



## **Programs & Services Committee Agenda**

### **City of Newton** **In City Council**

**Wednesday, June 7, 2017**

**7:00 PM - Room 211**

**7:45 PM - Council Chamber**

#### **Items Scheduled for Discussion:**

- #158-16**      **Ordinance to require notice on gas pumps relative to climate change**  
COUNCILORS NORTON AND SANGIOLO requesting an ordinance that requires a notice posted on retail gas station pumps within the City of Newton that informs consumers that burning gasoline contributes to climate change; and a link to a City website page offering information regarding alternatives to gasoline powered transportation, including walking, biking, public transit and electric vehicles.  
[04/25/16 @ 9:02 AM]
- #81-17**      **Referred to Programs & Services and Zoning & Planning Committees**  
**Ordinance amendments relative to rDNA technology and research facilities**  
THE BIOSAFETY COMMITTEE, COUNCILORS AUCHINCLOSS, HESS-MAHAN, LIPOF, AND SCHWARTZ requesting amendments to Sections 12-21 through 12-30 in order to update guidelines and procedures for the regulation of recombinant DNA technology; and requesting amendments to Section 12-24 and Chapter 30 to remove the requirement that laboratories or research facilities obtain a special permit from the City Council in order to utilize recombinant DNA research or technology.  
[03/27/17 @4:31 PM] Public Hearing assigned for June 12, 2017 in Zoning & Planning Committee
- #173-17**      **Referred to Programs & Services and Finance Committees**  
**Appropriate \$57,676 from E-Rate Funds to purchase technology for schools**  
HIS HONOR THE MAYOR requesting authorization to appropriate and expend fifty-seven thousand six hundred seventy-six dollars (\$57,676) from E-Rate reimbursement funds to purchase technology for the Newton Public Schools.  
[05/30/17 @ 2:38 PM]

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the City of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

**Referred to Programs & Service, Public Fac. and Finance Committees**

**#178-17**

**Appropriate \$500,000 for renovations to the Newton Free Library**

HIS HONOR THE MAYOR requesting authorization to appropriate the sum of five hundred thousand dollars (\$500,000) from bonded indebtedness for the purpose of funding renovations at the Newton Free Library to include expansion of the Children's Room and other improvements to the First Floor. [05/30/17 @ 2:38 PM]

*A Public Hearing will be held on the following item in the Council Chamber at 7:45PM:*

**#82-17**

**Citizens Petition requesting a resolution for Presidential impeachment inquiry**

CINDY CUBA CLEMENTS ET AL. submitting a petition, pursuant to Section 10, Section 2 of the City of Newton Charter, for the City to adopt a resolution or other measure, such as the Model Local Resolution calling upon the U.S. House of Representatives to open an investigation into the impeachment of President Donald J. Trump. [03/27/17 @ 10:05 AM]

**#161-17**

**Resolution for Immigrant Heritage Month**

COUNCILORS HESS-MAHAN, COTE, KALIS, DANBERG AND NORTON proposing a Resolution to officially recognize June as Immigrant Heritage Month. [5/23/17 @ 4:43PM]

**Items not Scheduled for Discussion at this meeting:**

- #138-17      Submission of Charter Commission Final Report**  
THE NEWTON CHARTER COMMISSION submitting the Commission's Final Report to the City Council. [04/28/17 @ 11:03 AM]
- #137-17      Request to discuss and repeal Welcoming City ordinance**  
SANDE YOUNG ET AL. requesting discussion and to repeal of Ordinance A-102, the Welcoming City ordinance, or put the ordinance before the voters in the next municipal election. [04/28/17 @ 11:57 AM]
- #31-15(6)      Amendment to noise ordinance relative to leaf blowers**  
COUNCILOR LEARY proposing to amend Chapter 20, Restrictions on use of leaf blowers, to specify permitted hours of use of electric and battery powered leaf blowers from Memorial Day through Labor Day and to exclude, at all times, the use of gasoline or fuel-based generators to charge leaf blower batteries or to power electric leaf blowers. [03/13/17 @ 3:26PM]
- #300-16      Ordinance to register lobbyists**  
COUNCILORS COTE, NORTON AND HARNEY proposing an ordinance to register lobbyists in the City of Newton. [08/10/16 @ 3:11 AM]
- #56-16      Ordinance amendment to add statutory references to policy on housing practices**  
COUNCILOR HESS-MAHAN requesting an amendment to Chapter 12, Section 50(b) *Policy of the city regarding housing practices*, to add statutory references to Title VI of the Civil Rights Act of 1964; the Americans with Disabilities Act; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act; and any other applicable state or federal laws that were inadvertently omitted from the current ordinance. [02/08/16 @ 1:51 PM]
- #34-13      Ordinance to prohibit polystyrene food/beverage containers**  
ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]

**Referred to PS&T, Programs & Services, Public Facilities and Finance Committees**

- #59-17      Appropriate \$350,000 for construction of a Parks & Recreation/Police building**  
HIS HONOR THE MAYOR requesting authorization to appropriate three hundred fifty thousand dollars (\$350,000) from Overlay Surplus for the purpose of funding the construction of a new combined Parks & Recreation and Police Department facility to be located at the Elliot Street DPW yard. [02-17-17 @ 9:29 AM]

**Referred to Programs & Services and Public Safety & Transportation Committees**

- #46-17**      **Discussion regarding how community policing works**  
COUNCILOR ALBRIGHT requesting a discussion with the Chief of Police and/or members of his department to explain to the City Council how “community policing” works in Newton, how it differs from traditional policing, how staffing differs from traditional departments, and how it benefits Newton. [02/20/17 @ 3:21 PM]
- #363-16**      **Amendment to the City Council Rules for yearly review of City Clerk’s salary**  
PRESIDENT LENNON AND VICE PRESIDENT LAPPIN requesting an amendment to Article XI of the Rules and Orders of the City Council to require an annual review of the salary of the City Clerk/Clerk of the Council. [10/26/16 @ 3:58 PM]

**Referred to Programs & Services and Public Facilities Committees**

- #344-16**      **Discussion regarding oversight of all city/school buildings to improve efficiencies**  
COUNCILOR LAPPIN requesting a discussion regarding the Public Buildings Department overseeing all public buildings, including School Department facilities, to improve efficiencies. [10/07/16 @ 10:47 AM]
- #301-16**      **Amendment to the Tree Preservation Ordinance**  
COUNCILOR SANGIOLO requesting an amendment to the Tree Preservation Ordinance so that any tree removal requested by a city department be forwarded to the Urban Tree Commission and all tree removal requests under the Tree Preservation Ordinance be posted online to give residents and interested citizens notification. [08/09/16 @ 10:30 PM]
- #264-16**      **Ord. requiring Councilor notice of and involvement in street tree waiver requests**  
COUNCILORS HESS-MAHAN, NORTON, KALIS, COTE, DANBERG, HARNEY, SANGIOLO, LEARY AND YATES requesting an ordinance requiring that Councilors from each respective ward be given notice and a meaningful opportunity to object to granting a hardship waiver or permit to remove a street tree. [07/21/16 @ 11:40 AM]

**Referred to Land Use, Programs & Services, and Finance Committees**

- #256-16**      **Request to extend notification area of notice for special permit petitions**  
COUNCILORS COTE, NORTON, HARNEY, BLAZER, BROUSAL-GLASER, AND LEARY requesting an amendment to the City Council Rules, Article X; Section 6 – Additional Notification Requirements, to include that the area of notice for special permit petitions be expanded beyond the abutters to abutters within 300’ required by Massachusetts General Law Chapter 40A to also include property owners within 600’ of the subject property. This notification will apply to all classes of building except for residential 1 and 2-family units that will remain 1 or 2-family units after receiving a special permit. Only abutters to abutters within 300’ will be entitled to



the rights conferred by Massachusetts General Law Chapter 40A [07/01/16 @2:09 PM]

### **Referred to Programs & Services and Public Facilities Committees**

- #141-15**      **Discussion on tracking the gas utility infrastructure in Newton**  
ALD. BROUSAL-GLASER, SANGIOLO, HESS-MAHAN, COTE, NORTON AND ALBRIGHT  
 requesting a discussion with *the Director of Urban Forestry*, a representative of the Department of Public Works and a representative of the Law Department about tracking and improving the condition of the gas utility infrastructure in Newton, new state statutes governing infrastructure repairs, coordination of increased repair work with city operations, the status of negotiations with National Grid to compensate for tree deaths resulting from gas leaks, and the possibility of creating a utilities working group to monitor progress on these and related issues.  
 05/26/15 @ 2:53 PM]

### **Referred to Programs & Services and Public Facilities Committees**

- #201-15**      **Discussion of the condition of the Kennard Estate on Dudley Road**  
ALD. SANGIOLO requesting a discussion with the Commissioner of Public Buildings, the Commissioner of Parks and Recreation, and the Executive Department regarding the condition of the property located at 246 Dudley Road (Kennard Estate) and how much, if any, repairs and upgrades will be needed as the City relocates the Parks and Recreation Department to that location. [09/01/15 @ 4:00 PM]
- #483-14**      **Resolution to promote cooperative programs with food establishments**  
PROGRAMS & SERVICES COMMITTEE proposing a RESOLUTION to promote a cooperative program with food establishments in the City, the Newton-Needham Chamber of Commerce, the Economic Development Commission, the Director of Economic Development and members of the Board of Aldermen, to find opportunities for these establishments to provide their food services for events in the City. [12/02/14 @ 3:56 PM]

### **Referred to Programs & Services and Finance Committees**

- #216-14**      **Ordinance amendment for notification of vacancy of unit and/or condo conversion**  
ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, NORTON AND SANGIOLO  
 proposing the following amendments to Chapter 12 Health and Human Services of the Revised Ordinances to:
- require owners of dwellings requiring a Certificate of Habitability under Section 12-1 and real estate agents/brokers who receive compensation in connection with the particular real estate transaction to notify the Commissioner of Health and Human Services whenever an apartment, tenement, or room in a lodging house is vacated by the occupant or when an area in an existing building is

converted to a condominium prior to being reoccupied by a new tenant, lodger or occupant;

- require educational institutions to disclose addresses of undergraduates living off-campus in Newton;
  - require a fee for certification; and
  - impose a fine for violation of these provisions. [05/14/14 @11:51 AM]
- FINANCE VOTED NO ACTION NECESSARY 7-0 12/14/15

- #398-13      Discussion of complementary ordinance or regulations for Marijuana Dispensaries**  
ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]

**UPDATE ITEMS:**

- Referred to Programs & Services Committees and Public Facilities**  
**#12-17      Request for updates on the Library Expansion Project**  
COUNCILORS CROSSLEY, ALBRIGHT AND BLAZAR requesting periodic updates from the Library Trustees and Library Director on the Library expansion project. [01/03/2017 @ 3:55 PM]

- Referred to Programs & Services Committees and Public Facilities**  
**#13-17      Request for updates on the Archive Expansion Project**  
COUNCILORS CROSSLEY, ALBRIGHT, AND BLAZAR requesting periodic updates from the City Clerk on the Archives expansion project. [01/03/2017 @ 3:56 PM]

- Referred to Programs & Services and Public Facilities Committees**  
**#27-16      Updates from the Administration on the renovations at the Aquinas site**  
PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES requesting that the School Department and/or Executive Department provide updates on removal of asbestos and other toxic materials that were identified at the Aquinas site, the scope and timing of window replacement in particular, and renovations that may be necessary to facilitate short and long-term plans for uses and operations at the site. [01/10/16 @ 1:14 PM]

- Referred to Programs & Services and Public Safety & Transportation Committees**  
**#312-15      Update from Health Department on opiate overdose epidemic**  
ALD. COTE, HARNEY AND NORTON, requesting a review and discussion of the opiate overdose epidemic including an update from the Health Department appraising the board on the current situation to include comparative statistics from previous years

as to the number of opiate overdoses handled by first responders. In addition, what is being done immediately to take this on and what support can the Board provide

**#377-14      Discussion of proposed changes of use of the Senior Center**

THE PROGRAMS & SERVICES COMMITTEE requesting a discussion with the Director of Senior Services, the Council on Aging and the Executive Department relative to changes in the use of the Senior Center at 345 Walnut Street. [10/16/14 @ 5:43 PM]

**Referred to Programs & Services and Public Facilities Committees**

**#119-14      Update from Inspectional Services on ADA compliance of City properties**

ALD. ALBRIGHT AND CROSSLEY requesting discussion with the Inspectional Services Department to explain the development of short and long term plans to identify and correct buildings, sidewalks, playgrounds, etc., that do not conform to American Disability Act (ADA) standards. The discussion should include information on how improvements will be incorporated into the Capital Improvement Plan or if less than \$75,000 into a comprehensive budget plan to correct ADA deficiencies. [03/12/14 @ 4:18 PM]

**Respectfully Submitted,**

**John B. Rice, Chair**



May 18, 2017

Dear Owner or Operator,

On Wednesday, June 7 at 7:00PM in Room 211 at Newton City Hall, the Programs & Services Committee of the Newton City Council will be holding a meeting to discuss the following item:

**#158-16      Ordinance to require notice on gas pumps relative to climate change**  
COUNCILORS NORTON AND SANGIOLO requesting an ordinance that requires a notice posted on retail gas station pumps within the City of Newton that informs consumers that burning gasoline contributes to climate change; and a link to a City website page offering information regarding alternatives to gasoline powered transportation, including walking, biking, public transit and electric vehicles.  
[04/25/16 @ 9:02 AM]

The goal behind this proposal is to encourage drivers to think about the impacts of their transportation choices, and particularly the fact that burning gasoline contributes to climate change. Just as cigarette packages and alcohol bottles carry warning labels to ensure consumers know the hidden risks of using the product, so too would gas pumps be required to carry warning labels disclosing to consumers the risks of climate change from the consumption of petroleum transportation fuels.

Similar legislation was passed into law in the City of North Vancouver, British Columbia in November 2014. The cities of Berkeley, San Francisco and Santa Monica, California have proposed legislation for gas pump climate change labels.

I hope you are able to attend and share your perspective on this legislation. If you are not able to attend but would like to submit a letter, please email it to the Committee Clerk, Karyn Dean at [kdean@newtonma.gov](mailto:kdean@newtonma.gov). I am also happy to discuss this issue with you by phone at my contact information below.

Lastly you can also reach out to any other Newton City Councilor. Our contact information can be obtained at <http://www.newtonma.gov/gov/aldermen/boalisting/default.asp>

Sincerely,

Emily Norton  
Ward 2 Councilor  
[enorton@newtonma.gov](mailto:enorton@newtonma.gov)  
Office (617) 795-0362  
Cell (508) 397-6839

Speedway  
2370 Commonwealth Avenue  
Newton, MA 02466

J&S Mobil  
1094 Beacon Street  
Newton, MA 02461

Value Gas Repair  
979 Watertown Street  
Newton, MA 02465

Gulf, Route 128  
8 MA 128  
Newton, MA

R S Mobil  
361 Washington Street  
Newton, MA 02458

Echo Bridge Station  
1010 Chestnut Street  
Newton, MA 02464

Regan's Texaco  
2066 Commonwealth Ave.  
Newton, MA 02466

Getty Station  
964 Boylston Street  
Newton, MA 02461

Jacob's Auto Sales & Service  
1232 Washington Street  
Newton, MA 02465

Newton Centre Sunoco  
325 Boylston Street  
Newton, MA 02459

West Newton Auto  
1200 Washington Street  
Newton, MA 02465

Shell Service  
1356 Centre Street  
Newton, MA 02459

Newtonville Gulf  
650 Washington Street  
Newton, MA 02458

Bruno Sunoco Station  
56 Winchester Street  
Newton, MA 02461

Newton Tire Company  
79 Needham Street  
Newton, MA 02461

Bigelow Oil Company  
50 Tower Road  
Newton, MA 02464

Newton Centre Gulf  
732 Beacon Street  
Newton, MA 02459

Negoshian's Sunoco  
14 Elliot Street  
Newton, MA 02461

Nancy E. Glowa  
City Solicitor

Arthur J. Goldberg  
Deputy City Solicitor

Vali Buland  
First Assistant City Solicitor



Assistant City Solicitors

Paul S. Kawai  
Samuel A. Aylesworth  
Keplin K. U. Allwaters  
Anne Sterman  
Sean M. McKendry

## CITY OF CAMBRIDGE

Office of the City Solicitor  
795 Massachusetts Avenue  
Cambridge, Massachusetts 02139

October 17, 2016

Lisa C. Peterson  
Acting City Manager  
City Hall  
Cambridge, MA 02139

**RE: City Council Order No. 0-5 dated June 13, 2016 Re:  
Gas Pump Labels Containing Information About Fossil Fuel Consumption**

Dear Ms. Peterson:

In City Council Order No. 0-5 (dated June 13, 2016, a copy of which is attached hereto for reference) (hereinafter, "Council Order"), the City Council requested the City Manager to "confer with the appropriate City departments to determine the feasibility of requiring gas pump labels with information about the environmental impact of burning fossil fuels at all gas stations in the City[.]" The Council Order states that "[r]equiring these labels at [gas pumps] will provide consumers with information about the impact of fossil fuel consumption, which may encourage them to use alternative forms of transportation where appropriate[.]"<sup>1</sup>

In order to make a gas pump handle warning label requirement have the force of law and to enforce any violations thereof, the City Council will need to enact an ordinance establishing this requirement. As will be discussed below, if the City of Cambridge ("City") enacts an ordinance requiring the placement of labels on gas pump handles that contain information about the environmental effects of burning fossil fuels, the ordinance could be found to invoke the First Amendment, but arguably will not violate it depending on what information is required to be included in the labels. Also, this type of ordinance likely will not violate the Commerce Clause, and likely will not be preempted by existing federal or state laws.

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<sup>1</sup> The Council Order also notes that North Vancouver, Berkeley and San Francisco have recently implemented laws requiring such labels on gas pump handles. We have conferred with attorneys from the City of Berkeley and City of San Francisco Law Departments, and to date, neither city has enacted a law requiring the placement of warning labels on gas pumps handles. Rather, each City is currently considering such laws. Additionally, we understand that the City of Seattle has not passed but is also considering such a law.

## **A. First Amendment Concerns.**

### **i. Requiring the Placement of Warning Labels Concerning the Environmental Effects of Burning Fossil Fuels on Gas Pump Handles Will Likely Constitute Compelled Commercial Speech Under the First Amendment.**

The Supreme Court has recognized that laws requiring the disclosure of specific information “may be as violative of the First Amendment as prohibitions on speech.” Zauderer v. Office of Disciplinary Counsel of Sup. Ct. of Ohio, 471 U.S. 626, 650 (1985). Thus, a City ordinance requiring the placement of labels on gas pump handles containing information about the environmental effects of burning fossil fuels will be subject to the protections of the First Amendment as it will amount to the City compelling speech from gas station operators and franchisors (if applicable).

The speech compelled by this ordinance will likely be considered “commercial speech,” as it will be provided to consumers in connection with a proposed commercial transaction (*i.e.*, purchasing gas) with the intent of encouraging consumers not to engage in said transaction (*i.e.*, encouraging consumers to use alternative transportation instead of purchasing gas). See New York Rest Ass’n v. New York City Bd. of Health, 556 F.3d 114, 131-34 (2d Cir. 2009); El Dia, Inc. v. P.R. Dept. of Consumer Affairs, 413 F.3d 110, 115 (1st Cir. 2005); Consol. Cigar Corp. v. Reilly, 218 F.3d 30, 54-55 (1st Cir. 2000) rev’d other holdings, Lorillard Tobacco Co. v. Reilly, 533 U.S. 525, 539 (2001).

### **ii. The Suggested Ordinance Likely Will not Violate the First Amendment if the Information Required to be Stated in the Gas Pump Warning Labels is “Purely Factual and Uncontroversial.”**

In analyzing laws that compel commercial speech in the context of the First Amendment, different standards apply depending on the nature of the compelled speech. Here, if the ordinance requires the label to contain “purely factual and uncontroversial information,” it likely will not violate the First Amendment as long as: (1) the compelled speech is “reasonably related” to a legitimate governmental interest; and (2) the ordinance is not unjustified or unduly burdensome so that it chills protected commercial speech. Zauderer, 471 U.S. at 650-51; Safelite Group, Inc. v. Jepsen, 764 F.3d 258, 261-62 (2d Cir. 2014); Cook v. Gates, 528 F.3d 42, 55 (1st Cir. 2008); Pharm. Care Mgmt. Ass’n, 429 F.3d at 297-98, 310 n. 8, 316.

Thus, if the ordinance requires the warning labels to contain information identifying what pollutants are emitted from motor vehicles as a result of burning fossil fuels, it will likely pass constitutional muster. This information will be “purely factual and uncontroversial,” and “reasonably related” to the legitimate governmental interest in reducing pollution and protecting the environment as it will encourage consumers to use alternative forms of transportation where appropriate. Int’l Paper Co. v. Town of Jay, 928 F.2d 480, 485 (1st Cir. 1991). Further, this type of warning will not be unjustified or unduly burdensome so that it chills protected commercial speech as the warning label (presumably) will not physically limit gas station operators from placing advertisements on other portions of gas pumps. See Dwyer v. Cappell, 762 F.3d 275, 283-84 (3d Cir. 2014); Consol. Cigar Corp., 218 F.3d at 54-55 rev’d other holdings, Lorillard Tobacco Co., 533 U.S. at 539.



**iii. It is not Clear Whether the Suggested Ordinance will be found to Violate the First Amendment if the Gas Pump Warning Labels are Required to Display Non-factual and/or Controversial Information.**

Neither the Supreme Court nor the First Circuit have established what level of scrutiny applies to a law that compels commercial speech containing non-factual and/or controversial information (e.g., burning fossil fuels contributes to climate change).<sup>2</sup> In light of how other courts have reviewed such laws, a Massachusetts court will likely analyze this type of ordinance under intermediate scrutiny or strict scrutiny to determine whether it violates the First Amendment.<sup>3</sup>

***a.If the Suggested Ordinance Requires Gas Pump Warning Labels to Display Non-factual and/or Controversial Information, it Arguably may be found not to Violate the First Amendment if the Ordinance is Analyzed Under Intermediate Scrutiny.***

If a court determines that intermediate scrutiny is the proper standard of review, the court will need to determine whether the compelled commercial speech is false, deceptive or misleading, or whether it proposes an unlawful activity. Mass. Ass'n of Private Career Schools, 2016 WL 308776 at \*7. If the compelled commercial speech is not false, deceptive or misleading, and does not propose an unlawful activity, three (3) additional inquiries need to be made: (1) whether the asserted governmental interest is substantial; (2) whether the regulation directly advances said governmental interest; and (3) whether the regulation is not more extensive than is necessary to serve that interest. Id. at \*8.

Under this test, a warning indicating that the burning of fossil fuels contributes to climate change will arguably not be found to be false, deceptive or misleading, and will not encourage unlawful activity. Massachusetts v. E.P.A., 549 U.S. 497, 521-24 (2007) (“Judged by any standard, U.S. motor-vehicle emissions make a meaningful contribution to greenhouse gas concentrations and hence . . . to global warming.”); see generally Endanger. Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66496 (Dec. 15, 2009). Additionally, the City’s asserted interest in enacting such an ordinance will be substantial as reducing pollution is a substantial governmental interest. See Grace United Methodist Church v. City of Cheyenne, 451 F.3d 643, 656-58 (10th Cir. 2006); Nat’l Elec. Mfr. Ass’n v. Sorrell, 272 F.3d 104, 115 n.6 (2d Cir. 2001).

<sup>2</sup> Even if it can be established that burning fossil fuels contributes to climate change, this will likely be considered controversial information given the current national debate over climate change. Compare Chelsea Harvey, Human-caused climate changes has been happening for a lot longer than we thought scientists say, Wash. Post, Aug. 24, 2016, available at [https://www.washingtonpost.com/news/energy-environment/wp/2016/08/24/human-caused-climate-change-has-been-happening-for-a-lot-longer-than-we-thought-scientists-say/?utm\\_term=.1310109408ba](https://www.washingtonpost.com/news/energy-environment/wp/2016/08/24/human-caused-climate-change-has-been-happening-for-a-lot-longer-than-we-thought-scientists-say/?utm_term=.1310109408ba), with Matt Ridley & Benny Peiser, Your Complete Guide to the Climate Change Debate, Wall St. Journal, Nov. 27, 2015, available at <http://www.wsj.com/articles/your-complete-guide-to-the-climate-debate-1448656890>.

<sup>3</sup> The few federal courts that have addressed such laws have varied on what level of scrutiny applies. See Safelite Group, Inc., 764 F.3d at 261-266 (applying intermediate scrutiny); Mass. Ass’n of Private Career Schools v. Healey, 2016 WL 308776, \*15-16, 21 (D. Mass. 2016) (same); Entm’t Software Ass’n v. Blagojevich, 469 F.3d 641, 651-53 (7th Cir. 2006) (applying strict scrutiny). Although the District of Massachusetts applied intermediate scrutiny to a regulation that compelled potentially non-factual commercial speech in Mass. Ass’n of Private Career Schools, this case is only persuasive authority, rather than binding authority.

Next, the warning label requirement will directly advance the City’s interest in reducing pollution as the compelled speech will be delivered to listeners at the point where it is most likely to affect them— at the location where they purchase gas. See Discount Tobacco City & Lottery, Inc. v. United States, 674 F.3d 509, 543 (2012); see also Lorillard Tobacco Co., 533 U.S. at 546. Lastly, this ordinance arguably will not be more extensive than is necessary to serve the City’s interest in reducing pollution as the ordinance will not prohibit gas station operators from using the rest of the pump itself to place advertisements from third parties, or their own factual information and/or opinions concerning the information provided in the required warning label. See Greater New Orleans Broadcas. Ass’n v. United States, 527 U.S. 173, 188 (1999).

Accordingly, if the suggested ordinance requires gas pump warning labels to contain information about climate change, it will arguably not violate the First Amendment if a court determines intermediate scrutiny is the proper standard of review.

***b.If the Suggested Ordinance Requires the Gas Pump Warning Labels to Display Non-factual and/or Controversial Information, it will Likely be found to Violate the First Amendment if the Ordinance is Analyzed Under Strict Scrutiny.***

If a court determines that strict scrutiny is the proper standard of review, the City will have to establish that the suggested ordinance is narrowly tailored to promote a “compelling” governmental interest. Wooley v. Maynard, 430 U.S. 705, 715-16 (1977); Entm’t Software Ass’n, 469 F.3d at 646, 653. A law is not narrowly tailored if a less restrictive alternative would serve the government’s purpose. Entm’t Software Ass’n, 469 F.3d at 646.

Although some courts have recognized that reducing pollution is a compelling governmental interest, it is doubtful that the City will be able to establish that the ordinance is narrowly tailored to serve this interest as requiring the placement of warning labels on gas pump handles containing information about climate change likely is not the “least restrictive” method of advancing this purpose.<sup>4</sup> Thus, if the suggested ordinance is analyzed under strict scrutiny, it will likely be found to violate the First Amendment.

**B. Requiring the Placement of Warnings Concerning the Burning of Fossil Fuels on Gas Pump Handles Likely will not be found to Violate the Commerce Clause.**<sup>5</sup>

States and municipalities can violate the Commerce Clause in the Constitution, Art. I, § 8, cl. 3, through the “Dormant Commerce Clause,” which “prohibits states from acting in a manner that burdens the flow of interstate commerce.” Pharm. Research and Mfrs. of Am. v. Concannon, 249 F.3d 66, 79 (1st Cir. 2000). A state law invokes the Dormant Commerce Clause if it does one of the following: (1) it has an “extraterritorial reach,” and “directly controls commerce occurring

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<sup>4</sup> For example, the City could disseminate information about the connection between burning fossil fuels and climate change to residents. This would not affect the commercial speech rights of gas station operators and franchisors (if applicable), and would advance the City’s interest in reducing pollution caused by the burning of fossil fuels.

<sup>5</sup> Many of the First Amendment cases we reviewed also contained Dormant Commerce Clause analyses. Thus, it is prudent to analyze whether the suggested ordinance will violate the Dormant Commerce Clause.

wholly outside the boundaries of a State”; (2) it discriminates against interstate commerce; or (3) it “regulates evenhandedly and has only incidental effects on interstate commerce.”<sup>6</sup> *Id.* at 79-80.

*i. An Ordinance Requiring Gas Station Operators in Cambridge to Place Warning Labels on Gas Pump Handles Likely will not have an Extraterritorial Reach.*

“[A] state statute is a per se violation of the Commerce Clause when it has an ‘extraterritorial reach,’” which occurs “[w]hen a state statute regulates commerce wholly outside the state’s borders or when the statute has a practical effect of controlling conduct outside of the state.” *Id.* at 79. An ordinance requiring the placement of warning labels on gas pump handles in the City will regulate activity wholly within Cambridge, and thus, will not interfere with commerce outside of Massachusetts. *See id.* at 82. Thus, the suggested ordinance likely will not have an extraterritorial reach.

*ii. It is Unlikely that the Suggested Ordinance will Discriminate Against Interstate Commerce.*

“[A] state regulation that discriminates against interstate commerce on **its face, in purpose, or in effect** is highly suspect and will be sustained only when it promotes a legitimate state interest that cannot be achieved through any reasonable nondiscriminatory alternative.” *Cherry Hill Vineyard, LLC v. Baldacci*, 505 F.3d 28, 33 (1st Cir. 2007) (emphasis added).

First, the suggested ordinance will likely be determined to be facially neutral, rather than facially discriminatory, as it will apply to all gas station operators in the City (instead of explicitly discriminating against interstate commerce by distinguishing between in-state and out-of-state commerce). *See Am. Beverage Ass’n v. Snyder*, 735 F.3d 362, 370-71 (6th Cir. 2013); *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1089 (9th Cir. 2013). Next, the ordinance will not have a discriminatory purpose as the early legislative history of this suggested law (*i.e.*, the Council Order) indicates that the purpose of the law will be to encourage consumers to use alternative transportation where appropriate in order to reduce pollution and protect the environment, as opposed to discriminating against interstate commerce. *See Alliance of Auto Mfrs.*, 430 F.3d at 37.

Lastly, as the City has not yet enacted an ordinance regarding gas pump handle warning labels, it is doubtful that someone challenging said ordinance after its initial enactment will be able to establish that it has a discriminatory effect on interstate commerce as there will be no evidence of a discriminatory effect. *See Cherry Hill Vineyard, LLC*, 505 F.3d at 36, 37. Further, even after this ordinance is enacted, it is unlikely that one will be able to establish that the law has a discriminatory effect as it will apply to all gas station operators in Cambridge. *Cf. Constr. Materials Recycling Ass’n Issues and Educ. Fund, Inc. v. Burack*, 686 F. Supp. 2d 162, 170 (D.N.H. 2010).

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<sup>6</sup> The Dormant Commerce Clause can also be invoked by municipal laws. *See Houlton Citizens’ Coalition v. Town of Houlton*, 175 F.3d 178, 188-89 (1st Cir. 1999).

Accordingly, an ordinance requiring the placement of warning labels on gas pump handles containing information about the environmental effects of burning fossil fuels likely will not discriminate against interstate commerce.

***iii. The Suggested Ordinance Will Likely Regulate Evenhandedly and Have Only Incidental Effects on Interstate Commerce.***

“When a state statute regulates evenhandedly and has only incidental effects on interstate commerce, that statute will be upheld unless the burden on interstate commerce is clearly excessive in relation to the putative local benefits.” Pharm. Research and Mfrs. of Am., 249 F.3d at 83 (internal quotation marks omitted). In analyzing a statute that regulates evenhandedly, courts balance the following factors: (1) the nature of the putative local benefits advanced by the statute; (2) the burden the statute places on interstate commerce; and (3) whether the burden is “clearly excessive” as compared to the putative local benefits. Id. at 83-84.

Here, the suggested ordinance will regulate evenhandedly as it will apply to all gas station operators in the City, and will only have an incidental effect on commerce as the ordinance will not discriminate against interstate commerce. The “putative local benefit” will be reducing pollution and protecting the environment, which, as previously noted, is a substantial governmental interest. The only burden that will arguably be imposed by this law will be its possible effects on the profits of gas station operators and their franchisors (if applicable), which is not enough to support an argument that a law violates the Commerce Clause. See id. at 83. Thus, this burden arguably will not be “clearly excessive” when compared to the benefit advanced by the ordinance.

Accordingly, in balancing these factors, a court will likely determine that the suggested ordinance does not violate the Dormant Commerce Clause.

**C. The Suggested Ordinance Likely Will not be Preempted by Federal Law.**

The only federal laws and regulations we have found that concern the placement of signs and/or labels on gas pumps are 15 U.S.C. §§ 2801-2841, 16 CFR 306, 40 CFR 80.35, 80 CFR 80.1501 and 26 CFR 48.4082-2. First, 15 U.S.C. §§ 2821-2824 governs petroleum marketing practices. In particular, 15 U.S.C. § 2822(c) requires retailers of “automotive fuel” to display “at the point of sale to ultimate purchasers of automotive fuel, the automotive fuel rating of such fuel . . . .” Additionally, pursuant to 15 U.S.C. § 2823(c), the Federal Trade Commission promulgated 16 CFR 306, which includes requirements related to the certification and labeling of fuel ratings. Of note, 16 CFR 306.10 requires the placement of fuel rating labels on gas pumps, and 16 CFR 306.12 establishes the specifications of said labels. Next, 40 CFR 80.35 and 40 CFR 80.1501 were promulgated by the Environmental Protection Agency, and require specific statements to be posted on gas pumps that dispense oxygenated gas and ethanol blended gas, respectively. 26 CFR 48.4082-2 was promulgated by the Internal Revenue Service, and requires fuel retailers, if applicable, to display a notice concerning the use of dyed diesel fuel.

It is unlikely that a City ordinance requiring the placement of labels on fuel pump handles providing information about the effects of burning fossil fuels on the environment will be preempted by any of these federal laws. First, the only one of these laws that contains an express



preemption provision is 15 U.S.C. §§ 2801-2841. See Grant's Dairy—Maine, LLC v. Comm'r of Me. Dept. of Agric., Food & Rural Res., 232 F.3d 8, 15 (1st Cir. 2000) (stating express preemption principles). More specifically, 15 U.S.C. § 2824(a) states:

To the extent that any provision of this subchapter applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b) of this section, any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this subchapter.

The few federal cases that have interpreted this provision in the context of preemption have recognized that 15 U.S.C. § 2824(a) preempts state laws only where a state law imposes requirements related to fuel rating disclosures and labeling. See Alvarez v. Chevron Corp., 656 F.3d 925, 934-35 (9th Cir. 2011); Johnson v. MFA Petroleum Co., 10 F. Supp. 3d 982, 990 (W.D. Mo. 2014); VP Racing Fuels, Inc. v. Gen. Petroleum Corp., 673 F. Supp. 2d 1073, 1082-83 (E.D. Cal. 2009). Here, the suggested City ordinance likely will not be preempted by 15 U.S.C. § 2824(a) as the information to be displayed in the warning labels will not concern fuel grade disclosures and labeling, and will be unrelated to a fuel's grade. Cf. VP Racing Fuels, Inc., 673 F. Supp. 2d at 1083.

Further, there likely will not be a conflict between the proposed City ordinance and any of the above referenced federal laws as it is doubtful that the ordinance will impose obligations on gas station operators that will make compliance with both the ordinance and the federal laws impossible. See Grant's Dairy—Maine, LLC, 232 F.3d at 15 (stating conflict preemption principles). Additionally, the regulatory schemes of each of the above referenced federal laws likely are not pervasive enough to warrant an inference that Congress did not intend states or municipalities to supplement them. Id. (stating field preemption principles).

#### **D. The Suggested Ordinance Likely will not be Preempted by Massachusetts Law.**

The only Massachusetts laws we have found that reference the placement of signs and/or labels on gas pumps are G.L. c. 94, §§ 295A-295CC, which governs the sale of gas in Massachusetts, and the regulations promulgated pursuant to these statutory sections, 202 CMR 2.06. In particular, G.L. c. 94, § 295C requires the placement of signs indicating the price of gas on gas “pump[s] or “other dispensing device[s],” and 202 CMR 2.06(1)-(2), (6) and (8)-(15) establish signage requirements related to: (1) the grade of gas; (2) whether cash or credit cards are accepted as payment; (3) whether gas pumps are located on multiple sides of a “dispensing device”; (4) alcohol content in fuel; and (5) pumps that dispense biodiesel and/or biomass diesel.

Nothing in G.L. c. 94, § 295C or 202 CMR 2.06 expressly limits the types of signs and/or labels that can be placed on gas pumps. Rather, G.L. c. 94, § 295C states: “No sign, advertising material or other display or product that is placed upon, above or around a pump or dispenser shall directly or indirectly obscure the [required] posted price sign . . . .” Accordingly, there does not appear to be any Massachusetts statute or regulation that will prohibit or preempt the City from enacting an ordinance requiring the placement of warning labels on gas pump handles. See

Yetman v. City of Cambridge, 7 Mass. App. Ct. 700, 702 (1979) (discussing preemption principles); School Comm. of Boston v. City of Boston, 383 Mass. 693, 701 (1981) (same).

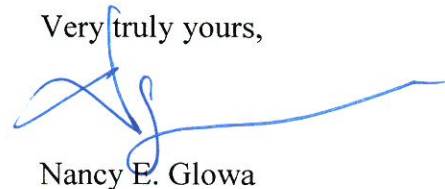
### CONCLUSION

Under current federal and state laws, it appears that the City would not be prohibited from enacting an ordinance requiring gas station operators to place warning labels on gas pump handles that contain information about the effects the burning of fossil fuels have on the environment. Notably, it appears there are no federal or state laws that will preempt this type of ordinance. Additionally, this type of ordinance likely will not violate the Commerce Clause.

The language mandated by the suggested ordinance will likely be considered compelled commercial speech and therefore, the ordinance will be subject to the protections of the First Amendment. Whether the ordinance will violate the First Amendment will depend on the specific language that is required to be included in the warning label. If the mandated language is “purely factual and uncontroversial,” the ordinance likely will not be found to violate the First Amendment.

If the ordinance mandates warning labels that contain non-factual and/or controversial information, the ordinance will be reviewed under a stricter standard. Given the uncertainty of current federal precedent, however, it is not clear whether a court would analyze this type of ordinance under intermediate scrutiny or strict scrutiny. If a court applies intermediate scrutiny, the ordinance will likely pass constitutional muster. If a court applies strict scrutiny, the ordinance will likely be found to violate the First Amendment.

Very truly yours,



Nancy E. Glowa

NEG/smm

## BRIEFING NOTE FOR GOVERNMENTS

## FOR INFORMATION

**Subject:** Backgrounder on climate change & air pollution disclosure labels for gas pumps.  
**Author:** Robert Shirkey, BBA, LLB, Executive Director of *Our Horizon* <[robert@ourhorizon.org](mailto:robert@ourhorizon.org)>  
**Date:** October 6, 2016

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**Summary:**

- Canadian environmental non-profit *Our Horizon* is asking governments to legislate climate change & air pollution risk disclosures or ‘warning labels’ for gas pump nozzles.
- The concept helps to close the ‘experiential gap’ between our use of fossil fuels and their impacts in order to create greater social impetus to address climate change.
- Federal and provincial governments are asked to legislate the concept. Municipal governments are also asked to legislate the concept or, at a minimum, pass a resolution in support of it.
- Legal report, video lecture, TEDx talk, and other resources are available at [www.ourhorizon.org](http://www.ourhorizon.org).

**The Labels:**

- 3” by 3” stickers on gas pump nozzles that are similar to tobacco warnings. Top half: image of a locally-relevant climate or air pollution impact. Bottom half: text that discloses the impact.
- Disclosure text includes: A heading with the word “Warning”, “Caution”, “Notice”, or “Information” in a large red or yellow font to draw attention. Below the heading, white lettering on a black background would read: “Use of fossil fuels contributes to climate change [or air pollution] which may cause [impact].” See “Appendix A” for sample designs.
- At the bottom of the label, there will be a link to a website hosted by government that provides tips to reduce fuel consumption, information on alternatives, incentives or rebates, etc.
- Cost is negligible: Stickers are pennies to print and the “nozzle talker” (a rubber sock that fits over standard gas pumps) retails for \$16. A municipality can require gasoline retailers to cover these costs.

**Campaign Background:**

- The concept was developed and launched by Toronto-based lawyer [Robert Shirkey](#) via the Canadian non-profit *Our Horizon* in early 2013.
- Lidstone & Company, a local government law firm, [reviewed](#) Our Horizon’s legal research for British Columbia municipalities and concluded: “In our opinion, a requirement to place labels on gas nozzles could be validly imposed pursuant to a municipality’s power to regulate business.”
- Dozens of municipal councils across Canada have passed resolutions to endorse the concept and call on other orders of government to implement it. For example, in Ontario, councils in Oakville (see “Appendix B”), Pickering, Waterloo, Kitchener, and Guelph have passed such resolutions.
- Municipal associations such as the Union of British Columbia Municipalities and the Association of Francophone Municipalities of New Brunswick have also passed similar resolutions.
- On November 16, 2015, the City of North Vancouver voted unanimously to mandate climate labels on gas pumps. It was a global first that made news around the world. Unfortunately, the final design was co-opted by industry (see “Industry response” below).
- San Francisco, Berkeley, Santa Monica, and Seattle are at all various stages of pursuing the idea.

- To disseminate the idea, *Our Horizon* developed a database of thousands of politicians' emails from around the world. With similar labels on tobacco packaging, the concept has been primed to go global. Canadian governments now have the opportunity to provide examples for the world to follow.

#### Analysis of Labelling Concept:

- A Universal Ecological Fund [report](#) finds that much of the public "*perceives climate change as abstract, distant, and even controversial.*" The labels make climate change more tangible, proximate, and communicate the science in a succinct, unambiguous, and impactful manner.
- The labels can be understood as a solution to several aspects of climate change that make it such an intractable problem to address:
  - ✓ Current moment bias: Psychologists demonstrate that we tend to prefer interests that are less significant and near in time relative to those that are more significant and experienced further in the future. This phenomenon is called the "current moment bias". The labels counteract this effect by bringing faraway consequences into the here and now. They connect cause with effect to build feedback and provide greater impetus for change.
  - ✓ Diffusion of responsibility: Social psychologists have shown that when responsibility is shared among many, we are less likely to act. The remedy is to make responsibility less diffuse. The placement of the label on the nozzle achieves this by taking a problem of diffuse origins and concentrating responsibility in the palm of one's hand. While it is a simple intervention, there is nothing like it that connects us to the impacts of our fossil fuel use in such a direct way.
  - ✓ Externalities: The labels are a qualitative approach to communicating externalities to market; what pricing mechanisms like carbon taxes and cap-and-trade seek to convey in a quantitative way (using dollars and cents), the labels communicate in a qualitative way (using images and text). Pricing is a deficient language for communicating hidden costs whereas the labels are not subject to the same limitations and actually make these costs visible. This latter approach also counteracts the justification of behaviour that can sometimes result from the implementation of pricing policies (e.g. see [daycare studies](#) where pricing lateness led to a justification and increase in behaviour that the policy actually sought to reduce).
  - ✓ The medium is the message: Information on climate change from newspapers, internet, television, radio, etc. is consumed in a passive manner and unavoidably presents the problem as distant or separate by virtue of the medium. By contrast, with the labelling proposal, the medium (i.e. the gas pump nozzle) is the message. Our approach engages the reader in a manner that transitions them from *passive observer* to *active participant*. This creates a social environment that is much more primed for reform.
  - ✓ Misinformation: Several oil companies are currently under investigation in other jurisdictions for misleading the public on climate change. There is evidence to suggest that the industry understood the risks of its products and either failed to disclose them or actively misinformed the public. According to a recent [Leger survey](#), "*40% of Canadians believe the science behind climate change is still unclear or unsettled*". A government mandated disclosure of risk (i.e. the labels) is the most appropriate remedy for industry's failure to disclose risk to end users.

#### Social Context:

- Discourse on climate change in Canada is largely focused upstream and understood as a problem of oil sands, pipelines, offshore drilling, shipping, etc. This 'distancing narrative' creates an



environment which may actually impede social impetus for change. Our consumer-facing intervention would help to balance this narrative.

- Well-to-wheel greenhouse gas analyses reveal that the vast majority of emissions in this sector come from end use (roughly 80% depending on the fuel source); emissions from extraction and processing pale in comparison to emissions from vehicle combustion. Our experience suggests the public believes the opposite to be true and Canada's upstream-focused discourse seems to support this point. Engaging the demand side of the equation would correct public perception, create greater social impetus for reform, and have the potential to drive change upstream.

#### **Political Context:**

- Pricing mechanisms like carbon taxes and cap-and-trade can be understood as government mandated offsets. While voluntary approaches, such as the option to buy an offset while purchasing a plane ticket relieves environmental concern for a prosocial consumer, mandatory offsets risk backlash from the average consumer absent that initial environmental concern. By priming for environmental concern, the labels create a consumer experience at the pump wherein the pricing mechanism's increase to the cost of gasoline acts as relief and the carbon policy becomes more acceptable to the public.
- There is potential for multi-partisan support as the concept has appeal across the political spectrum. For example, a government mandated disclosure of risk might be construed as an intervention that exists on the left side of the spectrum. However, the labels are non-prescriptive and merely convey externalities allowing markets to respond accordingly; they do not actually tell people what to do or limit individual choice. In this sense, the intervention can be understood as existing on the right side of the spectrum.

#### **Impact:**

- The New Economics Foundation, UK's leading think tank on behavioural economics, observes: *"Psychologists' theories on changing habits generally involve first unfreezing the subconscious action and raising it to a conscious level where we can consider the merits of alternative behaviours."*
- The inertia of the incumbent energy solution and market complacency do not drive reform. The labels overcome this by taking a habitual, automatic behaviour and de-normalizing it. Challenging the status quo in this way stimulates broader demand for alternative solutions and accelerates our transition off fossil fuels.
- The labelling concept helps to close the 'experiential gap' between our use of fossil fuels and their impacts in order to create greater social impetus to address the challenge. This, in turn, would result in both individual behavioural change and a shift in collective demand to which government and business will respond.

#### **Will the Labels Work? Lessons from Tobacco:**

- A comprehensive [meta study](#) on tobacco warnings commissioned by the European Union concludes: *"There is clear evidence that tobacco package health warnings increase consumers' knowledge about the health consequences of tobacco use and contribute to changing consumer's attitudes towards tobacco use as well as changing consumers' behaviour. They are also a critical element of an effective tobacco control policy."*
- Labels should be refreshed every two years to avoid the exhaustion or adaptation effect.

- Canada was the first jurisdiction in the world to implement pictorial tobacco warnings. Approximately 70 countries have since followed our example. Our leadership has saved lives. To the extent that Our Horizon's designs are evocative of tobacco labels, the idea has been 'cognitively primed' for global uptake.

#### Industry Response:

- At first the fossil fuel industry ignored our advocacy (e.g. no comment), then they mocked it (e.g. naïve), and then they argued against it (e.g. too costly, too much regulation). In the face of continued traction, the Canadian Fuels Association, the Canadian Independent Petroleum Marketers Association, and the Canadian Convenience Stores Association responded to our campaign by co-opting it and rolling out their own greenwashed designs.
- Instead of disclosures of risk, industry's designs feature "helpful tips" to save money on fuel by inflating your tires and maintaining your vehicle. These designs provide a false sense of comfort and delay the real conversation we need to have: how to transition away from fossil fuels. In failing to de-normalize our use of fossil fuels, industry's diversionary tactic further entrenches the status quo and contributes to market complacency.
- Industry spins our designs as being driven by blame, guilt, and negativity. To be clear, our labels are about transparency and merely disclose risks associated with a product to its end-users. Communicating hidden costs to consumers is a positive way to drive market change and this is precisely what the industry wishes to avoid.
- We caution governments not to support the fossil fuel industry's designs. Doing so would extend regulatory legitimacy to industry greenwash, backfire to reflect poorly on the government, and, most importantly, delay meaningful action on climate change.

#### Sample Talking Points for Politicians:

- "Many manufacturers of harmful products have a legal obligation to provide warnings or risk disclosures to consumers. *Here we have a product that's altering the chemistry of our planet. Why wouldn't it come with a warning label?*" (i.e. the non-label position is untenable / absurd).
- "Where else do fossil fuels flow right through the palm of your hand? If you're looking to de-normalize our use of fossil fuels, this is the perfect place for an intervention."
- "40% of Canadians believe the science behind climate change is still unsettled. The labels are a simple, inexpensive way to help us to connect the dots."
- "This isn't about making people feel guilty. This is about transparency, consumer protection, and connecting the dots. Businesses should be required to disclose such harms."
- "The problem isn't that that we're underinflating our tires, the problem is our use of fossil fuels. Industry is just trying to draw attention away from the actual problem. It's time to get real."
- "The labels are just information. We're not telling people what to do; people are still free to do what they want. It's a market-friendly, non-prescriptive intervention."
- "What will we tell our children if, in the face of the greatest challenge of our time, *we didn't even have the courage to put a simple sticker on a pump.*"
- "These labels are a catalyst for difficult but necessary conversations. We need to have the courage to honestly face our challenge. Doing so is the first step to confronting it in a meaningful way."

#### More Information:

Watch our lecture at [www.ourhorizon.org](http://www.ourhorizon.org) or contact Robert Shirkey at [robert@ourhorizon.org](mailto:robert@ourhorizon.org).

APPENDIX A – Sample designs with gas pump nozzle for context



Images courtesy of *Our Horizon*, [www.ourhorizon.org](http://www.ourhorizon.org)

**APPENDIX B – Oakville Council Resolution on Warning Labels for Gas Pumps**



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July 24, 2015

The Right Honourable Stephen Harper  
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The Honourable Kathleen Wynne  
Premier of Ontario  
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Mr. Terrance Young, MP Oakville  
Room 315, East Block,  
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The Honourable Lisa Raitt, MP Halton  
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The Honourable Kevin Flynn  
Oakville MPP  
Minister of Labour  
400 University Avenue, 14<sup>th</sup>, Floor  
Toronto, ON M7A 1T7

Ms. Indira Naidoo-Harris  
Halton MPP  
Ministry of Health and Long-Term Care  
11th Floor, Hepburn Block  
80 Grosvenor Street  
Toronto, Ontario M7A 2C4

**Subject: Retail Petroleum Products to Provide Warning Labels on Gas Pumps**

At its meeting on July 20, 2015, Oakville Town Council approved the following resolution with respect to the subject item noted above:

***WHEREAS the Town of Oakville supports the resolution adopted by West Vancouver regarding gas pump labelling with climate change warnings;***

***WHEREAS there is evidence that combustion of petroleum products such as gas and diesel in vehicle engines contributes to greenhouse gas emissions that affect natural systems in ways that are injurious to human health and the environment;***

***WHEREAS point-of-sale warning labels have been required for other consumables, such as tobacco products, which has effectively curbed use of harmful products;***

***WHEREAS the town considers the implementation of gas pump labelling a matter of federal and provincial government jurisdictions;***

***THEREFORE BE IT RESOLVED:***

***THAT the Town of Oakville requests that the federal and provincial governments take action to legislate all vendors of retail petroleum products in Canada to***

Page 2

July 24, 2015

**Subject: Retail Petroleum Products to Provide Warning Labels on Gas Pumps**

***provide warning labels on all pump handles (pump talkers) and/or pump panels, and that those companies who do not have this feature on their pump handle be obligated to fit them with plastic sleeves which will allow warning labels to be displayed;***

***THAT the Mayor, on behalf of Council, forward a copy of this resolution requesting action to the Prime Minister of Canada, the Premier of Ontario, and local MPs and MPPs; and***

***THAT the Association of Municipalities of Ontario (AMO) and the Federation of Canadian Municipalities (FCM) be requested to support this initiative by bringing forward resolutions at their respective annual conferences in 2015 (AMO) and 2016 (FCM).***

Should you have any questions regarding this matter or should you require any additional information, please contact Cindy Toth at 905-845-6601, extension 3299, or email [cindy.toth@oakville.ca](mailto:cindy.toth@oakville.ca).

Yours truly,



Mayor Rob Burton  
Head of Council and CEO

- c. Brock Carlton, Chief Executive Officer, Federation of Canadian Municipalities (FCM)  
Pat Vanini, Executive Director, Association of Municipalities of Ontario (AMO)  
C. Toth, Director of Environmental Policy, Town of Oakville





Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

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**Barney Heath**  
Director

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**MEMORANDUM**

**DATE:** May 5, 2017

**TO:** Councilor John Rice, Chairman  
Members of the Programs and Services Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
James Freas, Deputy Director

**RE:** #81-17 – THE BIOSAFETY COMMITTEE, COUNCILORS AUCHINCLOSS, HESS-MAHAN, LIPOF, AND SCHWARTZ requesting amendments to Sections 12-21 through 12-30 in order to update guidelines and procedures for the regulation of recombinant DNA technology; and requesting amendments to Section 12-24 and Chapter 30 to remove the requirement that laboratories or research facilities obtain a special permit from the City Council in order to utilize recombinant DNA research or technology.

**MEETING DATE:** June 7, 2017

**CC:** City Council  
Planning and Development Board  
Donnalyn Kahn, City Solicitor  
Deborah Youngblood, Commissioner of Health & Human Services

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The biotech/life sciences sector is one of the strongest in the greater Boston economy. The potential for this sector to grow in Newton is considerable as indicated in the N<sup>2</sup> study report, which identified the industry as one of our priority focus areas. Newton's Recombinant DNA Research ordinance, Sections 12-21 through 12-30 of the City's Ordinances, and the special permit requirement for rDNA laboratory uses in the City's Zoning Ordinance, have been a deterrent to biotech/life sciences sector growth in Newton. The proposed amendments will modernize Newton's approach to this issue, streamline the ability of biotech companies to locate in Newton without affecting the stringent safety standards set and regulated by the Biosafety Committee through their existing permit process. This change would make Newton eligible for a higher ranking in the state BioReady Program, thereby raising the City's profile for companies looking for laboratory space in greater Boston.

### The Newton Biosafety Committee

Any institution or company planning to conduct research or otherwise make use of rDNA technology in the City of Newton must first get a permit from the Commissioner of Health and Human Services. Before that permit may be issued, the Newton Biosafety Committee must first approve the application. The Biosafety Committee was re-established in September 2013 after a hiatus of several years. The nine-member committee includes the Commissioner of Health and Human Services and eight other members. The committee is predominantly made up of members with expertise and experience in scientific research, public health, infectious diseases and related areas (see attached bios of current members).

Before approving a proposed rDNA laboratory, the Committee does an extensive review of their proposed operations, focused particularly on safety protocols. The overall intent of this review is to ensure public health and safety so attention is paid to such topics as the handling of laboratory program waste, monitoring of employee health, and employee training and manuals. The Committee discusses the application in an open public meeting with opportunity for public comment and notice provided to all abutting properties.

### N<sup>2</sup> Innovation District Study Report

The N<sup>2</sup> Innovation District is a joint project of Newton, Needham and the Newton Needham Chamber designed to grow the innovation economy in a district encompassing significant economic development opportunity areas on both sides of the municipal border. In June 2016 a report was released presenting an analysis of the district's existing strengths and challenges and laying out an action program for accomplishing this goal. Amongst those strengths is an opportunity to expand biotech/life sciences industry in the area. With the prominence of this industry in the greater Boston region and the need for new laboratory and office space coupled with Newton's highly educated population and strong access to the regional transportation network, the N<sup>2</sup> District is well positioned for growth. One of the challenges, as identified in the report, is Newton's permitting process, which puts it at a competitive disadvantage with many of its neighboring communities.

### BioReady Program

The BioReady Communities list is a program created by the Massachusetts Biotechnology Council intended to highlight cities and towns that have taken steps to ease the pathway for new or expanding biotech and life sciences companies locating in their communities. The list ranks communities from Bronze to Platinum. Newton has for many years been ranked as a Bronze community. Needham and Watertown are both Gold-level communities while Boston, Cambridge, Waltham, and Lexington are Platinum. A community's ranking serves to draw attention for companies seeking to relocate and is therefore a powerful marketing tool.

The principal obstacle to Newton achieving a higher ranking is the special permit requirement for rDNA laboratory uses. With this requirement removed, Newton could readily advance its ranking to the Gold level and potentially even to Platinum.

### Proposed Amendments

The proposed amendments would accomplish the following:

Zoning Amendment – Chapter 30:

1. Removes the special permit requirement for laboratories utilizing rDNA

Amendment to Chapter 12, Article III Recombinant DNA Research (non-zoning amendment):

2. Updates the City's rDNA ordinance to refer to the most current version of the National Institute of Health Guidelines for Research Involving Recombinant DNA Molecules;
3. Restructures the make-up of the 8 member biosafety committee to include 4 mayoral appointees and 4 city council appointees (Removes the requirement that 2 members of the Biosafety Committee must come from the Newton health advisory council);
4. Requires separate notice be provided to the Newton Biosafety Committee before rDNA use requiring physical containment at the BL3 level (above BL3 is prohibited);
5. Clarifies the penalties associated with violation of this ordinance;
6. Updates requested information for initial applications;
7. Streamlines inspections by eliminating the need for an inspection by a third party. Inspection to be done by Newton NBC or IBC members with a report to the health commissioner before rDNA work can commence.

### Next Steps

A public hearing on the zoning amendment portions of the proposed amendments will be conducted on June 12<sup>th</sup>.

### Attachments

Attachment A: Biosafety Committee Member Bios

Attachment B: Recombinant DNA Research ordinance, Sections 12-21 through 12-30, redline

Attachment C: Recombinant DNA Research ordinance, Sections 12-21 through 12-30, clean version

Attachment D: Proposed Zoning Amendments, redline



## Biosafety Bio's

### Carl Cohen

Carl M. Cohen, Ph.D. is President of Science Management Associates and provides, consultation, training and coaching in interpersonal, group and organizational skills to scientists and science executives in both the public and private sectors. Carl has more than 30 years of biomedical research and management expertise, including having been Chief Operating Officer of Biovest International focused on cancer immunotherapy and Vice President for Research and Development at Creative BioMolecules. Carl served as Chief of the Division of Cellular and Molecular Biology and Acting Chair of the Department of Biomedical Research at St. Elizabeth's Medical Center of Boston. During that same period he also held the positions of Professor of Medicine and Professor of Anatomy and Cellular Biology at Tufts University School of Medicine. Carl is co-author, with his wife Suzanne of **"Lab Dynamics: Management and Leadership Skills for Scientists"** (Cold Spring Harbor Laboratory Press, 2012). Carl has done training and on-site management consulting for top ten pharmaceutical companies, biotechnology companies and government agencies both in the US and internationally. He has been the Director of the annual Cold Spring Harbor Laboratory workshop on **Leadership in Bioscience** since 2011.

### Thekla Diehl

Thekla Diehl is a Senior Research Grant Administrator / Financial Specialist at Partners Health Care, where 60% of her portfolio are National Institute of Health grants.

Her undergraduate focus was Biochemistry and Genetics. After graduating from the University of Cape Town in South Africa with a Masters in Medical Biochemistry, she left for Europe in protest of the apartheid system.

Upon arrival in America in the early eighties she worked in the laboratory at the Harvard teaching hospitals for over twenty year, first as a scientist and later as a laboratory manager.

After obtaining a MBA at the Simons School of Management, her focus shifted from the laboratory to the business side of science.

She has been a resident of Newton for the past thirty years, where she lives with her husband and her two boys, who graduated through the Newton Public School.

### William Dietrich

Dr. William Dietrich's is a biologist/pharmacologist whose work has focused on creative interdisciplinary collaborations aimed at large scientific problems such as the Genome Project, genetic determinants of host susceptibility to infectious disease, and drug discovery. His current position is as Director of Discovery and Translational Pharmacology in the Developmental and Molecular Pathways department at Novartis Institutes of BioMedical Research in Cambridge. He is a co-author/inventor on more than 60 scientific publications and patents, and has led or performed IND-enabling pharmacology research for 4 different drug discovery programs.

Gary du Moulin

Gary C. du Moulin, Ph.D., M.P.H. is Associate Professor of Drug Regulatory Affairs at the Massachusetts College of Pharmacy and Health Sciences University following a 25 year career at Genzyme where he participated in the development and execution of quality systems for Genzyme's products including biologics and cell based therapies. Prior to his industrial experience, Dr. du Moulin was Assistant Professor of Anesthesia (microbiology) at the Harvard Medical School in the Department of Anesthesia at Beth Israel Hospital and has more than 150 publications in the areas of microbiology, epidemiology, biosafety and the regulation and quality control of living cells as a therapeutic modality. Dr. du Moulin currently serves on U.S. Pharmacopoeia's General Chapters Biological Analysis Expert Committee as well as the Scientific and Medical Research Funding Working Group for the California Institute of Regenerative Medicine. He is retired from the U.S. Army Reserve at the rank of Colonel after 38 years of service.

Ted Marple

Ted has worked in the health care industry for over 20 years. Most recently as CEO of a Contract Research Organization based in Worcester, MA. Prior to that, he led the business operations at a biomanufacturing technology company that was acquired by GE. He was worked at biotech and large pharma companies leading business development efforts, and has broad experience in strategy, development and operations for life science companies.

Brenda Mulligan

Brenda Mulligan is the Communications Director for Dana-Farber/Harvard Cancer Center. She is also a board member of South Boston Community Health Center and a member of the Newton Health and Human Services Advisory Council. Her interests include health and research communications and public health initiatives, especially those related to supporting the needs of our most vulnerable populations. She currently resides in West Newton with her husband and two children.

Aric Parnes

Aric Parnes, MD, is a staff hematologist at Dana-Farber Cancer Institute and Brigham and Women's Hospital focusing on bleeding disorders and premalignant hematology. He has lived in Newton since 2010 with his wife and four-year old twins. He serves on the Newton Health Advisory Council and Biosafety Committee.

John "Jay" Schwartz

Dr. Schwartz received his Ph.D. in Biochemistry and Molecular Biology at New York Medical College and was a Post-doctoral fellow at the M.I.T. Department of Biology / Harvard Medical School. He served as a lab head as Research Scientist Faculty at the M.I.T. Center for Biomedical Engineering. The CEO, Dr. John 'Jay' Schwartz, was co-founder of engeneOS, Inc. a venture-backed bio-nanotechnology company with a highly successful exit through acquisition. Prior to joining AcuityBio, he was a consultant in his capacity as Director of Life Sciences at Stage1 Strategies, LLC, a strategy and management-consulting firm focused on assisting emerging technology and early stage companies to develop, grow and achieve exits for investors through strategic aquisition with large pharmaceutical companies.

### ARTICLE III. RECOMBINANT DNA RESEARCH

#### Sec. 12-21. Regulation of recombinant DNA technology.

(a) All recombinant deoxyribonucleic acid (DNA) research or technology in the City of Newton shall be undertaken only in strict conformity with the "Guidelines", so called, of the National Institutes of Health (NIH), by other Federal Agencies, or by Act of Congress, and in conformity also with such other health regulations as the commissioner of health and human services may from time to time promulgate or as the Newton biosafety committee (NBC) may adopt.

(b) In the context of this article the following definitions are adopted:

(1) *Recombinant DNA molecules (rDNA)*, and organisms and viruses containing rDNA, are those defined in the NIH Guidelines promulgated in the Federal Register on May 7, 1986 ~~July 1, 1984~~.

(2) An *institution* is any person, group of persons, business entity, association or any other organization, whether public or private, for profit or non-profit.

(3) *Guidelines* are defined as:

a) National Institutes of Health Guidelines for Research involving Recombinant DNA Molecules, as published in the Federal Register on August 27, 1982 ~~May 7, 1986 and any subsequent federal amendment thereto recommended by the commissioner of health and human services and approved by the NBC.~~

b) Any amendments, revisions or substitutions subsequent to the above-referenced guidelines, including, but not limited to:

Notices of actions under NIH Guidelines for Research involving recombinant DNA Molecules on August 24, 1978, July 29, 1988, October 26, 1988, March 13, 1989, March 1, 1990, September 12, 1990, July 18, 1991, November 21, 1991, January 28, 1992 and April 22, 1992. National Institutes of Health Physical Containment Recommendations for Large Scale Use of Organisms Containing Recombinant DNA Molecules, as published in the Federal Register of April 11, 1980, and any subsequent federal amendment thereto recommended by the commissioner of health and adopted by the NBC.

c) Such amendments to the documents in subsections a) and b) above which are adopted by the National Institutes of Health and approved by the Commissioner. Amendments not acted upon by the Commissioner within sixty days shall be considered approved. In the event that the NIH shall discontinue or abolish its guidelines, those guidelines in effect at the time of such discontinuance shall remain in effect in Newton. Administrative Practices Supplement to the NIH Guidelines for Research Involving Recombinant DNA Molecules, as issued by the Office of Recombinant DNA Activities, November, 1980, and any subsequent federal amendment thereto recommended by the commissioner of health and human services and adopted by the NBC.

~~(4) Large-scale means the use, for the purpose of containing recombinant DNA culture media, of any stainless steel vessel which has a volume greater than sixteen liters, or such use of any non-stainless steel vessel which has a volume greater than ten liters.~~

(Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 5-26-2005)

**Sec. 12-22. Newton biosafety committee.**

(a) There shall be a Newton biosafety committee (NBC) which shall be comprised of nine (9) members which include the following:

The commissioner of health and human services or his/her designee;

~~Two (2) members of the Newton health advisory council, appointed by the commissioner of health;~~

Four (4) ~~Three (3)~~ members appointed by the mayor, at least one of whom is a scientist knowledgeable in the field of rDNA research and technology. The other ~~two~~ three shall represent the fields of public health, occupational health, infectious disease or environmental health, and shall preferably include one member of the Newton health advisory council.

Four (4) ~~Three (3)~~ members appointed by the board of aldermen, at least one of whom represents the fields of public health, occupational health, infectious disease or environmental health.

Members appointed by the mayor and the board of aldermen shall serve three (3) year terms; provided however, that of the first three members appointed to the committee by the mayor and the board of aldermen ~~one two~~ shall serve for a term of one (1) year, one shall serve for a term of two (2) years, and one shall serve for a term of three (3) years.

(Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-06)

**Sec. 12-23. Institutional ~~biotechnology~~ biosafety committee.**

(a) An institutional ~~biotechnology~~ biosafety committee (IBC) must be established for each institution conducting rDNA research or technology. The IBC shall include the commissioner of health and human services or his/her designee and two community representatives with expertise in rDNA research and technology and/or safety issues. One of these representatives shall be appointed by the mayor and one shall be appointed by the board of aldermen for a term of three years. The IBC shall meet at least once a year. Each institution shall name at least three (3) members of its staff to the IBC, including the safety officer.

(b) The IBC shall inspect each facility conducting rDNA research or technology annually and meet at least once annually to enforce these regulations. Each institution shall name a safety officer who shall be responsible for enforcing the policies of the IBC. In addition, the IBC shall immediately notify the commissioner of health and human services and the NBC upon discovery of any incident, accident or significant deviation and/or non-compliance by the institution with any section of this ordinance or the NIH guidelines.

(Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-05)

**Sec. 12-24. Permit requirement.**

(a) All institutions planning to conduct rDNA research or to use rDNA technology must obtain a permit from the commissioner of health and human services with the prior approval of the NBC, before commencing said research or technology. Institutions receiving such permits shall conduct research or technology only as specifically set out in its permit application and supporting documents filed with such application.

(b) All institutions requesting ~~a permit from the commissioner of health and human services to commence rDNA research or technology in the Limited Manufacturing Zoning District (Sec. 30-12), the Manufacturing Zoning District (Sec. 30-12), and the Mixed Use 1 and 2 Zoning Districts (Sec. 30-13), must~~

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~~also receive a special permit from the board of aldermen pursuant to section 30-24 prior to the original issuance, but not the renewal, of said permit. Institutions seeking~~ such permit from the commissioner of health and human services must first submit the following to the NBC:

- (1) A completed application form obtained from the Newton health and human services department.
  - (2) A plot plan showing the proposed location of the facility and a floor plan showing the internal layout of the facility.
  - (3) A listing of all proposed organisms, including containment levels, to be employed in rDNA research or technology, and including the screening process to be performed by institutions conducting rDNA research or technology in order to insure the purity of the strain of host organisms used in the experiments and to test organisms resulting from such experiments for their resistance to commonly used therapeutic antibiotics. Host organisms obtained from independent laboratories shall undergo the same screening process.
  - (4) A plan for systematic monitoring of waste to assure that surviving rDNA organisms will not be released into the environment.
  - (5) A description of Establish a the training program of safeguards and procedures for personnel using rDNA, and a copy of the training manual;
  - (6) The institution's health monitoring, health surveillance and safety manuals, together with the plan for an appropriate medical surveillance program as determined by the IBC and in accordance with NIH guidelines for all persons engaged in the use of rDNA. ~~Such programs shall include, but shall not necessarily be limited to:~~
    - ~~a) A pre-employment medical examination for employees. Facilities using rDNA research or technology requiring BL2 or BL3 as defined in the National Institutes of Health (NIH) guidelines published in the Federal Register, as amended, physical containment, or large scale use, shall take employee serum samples at the time of employment and maintain said samples to permit future testing for at least ten years.~~
    - ~~b) Prompt reporting of significant or potentially related employee illnesses to the IBC.~~
    - ~~c) Retention of medical and health records for at least ten years. Medical or employee health records shall be made available for inspection and may be used for public health studies.~~
  - ~~(7)d). A description of Effective the~~ rodent and insect control programs must be in place to be used in the facility.
  - ~~(78)~~ The name of the safety officer who shall be responsible for enforcing the policies of the IBC.
  - ~~(89)~~ A plan for orienting representatives of the Newton health and human services, fire and police departments to the physical plant and to procedures to be utilized in the event of an emergency.
- (c) The N~~B~~C shall review the institution's application for a permit and supporting documents and make its recommendation of the same to the commissioner of health and human services.
- (d) Not later than sixty (60) days after an institution has commenced rDNA research or technology as determined by the commissioner of health and human services, the institution shall file with the commissioner:
- (1) The names and qualifications of members of IBC.

(2) Copies of Newton building department and Newton fire department certification.

(3) Evidence of certification, as necessary, from the Massachusetts Department of Environmental Quality Engineering and the Massachusetts Department of Public Health.

(e) Permits granted by the commissioner of health and human services shall be renewed annually.

(f) The fee for a permit granted by the commissioner of health and human services, or annual renewal thereof, shall be \$250.

(Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-05)

#### **Sec. 12-25. Inspection and review.**

(a) The institution shall allow inspections and review of the facility and of procedures and practices of rDNA use for compliance with this ordinance.

~~(b) The Newton Health and Human Services Department shall retain a competent professional person, agency, or institution to perform inspections and review. All institutions must undergo an initial inspection before the permit is granted.~~ The results shall be reported to the commissioner of health and human services, the NBC and the institution involved.

~~(c) Inspections will be conducted at least annually.~~

~~—(d) The institution shall reimburse the city for the direct expense of inspections and review.~~

(Ord. No. R-237, 3-15-82; Ord. No. X-175, 05-26-05)

#### **Sec. 12-26. Procedure for requesting and holding a hearing.**

Institutions denied a permit, or the renewal thereof, or any person aggrieved by the granting of a permit, may request a hearing by filing a written petition with the commissioner of health and human services within ten (10) days from the denial or grant of a permit. Upon receipt of such petition the commissioner of health and human services shall set a time and place for such hearing and shall so inform the petitioner, and the institution if other than the petitioner, in writing. At the hearing the petitioner shall be given an opportunity to be heard and to show why the permit should be granted or denied. (Ord. No. R-237, 3-15-82; Ord. No. X-175, 05-26-05)

#### **Sec. 12-27. Appeal.**

Any institution or person aggrieved by the final decision of the commissioner of health and human services with respect to the denial or grant of a permit may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this commonwealth. (Ord. No. R-237, 3-15-82)

#### **Sec. 12-28. Restrictions.**

Recombinant DNA use requiring physical containment greater than the BL3 level shall not be permitted in the City of Newton. An institution shall provide the NBC with thirty days' notice prior to recombinant DNA use requiring physical containment at the BL3 level.

(Ord. No. R-237, 3-15-82).

#### **Sec. 12-29. Violations.**

(a) An institution which violates any provision of this article shall be subject to a fine of three hundred dollars (\$300.00) per offense, each day of violation constituting a separate and distinct offense. The commissioner of health and human services shall be empowered to enforce this ordinance.

~~(b) in any court of competent jurisdiction~~ The commissioner may revoke, suspend, modify or not renew a permit upon determination, after notice and hearing, if one is requested by the permit holder in accordance with the procedures in Sec. 12-26, that the permit holder has failed to comply with this ordinance, the permit conditions or the guidelines.

~~(c) Notwithstanding the above, the commissioner may, upon a determination that any violation constitutes an immediate threat to the public health or environment, order the immediate closure of an institution without prior notice or hearing. In addition to a fine, an institution which violates any provision of this ordinance or whose continued conduct of recombinant DNA technology poses an immediate threat to the public health or environment may be closed by the commissioner of health and human services. Any institution aggrieved by such action of the commissioner of health and human services shall appeal the same under the provisions of Sections 12-256 and 12-27.~~ and 12-26  
(Ord. No. R-237, 3-15-82; Ord. no. X-175, 05-26-05)

#### **Sec. 12-30. Severability.**

If any provision(s) or portion(s) of this article or the application of any provision(s) or portion(s) thereof to any person or circumstance is/are held to be invalid, such invalidity shall not affect the validity of the remainder of said provision or other provisions of this article.

(Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-06)

#### **Secs. 12-31—12-39. Reserved.**

### ARTICLE III. RECOMBINANT DNA RESEARCH

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(b) In the context of this article the following definitions are adopted:

- (1) *Recombinant DNA molecules (rDNA)*, and organisms and viruses containing rDNA, are those defined in the NIH Guidelines promulgated in the Federal Register on May 7, 1986.
- (2) An *institution* is any person, group of persons, business entity, association or any other organization, whether public or private, for profit or non-profit.
- (3) *Guidelines* are defined as:
  - a) National Institutes of Health Guidelines for Research involving Recombinant DNA Molecules, as published in the Federal Register on May 7, 1986
  - b) Any amendments, revisions or substitutions subsequent to the above-referenced guidelines, including, but not limited to:

Notices of actions under NIH Guidelines for Research involving recombinant DNA Molecules on August 24, 1978, July 29, 1988, October 26, 1988, March 13, 1989, March 1, 1990, September 12, 1990, July 18, 1991, November 21, 1991, January 28, 1992 and April 22, 1992.

- c) Such amendments to the documents in subsections a) and b) above which are adopted by the National Institutes of Health and approved by the Commissioner. Amendments not acted upon by the Commissioner within sixty days shall be considered approved. In the event that the NIH shall discontinue or abolish its guidelines, those guidelines in effect at the time of such discontinuance shall remain in effect in Newton.

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Members appointed by the mayor and the board of aldermen shall serve three (3) year terms; provided however, that of the first three members appointed to the committee by the mayor and the board of aldermen two shall serve for a term of one (1) year, one shall serve for a term of two (2) years, and one shall serve for a term of three (3) years. (Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-06)

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(b) The IBC shall inspect each facility conducting rDNA research or technology annually and meet at least once annually to enforce these regulations. Each institution shall name a safety officer who shall be responsible for enforcing the policies of the IBC. In addition, the IBC shall immediately notify the commissioner of health and human services and the NBC upon discovery of any incident, accident or significant deviation and/or non-compliance by the institution with any section of this ordinance or the NIH guidelines. (Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-05)

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- (4) A plan for systematic monitoring of waste to assure that surviving rDNA organisms will not be released into the environment.
- (5) A description of the training program of safeguards and procedures for personnel using rDNA, and

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a copy of the training manual;

(6) The institution's health monitoring, health surveillance and safety manuals, together with the plan for an appropriate medical surveillance program as determined by the IBC and in accordance with NIH guidelines for all persons engaged in the use of rDNA.

(7). A description of the rodent and insect control programs to be used in the facility..

(8) The name of the safety officer who shall be responsible for enforcing the policies of the IBC.

(9) A plan for orienting representatives of the Newton health and human services, fire and police departments to the physical plant and to procedures to be utilized in the event of an emergency.

(c) The NBC shall review the institution's application for a permit and supporting documents and make its recommendation of the same to the commissioner of health and human services.

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**Sec. 12-28. Restrictions.**

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(a) An institution which violates any provision of this article shall be subject to a fine of three hundred dollars (\$300.00) per offense, each day of violation constituting a separate and distinct offense. The commissioner of health and human services shall be empowered to enforce this ordinance.

(b) The commissioner may revoke, suspend, modify or not renew a permit upon determination, after notice and hearing, if one is requested by the permit holder in accordance with the procedures in Sec. 12-26, that the permit holder has failed to comply with this ordinance, the permit conditions or the guidelines.

(c) Notwithstanding the above, the commissioner may, upon a determination that any violation constitutes an immediate threat to the public health or environment, order the immediate closure of an institution without prior notice or hearing. Any institution aggrieved by such action shall appeal the same under the provisions of Sections 12-26 and 12-27. (Ord. No. R-237, 3-15-82; Ord. no. X-175, 05-26-05)

**Sec. 12-30. Severability.**

If any provision(s) or portion(s) of this article or the application of any provision(s) or portion(s) thereof to any person or circumstance is/are held to be invalid, such invalidity shall not affect the validity of the remainder of said provision or other provisions of this article. (Ord. No. R-237, 3-15-82; Ord. No. T-319, 12-20-93; Ord. No. X-175, 05-26-06)

**Secs. 12-31—12-39. Reserved.**

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Radio or television broadcasting studio	SP	SP	SP	SP	SP	--	SP	--	--	L	--	<a href="#">Sec. 6.4.27</a>
Radio, or television transmission station	--	--	--	--	SP	SP	--	--	--	SP	--	<a href="#">Sec. 6.4.27</a>
Research and development	--	--	--	--	--	--	--	P	--	--	--	<a href="#">Sec. 6.4.28</a>
Restaurant	L/ SP	L/ SP	L/ SP	L/ SP	--	SP	P/ SP	P/ SP	P/ SP	--	L/ SP	<a href="#">Sec. 6.4.29</a>
Retail sales, under 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	<a href="#">Sec. 6.4.30</a>
Retail sales, over 5,000 square feet	P	P	P	P	--	SP	P	SP	SP	--	P	<a href="#">Sec. 6.4.30</a>
Service establishment, up to 5,000 sq. feet	P	P	P	P	--	SP	P	--	P	--	--	<a href="#">Sec. 6.4.31</a>
Service establishment, over 5,000 sq. feet	P	P	P	P	--	SP	P	--	SP	--	--	<a href="#">Sec. 6.4.31</a>
Stable, public	--	--	--	--	--	--	--	--	--	--	SP	<a href="#">Sec. 6.4.32</a>
Taxidermist	--	--	--	--	--	--	--	--	--	--	P	<a href="#">Sec. 6.4.33</a>
Vehicle repair shop, minor	--	SP	--	--	--	SP	SP	--	--	SP	SP	<a href="#">Sec. 6.4.34</a>
Vehicle repair shop, major	--	SP	--	--	--	SP	SP	--	--	SP	SP	<a href="#">Sec. 6.4.34</a>
Vehicles sales and service facility, indoor	--	SP	--	--	--	SP	SP	--	--	SP	--	<a href="#">Sec. 6.4.35</a>
Vehicles sales and service facility, outdoor	--	SP	--	--	--	SP	--	--	--	SP	--	<a href="#">Sec. 6.4.35</a>
Veterinary hospital	--	SP	--	--	--	SP	SP	--	SP	P	P	<a href="#">Sec. 6.4.36</a>
<b>Industrial Uses</b>												
Assembly or fabrication of materials manufactured off premise	--	--	--	--	--	P	SP	--	--	P	--	<a href="#">Sec. 6.5.1</a>
Bakery, wholesale	--	--	--	--	--	--	--	--	--	SP	P	<a href="#">Sec. 6.5.2</a>
Boat building, storage and repair	--	--	--	--	--	--	--	--	--	L	P	<a href="#">Sec. 6.5.3</a>
Bottling works (except for alcoholic beverages)	--	--	--	--	--	--	--	--	--	P	P	<a href="#">Sec. 6.5.4</a>
Building materials sales yard and storage building	--	--	--	--	--	--	--	--	--	SP	P	<a href="#">Sec. 6.5.5</a>
Contractor's yard	--	--	--	--	--	--	--	--	--	P	--	<a href="#">Sec. 6.5.6</a>
Feed and seed store	--	--	--	--	--	--	--	--	--	SP	P	<a href="#">Sec. 6.5.7</a>
Food processing, wholesale	--	--	--	--	--	--	--	--	--	P	P	<a href="#">Sec. 6.5.8</a>
Laboratory and research facility, <del>no-recombinant DNA</del>	SP	SP	SP	SP	SP	P	P	SP	P	P	P	<a href="#">Sec. 6.5.9</a>
<del>Laboratory and research facility, recombinant DNA</del>	--	--	--	--	--	SP	SP	--	--	SP	SP	<del><a href="#">Sec. 6.5.9</a></del>
Laundry, cleaning & dyeing establishment	--	--	--	--	--	--	--	--	--	P	P	<a href="#">Sec. 6.5.10</a>
Manufacturing	--	--	--	--	--	L	--	--	--	P	P	<a href="#">Sec. 6.5.11</a>
Manufacturing, molding, shaping or assembly from prepared materials (including repairs)	--	--	--	--	--	--	--	--	--	P	P	<a href="#">Sec. 6.5.11</a>
Paint store	--	--	--	--	--	--	--	--	--	SP	P	<a href="#">Sec. 6.5.12</a>
P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Board of Aldermen Required -- Not Allowed												

### 6.5.9. Laboratory and Research Facility

- A. ~~With No Recombinant DNA-~~**
- B. **Defined.**** Research and development facility, laboratory or research facility with or without ~~no~~ recombinant DNA research or technology, as defined in Revised Ordinances Chapter 12, Sections 12-20 et. seq.
- C. **Standards.****
- ~~No recombinant DNA research or technology is involved.-~~
  - In the Business 5 district, the facility is exclusively for research purposes with no manufacturing on the premises.
- D. ~~With Recombinant DNA. Research and development facility, laboratory or research facility that includes recombinant DNA research or technology, as defined in Revised Ordinances Chapter 12, Sections 12-20 et. seq.~~**

(Ord. No. S-260, 08/03/87; Ord. No. T-319, 12/20/93)

### 6.5.10. Laundry, Cleaning and Dyeing Establishment

- A. **Defined.**** [reserved]

### 6.5.11. Manufacturing

- A. **Defined.**** Manufacturing includes:
- Canvas products, fabrication and sales;
  - Glass fabrication or installation;
  - Ice manufacturing or storage;
  - Light metal fabrication such as sheet metal, ducts, gutters and leaders;
  - Lightweight and nonferrous metal casting (no noxious fumes);
  - Machine shop (excluding presses over 10 tons), plumbing shop, blacksmith shop;
  - Molding, shaping or assembly from prepared materials (including repairs) of boxes, staging, toys, stationery, novelties, paper boxes, toilet preparations, drugs, perfumes, flavoring extracts, medical and hygienic appliances, clothing, textiles, hats, leather and sporting

goods, mattresses, store, house, office, theater, playground equipment, signs, musical instruments, art goods, industrial models, tools, appliances or electrical goods;

- Optical, scientific instrument and jewelry manufacturing;
- Wearing apparel fabrication and processing; and
- Other similar manufacturing uses.

- B. **Standards.**** Such use shall not be injurious, noxious or offensive to the neighborhood by reason of noise, smoke, odor, gas, dust or similar objectionable features, or dangerous to the neighborhood on account of fire, or any other cause.

(Ord. No. S-260, 08/03/87; Ord. No. T-65, 12/18/89; Ord. No. T-185, 11/18/91)

### 6.5.12. Paint Store

- A. **Defined.**** [reserved]

### 6.5.13. Printing, Publishing and Reproduction Establishments

- A. **Defined.**** [reserved]

### 6.5.14. Sign Painting Shop

- A. **Defined.**** [reserved]

### 6.5.15. Telecommunications and Data Storage Facility

- A. **Defined.**** A facility for the operation, monitoring and maintenance of telecommunications switching equipment, data storage computers, internet connectivity routers, and ancillary equipment.

(Ord. No. W-34, 03/05/01)

### 6.5.16. Trash or Yard Waste, Collection, Storage, Transfer-Haul or Composting

- A. **Defined.**** On-site collection or storage for wholesale sale of trash or yard waste of any sort, including, but not limited to recyclable materials, brush, leaves, grass clippings and any other similar materials.

(Ord. No. W-33, 03/05/01)

feet, the model shall show the proposed development and all properties within 1,000 feet of the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater. The model shall be provided to the City in a file format acceptable to the Director of Planning and Development, in consultation with the Clerk of the Board of Aldermen, the City Solicitor, and the Chief Information Officer.

- C. As part of an application for special permit, an applicant must comply with the Rules and Orders of the Board of Aldermen pertaining to special permit and site plan approval.

(Ord. No. S-260, 08/03/87; Ord. No. A-6, 10/01/12; Or. No. A-73, 04/04/16)

### 7.3.2. Review

- A. The Board of Aldermen or a committee of the Board of Aldermen shall hold a public hearing within 65 days of the filing of an application for special permit.
- B. Notice of such public hearing shall be provided as required by M.G.L. Chapter 40A, Section 11.
- C. The Board of Aldermen shall act upon any application for special permit not later than 90 days following the the public hearing.
- D. The application for special permit shall be deemed approved if the Board of Aldermen fails to act upon the application not later than 90 days following the public hearing.
- E. Any approval of an application for special permit shall lapse not later than 3 years from the grant of such approval unless a substantial use of such special permit or construction required by such special permit has begun. The Board of Aldermen may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the Board of Aldermen or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the special permit for more than 2 years from the date of the grant of the special permit.
- F. The Newton Biosafety Committee shall serve as an advisory body to the Board of Aldermen with

regard to any application for a special permit for a research and development facility. ~~The Newton Biosafety Committee shall be consulted by the Board of Aldermen for its recommendations on the siting of any institution intending to conduct recombinant DNA research or technology, which recommendations shall be in writing and shall be submitted within such time as the Board of Aldermen shall specify to assure said board's ability to act within the time periods set forth in this Sec. 7.3.~~

(Ord. No. S-260, 08/03/87; Ord. No. V-9, 02/21/95; Ord. No. A-6, 10/01/12; Ord. No. A-99, 01/17/17)

### 7.3.3. Grant of Permit

- A. A special permit from the Board of Aldermen for any purpose for which a permit is required under this Chapter shall be granted only by 2/3 vote of all the Board of Aldermen.
- B. The Board of Aldermen may grant a special permit when, in its judgment, the public convenience and welfare will be served, and subject to such conditions, safeguards and limitations as it may impose.
- C. The Board of Aldermen shall not approve any application for a special permit unless it finds, in its judgment, that the use of the site will be in harmony with the conditions, safeguards and limitations of this Sec. 7.3, and that the application meets all the following criteria:
  1. The specific site is an appropriate location for such use, structure;
  2. The use as developed and operated will not adversely affect the neighborhood;
  3. There will be no nuisance or serious hazard to vehicles or pedestrians;
  4. Access to the site over streets is appropriate for the types and numbers of vehicles involved; and
  5. In cases involving construction of building or structures or additions to existing buildings or structures, if those proposed buildings or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy.

### 7.3.5. Special Requirements for Recombinant DNA Research or Technology

- A. ~~In the case of a special permit involving recombinant DNA research or technology, as defined in Revised Ordinances Chapter 12, Article III, Recombinant DNA Research, as amended, the applicant shall be required to meet the requirements of Sec. 7.3.3 and shall also be required to demonstrate that the proposed use meets applicable health and safety criteria, including, without limitation, the following:~~
  - 1. ~~The National Institute of Health guidelines published in the Federal Register of May 7, 1986, as amended and as adopted by the biosafety committee, and any other health guidelines and regulations the federal government may from time to time promulgate;~~
  - 2. ~~The Massachusetts Department of Public Health guidelines known as, "State Sanitary Code, Chapter VIII: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste", 105 CMR 480.000, as amended;~~
  - 3. ~~Revised Ordinances Chapter 12, Article III, Recombinant DNA Research, as amended; and~~
  - 4. ~~Code of Federal Regulations, Title 10, Parts 0 to 199, as amended, pertaining to low-level radioactive waste management.~~
- B. ~~The Newton Biosafety Committee shall serve as an advisory body to the Board of Aldermen with regard to the additional health and safety findings required by this Sec. 7.3.5~~
- C. ~~The Newton Biosafety Committee's findings on the above criteria shall be deemed presumptively valid unless the Board of Aldermen makes contrary written findings. The Newton Biosafety Committee may make recommendations relating to the above criteria, and shall render its report within a time to be specified by the Board of Aldermen.~~

(Ord. No. T-319, 12/20/93)

**Hospital:** See [Sec. 6.3.7](#)

**Hotel:** See [Sec. 6.4.17](#)

## I

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**Indoor Recreation Facility:** See [Sec. 6.6.2](#)

**Institution, Single-Use:** A religious or nonprofit educational use having no more than one principal building and less than 50,000 square feet of lot area.

**Institution, Multi-Use:** A religious or nonprofit educational use having one or more buildings and at least 50,000 square feet of lot area.

**Interior Lot:** See Lot, interior.

## J

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[reserved]

## K

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**Keno:** See [Sec. 6.10.2](#)

## L

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**Laboratory and Research Facility, No Recombinant DNA:** See [Sec. 6.5.9](#)

**Landing:** A level area at the top of a staircase or between one flight of stairs and another.

**Laundry, Cleaning and Dyeing Establishment:** See [Sec. 6.5.10](#)

**Library:** See [Sec. 6.3.8](#)

**Listed Standards:** Rules and regulations for land uses otherwise allowed by right.

**Live/Work Space:** See [Sec. 6.2.11](#)

**Lodger:** A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit

**Lot, Corner:** See Corner Lot.

**Lodging Establishment:** See [Sec. 6.4.17](#)

**Lot Coverage:** See [Sec. 1.5.2](#)

**Lot, Interior:** Any lot or part of a lot other than a corner lot.

**Lot Line:** See [Sec. 1.5.2](#)

## M

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**Maneuvering Aisle:** A maneuvering space which serves a row or rows of parking stalls.

**Manufacturing:** See [Sec. 6.5.11](#)

**Mass Below First Story:** See [Sec. 1.5.5](#)

**Mixed-Use Residential Building:** A building occupied by both residential and nonresidential uses.

**Molding, Shaping or Assembly from Prepared Materials (Including Repairs):** See [Sec. 6.5.12](#)

**Multi-Family Dwelling:** See [Sec. 6.2.4](#)

**Museum:** See [Sec. 6.3.8](#)

## N

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**Nonconforming Building:** See Building, nonconforming.

**Nonconforming Use:** See Use, nonconforming.

**Nonprofit Institution:** See [Sec. 6.3.8](#)

**Nursing Home:** See [Sec. 6.2.5](#)

## O

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**Occupy/Occupancy:** When used in connection with accessory apartments, this term shall mean physical presence and residency on the subject premises except for short periods of temporary absence.





SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#173-17

(617) 796-1100

Telefax

(617) 796-1113

TDD

(617) 796-1089

E-mail

swarren@newtonma.gov

May 30, 2017

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to authorize the appropriation and expenditure of E-Rate Funds in the amount of \$57,676 to the Newton Public Schools for district technology purchases to be made from E-Rate reimbursements.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2017 MAY 30 PM 2:38  
David A. Olson, GMC  
Newton, MA 02459

# NEWTON

## PUBLIC SCHOOLS

100 Walnut Street, Newtonville, MA 02460

AREA CODE (617) 559-9025

### Memorandum

\*\*\*\*\*

TO: David Fleishman, Superintendent  
School Committee

FROM: Liam Hurley, Assistant Superintendent/Chief Financial and Administrative  
Officer

DATE: March 29, 2017

RE: E-Rate Funds for School Technology Spending

\*\*\*\*\*

This memo serves as a request that the School Committee make a request of the Mayor that E-Rate funds collected through March 2017 be appropriated to the School Department.

Attached is a detailed request from Eileen Keane, Director of Information Technology and Library Services, for district technology purchases to be made using the funds received from E-Rate (Universal Service Discount) reimbursements. The new funds will be used for network equipment and licensing purchases. The FY17 funds collected year-to-date total \$57,676. Per agreement with the City Council, the School Committee must request appropriation of these funds for the purpose of purchasing technology items. I have enclosed the April 29, 1998 memo with this provision and agreement. Since FY99, \$1,701,509 has been received. This request for network equipment and licensing purchases has been prepared by Eileen Keane in keeping with the current technology plan for Newton. Please see the table on the next page for a listing of all E-rate funds received and appropriated from FY99 to the present.

In order to access these funds, the School Committee may vote to request them from the City Council. After such vote, the School Committee must send a letter to the Mayor and City Council requesting that this item be placed on the docket.

#### Attachments

cc: Susan Dzikowski, Comptroller  
Maureen Lemieux, Chief Financial Officer  
Mary Eich, Assistant Superintendent for Teaching & Learning

	E-Rate Funds Received	E-Rate Funds Appropriated
FY99	\$78,397	\$0
FY00	\$78,505	\$0
FY01	\$65,220	\$193,646
FY02	\$73,470	\$63,112
FY03	\$31,923	\$69,338
FY04	\$74,242	\$45,745
FY05	\$0	\$29,916
FY06	\$51,467	\$0
FY07	\$72,639	\$124,106
FY08	\$18,020	\$0
FY09	\$191,190	\$0
FY10	\$130,841	\$201,497
FY11	\$96,678	\$235,232
FY12	\$212,666	\$212,666
FY13	\$119,426	\$119,426
FY14	\$119,259	\$119,259
FY15	\$112,977	\$112,977
FY16	\$116,913	\$116,913
FY17	\$57,676	\$57,676 – (requested)
<b>Total</b>	<b>\$1,701,509</b>	<b>\$1,701,509</b>

# NEWTON

## PUBLIC SCHOOLS

100 Walnut Street, Newtonville, MA 02460-1398

*Office of Information Technology*

Phone: 617-559-6190

*Eileen P. Keane, Director of Information Technology and Library Services K-12*

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**TO:** Mary Eich  
Assistant Superintendent for Teaching and Learning

**FR:** Eileen P. Keane  
Director of Information Technology and Library Services

**RE:** E-Rate Funds

**DT:** March 10, 2017

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### Wide-Area Network - WAN Fiber Project

The purpose of this memo is to request \$57,676.30 in E-Rate funds, which will be used with the funds that were requested last year for E-Rate Category 2 network equipment and licensing purchases. The money will enable the department to replace two district network core switches. It would establish 10gb links between all the schools and the two district network core hubs located at the Education Center and the Police Station. In addition, these improvements will allow the school department to make use of city wide-area fiber network bi-directional redundancy and load balancing. Finally, access to these funds will also allow replacement of the core network switches at two elementary locations (Williams and Franklin Schools).

The improvements to the network infrastructure will support the ongoing instructional and operational technologies in our schools.

Please let me know if I can provide further information.

Sincerely,  
Eileen P. Keane

Eileen P. Keane  
Director of Information Technology and Library Services K-12

Cc: Liam Hurley, Chief Financial and Administrative Officer

### E-Rate Categories:

**Category One:** Data Transmission Services and Internet Access, and Voice Services (being phased out).

**Category Two:** Internal Connections, Managed Internal Broadband Services, and Basic Maintenance of Internal Connections.



**COMPTROLLER'S OFFICE**

1000 Commonwealth Avenue  
Newton, Massachusetts 02159  
(617) 552-7088

April 29, 1998

TO: Janet Goldrick, Acting Superintendent of Schools

FROM: David Wilkinson, Comptroller 

SUBJECT: Federal E-rate Reimbursements

Thank you for inviting me to the E-rate meeting at the Education Center yesterday afternoon. The purpose of this communication is to confirm my understanding of the financial accounting and reporting issues of this program.

Vendor Payment:

It is my understanding that the School Department will pay vendors the full cost of purchases potentially eligible for reimbursement under the E-rate program. The vendor will make application for reimbursement from the *Schools and Libraries Corporation* and will pass this refund on to the School Department. As I understand it the School Department will enter into a written agreement with each vendor to insure that any and all rebates that are granted will be passed along to the School Department in full. This agreement will be reviewed by the City Solicitor's Office to make certain that it is legally binding upon the vendor.

In order to avoid losing track of rebates that are owed to the City, I would recommend that employees of the School Department provide the Comptroller's Office with written notification of the dollar amount of each expected rebate, by vendor, at the point that it becomes known that a rebate is owed to the School Department. We will use this information to record an account receivable on the City's books, which can be monitored until such time as the rebate is actually received.

E-rate Cash Receipts:

All rebated cash receipts are City of Newton revenues, and can not be spent without an appropriation by the Mayor and Board of Aldermen. All rebate checks must be forwarded to the City Treasurer's Office, along with a standard cash receipt schedule, within one week of receipt. All E-rate cash receipts should be coded to Receipts Reserved for Appropriation account 14K301-4890.

The new receipts reserved for appropriation account will be used exclusively to account for E-rate reimbursements. As E-rate reimbursements are received, they will be deposited in this account, which will serve as a source for future technology appropriations. The appropriations can be requested of the Mayor and Board as frequently as you wish.

Funds appropriated from the E-rate Receipts Reserved for Appropriation account will be accounted for in the School Technology special appropriation section of the City's general ledger. This will insure that the funds are only used for school technology purposes. The specific expense budget account numbers will be provided to you within the text of the board order, which is used to appropriate the funds.

Please give me a call if you have any questions about these procedures.

Cc: Steve Cirillo  
Don Jensen  
Powers & Sullivan, CPA



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#178-17

(617) 796-1100

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E-mail

swarren@newtonma.gov

May 30, 2017

Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RECEIVED  
Newton City Clerk  
2017 MAY 30 PM 2:38  
David A. Olson, GMC  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to authorize the appropriation of \$500,000 and authorize a general obligation borrowing of an equal amount for the purpose of funding renovations at the Newton Free Library to include expansion of the Children's Room and other improvements to the first floor.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor



# Newton Free Library

The door to your imagination

Library Director  
Philip E. McNulty



Mayor  
Setti D. Warren

May 30, 2017

Ms. Maureen Lemieux,  
Chief Financial Officer  
City of Newton

Re: Docketing Supplemental CIP for Library Improvements

Dear Maureen,

Please docket at your earliest opportunity the \$500,000 amount set aside in the FY18 Supplemental Capital Improvement Plan. The Library improvement purposes of the plan will be as follows:

*Enlarge the Children's Story & Crafts room and re-purpose other library space for integration into the Children's Room. To the extent feasible, make improvements to first floor meeting, entry, and stairway spaces, consolidate first floor service desks and replace security gates.*

We will use these funds to plan and execute as much of the above as feasible in the upcoming fiscal year. It will be a challenging project and we wish to begin the next level of planning as soon as possible.

Sincerely Yours,

Philip E. McNulty  
Library Director



Newton City Council  
Newton City Hall, Room 105  
1000 Commonwealth Avenue  
Newton, MA 02459  
c/o Karyn Dean, Clerk ([kdean@newtonma.gov](mailto:kdean@newtonma.gov))

June 1, 2017

RE: Impeachment Resolution, Docket No. 82-17

Dear Councilors,

We write to follow up on our earlier letter of April 26, regarding this group petition for a resolution calling on Congress to begin an impeachment investigation. The petition is now scheduled for a Programs and Services Committee meeting on June 7 and a full Council hearing on June 21. Since our earlier letter, we have engaged in discussions with several Councilors. Based on those discussions and recent developments, we would like to share the following.

First, as events have unfolded, we have expanded our national call for an impeachment investigation to include not only potential violations of the Constitution's emoluments clauses, as identified in our original letter, but also obstruction of justice. Some resources that you may find helpful include:

- An explanation of the basis for a congressional investigation of obstruction of justice: <https://impeachdonaldtrumpnow.org/2017/05/26/eight-times-president-committed-obstruction-justice/>
- An updated version of our proposed local resolution:<sup>1</sup> <https://impeachdonaldtrumpnow.org/wp-content/uploads/2017/05/Model-Local-Impeachment-Resolution.revised-5-10-2017.pdf>

It is important to note that *this is not a partisan effort*. Free Speech For People is a non-partisan, non-profit organization, and the impeachment campaign focuses strictly on the question of whether the President of the United States has committed impeachable offenses. The fact that the President belongs to one particular political party does not make impeachment partisan. Furthermore, the resolution proposed in the group petition asks for a congressional impeachment *investigation*. Directing the House Judiciary

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<sup>1</sup> This updated version of the proposed resolution is the model proposed in the group petition insofar as the petition requested a hearing regarding whether Newton “shall adopt a resolution or other measure, such as the Model Local Resolution available at [ImpeachDonaldTrumpNow.org](http://ImpeachDonaldTrumpNow.org), calling upon the U.S. House of Representatives to open an investigation into the impeachment of President Donald J. Trump.” The version that appeared on the website at the time the group petition was submitted is also acceptable, as it mentions “including but not limited to the violations listed herein.”

Committee to open an investigation is just the first step in the impeachment process, and it is the *only* step that the City of Newton would be asking the House to take.<sup>2</sup>

Second, some of you have asked about the wisdom or benefit of local impeachment resolutions. Since our April letter, our neighboring Town of Brookline has joined the chorus of cities and towns calling on the House to open an impeachment investigation, by a vote of 158-2 at Town Meeting.<sup>3</sup> This wave of local impeachment resolutions—10 so far, but increasing rapidly—has now been reported in the New Yorker,<sup>4</sup> Politico,<sup>5</sup> and the Nation,<sup>6</sup> as well as international media.

Obviously, the bread and butter of city government is local affairs. But it is not improper or unusual for cities to resolve the will of their constituents on important national issues affecting those constituents. The best advocates for that position are Thomas Jefferson and James Madison, who drafted the Kentucky and Virginia Resolutions of 1798-99, in which those states declared their firm opposition to the federal Alien and Sedition Acts. Indeed, the U.S. Constitution itself provides in Article VI that “the Members of the several State Legislatures, and all executive and judicial Officers . . . of the several States, shall be bound by Oath or Affirmation, to support this Constitution.”

Our republic has a rich tradition of municipal action on national and international issues. City councilors do not take an oath *only* to address local issues, such as schools and infrastructure. Those issues are also of crucial importance, but when the Constitution is in danger, then your duty is to defend it.

As the California Supreme Court noted in 1967, “As representatives of local communities, board of supervisors and city councils have traditionally made declarations of policy on matters of concern to the community whether or not they had power to effectuate such declarations by binding legislation. Indeed, one of the purposes of local government is to represent its citizens before the Congress, the Legislature, and administrative agencies in matters over which the local government has no power. Even in matters of foreign policy it is not uncommon for local legislative bodies to make their positions known.” *Farley v. Healey*, 67 Cal.2d 325 (1967).

Indeed, particularly in times of national crisis such as we face now, national issues may affect Newton residents even more than local issues. And Newton has a rich history of supporting resolutions on

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<sup>2</sup> Furthermore, the House can and should conduct its impeachment investigation in parallel with the recently-appointed special counsel, Robert Mueller—it is neither necessary nor sensible for the House to wait for him to complete his criminal investigation, because they serve different purposes and even focus on different conduct. For more on this point, see <https://impeachdonaldtrumpnow.org/2017/05/19/need-impeachment-investigation-parallel-special-prosecutors-investigation/>.

<sup>3</sup> <https://www.bostonglobe.com/metro/2017/05/26/brookline-town-meeting-calls-congress-investigate-trump/TAp0pOzsJXCU3RKXhi3drI/story.html>

<sup>4</sup> <http://www.newyorker.com/news/news-desk/how-comes-firing-accelerates-the-russia-investigations>

<sup>5</sup> <http://politi.co/2sgdhrw>

<sup>6</sup> <https://www.thenation.com/article/cities-arent-waiting-trump-self-destruct-theyre-fighting-back-now/>

items of major national significance. In July 2012, the City Council (then Board of Aldermen) passed (23-1) a resolution (#122-12) calling on Congress to pass a constitutional amendment overturning the Supreme Court's *Citizens United* decision. In January 2015, the City Council passed (14-7) a resolution (#356-14) calling on Congress to reduce nuclear weapons spending. These are just two examples from recent years—there are likely more—of how the City Council has conveyed the will of the people of the city to Congress.

More recently, in the specific context of the impeachment resolutions that are now spreading across the country, Evan Osnos noted the following on the *New Yorker* web site on May 10, 2017:

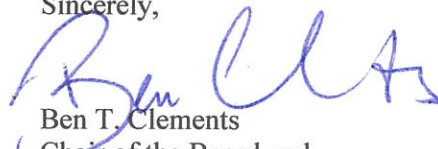
It is easy to mock nonbinding resolutions by city councils in Los Angeles; Cambridge, Massachusetts; and other liberal provinces that call for a congressional investigation of potentially impeachable offenses.

But these resolutions serve as more than empty symbolism. They are a systematic effort to prime the public and, ultimately, to force members of Congress to introduce a formal resolution (a step that the Democratic leadership has so far avoided).

Finally, on a pragmatic note, while no one would wish the city council's agenda to be swamped by national matters, that is not in any realistic danger of occurring. And this resolution would cost the city virtually nothing.

Thank you for your time and consideration, and we look forward to speaking with you more at the upcoming hearings.

Sincerely,



Ben T. Clements  
Chair of the Board and  
Chair of the Legal Committee,  
Free Speech for People  
256 Park Street  
Newton, MA 02458



Ron Fein  
Legal Director, Free Speech for People  
75 Garland Rd  
Newton MA 02459

**ImpeachDonaldTrumpNow.org**  
**Resolution in Support of Congressional Investigation regarding**  
**Impeachment of President Donald J. Trump**

WHEREAS, the Foreign Emoluments Clause of the United States Constitution provides that “no Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State,”

WHEREAS, the Domestic Emoluments Clause of the United States Constitution provides that, besides the fixed salary for his four-year term, the President “shall not receive within that Period any other Emolument from the United States, or any of them,”

WHEREAS, Donald J. Trump, the President of the United States, owns various business interests and receives various streams of income from all over the world, by means of which he receives emoluments from foreign governments, states of the United States, or the United States itself,

WHEREAS, the term “emoluments” includes a broad range of financial benefits, including but not limited to monetary payments, purchase of goods and services even for fair market value, subsidies, tax breaks, extensions of credit, and favorable regulatory treatment,

WHEREAS, leading constitutional scholars and government ethics experts warned Donald J. Trump shortly after the November 2016 election that, unless he fully divested his businesses and invested the money in conflict-free assets or a blind trust, he would violate the Constitution from the moment he took office,

WHEREAS, on January 11, 2017, nine days before his inauguration, Donald J. Trump announced a plan that would, if carried out, remove him from day-to-day operations of his businesses, but not eliminate any of the ongoing flow of emoluments from foreign governments, state governments, or the United States government,

WHEREAS, on January 20, 2017, Donald J. Trump took the oath of office and became President of the United States,

WHEREAS, from the moment he took office, President Trump has been in violation of the Foreign Emoluments Clause and the Domestic Emoluments Clause of the United States Constitution, thereby corruptly advancing his personal wealth, undermining the integrity of the Presidency, and violating the public trust,

WHEREAS, on May 9, 2017, Trump fired the Director of the Federal Bureau of Investigation, James Comey,

WHEREAS, on the date of his firing, Director Comey was leading one or more investigations that might have incriminated President Trump and/or his close associates,

WHEREAS, regardless of the ultimate outcome of those criminal investigations, President Trump interfered with them by firing Director Comey,

NOW, THEREFORE, THE [CITY/TOWN] RESOLVES to call upon the United States House of Representatives to support a resolution authorizing and directing the Committee on the Judiciary of said House to investigate whether sufficient grounds exist for the impeachment of Donald J. Trump, President of the United States, including but not limited to the violations listed herein; and,

BE IT FURTHER RESOLVED to call upon the [STATE] Legislature to adopt its own resolution calling upon the United States House of Representatives to support a resolution authorizing an investigation into whether sufficient grounds exist for the impeachment of Donald J. Trump, President of the United States; and,

BE IT FURTHER RESOLVED that copies of this resolution be transmitted officially to the Member[s] of the United States House of Representatives that represent[s] the [city/town], namely, the Honorable \_\_\_\_\_; and,

BE IT FURTHER RESOLVED that copies of this resolution be transmitted officially to the state legislator[s] that represent[s] the [city/town] in the [STATE] Legislature, namely, the Honorable \_\_\_\_\_; and,

BE IT FURTHER RESOLVED that copies of this resolution be transmitted officially to certain cities and communities in this state, namely, \_\_\_\_\_.

Approved and enacted this day: \_\_\_\_\_

# Election Commission

#82-17

Nancy M. Levine – Chair, John P. McDermott, Marjorie Ann Butler, Jan Huffman  
David A. Olson – City Clerk

City of Newton



## PETITION CERTIFICATION

Dear Petitioner,

BOARD OF ELECTION  
COMMISSIONERS  
2017 MAR 27 A 10:51  
NEWTON, MASS

March 27, 2017

We have completed a review and certification of the signatures attached to your petition received on March 27th, 2017 by the City Clerk's Office. It has been determined that you have a total of 73 verified signatures of the 50 required for a public hearing.

We are happy to be of service to you and if you need any further assistance please do not hesitate to contact Karyn Dean in the City Council Office at 617-796-1219.



# SIGN HERE TO PETITION THE NEWTON CITY COUNCIL TO PASS A RESOLUTION CALLING FOR IMPEACHMENT

## GROUP PETITION TO THE CITY COUNCIL OF NEWTON

To the Honorable Councilors:

Pursuant to City Charter Section 10-2, we, the undersigned voters of Newton, request a special public hearing regarding whether the City of Newton shall adopt a resolution or other measure, such as the Model Local Resolution available at [ImpeachDonaldTrumpNow.org](http://ImpeachDonaldTrumpNow.org), calling upon the U.S. House of Representatives to open an investigation into the impeachment of President Donald J. Trump.

RECEIVED  
Newton City Clerk

2017 MAR 27 AM 10:05

David A. Olsch  
Newton, MA 02459

	Printed name (write clearly)	Signature	Address	
1	Cordy Cuba Clements	<i>Cordy Cuba Clements</i>	256 Park St Newton	✓
2	Ronald Fein	<i>Ronald Fein</i>	75 Garland Rd Newton Ctr	✓
3	Ben Clements	<i>Ben Clements</i>	256 Park St Newton, MA	✓
4	Gershona Fein	<i>Gershona Fein</i>	75 Garland Rd Newton, MA 02459	✓
5	Jane + Peter Aransky	<i>Jane + Peter Aransky</i>	336 Elliot St Newton 02459	✓ (Both)
	Jonna Pzyant	<i>Jonna Pzyant</i>	-	X
6	Suzanne Hansen	<i>Suzanne Hansen</i>	45 Waver St Newton MA	X
7	Melvin King	<i>Melvin King</i>	65 Waver St Newton	X
8	GUY BOBBOFF	<i>GUY BOBBOFF</i>	59 Bowdoin St Newton	✓
9	Abby Radcliff	<i>Abby Radcliff</i>	49 Bowdoin St	✓
10	Ralph Madsen	<i>Ralph Madsen</i>	60 Highland Ave #2	✓

3



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RECEIVED  
Newton City Clerk  
2018 MAR 27 AM 10:05  
David A. Olsch  
Newton, MA 02459

	Printed name (write clearly)	Signature	Address
20	Alex Shubertoff	Alex Shubertoff	20 Clark Rd W Newton
21	Erica Fields	Erica Fields	66 Solon St.
22	Betty Barrett	Betty Barrett	290 Derby St
	Lee Wilson	Lee Wilson	PO Box Newton
23	Obie Simonis	Obie Simonis	25 Wesley St Newton
24	Jackie Simonis	Jackie Simonis	25 Wesley St Newton
25	CLIFF RYND	Cliff Rynd	77 Larchmont Ave Woburn 02468
26	Joe Bayas	Joe Bayas	24 Vineyard Rd
27	CAROL MILLER	Carol Miller	73 Elm Rd Newton 02459
28	Mona Hochberg	Mona Hochberg	105 Meun Natick 02459
29	Eve Sadawsky	Eve Sadawsky	98 Garland Rd Newton 02459

6

# SIGN HERE TO PETITION THE NEWTON CITY COUNCIL TO PASS A RESOLUTION CALLING FOR IMPEACHMENT

## GROUP PETITION TO THE CITY COUNCIL OF NEWTON

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RECEIVED  
Newton City Clerk  
2021 MAR 27 AM 10:05  
David A. Olszewski  
Newton, MA 02459

	Printed name (write clearly)	Signature	Address
11	Marian Prokop	<i>Marian Prokop</i>	34 Holmerick Rd Aub. 02464 ✓
12	Arthur Jackson	<i>Arthur Jackson</i>	19 Shaw Street 02465 ✓
13	Andrea Plotkin	<i>Andrea Plotkin</i>	37 Claremont St. Newton, MA 02458 ✓
14	Françoise La Monica	<i>Françoise H. La Monica</i>	944 Centre St 02459 ✓
15	NANCY VELA	<i>Nancy Vela</i>	156 PARK STREET, Newton 02459 ✓
16	Jane Aransky	<i>Jane Aransky</i>	336 Elliot St Newton 02464 ✓
17	Peter Aransky	<i>Peter Aransky</i>	336 Elliot St Newton 02464 ✓
18	Rachel Rockler	<i>Rachel Rockler</i>	60 MONTVALE RD, NEWTON 02464 ✓
19	JOSHUA LEVY	<i>Joshua Levy</i>	60 MONTVALE RD, NEWTON 02464 ✓



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	Printed name (write clearly)	Signature	Address
30	Homer Franck	Homer Franck	Auburn 02466 18 Winona St,
31	Paul OConnell	Paul OConnell	44 STEARNS ST NEWTON
32	Douglas Spurr	Douglas Spurr	55 W. PINE ST. 02466
33	Barbara Abramowitz	Barbara Abramowitz	198 Upland Rd Waban 02466
34	Lise Elkind	Lise Elkind	29 Wamesit Rd. Waban. 02468
35	GAIL STEIN	Gail Stein	91 FESSENDEN ST NEWTON, MA 02460
36	Dendre Mallon	Dendre Mallon	10 Oakmont Rd. Newton, MA 02459
37	Matt Epstein	Matt Epstein	18 Annawan
38	Deb Hiatt	Deb Hiatt	18 Annawan Rd. Waban MA 02468
39	Stephen Secker	Stephen Secker	31 Clyde St Newton MA
40	Andree Pyerson	Andree Pyerson	32 Amherst Rd Waban MA 02468



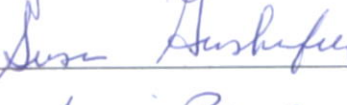
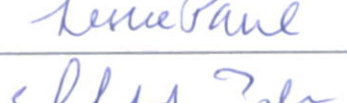



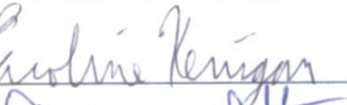



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RECEIVED  
Newton City Clerk  
2017 MAR 27 AM 10:05  
David A. Edison, CM, MA  
Newton, MA 02459

	Printed name (write clearly)	Signature	Address
41	CINDY SACCH		18 Moreland ✓
42	John Ross		34 Ballard St. ✓
43	Susan Gershenfeld		39A Charles St. ✓
44	Lee Paul		326 Highland Ave ✓
45	ELISABETH ZYGARU		131 Avalon Rd. ✓
46	Michael Greenstein		11, Eliot Ave ✓
47	KERRIE FLYNN		1175 Chestnut St #31 02464 ✓
48	Ellen Lubell		80 Temple St., Newton ✓
49	Caroline Kerrigan		183 Oak St #301, Newton 02464 ✓
50	Carolyn Lattin		277 Park St Newton MA 02450 ✓
51	Karen Bray		38 Stearns Ct 02459 ✓

①



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RECEIVED  
Newton City Clerk  
2017 MAR 27 AM 10:05  
David A. Olszewski  
Newton, MA 02459

	Printed name (write clearly)	Signature	Address	
52	John Heneghan	<i>John Heneghan</i>	98 Garland Rd Newton	✓
53	Amy Schneider	<i>Amy Schneider</i>	48 Oxford Rd Newton 02459	✓
54	Al Gushy	<i>Al Gushy</i>	184 Paulson Rd Woburn MA 02468	✓
55	Janet Bemis	<i>Janet Bemis</i>	45 Monantum St Newton MA 02458	✓
	<del>Karen Amelle</del>	<del><i>Karen Amelle</i></del>	<del>41 Kenwood St Newton, MA 02456</del>	
56	Marlene S. Archer	<i>Marlene S Archer</i>	49 Sherrick Road Lower Falls	✓
57	Joe Carson	<i>Joseph Carson</i>	85 Newwood Ave Newton	✓
	<del>RR Marton</del>	<del><i>Thomas M</i></del>	<del>32 Russell St Brookline MA 02446</del>	
58	Sarah Korce	<i>Sarah Korce</i>	29 Woodrow Ave. Newton MA 02460	✓




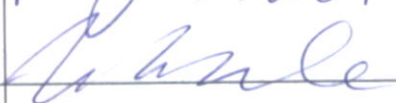
(2)

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	Printed name (write clearly)	Signature	Address
59	Paul Holtzman		61 Temple Street 02465
60	Vicky Stein		23 Otis St. 02460
61	TRICIA BLANK		170 Nehaden 02468
62	Zeina Kahkale		281 Park St. 02458



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	Printed name (write clearly)	Signature	Address	
63	Jerry D. Levine	Jerry D. Levine	242 Kenrick St. Newton, MA 02458	✓
64	JOHN KASBOHM	[Signature]	604 COMMONWEALTH AVE NEWTON MA 02459	✓
	<del>Michael J. Jankowski</del>	<del>[Signature]</del>	<del>86 Weller St Newton MA 02459</del>	
65	Charles Lord	[Signature]	21 Rochester Road Newton, MA 02458	✓
66	Pamela <sup>Ms</sup> Burdett	Pamela M. Burdett	2015 COMM. AVE Auburndale MA 02466	✓
67	Donald Bermont	[Signature]	5 Eric Ave. Newton Highlands 02461	✓
	<del>W</del>			
68	Slye Robinson	[Signature]	45 Warren St Newton Center	✓
69	Megan Scobie	[Signature]	81 Margaret Rd. Newton MA 02461	✓
70	Dan D'Agostino	[Signature]	357 Lebot St Newton 02460	✓
71	Joseph Carson	Joseph Carson	85 Norwood Ave Newton Center	✓

JOSEPH CARSON

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 Newton City Clerk  
 2017 MAR 27 AM 10:05  
 David A. Olson  
 Newton, MA 02459



# SIGN HERE TO PETITION THE NEWTON CITY COUNCIL TO PASS A RESOLUTION CALLING FOR IMPEACHMENT

## GROUP PETITION TO THE CITY COUNCIL OF NEWTON



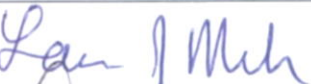



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RECEIVED  
Newton City Clerk

2017 MAR 27 AM 10:05

David A. Olson, Clerk  
Newton, MA 02459

	Printed name (write clearly)	Signature	Address	
72	Emanuel Sachs		18 Moreland Ave Newton, MA	✓
73	Paulo Jose		34 Dorchester Hill	✗
74	Laura Miller		37 Larch Rd Newton, MA 02455	✓
75	Dawn Colsia		74 Puritan Rd Waban MA 02468	✓
76	Anne McFormack		281 Ohio St. Newton, MA 02465	✓
77	Andrea Epstein		18 Annawan rd, Newton MA 02469	✓
78	Martina Jackson	Martina Jackson	15 Lowell Avenue Newton 02460	✓

(2)

## Resolution in Support of Congressional Investigation regarding Impeachment of President Donald J. Trump

WHEREAS, the Foreign Emoluments Clause of the United States Constitution provides that "no Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State," thereby prohibiting conflicts of interest that could influence the conduct of the foreign affairs of the United States,

WHEREAS, the Domestic Emoluments Clause of the United States Constitution provides that, besides the fixed salary for his four-year term, the President "shall not receive within that Period any other Emolument from the United States, or any of them," thereby prohibiting conflicts of interest that could influence the conduct of the domestic affairs of the United States,

WHEREAS, the term "emoluments" includes a broad range of financial benefits, including but not limited to monetary payments, purchase of goods and services even for fair market value, subsidies, tax breaks, extensions of credit, and favorable regulatory treatment,

WHEREAS, Donald J. Trump, the President of the United States, owns various business interests and receives various streams of income from all over the world,

WHEREAS, many of these businesses receive, and streams of income include, emoluments from foreign governments, states of the United States, or the United States itself,

WHEREAS, leading constitutional scholars and government ethics experts warned Donald J. Trump shortly after the November 2016 election that, unless he fully divested his businesses and invested the money in conflict-free assets or a blind trust, he would violate the Constitution from the moment he took office,

WHEREAS, on January 11, 2017, nine days before his inauguration, Donald J. Trump announced a plan that would, if carried out, remove him from day-to-day operations of his businesses, but not eliminate any of the ongoing flow of emoluments from foreign governments, state governments, or the United States government,

WHEREAS, on January 20, 2017, Donald J. Trump took the oath of office and became President of the United States,

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 Newton City Clerk  
 2017 MAR 27 AM 10:06  
 David J. Olson, Esq.  
 Newton, MA 02459

WHEREAS, from the moment he took office, President Trump was in violation of the Foreign Emoluments Clause and the Domestic Emoluments Clause of the United States Constitution,

WHEREAS, these violations undermine the integrity of the Presidency, corruptly advance the personal wealth of the President, and violate the public trust,

WHEREAS, our democracy is premised on the bedrock principle that no one is above the law, not even the President of the United States,

NOW, THEREFORE, THE [CITY/TOWN] RESOLVES to call upon the United States House of Representatives to support a resolution authorizing and directing the House Committee on the Judiciary to investigate whether sufficient grounds exist for the impeachment of Donald J. Trump, President of the United States, including but not limited to the violations listed herein; and,

BE IT FURTHER RESOLVED that copies of this resolution be transmitted officially to the Member[s] of the United States House of Representatives that represent[s] the city, namely, the Honorable \_\_\_\_\_; and,

BE IT FURTHER RESOLVED that copies of this resolution be transmitted officially to certain other cities and communities in this state, namely, \_\_\_\_\_.

Approved and enacted this day: \_\_\_\_\_



CELEBRATE  
**IMMIGRANT  
HERITAGE  
MONTH  
06-2017**

#ImmigrantHeritageMonth  
#IHM2017

**Sample IHM Proclamation: [City/State]**

**Whereas** generations of immigrants from every corner of the globe have built our country's economy and created the unique character of our nation;

**Whereas** immigrants continue to grow businesses, innovate, strengthen our economy, and create American jobs in [City/State];

**Whereas** immigrants have provided the United States with unique social and cultural influence, fundamentally enriching the extraordinary character of our nation;

**Whereas** immigrants have been tireless leaders not only in securing their own rights and access to equal opportunity, but have also campaigned to create a fairer and more just society for all Americans; and

**Whereas** despite these countless contributions, the role of immigrants in building and enriching our nation has frequently been overlooked and undervalued throughout our history and continuing to the present day:

Now, therefore, be it resolved by the [BLANK] assembled, that June 2017 is designated as "Immigrant Heritage Month."

***For information on the impact that immigrants have in your state, please click here: [The Economic and Political Impact of Immigrants, Latinos and Asians in all 50 States](#)***