

Chapter 317.
AN ACT ESTABLISHING A
DEPARTMENT OF TRANSPORTATION IN THE TOWN OF BROOKLINE
(As amended in Chapter 487: sections 1, 3, 5 of the 1996 Session Laws)
(As amended in Chapter 85: section 4 paragraph 3 and 4 of the 2006
Session Laws)
(As amended in Chapter 398: section 4 paragraph 3 added – Valet
Parking – of the 2008 Session Laws)
(As amended in Chapter 51: sections 1, 4 and 4a – Taxi Medallions – of
the 2010 Session Laws)
(As amended in Chapter 52: sections 1, 4, 4a – Division of Transportation
– of the 2012 Session Laws)

SECTION 1. There is hereby established in the Town of Brookline, hereinafter referred to as the town, a division of transportation, to be part of the department of public works, with the division to consist of a transportation board, hereinafter referred to as the board, a director of transportation, hereinafter referred to as the director, and such staff as may be authorized by the board of selectmen, hereinafter referred to as the selectmen. Except as otherwise provided herein, all statutes and by-laws applicable to transportation, vehicular licensing and traffic rules, regulations and orders shall apply to the division of transportation.

SECTION 2. The board shall consist of six persons to be appointed by the selectmen. The selectmen shall initially appoint two members for terms of one year, two for terms of two years, and two for terms of three years, respectively, from the first Monday of May next following appointment and until the qualification of their respective successors. Thereafter as the term of office of any member expires the selectmen shall annually, before the first Monday of May, appoint his successor for a term of three years from the first Monday of May. Any vacancy on the board shall be filled by appointment by the selectmen for the remainder of the unexpired term. No person holding a public office in the town other than a town meeting member shall be eligible for appointment. A member of the board shall not receive any compensation for his services. Meetings of the Board shall be called by the chairman on his motion, on request of two or more members, or on request of the director. All actions of the board shall be by affirmative vote of at least four members of the entire board.

SECTION 3. The director shall be an engineer or the equivalent who shall be especially fitted by education, training, and experience to perform the duties of the position. The qualifications for the position shall be determined by the commissioner with the approval of the town administrator. The director shall not be subject to civil service lay and rules. The commissioner of public works of Brookline, hereinafter referred to as the commissioner, shall have the authority to create or eliminate staff positions in the division.

SECTION 4. Except as otherwise set forth herein with regard to taxi license sales, the board shall have exclusive authority, generally consistent with the transportation policies of the board of selectmen and except as otherwise provided in this act, to take any and all of the following actions after public notice and at a public meeting, if it determines, by the vote of at least 4 members, that the actions serve the public safety, welfare, environment or convenience.

The board may adopt, alter or repeal rules and regulations, not inconsistent with general law as modified by this act, relative to pedestrian movement, vehicular and bicycle traffic in the streets and in the town-controlled public off-street parking areas in the town, and to the movement, stopping, standing or parking of vehicles and bicycles on, and their exclusion from, all or any streets, ways, highways, roads, parkways and public off-street parking areas under the control of the town, including rules and regulations designating any way or part thereof under such control as a through way under and subject to section 9 of chapter 89 of the General Laws. The board shall also have all authority previously granted to the selectmen under section 22 of chapter 40 of the General Laws, except with respect to the sale of taxi licenses as set forth in section 4A. The board may prescribe a schedule of fines for each violation of parking regulations as authorized by section 20C of chapter 90 of the General Laws. All other violations of regulations adopted under this act, except as otherwise provided by statute, shall be subject to fines not to exceed \$50 for each offense as set forth in the regulations.

Notwithstanding any general or special law to the contrary, the board shall have authority to adopt, alter or repeal rules and regulations relative to the operation, licensing or permitting of any valet parking service that utilizes any part of a town-controlled public way, public off-street parking area or public property for the movement, transport, parking, standing, storage, pick-up, drop-off or delivery of a motor vehicle, if it determines, by a vote of at least 4 members, that such actions serve the public safety, welfare, environment or convenience. For the purposes of this section, a “valet parking service” shall mean a parking service offered, with or without a fee, to an operator or owner of a motor vehicle who is a patron, customer, visitor, employee, guest, invitee or licensee of any restaurant, store, hotel, club, business, institution or commercial establishment wherein the operator or owner delivers possession or control of the motor vehicle to an attendant commonly known as a valet who then transports, parks, stores, retrieves or delivers the motor vehicle.

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

Except as set forth herein with regard to taxi license sales, the following describes the appeal procedures applicable to any board action. Upon the filing of a petition with the board by not less than 20 registered voters of the town seeking the adoption, alteration or repeal of any rule or regulation under this section, the board shall hold an evening public hearing on that petition within 30 days after the petition has been filed. Petition forms for this purpose shall be available in the office of the board.

Upon the filing of an appeal petition with the board of selectmen by not less than 20 registered voters of the town within 21 days after either the adoption, alteration or repeal of any rule or regulation under this section or the action or inaction of the board on a citizen petition, the board of selectmen shall hold an evening public hearing on the petition within 30 days after the petition has been filed. Petition forms for this purpose shall be available in the office of the board of selectmen. A majority vote of the board of selectmen shall be required to overturn an action of the transportation board. If the board action is not overturned by the selectmen, within 21 days after the conclusion of the selectmen's hearing, not less than 30 registered voters of the town may file with the town clerk an appeal of this action of the board. The appeal shall contain a warrant article which shall be included in the warrant for the next town meeting, which, by a two-thirds vote, may determine that there is either a general policy issue or a serious safety issue and may overturn the board action. For a general policy issue, town meeting may also, by a two-thirds vote, pass a by-law modifying the board action.

The board may authorize the construction, installation and maintenance of traffic signs, signals, markings, parking meters and other devices for the control of traffic and parking in the town and for informing and warning the public as to rules and regulations adopted under this act, subject however, to section 2 of chapter 85, sections 8 and 9 of chapter 89, and sections 18 and 18A of chapter 90 of the General Laws.

Nothing in this act shall be construed to authorize the board to adopt any rule or regulation excluding the trackless trolley vehicles or buses of a street railway or bus company from any way or part thereof in which said company has a location, or to modify or limit any power or authority of the department of conservation and recreation, the Massachusetts Department of Transportation or the department of public utilities, or to modify or limit any power or authority now vested in the selectmen or heads of town departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

SECTION 4A. Notwithstanding chapter 30B or section 3 of chapter 40 of the General Laws or any other general or special law to the contrary, the board of selectmen shall have the exclusive authority to sell taxi licenses by public auction, public sale, sealed bid or other competitive process established by

regulations promulgated by the board after public hearing. The board of selectmen may entrust to the transportation board discretion to take actions necessary to implement this section and to sell taxi licenses, including, but not limited to, determining the number of licenses that shall be sold, the timing of the sales, and any conditions and limitations pertaining to the sales, including the power to revoke, suspend, renew and assign the licenses, except that the board of selectmen shall approve sales prices and execute sales contracts. Proceeds from the sales of licenses shall be paid to the collector-treasurer of the town of Brookline for deposit into a Taxi Medallion Fund which is hereby created under this section, to be appropriated pursuant to section 5 of chapter 40 of the General Laws. The board of selectmen may direct the board that in taking any action the board considers necessary to implement this section and to sell taxi licenses including the adoption, alteration or repeal of rules and regulations after public hearing, the board may balance, in its discretion, the interest of Brookline residents in the continuity of existing Brookline taxi businesses, the interest of existing license holders in their investment in their businesses, the interest of the town in augmenting the portion of the taxi fleet serving the town that meets the needs of its elderly and disabled residents and that minimizes the fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a whole, and the town's interests in maximizing revenue generated from sales of taxi licenses. The board of selectmen may consider these factors in determining whether to agree to a taxi license sales price. Any appeal from the board of selectmen's sale of a taxi license shall be to a court of competent jurisdiction.

This section shall not apply to a license issued and outstanding on the effective date of this action.

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

SECTION 5. The director shall be the administrative head of the transportation division, and as such shall have full charge and supervision of the work of the division and its personnel. He shall provide full staff services to the board, and to the extent authorized by the board shall act on its behalf, in the exercise of its powers and responsibilities under this act. He shall act as technical advisor to the board of selectmen, the transportation board, and other town agencies or officials in connection with transportation matters.

SECTION 6. Chapter three hundred and seventy-five of the acts of nineteen hundred and sixty-eight is hereby repealed.

SECTION 7. All existing by-laws, rules and regulations relating to the control of vehicular and pedestrian traffic, including those relating to the parking of vehicles on any streets, ways, highway, roads, parkways, and public off-street parking areas, under the control of the town, shall remain in full force and effect until superseded by rules and regulations adopted by the board under this act, and the adoption thereof by the board shall not affect any act done, any right accrued, any penalty incurred or any suit, prosecution or proceeding pending at the time of such adoption.

SECTION 8. This act shall take effect upon its acceptance, during the current year or the year subsequent to, by a vote of the selectmen of the town.