proponents or property owners, if any;
  - viii. The name, contact information and signature of any agents representing the project proponent; and
- b. Documentation of actual or prospective access and control of the project site;
- c. An operation and maintenance plan;
- d. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- e. Proof of liability insurance; and

- f. Description of financial surety that satisfies subparagraph 13.cof this section.
- 6) **Site Control:** The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
- 7) **Operation & Maintenance Plan:** The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
- 8) **Utility Notification:** No ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 9) **Dimension and Density Requirements**
  - a. **Setbacks:** For ground-mounted solar photovoltaic installations, all setbacks from lot lines shall be at least 25 feet. As part of Site Plan Review, the Planning Board may require larger setbacks if appropriate for screening, provided, however, that such larger setbacks shall not have the effect of rendering a Large Scale Solar Facility (of at least 250 kW DC) infeasible.
  - b. **Appurtenant Structures:** All appurtenant structures to ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
- 10) **Design Standards**
  - a. **Lighting:** Lighting of ground-mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed

downward and away from residential structures and shall incorporate full cut-off-fixtures to reduce light pollution.

- b. **Signage:** Signs on ground-mounted solar photovoltaic installations shall comply with the regulations of **Article 7**. A sign consistent with these regulations shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
- c. **Utility Connections:** Reasonable efforts, as determined by the Building Commissioner, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider, however, they shall be screened from view.

#### **11) Safety and Environmental Standards**

- a. **Emergency Services:** The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- b. **Land Clearing, Soil Erosion, and Habitat Impacts:** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar photovoltaic installation, or otherwise prescribed by applicable laws, regulations, and bylaws.

#### **12) Monitoring and Maintenance**

- a. **Solar Photovoltaic Installation Conditions:** The ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level applicable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

- b. **Modifications:** All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

### 13) **Abandonment or Decommissioning**

- a. **Removal Requirements:** Any ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with subparagraph **13.b** of this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning of the installation shall consist of:
  - i. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment security barriers and transmission lines from the site.
  - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Commissioner may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- b. **Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.
- c. **Financial Surety:** Proponents of ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Building Commissioner, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified



engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

i. *Cleveland Circle Hotel Overlay District*

- 1) It has been determined through study of the Local Business District in Cleveland Circle that potential exists for appropriate, planned redevelopment of the western side of this Local Business District. It has further been determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston that this is an appropriate district for development density consistent with transit oriented development schemes. For this reason, additional uses typical of transit oriented developments may be permitted under the criteria of this section, as long as such development is planned in a way consistent with other pedestrian-friendly commercial properties in Cleveland Circle.
- 2) Any applicant may seek relief under this Overlay District by Special Permit per **Section 9.03** and Design Review by **Section 5.09**, provided it meets the following requirements within the Town of Brookline:
  - a) It contains a minimum of 40 Limited Service Hotel guest rooms.
  - b) The Floor Area Ratio of the proposed project shall be no less than 2.2 and no greater than 2.5.
- 3) For the purposes of this Overlay District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet under separate ownership and operation from a Limited Service Hotel may be located in the same building as the Limited Service Hotel without being considered as an accessory use, or as part of the Limited Service Hotel use.
- 4) Any application requesting relief under this Overlay District shall be subject to the following dimensional requirements, superseding any conflicting requirements in **Article 5** of the Zoning By-law. Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning By-law.
  - a) **Maximum Floor Area Ratio:** There is a strong desire for pedestrian-friendly uses along Chestnut Hill Avenue in this Overlay District, which has a grade change of more than 8' along this edge of the District. Therefore, with regards to calculating Gross Floor Area in this Overlay District, up to 10,000 square feet of area on the ground floor fronting Chestnut Hill Avenue may have finished floor to ceiling heights greater than 12', but no greater than 18', without requiring the Gross Floor Area to be calculated by multiplying this area by a factor greater than 1 where the floor to ceiling height exceeds 12'.

- b) Setbacks and Build-to Lines:
  - 1. Buildings shall not be greater than 15 feet nor less than 5 feet from the frontage of Chestnut Hill Avenue; and
  - 2. Any portion of building within 50' of the frontage of Chestnut Hill Avenue that is above three stories shall be set back not less than 5 feet from lower floors, along all facades. For the purposes of this Overlay District, "Story" shall be defined as that portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above, whether or not such space is enclosed; and
  - 3. Buildings shall be set back not less than 5 feet from the MBTA right-of-way.
- c) The maximum height permitted is 56 feet;
- d) Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment shall not be located within 15' of the MBTA property line.
- e) A screen fence along the property line with the MBTA right-of-way which exceeds a height of seven feet may be allowed by Special Permit granted by the Board of Appeals.
- 5) Parking requirements for Special Permit applications utilizing this Overlay District shall be as follows, superseding any conflicting requirements under **Article 6**:
  - a) Minimum Parking ratios:
    - 1. Limited Service Hotel use: 0.5 parking spaces per hotel room
    - 2. Retail use: 0.75 parking spaces per 1,000 g.s.f. of floor area
    - 3. Restaurant use: 1 parking space per 1,000 g.s.f. of floor area
    - 4. Office/Medical office use: 1 parking space per 1,000 g.s.f. of floor area
  - b) Subject to the approval of the Brookline Director of Transportation and Engineering, the required off-street loading facilities under **Section 6.06.6** may be limited to the provision of 2 loading bays.
  - c) Any other parking relief sought shall be pursued as per any other relevant sections of this Zoning By-law.
  - 6) The following traffic mitigation measures shall be required, subject to the review and approval of the Brookline Director of Transportation and Engineering:

- a) Vehicle ingress and egress:
1. Vehicle ingress and egress to and from Chestnut Hill Avenue shall be via no more than one curb cut two lanes in width, controlled by a traffic signal. Such traffic signal shall include demand-actuated technology such that the light phase for egress from the Overlay District will not be triggered when there is no demand.
  2. A segregated parking facility containing not less than 60 vehicle parking spaces shall be provided for the exclusive use of the Limited Service Hotel guests, visitors and employees. Vehicle egress for all users of this segregated parking facility shall be via the one-way rear exit roadway easement to Beacon Street. Both signage and physical barriers shall prohibit any vehicles entering the Limited Service Hotel segregated parking facility from exiting that facility back onto Chestnut Hill Avenue. To the extent a parking area is established to be shared by multiple uses, hotel users (except for taxicab/shuttle service vehicles and deliveries) parked in the shared parking area shall be required to exit the one way rear exit roadway to Beacon Street and other users shall exit via Chestnut Hill Avenue.
  3. Vehicle egress for all uses other than that of the Limited Service Hotel and for taxicab/shuttle service vehicles and deliveries shall be via the single Chestnut Hill Avenue curb cut. All vehicles exiting the site onto Chestnut Hill Avenue must be able to make either a left or a right turn. No right turn on a red light shall be permitted from the site onto Chestnut Hill Avenue.
  4. Taxicab stand and taxi pickup and drop-off shall be provided in an adjacent area on both the Brookline and the Boston segments of the site.
- b) Final traffic design and mitigation shall be required and include the potential impact of the redevelopment of any directly abutting parcels, regardless of municipal boundaries. Specifically, the traffic design and mitigation shall allow for no more than a total of 110,000 square feet of Limited Service Hotel use; 48,000 square feet of office or medical office; and 18,000 square feet of restaurant or retail use.
- c) Pedestrian improvements shall include:
1. Improvements to two pedestrian crossings across Chestnut Hill Avenue, including at Cleveland Circle as well as the crossing aligned with vehicular turn-around at the MBTA station south of the MBTA right-of-way. A third pedestrian crossing shall be provided where the signal for the Chestnut Hill Avenue entrance will be located, near the Boston/Brookline boundary, if approved by the Brookline Director of Transportation and Engineering as well as Boston Transportation Department.

2. Sidewalk improvements on the western side of Chestnut Hill Avenue shall include a minimum 10' wide sidewalk from the Brookline Boundary to the MBTA bridge and a replacement of sidewalk from the MBTA bridge to Clinton Road.
- 7) Noise. A required condition for any Special Permit under this Overlay shall be an enforceable agreement and/or condition to the Special Permit that requires the property owner to comply with the requirements any Noise By-law or ordinance of both Brookline and Boston, without regard to municipal boundaries.

j. *Emerald Island Special District*

- 1) The Emerald Island Special District - the area bounded by River Road, Brookline Avenue, and Washington Street - is an area in transition. It has been determined through study by the River Road Study Committee that specific zoning parameters are required to encourage appropriate redevelopment of this district. In developing these zoning parameters, due consideration has been given to the prominent location of this area as a major gateway to Brookline. The proximity of the Muddy River, Emerald Necklace, Longwood Medical Area as well as the differences in the scale of existing buildings, recently permitted and proposed developments, access to transit, and the solar orientation of sensitive nearby uses, including the residences of Village Way and Emerald Necklace Park all combined to shape the Special District parameters. Following a comprehensive study by financial, architecture, urban design and real estate experts, the Committee further concluded that the following concepts related to allowed uses, building heights, building form, parking requirements and the public realm are appropriate for this Special District.
- 2) Definitions. For the purposes of Section 5.06.4.j, the following terms shall have the listed definitions:
  - a. Micro Unit Dwelling: A building where a minimum of 50% of residential units measure no greater than 500 square feet in gross floor area. Buildings containing Micro Units may have flexible common areas for living and/or working.
  - b. Age Restricted Dwelling: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units

or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.

- 3) All applications for new structures, outdoor uses, and exterior alterations in the Emerald Island Special District which exceed a floor area ratio of 1.0, a height greater than 40' and/or seek alternative parking and loading zone requirements shall be permitted only on lots greater than 13,600 square feet in contiguous area and only for the uses described in **Section 5.06.4.j.4**, shall be subject to Site Plan Review by the Planning Board as described in **Section 5.06.4.j.5**, shall be subject to the requirements of **Section 5.09**, Design Review, shall obtain a special permit per **Section 9.03**, and shall meet the following requirements:
  - a. Setbacks and Sidewalk Widths:
    - i. All buildings shall be setback 10 feet from the mid-district drainage easement as shown in Figure 5.06.4.j.1 below.
    - ii. All buildings shall be setback 45 feet from the Point of Intersecting Tangents of Brookline Avenue and River Road as shown in Figure 5.06.4.j.2 below.
    - iii. Notwithstanding **Section 5.01** and other than as provided in **Sections 5.06.4.j.3.a.i** and **5.06.4.j.3.a.ii**, there shall be no additional setback requirements except as is necessary to achieve the required sidewalk widths for the district. For the purposes of the EISD only, sidewalk shall be defined as the area between the building facade and the face of the curb. The required sidewalk width shall be measured from the ground level of the proposed building facade to the face of the curb at the time of special permit application. All sidewalks shall maintain a minimum 5 foot wide walkway clear from all obstructions, including, but not limited to tree pits, structural columns and street furniture. The minimum sidewalk width along Brookline Avenue and River Road shall be no less than 12 feet. The minimum sidewalk width along Washington Street shall be no less than 10 feet.
    - iv. Where it can be demonstrated that achieving the required sidewalk width would be infeasible in limited areas, the Board of Appeals may by special permit reduce the required width of the affected areas to no less than 8 feet on Washington Street and River Road. No relief may be granted for a reduction in sidewalk width along Brookline Avenue. Applicants for a special permit to reduce the width of a sidewalk shall provide written and graphic documentation to the Planning Board illustrating why the required width is not attainable in the affected area. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to reduce the width of the sidewalk in limited areas. Where relief is granted,

applicants shall provide counterbalancing amenities in the form of wider sidewalks and/or landscaping on-site or in the immediate area adjacent to their site, subject to the review and approval of the Planning Board.

[\[Image\]](#)

**Figure 5.06.4.j.1 Setbacks from Mid-District Drainage Easement**

[\[Image\]](#)

**Figure 5.06.4.j.2 Northern District Edge Sideyard Setback**

- b. The minimum finished floor to floor height for all ground floor levels shall be no less than 15 feet.
- c. No permanent on-site parking spaces shall be located on the ground level in the Special District.
- d. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.
- e. Street trees shall be provided at regular intervals approximately every 25 feet along the sidewalks of Brookline Avenue, Washington Street and River Road. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public way shall be approved by the Director of Parks and Open Space or his/her designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or his/her designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.
- f. The applicant shall devote no less than 1% of the hard construction cost of constructing its project, (including any building, site work, above ground or underground structures, but exclusive of tenant fit-up) to making off-site, streetscape and parks improvements within 500 feet of the Special District boundaries. In addition to review by the Planning Board, a plan of the proposed off-site improvements shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees.

Alternatively, with the approval of the Director of Transportation and the Director of Parks and Open Space, the applicant may make a financial contribution to the Town in an equivalent dollar amount to be used by the Town for such purposes.

- g. Public seating and pedestrian-scale lighting shall be provided at regular intervals. The location, number and design of all seating and lighting in the public way shall be approved by the Director of Parks and Open Space or his/her designee.
  - h. Notwithstanding the provisions of **Sections 6.06.6** and **6.07**, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in **Section 5.06.4.j.5** below.
  - i. A building shall not have more than 30% of its frontage along a street devoted to residential use including associated lobby use.
  - j. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential, or office, or hotel use without being considered an accessory use.
- 4) Exceptions to Maximum FAR and Maximum Height
- a. Additional height may be granted by special permit up to 85 feet for buildings primarily containing Micro Unit Dwellings, Age Restricted Dwellings or the following uses: 6B (Dwelling, Live/Work Space); 8 (Hotel); 8A (Limited Service Hotel); 20 (Medical Office); 21 (Professional Office); 29 (Store less than 5,000 SF), 30 (Eating Place less than 5,000 SF); 33 (Stores not exceeding 10,000 SF); 33a (Stores over 10,000 SF); 34 (Place for the sale and consumption of food and beverages exceeding 5,000 SF); 66 (Accessory Laboratory), only for buildings located a minimum of 189.12 feet from the intersection of Washington Street and Brookline Avenue, provided that the footprint of any building mass above a height of 65 feet covers no more than 55% of the lot area. Buildings may also contain Principal Uses 18A (Small Group Health/Fitness), 20a (Licensed Veterinarian), and 32 (Service Business) provided that such uses occupy no more than 25% of the building. The required 189.12 foot distance from the intersection of Washington Street and Brookline Avenue shall be measured from the Point of Intersecting Tangents as show in Figure 5.06.4.j.3 below.
  - b. Additional height of up to 110 feet may be granted by special permit for buildings containing only the following uses: 8 (Hotel) and 8A (Limited Service Hotel) and only for buildings with frontage on Washington Street provided that the footprint of any building mass covers no more of the lot area than is specified in Table 5.06.4.j.1 and as depicted in Figure 5.06.4.j.4 below. Where an applicant can demonstrate that

additional lot coverage for any building mass above 35 feet would result in an improved building design, the Board of Appeals may by special permit grant an increase in the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. Applicants for a special permit to increase the maximum percentage of lot coverage shall provide written and graphic documentation to the Planning Board and Design Advisory Team illustrating how the building design has improved. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. The Design Advisory Team shall provide a similar affirmative written recommendation.

**Table 5.06.4.j.1 Maximum % Lot Area Coverage by Building Height**

Building Mass Heights	Maximum % Lot Area Coverage	Maximum % Lot Area Coverage By Special Permit with Planning Board Recommendation
0 up to 15'	80%	N/A
15' up to 35'	92%	N/A
35' up to 50'	80%	85%
50' up to 75'	75%	80%
75' up to 110'	50%	55%

5) Site Plan Review

- a. All applications for new structures shall be subject to site plan review by the Planning Board to: ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:
  - i. Property lines and physical features, including roads, driveways, loading areas and trash storage for the project site;



- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting and exterior lighting.

[\[Image\]](#)

**FIGURE 5.06.4.j.3 Required Distance from Washington Street**

[\[Image\]](#)

**FIGURE 5.06.4.j.4 Maximum % Lot Coverage by Building Height**

- 5) Parking and Vehicular Requirements:
  - a. Notwithstanding **Section 6.02**, there shall be no minimum parking requirements for the following uses and such uses shall have the maximum parking limits noted in Table 5.06.4.j.2 below.
  - b. Notwithstanding the above, where it can be demonstrated that additional parking is needed, the Board of Appeals may by special permit increase the maximum parking ratio by no more than 20%. Applicants for a special permit to increase the maximum parking ratio shall provide written documentation to the Planning Board demonstrating the need for additional parking. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum parking ratio by no more than 20%.
  - c. Notwithstanding the above, dedicated spaces for Car Sharing Organizations (CSO) may be provided without regard to such maximum parking limits. If such dedicated parking spaces are not leased by any CSO they shall be dedicated to bicycle parking and appropriate bicycle parking hardware shall be provided.

**Table 5.06.4.j.2 - Maximum Parking Limits**

USE	MAXIMUM PARKING
Age Restricted Dwelling	1.25 per unit
Principal Use 6B (Live/Work space)	0.50 per unit
Micro Unit Dwelling	0.50 per unit
Principal Use 8 (Hotel) and 8a (Limited Service Hotel)	0.40 per room
Principal Uses:	
18A (Small group health/fitness); 20 (medical office); 20a (Licensed veterinarian); 21 (professional office); 29 (store less than 5,000K SF); 30 (Eating places less than 5,000K SF); 32 (Service use business); 33 (Stores not exceeding 10,000K SF); 33a (Stores over 10,000K SF); 34 (Place for sale and consumption of food not	1.50 per 1,000 SF

exceeding 5,000K SF); 66A (Accessory Laboratory)

7) Design Standards:

- a. Building facades parallel to or within 45 degrees of parallel to any property line shall be designed and constructed with equal care and quality. Visual articulation shall be achieved for each facade by (a) employing variations in materials and/or ensuring that no portion of any such facade is coplanar or unbroken for more than 3,500 square feet without a change in depth of 2 feet or more, or (b) utilizing alternative methods of vertical or horizontal articulation, or (c) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for the reasons expressed in such written determination. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to facade design. During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Emerald Island Special District Design Guidelines developed by the River Road Study Committee for guidance on general exterior massing, scale and design.
- b. In order to minimize visual and audible impacts, all rooftop mechanical equipment shall be insulated and screened to the greatest extent possible from all public ways via substantial screening materials and/or shall be located in the interior of the building. Additionally, all rooftop mechanical equipment shall be located such that all shadow impacts are minimized.
- k. Waldo-Durgin Overlay District
  - 1) It has been determined through study of the northeast block of Coolidge Corner that potential exists for careful, planned redevelopment. It has further been determined that, due to the circulation patterns as well as the adjacency of this area to cultural anchors, retail businesses, transit systems and residential neighborhoods, a mix of residential and commercial uses are appropriate.
  - 2) At any point prior to June 1, 2020, an applicant may seek relief by Special Permit under this Overlay District by completing the Design Review preapplication process as set forth in **Section 5.09(3)(a)(2)** provided the proposed project includes the following requirements and limitations:
    - a. Includes a minimum of 57,000 square feet of contiguous land
    - b. Includes a Hotel component with at least 160 rooms.

- 3) The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.
  - a. The project must contain a minimum of 12% Open Space. For the purposes of this requirement, Open Space shall include parts of a Lot at ground level that meet one or more of the following criteria: contiguous landscaped areas that are at the least 200 square feet in size; and walkways open to the public that include planted containers, landscaped beds, and/or street trees.
  - b. Parking
    - i. All parking structures shall be located underground and shall be a maximum of 115,000 gross square feet in size.
    - ii. The number of parking spaces required per **Article 6** of the Zoning By-Law may be reduced at the request of the applicant, following review of a parking study and favorable recommendation by the Planning Board.
    - iii. Parking Infrastructure Flexibility – To encourage the reduction of vehicle use over time, an applicant may seek a modification to any Special Permit granted under **Section 5.06.4.k** to both reduce the number of required spaces and convert the use from underground parking to other allowed uses, subject to all other provisions of the By-Law with respect to use, as long as updated traffic and parking studies demonstrate those parking spaces are no longer needed. Any such below ground space, whether or not it is habitable, shall be excluded from the maximum Floor Area Ratio calculations.
    - iv. Any fees charged for parking must be separate from any rental, lease, sale, employment, contract or other arrangement permitting a user to occupy the building.
  - c. The Gross Floor Area Ratio for a project permitted pursuant to this section shall not exceed 6.0. If a Special Permit application includes less than 86,250 square feet of underground parking infrastructure, then, in addition to the review processes described in **Section 5.09** (Design Review) the applicant shall, prior to submitting a Special Permit application, request a public hearing with the Economic Development Advisory Board (EDAB) to review the financial feasibility of the project. Based on the information presented by the applicant and/or EDAB's consultant(s), if any, EDAB may make a recommendation to the Planning Board and Board of Appeals as to whether the Floor Area Ratio is justified.
  - d. The maximum building height may be 160' for portions of a building that are within 180' of Pleasant Street and 110' of John Street; otherwise, the maximum building

height is 125'. These maximum building heights do not include rooftop structures such as elevator penthouses and mechanical equipment. Building heights shall be measured from the District Record Grade rather than as prescribed in **Section 5.30**. The District Record Grade shall be the record grade of Pleasant Street at the edge of pavement opposite the midpoint of the Pleasant Street boundary of the Waldo-Durgin Overlay District.

[\[Image\]](#)

Figure 5.06.4.k.1 – Height of Building Measurements in the Waldo-Durgin Overlay District

- e. The residential component of the project shall not include more than 132 units that do not meet the Affordable Unit definition in **Section 4.08(2)(c)** nor shall it contain more than 13 habitable, above-ground stories of primarily residential use.
  - f. The non-residential component of the project shall not contain more than 10 habitable, above-ground stories.
  - g. No rear yard is required. The above-ground portion of any building shall be setback at least 10' from the property line bordering John Street.
  - h. Use Flexibility
  - i. The ground floor use along the entire length of Pleasant Street may only include the following uses as defined and regulated in **Section 4.07**, Table of Use Regulations: entertainment and recreation facility (Use 16), certain retail uses (Uses 29, 33, 33A), restaurants (Uses 30 and 34), and office (Use 35). Additionally, the building use along Pleasant Street must include at least one retail (Use 29, 33, or 33A), or restaurant (Use 30 or 34) space that is at least 30' wide along Pleasant Street and a minimum of 1,200 square feet in floor space.
  - ii. The ground floor of a residential building may have maximum frontage along a street that exceeds the 40% maximum in Use 6 in **Section 4.07** - Table of Use Regulations, if the applicant adequately demonstrates that: (i) the location of residential and non-residential uses of the ground floor are appropriate given the transition between residential and commercial neighborhoods; and (ii) the average frontage for the first floor is no more than 75% residential.
  - iii. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential or hotel use without being considered an accessory use.
- 4) Any application including new structures that seeks relief under this Overlay District Special Permit shall:

- a. be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading and passenger pick-up zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:
  - i. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;
  - ii. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site; and
  - iii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.
- b. Be deemed a Major Impact Project with respect to **Section 5.09**, Design Review.
- c. include as a condition of the special permit a Transportation Access Plan Agreement ("TAPA") approved by the Director of Transportation that includes Transportation Demand Management ("TDM") programs and an annual report review process. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within 60 days after they issue their determination. Failure to issue such a determination within 60 days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being

unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.

- 5) Allowing the additional density through the Special Permit contemplated by this Section has a potential benefit contemporaneous with its inclusion in the By-Law. However, planning objectives potentially achieved by this Section may not be met if substantial time elapses. Therefore, if upon closing the public hearing on a Special Permit under **Section 5.06.4.k**, the Board of Appeals finds: (a) more than two years has elapsed since the opening of the public hearing; and (b) the amount of elapsed time is, in the discretion of the Board, excessive and contravenes the planning objectives of Section 5.06.4.k, the Board may deny the request for a Waldo-Durgin Overlay District Special Permit.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### ARTICLE 23 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTION 4.08 of the Zoning By-laws of the Town of Brookline, as amended by the actions taken under Article #23 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### **§ 4.08 AFFORDABLE HOUSING REQUIREMENTS**

##### *1. Purpose*

The purpose of this section is to promote the public welfare by:

- a. Increasing the supply of housing that is available and affordable to low or moderate income households, with an emphasis on family housing; and
- b. Preventing the displacement of Brookline residents.

##### *2. Definitions*

The following definitions shall apply in this § 4.08. Where a term is undefined herein, the definition set forth in the Affordable Housing Guidelines adopted pursuant to this § 4.08, if any, shall control. All other undefined terms in this section shall either be governed by Article II, Definitions of this Zoning Bylaw or shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context.

- a. AFFORDABLE HOUSING GUIDELINES are written policies and criteria, recommended by the Housing Advisory Board and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to the Zoning Bylaw.
- b. AFFORDABLE HOUSING PLAN means a document that constitutes the applicant's showing of compliance with the requirements of this section.
- c. AFFORDABLE UNIT means a dwelling unit which meets the following conditions:
  - 1) In a project in which affordable dwelling units will be rented, a unit shall be considered an affordable unit if: (a) it is rented to an eligible low or moderate income household; and (b) it is made available at an initial rent that is calculated such that a hypothetical household, with the number of household members equal to the number of bedrooms plus one and with an income set at the applicable income limit, would be paying 30% of gross income on rent and tenant-paid utilities. If the occupant has a tenant-based subsidy, the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities. Rental of all affordable units will follow the process as prescribed in the Affordable Housing Guidelines
  - 2) In a project in which affordable dwelling units will be sold, a unit shall be considered an affordable unit if: (a) it is sold to an eligible low or moderate income household; and (b) it is made available at a sales price that is calculated such that a hypothetical household, with the number of household members equal to the number of bedrooms in a unit plus one and with an income set at 10 percentage points less than the applicable income limit, would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of the sales price. Sale of all affordable units will follow the process as prescribed in the Affordable Housing Guidelines.
- d. ELIGIBLE HOUSEHOLD means a household comprised of a single individual or a family eligible for housing under regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program. Income limits for Eligible Households may be further defined in this Section and under the Affordable Housing Guidelines.



- e. INCOME, LOW OR MODERATE — means a combined household income which is less than or equal to 100% of the median income for affordable rental units as defined in Section 2.c.1. and which is less than or equal to 120% of the median income for affordable owner-occupied units as defined in Section 2.c.2, except for those units provided under **paragraph 5 subparagraph a** which shall comply under Chapter 40B of the Massachusetts General Laws, in which case low or moderate income shall mean a combined household income which is less than or equal to 80% of median income or any other limit established under Chapter 40B, its regulations or any amendment thereto.
- f. INCOME, MEDIAN means the median income, adjusted for household size, for the Boston Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.
- g. PROJECT means any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in **paragraph 3, subparagraph a, b , or c** herein. Where the project is a life care facility development, as set forth in **paragraph 3, subparagraph c.**, the term "dwelling unit" shall be construed to mean "assisted living unit".

3. *Applicability*

In all zoning districts, the provisions of this § 4.08 shall apply to the following uses:

- a. Any project that upon completion will have four or more dwelling units, and in which at least one new unit will be created, whether by new construction or by the alteration, expansion, reconstruction or change of pre-existing residential or non-residential space, In the case of a renovation of and/or an addition to an existing building, any pre-existing units remaining within the pre-existing building shall not be counted when applying the 15 percent affordable unit set aside or cash payment option in Paragraph 5 below. A unit shall qualify as within the pre-existing building if no more than 5% of the unit's floor area falls outside the habitable are of the pre-existing building; and
- b. Any subdivision of land for development of four or more dwelling units; and
- c. Any life care facility development that includes four or more assisted living units and accompanying services.

4. *Special Permit Required*

The development of any project set forth in § 4.08, paragraph 3., above, shall require the grant of a special permit from the Board of Appeals.

5. *Required Affordable Units*

As a condition for granting any special permit hereunder, applicants shall contribute to the Town's stock of affordable units in accordance with the following requirements:

- a. For projects that include four or more dwelling units in accordance with **paragraph 3.**, above, the applicant shall be required to set aside 15% of the units as affordable units, except as the provisions of **subparagraph d.**, below, shall apply. In the event that a required number of onsite affordable units is less than 0.5, the cash payment provision of subparagraph d. below shall apply as provided in the Affordable Housing Guidelines. Unless at the time of filing for a building permit for a project the number of housing units in Brookline that are qualified as low or moderate income under the Comprehensive Permit Law (Massachusetts General Laws Chapter 40B, Sections 20-23, and Massachusetts regulations thereunder) exceeds the number needed to meet the standard of requirements or regulations that are "consistent with local needs" in Section 20 of said Comprehensive Permit Law, not less than two-thirds of the required affordable units provided under this subparagraph shall be qualified as low or moderate income units under said Comprehensive Permit Law.
- b. The required affordable units shall contain 15% of the bedrooms in the project as a whole.
- c. In determining the total number of affordable units or bedrooms required in **subparagraphs a.** and **b.** above, a fractional unit of 0.5 or more shall be regarded as a whole unit or bedroom.
- d. For projects that include four to 19 dwelling units, in accordance with **paragraph 3.**, above, the applicant may choose to make a cash payment to the Housing Trust as provided in the Affordable Housing Guidelines.
- e. For projects that include onsite affordable units, or affordable units on an offsite location as contemplated by Section 7(a), the applicant may provide the required affordable units for eligible households whose incomes exceed 50% of the median income for rental units and 80% of the median income for owner-occupied units, subject to the applicant making a supplemental payment to the Housing Trust, as provided in the Affordable Housing Guidelines.

6. *Standards*

Projects containing affordable units shall meet the following standards:

- a. Projects shall not be segmented or phased to avoid compliance with these provisions.
- b. Affordable units shall be dispersed throughout the project and shall be indistinguishable from market rate units in external appearance. The affordable units shall have the same mechanical systems as market units, except that affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Affordable units shall have the same finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances.
- 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:	1,100 square feet
4 bedrooms:	1,300 square feet

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

- d. Floor plans for affordable units which differ from those of market rate units shall not be approved without the recommendation of the Director of Planning and Community Development.
- e. Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be established in accordance with this section, as further clarified in the Affordable Housing Guidelines and shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability.
- f. The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Affordable Housing Guidelines.
- g. The Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms, in accordance with the Affordable Housing Guidelines.
- h. The Town may require, for itself or its designee, an option to purchase or lease affordable units for amounts consistent with **paragraph 2, subparagraph c.** above.

The option shall apply to the initial and any subsequent sale or lease of affordable units.

- i. Affordability restrictions shall be embodied in applicable deed covenants, restrictive covenant agreements, other contractual agreements, land trust arrangements, and/or other mechanisms designed to ensure compliance with this section.
- j. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the Board of Appeals shall deem appropriate.

7. *Alternative Requirements for Affordable Units*

Subject to a finding by the Board of Appeals that the result will be advantageous to the Town in creating or preserving affordable units and not result in the undue concentration of affordable units, the requirements of this section may be satisfied through one or more of the following methods, listed in the order of preference:

- a. Off-Site Location — Affordable units may be located on an alternative site or sites in Brookline suitable for housing use, preferably in the same neighborhood as the on-site development. While off-site affordable units may be located in an existing structure, the potential for displacement of existing tenants shall be considered by the Zoning Board of Appeals.
- b. Conveyance of Land and/or Buildings — The applicant may donate to the Town or its designee land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Such land and/or buildings shall have a fair market value comparable to the difference between the value of the affordable units required under this § 4.08 if provided on-site and the fair market value of such units free of the conditions set forth in paragraph 2, subparagraph c.
- c. Cash Payment — The applicant may make a cash payment to the Town's Housing Trust with a value comparable to the difference between the value of the affordable units required under this § 4.08 if provided on-site, and the fair market value of such units free of the conditions set forth in paragraph 2, subparagraph c.

The applicant's Affordable Housing Plan shall show that the applicant shall provide a greater affordable housing benefit to the Town than would have been provided on site. Affordable units provided through the alternative methods above shall comply in all respects other than on-site location with the requirements of this section.

8. *Procedures*

All projects shall comply with the following procedures as applicable:

- a. Pre-Application Meeting — The applicant shall convene a pre-application meeting with the Director of Planning and Community Development to discuss the project proposal and affordable housing requirements.
- b. Submittal of Affordable Housing Plan — The applicant shall fill out and submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit. This form requires the following information:
  - 1) On-Site Unit Projects — Applicants electing to develop on-site affordable units shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of affordable units.
  - 2) Cash Contribution Projects Under Paragraph 5, Subparagraph d. — Applicants electing to make a cash contribution in lieu of providing affordable units shall provide a statement of the number of project units and the corresponding formula required by the Affordable Housing Guidelines.
  - 3) Alternative Requirements — Applicants proposing to **employ paragraph 7, Alternative Requirements for Affordable Units**, above shall provide a proposal specifying the land, buildings, off-site affordable units, and/or cash contribution; and a schedule and proposed security for providing these.
- c. Building Permit Application — The applicant shall submit a formal application for a building permit, including the Affordable Housing Plan form.
- d. Board of Appeals Application — The applicant shall make a formal application for a special permit to the Town Clerk.
- e. Housing Advisory Board Review — Except for applications proposing cash contributions under **paragraph 5, subparagraph d.**, the Housing Advisory Board shall, in the next regularly scheduled meeting after necessary public notice, review the Affordable Housing Plan and prepare a recommendation to the Planning Board.
- f. Planning Board Review — The Planning Board shall, in the next regularly scheduled meeting after necessary public notice, hear and make a recommendation on the special permit application. The recommendation of the Housing Advisory Board (or Director of Planning and Community Development with respect to cash contributions under **paragraph 5, subparagraph d.** shall be considered by the Planning Board. The Planning Board shall explain any deviation from Housing Advisory Board recommendations in writing in its report to the Zoning Board of Appeals.

g. Zoning Board of Appeals Meeting — The Zoning Board of Appeals shall meet to hear the special permit application. The Board of Appeals decision may require modifications, conditions, and safeguards, including documentation regarding affordability and funding commitments reasonably related hereto. The Zoning Board of Appeals shall explain any deviation from Housing Advisory Board recommendations in writing in its decision.

9. *Conditions*

- a. The Zoning Board of Appeals shall require that a Revised Affordable Housing Plan, which shall include any conditions in the grant of a special permit from the Zoning Board of Appeals, shall be submitted to the Director of Planning and Community Development for final approval prior to the issuance of a building permit. For projects providing affordable units, the Affordable Housing Plan shall include a reference to specific floor plans of the affordable units that shall be attached to the plan. For projects providing cash or other contributions under **paragraph 5, subparagraph d. or paragraph 7.**, the revised Affordable Housing Plan shall set forth a detailed description, if applicable, and schedule for contributions, including any documentation required to secure such, in accordance with the Affordable Housing Guidelines. The Revised Affordable Housing Plan shall be legally binding as part of a special permit which shall refer to it in any decision.
- b. Where set forth as a condition in the approved Revised Affordable Housing Plan, no building permit shall be issued until the applicant submits to the Director of the Department of Planning and Community Development a proper bond, letter of credit, or other financial instrument designed to secure performance of the requirements of this section.
- c. No building permit shall be issued until the applicant submits proof that the special permit decision of the Zoning Board of Appeals has been recorded and that the Director of Planning and Community Development has issued a final approval letter for the Revised Affordable Housing Plan.
- d. The Zoning Board of Appeals may impose conditions in which the Building Commissioner may limit, restrict, or withhold the issuance of a certificate of occupancy for any market rate unit(s) in a development until:
  - 1) all of the affordable units have obtained a certificate of occupancy; or
  - 2) any land, buildings and/or off-site units required to be donated to the Town or its designee have been conveyed.

- e. Prior to issuance of any certificate of occupancy for the a project including affordable units, the applicant shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants; initial rents or sales prices for the units designated as affordable; and, prior to their being recorded, condominium, cooperative or other homeowner association documents, as appropriate. For projects including affordable units for rent, this plan shall be recorded as a part of the affordable housing restriction set forth in **paragraph 6., subparagraphs i. and j.** herein. All plans shall be consistent with the Affordable Housing Guidelines.

10. *Affordable Housing Guidelines*

The Planning Board, in consultation with the Housing Advisory Board and after public notice and hearing, shall adopt Affordable Housing Guidelines.

11. *Contributions of Cash, Land and/or Buildings*

Cash contributions and donations of land and/or buildings made to the Town or its Housing Trust in accordance with this § 4.08 shall be used only for purposes of providing affordable housing for low or moderate income households as defined by this section.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### **ARTICLE 24 – SUBMISSION #3**

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of ARTICLE 3.12 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #24 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

### **ARTICLE 3.12**

#### **DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT**

#### **SECTION 3.12.1 ESTABLISHMENT**

The Department of Planning & Community Development, hereinafter referred to as the Department, is hereby established. The Department is responsible for the town's planning, development and redevelopment programs and duties, including, without limiting the foregoing: zoning under G.L. c. 40A; subdivision control and planning, under G.L. c. 41, Sections 81A to 81GG, inclusive; all grants & aid functions; the town's housing programs; the town's preservation programs authorized by and implemented under G.L.c. 40C, by the Preservation Commission, authorized by the Historic Districts By-Law and the Demolition By-Law; and the town's economic development



and sustainability programs. The Department shall be initially organized and this By-Law implemented on July 1, 1999.

SECTION 3.12.2 PURPOSE

It is the intent and purpose of this By-Law to consolidate all planning and development programs and duties, all grants and aid functions, all housing programs, all preservation and demolition regulations and requirements and all economic development and sustainability functions and programs into a single department. The consolidation is designed to attain efficiencies and economies of scale, to reduce or eliminate duplication and overlapping of services, responsibilities and functions, and to improve communication and coordination for planning and development functions between and among the various offices and agencies of the town. It is also the intent of this By-Law to provide expanded planning and community development programs and services to the residents, the business community, the non-profit and the other institutions of the town.

SECTION 3.12.3 DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT

(A) Appointment & Term of Office. There shall be a Director of Planning and Community Development, hereinafter referred to as the "Director", appointed by the Select Board in accordance with the provisions in Chapter 270 of the Acts of 1985. The appointment shall be made annually for a term of one year, commencing July 1 of each year and continuing until the appointment and qualification of a successor.

(B) Qualifications. The Director shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

(C) Powers & Duties. The Director shall be responsible for the effective management, administration and coordination of all operations within the Department, for all of the fiscal and financial affairs of the Department and the management, administration and control of all personnel assigned to the Department. The Director shall make recommendations to the Town Administrator concerning the appointment and removal of Assistant Directors by the Select Board. The Select Board may establish and, from time to time, change the number of Assistant Directors. Without limiting the foregoing, the initial Department organization shall include an Assistant Director of Planning and an Assistant Director for Housing. An Assistant Director for Economic Development and Assistant Director for

Sustainability Planning shall be added when requested by the Town Administrator and authorized by the Select Board. The responsibility for providing administrative and professional assistance to the Preservation Commission, under Section 3.12.11, and the implementation and enforcement of the Historic Districts and Demolition By-Laws shall be added to and become part of duties and responsibilities of the Division of Planning when requested by the Town Administrator and authorized by the Select Board. The Director shall appoint and may remove all other personnel within the Department. The Select Board may appoint the Director to serve as the head of a division, as defined in Section 3.12.4.

In addition to supervising and directing the effective functioning of the Divisions, and without limiting the generality of the foregoing, the Director shall have the following specific powers and duties:

1. to direct, assign and reassign all personnel within the Department, including reassigning personnel between Divisions.
2. to be responsible for the efficient coordination and implementation of the town's economic development, housing, open space, planning and preservation programs, and the administration and implementation of the town's demolition, grants and aid and historic districts decisions and policies.
3. to advise the Town Administrator and Select Board on all matters that are within the scope of the Department's activities and functions.
4. to be responsible for the preparation of the Department's annual budget request and town report, for all expenditures and receipts by the Department and for the administration of the town's personnel rules and orders within the Department.
5. to provide administrative and professional assistance to the Economic Development Advisory Board.

6. to provide administrative and professional assistance to the Housing Advisory Board.

7. to provide administrative and professional assistance to the Planning Board.
8. to provide administrative and professional assistance to the Preservation Commission.
9. to provide administrative and professional assistance to the Board of Appeals.
10. to provide the Town with and, from time to time, amend Comprehensive Plans for land use, public and private transportation and parking, open space, recreation, urban renewal, telecommunications and utility services, economic development, housing, historic preservation and also for the future development and preservation of town resources consistent with its physical, social and economic requirements and the health, safety and welfare of the public.
11. to coordinate the town's planning and development functions with other local, regional and state plans and programs.
12. to supervise the work of consultants used to assist the Department.
13. to review and amend, when appropriate, rules and regulations and procedures relevant to the proper operation of the Department and the implementation of Comprehensive Plans.
14. to develop action standards, notice and hearing guidelines and decision filing procedures to ensure that notice, hearing, and filing requirements for the Department, the Divisions and the boards and commissions that they service are satisfied.
15. to delegate the implementation of any one or more of the powers and duties assigned to the Department to an appropriate Division or Assistant Director.
16. to oversee Grants & Aid functions, including Federal CDBG and HUD programs.
17. to assist in the preparation of the annual capital improvements plan which is required under

- Chapter 270 of the Acts of 1985 and G.L.c. 41.
18. to report to the Town Administrator, on a regular basis, the current objectives and programs of the Department and the activities of the Department with regard to those objectives and programs.
  19. to supervise and evaluate all Assistant Directors in the Department.
  20. to provide planning and community development services and programs to the residents, the business community, the non-profit and the other institutions of the town.
  21. to facilitate and maximize meaningful input to Town boards and officials to the extent reasonably practical from Residents and other interested parties, including civic associations and neighborhood organizations.
  22. to perform such other duties as may be assigned to the Department by the Select Board or Town Administrator.

#### SECTION 3.12.4 DIVISIONS WITHIN THE DEPARTMENT

The Department shall consist of the following divisions: the Division of Planning, the Division of Housing, the Division of Economic Development and Long-Term Planning, and the Division of Sustainability Planning. Each Division shall be under the general management and control of an Assistant Director. The Assistant Directors shall be subject to the authority and direction of the Director. They shall render reports to the Director on a regular basis, including in such reports a summary of current activities, a list of both current and long-range issues being reviewed or worked on by the Division and a summary of the objectives and programs being implemented by the Division. Each Division shall perform the duties prescribed by law, the town's By-Laws and assigned to it by the Director.

#### SECTION 3.12.5 DIVISION OF PLANNING

The Division of Planning shall advise and assist in the administration and updating of municipal planning and zoning, in timely and continuing consultation with the public and private agencies and committees that have jurisdiction over the use or regulation of real property within the town. Municipal planning shall include the creation, the review, the revision and the implementation

of Comprehensive Plans for open space, land use, for public and private transportation and parking, for telecommunications and utility services, for recreation, for the utilization of town resources, particularly with respect to housing, business and commercial development and redevelopment, and for the careful study, and, when necessary, the preparation of plans of the resources, possibilities and needs of the town. The Division shall assist with the maintenance and annual update of the Capital Improvement Plan in accordance with the requirements of the Town Administrator, Chapter 270 of the Acts of 1985, and G.L.c. 41. The Division shall assist the Planning Board with implementation of the Subdivision Control Law and shall provide administrative and professional assistance to the Planning Board.

The Assistant Director of the Division of Planning shall serve as the Secretary of the Planning Board and shall assist the Planning Board with the performance and discharge of the following duties:

- (A) Creation, review and amendment of Comprehensive Plans in accordance with G.L.c. 41, §81D.
- (B) Review, amendment and implementation of subdivision regulations under G.L.c. 41, §81Q.
- (C) Review and report on Urban Renewal Plans under G.L.c. 121A.
- (D) Review and report on matters pending before the Board of Appeals.
- (E) Review and report on matters specified in or when required under the Zoning By-Law.
- (F) Conducting of hearings and the filing of reports, with recommendations, concerning proposed amendments to the Zoning By-Law.
- (G) Coordinate and facilitate open space planning and preservation within the town and among town officers and committees.

#### SECTION 3.12.6 PLANNING BOARD

The Select Board shall appoint seven residents to serve on the Planning Board for five year staggered terms so long as they remain

residents. At least one of the appointees must be qualified for such appointment by virtue of relevant and significant experience or training in the field of environmental or urban planning.

The Planning Board is established under G.L.c. 41, §81A, and shall perform and discharge all of the statutory powers and duties required by law, including those set forth in The Zoning Act, G.L.c. 40A, in the Subdivision Control Act and other relevant sections in G.L.c. 41, Sections 81A to 81GG, inclusive, in Chapter 270 of the Acts of 1985 and in G.L.c. 41.

SECTION 3.12.7                    DIVISION OF HOUSING

The Division of Housing shall initiate modifications and amendments of housing policies for the town, subject to the approval thereof by the Housing Advisory Board (HAB), the Director and the Select Board, and shall assist in the implementation of such policies. In housing matters, the Division shall maintain an effective and productive relationship among policy, programs and development, including affordable housing development under the Town's inclusionary housing provisions in the Zoning By-Law. The Division shall provide administrative and professional assistance to HAB.

SECTION 3.12.8                    HOUSING ADVISORY BOARD

The Housing Advisory Board, whose powers and duties are more fully set forth in Article 3.13, shall review the town's housing policies and all modifications and amendments thereto proposed by the Division of Housing and shall make its recommendations and reports to the Director, the Town Administrator and the Select Board. HAB may initiate recommendations for amending or modifying the town's housing policies and may make recommendations for changes in the town's housing strategy.

SECTION 3.12.9                    DIVISION OF ECONOMIC DEVELOPMENT AND LONG-TERM PLANNING

The Division of Economic Development and Long-term Planning shall, from time to time, recommend modifications and amendments to the economic development, redevelopment, renewal and long-term planning policies of the town. The Division shall initiate policies and programs for the promotion and enhancement of existing business and commercial areas, subject to the approval thereof by the Director, the Economic Development Advisory Board (EDAB) and the Select Board. The Division shall assist in the implementation of such policies and

programs. The Division shall maintain a current Economic Development and Long-term Planning portfolio and a list of all completed projects, all projects in process and all projects awaiting implementation. The Division shall provide administrative and professional assistance to EDAB.

SECTION 3.12.10 ECONOMIC DEVELOPMENT ADVISORY BOARD

The Select Board shall appoint twelve residents to serve on the Economic Development Advisory Board (EDAB) for three year staggered terms. The present members of EDAB shall continue to serve for the remaining terms of their appointments. EDAB shall review the economic development, redevelopment and renewal policies of the town, and all modifications and amendments thereto proposed by the Division, and shall make its recommendations and reports to the Director, the Town Administrator and the Select Board. EDAB may also initiate recommendations for amending or modifying the town's development, redevelopment and renewal policies and may make recommendations for changes in the town's economic development strategy.

SECTION 3.12.11 PRESERVATION

The Department of Planning and Community Development shall provide the Preservation Commission, established under Article 5.6.4 in the By-Laws, with administrative and professional assistance with regard to the performance and discharge of the following duties:

- (A) Promoting the educational, cultural, physical, economic and general welfare of the town through the preservation and protection of its historical assets.
- (B) Implementing and enforcing the Historic Districts and Demolition By-Laws.

SECTION 3.12.12 DIVISION OF SUSTAINABILITY PLANNING

The Division of Sustainability shall recommend policies and modifications to such policies to the Select Board in order to promote sustainability and address climate change. The Division shall develop, maintain and update as appropriate a strategic plan to identify mechanisms and programs to implement said policies and to establish priorities for future action. The Division shall work with all divisions of the Planning Department and other municipal

departments to further the Town's sustainability goals, subject to approval thereof by the Director and the Select Board.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk





# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### **ARTICLE 29 – SUBMISSION #3**

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of ARTICLE 8.10 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #29 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

### **ARTICLE 8.10**

#### **FOOD VENDORS LICENSE**

#### **SECTION 8.10.1 REGULATION BY LICENSE**

No person shall offer food for sale to the Public in a food service establishment, as hereinafter defined, unless licensed as a common victualler or an innholder under the provisions of c. 140 of the General Laws, without first obtaining a Food Vendors License under the provisions of this by-law. Any person who violates this section shall be liable to a fine of \$50 per violation. Each day of operation without a Food Vendor's License shall constitute a separate violation.

#### **SECTION 8.10.2 FOOD SERVICE ESTABLISHMENT DEFINED**

Food service establishment shall include any fixed or mobile place, structure or vehicle whether permanent, transient, or temporary, private, public, or non-profit, routinely serving the public; or any other eating and drinking establishment or place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere.

SECTION 8.10.3 APPLICATION FOR LICENSE

Each applicant for such license shall submit, on forms to be provided by the Select Board, the following information: name and address of applicant, name and address of place of business, evidence, in form satisfactory to the Select Board, that the applicant has upon the premises the necessary implements and facilities for cooking, preparing and furnishing food to the public, and such other information as the Select Board shall require. The Select Board Members may require applicants to submit a plan showing, if any, the location of fixtures and other facilities including bathrooms and the general arrangement of the premises including, in the case of applications for premises not yet completed, estimates of the cost of the proposed arrangement and of the facilities indicated on the plan.

SECTION 8.10.4 LICENSE DISCRETION

Such license shall not be issued or be valid until it has been signed by a majority of the Select Board. The Select Board Members may refuse to grant such a license if, in their opinion, the public good does not require it.

SECTION 8.10.5 TERM AND APPLICATION FEE

Food Vendor's Licenses shall be valid for a term of one year from the first day of January until the 31st day of December. A non-refundable fee of \$25 shall be submitted with the application for such license. The Select Board Members may in their discretion suspend the requirement of the fee for hospitals.

SECTION 8.10.6 SUSPENSION OR REVOCATION OF LICENSE

If, in the opinion of the Select Board, a licensee ceases to be engaged in the activity licensed hereunder, or fails to maintain upon the premises on which such activity is licensed the implements and facilities required by these by-laws, the Select Board Members shall immediately revoke their license. If the licensee at any time conducts their licensed business in an improper manner, the Select Board, after notice to the licensee and public hearing, may, upon satisfactory proof thereof, suspend or revoke their license.

SECTION 8.10.7 PLAN OF PREMISES

No license shall be issued under this Article until the applicant submits a plan acceptable to the Licensing Authority that establishes procedures and requirements for the control and elimination of litter. The plan must set forth requirements for the pick-up and disposal of litter resulting from or generated by the sale of food under the license.

SECTION 8.10.8 USE OF SIDEWALKS AND OUTDOOR PREMISES

The Select Board may, upon written application by a licensed Food Vendor, after proper notice and hearing, grant, upon such terms and conditions as it determines to be necessary and desirable, a Licensed Food Vendor the right to use an adjacent outdoor portion of the licensed premises to accommodate outside seating for patrons. Such duly licensed outside seating areas may include a portion of a town street or sidewalk area and/or a third party's property with acceptable proof of

third-party consent. Prior to such a grant, the Select Board shall seek advisory reports from the Planning & Community Development Department, Building Commissioner, Police Department, Fire Department, Health Department, and Commissioner of Public Works, as the Select Board or its designee may determine. No such grant shall extend beyond the term of the license. Any right granted hereunder shall be subject to revocation if the exercise of the grant interferes with public safety and convenience.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### ARTICLE 30 – SUBMISSION #3

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of SECTION# 4.04, 4.07, and 6.02 of the Zoning By-laws of the Town of Brookline, as amended by the actions taken under Article #30 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

#### **§ 4.04 LIMITATION OF AREA OF ACCESSORY USES**

1. No accessory use or uses within a building shall occupy more than a combined total of 25% of the floor area of the principal building, other than required off-street parking, except that an accessory dwelling unit may occupy up to the lesser of 750 square feet of habitable space or 30 per cent of the floor area of the principal building by right or, by Special Permit, up to the lesser of 950 square feet of habitable space or 30 percent of the floor area of the principal building..
2. No accessory use or uses not within a building shall occupy more than a combined total of 25% of the unbuilt lot area, or of the required rear yard area, other than required off-street parking or outdoor seating for a licensed Food Vendor as defined in Article 8.10 of the Town's General By-Laws.

3. No accessory use, except accessory dwelling units, shall occupy part of the required front or side yards, except off-street parking as required in M-I.O, M-1.5, M-2.0, and M-2.5 Districts and in business and industrial districts, and as provided in §§ 5.44, 5.53, 5.63, and 5.72.

**§ 4.07 TABLE OF USE REGULATIONS**

Principal Uses	Residence						Business		Ind.
	S	SC	T	F	M	L	G	O	I
<b>RESIDENCE USES</b>									
1. Detached dwelling on a separate lot and occupied by not more than one family	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No
1A. Cluster subdivisions, designed groups of single-family dwellings, and estate conversions permitted pursuant to the regulations and conditions of § 5.11.	SP	SP	No	No	No	No	No	No	No
2. Detached dwelling on a separate lot originally constructed for single-family occupancy prior to the effective date of this By-law and containing a minimum gross floor area of 2,400 square feet and converted for occupancy by not more than two families, provided there is no external evidence of occupancy by more than one family.	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No
3. Detached dwelling converted for two-family occupancy conforming to the requirements of the preceding item except that external evidence of conversion is required to conform to other codes.	No	SP	Yes	Yes	Yes	Yes	No	Yes	No
4. Detached dwelling on a separate lot and occupied by two families, other than Uses 2 and 3 above.	No	No	Yes	Yes	Yes	Yes	No	Yes	No
4A. Dwelling on a separate lot for three families or attached dwelling on a separate lot for	No	No	No	Yes	Yes	Yes	Yes	No	Yes

Principal Uses	S	SC	Residence				Business			Ind. I
			T	F	M	L	G	O		

two families.

5. Attached dwelling occupied by not more than one family in each unit between side walls, provided that in T Districts no row of such units shall consist of more than two such units or more than three such units in F Districts. *Except as permitted by Use 1A above and § 5.11.	No*	No	SP	SP	SP	SP	No	SP	No
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6. Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.	No*	No	No	No	Yes*	Yes*	Yes*	No	Yes*
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\*Compliance with § 4.08 required if containing 6 or more dwelling units.

Permitted by special permit in S-0.5P and S-0.75P Districts subject to § 5.06.

In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use.

Within the Waldo-Durgin Overlay District, the percentage of such frontage devoted to residential use may be increased by special permit in accordance with § 5.06.4.k.

6A. Life care facilities, incorporating independent	SP*	SP*	SP*	SP*	SP	Yes	Yes	No	No
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
apartment living units for elders combined with supportive medical, nursing or other shared facilities.									
*Allowed by special permit only on lots greater than 5 acres.									
6B. Dwelling, Live/Work Space	No	No	No	No	No	No	No	No	No*
*Permitted by special permit in the I-(EISD) District in accordance with <b>5.06.4.j</b> .									
6C. Dwelling, Age Restricted	No	No	No	No	No	No	No	No	No*
*Permitted by special permit in the I-(EISD) District in accordance with <b>5.06.4.j</b> .									
6D. Dwelling, Micro Unit	No	No	No	No	No	No	No	No	No*
*Permitted by special permit in the I-(EISD) District in accordance with <b>5.06.4.j</b> .									
7. Lodging House, licensed*.	No	No	No	SP	SP	SP	SP	No	No
*License is from Selectmen and conformance to Brook-line Lodging House Regulations required.									
8. Hotel	No	No	No	No	No*	No	SP*	No	No**
*Permitted by special permit in M-2.5 Districts and in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC, or									

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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T District.

\*\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

8A. Limited Service Hotel	No	No	No	No	No	No	Yes	No	No
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\*Permitted by Special permit in M-2.5 and in the Cleveland Circle Hotel Overlay District and I-(EISD) District.

\*\*Permitted as of right only in the G-1.75 (LSH) Limited Service Hotel District, provided that the applicant for a building permit certifies to the Building Commissioner that (a) at least 20% of all on-site parking spaces will be available for overnight public parking at prevailing overnight public rates, (b) that all on-site parking spaces will be available between 8:00 a.m. and 6:00 p.m. at prevailing public meter rates and (c) at least 25% of the lot area is to be used for open space open to the public. Otherwise such use shall be by special permit in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC or T District. Permitted by Special Permit in G-(DP) District in accordance with **Section 5.06.4.g**.

**INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES**

9. Places of worship and other religious uses exempt from use	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F				G	O	
regulation by <b>The Zoning Act, M.G.L. Ch. 40A, § 3.</b>										
10. Educational uses exempt from use regulation by <b>The Zoning Act, Ch. 40A, § 3.</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
11. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business.	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes	Yes
12. Recreational facility owned or operated by an agency of the Town or other government.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
13. Recreational facility owned or operated by a non-government agency, subject to the following provisions:	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes
(a) The use shall not be conducted as a private gainful business.										
(b) No outdoor active recreation area or parking area shall be located nearer to any lot line than the required front yard depth.										
(c) Indoor or outdoor noisy activities such as bowling or gymnasium shall be at least 100 feet from any lot line and sound-insulated to meet the approval of the Board of Appeals so as to protect the neighborhood from inappropriate noise in any season.										
14. Adult education center or other similar educational facility other than Use 10, community center, meeting hall,	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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or other similar facility, subject to the same limitations as specified in Use 13.

15. Day care center defined as any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage, under seven years of age, or under 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include any religious or educational use exempt from use regulation by <b>The Zoning Act, M.G.L. ch. 40A, § 3</b> , a family day care home, or other facility or program excluded from the definitions of "child care center" and "school-aged child care program" in M.G.L. ch. 15D, § 1A.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*
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\*A day care center shall be licensed in accordance with **M.G.L. chapter 28A, § 10**. If such a facility has an outdoor play area, that area shall be screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance. If such a facility requires the use of a public play area, the Director of Parks and Open Space and the Director of

Principal Uses	S	SC	Residence				Business			Ind. I
			T	F	M	L	G	O		

Public Health, or designees, shall be required to approve the availability and use of the public space.

See also § 6.02.4 and § 9.12.

16. Entertainment and recreation facilities operated as a gainful business, including but not limited to bowling alley, theater, and concert hall, provided that such use is housed in a structure sufficiently sound-insulated so as to protect the neighborhood from inappropriate noise in any season.	No	No	No	No	No	No	No	SP	No	SP
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17. Trade, professional or other school conducted as a private gainful business, excluding noisy accessory uses.	No	No	No	No	No	No	No	Yes	Yes	Yes
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18. Private Club or Lodge	No	No	No	No	No	No	SP	SP	SP	SP
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a) Health and fitness club, over 2,500 s.f. of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services.	No	No	No	No	No	No	Yes	Yes	Yes	Yes
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b) Private club or lodge, operated not for profit and for members only, other than use 13.

18A. Small group health and fitness club not exceeding 2,500 square feet of gross floor area operated for profit and for members only, solely for the	No	No	No	No	No	No	Yes	Yes	Yes	Yes*
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

19. Licensed hospital or other licensed establishment for the care of sick, crippled, or convalescent persons.	No	No	No	No	SP*	No	No	No	No
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\*Not permitted in M-0.5 Districts. Permitted as of right (i.e. classification "Yes") with respect to any such hospital or establishment for which a building permit application has been filed with the Building Commissioner on or before the date of the adoption of this amendment by the Town Meeting, November 14, 1967.

OFFICE USES									
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20. Office or clinic for medical or dental examination or treatment of persons as out-patients, including laboratories incidental thereto.	No	No	No	No	No*	Yes	Yes	Yes	Yes
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\*Permitted by special permit in new residential construction in M-2.5 districts up to a maximum of 20% of total gross floor area.

20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding	No	No	No	No	No	SP*	SP	SP	SP**
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal.

\*Verification of noise control shall include verification by a professional engineer (P.E.), utilizing an acoustical engineer under his/her supervision if necessary, that under worst-case (e.g., maximum number of animals, open windows if applicable) conditions neither daytime nor nighttime background noise levels, as defined in Article 8.15.3 of the Town By-Laws, will be exceeded at the boundary of the property where the use is located. Moreover, as a condition of a Special Permit, the ZBA shall require that further noise control measures be undertaken in the future if such background noise levels are exceeded during operation of the facility.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

20B. Medical Marijuana Treatment Centers (see **Section 4.13** for applicable definition), and uses analogous to

No No No No No No SP\*2 SP\*2 SP\*

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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Marijuana Retailer Uses Only

\*To be eligible for a special permit under Use 20B, the requirements under **Sec. 4.12**, Registered Marijuana Dispensary, and **Sec. 4.13**, Marijuana Establishments, shall be met, as each may be applicable.

20C. Delivery-Only Marijuana Retailers and Marijuana Transporters	No	No	No	No	No	SP* <sup>1</sup>	SP* <sup>1</sup>	SP* <sup>1</sup>	SP* <sup>1</sup>
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\*To be eligible for a special permit under Use 20C, the requirements under **Sec. 4.13**, Marijuana Establishments, shall be met.

21. Business, professional, or governmental office other than Use 20, 20A and 20B.	No	No	No	No	No	Yes	Yes	Yes*	Yes
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\*Provided no commodities are kept for sale on the premises.

**AUTOMOTIVE SERVICE USES (SUBJECT TO ARTICLE VI)**

22. Residential parking garage or parking area, whether as the sole use of a lot or as a secondary use, solely for the storage of cars of residents of other lots located within 1,400 feet.	No*	No*	SP*	SP*	SP*	Yes	Yes	Yes	Yes
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\*By right for five or fewer spaces.

22A. Parking garage or parking area for vehicles with a Gross Vehicle Weight Rating	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*
---	------------	------------	------------	------------	------------	------------	------------	------------	------------

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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(GVWR) of no more than 6,000 pounds and satisfies paragraphs (a) to (e) of the definition of non-commercial motor vehicles, owned by a Car Sharing Organization (CSO), allowed whether as the sole use of a lot or as a secondary use, for up to 10% of the total on-site parking spaces, unless otherwise noted. All open air parking lots with CSO vehicles require an Open Air Parking Lot License to be valid for zoning purposes. A special permit is required for any CSO spaces that are not in an open air parking lot. See § 6.01.5.

\*Where the use of a lot is a single, two, or three-family dwelling, one CSO parking space may be allowed by special permit only. For other uses, up to 10% of parking spaces on a lot are allowed by right for CSO vehicles, and an additional 2 CSO spaces are allowed by special permit beyond the 10% cap, but in no case shall there be a total of more than 4 CSO vehicles allowed.

23. Parking area abutting or across the street from a non-residence district, for the parking of passenger cars of tenants, employees, customers, or guests of buildings or establishments in the adjoining non-residence district, provided no sales or service operations

No No SP SP SP Yes Yes Yes Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
are performed.									
24. Non-residential parking garage or parking area, other than Use 23.	No	No	No*	No*	No*	Yes	Yes	No*	Yes
*Municipal parking facilities permitted in the district.									
25. Gasoline service station.	No	No	No	No	No	SP	SP	No	SP
25A. Partially self-service gasoline stations.	No	No	No	No	No	SP	SP	No	SP
26. Sale or rental of automobiles and other motor vehicles, or tires or other motor vehicle accessories, and accessory storage conducted entirely within an enclosed structure, provided any accessory repair operations shall be sufficiently sound-insulated to protect the neighborhood from inappropriate noise; and any flashing, fumes, gases, smoke, and vapor shall be effectively confined to the premises.	No	No	No	No	No	No	Yes	No	Yes
27. Outdoor storage of vehicles for sale or rent.	No	No	No	No	No	No	No	No	SP
28. Repair garage located principally within an enclosed structure, provided repair operations shall be sufficiently sound-insulated to protect the neighborhood from inappropriate noise, and any flashing, fumes, gases, smoke, and vapor shall be effectively confined to the premises; and provided all storage shall be within the structure.	No	No	No	No	No	No	SP	No	SP*

\*Permitted by right if a municipal facility or portion



Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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thereof.

28A. Car washing facility, either as a principal or an accessory use.	No	No	No	No	No	No	No	No	No
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**RETAIL AND CONSUMER SERVICE USES**

29. Store of less than 5,000 square feet of gross floor area per establishment, primarily serving the local retail business needs of the residents of the vicinity, including but not limited to grocer, baker, food store, package store; dry goods, variety, clothing; hardware, paint, household appliances; books, tobacco, flowers, drugs.	No	No	No	No	No	Yes	Yes	No	Yes*
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\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment	No	No	No	No	No	SP*1,2	SP*1,2	No	SP*1
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\*Permitted by special permit pursuant to **Section 4.13**, Marijuana Establishments

29B. Social Consumption Marijuana Retailers	No	No	No	No	No	No	SP*1,2	No	SP*1
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\*Permitted by special permit pursuant to **Section 4.13**, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L. c.94G, § 3(b).

30. Eating places of less than	No	No	No	No	No	Yes	Yes	No	Yes*
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Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F	G			O		

5,000 square feet of gross floor area per establishment, primarily serving local needs, including but not limited to lunch room, restaurant, cafeteria, place for the sale and consumption of beverages, ice cream and the like, primarily in enclosed structures with no dancing, nor entertainment other than music.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

31. Bank.	No	No	No	No	No	No	Yes	Yes	Yes	Yes
32. Service business primarily serving local needs, including but not limited to the following uses:	No	No	No	No	No	No*	Yes	Yes	No	Yes**

(a) Barber, beauty shop, laundry and dry-cleaning pickup agency, shoe repair, self-service laundry, or other similar use.

(b) Hand laundry, dry-cleaning or tailoring, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time.

(c) Printing shop, photographer's studio, caterer, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time.

\*Permitted by special permit in an M-1.0 (CAM) District.

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

32A. Domestic Household Animal Day Care Center, including grooming, training, walking and other accessory services, and excluding overnight kenneling. No outdoor facilities for the animals shall be permitted. Studies by recognized experts shall be submitted to ensure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. A recommendation from the Director of Public Health shall be required to address the size and location of the facility and any potential impacts. Additionally, annual licenses issued by the licensing authority are required, with the recommendation of the Director of Public Health, the Police Department's Animal Control Officer, and the Director of Parks and Open Space.	No	No	No	No	No	SP	SP	No	SP
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33. Stores not exceeding 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, furniture and household goods.	No	No	No	No	No	No	Yes	No	No*
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\*Permitted by special permit in the I-(EISD) District in

Principal Uses	S	SC	Residence				Business			Ind. I
			T	F	M	L	G	O		

accordance with **5.06.4.j**.

33A. Stores over 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, supermarket, grocery store, furniture and household goods.	No	No	No	No	No	No	No	SP	No	SP*
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\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

34. Place for the sale and consumption of food and beverages exceeding 5,000 square feet of gross floor area, or providing dancing and entertainment.	No	No	No	No	No	No	No*	Yes	No	Yes**
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\*Permitted by Special Permit in the Cleveland Circle Hotel Overlay District.

\*Permitted by special permit in the I-(EISD) District in accordance with **5.06.4.j**.

35. Office, display or sales space of a wholesale, jobbing, or distributing establishment, provided that no more than 25 per cent of floor space is used for assembling, packaging, and storing of commodities.	No	No	No	No	No	No	No	Yes	No	Yes
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36. Radio or television studio, without transmitting facilities.	No	No	No	No	No	No	No	Yes	Yes	Yes
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36A. Research laboratory for scientific or medical research not involving noxious or	No	No	No	No	No	No	No	SP	SP	SP
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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hazardous substances or processes, provided that the use is operated in compliance with all applicable town, state, and federal health and safety laws and regulations. At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports in accordance with the procedures in § 9.04.

36B. Research laboratory for scientific or medical research, with a Biosafety Level of Level 1 or Level 2 as defined by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, and National Institutes of Health, provided the use is located on a lot with no less than 50,000 square feet and no more than 65,000 square feet in area and is operated in compliance with all town, state and federal health and safety regulations, and that thirty days

No No No No No No SP\* No No

Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F				G	O	

prior to a Board of Appeals hearing on the use, and annually, a report detailing hazardous materials operations, processes, disposal and storage shall be reviewed and approved in writing by an independent recognized expert, the Fire Chief and Director of Public Health and Human Services.

\*Permitted by Special Permit only in a GMR-2.0 district.

36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities	No	No	No	No	No	No	No	SP*1,2	SP*1,2	SP*1
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\*To be eligible for a special permit under Use 36C, the requirements under **Sec. 4.13**, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.

37. Mortuary, undertaking or funeral establishment.	No	No	No	No	No	No	SP	SP	No	SP
38A. Agriculture, horticulture or floriculture on parcels of more than five acres, subject to the regulations specified in Use 57, and not including the retail sale of products or services.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
38B. Agriculture, horticulture or floriculture on parcels of not more than five acres as a principal use.	No	No	No	No	No	No	No	No	No	No
38C. Open-air use, other than commercial recreation facilities, seasonal outdoor seating for a licensed Food Vendor as	No	No	No	No	No	No	SP	SP	No	Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
defined in Article 8.10 of the Town's General By-Laws, and Uses 22 to 28. Use 38C shall include but not be limited to the sale of flowers, garden supplies, or agricultural produce.									
38D. Marijuana Cultivators	No	No	No	No	No	SP*1,2	SP*1,2	SP*1,2	SP*1
*Permitted by special permit pursuant to <b>Section 4.13</b> , Marijuana Establishments									
39. Drive-in use, other than Uses 22 to 28 inclusive, including only those uses permitted in Uses 29 to 32 inclusive.	No	No	No	No	No	SP	SP	No	SP
<b>UTILITIES AND COMMUNICATION</b>									
40. Transformer station, substation, pumping station or automatic telephone exchange, provided that in a residence district such public service building is essential to service such residential area, and that no public business office nor any storage yard or storage building is operated in connection with it.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
40A. Dish antenna not larger than 3 feet in diameter, provided it is not located in a front yard and it conforms to setback requirements for accessory structures.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
40B. Dish antenna larger than 3 feet in diameter, provided it is not located in a front yard, it conforms to setback requirements for accessory structures, and it is located and/or screened so that it is not visible from nearby streets or	No*	No*	No*	No*	SP*	SP*	SP*	SP*	SP*

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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properties within a 200 foot radius at ground level.

\*Permitted use for public agencies of the Town of Brookline and the Town's CATV licensee, provided the use is approved by the Board of Selectmen after public hearing.

40C. Wireless

Telecommunication Services, See § 4.09 for use regulations.

40D. Ground Solar Photovoltaic Installation, Large or Small	No	No	No	No	No	No	No	No	No
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\*Permitted in the Renewable Energy Overlay District under site plan review. See Section 5.06.4.h for use regulations.

41. Fire station.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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**INDUSTRIAL USES**

42. Steam laundry or dry cleaning plant.*	No	No	No	No	No	No	No	No	Yes
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(\*See Asterisk After Use 46)

43. Wholesale business and storage, in a roofed structure.*	No	No	No	No	No	No	No	No	Yes
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(\*See Asterisk After Use 46)

44. Plumbing shop, carpentry shop, other similar service or repair establishment.*	No	No	No	No	No**	SP	SP	No	Yes
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\*\*Permitted by special permit in an M-1.0 (CAM) District.

(\*See Asterisk After Use 46)



Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F	G			O		
45. Printing and publishing.*	No	No	No	No	No	No	No	No	No	Yes

(\*See Asterisk After Use 46)

46. Light non-nuisance manufacturing, provided that all resulting particulate matter, flashing light, fumes, gases, odors, liquid and/or solid wastes, smoke, and vapor are effectively confined to the premises or disposed of in a manner so as not to create a nuisance or hazard to safety or health and in compliance with all applicable town, state, and federal laws and regulations; further provided that no vibration is perceptible without instruments at a distance greater than 50 feet from such premises and that noise limits shall conform to the <b>Town's Noise By-law</b> . At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports	No	No	No	No	No	No	No	No	No	SP**
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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in accordance with the procedures in § 9.04.\*

\*For uses 42 to 46 inclusive, all storage of materials and equipment and all business operations, such as loading, parking, and storage of commercial vehicles, shall be within an enclosed building. This requirement may be modified by the Board of Appeals by special permit only, provided the requirements of § 6.04, paragraph 8. and § 9.05 are met. Such special permit may be rescinded or modified by the Board of Appeals after notice and hearing if noncompliance with the conditions of approval is determined.

\*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.

46B. Marijuana Product Manufacturers	No	No	No	No	No	No	No	No	No	SP*1
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\*Permitted by special permit pursuant to Section 4.13, Marijuana Establishments

47. Any trade, industry, or other use that is noxious, offensive, or hazardous by reason of vibration or noise or the emission of odors, dust, gas, fumes, smoke, cinders, flashing or excessively bright light, refuse matter or electromagnetic radiation.	No	No	No	No	No	No	No	No	No	No
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Principal Uses	S	SC	Residence			L	Business		Ind. I
			T	F	M		G	O	
48. Any advertising sign or device, including off-premises signs and non-accessory signs as defined in this By-law or the Sign By-law of the Town of Brookline.	No	No	No	No	No	No	No	No	No
49. Any use hazardous to health because of danger of flooding, inadequacy of drainage, high water table, or inaccessibility to fire fighting apparatus or other protective services.	No	No	No	No	No	No	No	No	No
49A. In locations subject to periodic or occasional flooding by water from streams or brooks, including but not limited to the flood hazard district which is defined as all areas in the Floodplain District Boundaries in <b>4.10.4.a.</b> , any structure erected or any filling undertaken in such manner as to reduce or impede the run-off of flood waters to an extent that would increase the 100 year flood elevation or the hazard of flood damage (See under 49B.) Please refer to <b>§ 4.10, Floodplain Overlay District</b> , of the Zoning Bylaw for flood hazard requirements.	No	No	No	No	No	No	No	No	No
49B. Any new construction, substantial improvement (the cost of which equals or exceeds 50% of the market value of the structure), or land alteration within said flood hazard district shall be subject to a special permit issued by the Board of Appeals, in accordance with the requirements of this By-law, the Zoning Enabling statute and FEMA National Flood	SP	SP	SP	SP	SP	SP	SP	SP	SP

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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Insurance program as cited in **the Code of Federal Regulations, Title 44, Chapter I, Subchapter B, part 60. Please refer to § 4.10, Floodplain Overlay District,** of the Zoning Bylaw for flood hazard requirements.

\*Please note: Any application under Use 49A or 49B shall be referred by the Town Clerk to the Conservation Commission, Town Engineer and Board of Appeals. Applications under this section may also be subject to **Massachusetts General Laws, Chapter 131, Section 40 (as amended), the Wetlands Protection Act.**

49C. Floodplain Overlay District Uses, See § 4.10, <b>Floodplain Overlay District, paragraph 7, Encouraged Uses,</b> for specific uses in this district. See § 4.10, paragraph 7., " <b>Encouraged Uses</b> " of the Zoning Bylaw	No	No	No	No	No	No	No	No	No
50. Open-lot storage or sale of building material, coal, or other similar materials or junk or salvaged materials.	No	No	No	No	No	No	No	No	No
50A. Commercial and non-commercial manned aircraft landing areas (including on structures)	No	No	No	No	No	SP	SP	SP	SP
51. Within a dwelling unit, the renting of not more than two rooms as a lodging without separate cooking facilities and for not more than two lodgers; in the case of a dwelling unit occupied by unrelated persons,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principal Uses	Residence						Business		Ind. I
	S	SC	T	F	M	L	G	O	
the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in <b>§ 2.06, paragraph 1. 51A.</b> Within a dwelling unit in L, G, O, or I Districts, or in dwelling units of more than 2,000 square feet of gross floor area in T, F, and M Districts, the renting of not more than three rooms as a lodging without separate cooking facilities to not more than three lodgers; in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in <b>§ 2.06, paragraph 1.</b>	No	No	SP	SP	SP	SP	SP	SP	SP
<b>51B.</b> Within a detached single-family owner-occupied dwelling in all zones or within an existing garage accessory to that dwelling, an Accessory Dwelling Unit as further defined and limited in <b>Section 4.05, paragraph 3.</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<b>52.</b> Fraternity, sorority, or dormitory (except as provided in Use 52A) accessory to and located upon the campus of a permitted educational, religious or charitable institution, and provided no building shall be located nearer to the lot line of any lot in a residence district than twice the required front yard depth for that residence district.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
<b>52A.</b> Dormitory of a permitted non-profit educational or religious institution, provided	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes

Principal Uses	S	SC	Residence				Business			Ind. I
			T	F	M	L	G	O		

no building shall be located nearer to the side line of any lot in a residence district than the required front yard depth for that residence district.

\*Special permit required for such a dormitory not located upon the campus of such institution.

53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees.	SP*	No	No	No	No	No	No	No	No	No
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\*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.

54. An accessory private garage or parking area for noncommercial motor vehicles with not more than: three spaces per dwelling unit on that lot, except that there may be four spaces for a single-family dwelling on a 10,000 sq. ft. or larger lot; four spaces for a permitted nonresidential use.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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55. Other private garage* or parking for more non-commercial motor vehicles belonging to occupants or users of the lot than permitted in Use 54.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes
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56. Garaging* or parking of not more than one commercial motor vehicle, boat, boat trailer,	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence			L	Business		Ind. I
			T	F	M		G	O	

or camper on a lot containing less than 10 dwelling units, or not more than one such boat or vehicle for each 10 dwelling units on a lot containing more than 10 dwelling units, which boat or vehicle may not exceed 1 1/2 ton weight or capacity and which boat or vehicle shall be screened from all streets and adjoining properties.

\*Any private garage for four or more vehicles must also meet the requirements of the **M.G.L., Chapter 148, § 13 and 14.**

57. The keeping of horses, cows, goats, or other similar animals, other than pigs, or the keeping of poultry, pigeons, rabbits, or other similar birds or animals, or the keeping of bees, provided that no stable or enclosure for any animal may be less than 100 feet from any existing residence building on other premises in any district, or any obvious residence building site on other premises in an S, SC, T, F or M District; and provided that no stable or enclosure for more than four animals may be less than 100 feet from any premises occupied by a church, school, playground, library, or building of a public or eleemosynary institution, except where that distance is intersected by a street at least 60 feet wide; and further provided that no stable or enclosure in a S, SC, T, F or	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence			M	L	Business		Ind. I
			T	F				G	O	

M District may be less than 100 feet from a street, nor contain more than 25 animals on the premises, and subject to such restrictions as to number, and as to location and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline.

58. Office within the place of residence of a physician or member of the clergy, subject to provisions of § 4.05, and if registered with the Building Commissioner.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
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\*Special permits required in residence districts for:

(a) a physician, or

(b) the use of more than one room or more floor area than 20% of the area of the ground floor of the dwelling unit, or

(c) the employment of a person who is not resident in the dwelling unit, or

(d) any clients visiting the premises. Members of the clergy are exempt from this provision.

58A. Office within the place of residence provided all of the following conditions are met, except that only condition (e) below needs to be met in the G-(DP) and I-(EISD) Districts:	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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(a) the office occupies not more than one room;

(b) there are no nonresident employees;

(c) there are no clients visiting the premises (members of the clergy shall be exempt from this limitation);

(d) there are no signs nor other external evidence of the office; and

(e) there is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.

59. Office within the place of residence of a member of a recognized profession, other than a physician or member of the clergy, subject to provisions of § 4.05, and if registered with the Building Commissioner.	No	No	SP	Yes*	Yes*	Yes	Yes	Yes	Yes
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\*Special permits required in residence districts for:

(a) the use of more than one room or more floor area than 20% of the area of the ground floor of the dwelling unit, or

(b) the employment of a person who is not resident in the dwelling unit, or

(c) any clients visiting the

Principal Uses	Residence						Business		Ind. I
	S	SC	T	F	M	L	G	O	

premises.

60. Customary home occupation for gain.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
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\*Special permit required if customers or pupils come to the house for business or instruction.

60A. Family child care home or Family child care plus home operated by an occupant of that household, as defined in draft <b>102 CMR 8.02</b> or its successor regulations, provided that no more than 6 children of less than school age, or up to 8 children if 2 are of school age, shall be cared for at one time, inclusive of children of the operator.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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60B. Large family child care home operated by an occupant of that household, as defined in draft <b>102 CMR 8.02</b> or its successor regulations, provided that no more than 10 children shall be cared for at one time, inclusive of children of the operator.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
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61. Non-commercial greenhouse, tool shed, Ground-Mounted Solar Photovoltaic Installation, or other similar accessory structure. To be considered an accessory use, Ground-Mounted Solar Photovoltaic Installations may not exceed 2,500 square feet of above-ground lot area nor exceed 10% of the lot area, whichever is less, and shall be	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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subject to use regulations described in **Section 5.06.4.h (3-13)** and the Town’s Stormwater Management By-law. Additionally, in all districts, Ground-Mounted Solar Photovoltaic Installations that exceed 500 square feet of above-ground lot area, require a Special Permit.

\*Special permit required if in excess of 150 square feet of gross floor area except for Ground-Mounted Solar Photovoltaic Installations not attached to non-commercial greenhouse, tool shed or other similar accessory structure.

62. Swimming pool or tennis court except in required front yard (permitted in all districts*).	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
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\*Special permit required for a swimming pool or tennis court in a required side or rear yard unless it is screened from side or rear lot lines by a strip of land at least four feet wide, densely planted with shrubs or trees which are of a type that may be expected to form a year-round dense screen at least six feet high for swimming pools and at least 10 feet high for tennis courts within three years.

63. Within a multiple dwelling, hotel or hospital containing more than 50 sleeping rooms or an office building in an O District: newsstand, barber	No	No	No	No	SP*	Yes	Yes	Yes	Yes
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Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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shop, dining room, and similar service primarily for occupants thereof, provided such use is conducted within and entered only from within the principal building.

\*Not permitted in M-0.5 Districts.

64. Retail sales and consumer services primarily for the occupants of an apartment development on a site of at least 6 acres, provided:	No	No	No	No	Yes	Yes	Yes	No	Yes
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(a) Not more than two per cent of the total gross floor area of all buildings on the same lot shall be devoted to such use;

(b) Not more than one-half of one per cent of such gross floor area shall be used for restaurant purposes including kitchen and services;

(c) Such facilities shall be developed and operated in harmony with the residential uses and shall not create an adverse environment for such residential uses by reasons of unsightliness, noise, congestion, odor, and similar factors.

65. Manufacture of goods for sale on the premises to the ultimate consumer provided in L Districts, except by special permit from the Board of Appeals, no products are processed for sale elsewhere	No	No	No	No	No	Yes	Yes	No	Yes
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Principal Uses	Residence						Business		Ind. I
	S	SC	T	F	M	L	G	O	
and personnel so engaged is limited to five persons at any one time.									
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No
66. Accessory laboratory.	No	No	No	No	SP*	SP*	SP	SP	SP**
*In permitted institutions only.									
**Permitted by special permit in I-(EISD) District in permitted institutions only and in accordance with <b>5.06.4.j</b> .									
67. Accessory outdoor storage of commodities or materials for processing or sale upon the premises, subject to such requirements for fencing or other screening as are deemed by the Board of Appeals to be necessary to protect the vicinity.	No	No	No	No	No	No	No	No	SP
68. The sale of gasoline and oil or making of minor repairs accessory to a permitted parking garage for more than 10 vehicles if carried on completely within the building.	No	No	SP	SP	SP	Yes	Yes	Yes	Yes
69. The stripping of loam or peat, except for re-use on the same property.	No	No	No	No	No	No	No	No	No
70. On-premises sign or other on-premises advertising device subject to the regulations of <b>Article VII</b> .	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
71. Other accessory use customarily incidental to a permitted principal use, and not normally conducted as an independent principal use or as an accessory to some other use, provided that any use accessory to a use permitted only under a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principal Uses	S	SC	Residence T	F	M	L	Business G	O	Ind. I
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special permit shall be established only if and as provided in such permit.

Footnotes:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.
2. No manufacturing of Marijuana is permitted in these districts.

**§ 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. When a change or expansion of a non-residential use in a business district is proposed primarily or entirely within an existing building, the Board of Appeals by special permit may waive up to 10 spaces, or up to 50%, of any increased requirement, whichever is greater. 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.

- c. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually. The number of spaces required in a common parking facility may be reduced below this total by special permit under **Article IX** if it can be demonstrated to the Board of Appeals that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility.
- d. Where part of a lot is or has been acquired by the Town to be used by the Town for a public parking or off-street loading facility or for facilities accessory to public parking and off-street loading, the parking requirements on the remaining property in private ownership shall be reduced by the number of spaces that could have been provided on the part of the lot so acquired by the Town, calculated on the basis of one space per 400 square feet of lot area so acquired.
- e. For storefront uses (which shall include Uses 12 through 14 inclusive, 16 through 18A inclusive, 20, 20A, 20C, 21, 29, 30, 32 through 36A inclusive, 36C, 37 and 44, as listed in **Article IV**) on any lot for which any portion of the lot is within the Transit Parking Overlay District, the parking ratios specified in the table in **6.02, paragraph 1** shall serve as maximum allowable parking ratios. These storefront uses are not subject to the minimum parking space requirements in **Section 6.02**. The Zoning Board of Appeals may grant a special permit to exceed the maximum number of parking spaces allowed.

**SECTION 6.02, Paragraph 1, TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS**

ZONING DISTRICT DEFINED BY MAXIMUM FLOOR AREA RATIO	RESIDENCE* **	PUBLIC ASSEMBLY	INSTITUTION	RETAIL & OFFICE			INDUSTRIAL	WAREHOUSE & OTHER
		***		General	Ground Floor	Medical Other & Dental		
	(Number of dwelling unit)	(Number of seats requiring one space)		(Number of square feet of gross floor area requiring one space)				
0.15								
0.20	2	3	350	200*	400*	200*	800*	1200*
0.30								
0.35								

0.40								
0.50								
0.75	2.0/2.3**	4	450	200	400	200	800	1200
1.00								
1.50								
1.75								
2.00	2.0/2.3**	5	550	350	600	250	800*	1200
2.50								

1. For the G-(DP) Special District, parking requirements shall be the same as those districts with a maximum floor area of 1.0, except as otherwise provided for in **Section 5.06.4.g.**
2. For the I-(EISD) Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.0, except as otherwise provided for in **Section 5.06.4.j.**
3. For the Waldo-Durgin Overlay Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.75, except as otherwise provided for in **Section 5.06.4.k.**

\* Applicable to nonconforming uses.

\*\* The greater requirement shall be provided for each dwelling unit containing more than two bedrooms and for each attached single-family dwelling containing two or more bedrooms. Bedrooms shall include any habitable room containing at least 100 square feet of area which could be converted to a bedroom other than a bathroom, kitchen, or living room.

\*\*\* For use 8A. Limited Service Hotel in the G-1.75 (LSH) Limited Service Hotel District, the minimum number of spaces for each dwelling unit shall be 0.5 and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes.

**§ 6.02, paragraphs 1. through 7.** contain additional requirements by type of use or location.

2. Residence Uses shall include Uses 1 through 8 inclusive, 51, 51-A, 52, and 52-A, as listed in **Article IV.**
  - a. For hotels, each sleeping room shall equal one dwelling unit. For lodging houses, each ten sleeping rooms shall equal one dwelling unit. Where sleeping rooms contain beds for more than two persons, each 20 beds shall equal one dwelling unit.



- b. For that floor area of hotels used for eating, drinking, dancing, meeting halls or similar purposes, parking spaces shall be provided according to the requirements for Public Assembly Uses. Where no fixed seats are used, 20 square feet of floor area shall equal one seat.
- c. A low-rent housing project of the Brookline Housing Authority for elderly persons or elderly families (as defined in applicable state or Federal legislation) need not provide more than one-fifth the number of spaces which would otherwise be required by this section. The foregoing sentence shall cease to be applicable when and if such project is no longer operated by a public body to provide low-rent housing for such elderly persons or elderly families.
- d. The number of spaces required for housing (other than as specified in **subparagraph c.** above) having age of occupant or maximum rents or maximum sales prices controlled in order to comply with the conditions of Federal, state, or local legislation or regulations or on-site unit approved per **§ 4.08** thereunder may be reduced by the Board of Appeals by special permit where it can be demonstrated that the parking needed for occupants and visitors will be below that otherwise required by this section and that the number of spaces otherwise required by this section could eventually be accommodated on the site should the building ever be changed to other kinds of occupancy requiring additional parking spaces. Special permits granted under this section shall apply only for the type of rents and occupancy specified at the time of application, and shall not reduce the parking requirement below one-fifth of the number of spaces which would otherwise be required by this section.
- e. For a dwelling unit which is occupied by three or more unrelated persons (including lodgers), the parking requirement for the dwelling unit shall be twice that indicated in the Table of Off-Street Parking Space Requirements in **§ 6.02**.
- f. For residential uses in M, L, and G districts, ten percent of all required parking spaces shall be designed and marked for use by visitors and tradespeople. For mixed use developments, the number of visitor spaces shall be based on the parking requirement for the residential use only.
- g. If residential uses include an extended care facility, one additional space shall be provided for each eight patient beds.
- h. The number of off-street parking spaces required for life care facilities as defined by this By-law or other forms of congregate elderly housing defined by the Commonwealth of Massachusetts' Department of Elder Affairs, shall be subject to a special permit from the Board of Appeals. However, in no instance shall the total number of off-street parking spaces be less than twenty-five percent of the spaces which would otherwise be required by this section. An approved Transportation

Access Plan shall be required for any parking reduction and shall evaluate the parking needs not only of residents but also of employees and visitors.

- i. Residential uses on any lot for which any portion of the lot is within the Transit Parking Overlay District, notwithstanding the requirements of **§ 3.02 paragraph 4**, must provide no fewer off-street parking spaces per dwelling unit than 1 for studio units, 1.4 for one-bedroom units, 2 for two-bedroom units, 2 for dwelling units of three or more bedrooms.
3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in **Article IV**.
    - a. Where Places of Public Assembly are provided with benches rather than fixed individual seats, each 1.5 linear feet of bench shall equal one seat.
    - b. Where no fixed seats are used, each 20 square feet of public floor area shall equal one seat.
    - c. Places of worship need not provide the requirements specified in this section.
    - d. Bowling alleys shall provide two parking spaces for each alley.
    - e. For recreational or social uses primarily designed for neighborhood or Town-wide activities and owned or operated by an agency of the Town, the Board of Appeals may by special permit modify the requirements of this section.
    - f. For any place of public assembly that obtains a license for outdoor seating subject to **§ 8.10.8** of the Town's General Bylaws, the additional outdoor space shall be exempt from parking requirements.
  4. Institutions shall include Uses 10, 11, 15, 17, and 19 as listed in **Article IV**.
    - a. Institutional uses intended primarily for children under 15 need not provide more than one-third the requirement specified, and parking spaces for safe drop-off and pick-up shall be provided to the satisfaction of the Director of Engineering/Transportation, who may take into consideration safety factors that include, but are not limited to, the number of children being dropped off, the time of the drop-off, speed limit for vehicles on the roadway abutting the drop-off, access to and from such spaces, pedestrian and vehicle flow, proximity to crosswalks, bus stops and/or intersections and signage.
    - b. Hospitals shall provide one parking space for each four patient beds. Hospitals, sanitariums or convalescent homes primarily providing long-term custodial care for patients need not provide more than one parking space for each eight patient beds.

- c. Under a special permit the Board of Appeals may permit modification in the requirements specified in this Article as applied to Use 10 and Use 15 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.
5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 20B, 21, 26, 27, 29, 31 to 33 inclusive, 35 to 39 inclusive, 41, 58, and 59 as listed in **Article IV**.
    - a. Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Building Commissioner shall determine the area to be considered equivalent to floor space.
    - b. Office or clinic for medical or dental practice (Use 20) shall provide parking in accordance with **§ 6.02, paragraph 1**. or shall provide three parking spaces per doctor, whichever is greater.
    - c. Where a principal use on a lot is a drive-in use whose customers or clients will remain in their cars while purchasing or consuming a product or service, off-street parking facilities shall be provided to a number twice the number specified in the table in **§ 6.02, paragraph 1**.
    - d. Where a use is of such a kind that the occupancy of floor-space by customers, clients, or employees is substantially below the normal or average for retail and office uses, such as a shop for the retail sale of pianos, the Board of Appeals by special permit may waive up to half the number of parking spaces specified in the table in **§ 6.02, paragraph 1**.
  6. Industrial uses of land or structures shall include Uses 25, 25A, 28, 28A, 42, and 44 to 46 inclusive, as listed in **Article IV**.

Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Building Commissioner shall determine the area to be considered equivalent to floor space.

7. Warehouse and Other Uses of land or structures shall include Uses 40 and 43, as listed in **Article IV**.

Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Building Commissioner shall determine the area to be considered equivalent to floor space.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

### **ARTICLE 32 – SUBMISSION #3**

June 7, 2021

To Whom It May Concern:

I, Ben Kaufman, Town Clerk of the Town of Brookline, duly qualified and acting as such and having custody of the records, hereby certify that the following is a True Attested Copy of ARTICLE 3.25 of the General By-laws of the Town of Brookline, as amended by the actions taken under Article #32 at the Annual Town Meeting called for Wednesday, May 19, 2021 at 7:00 P.M., adjourned to Thursday, May 20, 2021, Tuesday, May 25, 2021, Thursday, May 27, 2021, Tuesday, June 1, 2021, Wednesday, June 2, 2021, Thursday, June 3, 2021 and dissolved on Monday, June 7, 2021 at 8:45 P.M.

### **ARTICLE 3.25 COMMUNITY PRESERVATION COMMITTEE**

Section 1. Establishment and Membership

- a. There is hereby established a Community Preservation Committee consisting of nine (9) members. The membership shall be composed of one member of the Conservation Commission as designated by such Commission, one member of the Preservation Commission as designated by such Commission, one member of the Planning Board as designated by such Board, one member of the Park and Recreation Commission as designated by such Commission, one member of the Brookline Housing Authority as designated by such Commission, one member of the Housing Advisory Board and three (3) at-large members appointed by the Select Board. The Select Board shall endeavor to appoint such at-large members to provide balance to the overall committee, so that the Town's overall

priorities, considered in the context of the areas of preservation, housing, and open space, are as balanced as practicable.

- b. At-large members shall be appointed to the following initial terms: One (1) for a one-year term one (1) for a two-year terms, and one (1) for a three year term. All subsequent terms shall be for three years. All other members shall serve a term determined by their designating bodies not to exceed three years. All members, at-large and otherwise, are eligible for reappointment. Should any appointing or designating authority fail to appoint a successor to a CPC member whose term is expiring, such member may continue to serve until the relevant authority names a successor.
- c. A vacancy of the committee shall be filled by the relevant appointing or designating authority.

## Section 2. Duties and Responsibilities

- a. The Community Preservation Committee shall have all of the duties and powers set forth in G.L. c. 44B §5, including, but not limited to, the following: The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Select Board, Conservation Commission, the Preservation Commission, The Planning Board, the Park and Recreation Commission, the Council on Aging, the Housing Authority, the Housing Advisory Board and the Advisory Committee. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities, and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding the hearing in a newspaper of general circulation in the Town.
- b. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for rehabilitation or restoration of such open space and community housing that is acquired or created with CPA funds. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. The Committee's

recommendations to Town Meeting shall be subject to G.L. c. 44B, s. 5(b)(2) and shall include their anticipated costs.

- c. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.
- d. Prior to making its final recommendations to Town Meeting for approval, the Committee shall present draft recommendations to the Select Board and the Advisory Committee for comment. A designated member of the Select Board and the Advisory Committee may serve as liaisons to the Committee.

### Section 3. Administration and Operation

- a. The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum.
- b. The Community Preservation Committee shall approve its actions by majority vote of the quorum.
- c. Each fiscal year, the Committee shall recommend to Town Meeting an operational and administrative budget. The timing of such budget recommendation shall be coordinated with the Town Administrator's annual operating budget submission to the Select Board.

### Section 4. Amendments

The Community Preservation Committee shall, from time to time, review the administration of this by-law and make recommendations, as needed, for amendments to the by-law and the Committee's administrative practices to improve its operations.

### Section 5. Construction and Severability

At all times this by-law shall be interpreted in a manner consistent with G.L. c. 44B, the Community Preservation Act. Should any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

### Section 6. Effective Date

This Bylaw shall take effect immediately upon approval by the Attorney General of the Commonwealth. Each appointing authority shall

have forty-five (45) calendar days after approval by the Attorney General to make their initial appointments.

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk