



# *Town of Brookline*

## *Massachusetts*

Ben Kaufman, Town Clerk

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### **ARTICLE 22 – SUBMISSION #2**

December 1, 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 actions were taken under Article #22 at the Annual Town Meeting called for Tuesday, November 16, 2021 at 7:00 P.M., adjourned to Wednesday, November 17, 2021, Thursday, November 18, 2021, Tuesday, November 30, 2021, and dissolved on Wednesday, December 1, 2021 at 10:14 P.M.

### **ARTICLE 22**

**VOTED:** That the Town will add a new Section 4.14: Firearm Business Uses to the Town of Brookline Zoning By-Laws, add to Sec. 4.07, Table of Use Regulations a new Principal Use under Retail and Consumer Service Uses, #29A, subject to the regulations in Sec. 4.14 Firearm Uses; and amend Article II, Section 2.00, Definitions, of the Brookline Zoning By-Laws

#### **ART. IV, USE REGULATIONS**

**VOTED:** That the Town Add a new section to Art. IV, as follows:

#### **Section 4.14 FIREARM BUSINESS USES**

1. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the Town to address public safety concerns arising from the operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Section 4.14 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare in conjunction with the protections from G.L. c. 140, §122-131Y and other State laws and regulations. To the extent this section or any related section can be read to potentially conflict with G.L. c. 140 or other State laws or regulations, the section shall be interpreted to minimize any conflict with State

laws or regulations while maximizing the furtherance of the public safety and other public purposes underlying this Section.

**2. Definitions.**

**See Section 2, Definitions, of the Zoning By-Law for definitions of applicable terms.**

3. **Firearm Business Uses not allowed as-of-right.** Firearm Business Uses are not included within the definitions of retail sales or services, manufacturing, or any other lawful business permitted as of right or by special permit contained in other Sections of this Zoning By-Law.
4. **Firearm Business Uses allowed by special permit.** Use of land, buildings or structures for a Firearm Business Use shall be allowed only by special permit in the districts specified in Section. 4.07, Table of Use Regulations, subject to the requirements and criteria of this Section. 4.14.

**5. Location requirements.**

- a. All distances in this Section shall be measured in a straight line from the property line of the lot containing the proposed Firearm Business Use to the nearest property line of any of the designated uses set forth herein:
  - 1) Firearm Business Uses shall not directly abut any property containing a residential use.
  - 2) Firearm Business Uses shall not be located within 1,000 feet of any private or public K-12 school, whether such school is located within or without the Town's boundaries
  - 3) Firearm Business Uses shall not be located within 500 feet of any daycare center, preschool, child-care facility, or an existing Firearm Business Use at another location, whether such daycare center, preschool, child-care facility or firearm business use is located within or without the Town's boundaries.
  - 4) No Firearm Business Use shall be located within a building containing a dwelling unit.

**6. Operational requirements.**

- a. Firearm Business Uses shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations, including, but not limited to, a valid, current State license issued pursuant to G.L. c. 140, § 122, as applicable. Required State and Federal licenses must be obtained before applying for a

Special Permit.

- b. Firearm Business Uses shall comply with all applicable Federal, State and local laws and regulations in the operation of their business.
  - c. The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall follow all state statutory and regulatory requirements, but in no case shall any Firearm Business Use be open before 10:00 a.m. or remain open after 5:00 p.m.
  - d. Prior to the application for a Special Permit, all Firearm Business Uses shall submit a security plan to the Brookline Police Department for review and approval. Review and approval of the security plan may include an inspection of the proposed site by the Police Department. The plan must include, but not be limited to, the following:
    - 1. Proposed provisions for security.
    - 2. A trained employee shall check identification and compliance with age restrictions prior to customers entering the establishment.
    - 3. The physical layout of the interior, including a demonstration that the size of the store is not so excessive so as to create issues with site security and video monitoring.
    - 4. After-hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
    - 5. The number of employees.
  - e. Prior to the application for a Special Permit, all Firearm Business Uses shall submit an operations and management plan to the Brookline Police Department for review and approval.
  - f. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with State law.
  - g. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by the minor's parent or legal guardian.
  - h. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for three years to deter illegal purchases and monitor employees.
7. **Special permit application and procedure.** In addition to the procedural and application requirements of Section. 9.03, an application for special permit for a Firearm Business Use

shall include, at a minimum, the following information:

- a. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
  - b. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
  - c. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot. The context map shall include the measured distance to all uses described in Section. 4.14.E.1 above, and shall be certified by a design professional such as an architect, engineer or land surveyor.
  - d. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the establishment. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name, address, phone number and email address of the manager(s) and assistant manager(s).
  - e. **Comprehensive Signage Plan:**
  - f. **Report from Chief of Police or designee:** confirming that the applicant has submitted the plans requiring approval by the Police Department, and those plans have been approved, along with any additional information requested by the Zoning Board of Appeals or that the Chief of Police feels is relevant to the special permit application.
8. **Special Permit Criteria.** In granting a special permit for a Firearm Business Use, in addition to finding that the general criteria for issuance of a special permit are met, the Zoning Board of Appeals shall find that the following criteria are met:
- a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.
  - b. The establishment will have adequate and safe storage, security, and a lighting system.
  - c. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
  - d. The establishment is designed to minimize any adverse impacts on abutters or pedestrians.
  - e. The location and operating characteristics of the proposed use will not be detrimental to the public health, safety and welfare of the neighborhood, which may extend into an adjacent municipality, or the Town.

- f. All signage has been reviewed and approved by the Planning Board as to letter size, color and design per Section. 7.08, to ensure mitigation of impact to the surrounding neighborhood, consistent with applicable federal and State law.
- g. The establishment has satisfied all of the conditions and requirements in this section.

9. **Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

**Add to Sec. 4.07, Table of Use Regulations, the following new Principal Use under Retail and Consumer Service Uses, #29A, subject to the regulations in Sec. 4.14 Firearm Uses.**

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
29A. Firearm Business Uses*	No	No	No	No	No	No	SP	No	No
*Must have a report from the Police Chief. Subject to the regulations under Section 4.14 of the Zoning By-law.									

Amend Article II, Definitions, of the Town of Brookline Zoning By-Law as follows:

**§2.00 – PURPOSE AND INTENT**

For purposes of this By-law, the following words and phrases shall have the meanings given in the following sections, unless a contrary intention clearly appears.

**§2.01 – “A” DEFINITIONS**

1. ACCESSORY
  - a. Accessory building: a building devoted exclusively to a use accessory to the principal use of the lot.
  - b. Accessory use: a use incident to, and on the same lot as, a principal use.
2. AMENITY—A condition or facility that provides comfort or pleasure, including but not limited to desirable exposure to sunlight, protection from adverse microclimate, contribution to favorable microclimate, pleasant views of sky, cityscape, landscape, or works of art, preservation of trees or historic structures, provision of assets or conveniences such as specimen trees or benches.
3. AMMUNITION—As defined or amended by State statute or regulations, cartridges or cartridge cases, primers (igniters), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm. For the purposes of this definition, “Firearm” is to have the meaning prescribed in this

By-Law, and shall include, but not be limited to: firearms (as that term is defined in G.L. c. 140, §121),rifles or shotguns.

4. ATTIC—The Space between the ceiling beams, or similar structural elements, of the top story of a building and the roof rafters. The top story shall be the story at the highest level of the building.

**§2.06 – “F” DEFINITIONS**

1. FAMILY—One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons who are not within the second degree of kinship, as defined by civil law, shall not be deemed to constitute a family.
2. FIREARM—Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to: guns, pistols, shotguns, rifles.
3. FIREARM ACCESSORY—Any device designed, modified or adapted to be inserted into or affixed onto any Firearm to enable, alter or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one’s person of a Firearm.
4. FIREARM BUSINESS
  - a. Firearm Dealer: A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
  - b. Gunsmith: Any retail operation involving the repairing, altering, cleaning, polishing, engraving, blueing or performing of any mechanical operation on any Firearm.
5. FRATERNITY OR SORORITY HOUSE—A building occupied by a group of students of either sex of a school or college as their residence during the academic year.

**Approved:**    AYE: 214                      NO: 1                      ABSTAINED: 7

(Seal)

A TRUE COPY  
ATTEST:

Ben Kaufman  
Town Clerk