

ARTICLE 16

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To see if the Town will authorize the Select Board to petition the General Court for a special act authorizing the Town of Brookline to implement rent stabilization and tenant eviction protections, in the following form, and authorize the General Court to make any revisions that are necessary or appropriate to the form of such bill.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

"AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO IMPLEMENT RENT STABILIZATION AND TENANT EVICTION PROTECTIONS"

SECTION 1. FINDINGS AND PURPOSE.

The general court finds and declares that a serious state of emergency exists in the Town of Brookline ("the Town") with respect to housing, whereby there is an inadequate supply of low-cost rental housing; that, further action to protect residents from exorbitant rent increases and evictions is necessary to address serious threats to the public health, safety and general welfare, including housing insecurity, rent burden, homelessness, and displacement, and further finds that a rent stabilization bylaw will address the most egregious rent increases.

SECTION 2. POWER FOR LOCAL RENT REGULATION.

The Town of Brookline may, via bylaw, regulate the rent in multi-family housing and provide for reasonable exemptions from such regulation.

(a) This section shall not apply to the following types of residential properties or residential circumstances:

- (i) Properties with four or fewer dwelling units in which one of the dwelling units is the owner's principal residence.
- (ii) Units in hotels, motels, or other facilities occupied by transient guests.

- (iii) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, or licensed residential care facility for the elderly.
- (iv) Dormitories owned and operated by an institution of higher education.
- (v) Dwelling units in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
- (vi) Dwelling units for which the permanent certificate of occupancy is less than 15 years old and were created as a result of:
 - 1) Ground up new construction,
 - 2) a physical addition to an existing residential building, or
 - 3) conversion from another use to residential.
- (vii) Dwelling units where the tenant pays a set percentage of their income to rent, either because they hold a voucher, the unit is public housing, the unit has a project-based voucher, or where applicable federal or state law or administrative regulations specifically exempt them from rent stabilization regulations.

(b) The Town, on an annual basis, may set an annual maximum percentage rent increase for rental units covered by this section, based on the change in the consumer price index, plus three percent, or a maximum percentage increase of seven percent, whichever is lower. "Consumer price index" refers to the annual 12-month average change in the Consumer Price Index for All Urban Consumers, Boston-Cambridge-Newton (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor in September of the prior calendar year.

(c) For rental dwelling units covered by this section, an owner shall not, over the course of any 12-month period, increase the gross rental rate for a more than the percentage allowed in part (b) above, times the lowest gross rental rate charged for that tenant at any time during the 12 months prior to the effective date of the increase.

(d) For a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the dwelling unit, the owner may establish the initial rental rate not subject to this section.

This section is only applicable to subsequent increases after that initial rental rate has been established.

(e) The Town may provide for fair return standards for the regulation of rent, which may include but are not limited to, changes to permissible rental rates based upon certain maintenance and capital costs and rapid increases in property taxes.

(f) The Town may set tenant notification and rental registration requirements as necessary to effectuate this section.

(g) The Town may establish or designate an administrator or board, to promulgate regulations pursuant to this section and govern local rent regulation.

SECTION 3. JUST CAUSE EVICTION PROTECTION.

The provisions of this section shall be applicable to all housing accommodations in the Town of Brookline; provided however, that the Town may provide for exemptions from the provisions of this section and any such exemption shall be included in a bylaw adopted by the Town. The Town may, via bylaw, provide that an owner shall not recover possession of a leased unit within a residential dwelling unless the Housing Court finds that:

(a) the tenant has failed to pay the rent to which the owner is entitled;

(b) the tenant has violated an obligation or covenant of his or her tenancy not inconsistent with Massachusetts General Law chapter 93A, or this section, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the tenant has failed to cure such violation after having received written notice thereof from the owner;

(c) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to the leased unit, or is creating a substantial interference with the comfort, safety or enjoyment of the owner or other occupants of the same or any adjacent accommodations;

(d) the tenant has used or permitted a leased unit to be used for any illegal purposes;

(e) the tenant, who had a written lease agreement which terminated or is a tenant at will, has refused, after written request or demand by the owner, to execute a written extension or renewal thereof or lease for a further term of like duration, at a rental rate that does not exceed the percentage set by the Town of Brookline, in accordance with this legislation and the ordinance enacted as a result of this legislation;

(f) the tenant has refused the owner reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or the Town of Brookline, or for the purpose of inspection as permitted or required by such tenant's lease agreement or by law, or for the purpose of showing the leased unit to any prospective purchaser or mortgagee;

(g) the person holding at the end of a lease term is a subtenant not approved by the owner;

(h) the owner seeks in good faith to recover possession of a leased unit for his or her own use and occupancy or for the use and occupancy by his or her spouse, children, grandchildren, great grandchildren, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law, and has provided the tenant with notice and a relocation payment as established by the Town by bylaw; or

(i) the owner seeks to recover possession for any other just cause, provided that his or her purpose is not in conflict with the provisions and purposes of said chapter 93A or this section.

SECTION 4. CONDOMINIUM AND COOPERATIVE CONVERSIONS.

The Town of Brookline may, via bylaw, regulate the conversion of residential dwellings to condominiums or cooperatives. Such bylaw may include tenant notification requirements, relocation plans, tenant relocation payments, permits, permit fees, and exemptions. Notification requirements and relocation payments may vary based on income, age, and disability.

SECTION 5. DEMOLITIONS AND SUBSTANTIAL RENOVATIONS.

The Town of Brookline may, via bylaw, create requirements for tenant notification requirements, relocation plans, and tenant relocation payments where an owner is seeking to demolish or

substantially renovate a property that requires a tenant to move. Notification requirements and relocation payments may vary based on income, age, and disability.

SECTION 6. SEVERANCE CLAUSE.

The determination or declaration that any provision of this act is beyond the authority of the general court or is preempted by law or regulation shall not affect the validity or enforceability of any other provisions.

SECTION 7. EFFECTIVE DATE.

This act shall take effect immediately upon signing by the Governor.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Many Brookline residents are facing an affordability crisis, largely driven by the high and rising cost of housing. The median monthly payment for rental units in Brookline was \$2,452 in 2020¹, which was more than twice the national median monthly rental payment of \$1,163 and greater than surrounding communities including Cambridge, Somerville, Newton, and Boston.² A 2023 analysis of Zillow listings in Brookline found that median open-market apartment monthly rental payment had risen to \$3,900, which would require a household income of over \$140,000 to support without the occupants being cost burdened.³ As of March 2023, Brookline's average monthly rental payment of \$2,775 was the fourth highest among all Massachusetts communities, trailing only Cambridge, Watertown, and Medford.⁴

Defined as spending more than 30% of annual household income on housing costs, an alarming number of Brookline renters are considered housing burdened. In 2022, over 45% of Brookline renters were classified as housing burdened, and 23% of renters were considered severely housing burdened (spending more than 50% of annual income on rental costs).⁵ Due to the existing racial disparities in income and wealth in Brookline, Black, Latin, and Asian residents are disproportionately likely to be housing burdened.⁶

While affordability is an issue confronting both homeowners and renters in Brookline, renters are more economically vulnerable to rising housing costs for several reasons. For example, nearly 90% of mortgages issued in the United States are fixed rate mortgages, guaranteeing stable monthly payments for property owners.⁷ Additionally, homeowners are able to accrue equity, and thereby wealth, through the appreciation in value of their property. However, renters in Brookline have little certainty when it comes to predicting potential annual increases in rental rates and they have no legal or contractual protection from economic shocks and extreme or capricious rate hikes. The economic disruption of COVID-19 provides a recent example; after a short-term reduction of average rental rates in the Brookline-Newton market in 2020, average rents increased by approximately 8% and 4% in 2021 and 2022, respectively.⁸ This leaves renters in Brookline and across the Commonwealth uniquely vulnerable to rapid housing cost increases and, ultimately, housing displacement.

¹ See *2023 Understanding Brookline Report* from Brookline Community Foundation:

<https://brooklinecommunity.org/wp-content/uploads/2023/06/BCF-Economic-Inequality-Report-June-2023.pdf>

² See aggregated data from 2022 American Community Survey:

<https://www.towncharts.com/Massachusetts/Housing/Brookline-CDP-MA-Housing-data.html>

³ *2023 Understanding Brookline Report*: <https://brooklinecommunity.org/wp-content/uploads/2023/06/BCF-Economic-Inequality-Report-June-2023.pdf>

⁴ See Apartment Advisor analysis from March, 2023: <https://www.boston.com/real-estate/renting/2023/03/10/in-depth-look-mass-rental-market-march/>

⁵ See aggregated data from 2022 American Community Survey:

<https://www.towncharts.com/Massachusetts/Housing/Brookline-CDP-MA-Housing-data.html>

⁶ *2023 Understanding Brookline Report*: <https://brooklinecommunity.org/wp-content/uploads/2023/06/BCF-Economic-Inequality-Report-June-2023.pdf>

⁷ National Mortgage Statistics: <https://www.bankrate.com/mortgages/mortgage-statistics/>

⁸ See 2023 draft Housing Production Plan: <https://www.brooklinema.gov/DocumentCenter/View/39925/DRAFT-Brookline-Housing-Plan-2023-v2-HAB>

This affordability crisis facing renters demands responsiveness from all levels of government, including at the municipal level. One such strategy that has been employed by Brookline and other neighboring communities in the past has been the adoption of local rent control policies and tenant protection bylaws and regulations. Federal restrictions on rent increases were implemented across the Commonwealth in 1942 as a war-time price stability measure overseen by the federal Office of Price Administration. These federal price controls on rental rates in Massachusetts remained in place until 1953, when it was replaced by a state law authorizing communities to adopt local option rent control measures from 1953 – 1956.⁹

After the sunset of local rent control in 1956 and consistently high annual rent increases during the 1960s, the Massachusetts Legislature passed Chapter 843 of the Acts of 1970, which authorized the optional adoption of local rent control for communities with populations greater than 50,000 people.¹⁰ In September, 1970 Town Meeting adopted Chapter 843 locally and passed an additional local bylaw, which together established rent controls for certain multifamily dwellings in Brookline and established a Rent Control Board to implement the new bylaws.¹¹ In addition to limiting annual rent increases for eligible units, these local rent regulations exempted a number of multifamily properties, including owner-occupied dwellings, hotel rooms, and newly constructed units.¹²

Local option rent control remained legal under Chapter 843 until the passage of a 1994 referendum that prohibited the regulation of rents for nearly all privately owned dwellings and nullified active rent control bylaws in Brookline, Boston, and Cambridge. While the referendum passed statewide by a 2.6% margin, voters in Brookline voted in opposition to the proposal by a margin of 12%.¹³

However, recent years have seen increasing support for re-introducing rent control options for municipalities in the Greater Boston region. In March 2023, the Boston City Council voted 11-2 in favor of submitting a home rule petition to the General Court requesting permission to enact local rent stabilization and tenant protection policies, including the ability to regulate rent increases.¹⁴ During the same month, the Somerville City Council voted to approve the drafting of a rent stabilization home rule petition, and the Cambridge City Council voted 8-1 to endorse the

⁹ See Pioneer Institute's *A History of Rent Control Policy in Massachusetts* Report from 2023: https://pioneerinstitute.org/economic_opportunity/a-history-of-rent-control-policy-in-massachusetts/

¹⁰ Ibid.

¹¹ *Brookline Annual Report 1970*, pg. 254 - 255

¹² See Pioneer Institute's *A History of Rent Control Policy in Massachusetts* Report from 2023: https://pioneerinstitute.org/economic_opportunity/a-history-of-rent-control-policy-in-massachusetts/

¹³ See Secretary of the Commonwealth 1994 – Statewide – Question 9 Official Results: https://electionstats.state.ma.us/ballot_questions/view/5877/

¹⁴ See Boston.com article on Boston HRP Passage: <https://www.boston.com/news/real-estate/2023/03/08/boston-city-council-passes-rent-control-plan/#:~:text=Councilors%20voted%2011%2D2%20to,Boston%2C%20or%20some%20185%2C000%20dwellings.>

passage of the Tenant Protection Act,¹⁵ a piece of pending state legislation that would give municipalities the ability to adopt local option rent stabilization and tenant protection policies.¹⁶

This article is a home rule petition that seeks authorization from the General Court for Brookline to establish a rent stabilization program and to implement new protections for tenants by bylaw and local regulation. If passed into law, Brookline would be authorized to adopt a local bylaw that restricts annual rental rate increases for units in certain multifamily dwellings. The rental rate of eligible units would be limited to an annual increase of 3% plus the inflation rate of the previous year, up to a maximum potential increase of 7%.

Exemptions from this policy would be available for small landlords that reside in a dwelling of four or fewer units, non-profit and university-owned housing, public housing units and units occupied by Section 8 voucher recipients, hotel or motel rooms, and housing constructed or significantly renovated in the last 15 years. Additionally, the initial rate established when a unit is put on the rental market, converted to a rental unit, or when new tenants take occupancy of a units would not be subject to any new restrictions. Taken together, these provisions ameliorate potential disincentives to new housing construction or investment that could be incidentally created by a new rent stabilization bylaw while still providing new stability for resident renters against displacement.

The home rule petition would also allow Brookline to adopt new tenant protection bylaws and regulations to further insulate vulnerable renters against eviction and displacement. One such measure would be the adoption of a bylaw prohibiting local evictions without the findings from the Housing Court establishing that the tenant at risk of eviction has either failed to pay due rent, violated a relevant provision of state law, damaged their unit of residence, allowed illegal activities in the unit, breached their rental agreement, or refused the owner reasonable access to the unit. Additionally, the home rule petition would permit Brookline to establish bylaws creating new protections for tenants facing the demolition, or conversion to condominiums, of their building of residence. Specifically, Brookline would be authorized to require the notification of such residents and the implementation of relocation plans or payments for affected renters.

¹⁵ See H. 1304 – An Act Enabling Local Options for Tenant Protections: <https://malegislature.gov/Bills/193/H1304>

¹⁶ See Cambridge Day article on Somerville and Cambridge legislative activity: <https://www.cambridgeday.com/2023/03/16/somerville-seeks-rent-stabilization-home-rule-while-cambridge-affirms-the-right-to-discuss-it/>