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## MEMORANDUM

**DATE:** March 10, 2017

**TO:** Councilor Ted Hess-Mahan, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development   
James Freas, Deputy Director of Planning and Development  
Rachel Blatt, Long Range Planner

**RE:** Boarding House Regulations

**MEETING DATE:** March 13, 2017

**CC:** Donnalyn Khan, City Solicitor  
John Lojek, ISD Commissioner  
Deborah Youngblood, Health Commissioner  
David MacDonald, Chief of Police  
Bruce Proia, Fire Chief  
Planning and Development Board

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A boarding house is a traditional housing form that caters to single individuals living in quasi-group settings. This housing arrangement was once very common. In the 1880s it was estimated that 50% of Americans had either lived in a boarding house or been a host of one.<sup>1</sup> Boarding houses have persisted, though in smaller numbers, and interest in living in boarding houses is growing again.

This memo introduces Newton's current approach to boarding houses and the 21<sup>st</sup> century approaches to regulating boarding houses that are taking shape. Brookline MA and Louisville KY have both recently adopted new licensing for boarding houses that outline ongoing requirements for boarding house operators – Brookline in 2013 and Louisville in 2015. Boston and Cambridge MA also have licensing requirements.

## Defining Boarding Houses

The words “Boarding House,” “Lodging House,” and “Rooming House” are largely synonymous. Historically, a boarding house operator provided meals while a rooming house did not.

### **Newton’s Zoning Code includes the following definition:**

Lodging House Defined. Any dwelling designed, occupied or intended for **occupancy by 4 or more lodgers** (defined as a person who occupies space for living and sleeping purposes **without separate cooking facilities**, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit). Includes rooming house, lodging house.  
*Newton Zoning Ordinance §6.2.7*

### **Massachusetts state laws include the following definitions:**

“Lodging House” means...“a house where lodgings are let to **four or more persons not within second degree of kindred to the person conducting it**, and shall include fraternity houses and dormitories of educational institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under [other sections of the code]”.

*MGL, c. 140, s.22 – Massachusetts General Laws*

“Rooming House” means...“every dwelling or part thereof which contains **one or more rooming units** in which space is let or sublet for compensation by the owner or operator to **four or more persons not within the second degree of kindred to the person compensated**. Boarding houses, hotels, inns, lodging houses, dormitories and other similar dwelling places are included, except to the extent that they are governed by stricter standards elsewhere created; [not including hospitals, nursing homes, and other such facilities licensed by the Dept. of Public Health]

[and]...

“Rooming Unit” means... “the room or group of rooms let to an individual or household for use as **living and sleeping quarters but not for cooking**, whether or not common facilities for cooking are made available.”

*105 CMR 410.020 – State Sanitary Code*

In the state definitions, a rooming or lodging house is comprised of four or more separate “rooming units.” Brookline’s Boarding House Regulations borrows from the state definitions. Louisville, KY similarly includes both “rooming house” and “rooming unit” definitions in their regulations.

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<sup>1</sup> During, Alan (2012). “Rooming Houses: History’s Affordable Quarters.” Accessed 3/7/17 at <http://www.sightline.org/2012/11/14/rooming-houses-historys-affordable-quarters/>. Data quoted from Groth, Paul (1994), *Downtown Living Downtown: The History of Residential Hotels in the United States*. University of California Press.

**Brookline uses the following definitions:**

Lodging House: Every dwelling or part thereof which contains **one or more rooming units** in which space is let or sublet for compensation by the licensee, owner or operator to **four or more persons not within the second degree of kindred to the person compensated**. The term Lodging House shall include: boarding houses, rooming houses, inns, bed and breakfast establishments, dormitories, fraternity houses and other similar dwelling places.

Rooming Unit: The room or group of rooms let to an individual or household for use as living and sleeping quarters.

**Differentiating between Roommates and Rooming Houses**

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In 2013, the Supreme Judicial Court ruled on a case from Worcester about “unrelated adults” and offered guidance on how to distinguish roommates sharing a “dwelling unit” from lodgers in a “rooming house.”

In the case, City of Worcester v. College Hill Properties, LLC, the Court ruled that “apartments shared by four or more unrelated adults...are not “lodging houses” within the meaning of the Act. In so ruling, the SJC observed that “lodgers” occupy only a specific room within a lodging house, and have a contractual interest only in that room, whereas tenants have the right to occupy and use the entire leased premises.”<sup>2</sup> It was also noted that the Massachusetts Sanitary and Fire codes define and offer separate standards for “rooming units” and “dwelling units.”

Roommates operate as a single housekeeping unit whereas lodgers in a rooming house operate individually with access to, but not responsibility for, shared facilities.

**Newton’s Current Boarding House Regulations**

Boarding Houses in Newton are an allowed use in multi-residence districts, subject to a special permit. There is also an existing Lodging House License Fee of \$50 a year and a \$50 Quarterly On-Site Inspection Fee for Lodging/Rooming Houses. However, there are currently no regulations to go with the license and inspection fees.

Should a new boarding house be proposed, the regulating tool would be to condition the special permit and enforce the special permit conditions.

At this time, the Zoning Ordinance includes the following regarding boarding houses:

- Definition (see above) (6.2.7)

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<sup>2</sup> Pierce Davis & Perritano LLP (2013), “Massachusetts Lodging House Act Held Inapplicable to Off-campus College Apartments.” Accessed 3/8/17, <http://www.piercedavis.com/massachusetts-lodging-house-act-held-inapplicable-to-offcampus-college-apartments>. Published in Developments in Municipal Law Fall 2013 Newsletter.

- Use is allowed by Special Permit in the MR-1, MR-2, MR-3, and MR-4 districts (3.4.1)
- Parking Requirement: 1 parking stall per sleeping room plus 1 per 3 employees (5.1.4)

### **Why Newton might consider regulating Boarding Houses**

It is estimated that there are currently three boarding houses that were established prior to zoning requirements relating to Boarding Houses as well as an unknown number of illegal boarding houses in the City. While the number of boarding houses is estimated to be a very small percentage of all housing in Newton, it is an allowed use, without established permitting criteria or regulations regarding operations.

The Police, Fire, Health, and Inspectional Services Departments acknowledge that typically illegal Boarding Houses are discovered because of a 911 call. Often Boarding Houses are operated with violations to the state sanitary and fire codes and there are life safety concerns about how these facilities are run. The concern is not just for whether these facilities are safely constructed with proper egress stairs, sprinklers, etc., but also how they are operated - are managers ensuring that doors are not blocked, that hotplates are not being used in bedrooms, that trash is properly disposed of, and the like. Fires have occurred in a few illegal boarding houses in recent years, leading to a concern for the safety of Newtonians living in these arrangements.

Given the life safety and health concerns arising from recently found boarding houses, the docket item introduces the idea of regulating boarding houses on an ongoing basis. As the case studies will show, licensing allows for routine inspections and operator education.

Separate from the licensing, Newton may want to consider how boarding houses are addressed in the zoning code, including the criteria by which boarding houses are allowed to be established and which zoning districts they are allowed in.

### **Boarding House Regulation Case Studies**

Brookline MA and Louisville KY have both revised their boarding house regulations in the last few years, and can offer examples for Newton to consider as a starting point for discussion. Staff has not yet reached out directly to either community, but is working on arranging for those conversations and looks forward to being able to incorporate questions from the Zoning and Planning Committee in those discussions.

#### **BROOKLINE, MA (2013 UPDATE)**

It is our understanding that Brookline has had boarding house licenses for decades, possibly without lapse from the boarding house heyday before WWII. In 2013 the town updated the regulations to the current format, but a number of these provisions have been in place for many years.

**All Boarding Houses require a Special Permit** to be established in Brookline. They are permissible in the Three Family (Res-F), Apartment House (Res-M), Local Business (Bus-L), and General Business (Bus-G) zoning districts. The Zoning By-law then cross-references to the Licensing requirements in the Lodging House Regulations.

**All boarding houses have the following parking requirements:**

- For lodging houses, each ten sleeping rooms shall equal one dwelling unit , and 2.0-2.3 parking spaces are required per dwelling unit
  - Equivalent of 0.2 parking spaces per bedroom

**The Licensing regulations explain the application process and responsibilities of license holders.**

Licenses are issued to the owner of the building and their resident agents. In order to get a license, the owner or a designated resident agent, must be approved by the licensing board, in Brookline's case this is the Board of Selectmen. Licensees or their agents are required to supply contact information to the Board of Selectmen, Police, Fire, Building, and Health Departments and all licensees/agents are required to attend a one-time training conducted by the enforcing departments. When running a lodging house, a licensee is required to be available to residents 24 hours a day, and is responsible for the maintenance and management of the facility.

**Licensees have responsibilities with respect to both lodgers and the facilities.** Licensees are responsible for keeping a record of everyone residing in the house, including their vehicle information, former addresses, and emergency contacts. This record must be made available for inspections by town officials and lodging houses are not permitted to accept unemancipated minors. Licensees are responsible for entering into formal agreements with the lodgers and for setting clear house rules for lodgers to follow. House Rules are expected to cover issues of noise, cleanliness, disorderly behavior, electrical use, etc. Finally, the licensee is responsible for housekeeping – including ensuring that lodgers have clean bedding, clean common areas, kitchen, and bathroom facilities, as well as managing pest control. Licensees are also expected to conform to the Brookline By-laws regarding smoking, noise, and prohibition on discrimination.

**Licensees are also responsible for maintaining a safe building** including meeting all of the Massachusetts Fire and Sanitary Codes. The Brookline Lodging House Regulations include direct references to key areas of the state codes – i.e. size of rooms and egress. The regulations also include prohibitions on candles, portable heaters, and cooking in individual rooms to limit fire risk. The exception to in-room cooking is that non-convection microwaves are allowed. General building maintenance is also expected including snow and ice removal.

Generally in Brookline, as with Newton and other communities, Boarding Houses have common cooking facilities. That said, **Brookline has developed standards to allow some boarding houses to include individual cooking facilities for lodgers, subject to conditions:**

- A Lodging House “may have individual cooking facilities if 100 percent of the rooms are affordable, such that they are deed restricted to serve, at affordable rents and under one year leases, lodgers with an income which is less than or equal to 80% of area median income for the Boston Metropolitan Statistical Area” (*Brookline Zoning By-Law, Article II, page 2-6*)
- Licensees can be approved for “Enhances Single Room Occupancy Units” that include limited cooking facilities. In order to get this approved, these units need to have two means of egress, higher minimum room sizes, and fire extinguishers in the unit, among other things.

### **LOUISVILLE, KY (2015 UPDATE)**

Louisville, KY updated their regulation for boarding houses in response to growing complaints from neighbors to existing boarding houses in the City. The City already permitted boarding houses with a maximum of 8 residents through their zoning process, but licenses were not issued before 2015. In July 2014, Wave3 News reported, “It’s what the director of Metro Codes and Regulations called ‘a very unregulated environment’ and has prompted neighbors to demand action from city officials.”<sup>3</sup>

**When the new regulations were approved, the Council separately voted on establishing the licensing procedure and modifications to the zoning approval processes for boarding houses.**<sup>4</sup> The licensing regulations affected all boarding houses, proposed and already in operation, whereas the zoning change only affected new proposals.

**The license regulations cover similar topics to Brookline’s regulations.** With respect to the licensees themselves, they must provide contact information, and if they accept children in the facility, they must go through a criminal background check. **With respect to managing lodgers,** licensees must submit rules of conduct and business management plans with their application, as well as outline any support services to be provided, and a proposed maximum stay for residents. **Regarding the building maintenance,** licensee’s applications including floor plans of the building are reviewed against the various codes and the Department of Public Health is required to do an inspection. The license regulations include three **crossover provisions that link to zoning:** no signs identifying boarding houses, boarding houses should be located near public transit access, and boarding houses should provide sufficient parking.

### **Louisville’s Zoning Ordinance allows boarding houses in a number of districts:**

- By-right in Office/Residential Districts (OR-1, OR-2, OR-3, OTF); Commercial Zones (C-1, C-2, C-3, CM); Industrial zones (EZ-1, PRO)
- Limited in Transit District Transition – *meaning Planning Commission approval of the site plan*

<sup>3</sup> Wave3 News (2014), “Boarding house violations plague West Louisville Neighborhoods.” Accessed 3/8/17 at <http://www.wave3.com/story/26156935/boarding-house-violations-plague-west-louisville-neighborhoods>. Published 7/30/14.

<sup>4</sup> LouisvilleKy.gov (2015), “Metro Council passes ordinances requiring the licensing of boarding and lodging houses in Metro Louisville.” Accessed 3/8/17 at <https://louisvilleky.gov/news/metro-council-passes-ordinances-requiring-licensing-boarding-and-lodging-houses-metro>. Published 4/16/15.

- Conditional Use Permit in all single-family residence zones, except U-N; some multi-family districts (R-6, R-7, R-8A)

**The parking requirements for Rooming, Boarding, and Lodging Houses/Bed and Breakfast are:**

- Minimum: 0.75 spaces for each bedroom
- Maximum: 1.5 spaces for each bedroom

**The second part of the 2015 regulation update was to require Conditional Use Permits to be issued for boarding houses in residential zones**, and stating that the Zoning Board of Adjustments, which issues such permits, are to “take into consideration the location of other shelter, transitional, rehab housing and boarding and lodging facilities and the compatibility with the character of the surrounding neighborhood and any adverse impacts to the neighborhood before granting the permit.”<sup>5</sup>

### **Initial Topics to Discuss**

Based on these two cases, staff recommends that the Council consider the following topics in their discussion of boarding house regulations (in no particular order):

- Should Newton issue licenses for boarding houses?
- Should Newton adjust the zoning requirements for boarding houses?
- Should Newton require annual inspections?
- Should Newton include training in the requirements?
- Should Newton allow for some units with independent cooking facilities as Brookline has?
- Should Newton include bed and breakfasts in these regulations as Brookline has?
- Should Newton establish a pathway to bringing existing boarding houses up to license standards? Should this apply to only legal pre-existing boarding houses or also illegal ones?

### **Resources:**

Brookline:

- Zoning Bylaw: [www.brooklinema.gov/DocumentCenter/Home/View/6310](http://www.brooklinema.gov/DocumentCenter/Home/View/6310)
- Lodging House Regulations: [www.brooklinema.gov/DocumentCenter/Home/View/718](http://www.brooklinema.gov/DocumentCenter/Home/View/718)

Massachusetts more broadly:

- Rooming House Licenses Presentation from Hsuanyeh Law Group PC:  
<https://www.slideshare.net/hsuanyehchang/massachusetts-rooming-house-license-57134756>

Louisville:

- Zoning Ordinance: <https://louisvilleky.gov/government/planning-design/land-development-code>

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<sup>5</sup> LouisvilleKy.gov (2015)

- License Regulations (Chapter 115):  
[http://library.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:louisville\\_ky](http://library.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates$fn=default.htm$3.0$vid=amlegal:louisville_ky)



# TOWN OF BROOKLINE

MASSACHUSETTS

## Lodging House Regulations



(Voted: July 9, 2013)

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**LODGING HOUSE REGULATIONS - TOWN OF BROOKLINE**

(Voted: July 9, 2013)

- 1. Authority and Scope:** The following lodging house regulations have been adopted by the Board of Selectmen ("Board"), the licensing authority for the Town of Brookline, pursuant to the provisions of Massachusetts General Laws ("M.G.L."), Chapter 140. Any and all licenses issued by the Board shall be governed by, and subject to the licensee's compliance with all applicable federal, state and local laws, regulations and by-laws, including but not limited to the M.G.L., these regulations, the Town of Brookline's By-Laws, all applicable building, fire prevention, zoning, health and sanitary codes, and any conditions the Board imposes on specific licenses. Where there is conflict between these regulations and a condition on the license, the condition shall govern unless it is inconsistent with the law. The Board reserves the right to modify and supplement these regulations and the conditions on any license after due notice and hearing.
  
- 2. Definitions:**
  - A) Lodging House:** Every dwelling or part thereof which contains one or more rooming units in which space is let or sublet for compensation by the licensee, owner or operator to four or more persons not within the second degree of kindred to the person compensated. The term Lodging House shall include: boarding houses, rooming houses, inns, bed and breakfast establishments, dormitories, fraternity houses and other similar dwelling places.
  - B) Lodger:** A lodger is any person residing in a rooming unit including any person listed as a lodger on any lease or occupancy agreement for said unit.
  - C) Rooming Unit:** The room or group of rooms let to an individual or household for use as living and sleeping quarters.
  - D) Licensee:** That person(s) or entity listed on the lodging house license and the owners of the land and building where the lodging house is operated.
  - E) Enhanced Single Room Occupancy (E-SRO) Unit:** A single unit providing independent living facilities for ONE person, including living, sleeping, and cooking facilities, located in a property with on-site shared space such as community living room, TV room, etc., that complies with applicable law, regulations, and codes, including but not limited to Section 40 of these Regulations and the Town's Zoning By-Law.

- 3. Application for a New or Renewed License:** All applications must contain complete and truthful information. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling or revoking a license already granted. No application will be accepted for filing by the Board until it is fully complete. Annual license fees shall be payable immediately upon approval of the license by the Board. Filing fees are non-returnable once an application has been accepted by the Board. License fees shall not be prorated and are not refundable.

All applications for new or renewed licenses must identify all proposed E-SRO Units within the licensed premises and as to each, the date(s) of approval(s) by the Board.

No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license, such as ownership papers, tenancy documents, or a management contract.

Application and license fees shall be in an amount established by the Board pursuant to M.G.L. c. 40, s. 22F.

In determining whether or not to grant a request for a new license, the Board shall consider matters bearing on health and morality including the adequacy of the facilities, the applicant's record in running lodging houses, and the qualifications and character of the applicant and supervisor. The Board shall not deny a license based on general grounds of adverse impact on the neighborhood.

Prior to issuing a new or renewed license, the Board shall seek advisory reports from the Police Department, Fire Department, Treasurer/Collector, Health Department, Building Department, and Planning Department, as appropriate, and shall hold a public hearing on the application.

The Board may deny an application for renewal of a license where there is cause for doing so.

The licensee's failure to comply with any federal, state or local law, regulation, or by-law may be cause for denial of the application. This includes, but is not limited to, the Town's Zoning By-Law (including, but not limited to, applicable parking requirements), State and local health codes, State Building Code, and State Fire Code.

4. **Agreements with Lodgers:** Licensees may not enter into agreements with lodgers that are inconsistent with the terms of these regulations, including, but not limited to, the regulations requiring licensees to inspect occupied and unoccupied rooming units and requiring licensees to institute certain House Rules (*see* Section 19). Upon request, licensees shall supply to the Board or its agent a copy of agreements with lodgers and any related documents.
5. **Taxes and Charges:** All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the town from any fee, charge or tax, which balance is at least six months past due.
6. **Transfers / Sales of Licenses:** No licensee may transfer to another person or entity a license issued pursuant to these regulations except upon application to and approval by the Board of the transfer. Any such transfer shall be subject to the terms and conditions of the original license, unless otherwise stipulated by the Board.
7. **Display of Licenses:** All licenses issued by the Town pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.
8. **Responsibilities of Licensee:** The licensee shall be responsible for the proper supervision, operation, and maintenance of the lodging house in accordance with the requirements of these regulations and all other pertinent laws, by-laws, regulations and codes. The appointment of an agent shall in no way relieve the licensee from responsibility for full compliance with the law.
9. **Agent(s):** If the licensee, because of health, other employment, non-residence on the premises, frequent or extended absences from the premises or other reason, is unable to exercise proper supervision of the premises, he/she shall designate one or more agent(s) to carry out all or part of his/her responsibilities. In the event that the licensee does not reside on the premises, the licensee shall designate a resident agent. The Board of Selectmen shall approve such agent(s) prior to assumption by the agent of the agent's responsibilities. Depending on the qualifications of the agent(s) designated and the extent of the agent's responsibilities, the board may require that more than one agent be provided. If, for any reason, an agent ceases to exercise his/her responsibilities, the licensee shall at once notify the Board of Selectmen and take immediate steps to provide proper interim supervision and obtain a suitable replacement approved by the Board.

The agent(s) shall be available on a 24-hour basis and must post his/her telephone numbers (including cell phone number) and beeper number, as applicable, in a

conspicuous place inside the Lodging House. The agent must also respond to calls from the town within a reasonable time (with respect to emergency issues, immediately (within one hour); with respect to all other issues, by the end of the day). The agent must also notify the Selectmen's Office, Police Department, Health Department, Fire Department and Building Department of his/her telephone and beeper numbers.

Each educational institution shall submit to the Board of Selectmen the name of the Dean of Residences or other school official having jurisdiction over each dormitory, specifying the specific building. Educational institutions must designate and list the Dorm Director for each assigned building. (This includes off-campus housing facilities leased or rented by the institution.)

Each fraternity shall submit to the Board of Selectmen the names of the officers or other members living on the premises who are responsible for the operation of the fraternity house, the university with which the fraternity is affiliated, and the Dean of Residence or other university official having jurisdiction over the fraternity.

The foregoing requirements for approval of agents shall not apply to those lodging houses that are dormitories of educational institutions or fraternities.

## **10. Mandatory Training for Licensees and Agents:**

- A. All Licensees and their Agent(s), including, in the case of educational institutions, the Resident Agent or Dean of Residence, shall complete a one-time training program conducted by the Brookline Health Department along with representatives from the Town's Building Department, Fire Department and Police Department.
- B. The training program shall be offered once per year and will be an instructional program that will educate the licensee and the agent(s) with regard to the requirements of the Town's these regulations and any other laws or related topic(s) as the Town may deem necessary for the safe and proper operation of lodging houses.
- C. If at any time there is a change in the Licensee, Agent, Resident Agent or Dean of residence, the newly designated person(s) shall be required to complete the training program.
- D. Failure to complete the training program may result in a fine of the license holder not to exceed \$500.00 or the suspension or revocation of the lodging house license, as the Board of Selectmen after notice and hearing may determine.

- ## **11. Registers, Card Files and Rosters:**
- The licensee of every lodging house, except dormitories of educational institutions and fraternities, shall keep or cause to be kept, in permanent form, a register. Such register shall contain the true name or name in ordinary use and the last residence of every person engaging or occupying a private room together

with a true and accurate record of the room assigned to such person and of the day and hour of check-in and check-out. The entry of the names of the persons engaging a room and the lodgers of said room shall be made by said person engaging said room or by the lodger thereof.

Until the entry of such name and the record of the room have been made, such person shall not be allowed to occupy privately any room upon the licensed premises.

In addition, each licensee shall keep or cause to be kept a card file containing current information on each lodger including full name, date and time of registration, room number, former address, place of employment, registration number, state of registration, and make of automobile, and the name and telephone number of the person to be notified in case of emergency. These cards should be kept for a minimum of one year after departure of the lodger.

Licensees of dormitories and/or fraternities shall maintain a roster of all persons residing therein.

The register, card file, and roster required in this section shall be available for inspection at all times by any town official.

The register and card file or the roster may be stored in a fireproof depository at all times. Registers, card files and rosters, shall be kept electronically, both on and off site, if not stored in a fireproof safe. Copies of these records shall always be maintained and be available for inspection by any Town official.

- 12. Minors:** No room shall be let to any unemancipated person who is younger than eighteen (18) years of age, except one who has the written consent of his/her parent or guardian. In cases where the licensee or agent is unable to determine whether the lodger is a minor, he/she shall notify the Police Department.
- 13. Town Inspections:** Town inspections shall be made on an annual basis by authorized inspectional departments to determine compliance with applicable state and local laws, regulations and codes. Annual inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints or non-compliance issues. Inspections may include all areas occupied, used or controlled by the licensee and within the structure containing the licensed premises, including apartments, leased units and other occupied and non-occupied space. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.



- 14. Minimum Standards:** These regulations are minimum standards intended for the maintenance and enforcement required for the protection of health, safety and welfare of all persons concerned. If there is any conflict with state or local law, the stricter provision shall apply.

With regard to licensed premises with E-SRO Units, in the event of a conflict between any provision of these regulations that is of general applicability and any special rule applicable to lodging houses with E-SRO units set forth in Section 40 below, the requirement of Section 40 shall apply.

All lodging houses shall comply with the requirements of Article II of the State Sanitary Code, Minimum Standards of Fitness for Human Habitation, which is incorporated herein by reference, and with the requirements of these regulations, whenever they are in addition to or more stringent than the requirements of Article II of said code.

All lodging houses in which meals are served to lodgers shall comply with the requirements of Article X of the State Sanitary code, Minimum Sanitation Standards for Food Establishments, which is incorporated herein by reference, or to such lesser standards as may be approved in writing by the Director of Public Health.

- 15. New or Newly Renovated Facilities v. Existing Licensed Facilities:** New and renovated lodging houses must comply with all applicable State and Local Codes, Rules and Regulations in effect at time of construction. Consistent with and as may be permitted by Building Code, Fire Code, and Health Code, certain provisions of these regulations establish more flexible standards applicable to existing facilities previously licensed as lodging houses, so long as they conform with applicable code requirements in effect at the time of construction or rehabilitation.
- 16. Bathroom Facilities:** Bathroom facilities, as required by the Sanitary Code, shall be located on the same floor as the individuals who are to use them.
- 17. Space and Use:** Every room occupied for sleeping purposes shall contain at least 70 square feet of floor area and shall have a minimum dimension of 7 feet. Existing rooms in lodging houses approved and licensed as of May 12, 1999, may have a minimum dimension of not less than 6 feet, but no existing room having a minimum dimension of 8 feet or more shall be reduced in width to less than 8 feet.

Every room occupied for sleeping purposes by more than one person shall contain at least 80 square feet of floor space for the first occupant and at least 60 square feet for each additional occupant. In fraternities or dormitories where other living space is provided, this requirement may be reduced by the amount of such common living space per lodger as

approved by the Building, Fire and Health Departments.

See Section 40 of these regulations for special rules applicable to E-SRO Units.

## 18. Room Furnishings:

- A. Every room occupied for living and sleeping purposes shall contain:
- (1) a bed, in good repair, with a firm and even mattress provided by the Owner or the Lodger may choose to provide his/her own bed and mattress;
  - (2) a dresser with at least 16 cubic feet of storage space;
  - (3) at least 6 cubic feet of closet space per lodger including at least 3 feet of hanging rod; and
  - (4) an unperforated, non-combustible waste basket.

If freestanding wardrobes within the room provide the required closet space, the floor area occupied by such wardrobes shall not be included in the computation of required room size under Space and Use, Section 17, above.

- B. It is recommended that the following items be included with the room furnishings or provided in a common area:
- (1) a desk or table, at least 19 inches wide with a top of not less than 6 square feet and a straight back chair;
  - (2) a lounge chair;
  - (3) an individual towel rack; and
  - (4) a suitable floor covering.

## 19. House Rules & Supervision: Licensees and their agent(s) must:

- A. Exercise due care in the selection of lodgers.
- B. Inspect all common areas at least daily and all occupied rooms at least monthly and at every change of lodger to insure that all such areas are in a clean and orderly condition and in compliance with the licensee's electrical use policy and regulations pertaining to obstruction of egress, cooking in rooms, and other health and safety hazards. A schedule of inspections must be posted at least forty-eight hours prior to said inspection. Posting of the schedule for inspections shall not apply in the case of an emergency.
- C. Institute and enforce such house rules as are necessary to prevent the lodging house from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighborhood.
- D. Ensure that House Rules are in writing and state that the lodgings are subject to licensing by the Town of Brookline and are subject to and must comply with the Town's Lodging House Regulations.

In addition, House Rules shall **at a minimum** contain rules adequate to address the following matters:

- (1) Noise control, including use of audio or other equipment that may disturb the peace;
- (2) Adherence to the requirements of Article 8.5 of the Town By-Laws regarding disorderly behavior;
- (3) Adherence to these Lodging House Regulations, and the consequences for repeated violations;
- (4) Proper garbage disposal and sanitary storage of food items;
- (5) Cleanliness of rooming units and common areas;
- (6) Unobstructed path of egress from entry door to fire escape, particularly in exit rooms;
- (7) Compliance with approved electrical use policy;
- (8) Prohibition of use of fire escapes for general access to rooms; and
- (9) Any other provisions as may be required by the Board or its agent.

- E. Provide a copy of the current House Rules to the Board of Selectmen or its agent upon request.
- F. Post a copy of the House Rules in a common area of the lodging house.
- G. Provide every lodger who intends to remain, or has remained, for more than thirty days with a copy of the House Rules.
- H. Meet with the lodgers on an annual basis to discuss House Rules, except with respect to transient lodgers (30 days or less).
- I. Take whatever steps are necessary to stop Lodger(s) from repeatedly violating House Rules or the requirements of these regulations, up to and including eviction.

**20. Housekeeping:** It shall be the duty of the licensee and/or his/her agent to provide or cause to be provided:

- A. Clean sheets and pillow cases to each lodger at least once a week and at each change of lodger.
- B. Clean blankets and bedspreads to each lodger at each change of lodger and when otherwise necessary.
- C. A clean mattress pad and/or mattress cover at each change of lodger and when otherwise necessary.
- D. Daily cleaning of all common bathroom facilities and community kitchen and laundry facilities.
- E. Cleaning of all occupied rooms at the change of each lodger or as otherwise necessary for sanitary purposes.
- F. Cleaning, as necessary, of all other common areas.

If a room is let for thirty (30) consecutive days or more, the Licensee may modify the

requirements in paragraphs A through C above.

- 21. Pest Control Inspections and Treatment:** Licensees must have inspections performed by a licensed pest control operator (PCO) every 6 months (unless ordered to do so more frequently by the Health Department). PCO inspection reports must be kept on file for review. Inspections must include, but not be limited to, bed bugs, insects, and rodents. The licensee must take appropriate action to address any findings by the PCO. Licensees that can demonstrate long-term occupancy by a majority of the residents (greater than one year continued occupancy) may request a waiver of this inspection requirement. Waivers will be applied for and approved by the Director of Public Health.
- 22. Storage, Collection & Disposal of Waste:** The Licensee and his/her agent(s) shall comply with the Town of Brookline's Regulations Governing the Handling, Storage, Collection and Disposal of Waste adopted on June 26, 1998, by the Director of Public Health and all other state or local laws pertaining to the proper storage, collection and disposal of waste. Responsibilities of the Licensee and Agent(s) include, but are not limited to, the following:
- A. Storing garbage in watertight, rodent-proof receptacles with tight-fitting covers.
  - B. Providing as many receptacles as are sufficient to contain accumulation of all garbage before final collection.
  - C. Locating garbage containers in an area where objectionable odors will not enter any dwelling.
  - D. Informing all lodgers of the rules regarding proper storage, collection and disposal of waste.
  - E. Placing garbage for collection in the designated location no later than 7:00 a.m. on the day of the scheduled collection, and no earlier than 3:30 p.m. of the day preceding the scheduled collection.
  - F. Removing all empty containers of any kind from the area of collection no later than midnight of the collection day.
  - G. Private curbside collection must be carried out on a schedule consistent with the Town's curbside collection service, with regard to the time and date of pick-up. The Commissioner of Public Works must approve any exceptions to this. This rule does not apply to private collection at locations other than curbside, such as at the rear or side of the property.
  - H. Town of Brookline Legal Holidays and Holiday Collection Schedule must be observed. A list of legal holidays can be found in Section V(D) of the Town's Regulations Governing the Handling, Storage, Collection and Disposal of Waste (copies of which are available from the Health Department). There will be no collections on legal holidays. Collections on or following a legal holiday will be done one day later for the remainder of that week.

Licensees and their agent(s) should familiarize themselves with the Town's Regulations Governing the Storage, Collection and Disposal of Waste, copies of which are available at the Brookline Health Department. Recycling should be a part of the licensee's solid waste

management plan.

- 23. Lighting and Electrical Facilities:** The electrical service to the building shall conform with the rules and regulations issued by the Commonwealth of Massachusetts, Department of Public Safety, Board of Fire Prevention Regulations, known as the Massachusetts Electrical Code, which is incorporated herein by reference. Specific questions regarding the requirements of the Massachusetts Electrical Code may be directed to the Town of Brookline Electrical Inspector.
- 24. Heating Systems:** The owner shall provide and maintain in good operating condition the facilities for heating every habitable room and every room containing a toilet, shower or bathtub to such temperature as required by the State Health Code.
- Central heating systems shall be provided with all the safety devices required for new installations under all applicable laws, by-laws, and regulations of any authority having jurisdiction thereof. The heating system should be located in any area suitably ventilated to ensure the safe operation of the heater or burner.
- 25. Automatic Fire Alarm System:** All lodging houses shall be equipped with automatic smoke or heat detectors. The design, installation, and performance of fire warning systems required by M.G.L. c. 148, § 26C, shall be in accordance with NFPA 72.
- 26. Sprinkler Systems:** Every lodging house shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. Fire protection systems shall not be disconnected or otherwise rendered unserviceable without first notifying the fire department. The design, installation, and performance of required fire warning systems, pursuant to M.G.L. c. 148, § 26H, shall be in accordance with NFPA 13 and 72.
- 27. Carbon Monoxide Protection:** All lodging houses shall be equipped with carbon monoxide protection and shall meet the requirements of 527 CMR 31.00 (Carbon Monoxide Alarms) and 248 CMR as referenced in 780 CMR and pursuant to 780 CMR Section 916 (Carbon Monoxide Protection). Carbon monoxide alarms, carbon monoxide detectors and combination smoke/carbon detectors described in 780 CMR Sections 916.1.1 through 916.1.4 shall be installed and maintained in accordance with M.G.L. c. 148, § 26 ½, 105 CMR 410.482, 527 CMR 31.00, 248 CMR, 780 CMR, NFPA 72 and 720, and these regulations.
- 28. Care and Maintenance of Fire Protection Systems:** The Licensee shall be responsible for the care and maintenance of all fire protection systems, including equipment and devices, to insure the safety and welfare of the lodgers. If required fire protection systems are temporarily out-of service for maintenance or repair, the Licensee or his/her agent(s) shall immediately advise the fire department and shall diligently restore the system to working order. Installation of, or modification to, any automatic fire protection

system shall require a permit from the head of the fire department.

All lodging houses must submit to Fire Prevention the annual Fire Alarm and Sprinkler System tests for the facility at the annual inspection conducted every year.

Aisles, floors, halls, stairways, fire escapes, doors and windows shall be kept in good repair and ready for use, and shall be kept properly lighted.

No person shall shut off, disconnect, obstruct, remove or destroy, or cause or permit to be shut off, disconnected, obstructed, removed or destroyed, any part of any sprinkler system, water main, hydrant or other device used for fire protection in any building owned, leased or occupied by such person or under his control or supervision, without first procuring a written permit to do so from the head of the fire department.

## **29. Egress From and Access to Building:**

Any obstacle that may interfere with the means of egress or escape from any building or other premises, or with the access to any part of said building or premises by the fire department in the case of fire, shall be removed from aisles, floors, halls, stairways and fire escapes. Doors and windows designated as exits shall be kept clear at all times.

No person shall at any time place an encumbrance of any kind before or upon any fire escape, balcony or ladder intended as a means of escape from fire. The means of egress from each part of the building, including stairways, egress doors, and any panic hardware installed thereon, aisles, corridors, passageways and similar elements of the means of egress, shall at all times be maintained in a safe condition and shall be available for immediate use and free of all obstructions.

All lodging houses shall establish and post an Evacuation Plan in compliance with the NFPA Protocol for residential occupancies on all levels of the building and near all exits. The facility is required to conduct at least two Evacuation Drills a year and submit documentation to Fire Prevention showing that they have been done.

All exterior bridges, steel or wooden stairways, fire escapes and egress balconies shall be maintained in accordance with 780 CMR 1028.0 and shall be examined and/or tested, and certified for structural adequacy and safety, every five (5) years by a Massachusetts registered professional engineer, or others qualified and acceptable to the Building Commissioner or his/her designee. The engineer or other party shall after inspection submit an affidavit to the building department.

- 30. Egress Facilities in Existing Licensed Facilities:** There shall be at least two separate and adequate ways of egress from each occupied story of a lodging house. The number and location of such ways of egress shall allow every lodger to reach the outside at ground level by a second way of egress if the principal or customary egress is blocked by fire or smoke, or is otherwise obstructed. At least one of the required ways of egress shall be a protected interior egress and additional required ways of egress shall be either protected interior egresses or approved fire escapes that lead to a place of safety.

A protected interior egress shall be defined to mean an interior stairway, including all halls or corridors connecting the flights of stairs or leading to an exterior door at ground level, or providing access from any room, group of rooms, or apartment.

See Section 40 of these regulations for special rules applicable to E-SRO Units.

- 31. Approved Fire Escapes in Existing Licensed Facilities:**

An approved fire escape shall be an exterior stairway with balconies or landings at each floor, and having clear egress to a street, way or place of safety at ground level. Stairs, balconies and landings shall be constructed of non-combustible materials and landings shall be 2 feet in width of passage. Balconies and landings shall be not more than 9 inches below the top of exterior doorsills or windowsills with which they connect.

- A. Access to Approved Fire Escapes.** Access from any occupied story to an approved fire escape shall be through a door or window opening with approved hardware, T turn knob, lever or push bar which by one operation will release the door from the inside. Existing opening may, at the discretion of the Building Department, remain but may not be reduced in width or height unless otherwise required by applicable law. Doors shall open in the direction of egress so as to allow clear passage. If the top of the doorsill is more than 18 inches above the floor, approved steps permanently secured to the structure shall be provided. No storm or screen door shall be used in such locations. Except as stated immediately above, no devices that require unlocking from the inside shall be used. Access to fire escapes shall be from a common hall or corridor or otherwise accessible room that is not a toilet or bathroom. If access to a fire escape is from an accessible room, the room shall lead directly to a common hall or corridor. Any door through which a fire escape must be accessed shall have hardware allowing release by one operation with no locking device, permitting opening at all times in the direction of egress.
- B. Access through Private Rooms.** No private room shall be used as access to a required fire escape unless the door to the room is equipped with an emergency exit lock as noted in Section 31(A) above.
- C. No Obstructions.** No obstruction shall be permitted in the path of egress to a fire escape.
- D. Emergency Use Only.** Fire escapes are to be used for emergency purposes only. Use of fire escapes for general access to rooms is strictly prohibited.

- 32. Exit Signs:** Continuously illuminated exit signs shall be provided. Location, illumination, graphics and power source of exit signs shall comply with 780 CMR 1011 (Exit Signs) and shall be approved by the Building Commissioner.
- 33. Emergency Lighting:** Approved emergency lighting shall be provided along the ways of egress. The number, type and location of emergency lighting units shall be as designated by the Building Commissioner.
- 34. Portable Fire Extinguishers:** Portable ABC fire extinguishers of a type and capacity approved by the Chief of the Fire Department shall be provided for each story and basement (one for each 2500 square feet of the floor area or portion thereof), maintained in a fully-charged and operable condition at all times, and kept in their designated places when not being used. Such fire extinguishers shall be inspected and serviced annually and after each use in accordance with NFPA 10. Fire extinguishers shall be conspicuously located where they will be readily accessible and immediately available in the event of fire. Preferably they shall be located along normal paths of travel, including exits. Fire extinguishers shall not be obstructed or obscured from view. Portable fire extinguishers shall be securely installed on the hanger or in the bracket supplied, or placed in cabinets or wall recesses. The hanger or bracket shall be securely and properly anchored to the mounting surface in accordance with the manufacturer's instructions. Fire extinguishers installed under conditions where they may be subject to dislodging shall be installed in brackets specifically designed to cope with this problem.

See Section 40 of these regulations for special rules applicable to E-SRO Units.

- 35. Combustible Storage:** Combustible or flammable material shall not be placed, stored or kept in any portion of an exit or elevator car or hoist way or at the bottom of a stairway, fire escape or other means of escape.
- 36. Candles:** The use of candles or other items that requires burning to be used (incense, odor oils, etc.) is prohibited.
- 37. Portable Heaters:** The use of portable heaters is strictly prohibited.
- 38. Electrical Use Policy:** All lodging houses shall establish and enforce an electrical use policy approved by the Fire Department. The electrical use policy shall:
- (a) limit the number of appliances that can be used in a room to the number of electrical receptacles in the room.
  - (b) prohibit in-room use of toaster ovens, electric hot plates, gas plates, ovens, stoves (including stoves using sterno or other fuel), electric percolators, grills, toasters, toaster



ovens or other means of cooking other than microwaves without convection. (The licensee may, in its discretion, prohibit use of microwaves without convection.)

(c) prohibit the use of light gauge lamp cord extension cords. (The use of one surge-protected electrical strip to protect computers or electronic equipment is permitted.)

(d) prohibit the use of halogen lamps and portable heaters.

(e) state that other devices and equipment may be made subject to the Fire Department's approval.

- 39. Cooking in Rooms:** The use of electric hot plates, gas plates, ovens, stoves (including stoves using sterno or other fuel), electric percolators, grills, toasters, toaster ovens or other means of cooking is prohibited in any room other than a kitchen in a common area that is approved by the Building Commissioner. Lodgers may use microwaves without convection in their Rooming Units with the approval of the Licensee. Licensees shall not equip Rooming Units with means of cooking other than microwaves without convection and shall prohibit lodgers from doing so.

Notwithstanding the foregoing, licensees may provide cooking facilities and permit cooking in Board-approved E-SRO Units that comply with applicable law, including, but not limited to, Section 40 of these Regulations and the Town's Zoning By-Law.

- 40. Special Rules Applicable to Lodging Houses with Enhanced Single Room Occupancy (E-SRO) Units:**<sup>1</sup> Licensees must be approved by the Board to include E-SRO Units within the licensed premises. Licensed premises with E-SRO Units shall comply with the following rules. In the event that there are differences between the following rules and other provisions of these regulations, the following rules shall prevail.

**A. Fire Extinguishers.** Each E-SRO Unit must be equipped with an ABC fire extinguisher in a manner that complies with Section 34 of these regulations, located inside the unit within 3 feet of the exit door.

**B. Life Safety.** Structures with E-SRO units must comply with the minimum life safety requirements applicable to new construction for R-1 occupancies in conformity with 780 CMR (Building Code), including requirements regarding two independent means of egress. Fire sprinklers and fire alarms shall be installed in conformity with 780 CMR (Building Code), 527 CMR (Fire Prevention Regulations), and NFPA Sections 13 (Sprinkler Systems) and 72 (Fire Alarm Systems).

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<sup>1</sup> See Section 2(E) of these Regulations.

- C. Individual Cooking Facilities.** Cooking facilities in E-SRO Units shall consist of a mini-kitchen providing a minimum of 3 feet passage space between the counter or appliance front and the facing wall, an adequate-sized sink with running hot and cold water, a storage area for food, a refrigerator, and a minimum of 2 linear feet of counter space. Cooking equipment shall be limited to an electric 2-burner unit cooktop and microwave oven with or without convection. Accessory appliances are permitted to the extent they comply with the licensee's approved electrical use policy. Cooking equipment shall be provided with approved means of mechanical ventilation to the exterior. Installation shall comply with 780 CMR and the manufacturer's installation instructions. Cooking facilities shall comply with the applicable building code. Licensees must apply to the Health Department and obtain a waiver of the State Sanitary Code, 105 CMR 410.100 Kitchen Facilities, should the proposed kitchen facilities not comply with the requirements of that Code provision.
- D. Dimensional Requirements.** Each E-SRO Unit shall comply with the following dimensional requirements:
1. A minimum of 175 square feet.
  2. A minimum of 120 square feet of living space.
  3. Ceiling height of at least 7 feet 6 inches.
  4. No dimension to be less than 8 feet, except for bathroom and closet.
  5. Maximum square feet per unit shall not be greater than 350 square feet except as may be required to provide an accessible unit that complies with state and federal law, including 521 CMR, the federal Americans with Disabilities Act, and the federal Fair Housing Act.

#### **41. Maintenance:**

- A. The building and all parts thereof shall be kept in good general repair and properly maintained. All exterior surfaces shall be kept painted where necessary for the purposes of preservation of structural elements or appearance. Interior walls and ceilings shall be periodically refinished in order to maintain such surfaces free from stains, marks, or visible foreign matter.
- B. All outdoor areas not devoted to walks and drives or otherwise paved shall be landscaped and adequately maintained to prevent overgrowth or unsightly conditions.
- C. Outdoor walks and drives and exterior ways of egress shall be kept unobstructed, free of litter, and clean. Accumulation of ice and snow shall be removed from such areas, including required ways of egress to provide safe walking surfaces and shall be removed in accordance with Article VIII, Section 19(b) of the Town of Brookline By-Laws, as may be amended. A copy of the by-law is available on the Town Clerk's page of the Town's web-site ([www.brooklinema.gov](http://www.brooklinema.gov)) or from the Town Clerk's Office.

- 42. Occupancy:** No licensee shall vary the occupancy of the licensed premises as certified by the Building Department.
- 43. Town of Brookline Smoking By-Law:** All lodging houses must conform to the requirements of Article 8.21 of the Town By-Laws regarding Tobacco Control, as may be amended. A copy of the by-law is available on the Town Clerk's page of the Town's web-site ([www.brooklinema.gov](http://www.brooklinema.gov)) or from the Town Clerk's Office.
- 44. Town of Brookline Noise By-Law:** All lodging houses must conform to the requirements of Article 8.15 of the Town By-Laws regarding Noise Control, as may be amended. A copy of the by-law is available on the Town Clerk's page of the Town's web-site ([www.brooklinema.gov](http://www.brooklinema.gov)) or from the Town Clerk's Office.
- 45. Town of Brookline Snow Removal By-Law:** All lodging houses must comply with the requirements of Article 7.7.2 of the Town By-Laws regarding snow removal. A copy of the by-law is available on the Town Clerk's page of the Town's web-site ([www.brooklinema.gov](http://www.brooklinema.gov)) or from the Town Clerk's Office.
- 46. Discrimination Prohibited:** No licensee shall engage in unlawful discrimination on the basis of race, color, national origin, creed, disability, sex, sexual orientation, or ancestry.
- 47. Variations in Specific Cases:** The Board of Selectmen may vary any provision of these regulations in a specific case, which appears to them not to have been contemplated by the regulations or in a case where manifest injustice would result. The decision of the Board in such cases shall not conflict with the spirit of any of the regulations or the purpose thereof. In each case, the Board of Selectmen shall make its decision only after consideration of any report, which may be filed with it by the appropriate Department(s).
- 48. Certificates of Inspection:** The Board of Selectmen may require certificates of inspection certifying compliance with the various sections of the lodging house regulations.
- 49. Severability of Provisions:** The invalidity, if so declared by a court of competent jurisdiction, of any provision of these regulations shall not affect the validity of the remainder of them.

- 50. Penalty:** Whoever refuses, neglects or fails to comply with any of these regulations shall be subject to license suspension, license revocation, a fine imposed pursuant to and in conformity with Article X of the Town By-Laws, and/or to the penalties imposed by M.G.L. c. 140 § 22, *et seq.*, where applicable, and/or such other provisions of law including but not limited to the State Sanitary Code, Fire Code, Building Code, Brookline by-laws and other regulations and fines applicable to the particular violation.

The licensee's failure to comply with any federal, state or local law, regulation, or by-law (including, but not limited to, these regulations, the Town's Zoning By-Law (including, but not limited to, applicable parking requirements), State and local health codes, State Building Code, and State Fire Code) may be cause for license suspension, license revocation, or a fine, as stated above.