Zoning & Planning Committee Agenda

City of Newton
In City Council

Monday, February 22, 2016

Following Committee of the Whole
Room 205

Items Scheduled for Discussion:

Public hearing assigned for March 14, 2016:

#54-16 **Zoning ordinance amendment relative to Health Club use**
ACTING DIRECTOR OF PLANNING proposing amendments to the Newton Zoning Ordinance to allow the "Health Club" use in Business 1, Business 2 and Business 4 districts; and to clarify the definition of "Personal Service" as it relates to health and fitness uses. [02/09/16 @ 4:24 PM]

#46-16 **Resolution supporting House and Senate bills to increase number of housing courts**
COUNCILOR HESS-MAHAN requesting a Resolution by the City Council to support House Bill H. 1656 and Senate Bill S. 901 for expansion of housing courts in the Commonwealth that would allow the City of Newton to pursue housing matters in a specialized court designed to specifically deal with housing issues and better protect its residents and more swiftly resolve violations. [01/29/16 @ 9:39 AM]

#266-14 **Request to restart demolition delay time period with transfer of ownership**
ALD. BLAZAR, YATES AND DANBERG requesting:

1. to amend Section 22-50 to require that in the event there is a transfer of legal or beneficial ownership of a preferably preserved property during the demolition delay period, the full demolition delay period will restart from the date of the transfer of ownership;
2. and further requesting to amend Section 22-50 to require that in the event a transfer of legal or beneficial ownership of a preferably preserved property occurs after the expiration of a demolition delay period but prior to the issuance of a demolition permit, no demolition permit shall issue until the new owner complies with the procedures of Section 22-50(c)(5). [7/07/14 @ 12:35 PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, *please contact Jini Fairley, at least two days in advance of the meeting:* jfairley@newtonma.gov, or 617-796-1253. For Telecommunications Relay Service dial 711.

#222-13(2) Zoning amendment to regulate front-facing garages in residential zones
THE ZONING AND PLANNING COMMITTEE proposing to amend **Chapter 30,** City of Newton Zoning Ordinances, to regulate the dimensions and setbacks of front facing garages in residential zoning districts. [08/03/15 @ 10:15 AM]

Items Not Scheduled for Discussion at this meeting:

Public hearing assigned for March 14, 2016:

#53-16 Zoning ordinance technical amendments
ACTING DIRECTOR OF PLANNING requesting technical amendments to the recently adopted reformatted Newton Zoning Ordinance to address edits related to missing or incorrectly transcribed ordinance provisions. [02/09/16 @ 4:24 PM]

#55-16 Ordinance to require fair housing statement and HUD logo on certain meeting notices
COUNCILOR HESS-MAHAN requesting an ordinance to require that all notices of public hearings and/or meetings concerning permitting and/or funding of any residential development contain a brief statement concerning the City's policy regarding fair housing practices pertaining thereto and HUD's Equal Housing Opportunity logo. [02/03/16 @ 1:51 PM]

#80-13 Updates on the zoning reform project
THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]

#323-14 Zoning amendment to require front-facing front doors in residential zones
ALD. YATES, NORTON, COTE AND SANGIOLO proposing to amend **Chapter 30** to require that the front doors of single-family homes, two-family homes and other residential structures face the street on which their lots are located. [08/25/14 @ 11:42 AM]

#265-14 Request to increase several time periods for demolition delays
ALD. BLAZAR, YATES AND DANBERG requesting:

1. to amend Section 22-50 to increase the time period for determinations of historical significance to 30 days, and to increase the time period for hearings, rulings and written notice on appeals from historical significance determinations to 60 days;
2. to amend Section 22-50 to increase the time period to hold a public hearing as to whether or not a historically significant building or structure is preferably preserved to 60 days;
3. to amend Section 22-50 to increase the demolition delay period for buildings and structures on or eligible for listing in the National Register of Historic Places to 30 months;

3. and to amend Section 22-50 to increase the demolition delay period for all other preferably preserved buildings or structures to 24 months. [7/07/14 @ 12:35 PM]

#447-14 **Proposing an ordinance to require building plans with demolition applications**
ALD. SANGIOLO proposing an ordinance requiring the submission of building plans with applications for full or partial demolitions. [11/13/14 @ 2:03 PM]

#169-15 **Zoning amendment to require new lot standards after demolition**
ALD. SANGIOLO requesting a zoning amendment which would require any residential structures in Single Residence or Multi Residence zoning districts built after the demolition of an existing structure conform to new lot standards. [07/02/15 @ 3:20 PM]

#264-13 **Zoning amendment to develop residential districts for small lots**
ALD. YATES requesting that the Zoning Reform Group or its successor consider amending City of Newton Zoning Ordinances **Chapter 30** to develop additional residential districts reflecting the small lots in older sections of the City and map changes to bring the zones of more residential sections of the City into conformity with the existing land uses. [08/15/13 @ 12:28 PM]

#34-16 **Zoning amendment for large house review process**
COUNCILORS SANGIOLO, KALIS AND DANBERG proposing an amendment to Chapter 30 for a large house review ordinance requiring design review and approval of by-right single and multi-residence residential structures exceeding certain dimensional limits. [01/19/16 @ 2:35 PM]

#142-09(7) **Resolution to reconvene Floor Area Ratio working group**
ALD. HESS-MAHAN AND JOHNSON proposing a Resolution to request that the Director of Planning and Development and the Commissioner of Inspectional Services reconvene a Floor Area Ratio working group to review and analyze the definition of "*Floor area, gross*" for residential structures as it is used in the definition and calculation of "*Floor area ratio*" in **Section 30-1** with respect to actual usage, and, if necessary, make recommendations for amendments thereto and in the dimensional regulations contained in **Section 30-15(u)** and *Table A* of **Section 30-15(u)**, the purpose of which is to regulate the size, density and intensity of use in the construction or renovation of, or additions to a residential structure, to more accurately reflect and be compatible with neighborhood character, and to ensure that a proposed residential structure is consistent with and not in derogation of the size, scale and design of other existing structures in the neighborhood, and is not inconsistent with the City's Comprehensive Plan.

#238-14 **Request for development of Housing Production Plan**
ALD. SANGIOLO requesting the Executive Department and Planning Department work with the Board of Aldermen to develop a Housing Production Plan in accordance with 760 CMR 56.03(4) and guidelines adopted by the Department of Housing and Community Development as soon as possible. [06/09/14 @ 11:55 AM]

#64-13 **Permitting for conversion of historic barns/carriage houses to accessory apts**
HISTORICAL COMMISSION requesting the creation of an administrative permitting process for converting historic barns and carriage houses into accessory apartments to assist in their preservation.

#108-15 **Zoning amendment for accessory apartments supportive of seniors**
HIS HONOR THE MAYOR requesting consideration of changes to the Zoning Ordinance that would facilitate the creation of accessory apartment units, supportive of Newton's seniors. [04/24/15 @ 2:38 PM]

#61-10 **Discussion relative to bringing existing accessory apartment into compliance**
ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of **Chapter 30** into compliance.

#164-09(2) **Request for amendments to dimensional requirements for accessory apartments**
ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan.

#22-16 **Resolution requesting appropriate training of Fair Housing laws**
COUNCILOR HESS-MAHAN proposing a RESOLUTION to the Mayor and City Council requesting that all members of municipal public bodies that have decision-making authority or an advisory role with respect to land use, zoning or housing issues be required to receive appropriate orientation or training concerning applicable rights and obligations under Fair Housing laws and regulations. [02/07/16 @ 3:01 PM]

#445-14 **Update from Newton Fair Housing Committee on housing opportunities**
ALD. SANGIOLO requesting an update with members of the Newton Fair Housing Committee on the status of housing opportunities in the City of Newton. [11/13/14 @ 2:03 PM]

#170-15 **Discussion of HUD settlement relative to creating 9-12 affordable units**
ALD. HESS-MAHAN, JOHNSON, CROSSLEY AND ALBRIGHT requesting a discussion relative to the HUD Settlement with Supporters of Engine 6, the Fair Housing Center

of Greater Boston and the Disability Law Center in conjunction with the Law and Planning Departments, to explain the settlement and possible implications for the Zoning Board of Appeals and the Board of Aldermen in terms of the City's obligation to identify sites and facilitate the creation of, and issue permits for, affordable housing for 9-12 chronically homeless persons in Newton. [07/06/15 @ 4:18 PM]

#109-15 **Zoning amendment for inclusionary housing provisions from 15% to 20%**
HIS HONOR THE MAYOR requesting consideration of changes to the inclusionary housing provisions of the Zoning Ordinance to increase the required percentage of affordable units to 20% with the additional 5% set aside for middle income households. [04/24/15 @ 2:38 PM]

#22-15 **Zoning amendment to allow rental voucher program re: inclusionary zoning**
ALD. YATES requesting that utilization of the Massachusetts Rental Voucher Program be added as an allowable means of complying with the inclusionary zoning provision in Phase II of Zoning Reform. [01/05/15 @ 9:53 PM]

Referred to Zoning & Planning, Land Use and Finance Committees

Qualification of affordable units on Comm Ave, Pearl and Eddy Streets

#104-15 ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department with the following information: How many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify to be included on the State's Subsidized Housing Inventory List. If a property is not currently on the list, what can be done to make it eligible. [04/09/15 @ 12:00 PM]

#107-15 **Discussion of middle income housing supportive of City employees**
HIS HONOR THE MAYOR requesting discussion of approaches to create middle income housing as a means of allowing City of Newton employees the opportunity to live in the community in which they work. [04/24/15 @ 2:38 PM]

#81-13 **Request for naturally affordable compact housing opportunities**
DIRECTOR OF PLANNING & DEVELOPMENT on behalf of the Newton Housing Partnership requesting consideration of naturally affordable compact housing opportunities in MR1 zones. [02/22/13 @ 1:13 PM]

#86-15 **Discussion and review of CDBG fund expenditures and citywide goals**
ALD. CROSSLEY, ALBRIGHT, HESS-MAHAN, & JOHNSON requesting a review and discussion of Community Development Block Grant expenditures and past years' accounting to assess progress in meeting citywide program goals as adopted in the consolidated plan, including creating and sustaining affordable housing, as well as facilities improvements in approved neighborhood districts. [03/30/15 @ 6:02 PM]

#427-13 **Discussion of CDBG, HOME and ESG funds and fair housing**
ALD. HESS-MAHAN requesting discussion and periodic updates of steps the City of Newton is taking to ensure that its implementation of the Consolidated Plan, Annual Action Plan and Citizen Participation Plan and use of CDBG, HOME and ESG funds comply with federal and state fair housing and anti-discrimination laws and regulations, and its duty to affirmatively further fair housing. [12/06/13 @ 9:51 AM]

#308-12 **Discussion of policies relative to CDBG fund expenditures**
ALD. HESS-MAHAN & ALBRIGHT requesting a discussion with the Mayor's office and the Planning & Development Department of policies, procedures, and criteria relating to determinations concerning expenditures of Community Development Block Grant (CDBG) funds. [10/09/12 @ 3:59 PM]

Referred to Zoning & Planning and Finance Committees

#315-14 **Ordinance amendment for procurement requirements for non-profits**
ALD. HESS-MAHAN, ALBRIGHT, CROSSLEY AND DANBERG proposing an amendment to Chapter 2 of the City of Newton Ordinances setting forth requirements for procurement of materials and services by non-governmental recipients of federal, state or local funds administered by the City, such as CDBG and CPA funds. In order to encourage non-profit and other private organizations to participate in affordable housing, cultural and other public-private collaborations, such procurement requirements should accommodate the needs of non-governmental recipients for flexibility given the multiple public and private sources of funds necessary for any project by not placing undue or unreasonable burdens on them.
[08/04/14 @ 5:08 PM] Finance voted NAN

#446-14 **Discussion with Commission on Disability regarding the City's ADA compliance**
ALD. SANGIOLO requesting a discussion with the Commission on Disability regarding the status of City compliance with ADA regulations. [11/13/14 @ 2:03 PM]

#140-14 **Zoning amendment for lodging house ordinance**
ALD. CROSSLEY AND HESS-MAHAN requesting to amend **Chapter 30**, City of Newton Zoning Ordinances, to include a "lodging house" ordinance to promulgate rules requiring annual fire, safety and health inspections and licensing of buildings providing single room occupancy and/or congregate living arrangements.
[04/04/14 @ 6:29 PM]

#429-13 **Zoning amendment for Congregate Living Facility parking requirements**
ALD. HESS-MAHAN requesting repeal and/or amendment of Zoning Ordinances **Section 30-1**, Definitions, 30-8(b)(2), Special Permits in Single Family Residential Districts, and 30-10(d)(4), Number of Parking Stalls, concerning "Congregate Living Facility", as required by federal and state anti-discrimination and fair housing laws and regulations. [12/06/13 @ 9:51 AM]

#35-16 **Creation of policy to require posting of materials of boards/commissions**
COUNCILOR SANGIOLO requesting a discussion with the Planning Department relative to creating a policy to require audio recordings of all meetings of boards and commissions and posting of same to the City's website, as well as posting of all documentation that is reviewed by boards and commissions and/or by their designated City staff member. [01/19/16 @ 2:35 PM]

#129-13 **Zoning amendment for special permits for attached dwellings**
ALD. HESS-MAHAN proposing to amend and/or clarify definition and provisions for granting a special permit for "attached dwellings" in the City of Newton Zoning Ordinances, **Chapter 30-1, 30-8(b)(13) and 30-9(b)(5).** [05/25/13 @ 5:14 PM]

#65-13 **Zoning amendment to require special permit for major topographic changes**
ALD. YATES, FISCHMAN, KALIS requesting that **Chapter 30** be amended to require a special permit for major topographic changes.]

#139-14 **Zoning amendment to clarify rules for retaining walls**
ALD. ALBRIGHT requesting to amend **Chapter 30**, City of Newton Zoning Ordinances, to clarify rules relative to retaining walls.

#391-09 **Zoning amendment to allow payments-in-lieu of parking spaces: special permits**
ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to **§30-19** to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.
[09/09/09 @ 3:53 PM]

#152-10 **Zoning amendment to clarify parking requirements for colleges and universities**
ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities.

#110-15 **Discussion of The Smart Growth Zoning Overlay District Act in Newton**
HIS HONOR THE MAYOR requesting discussion of The Smart Growth Zoning Overlay District Act M.G.L. Chapter 40R and its potential application in Newton.
[04/24/15 @ 2:38 PM]

#153-11 **Zoning amendment for Retail Overlay Districts around village centers**
ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that **Chapter 30** be amended by adding a new **Sec. 30-14** creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and

require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts.

#168-15 **Discussion of Metropolitan Area Planning Council's Wells Avenue Market Study**
THE NEWTON-NEEDHAM CHAMBER OF COMMERCE requesting a discussion of the Metropolitan Area Planning Council's 2015 Wells Avenue Market Study. [07/06/15 @ 5:34 PM]

#95-15 **Discussion to consider mix of uses at Wells Avenue Office Park**
ALD. CROSSLEY, JOHNSON, LEARY, HESS-MAHAN, DANBERG, ALBRIGHT AND BLAZAR requesting a discussion with the Planning Department to consider the mix of uses in the Wells Avenue Office Park, with and without a second egress to the site, pursuant to the recent MAPC study recommending a strategic introduction of retail and restaurant uses to attract and sustain healthy commercial uses, and some number of residential units sufficient to support an economically viable and vibrant mixed use environment. [04/13/15 @ 2:46 PM]

Referred to Finance and Appropriate Committees

#288-15 **Submittal by the Mayor of the FY17 Capital Improvement Plan**
HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/01/15 @ 1:53 PM]

Referred to Zoning & Planning, Land Use and Finance Committees

#273-12 **Request to restructure and increase of fees for various permits**
ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer. [09/10/12 @ 1:17 PM]
Finance and Land Use voted NAN

Referred to Finance and Appropriate Committees

#257-12 **Review of fees in Chapter 17 and Chapter 20**
RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates. Finance voted NAN

#195-15(3) **Request to acquire land at 300 Hammond Pond Parkway**
ALD. ALBRIGHT, BAKER, BLAZAR, BROUSAL-GLASER, CICCONE, COTE, CROSSLEY, DANBERG, FULLER, GENTILE, HESS-MAHAN, JOHNSON, KALIS, LAPPIN, LEARY,

LAREDO, LENNON, LIPOF, NORTON, RICE, SANGIOLO, SCHWARTZ, AND YATES requesting that, in order to preserve the conservation and recreation values of the land, and to protect existing adjacent public open spaces, the Board of Aldermen vote to acquire for the City of Newton either the undeveloped portion of the land at 300 Hammond Pond Parkway or a conservation restriction on such land.
[10/23/15 @ 2:55 PM]

#404-13 Request for rezoning in Newton Centre
NATASHA STALLER et al. requesting a revision to the zoning District boundary Lines so as to transfer from Multi-Residence 1 District to a Single Residence 3 District the following properties:
Assessors' parcels SBL nos. 61-037-0004 through 61-037-0013; 61-042-0007 through 61-042-0023; 65-019-0001; 65-019-0007 through 65-019-0012; 65-019-0014 through 65-019-0022; 65-019-0009A; 65-019-0017B and 65-019-0022A. Also requesting transfer from a Single Residence 2 District to a Single Residence 3 District SBL no. 65-019-0015A.

Respectfully Submitted,

Ted Hess-Mahan, Chair

#46-16

DRAFT

CITY OF NEWTON

IN CITY COUNCIL

_____, 2016

RESOLUTION

IN SUPPORT OF HOUSE BILL H. 1656 AND SENATE BILL S. 901
TO EXPAND THE HOUSING COURT'S JURISDICTION STATEWIDE

BE IT RESOLVED:

WHEREAS, House Bill H. 1656 and Senate Bill S. 901, which would expand the Housing Court's jurisdiction to the entire Commonwealth, are currently pending before the General Court; and

WHEREAS, the jurisdiction of the Housing Court now covers approximately 80% of the Commonwealth geographically, but does not currently cover the City of Newton and other areas of the Commonwealth, and only 69 percent of Massachusetts residents have access to the Housing Court; and

WHEREAS, the Housing Court has developed a high level of specialized expertise and specialized resources, including housing specialists, to handle the multitude of housing issues that come before the Court; and

WHEREAS, only the Housing Court regularly holds special sessions to hear cases that are brought to enforce building, housing, fire, zoning, and health codes, and to respond to health and safety emergencies; and

WHEREAS, expanding the jurisdiction of the Housing Court statewide will promote and protect a variety of housing interests, whose access to the court system is currently limited by competing caseloads on the District Courts; and

WHEREAS, if passed, this legislation would allow the City of Newton to pursue housing matters in a specialized court designed to specifically to specifically deal with housing issues, allowing the City of Newton to better protect its residents and more swiftly and efficiently resolve code violations;

NOW THEREFORE BE IT RESOLVED, the this City Council hereby supports the passage of House Bill H. 1656 and Senate Bill S. 901; and

BE IT FURTHER RESOLVED, that the Clerk of the City Council shall send a copy of this RESOLUTION to members of the City of Newton's Legislative Delegation and to the House and Senate Chairs of the Joint Committee on the Judiciary, respectfully requesting that they support these bills.

OPINION | RALPH D. GANTS

Housing court needs to be expanded

Comments

THE BOSTON GLOBE/ FILE 2014

Chief Justice Ralph D. Gants of the Supreme Judicial Court.

By Ralph D. Gants | FEBRUARY 12, 2016

A HOUSING COURT is where you would expect to bring a case involving housing issues: a summary process complaint seeking an eviction; claims of dangerous housing conditions, such as peeling lead paint; and violations of building, housing, fire, and local health codes. But many would be surprised to learn that only 69 percent of Massachusetts residents have access to a housing court; the remaining 31 percent do not.

The 69 percent can choose to bring their case either in housing court, the local district court, or Boston Municipal Court; the remaining 31 percent, who live in Norfolk County, Barnstable County, and parts of Middlesex and Suffolk counties, can file their housing case only in the local district court or the Boston Municipal Court. For five reasons, this unfairness must end and every resident of Massachusetts should be given equal access to the housing court by expanding the court's jurisdiction statewide.

First, housing court judges devote all their time to resolving housing disputes, and they are experts in federal, state, and local housing law. Few judges in district court and Boston Municipal Court can claim this expertise; the bulk of cases they hear are criminal, domestic violence, and civil cases that have nothing to do with housing law. For these judges, a housing case is simply one type of civil case among the many they must handle.

Second, only housing courts have housing specialists who are available to mediate eviction cases, and who mediate more than half of the 42,488 cases filed in housing court. A court order of eviction can be an

expensive "win" for a landlord, because the landlord has to pay a process server to evict the tenant, at a cost of $300-$350, and a storage warehouse to move and store the tenant's goods, at an average cost of $1,500-$2,500. A settlement where the tenant agrees to move out of the residence on an agreed-upon date, or where the landlord allows the tenant to remain in return for a structured payment plan, spares the landlord the considerable costs of an eviction. But where more than 90 percent of tenants and approximately 40 percent of landlords do not have a lawyer, these settlements are difficult to negotiate without a housing specialist mediation. Given the value of mediation to landlords, it is not surprising that more than four out of five landlords who have a choice file their eviction case in housing court.

Third, housing courts save vulnerable people from homelessness, and also save the taxpayers millions of dollars by avoiding the need for emergency shelter. The Tenancy Preservation Program, available only in housing court, helps families and individuals struggling with substance abuse, mental health challenges, and dementia to remain in their home and avoid homelessness. Last year, this program helped 93 percent of those it served avoid homelessness. The Massachusetts Law Reform Institute estimates that, if the program expanded statewide, the additional savings from homelessness prevention could be $1.2 million to $2.3 million per year.

Fourth, because so many litigants have no attorney, the housing court has hosted innovative pro bono programs that are rarely available in the district court. Legal services organizations and bar associations sponsor Lawyer for the Day programs on "eviction day" in many housing courts, where attorneys help unrepresented tenants and landlords navigate the court system at no cost.

Finally, only housing courts regularly hold special sessions to hear cases that are brought to enforce building, housing, fire, and health codes, and to respond to health and safety emergencies. Because housing courts provide an efficient forum where board of health inspectors and fire departments can promptly

resolve code violations, the communities of Chelsea, Framingham, Malden, Somerville, Barnstable, Winchester, Everett, Lexington, and Cambridge are calling for a statewide housing court.

Comments

The governor has recognized the need for a statewide housing court and has included in his budget $1 million and the legislative authority to make it happen. We need to make this the year that every resident of this Commonwealth gains access to a housing court.

Ralph D. Gants is the chief justice of the Supreme Judicial Court of Massachusetts.

HOUSE DOCKET, NO. 1450 FILED ON: 1/15/2015

HOUSE . . . . . No. 1656

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the Geographical jurisdiction of the Housing Court Department.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Chris Walsh	*6th Middlesex*
Jay R. Kaufman	*15th Middlesex*
Sarah K. Peake	*4th Barnstable*
James R. Miceli	*19th Middlesex*
John V. Fernandes	*10th Worcester*
Kay Khan	*11th Middlesex*
David T. Vieira	*3rd Barnstable*
Tackey Chan	*2nd Norfolk*
Shawn Dooley	*9th Norfolk*
Denise Provost	*27th Middlesex*
David M. Rogers	*24th Middlesex*
RoseLee Vincent	*16th Suffolk*
James J. Dwyer	*30th Middlesex*
Jonathan Hecht	*29th Middlesex*
Ruth B. Balser	*12th Middlesex*
Paul J. Donato	*35th Middlesex*
Paul McMurtry	*11th Norfolk*
Carmine L. Gentile	*13th Middlesex*

Carolyn C. Dykema	*8th Middlesex*
John H. Rogers	*12th Norfolk*
Kenneth I. Gordon	*21st Middlesex*
Daniel A. Wolf	*Cape and Islands*
Timothy R. Whelan	*1st Barnstable*
Daniel J. Ryan	*2nd Suffolk*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Danielle W. Gregoire	*4th Middlesex*
Jason M. Lewis	*Fifth Middlesex*
Brian R. Mannal	*2nd Barnstable*
Tom Sannicandro	*7th Middlesex*
Edward F. Coppinger	*10th Suffolk*
Steven Ultrino	*33rd Middlesex*
Mary S. Keefe	*15th Worcester*
Jeffrey N. Roy	*10th Norfolk*
Sean Garballey	*23rd Middlesex*
Denise C. Garlick	*13th Norfolk*
Richard J. Ross	*Norfolk, Bristol and Middlesex*
Christine P. Barber	*34th Middlesex*
Marjorie C. Decker	*25th Middlesex*
Walter F. Timilty	*7th Norfolk*
Byron Rushing	*9th Suffolk*
Frank I. Smizik	*15th Norfolk*
John J. Lawn, Jr.	*10th Middlesex*
Peter V. Kocot	*1st Hampshire*
Bradley H. Jones, Jr.	*20th Middlesex*
Paul Brodeur	*32nd Middlesex*
Randy Hunt	*5th Barnstable*
James B. Eldridge	*Middlesex and Worcester*
Alice Hanlon Peisch	*14th Norfolk*
Michael S. Day	*31st Middlesex*
F. Jay Barrows	*1st Bristol*

HOUSE DOCKET, NO. 1450 FILED ON: 1/15/2015

HOUSE . . . . . No. 1656

By Mr. Walsh of Framingham, a petition (accompanied by bill, House, No. 1656) of Chris Walsh and others relative to the jurisdiction of the courts within the Housing Court Department. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the Geographical jurisdiction of the Housing Court Department.

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

SECTION 1: Section 1 of Chapter 185C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the first sentence and inserting in the place thereof the following sentence: -- The housing court department, established under section 1 of Chapter 211B, shall be composed of a western division, consisting of the municipalities in Berkshire, Franklin, Hampden and Hampshire counties; a central division, consisting of the municipalities in Worcester County and the municipalities of Ashland, Framingham, Hudson, Holliston, Hopkinton, Marlborough, Natick, Sudbury, Wayland, and Sherborn in Middlesex County; a northeastern division, including the municipalities in Essex county and the municipalities of Acton, Ashby, Ayer, Bedford, Billerica, Boxborough, Burlington, Carlisle, Chelmsford, Concord, Dracut, Dunstable, Everett, Groton, Lexington, Lincoln, Littleton, Lowell, Malden, Maynard, Melrose, North Reading, Pepperell, Reading, Shirley, Stoneham, Stow, Tewksbury, Townsend, Tyngsborough, Wakefield, Waltham, Watertown, Westford, Weston, Wilmington, Winchester, and Woburn in Middlesex county, and the jurisdiction known as

Devens established under chapter 498 of the acts of 1993; a southeastern division consisting of the municipalities in Barnstable, Bristol, Dukes, and Nantucket counties, and the municipalities of Carver, Duxbury, Halifax, Hanson, Hanover, Hingham, Hull, Kingston, Lakeville, Marion, Marshfield, Mattapoisett, Middleborough, Norwell, Pembroke, Plymouth, Plympton, Rochester, Rockland, Scituate, and Wareham in Plymouth County; a metro south division consisting of the municipalities in Norfolk County except Brookline, and the municipalities of Abington, Bridgewater, Brockton, East Bridgewater, West Bridgewater, and Whitman in Plymouth County; and an eastern division consisting of all municipalities in Suffolk County, and the municipalities of Arlington, Belmont, Cambridge, Medford, Newton and Somerville in Middlesex County, and the municipality of Brookline in Norfolk County.

SECTION 2: Section 4 of Chapter 185C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking the second, third, fourth and fifth paragraphs and inserting in the place thereof the following paragraphs: --

The eastern division of the housing court department shall hold at least one sitting per week in Suffolk county and at least one sitting per week in Middlesex county. The court, with the consent of the chief justice of the trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

The central division of the housing court department shall hold at least one sitting per week in the City of Worcester, at least one sitting per week in Middlesex County, at least one sitting per week in northern Worcester county, and at least one sitting per week in Southern Worcester county. The court, with the consent of the chief justice of the trial court, shall also sit

in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient and convenient.

The northeastern division of the housing court department shall hold at least two sittings per week in Essex County and at least two sittings per week in Middlesex county. The court, with the consent of the chief justice of the trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

The southeastern division of the housing court department shall hold at least three sittings per week in Bristol county, at least one sitting per week in Plymouth county, and at least one sitting per week in Barnstable county. The court, with the consent of the chief justice of the trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

The metro south division of the housing court department shall hold at least one sitting per week in Norfolk county and at least one sitting per week in Plymouth county. The court with the consent of the chief justice of trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

SECTION 3: Section 8 of chapter 185C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking the first sentence and inserting in the place thereof the following: -- There shall be two justices appointed for the western division, two justices appointed for the central division, two justices appointed for the northeastern division, two justices appointed for the metro south division, two justices appointed for the southeastern

division, two justices appointed for the eastern division, and three circuit justices who shall sit in any of the divisions as determined by the chief justice of the housing court department.

SECTION 4: Section 1 of Chapter 211B of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking in line seven "378" and replacing it with "383."

SECTION 5: Section 2 of Chapter 211B of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking line two "10" and replacing it with "15."

SECTION 6: These provisions of this act shall take effect on January 1, 2016.

SENATE DOCKET, NO. 983 FILED ON: 1/15/2015

SENATE . . . . . No. 901

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the geographical jurisdiction of the Housing Court Department.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	*Second Middlesex and Norfolk*
John F. Keenan	*Norfolk and Plymouth*
Kenneth J. Donnelly	*Fourth Middlesex*
Paul J. Donato	*35th Middlesex*
Carmine L. Gentile	*13th Middlesex*
William N. Brownsberger	*Second Suffolk and Middlesex*
Carolyn C. Dykema	*8th Middlesex*
Daniel J. Ryan	*2nd Suffolk*
Jason M. Lewis	*Fifth Middlesex*
Brian R. Mannal	*2nd Barnstable*
Michael F. Rush	*Norfolk and Suffolk*
Sal N. DiDomenico	*Middlesex and Suffolk*
James B. Eldridge	*Middlesex and Worcester*
David T. Vieira	*3rd Barnstable*
Jeffrey Sánchez	*15th Suffolk*
Viriato M. deMacedo	*Plymouth and Barnstable*

SENATE DOCKET, NO. 983 FILED ON: 1/15/2015

SENATE . . . . . No. 901

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 901) of Karen E. Spilka, John F. Keenan, Kenneth J. Donnelly, Paul J. Donato and other members of the General Court for legislation relative to the geographical jurisdiction of the Housing Court Department. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the geographical jurisdiction of the Housing Court Department.

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

SECTION 1. Section 1 of chapter 185C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the first sentence and inserting in the place thereof the following sentence:-- The housing court department, established under section 1 of chapter 211B, shall be composed of a western division, consisting of the municipalities in Berkshire, Franklin, Hampden and Hampshire counties; a central division, consisting of the municipalities in Worcester county, and the municipalities of Ashland, Framingham, Hudson, Holliston, Hopkinton, Marlborough, Natick, Sudbury, Wayland, and Sherborn in Middlesex county; a northeastern division, including the municipalities in Essex county and the municipalities of Acton, Ashby, Ayer, Bedford, Billerica, Boxborough, Burlington, Carlisle, Chelmsford, Concord, Dracut, Dunstable, Everett, Groton, Lexington, Lincoln, Littleton, Lowell, Malden, Maynard, Melrose, North Reading, Pepperell, Reading, Shirley, Stoneham, Stow, Tewksbury, Townsend, Tyngsborough, Wakefield, Waltham, Watertown, Westford, Weston,

Wilmington, Winchester, and Woburn in Middlesex county, and the jurisdiction known as Devens established under chapter 498 of the acts of 1993; a southeastern division consisting of the municipalities in Barnstable, Bristol, Dukes, and Nantucket counties, and the municipalities of Carver, Duxbury, Halifax, Hanson, Hanover, Hingham, Hull, Kingston, Lakeville, Marion, Marshfield, Mattapoisett, Middleborough, Norwell, Pembroke, Plymouth, Plympton, Rochester, Rockland, Scituate, and Wareham in Plymouth county ; a metro south division consisting of the municipalities in Norfolk County, except Brookline, and the municipalities of Abington, Bridgewater, Brockton, East Bridgewater, West Bridgewater, and Whitman in Plymouth county; and an eastern division consisting of all municipalities in Suffolk county, and the municipalities of Arlington, Belmont, Cambridge, Medford, Newton, and Somerville in Middlesex county, and the municipality of Brookline in Norfolk county.

SECTION 2. Section 4 of chapter 185C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking the second, third, fourth and fifth paragraphs and inserting in the place thereof the following paragraphs:--

The eastern division of the housing court department shall hold at least one sitting per week in Suffolk county and as least one sitting per week in Middlesex county. The court, with the consent of the chief justice of the trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

The central division of the housing court department shall hold at least one sitting per week in the City of Worcester, at least one sitting per week in Middlesex county, at least one sitting per week in northern Worcester county, and at least one sitting per week in Southern Worcester county. The court, with the consent of the chief justice of the trial court, shall also sit

in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

The northeastern division of the housing court department shall hold at least two sittings per week in Essex County and at least two sittings per week in Middlesex county. The court, with the consent of the chief justice of the trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

The southeastern division of the housing court department shall hold at least three sittings per week in Bristol county, at least one sitting per week in Plymouth county, and at least one sitting per week in Barnstable county. The court, with the consent of the chief justice of the trial court, shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

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SECTION 3. Section 8 of chapter 185C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking first sentence and inserting in the place thereof the following:-- There shall be two justices appointed for the western division, two justices appointed for the central division, two justices appointed for the northeastern division, two justices appointed for the metro south division, two justices appointed for the southeastern

division, two justices appointed for the eastern division, and three circuit justices who shall sit in any of the divisions as determined by the chief justice of the housing court department.

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SECTION 5. Section 2 of chapter 211B of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking in line two "10" and replacing it with "15."

SECTION 6. This provisions of this act shall take effect on January 1, 2016.

CITY COUNCIL

Policy Order Resolution

O-11
IN CITY COUNCIL

November 23, 2015

COUNCILLOR CHEUNG
COUNCILLOR MCGOVERN

WHEREAS: The City of Cambridge desires the ability to effectively approach and enforce municipal codes regarding housing matters; and

WHEREAS: It has come to the attention of the Cambridge City Council that House Bill H.1656 and Senate Bill S.901, both Acts relative to the support of the expansion of housing courts in the Commonwealth are current being considered by the Massachusetts legislature; and

WHEREAS: If passed, these acts would allow for the City of Cambridge to pursue housing matters in a specialized court designed to specifically deal with housing issues, allowing Cambridge to better protect our residents and more swiftly resolve violations; now therefore be it

ORDERED: That the City Manager be and hereby is requested to make known the City Council's support for House Bill H.1656 and Senate Bill S.901; and be it further

ORDERED: That the City Clerk be and is hereby requested to forward a suitably engrossed copy of this Order to Cambridge's State House delegation.

Chelsea City Council

City Hall
500 Broadway
Chelsea, MA 02150
(617) 466-4060
(617) 466-4065 Fax

June 2, 2014

RESOLUTION

Whereas, there is currently pending before the General Court an, "An Act relative to the geographical jurisdiction of the Housing Court Department," which would expand the Court's jurisdiction to the entire Commonwealth

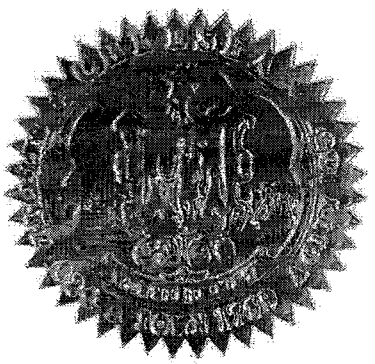
Whereas, the jurisdiction of the Housing Court now covers about 80% of the Commonwealth geographically, but does not currently cover the City of Chelsea, in addition to two other municipalities in Suffolk County, Revere and Winthrop, as well as other areas of the state

Whereas, the Housing Court has developed a high level of specialized expertise and specialized resources, including housing specialists, to handle the multitude of housing issues that come to the Court

Whereas, the Housing Court is set up to quickly and efficiently respond to emergencies, as well as building, fire, zoning, and sanitary code violations

Whereas, expanding the jurisdiction of the Housing Court statewide will promote and protect a variety of housing interests, whose access to the court system is currently limited by competing caseloads in the District Courts

Resolved, That the Chelsea City Council recognizes the need for a Housing Court in Chelsea and does hereby requests the City's legislative delegation to support the expansion of the housing court department to jurisdiction statewide.



Leo Robinson

Councilor Leo Robinson and all

Members of the Chelsea City Council

CITY OF SOMERVILLE, MASSACHUSETTS
BOARD OF ALDERMEN

Docket # 200288
Resolution
Resolution

Regular Meeting, November 24, 2015
Item ID 12963

SUMMARY: Supporting the passage of House #1656 and Senate #901 to create Housing Courts statewide.

COMPLETE TEXT:

WHEREAS, House Bill 1656 and Senate Bill 901 call for the creation of a statewide housing court to create a specialized court to hear matters involving housing issues, including landlord tenant issues and code enforcement issues; and

WHEREAS, Somerville currently is not served by any housing court that can provide this type of specialized jurisdiction; and

WHEREAS, The City of Somerville is the most densely populated community in the Commonwealth and has one of the highest percentages of residential real estate owned by absentee landlords in the Commonwealth; and

WHEREAS, The City of Somerville undertakes comprehensive enforcement actions with landlords to deal with rodent problems and health and safety code violations, including, where necessary, actions in the courts of the Commonwealth; and

WHEREAS, Because of development in the City of Somerville, many of its residents, especially low income, elderly and immigrants, face eviction actions that impact their lives and families; and

WHEREAS, The Board of Aldermen believes that these circumstances warrant the creation of a housing court so that these housing related issues can be heard by a specialized court; **NOW THEREFORE BE IT**

RESOLVED, That this Board of Aldermen hereby supports the passage of House Bill 1656 and Senate Bill 901 and asks that a copy of this Resolution be sent to members of Somerville's Legislative Delegation and to the House and Senate Chairs of the Joint Committee on the Judiciary, respectfully requesting that they support these bills.

SPONSORED BY: Ald. White Jr. and the Entire Board

RESULT: APPROVED

APPROVED BY THE BOARD OF ALDERMEN OF THE CITY OF SOMERVILLE, MA, AT A REGULAR MEETING ON THE 24th DAY OF NOVEMBER, 2015.

ATTEST:

John J. Long, City Clerk

Printed On: December 2, 2015

TOWN OF FRAMINGHAM

Memorial Building, 150 Concord Street, Room 121, Framingham, MA 01702
508-532-5400 | 508-532-5409 (fax) | www.framinghamma.gov

Resolution

Whereas, there is currently pending before the General Court an "Act relative to the geographical jurisdiction of the Housing Court Department," which would expand the Court's jurisdiction to the entire Commonwealth

Whereas, the jurisdiction of the Housing Court now covers about 80% of the Commonwealth geographically, but does not currently cover the Town of Framingham, as well as other areas of of the state

Whereas, the Housing Court has developed a high level of specialized expertise and specialized resources, including housing specialists, to handle the multitude of housing issues that come to the Court

Whereas, the Housing Court is set up to quickly and efficiently respond to emergencies, as well as building, fire, zoning, and sanitary code violations

Whereas, expanding the jurisdiction of the Housing Court statewide will promote and protect a variety of housing interests, whose access to the court system is currently limited by competing caseloads in the District Courts

Resolved, that the Framingham Board of Selectmen recognizes the need for a Housing Court in Framingham and hereby requests the Town's legislative delegation to support the expansion of the housing court department to jurisdiction statewide.

BOARD OF SELECTMEN
TOWN OF FRAMINGHAM

CHARLES J. SISITSKY, CHAIR

MICHAEL J. BOWER, VICE CHAIR

LAURIE A. LEE, CLERK

JASON A. SMITH, MEMBER

CHERYL TULLY STOLL, MEMBER

- Dedicated to Excellence in Public Service -

DIVISION 2. DEMOLITION DELAY

Sec. 22-50. Demolition of historically significant buildings or structures.

(a) *Intent and Purposes.* This section is adopted in furtherance of the policy set forth in the Newton Comprehensive Plan to assure the preservation and enhancement of the City of Newton's historical and cultural heritage by preserving, rehabilitating or restoring whenever possible, buildings or structures which have distinctive architectural features or historical associations that contribute to the historic fabric of the City.

(b) *Definitions.* For the purposes of this section, the following words and phrases have the following meanings:

Commission: The Newton Historical Commission, or if the regulated building or structure is in a local historic district established pursuant to G.L. c. 40C, the local historic district commission.

Commission staff: The person(s) regularly providing staff services for the commission whom the commission has designated commission staff for the purposes of this ordinance.

Commissioner: The commissioner of inspectional services.

Application: An application to the commissioner for a demolition permit as defined by this ordinance.

Demolition permit: Any permit issued by the commissioner which is required by the State Building Code and which authorizes the total or partial demolition of a building or structure (excluding interior demolition) regardless of whether such permit is called a demolition permit, alteration permit, building permit, etc.

Total demolition: The pulling down, razing or destruction of the entire portion of a building or structure which is above ground regardless of whether another building or structure is constructed within the original footprint of the destroyed building or structure.

Partial demolition: The pulling down, destruction or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.

(1) *Items requiring review by the commission at a hearing*. Partial demolition of any architecturally significant features which would alter the massing of the existing structure including, but not limited to the following items.

a) Additions or ells determined to be architecturally significant by commission or commission staff.

b) Roofs, including flat roofs, determined to be architecturally significant by commission or commission staff.

c) Porches determined to be architecturally significant by commission or commission staff, except open decks, staircases, and entryways, which are excluded from review.

d) Removal or envelopment by subsequent additions of 50% or more of any single exterior wall surface. Each wall is calculated by square footage individually.

e) Demolition of any architectural detail determined to be architecturally significant by commission or commission staff.

~~i~~) Brackets

ii) Crown molding

iii) Porch columns and railings

iv) Bay windows

v) Dormers

vi) Chimneys

(2) *Items requiring review by the commission that may be reviewed and approved by commission staff without a hearing if plans indicate*

a) Removal or alteration of the roof structure.

b) Repair or replacement of existing and original historic porches with similar materials to match existing**..**

c) Demolition or construction of additions or alterations not visible from a public way.

d) Removal or envelopment by subsequent additions of 50% to 100% of any single exterior wall surface. Each wall is calculated by square footage.

(3) *Items considered to be de minimis and requiring no commission or commission staff review:*

a) Open porches and entryways consisting of only a set of stairs, an entrance platform and a roof which are utilitarian in design or do not contribute to the architectural significance or character of the building.

b) Demolition or construction of new additions which remove, alter, or envelop 50% or less of a single exterior wall.

c) Removal or alteration of less than 50% of the roof structure

d) Normal maintenance of a building's exterior, including, but not limited to repair or replacement of roof surfaces, repair or replacement of gutters, and repair or replacement of existing doors and windows, including casings and frames, repair or replacement of existing exterior cladding (clapboards, shingles, masonry, etc.).

Historically significant building or structure: Any building or structure which is in whole or in part fifty or more years old and which

(1) is in any federal or state historic district, or if in any local historic district, is not open to view from a

public street, public park or public body of water; or

(2) is listed on or is within an area listed on the National Register of Historic Places or eligible for such listing, or listed on or is within an area listed on the State Register of Historic Places, or eligible for such listing; or

(3) has been determined by the commission or its designee to be a historically significant building after a finding that it is:

a) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the City of Newton, the Commonwealth of Massachusetts or the United States of America: or

b) historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or

c) located within one hundred fifty (150) feet of the boundary line of any federal or local historic district and contextually similar to the buildings or structures located in the adjacent federal or local historic district.

Preferably preserved: An historically significant building or structure which the commission has determined should be preserved, rather than totally or partially demolished, in accordance with the standards set forth in subsection (c)(5) below.

(c) *Procedure.*

(1) No demolition permit for a building or structure which is in whole or in part fifty or more years old shall be issued by the commissioner except in conformity with the provisions of this section, as well as any other applicable law, statute, ordinance or regulation.

(2) If any applicant and the owner of the building or structure, if different from the applicant seeks to demolish, in whole or in part, a building or structure which is in whole or in part fifty or more years old, the owner of the building or structure shall file a demolition review application with the commission for a determination as to whether the building or structure is historically significant and shall provide the commission with the following information:

a) a site plan or a copy of that portion of the tax assessor’s map which shows the building or structure to be demolished and the property on which it is located;
b) photographs of all existing façade elevations of the building or structure to be totally or partially demolished;

c) a description of the proposed plans for demolition and the reason(s) therefore.

(3) Within fifteen (15) days after the commission's receipt of a demolition review application, the commission shall make a determination as to whether the building is or is not historically significant and shall notify, in writing, the commissioner and the applicant of this determination. The commission may delegate the determination that a building or structure is historically significant to commission staff or to a designated commission member. In the event that the commission delegates the determination to the commission staff or to a designated commission member, the commission shall adopt criteria to be followed by the staff or the member in making

this determination.

A determination that a building or structure is or is not historically significant made by the commission staff or a designated commission member may be appealed to the full commission by filing a notice of appeal with the commission not later than fifteen (15) days after the written notice that the building or structure is or is not historically significant has been filed with the commissioner. Filing the appeal of the determination shall not stay the effect of such determination. Following a hearing before the commission, which may, but is not required to be conducted in conjunction with the hearing on whether the building or structure is preferably preserved, the commission shall affirm or reverse the determination and file notice of such determination with the commissioner. If the appeal of the determination is made independent of the preferably preserved hearing, the commission shall follow the same procedure for such hearing as that set forth in subsection (c)(5) below. If the commission fails to conduct a hearing on the appeal of said determination or fails to rule on the appeal within forty-five (45) days from the filing of the appeal, the determination that a building or structure is or is not historically significant shall remain unchanged, and the commissioner shall not issue a demolition permit until the procedural requirements of subsection (c)(5) below have been satisfied.

(4) No demolition permit shall be issued by the commissioner for a building or structure determined to be historically significant until the procedural requirements of subsection (c)(5) of this ordinance have been satisfied. The commissioner may grant the demolition permit if the commissioner:

a) does not receive written notice within forty-five (45) days after the commission's receipt of a demolition permit application that the building or structure is historically significant; or

b) receives written notice from the commission that the building either is not historically significant, or is historically significant, but clearly would not be deemed preferably preserved by the commission.

(5) When a building or structure is determined to be historically significant, the commission shall hold a public hearing to determine whether the building or structure, or the portion of the building or structure to be demolished, is preferably preserved. The applicant shall provide the commission with the following information for this determination:

a) in the case of partial demolition involving alteration(s) or addition(s) to a building or structure, (i) proposed plans and elevation drawings for the affected portion of the building or structure; and (ii) a plot plan of the property, if the same is required to obtain a permit under the State Building Code for the proposed alteration(s) or addition(s); and

b) if the site of the building or structure to be demolished is to be redeveloped, plans showing the use or development of the site after demolition together with a statement identifying all zoning variances and/or special permits which may be required in order to implement the proposed use or development.

The date the commission receives all the above information shall be stamped on the information received and shall be considered the submission date. Following public notice as set forth in subsection (c)(8) of this ordinance, the commission shall hold a public hearing within forty-five (45) days of the submission date to determine whether the building or structure should be preferably preserved, based on the criteria set forth in this paragraph. If the commission finds that the demolition proposed in the application would result in the demolition of a historically

significant building or structure whose loss would be detrimental to the historical or architectural heritage or resources of the City of Newton, then the commission shall find that the building or structure should be preferably preserved.

(6) Upon a determination that the building or structure which is the subject of an application for a demolition permit is preferably preserved, the commission shall give written notice of the determination to the commissioner. A copy of the commission's determination shall also be sent to the applicant for the demolition permit and to the owner of the building or structure if different from the applicant.

a) For a building or structure listed in the National Register of Historic Places or determined eligible for listing in the National Register of Historic Places by the Massachusetts Historical Commission no demolition permit shall be issued for a total demolition or a partial demolition of a building or structure until eighteen (18) months after the date of such determination by the commission, unless the commission informs the commissioner prior to the expiration of such eighteen (18) month period that the commission is satisfied that the applicant for the demolition permit and the owner of the building or structure, if different from the applicant, has:

i) made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or,

ii) has agreed to accept a demolition permit on specified conditions approved by the commission.

iii) If the specified conditions involve approved plans and elevations, then no demolition permit shall be issued by the commissioner unless the applicant provides, as part of his application for a demolition permit, a complete set of plans and elevation drawings which have been signed and stamped by the commission or commission staff.

iv) The applicant shall have two (2) years from the date of the expiration of the eighteen (18) month period in which to apply for and obtain a demolition permit. No demolition permit shall be issued for such building or structure after the expiration of this two (2) year period, unless the procedural requirements of subsection (c)(5) hereof have been satisfied.

~~i~~v) In order to encourage applications that preserve, restore, reuse, or rehabilitate historic buildings and structures, no application for a total demolition of a building or structure which has been unfavorably and finally acted upon by the commission shall be acted favorably upon within four months after the date of final unfavorable action unless the said commission finds

(a) by a vote of two-thirds (2/3) of those members present, substantial and material changes in said resubmitted application; or,

(b) by a majority vote of those members present, that the resubmitted application proposes to preserve the building or structure.

vi) Due notice shall be given to parties in interest of the time and place of the proceedings when the resubmitted application will be considered.

b) For all other buildings and structures not covered under section (6)a) above, no demolition permit shall be issued for a total demolition or a partial demolition of a building or structure found preferably preserved until one (1) year after the date of such determination by the commission, unless the commission informs the commissioner prior to the expiration of such one (1) year period that the commission is satisfied that the applicant for the demolition permit and the owner of the building or structure, if different from the applicant, has:

i) made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or,

ii) agreed to accept a demolition permit on specified conditions approved by the commission.

iii) If the specified conditions involve approved plans and elevations, then no demolition permit shall be issued by the commissioner unless the applicant provides, as part of his application for a demolition permit, a complete set of plans and elevation drawings which have been signed and stamped by the commission or commission staff.

iv) The applicant shall have two (2) years from the date of the expiration of the one (1) year period in which to apply for and obtain a demolition permit. No demolition permit shall be issued for such building or structure after the expiration of this two (2) year period, unless the procedural requirements of subsection (c)(5) hereof have been satisfied.

~~i~~v) In order to encourage applications that preserve, restore, reuse, or rehabilitate historic buildings and structures, no application for a total demolition of a building or structure which has been unfavorably and finally acted upon by the commission shall be acted favorably upon within four months after the date of final unfavorable action unless the said commission finds

(a) by a vote of two-thirds (2/3) of those members present, substantial and material changes in said resubmitted application; or,

(b) by a majority vote of those members present, that the resubmitted application proposes to preserve the building or structure.

vi) Due notice shall be given to parties in interest of the time and place of the proceedings when the resubmitted application will be considered.

(7) In the event a transfer of legal or beneficial ownership of a preferably preserved property occurs during the applicable demolition delay period, the full applicable demolition delay period will restart from the date of the transfer of ownership.

(8) In the event a transfer of legal or beneficial ownership of a preferably preserved property occurs after the applicable demolition delay period expires but prior to the issuance of a demolition permit, no demolition permit shall issue until the new owner complies with the procedures set forth in section 22-50(c)(5).

(~~7~~9) Upon a determination by the commission that a building or structure is not preferably preserved or upon the commission's failure to make any determination within forty-five (45) days of the submission date, the commissioner may grant a demolition permit for the building or structure.

(~~8~~10) Public notice of commission hearings shall provide the date, place and time of the hearing and the addresses of the properties to be considered at the hearing. Public notice shall include, at a minimum, posting with the city clerk and notification to the director of planning and development, to the applicant, to the owners of all abutting property and to other property owners deemed by the commission to be materially affected.

(~~9~~11) If the applicant is someone other than the owner or his designated agent a demolition review application cannot be filed until the commission receives written authorization from the owner that the applicant may apply for changes to their property.

(d) *Emergency Demolition.* If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the commissioner. As soon as practicable after the receipt of such request, the commissioner shall arrange to have the property inspected by a board consisting of himself or his designee; the city engineer or his designee; the fire chief or his designee; the chairman of the commission or his designee; and one (1) disinterested person chosen by the commissioner. After inspection of the building or structure and consultation with the other members of the board, the commissioner shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety. If the commissioner finds that the condition of the building or structure poses a serious and imminent threat to public health and safety and that there is no reasonable alternative to the immediate demolition of the building or structure, then the commissioner may issue an emergency demolition permit to the owner of the building or structure. Whenever the commissioner issues an emergency demolition permit under the provisions of this section of the ordinance, he shall prepare a written report describing the demolition of the building or structure and the basis of his decision to issue an emergency permit with the commission. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by M.G.L. c. 143, sections 6-10.

In the event that a board of survey is convened under the provisions of M.G.L. c. 143, section 8 with regard to any historically significant building or structure, the commissioner shall request the chairman of the commission or his designee to accompany the board during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the commission.

(e) *Non-Compliance.* Anyone who demolishes a historically significant building or structure without first obtaining and complying fully with the provisions of a demolition permit issued in accordance with this section shall be subject to a fine of not more than three hundred dollars ($300.00) for each day of violation of this ordinance.

In addition, unless a demolition permit issued in accordance with this section was obtained and unless such permit was fully complied with, including full compliance with plans and elevation drawings signed and stamped by the commission, the commissioner may elect to (1) issue a stop work order halting all work on the building or structure until the commission notifies the commissioner in writing that the applicant has appeared before the commission to address such noncompliance, and the commission has accepted the applicant's plans to remediate such noncompliance; (2) refuse to issue any certificates of occupancy, temporary or final, until any noncompliance has been remediated; and/or (3) refuse to issue a permit required by the State Building Code pertaining to any property on which an historically significant building or structure has been demolished for a period of two (2) years from the date of demolition, provided that this provision shall not prevent the commissioner from issuing any permit required to insure the safety of persons and property."

The commission may, upon application to and determination by the commission that reuse of the property in accordance with building plans prepared by the owner and submitted to the commission and all relevant agencies will substantially benefit the neighborhood and provide compensation for the loss of the historic elements of the property either through reconstruction of the lost historic elements or significant enhancement of the remaining historic elements of the site or the surrounding neighborhood, waive the fine, in whole or in part, and/or the ban on issuance of a building permit in order to allow the issuance of a building permit for construction or reconstruction of a building or structure approved by the commission. An owner receiving a waiver of the fine and/or ban on issuance of a building permit under this provision shall execute a binding agreement enforceable against all heirs, assigns and successors in interest with the commission to insure that any reuse of the site undertaken during the two-year ban shall be implemented in accordance with the plans, terms, and conditions approved by the commission. Any reuse of the site undertaken during the two-year ban which fails to comply with the terms of the commission's approval granted under this provision shall also permit reinstitution of the fine for non-compliance with this ordinance.

(f) *Securing Historically Significant Buildings and Structures.* If, following an application for a demolition permit, a building or structure has been determined to be historically significant, and the building or structure is subsequently destroyed by fire or other cause before any determination is made by the commission as to whether the building or structure is preferably preserved, a rebuttable presumption shall arise that the owner voluntarily demolished the building or structure without obtaining a demolition permit in accordance with the provisions of this ordinance. In such cases, the commissioner shall not issue any permit required under the State Building Code pertaining to the property on which the historically significant building or structure was located (except as necessary to secure public safety or health) for a period of two (2) years from the date of destruction of the building or structure, unless the owner can provide evidence satisfactory to the commissioner that he took reasonable steps to secure the building or structure against fire or other loss or that the cause of the destruction was not otherwise due to the owner's negligence.

(g) *Securing Preferably Preserved Buildings and Structures.* If during the period of demolition delay for a building or structure determined to be preferably preserved, such building or structure is destroyed through fire or other cause, the commissioner shall not issue any permit required under the State Building Code pertaining to the property on which the preferably preserved building or structure was located (except as necessary to secure public safety or health) until the end of the period of demolition delay, unless the owner can provide evidence to the commission that he took reasonable steps to secure the building or structure against fire or other loss or that the cause of the destruction was not otherwise due to the owner's negligence.

(h) *Buildings and Structures located in Local Historic Districts.* The provisions of this ordinance shall not apply to any building or structure located in a local historic district established pursuant to M.G.L. c. 40C and subject to regulation by the local historic district commission under the provisions of Sec. 22-40 of the Revised Ordinances.

(i) *Severability.* In case any section, paragraph, or part of this section is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, or part of this ordinance shall continue in full force and effect.

(j) *Enforcement.* The commission is authorized to institute any and all actions and proceedings, in law or in equity, in any court of competent jurisdiction, as it deems necessary and appropriate to obtain compliance with the requirements of this section.

(k) Applicability.

(1) Notwithstanding the foregoing, this section shall not apply and a demolition permit shall be issued for the reconstruction substantially similar in exterior design of a building structure or exterior architectural feature damaged or destroyed by fire, storm, or other disaster, provided such reconstruction is begun within six (6) months thereafter and is carried forward with due diligence. This exception shall be limited to reconstruction of only that portion of the building or structure damaged by such catastrophic event.

(2) This subsection shall not apply to buildings or structures which have been designated as landmarks pursuant to Sec. 22-60 of the revised ordinances.

(Ord. No. S-230, 12-1-86; Ord. No. S-315, 6-20-88; Ord. No. T-252, 12-7-92; Ord. No. U-19, 6-20-94; Ord. No. V-98, 12-16-96; Ord. No. V-99, 12-16-96; Ord. No. X-205, 5-1-06; Ord. No. Z-22, 04-22-08; Ord. No. Z-76, 02-07-11; Ord. No. Z-85, 04-20-11)

Setti D. Warren
Mayor

CITY OF NEWTON, MASSACHUSETTS

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September 2, 2014

Alderman Marcia Johnson, Chairman
Zoning & Planning Committee
Board of Alderman
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Dear Alderman Johnson,

I want to state for the record that the Newton Historical Commission resolutely supports the following docketed items: 265-14 & 266-14. Both of these proposed changes will be effective, powerful tools in our continued efforts to preserve structures throughout the city.

At a vote taken during a special hearing of the NHC on March 18, 2014, the extension of the demolition delay for structures on the National Register of Historic Places from 18 to 30 months and for all other structures determined to be preferably preserved from 12 to 24 months was supported unanimously by the members present that evening. At a vote taken at a regularly scheduled hearing of the NHC on July 24, 2014, the issue of non-transferable preferable preserved determinations was supported by a margin of five to one.

I strongly urge the committee to approve these proposed changes to the ordinance that governs our commission and send them on to the full board with its ardent endorsement.

Best regards,

Dave Morton, Chairman
Newton Historical Commission