

CITY COUNCIL MEETING AGENDA - VERSION 1

January 26, 2015

7:30 PM

HEARING – Harnch's Way Discontinuance

7:45 PM

(Sound Check)

- 1. MOMENT OF SILENCE**
- 2. PLEDGE OF ALLEGIANCE**
- 3. CALL TO ORDER**
- 4. LATE FILE ITEMS**
- 5. PUBLIC COMMENT**
- 6. MAYOR'S COMMENT**
- 7. HEARTSAFE COMMUNITY DESIGNATION PRESENTATION**
- 8. CITATION FOR SUSAN BELUK M.D.**

CONSENT AGENDA

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

9. APPROVAL OF MINUTES

January 12, 2015

(Approve)

10. TRANSFERS

1. Mayor's Office Gen Fd Free Cash \$163,000 to Rail Trail Capital Project Fd

(B&F)

11. COMMUNICATIONS

1. Letter from CVS Health re Plastic Bags
2. Second Hand Motor Vehicle License Maguires Auto Repair and Sales
3. Election Calendar 2015

(PU)

(L&P)

(Approve)

12. APPOINTMENTS – First Reading

RE-APPOINTMENTS

- | | | |
|--------------------|-----------------|----------------------|
| 1. David Zinck | 6 Laurel Road | Electrical Inspector |
| 2. Gary Calderwood | 3 Howard Street | Building Inspector |

January 31, 2016

January 15, 2018

END OF CONSENT AGENDA

REGULAR AGENDA

13. COMMUNICATIONS

5. LATE FILE Mayor's Update

14. APPOINTMENTS Second Reading -

APPOINTMENTS

- | | | |
|-------------------------|------------------|-----------------------------------|
| 1. Marian Leighton Levy | 323 Merrimac St. | Fruit Street Local Historic Dist. |
|-------------------------|------------------|-----------------------------------|

Dec. 1, 2017

RE-APPOINTMENTS

- | | | |
|---------------------|----------------------------|-------------------------|
| 2. James D. O'Brien | 8 67 th Street. | Conservation Commission |
|---------------------|----------------------------|-------------------------|

June 1, 2017

15. ORDERS

1. TABLED - Discontinuance Harnch's Way until January 26, 2015 at 7:30 pm
2. OPEB Trust Fund Ch 32B sec 20 appoint custodian HCST and appropriate \$549,772
3. Accept Mayor Gayden W. Morrill Charitable Foundation Donation \$85,000

16. ORDINANCES

1. 2nd READ Revised Amend Zoning Ordinance Section III-C Back Bay Dec. 17, 2014 map
2. 2nd READ Amend ORD 13-184 Handicapped Parking Regulations
3. Amend ORD 13-174 Parking limited State Street 4 hour

4. Amend ORD 13-168 Parking restricted Norman Avenue
5. Amend ORD 13-168 Parking restricted Murphy Avenue
6. Amend ORD 6.5-48 Rev Plastic Bags, Effective Date
7. Amend ORD 13-180 Resident Parking
8. Amend Zoning ORD Appendix A Sec. XXIX Smart Growth District (SGOD)

17. COMMITTEE ITEMS

Budget & Finance

In Committee:

- | | |
|--|-------------|
| 1. Mayor letter regarding Order for Revolving Fund Expenses | *03/17/2014 |
| 2. Order Amend Revolving Fund expenses | *03/17/2014 |
| 3. Order Home Rule Petition- supplementing education budget (COTW) | *05/12/2014 |
| 4. Amend ORD Ch. 2 Section 2-45 City Council Salary | *05/12/2014 |
| 5. Amend ORD Ch. 2 Section 2-61A School Committee Salary | *05/12/2014 |
| 6. Human Resources Dependent Audit | *06/30/2014 |
| 7. Letter from Hope Church regarding Master Box fee | *11/10/2014 |

General Government

Joint Education

In Committee:

- | | |
|--|-------------|
| 1. Order Home Rule Petition- supplementing education budget (COTW) | *05/12/2014 |
|--|-------------|

License & Permits

In Committee:

- | | |
|--|-------------|
| 1. Movable Sign Application Newburyport Brewing Company | *02/10/2014 |
| 2. Amend ORD Sec. 9-114 Transient Vendors Restricted Areas | *04/28/2014 |
| 3. Letter regarding transient vendor licensing | *06/30/2014 |
| 5. Second Hand Motor Vehicle License Renewal GNFD dba Newburyport Sunoco | *01/12/2015 |
| 6. Taxi License Renewal Harold Congdon Port Taxi, Inc. | *01/12/2015 |
| 7. Second Hand Motor Vehicle License Renewal LCA Motors | *01/12/2015 |
| 8. Second Hand Motor Vehicle License Renewal Plum Autoworks, Inc. | *01/12/2015 |

Neighborhoods and City Services

In Committee:

- | | |
|---|-------------|
| 1. Amend ORD Part 2 Article III Ch. 3-31 Feeding or baiting of wild birds | *01/12/2015 |
|---|-------------|

Planning & Development

In Committee:

- | | |
|--|-------------|
| 1. Letter from Newburyport Preservation Trust | *03/31/2014 |
| 2. Correspondence Unnamed Way off Spofford Street | *01/12/2015 |
| 3. First Refusal to Purchase Lot 8 Low Street | *01/12/2015 |
| 4. Amend ORD Zoning Map Sec. III-C "Back Bay Area Zoning Map Change" | *01/12/2015 |

Public Safety

In Committee:

- | | |
|--|-------------|
| 1. Amend ORD 13-174 State Street Resident Parking | *11/10/2014 |
| 2. Amend ORD 13-136 Stop Intersections Beacon Avenue | *01/12/2015 |

Public Utilities Committee

In Committee:

- | | |
|--|-------------|
| 1. Water and Sewer Commissions adjustment of sewer bill charges re second meters | *11/24/2014 |
| 2. Home Rule Petition Fluoride in Water | *01/12/2015 |

Rules Committee

18. GOOD OF THE ORDER

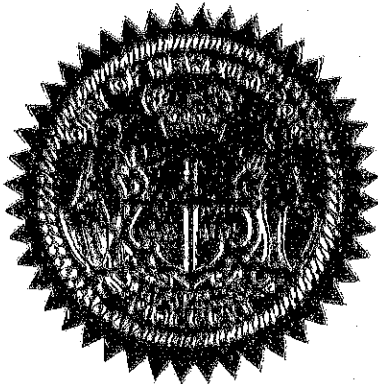
19. ADJOURNMENT

CITATION

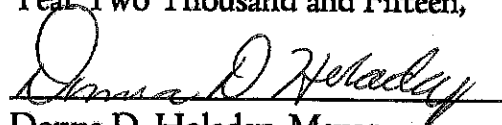
DR. SUSAN BELUK

The City of Newburyport hereby acknowledges your 15 years of service and the commitment and dedication you gave to the Board of Health. Your expertise and outstanding work ethic will be sorely missed.

Now therefore, I, Donna D. Holaday, Mayor of the City of Newburyport, speaking for its residents do hereby extend our heartfelt appreciation for your years of loyalty to the City of Newburyport.



Given under my hand and seal this
Twenty Sixth Day of January in the
Year Two Thousand and Fifteen,


Donna D. Holaday, Mayor

CONSENT AGENDA

CITY COUNCIL MEETING MINUTES - VERSION 2

January 12, 2015

HEARING 7:00PM Barker Street

Council President O'Brien called the meeting to order at 7:10 pm. The City Clerk called the roll. The following Councillors answered present: Cameron, Connell, Cronin, Giunta, Heartquist, Herzog, Kinsey, Vogel and O'Brien. 9 present, 2 absent (Eigerman, Tontar). Mark Griffin, esquire, represented the property owner. Paul Morin of 21 Harbor Street spoke in favor. Ward 1 Councillor Heartquist explained the Order dated January 12, 2015 at the Councillors' desks. Hearing closed at 7:20 pm.

Motion to approve by Councillor Heartquist, seconded by Councillor Cameron. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted

7:30PM

The City Clerk called the meeting to order at 7:30 pm. The election of the Council President then took place as the City Clerk called the roll and each Councillor stated the name of their choice. The vote was 9 for Councillor Thomas F. O'Brien. Council President O'Brien thanked the Councillors and stated that this is his 18th year on the Council, and 10th year as Council President. A moment of silence was held for Councillor Cameron's mother-in-law, Lois Massey. This was followed by the Pledge of Allegiance. He then instructed the City Clerk to call the roll. The following Councillors answered present: Cameron, Connell, Cronin, Giunta, Heartquist, Herzog, Kinsey, Vogel and O'Brien. 9 Present, 2 absent (Eigerman, Tontar).

1. CALL TO ORDER

a. Committee Assignments

Council President O'Brien announced that the committee assignments will remain the same unless any Councillor would like a change.

b. City Council Meeting Schedule 2015

Motion to change the September meeting from Monday the 14th to Tuesday the 15th and approve by Councillor Herzog, seconded by Councillor Cameron. So voted.

c. City Council Rules 2015

Motion to approve the rules by Councillor Cronin, seconded by Councillor Cameron. So voted.

2. LATE FILES –Order #3, Ordinance #6

Motion to waive the rules and allow late files by Councillor Cronin, seconded by Councillor Kinsey. So voted.

3. PUBLIC COMMENT

a.	Dr. Dan Eynck	High Street	Fluoride
b.	Chris Morton	Beck Street	Fluoride
c.	Linda Begdoniff	Lime Street	Fluoride
d.	Susan Sloane	Park Circle	Fluoride
e.	Jim Zanfagna	Beck Street	Fluoride
f.	Bill Patenaude	Methuen	Fluoride
g.	Chris Martel	Amesbury	Fluoride
h.	Andrew Teichner	Boxford	Fluoride
i.	David McFarlane	Newburyport	Fluoride
j.	Patty Myers	Sylvester St	Colby Farm
k.	George Ellison	2A Noble St	Waterfront Trust
l.	Dr. Sam Merabi	7 Brown Sq	Fluoridation
m.	Amelia McMullen	8 Graham Ave, Newbury	Fluoridation
n.	Leslie Echholdt	36 Warren St	Colby Farm
o.	Robert Dandero	26 Clipper Way	Fluoride
p.	Tony Mazzagla	218 Northern Blvd	Fluoride

4. MAYOR'S COMMENT – None

CONSENT AGENDA

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

5. APPROVAL OF MINUTES

December 8, 2014

(Approved)

6. TRANSFERS

1. EMR Gen. Exp. To EMR Deputy Coordinator \$701.86

(Approved)

7. COMMUNICATIONS

1. DEP Notice of Application Harbormaster and Visiting Boater Facility (R&F)
2. Second Hand Motor Vehicle License Renewal GNFD dba Newburyport Sunoco (L&P)
3. Correspondence Unnamed Way off Spofford Street (P&D)
4. First Refusal to Purchase Lot 8 Low Street (P&D)

Removed by Councillor Giunta.

5. Taxi License Renewal Harold Congdon Port Taxi, Inc. (L&P)
6. Second Hand Motor Vehicle License Renewal LCA Motors (L&P)
7. Second Hand Motor Vehicle License Renewal Plum Autoworks, Inc. (L&P)
8. Jeanne Geiger Crisis Ctr. 3rd annual Billion Rising Flashmob Feb. 12, 2015 (L&P)(Approved)

Changed to approve by Councillor Cronin.

8. APPOINTMENTS – First Reading

APPOINTMENTS

1. Marian Leighton Levy 323 Merrimac St. Fruit Street Local Historic Dist. December 1, 2017

RE-APPOINTMENTS

2. James D. O'Brien 8 67th Street. Conservation Commission June 1, 2017

END OF CONSENT AGENDA

Motion to approve the consent agenda as amended by Councillor Cameron, seconded by Councillor Giunta. So voted.

REGULAR AGENDA

9. INTRODUCTION OF 1ST ESSEX REPRESENTATIVE JAMES KELCOURSE

Representative Kelcourse addressed the Council. Upon leaving the Chamber, Representative Kelcourse thanked both the left and right side of the room.

10. COMMUNICATIONS

5. First Refusal to Purchase Lot 8 Low Street (P&D)

Motion to refer to Planning & Development by Councillor Giunta, seconded by Councillor Cameron. So voted.

9. LATE FILE Mayor's Update – None

11. APPOINTMENTS Second Reading –

APPOINTMENTS

3. Shawn Flaherty 3 Summit Place Diversity & Tolerance Commission Dec. 1, 2017

RE-APPOINTMENTS

5. Enrico Caruso 34 Russett Hill Road, Haverhill Asst Harbormaster & Spec PO Dec. 31, 2017
6. Francis F. Chaisson 300 Merrimac Street Asst Harbormaster & Spec PO Dec. 31, 2017
7. Michael Chaisson 46 Lake Attitash Rd, Amesbury Asst Harbormaster & Spec PO Dec. 31, 2017
8. Joseph Grande 52 Linwood Ave., Methuen Asst Harbormaster & Spec PO Dec. 31, 2017
9. Adam R. Hayden 76 Longfellow Drive Asst Harbormaster & Spec PO Dec. 31, 2017
10. James Maranto 167 Harper Ridge Rd, E. Hampstead, NH Asst Harbormaster & Spec PO Dec. 31, 2017
11. Benedetto Orlando 104 N. Ave, Apt. 2, Haverhill Asst Harbormaster & Spec PO Dec. 31, 2017
12. Philip Stern 271 Merrimac St, Apt. 2 Asst Harbormaster & Spec PO Dec. 31, 2017
13. David Willey 13 Devonshire Crossing, Lowell Asst Harbormaster & Spec PO Dec. 31, 2017
14. Kristian Zoeller 115 Timber Swamp Rd, Hampton, NH Asst Harbormaster & Spec PO Dec. 31, 2017

APPOINTMENTS

4. George H. Ellison, Jr. 2A Noble Street Waterfront Trust Dec. 1, 2019

RE-APPOINTMENTS

16. Daniel Raycroft 1 Brown Ave, Amesbury Assesor January 1, 2018

Motion to approve second readings collectively by Councillor Cameron, seconded by Councillor Connell. Roll call vote, 9 yes, 2 absent. So voted.

12. ORDERS

1. TABLED - Discontinuance Harnch's Way

Motion to remove from the Table by Councillor Cronin, seconded by Councillor Cameron. So voted. Motion to Table by Councillor Cronin, seconded by Councillor Vogel. So voted.

2. Add referendum question regarding Flouride to Nov. 3, 2015

Pulled by Sponsor

3. LATE FILE Home Rule Petition Fluoride in Water

Motion to refer to Public Utility by Councillor Herzog, seconded by Councillor Kinsey. Roll call vote(3 No EC,TO,BC)

13. ORDINANCES

1. 2nd READ Amend ORD 13- 179 Handicap Space Emma Andrews Library

Motion to approve second reading by Councillor Heartquist, seconded by Councillor Herzog. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted.

2. 2nd READ Amend ORD 13-168 Parking Restricted Court Street

Motion to approve second reading by Councillor Cronin, seconded by Councillor Heartquist. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted.

3. Revised ORD Amend Zoning Ordinance Section III-C Back Bay

Motion to waive the rules and join to matter in committee and to approve first reading and order published by Councillor Cronin, seconded by Councillor Cameron. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted.

4. Amend ORD 13-136 Stop Intersections Beacon Avenue

Motion to refer to Public Safety by Councillor Heartquist, seconded by Councillor Herzog. So voted.

5. Amend ORD Part 2 Article III Ch. 3-31 Feeding or baiting wild birds

Motion to refer to Neighborhoods and City Services by Councillor Cronin, seconded by Councillor Connell. 8 yes, 1 no (O'Brien). So voted.

6. LATE FILE Amend ORD Zoning Map Sec. III-C "Back Bay Area Zoning Map Change"

Motion to refer to Planning & Development by Councillor Cronin, seconded by Councillor Cameron. So voted.

14. COMMITTEE ITEMS

Budget & Finance

In Committee:

- | | |
|--|-------------|
| 1. Mayor letter regarding Order for Revolving Fund Expenses | *03/17/2014 |
| 2. Order Amend Revolving Fund expenses | *03/17/2014 |
| 3. Order Home Rule Petition- supplementing education budget (COTW) | *05/12/2014 |
| 4. Amend ORD Ch. 2 Section 2-45 City Council Salary | *05/12/2014 |
| 5. Amend ORD Ch. 2 Section 2-61A School Committee Salary | *05/12/2014 |
| 6. Human Resources Dependent Audit | *06/30/2014 |
| 7. Letter from Hope Church regarding Master Box fee | *11/10/2014 |
| 8. Mayor Free Cash \$21,865.43 to Essex North Shore Tech School | *12/08/2014 |

Motion to remove by Councillor Cronin, seconded by Councillor Cameron. So voted. Motion to approve by Councillor Heartquist, seconded by Councillor Cameron. 8 yes, 1 no (Herzog). So voted.

9. Newburyport Retirement Board Expense Budget C/Y 2015 *12/08/2014

Motion to remove by Councillor Cronin, seconded by Councillor Cameron. So voted. Motion to receive and file by Councillor Cronin, seconded by Councillor Cameron. So voted.

General Government

Joint Education

In Committee:

1. Order Home Rule Petition- supplementing education budget (COTW)

*05/12/2014

License & Permits

In Committee:

1. Movable Sign Application Newburyport Brewing Company
2. Amend ORD Sec. 9-114 Transient Vendors Restricted Areas
3. Letter regarding transient vendor licensing
4. Renewal of Second Hand Motor Vehicles Sales License RL Currie Corp.

*02/10/2014

*04/28/2014

*06/30/2014

*12/08/2014

Motion to remove by Councillor Heartquist, seconded by Councillor Cameron. So voted. Motion to approve by Councillor Heartquist, seconded by Councillor Cameron. So voted.

Neighborhoods and City Services

Planning & Development

In Committee:

1. Letter from Newburyport Preservation Trust
2. Amend ORD Zoning Change, R3 Zone to R2 Zone - Back Bay Neighborhood

*03/31/2014

*09/29/2014

Moved jointly with Ordinance #3.

3. Order Proposed vote of Discontinuance of Barker St.

*10/14/2014

Motion to receive and file by Councillor Cameron, seconded by Councillor Herzog. So voted. Motion to approve order as dated January 12, 2014 by Councillor Heartquist, seconded by Councillor Cameron. So voted.

Public Safety

In Committee:

1. Amend ORD 13-174 State Street Resident Parking
2. Flag Day 5K June 13, 2015 Soldiers Assistance Fund

*11/10/2014

*11/24/2014

Motion to remove by Councillor Cronin, seconded by Councillor Giunta. So voted. Motion to approve by Councillor Cronin, seconded by Councillor Giunta. So voted.

3. Letter from Parks Commission close Greenleaf St. January 31, 2015 Winter Carnival

*12/08/2014

Motion to remove by Councillor Cronin, seconded by Councillor Herzog. So voted. Motion to approve by Councillor Cronin, seconded by Councillor Herzog. So voted.

4. Amend ORD 13-184 Handicapped Parking Regulations

*12/08/2014

Motion to remove by Councillor Cronin, seconded by Councillor, seconded by Councillor Herzog. So voted.

Motion to approve 1st reading and order published by Councillor Cronin, seconded by Councillor Herzog. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted.

Public Utilities Committee

In Committee:

1. Letter from Daniel Eyink, MD regarding water fluoridation

*05/27/2014

Motion to receive and file by Councillor Herzog, seconded by Councillor Cameron. So voted.

2. Water and Sewer Commissions adjustment of sewer bill charges re second meters

*11/24/2014

Rules Committee

15. GOOD OF THE ORDER

Councillor Connell has asked the Director of the Retirement Office to come in front of the City Council at the next regular Council meeting.

Councillor Giunta announced that there is an abutters meeting at the Bresnahan school on Tuesday Jan. 13, 2015 at 6:30pm in the media room.

16. ADJOURNMENT

Councillor Cameron moved to adjourn, seconded by Councilor Kinsey at 8:55 pm. So voted.

TRANSFERS



Transfer #1
January 26, 2015

City of Newburyport
FY 2015
BUDGET TRANSFER REQUEST

Department: Mayor's Office

Submitted by: Mayor Donna D. Holaday

Date Submitted: 1/20/2015

Transfer From:

Account Name	General Fund - Free Cash	YTD Bal:	\$ 2,018,943.57
Account Number:	01-35900	Trans In:	\$ -
Amount:	\$163,000.00	Trans Out:	\$ -
Why are Funds Available:	<i>The Massachusetts Department of Revenue certified Free Cash for FY2015 at \$2,373,046. These funds are available for any legal expenditure with the approval of the Mayor and a majority vote of the City Council.</i>		

Transfer To:

Account Name	Rail Trail Capital Project Fund	YTD Bal:	\$ 113,507.80
Account Number:	15-49700	Trans In:	\$ -
Amount:	\$163,000.00	Trans Out:	\$ -
Why are Funds Required:	<i>See attached explanatory memo from the Office of Planning and Development.</i>		

Donna D. Holaday, Mayor

Ethan R. Manning, Auditor

City Council Approval: (Stamp)

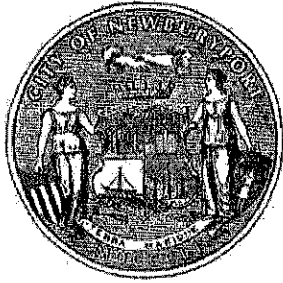
Donna D. Holaday
Ethan R. Manning

Date:

1/20/15

Date:

1/20/15



CITY OF NEWBURYPORT
OFFICE OF PLANNING AND DEVELOPMENT

60 PLEASANT STREET • P.O. BOX 550

NEWBURYPORT, MA 01950

(978) 465-4400 • (978) 465-4452 (FAX)

DONNA D. HOLADAY
MAYOR

MEMORANDUM

TO: NEWBURYPORT CITY COUNCIL
FROM: GEORDIE VINING, SENIOR PROJECT MANAGER
SUBJECT: CLIPPER CITY RAIL TRAIL: PHASE II – FINAL DESIGN FUNDING
DATE: 1/20/15

We are writing to respectfully request that the City Council approve allocation of \$163,000 from Free Cash to support completing design of the Clipper City Rail Trail Phase II project. To date, design for this project has been supported by CPA funding, private donations, and \$105,000 approved two years ago as part of an FY13 Supplemental Budget. Currently, the gap in funding for final design and construction management is about \$198,000, and we are on track to fully deplete the existing design funding in the coming months. We anticipate seeking additional CPA funding for the construction administration portion of the gap funding. Please see the attached spreadsheet.

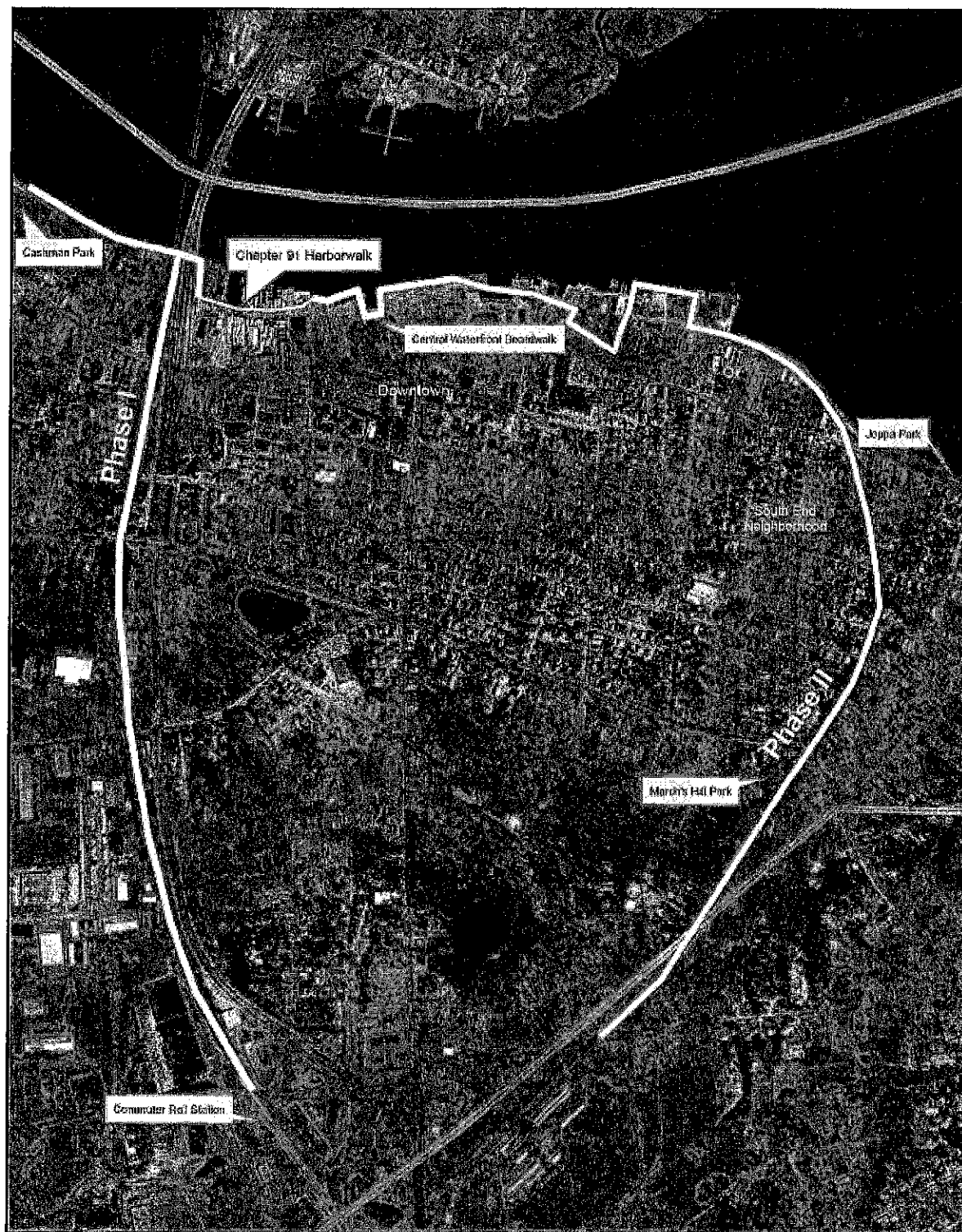
The Clipper City Rail Trail Phase II project is scheduled to be bid for construction on August 15, 2015 pending completion of final plans, right-of-way, specifications, and cost estimates. It is programmed on the Merrimack Valley Metropolitan Planning Organization's FY2015-2018 regional Transportation Improvement Plan (TIP), and construction will be funded by 80% federal and 20% state transportation funding. We are currently at the 75% design phase, are completing the extensive local, state, and federal permitting required, and have recently been authorized by MassDOT to secure the required temporary and permanent easements. The 75% plan set (177 sheets) is posted on the Planning Office website. Construction of the project will cost nearly \$4 million.

Design phase costs have increased due to additional work required by a variety of state and local authorities. The Federal Highway Administration and MassDOT right-of-way requirements have also grown considerably more demanding and extensive in recent years. However, the project's design costs remain generally in line with the 20% of construction cost percentage that is typical of other federal-aid rail trail projects nationwide. The City's investment in the design will leverage millions of dollars in federal and state transportation funds for construction of the new facility.

Phase II of the Clipper City Rail Trail will extend approximately 1.5 miles between the eastern edge of the central waterfront and Parker Street in Newbury, and will wind along the river shoreline, through the South End, and through the woodlands behind March's Hill. The multi-use trail will be accessible from a number of different cross streets and pathways, and will provide significant new opportunities for recreation, physical activity, neighborhood sociability, and an alternative transportation corridor connecting parks, neighborhoods, and the downtown. The project is a high priority for the City with

wide public support, and has been actively supported by multiple City Councils and Mayors during the past 15 years. The project is highlighted in the Master Plan, the Open Space Plan, and the Waterfront Strategic Plan. We are close to realizing a long-term vision for improving the City. Thank you for your consideration, and please let me know if you need any additional information.

* * *



Clipper City Rail Trail: Phase II



DESIGN PHASE BUDGET – Clipper City Rail Trail Phase II

CURRENT FUNDING (Design)

Community Preservation Act funds (2009-2014)	\$505,000
City Supplemental Budget (11/26/12)	\$105,000
Coastal Trails Coalition (2012 & 2014) donations	\$10,000

Total: **\$620,000**

UNFUNDED DESIGN PHASE COSTS:

NEPA Programmatic Categorical Exclusion	\$926
Chapter 91 License application	\$2,944
Section 106 Historic/Archaeological Review	\$840
Newburyport Wetlands Protection Act Variance	\$542
Shoreline erosion control plans	\$3,160
Newburyport Con Com NOI	\$5,074
Newbury Con Com NOI	\$3,012
Response to MassDOT 25% comments	\$9,920
Drainage revisions	\$4,653
MassDOT required plan changes	\$19,518
Printing multiple plans for 75% design review	\$2,845
100% design	\$20,984
Water Street overflow drainage survey and design	\$14,625
Preliminary right of way plans	\$35,240
Final lay-out plans	\$12,024
Lay-out survey plans for recording	\$15,000
Final Plans, Specifications, and Cost Estimates package	\$11,820
Construction Administration	\$35,000

Total: **\$198,127**

TOTAL DESIGN PHASE COSTS

Design & Permitting (existing Stantec contract)	\$604,783
Final Design & R.O.W.	\$163,127
Construction Administration	\$35,000
Underpass Lighting Design (Lumen Studios)	\$5,250
Miscellaneous	\$10,000

Total: **\$818,160**

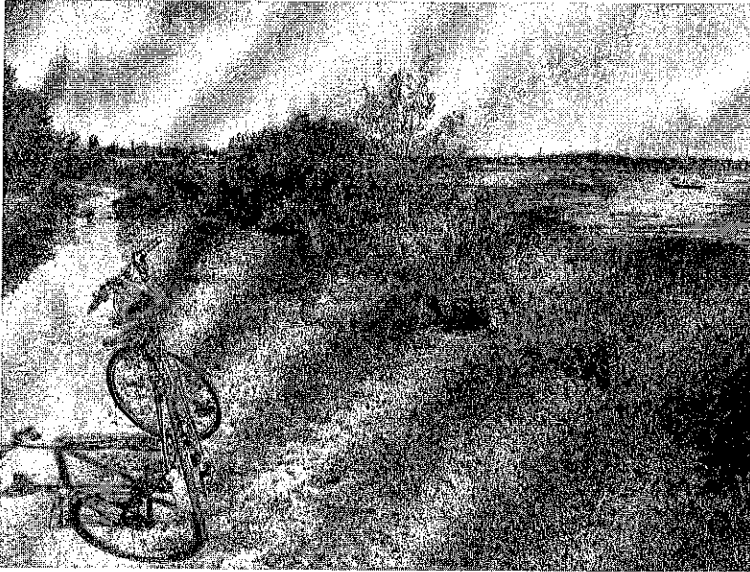
CONSTRUCTION COST (Federal and State):

itemized 75% cost estimate	\$3,358,424
construction contingency, escalation, resident engineer: 18%	\$604,516

Total: **\$3,962,940**

Clipper City Rail Trail Phase II:

Existing Conditions



River shoreline behind the WWTF



South End – City Branch Rail corridor



Southwest from the High Street underpass



Woodlands south of March's Hill

COMMUNICATIONS



RECEIVED
CLERK'S OFFICE
NEWBURYPORT, MA

JAN 28 - 8 P 1:25

January 7, 2015

Newburyport, MA City Council
60 Pleasant Street
Newburyport, MA 01950

To whom it may concern -

This letter is a formal request to consider an alternative reusable bag on behalf of CVS Health and the CVS Pharmacy retail location located in **Newburyport, MA** (Please see store information below).

Store #	Address	City	State	Zip
CVS Pharmacy # 1132	13-1/2 Pond Street	Newburyport	MA	01950

We recently received approval for these alternative bags by the city of Dallas and Austin, Texas, and would like to offer the same convenience to our customers located in your area. If you would, please review the information provided below, and inspect the samples accompanying this letter and provide a response to this request at your convenience. We are anticipating bringing these alternative bags into our plastic bag ban stores early 2015 and would like to include Newburyport, MA stores in this rollout.

Also included in this package please find;

- Confirmation of Recyclability Letter from Papier-Mettler/Manufacturer
- Papier-Mettler Blue Angel Award Letter
- Report # R14115 Rev 1. Sample Test Report dated 7/8/2014
- (2) Bag Samples

Large Bag

- 2.25 mil plastic
- 15" x 10" x 5"
- Soft loop 12" handle with 2 hanger holes
- Bottom gusset
- Consists of at least 80% post-consumer recycled (PCR) material
- Over 80% less consumption of fossil raw materials
- 100% recyclable
- Can be reused
- Can be disinfected or cleaned
- Can hold 22 pounds

Medium Bag

- 2.25 mil plastic
- 10" x 13" x 3"
- Die cut 12" handle
- Bottom gusset
- Consists of at least 80% post-consumer recycled (PCR) material
- Over 80% less consumption of fossil raw materials
- 100% recyclable
- Can be reused
- Can be disinfected or cleaned

Best Regards,

Heidi B. Nirk
Store Operations Senior Consultant
1 CVS Drive Woonsocket, RI 02895
Telephone: (401) 770-3941
Fax: (401) 733-0265
E-mail: Heidi.Nirk@CVSCaremark.com



PAPIER-METTLER

Papier-Mettler awarded with the new eco label „Der Blaue Engel“ (Blue Angel)

Plastic is not just plastic! The environmentally friendly Papier-Mettler ecoLoop carrier bags have always met the criteria of the „Der Blaue Engel“ eco label for years. The „Der Blaue Engel“ eco label sets the highest standards for recycled carrier bags. As of **1st July 2013** the standard requires not only the bags to have a **minimum recycled content of 80%**, but also the waste must go through an additional **washing process during recycling**. The washing process guarantees maximum process reliability and film stability. The benefit of the additional washing process is that the soiled post consumer material (PCR) is processed into the highest quality waste, which is then recycled into ecoLoop carrier bags.



The new directive of the eco label „Der Blaue Engel“ immediately replaces the previous one and so PCR carrier bags not only fulfil the national standards, but also meet the stringent European requirements of EuCertPlast and are certified to the EN 15343:2007.

Papier-Mettler is therefore **certified** to the latest directive and is permitted to use the „Der Blaue Engel“ eco label in the future. We were the first manufacturer in the carrier bag industry to overcome this hurdle and our hands-on experience ranges from early 1992. Since then Papier-Mettler has maintained this high standard in the recycling process, setting the pace in this industry and guaranteeing continuous high quality ecoLoop carrier bags.

The Papier-Mettler brand ecoLoop has now been established on the market for many years with steadily growing demand and high customer satisfaction. By saving large amounts of plastic, fossil resources are conserved, thus contributing to environmental protection. Catalytic exhaust air treatment and heat recovery systems already in use at the Papier-Mettler production facilities bring added benefits to the environment. Compared to virgin material carrier bags, ecoLoop carriers save **up to 60% CO₂**. Even the German Federal Environmental Office recommend using recycled carrier bags carrying the eco label „Der Blaue Engel“.

Contribute to environmental protection by using ecoLoop carrier bags from Papier-Mettler.

Papier-Mettler is the European market leader for service packaging made from paper and plastic and the global forerunner in green packaging solutions. Each year we use more than 35,000 tonnes of film waste and recycle them into ecoLoop carrier bags. Since opening the new recycling hall in 2012 we anticipate the capacity to increase to approx. 60,000 tonnes per year in 2015. We will have the largest recycling capacity in Europe.

ecoLoop carrier bags are manufactured in a **closed loop process**. Film waste is processed into recycled raw material which is then used to manufacture new carrier bags. You can see how plastic waste is recycled into carrier bags in our short information film at: www.papier-mettler.com/ecoloop-movie

Reap the benefits of our experience and expertise and join us in protecting the environment.





PAPER AND PLASTIC PACKAGING

PAPIER - METTLER * D-54493 MORBACH

CVS Health
Att. Kelly Parenteau
One CVS Drive
Woonsocket, RI, 02895

Your contact person:

Tracy McGrath
Tel.: (860) 628-6193
Cell: (860) 877-4983
e-mail: tracy.mcgrath@papier-mettler.com

Fax: (860) 628-6459

Date:

Ihr Zeichen

Ihre Nachricht vom

Unser Zeichen
NU/HuM

Unsere Nachricht vom
10 / 15 / 2014

Confirmation of Recyclability

Dear Ladies and Gentlemen,

Papier-Mettler confirms, that the Soft Loop Carrier bags we supply to CVS contain at least 80% Post-Consumer recycled material and will be marked with the standard sign for LDPE.

Furthermore we confirm, that based on the correct use of appropriate processes above a melting point of 110°C - 135°C / 230°F - 275°F these bags can be recycled into reusable recyclates again.

With kind regards,

PAPIER-METTLER
Papier- und Kunst-
stoffverpackungen

i. A. Dipl. Ing. (FH) Ulrich Nau
Forschung & Entwicklung



Report #: R14115 Rev. 1
Date: 07/08/2014

NEWBURY
2015 JUN -8 P 1:25
Test Report

CUSTOMER:

ATTENTION: Mr. Florian Kuhne

Mettler Packaging, LLC
31 Liberty Street, Suite 210
Southington, CT 06489
USA

Conclusion:

<u>Tested Samples</u>	<u>Standard</u>	<u>Result</u>
Green Reusable Bag	TCPH (CONEG) Protocol for Packaging Testing	Pass
	"Walk Test"	Pass
	ASTM D6988-08 Guage Test	Pass

SIGNED FOR THE COMPANY BY:

William M. Baumann
Laboratory Director

The test results stated in this report relate only to the item(s) tested. This test report may not be reproduced except in full, without written approval of AM Testing & Services.
Tests identified with an asterisk (*) have been subcontracted.

This report is issued by AM Testing & Services Inc. AM Testing & Services Inc.'s responsibility is limited to proven negligence and will in no case be more than the amount of the testing fees. Except by special arrangement, samples are not retained by AM Testing & Services Inc. for more than 30 days, and are the property of AM Testing & Services Inc. The results shown on this test report refer only to the sample(s) tested unless otherwise stated, under the conditions agreed upon. Anyone relying on this report should understand all of the details of the engagement. The name, seals, marks nor insignia of AM Testing & Services Inc. may not be used in any advertising or promotional materials without the prior written approval of AM Testing & Services Inc. The test report cannot be reproduced without prior written permission of AM Testing & Services Inc.

AM Testing & Services

11625 S. Mayfield Ave • Alsip, Illinois 60803 • Telephone: 708-907-5252 • AMTestinginc.com



Technical Report

Sample ID: Soft Loop Handle Bag

Sample No.

- 1) Substrate, white plastic handle
- 2) Substrate, plastic bag
- 3) Coating, green coating

Item 1: (CONEG) Protocol for Packaging Testing

Item 2: "Walk Test"

Item 3: ASTM D6988-08

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Technical Report

Item 1:	Results for Heavy Element testing according to CONEG TPCB Heavy Elements are listed below					
Heavy Elements						
Digestion Method:	EPA Method 3052: Total Digestion for all Elements					
Analysis Method:	EPA Method 6010C: ICP OES for Pb, Cd, Hg					
Analysis Method:	1,5-diphenylcarbazine colorimetric determination: UV-vis for Hexavalent Chromium					
Analyte		Lead (Pb)	Cadmium (Cd)	Mercury (Hg)	Chromium (Cr)	Total
Limit (mg/kg)		< 100 mg/kg Total				
Sample No.	Description	Results (mg/kg)				
1	Substrate, white plastic handle	BDL	BDL	BDL	BDL	3.838
2	Substrate, plastic bag	BDL	BDL	BDL	BDL	3.137
3	Coating, green coating	BDL	BDL	BDL	BDL	15.310

BDL = Below Detectable Limits mg/kg = milligrams per kilogram = ppm w/w

** Testing for Hexavalent Chromium is only needed if total is over 100mg/kg, so it is not needed for the samples listed above.

Item 2: "Walk Test"

Bag demonstrates the minimum lifetime capacity, including lifting, carrying 175 feet holding products weighing 22 pounds, placing bags down, and repeating 125 times.

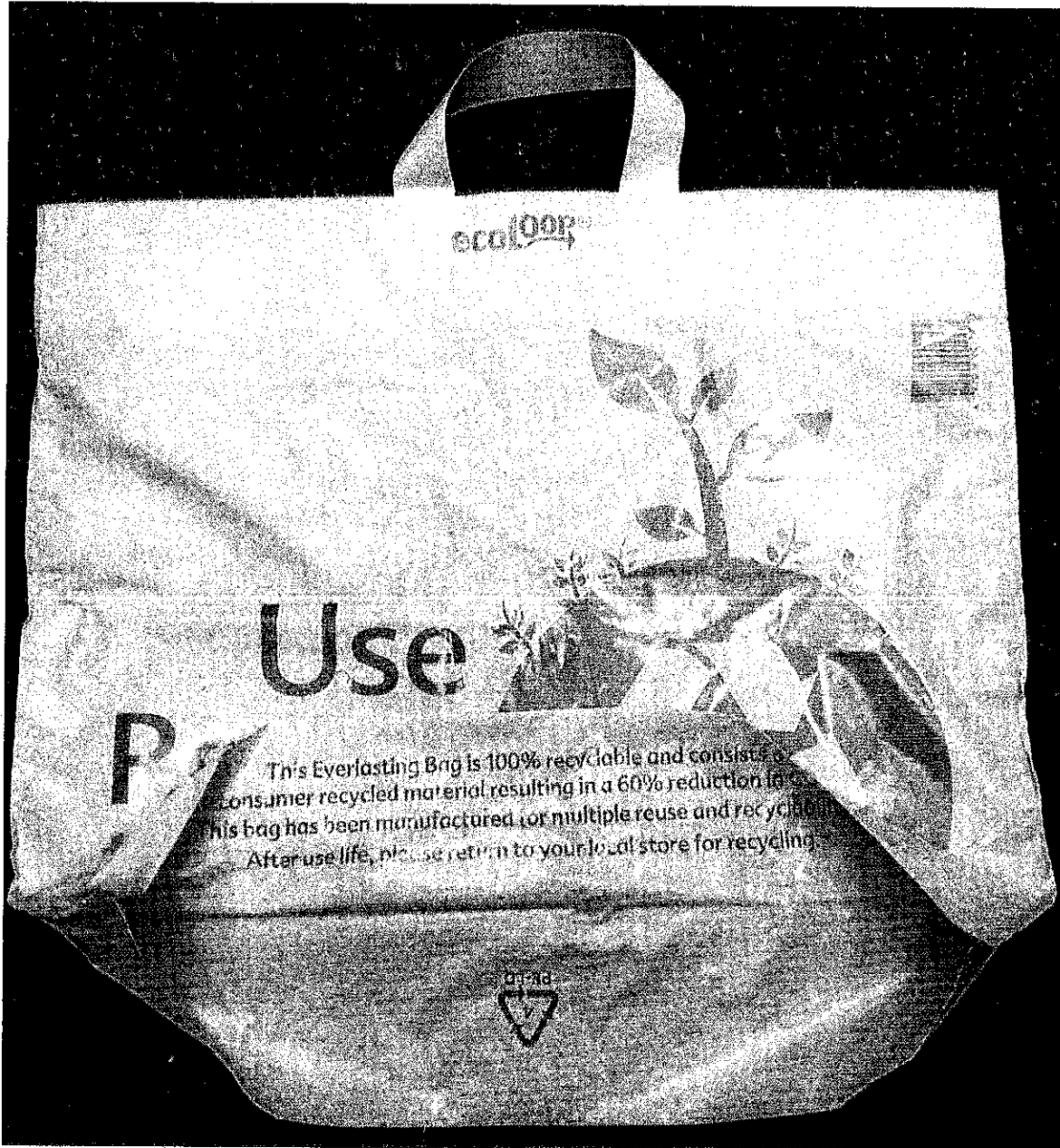
Item 3: Results for Film Thickness testing according to ASTM D6988 Film Thickness are listed below											
Standard is: 2.25 mils thick											
Sample No.	1	2	3	4	5	6	7	8	9	10	Total Average
Bag #1	2.15	2.20	2.40	2.40	2.20	2.25	2.20	2.40	2.25	2.15	2.26

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SAMPLE PHOTOS:



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*** END OF REPORT ***

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AM Testing & Services

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City OF NewburyportRECEIVED
CLERK'S OFFICE
NEWBURYPORT, MA
2015 JAN 20 P 2:05**APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE
OR ASSEMBLE SECOND HAND MOTOR VEHICLES
OR PARTS THEREOF**

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a CLASS II class license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? Maguire's Auto Repair and Sales

Business address of concern. No. 192C State St St.,
Newburyport City — Town.

2. Is the above concern an individual, co-partnership, an association or a corporation? _____

CO partnership

3. If an individual, state full name and residential address.

4. If a co-partnership, state full names and residential addresses of the persons composing it.

Ryan Leland Maguire

157 Whitehall Rd Amesbury MA 01913

Alan Mark Maguire

15 Lincoln Ave Salisbury MA 01902

5. If an association or a corporation, state full names and residential addresses of the principal officers.

President _____

Secretary _____

Treasurer _____

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? _____

If so, is your principal business the sale of new motor vehicles? _____

Is your principal business the buying and selling of second hand motor vehicles? Yes

Is your principal business that of a motor vehicle junk dealer? _____

7. Give a complete description of all the premises to be used for the purpose of carrying on the business.

Office space with Three Bay Shop.

8. Are you a recognized agent of a motor vehicle manufacturer? NO

(Yes or No)

If so, state name of manufacturer _____

9. Have you a signed contract as required by Section 58, Class 1? NO

(Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? NO

(Yes or No)

If so, in what city — town _____

Did you receive a license? _____

(Yes or No)

For what year? _____

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? NO

(Yes or No)

Sign your name in full _____

(Duly authorized to represent the concern herein mentioned)

Residence _____

IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH
FULL INFORMATION, AND FALSE STATEMENTS
HEREIN MAY RESULT IN THE REJECTION OF
YOUR APPLICATION OR THE SUBSEQUENT
REVOCATION OF YOUR LICENSE IF ISSUED.

NOTE: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)

**CITY OF NEWBURYPORT
APPROVED
ELECTION CALENDAR**

January 26, 2015

1. Friday, July 31, 2015 at 5:00 p.m. – Last day and hour to obtain nomination papers (M.G.L. Ch.53, Section 9A).
2. *Tuesday, August 4, 2015 at 5:00 p.m. – Last day and hour to submit nomination papers to the Board of Registrars of Voters for certification of signatures (M.G.L. Ch.53 Section 7A).
3. Friday August 14, 2015 at 10:00 a.m. – Drawing by lot, of positions on ballot for **Preliminary Election of September 14, 2015** in Council Chamber
4. Tuesday, August 18, 2015 at 5:00 p.m. – Last day and hour to submit nomination papers certified by Board of Registrars to City Clerk (M.G.L. Ch. 53, Section 10).
5. Thursday, August 20, 2015 at 5:00 p.m. – Last day and hour to file withdrawals of/or objections to nomination papers with the City Clerk. (M.G.L. Ch. 55B, Section 7).
6. Wednesday, September 2, 2015 at 8:00 p.m. – Last day and hour to register voters for **Preliminary Election** (M.G.L. Ch. 51, Sections 26, 28).
7. Tuesday, September 22, 2015 – **Preliminary Election** (if necessary) – M.G.L. Ch. 54, Section 103P)
8. Friday, Sept. 25 at 10:00 a.m. – Drawing by lot, of positions on ballot for **Municipal Election of November 3, 2015** in Council Chamber
9. Monday, September 28, 2015 at 5:00 p.m. – Last day and hour to file recount petition with City Clerk (M.G.L. Ch. 54, Section 135).
10. Wednesday, October 14, 2015 at 8:00 p.m. – Last day and hour to register voters for **Biennial Municipal Election** (M.G.L. Ch. 51, Sections 26, 28).
11. Tuesday, October 27, 2015 – Last day to post warrant (MGL Ch.54 Sec. 65)
12. **Tuesday, November 3, 2015 – Biennial Municipal Election**
13. Monday, November 16, 2015 at 5:00 p.m. – Last day and hour to file recount petition with City Clerk (M.G.L. Ch. 54, Section 135).

*Board of Registrars need not certify more names than required plus 20%.

Certified signatures of at least fifty (50) voters are the minimum necessary for placement on the preliminary ballot (M.G.L. Ch. 43, Section 44C).

**APPOINTMENTS
FIRST READING**



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR

60 PLEASANT STREET - P.O. Box 550
NEWBURYPORT, MA 01950
978-465-4413 PHONE
978-465-4402 FAX

Re-Appointment #1
January 26, 2015

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2015 JAN 20 A 10:20

To: President and Members of the
City Council

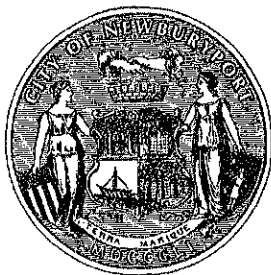
From: Donna D. Holaday, Mayor

Date: January 14, 2015

Subject: Re-Appointment

I hereby re-appoint, subject to your approval, the following
named individual as Electrical Inspector. This term will
expire on January 31, 2016.

David Zinck
6 Laurel Road
Newburyport, MA 01950



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR

60 PLEASANT STREET - P.O. Box 520
NEWBURYPORT, MA 01950

978-465-4413 PHONE

978-465-4402 FAX

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: January 14, 2015
Subject: Re-Appointment

Donna D. Holaday

I hereby re-appoint, subject to your approval, the following
named individual as Building Inspector. This term will
expire on January 15, 2018.

Gary Calderwood
3 Howard Street
Newburyport, MA 01950

END OF CONSENT AGENDA
BEGINNING OF REGULAR AGENDA

**APPOINTMENTS
SECOND READING**

MAYOR'S APPOINTMENTS
January 26, 2015
SECOND READING

APPOINTMENTS

1. Marian Leighton Levy 323 Merrimac St. Fruit Street Local Historic Dist. Dec. 1, 2017

RE-APPOINTMENTS

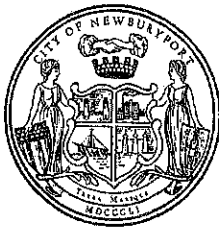
2. James D. O'Brien 8 67th Street. Conservation Commission June 1, 2017

In City Council January 12, 2015

Motion to approve the consent agenda as amended by Councillor Cameron, seconded by Councillor Giunta. So voted.

ORDERS

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

November 24, 2014

THAT pursuant to General Laws Chapter 82, Sections 21 and 32A the City Council of the City of Newburyport hereby abandon and discontinue permanently a portion of Harnch's Way (a public way) as shown on a plan, a copy of which is on file with the City Clerk and Office of Planning & Development, entitled "*2 Ferry Road Discontinuance*," prepared by DGT Survey Group - North Shore and dated 10-12-12. Said portion of Harnch's Way hereby abandoned and discontinued is bounded and described, according to said plan, as the area labeled "Portion of Harnchs Way to be Discontinued," consisting of approximately 731 sq.ft.

Said portion of Harnch's Way is hereby declared abandoned and is unused for ordinary travel and the common convenience and necessity no longer requires this portion of the public way to be maintained in a condition reasonably safe and convenient for travel. The City shall no longer be bound to keep such way or portion thereof in repair.

Councillor Thomas F. O'Brien
Councillor Larry Giunta, Jr.

In City Council November 24, 2014

Motion to refer to Planning & Development by Councillor Connell, seconded by Councillor Cameron. Motion withdrawn. Motion to Table by Councillor Giunta, seconded by Councillor Cameron. So voted.

In City Council December 8, 2014

Motion to remove from the Table by Councillor Cameron, seconded by Councillor Giunta. So voted. Motion to Table by Councillor Cameron, seconded by Councillor Giunta. So voted.

In City Council January 12, 2015

Motion to remove from the Table by Councillor Cronin, seconded by Councillor Cameron. So voted. Motion to Table by Councillor Cronin, seconded by Councillor Vogel. So voted.

CITY OF NEWBURYPORT



IN CITY COUNCIL

January 26, 2015

ORDERED:

Whereas, on the 27th day of January, 2014, the City of Newburyport accepted the provisions of Chapter 32B, Section 20 of the Massachusetts General Laws, as amended by Chapter 68, section 57 of the Acts of 2011 (the "Act"), authorizing the creation of a Trust Fund for Other Post-Employment Benefits ("OPEB Trust Fund");

Whereas, on the 27th day of January, 2014, the City of Newburyport appropriated \$25,000.00 for the purpose of establishing an OPEB Trust Fund;

Whereas, the City of Newburyport received \$549,772.44 in settlement proceeds as a result of a class action products liability lawsuit brought against manufacturers and distributors of gasoline containing Methyl Tertiary Butyl Ether ("MTBE");

Now therefore, be it **Ordered** that:

In accordance with the Act, the City of Newburyport hereby designates the Health Care Security Trust (HCST) board of trustees to serve as custodian of the City of Newburyport's OPEB Trust Fund;

The Treasurer/Collector, acting on behalf of the City of Newburyport, be authorized to execute and deliver the Custodian and Investment Agreement with HCST in substantially the form attached hereto, to sign checks and wire OPEB Trust Funds to HCST or to the Pension Reserves Investment Trust, or as it may otherwise be directed by HCST, and to make withdrawals and investments and enter into such agreements and deliver such certificates and other documents as HCST or the Pension Reserves Investment Management Board may direct; and

The sum of \$549,772.44, together with the prior appropriation of \$25,000.00, be appropriated as a total initial investment of \$574,772.44 into the OPEB Trust Fund.

Councillor Charles F. Tontar



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY

60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4413 • (978) 465-4402 (FAX)
WWW.CITYOFNEWBURYPORT.COM

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2015 JAN 20 P 3:58

January 20, 2015

President and Members of the City Council:

Last January, the City took an important step in addressing the \$48 million liability related to Other Post-Employment Benefits (OPEB) by accepting legislation that allowed for the creation of an OPEB Trust Fund, with an initial appropriation of \$25,000. Subsequently, the City received a credit rating upgrade from AA to AA+ by Standard & Poor's (S&P), who recognized that the City was working to confront this liability.

We met with S&P again this past fall, prior to our most recent bond issuance. During the meeting, it was made clear that a common attribute among AAA rated communities, of which there are 52 towns and only 2 cities in Massachusetts, is that they have all made significant efforts to fund OPEB.

S&P advised that, if the City were to receive any large one-time payments such as a legal settlement, it would be prudent for the City to use those monies to help fund OPEB. As you know, the City was included in the settlement of a class action products liability lawsuit brought against manufacturers and distributors of gasoline containing Methyl Tertiary Butyl Ether (MTBE). In December, the City received its share of the class action suit, amounting to \$549,772.44 after legal fees.

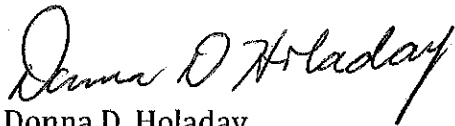
As you may remember, the City began the process of setting up the OPEB Trust Fund last January. The enclosed order is consistent with that commitment to account for our OPEB liability by making a sizeable appropriation to the Fund. In doing so, it allows the City to meet the minimum investment requirement of \$250,000 needed to invest through the state's Pension Reserves Investment Trust (PRIT). By investing through the PRIT, the state's trust fund takes advantage of economies of scale and offers participation in the PRIT Core Fund to local government entities at fees that are significantly lower than the City could obtain on our own. Pooling our funds with the state also gives the City access to investment opportunities that would otherwise be unavailable to us, such as private equity (venture capital, special equities or buyouts), directly owned private real estate, private debt and hedge funds, which all help to mitigate overall portfolio risk because of their low correlation to traditional stock and bond portfolios.

Over the past several decades, the increasing cost of retiree health benefits for municipal employees has resulted in an estimated liability of over \$40 billion, state-wide. We have made significant strides in reducing our liability over the past few years with decreases in our actuarial evaluation from \$64.8M in FY11 to \$47.9M in FY13 due in large part to a more favorable plan experience than was originally projected. This contribution to the OPEB Trust Fund is another step in helping to address this significant liability and in working to improve our profile in the eyes of the bond rating agencies.

As I have said in the past, while it makes sense to put funds aside to address our OPEB liability, we must continue to work to reduce the actual healthcare costs that produce this looming financial burden. I am hopeful that this will continue to be an area of focus for the new Baker Administration as well as our state legislators.

I respectfully request your approval of this order before you.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna D. Holaday". The signature is fluid and cursive, with the first name "Donna" and last name "Holaday" clearly distinguishable.

Donna D. Holaday

Mayor

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 26, 2015

THAT the City Council of the City of Newburyport on behalf of the City accepts with gratitude the donation of \$85,000.00 from the Mayor Gayden W. Morrill Charitable Foundation, funds to be used as indicated in a letter to Mayor Dona D. Holaday from Robert D. Morrill, Trustee, dated November 8 2014.

Councillor Thomas F. O'Brien

**ROBERT D. MORRILL
8396 SW SNAPDRAGON COURT
STUART, FLORIDA 34997**

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA
2015 JAN 16 A 11:06

November 8, 2014

Hon. Donna D. Holaday, Mayor
City of Newburyport
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Morrill Foundation Funding Directive

Dear Madam Mayor,

This letter acknowledges the trustees meeting at City Hall on September 5, 2014 where we were presented with a number of proposed projects for 2015. We subsequently deliberated over the options and have decided how to allocate the \$85,000.00 available for next year.

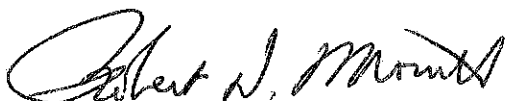
The monies will be applied as follows:

1. Atwood Park Improvement Project-- \$28,165.00 has been allocated for the following specific requests. Purchase 10 trees-\$6,000.00, Purchase shrubs(boxwood)-\$540.00, Install trees & shrubs-\$3,000.00, Remove stumps-\$1000.00, Repair damaged brickwork-\$3,500.00, Lawn renovation-\$3500.00, Central garden renovation-\$6,225.00, Benches(2), (including delivery & installation)-\$4,400.00. Again the total allocation is \$28,165.00.
2. Joppa Park Improvement Project-- \$15,135.00. This money is to support the lawn renovation and specifically for upgrading the soil and seeding.
3. Cushing Park Improvement Project-- \$20,000.00. The money is to be used for creating a landscape buffer abutting the residential properties. New lawn, trees and a tall hedge up against the residential property line.
4. Senior Community Center-- \$10,000.00. The money is to be applied to Exterior Site Improvements and specifically Raised planters, Patio trellis, and Patio trellis footing 1' dia., which is to comprise a self contained area for a Senior Working Garden and seating area. It is understood that further enhancements may be required for this area and another similar contribution will be considered.
5. Belleville Improvement Society-- Atkinson Common--\$11,700.00. The monies are to be used to remove and restore the base surface in the "Lily Ponds".

I know that the City Council will have to formally accept these funds at its December meeting. After notification of their acceptance, and the turn of the year, The Mayor Gayden W. Morrill Charitable Foundation will send a check to the City.

In the meantime, we hope that all in Newburyport will have a wonderful Thanksgiving, a Blessed Christmas, and a safe, joyous, and prosperous New Year.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert D. Morrill".

Robert D. Morrill

cc: James Agrippa Morrill, James Astle Morrill, Mary Haslinger, Lise Reid, Robert R. Uhlig, Kimberly Turner, Geordie Vining, Jack Grady, Peter DeMaranville.

ORDINANCES

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 12, 2015

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

Section III-C: Zoning Map

THAT the Zoning Map of said Zoning Ordinance entitled "Zoning Map of the City of Newburyport" be amended pursuant to Section III-D "Changes to Zoning Map" such that a portion of the R3 Zone between Route 1 and State Street is hereby changed to an R2 Zone, said area to include all such parcels of land so depicted on the attached map entitled "Back Bay Neighborhood Zoning Change - Revised Proposal (from neighborhood petition)," prepared by the Office of Planning & Development and dated December 17, 2014.

Councillor Robert J. Cronin

In City Council January 12, 2015

Motion to approve first reading and order published and to waive the rules to join with the matter in committee by Councillor Cronin, seconded by Councillor Cameron. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

December 8, 2014

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED TRAFFIC AND MOTOR VEHICLES

Be it ordained by the Newburyport City Council:

Chapter 13	Traffic and Motor Vehicles
Article 4	Specific Street Schedules
Division 6	Stopping, Standing, and Parking
Section 13-184	Handicapped Parking Regulations

EDIT first sentence to change M.G.L.A. to M.G.L.

ADD in the first sentence of (1), "For" in front of the word "requiring."

REPLACE in the first sentence of (1)(a), "Any ordinance or by-law made hereunder shall require" with "This section requires."

DELETE (b) and all subsequent text, **REPLACE** as follows:

(b) Parking spaces designated as reserved under paragraph (a) shall be identified by the use of above-grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense". The spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person and shall be at least 8 feet wide, not including the cross hatch access aisle as defined by the architectural access board established in section 13A of chapter 22. The cross hatch access aisle abutting a handicapped parking space shall be considered part of the handicapped parking space to which it abuts to provide individuals who use wheelchairs or other mobility aids with sufficient space to enter and exit their vehicles. No person shall park in the cross hatched access aisle.

(2) For prohibiting or regulating the standing or leaving of vehicles unattended within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons and within certain other areas.

(a) This section prohibits leaving unauthorized vehicles within parking spaces, including the cross hatch areas, designated for use by disabled veterans or handicapped persons as authorized by clause one (1) or in such a manner as to obstruct a curb ramp designed for use by a handicapped person as a means of egress to a street or public way.

(b) The penalty for a violation made under this section is \$100 for the first offense and \$200 for each subsequent offense; and the vehicle may be removed in accordance with section 22D. This penalty is not a surchargeable offense under section 113B of chapter 175.

Councillor Ari B. Herzog

In City Council December 8, 2014

Motion to refer to Public Safety by Councillor Cronin, seconded by Councillor Herzog. So voted.

In City Council January 12, 2015

Motion to remove by Councillor Cronin, seconded by Councillor Herzog. So voted. Motion to approve first reading and order published by Councillor Cronin, seconded by Councillor Herzog. Roll call vote, 9 yes, 2 absent (Eigerman, Tontar). So voted.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 26, 2015

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED TRAFFIC AND MOTOR VEHICLES

Be it ordained by the City Council of the City of Newburyport as follows:

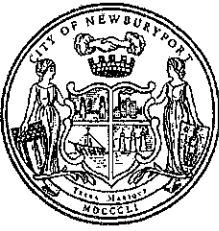
Chapter 13	Traffic and Motor Vehicles
Article 4	Specific Street Schedules
Division 6	Stopping, Standing and Parking
Section 13-174	Parking limited—Generally

Delete from the table:

State	For a period longer than four (4) hours between the hours of 6:00 a.m. to 7:00 p.m. during weekdays, excluding holidays, on the westerly side from the intersection of Route 1 and State Street and continuing in a northerly direction approximately 1,250 feet.
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Councillor Jared J. Eigerman

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 26, 2015

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED TRAFFIC AND MOTOR VEHICLES

Be it ordained by the City Council of the City of Newburyport as follows:

Chapter 13	Traffic and Motor Vehicles
Article 4	Specific Street Schedules
Division 6	Stopping, Standing and Parking
Section 13-168	Parking restricted on certain streets.

Add:

Norman Avenue	No parking between the hours of 7:00 a.m. and 9:00 a.m. and 2:00 p.m. and 4:00 p.m., weekdays, excepting holidays on the south side and north side from Murphy Avenue for a distance of 170 ft running in an easterly direction.
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Councillor Larry G. Giunta, Jr.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 26, 2015

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED TRAFFIC AND MOTOR VEHICLES

Be it ordained by the City Council of the City of Newburyport as follows:

Chapter 13	Traffic and Motor Vehicles
Article 4	Specific Street Schedules
Division 6	Stopping, Standing and Parking
Section 13-168	Parking restricted on certain streets.

Add:

Murphy Avenue	No parking on both sides with the exception of the area running for a distance of 100 feet from Low Street wherein there shall be no parking on both sides between the hours of 7:00 a.m. and 9:00 a.m. and 2:00 p.m. and 4:00 p.m., weekdays, excepting holidays.
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Councillor Larry G. Giunta, Jr.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 26, 2015

AN ORDINANCE TO AMEND AN ORDINANCE TO LIMIT THE USE OF THIN-FILM PLASTIC BAGS WITH INTEGRAL HANDLES

Be it ordained by the City Council of the City of Newburyport as follows:

General Ordinance Amendment:

CHAPTER 6.5: ENVIRONMENT

ARTICLE III: PLASTIC SHOPPING BAGS

Section 6.5-48. Effective Date

DELETE:

To facilitate compliance by retail establishments, this Article shall take effect one-hundred and eighty (180) days from the date that the mayor approves this Article or it otherwise comes into force. During such period of suspension, the city shall direct an effort to educate retail establishments about this Article.

ADD:

To facilitate compliance by retail establishments, this Article shall take effect on December 1, 2015. During such period of suspension, the city shall direct an effort to educate retail establishments about this Article.

Councillor Thomas F. O'Brien

Councillor Robert J. Cronin

CITY OF NEWBURYPORT



IN CITY COUNCIL

January 26, 2015

ORDERED:

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED TRAFFIC AND MOTOR VEHICLES

Be it ordained by the City Council of the City of Newburyport as follows:

Chapter 13	Traffic and Motor Vehicles
Article 4	Specific Street Schedules
Division 6	Stopping, Standing and Parking
Section 13-180	Resident parking.

Preamble. Resident parking zones may be established: (1) where a bona fide hardship exists caused by unique or special conditions; and/or (2) where the city has imposed one- or two- or four- hour parking limits on residential streets bordering commercial zones; and/or (3) where the residents of these residential districts suffer from unreasonable burdens in gaining access to their residences.

(a) Definitions. As used in this section:

- (1) *Residential parking zone* shall mean a contiguous or nearly contiguous area containing public highways or parts thereof primarily abutted by residential property or residential and business property.
- (2) *Residential parking permit zone* shall mean a residential district where curbside parking on public highways is limited to not more than two or four consecutive hours between 8:00 a.m. and 6:00 p.m. Monday - Saturday, excepting Sundays and holidays, unless the vehicle properly displays a parking permit authorized by this section.
- (3) *Resident only parking zones* shall mean a residential district where curbside parking on public highways is restricted to vehicles of residents that properly display a parking permit authorized by this section.

(b) Posting of residential parking permit signs.

- (1) Following the city's approval to designate a residential parking permit zone, parking signs shall be erected in the designated area.
- (2) The signs shall be of such character as to inform readily an ordinarily observant person that curbside parking on public highways in designated area is limited to not more than two (2) or four (4) consecutive hours, unless the vehicle properly displays a parking permit authorized by this section.
- (3) The signs for the resident only parking zones shall be of the same character as other parking signs and shall clearly show that parking is restricted to residents only.

(c) Issuance of residential parking permits.

- (1) Any person over the age of sixteen (16) who resides within the residential parking zone may apply for a residential parking permit by completing and signing an application designed to provide the following information:
 - a. The name and residential address of the owner of the vehicle;
 - b. The name, residential address and driver's license number of the principal operator of the vehicle;

- c. The make, model, color and registration number of the vehicle;
 - d. The number of vehicles whose owners or principal operators reside at the applicant's residence and the number of off-street parking spaces available for such vehicles within the residential parking permit zone.
- (2) Reserved.
- (3) No residential parking permit shall be issued for a vehicle whose owner or principal operator does not reside within the residential parking permit zone or which is not registered in the Commonwealth of Massachusetts unless such registration is not required.
- (4) Whenever the parking clerk or his designee shall find that the applicant qualifies under the provisions of this section for a residential parking permit, he shall issue to the applicant one (1) residential parking permit for the vehicle described in the application.
- (5) The residential parking permit shall contain the following information:
 - a. The registration number of the vehicle;
 - b. The designation of the residential parking permit zone;
 - c. The expiration date of the permit which shall be December 31st of the year in which it is issued.
- (d) ***Renewal and transfer of permits.***
 - (1) Upon submission of evidence to the parking clerk that he or she is still qualified for a residential parking permit, a holder of a valid permit for the previous year shall be entitled to a new residential parking permit for the current year.
 - (2) Upon surrender of his or her existing residential parking permit and completion of a new application, the holder of a valid residential parking permit shall receive a new parking permit to be transferred to another qualifying vehicle.
- (e) ***Use of residential parking permits.***
 - (1) A parking permit shall not guarantee or reserve a parking space nor shall it excuse the observance of any traffic or parking regulation other than the time limit on parking.
 - (2) It shall be a violation of this section to use a permit in any residential parking permit zone other than the one for which the permit was issued.
 - (3) It shall be a violation of this section to obstruct access to driveways of residences in the parking zone.
 - (4) The parking permit does not excuse the resident from moving all vehicles from public streets during a declared snow emergency.
 - (5) Display of sticker; the sticker is to be placed on the front windshield, driver's side, lower left corner.
- (f) ***Visitor parking permits.*** The parking clerk shall also coordinate the issuance of one portable visitor parking permit placards per household which shall be used by visitors of the residents of the zone. Visitor permits will not be replaced if lost. The visitor permit shall be used only while visitors are actually visiting the household to which the permits are issued. The permit must be fully visible and readable from the exterior of the vehicle. Such placards are to be displayed on the front dashboard, directly above the steering mechanism of the vehicle. Such placards shall be returned to the resident at the conclusion of the visit. Any abuse in the use of a visitor parking permit placard shall result in the revocation of the permit by the parking clerk.
- (g) ***Designation of two (2) hour residential parking permit zones.***
 - (1) ***Zone 1:*** Includes the following streets between State Street and Fair Street:
 - Charter Street.
 - Essex Street.
 - Garden Street.
 - Liberty Street.

Middle Street.
Otis Place.
Prospect Street.
Temple Street.

- (2) **Zone 2:** Includes the following streets between Fair and Federal:

Middle Street.
Temple Street.
Spring Street.

- (3) **Zone 3:**

- (a) Fair Street, on the easterly side between Liberty Street and Water Street, and on the westerly side, between Liberty Street and southerly edge of driveway at 2 Fair Street.

- (4) **Zone 4:** Includes the following streets or portions thereof designated:

- (a) Arlington Street, both sides from Highland Avenue to the northerly end of those properties known as #23 and #24 on each side of the street respectively.
- (b) Lafayette Street, both sides from Highland Avenue to the northerly end of those properties known as #18 and #25 on each side of the street respectively.
- (c) Cherry Street.
- (d) Hill Street.
- (e) Bricher Street.
- (f) Titcomb Street, both sides from the way known as Brown Square to Washington Street.
- (g) Green Street, on the west side running in a northerly direction from Washington Street for a distance of one hundred (100) feet.
- (h) Washington Street, on the north side running in a westerly direction from Green Street for a distance of one hundred twenty (120) feet.
- (i) Pleasant Street, both sides from the property at 66 Pleasant Street to Titcomb Street.
- (j) Winter Street, beginning at the corner of Washington Street and proceeding southerly on Winter Street to High Street.
- (k) State Street, beginning at 184 State Street and proceeding southerly to the end of said State Street on the westerly side.

- (h) **Designation of four (4) hour residential parking permit zones.**

- (1) **Zone 5:** Includes the following streets or portions thereof designated:

- (a) State Street, on the westerly side from the intersection of Route 1 and State Street and continuing in a northerly direction approximately 1,250 feet.

- (i) **Resident only parking.**

Ashland Street.

Beginning at the lower corner of Ashland Court and proceeding northerly on the westerly side of Ashland Street to a point 6 feet north of the property line between 2 Ashland Street and 345 Merrimac Street.

Beginning at the lower corner of Ashland Court and proceeding northerly on the easterly side of Ashland Street to Merrimac Street.

Councillor Jared J. Eigerman

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

JANUARY 26, 2015

A ZONING ORDINANCE ESTABLISHING THE NEWBURYPORT SMART GROWTH DISTRICT (SGD)

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

APPENDIX A: ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

SECTION XXIX: SMART GROWTH DISTRICT (SGD)

Appendix A to the Code of Ordinances, City of Newburyport, Massachusetts, is hereby amended by adding a new section, to be numbered Section XXIX, which reads as follows:

SECTION XXIX: SMART GROWTH DISTRICT (SGD)

- XXIX-A Purposes
- XXIX-B Establishment & Applicability
- XXIX-C Definitions.
- XXIX-D Permitted Uses.
- XXIX-E Prohibited Uses.
- XXIX-F Dimensional & Parking Requirements.
- XXIX-G Requirements for Housing Affordability.
- XXIX-H Permitting Procedure & Criteria for Approval.
- XXIX-I Design Standards.
- XXIX-J Mitigation of Development Impacts
- XXIX-K Appeals.
- XXIX-L Severability.

XXIX-A Purposes.

The purpose of this Section (XXIX) is to establish the Newburyport Smart Growth District (SGD) and to encourage "Smart Growth" in accordance with the purposes of M.G.L. Chapter 40R consistent with the 2001 Newburyport Master Plan, 2015 Master Plan Update, and 2004 Strategic Land Use Plan. Other objectives of this Section are to:

1. **Concentrate New Infill Development Close to the Newburyport Commuter Rail Station:** Allow for the alternative development and redevelopment of sites in close proximity to the Newburyport Commuter Rail Station characterized by a mix of residential and nonresidential uses, pedestrian-oriented design and connectivity, transportation choice, and high quality urban design;
2. **Encourage Sustainable Mixed Use Development:** Downtown Newburyport has historically contained a mix of uses: retail, office, residential, and governmental, all of which collectively contribute to the community center character. New mixed-use development within the SGD should contribute to the overall mix of uses in proximity to the Newburyport Commuter Rail Station, consistent with this historic pattern of development, creating a compact, sustainable, walkable and vibrant new neighborhood. Newburyport's historic development pattern serves the modern planning concept of "transit-oriented development," with decreased dependence on the automobile. New residences, restaurants, and commercial development in close proximity will encourage people to live, work, and shop within this new district of Newburyport. Mixed use development will add to the employment, residential, commercial and cultural opportunities and enrich the varied societal life of Newburyport.
3. **Increase the Range of Housing Choices within the Newburyport and the District:** Encourage the development of housing units of varied types, sizes and affordability, including the creation of rental units in high demand;
4. **Beautify and Enliven this New Center:** New development and redevelopment should create a livable and vibrant new center, greatly enhancing the character of this underdeveloped area adjacent to the Commuter Rail Station and Route One Traffic Circle, with community amenities, including sidewalks, crosswalks, street trees, lighting, and pedestrian oriented spaces, making connections to open spaces and public transportation.
5. **Balance Unity & Variety & Create Legibility:** The design standards required for development within the SGD (see Section XXIX-I) are intended to ensure that new buildings are compatible with the vernacular Newburyport architecture and development patterns while promoting variety and creativity. Legibility of spaces is especially encouraged by way of a clear definition of public, semi-public, semi-private, and private zones; residential, retail, commercial and public uses; usable open spaces and enclosed building volumes; and vehicular and pedestrian areas.
6. **Establish High Quality Development Standards:** New development should be consistent with the Design Standards found in Section XXIX-I. New construction should respect the patterns of New England construction that have and continue to define historical Newburyport, including reinforcing the street line by moving the buildings next to the sidewalk in commercial areas, thereby creating an intimately scaled rhythm of human-scale façade features.
7. **Promote Sustainable Development:** Foster high-quality, compact development on existing and adequate municipal infrastructure using sustainable construction techniques and materials. Water conservation and energy efficiency should be a central goal in the selection of building components and building systems.
8. **Ensure Fair & Predictable Permitting:** Establish clear requirements, standards, and guidelines for new development and re-development, and ensure predictable, fair and cost-effective development review and permitting; and
9. **Allow for Incentive Payments from the Commonwealth:** Enable the City to receive Zoning Incentive

XXIX-B Establishment & Applicability.

1. **Establishment:** The Smart Growth District (SGD) is hereby established as an overlay zoning district consisting of all such parcels of land depicted on a map entitled "40R Smart Growth District – Newburyport, MA," prepared by the Office of Planning and Development, and dated January 20, 2015. The Smart Growth District, hereinafter referred to as the SGD, is an overlay district having a land area of approximately 49.56 acres in size that is superimposed over the underlying zoning district(s) and is shown on the above zoning map on file in the Office of the City Clerk, which is hereby made a part of the Zoning Ordinance.
2. **Underlying Zoning:** The SGD is an overlay district superimposed on all underlying zoning districts. The regulations for uses, dimensions, and all other provisions of the Zoning Ordinance governing the underlying zoning district shall remain in full force except for those Projects undergoing development pursuant to this Section. Within the boundaries of the SGD, a developer may elect either to develop a Project in accordance with the requirements of this Section, or to develop in accordance with requirements of the regulations for uses, dimensions, and all other provisions of the Zoning Ordinance governing the underlying zoning district.
3. **Applicability of SGD.** In accordance with the provisions of M.G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the SGD may seek Plan Approval in accordance with the requirements of this Section. In such case, notwithstanding anything to the contrary in this Zoning Ordinance, such application shall not be subject to any other provisions of this Zoning Ordinance, including limitations upon the issuance of building permits related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations.

XXIX-C Definitions

For purposes of this Section, the following definitions shall apply. To the extent that there is any conflict between the definitions set forth in this Section or the Enabling Laws (M.G.L. Chapter 40R and 760 CMR 59), the terms of the Enabling Laws shall govern.

Affordable Housing – Housing units that are affordable to and occupied by Eligible Households, for which affordability is assured for a period of no less than 30 years through the use of an Affordable Housing Restriction.

Affordable Housing Restriction – A deed restriction of Affordable Housing meeting the requirements of Section XXIX-G(5), the statutory requirements in M.G.L. Chapter 184, Section 31, the standards set out in 760 CMR 56.03(2) and the Massachusetts Department of Housing and Community Development's (DHCD's) applicable guidelines for eligibility on Newburyport's Subsidized Housing Inventory (SHI).

Affordable Rental Unit – An Affordable Housing unit required to be rented to an Eligible Household.

Apartment Building – A building consisting of three or more dwelling units.

Applicant – The individual or entity that submits a Project for Plan Approval.

As-of-right – A use allowed under Section XXIX-D without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections XXIX-H through shall be considered an As-of-right Project subject only to the requirements of this Section.

Developable Land – All land within the SGD that can be feasibly developed into a Project. Developable Land shall not include:

- (1) Existing or future Open Space;
- (2) Rights-of-way of existing public streets, ways, and transit lines;
- (3) Land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or
- (4) Areas exceeding one-half acre of contiguous land that are:
 - (a) protected wetland resources under federal, state, or local laws;
 - (b) rare species habitat designated under federal or state law;
 - (c) areas of steep slopes with an average gradient of at least 15%; or
 - (d) land subject to any other local ordinance, by-law, or regulation in effect as of the effective date of this ordinance, that would prevent the development of a residential Project at the As-of-right residential densities set forth in this Section.

Eligible Household – Individuals and families whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size and using HUD's rules for attribution of income to assets

Enabling Laws – G.L. Chapter 40R and 760 CMR 59.00.

Mixed Use – For the purposes of this section, mixed use shall mean a combination of multi-family residential and non-residential uses listed in Section XXIX-D(1)(b), where such uses are placed on the first floor of a multi-story structure or in a separate structure on the same site as a multi-family residential structure.

Monitoring Agent – A qualified housing entity designated by the developer with approval of the Plan Approval Authority pursuant to this Section for the purposes of reviewing, implementing and monitoring the affordability requirements affecting Projects permitted under this Section.

Multi-family Residential Use -- For purposes of this section, "multi-family residential use" shall mean apartment or condominium units in buildings that contain or will contain more than three such units.

Open Space – Land dedicated in perpetuity to protect one or more of the following: land for existing and future well fields, aquifers, and recharge areas; watershed land; agricultural land; grasslands; fields; forest land; fresh and salt water marshes and other wetlands; ocean, river, stream, lake and pond frontage; beaches, dunes, and other coastal lands; lands to protect scenic vistas; land for wildlife or nature preserves; land for recreational use; parklands, plazas, playgrounds, and reservations; and cemeteries. Open Space may be in public, private, or nonprofit ownership. Any land subject to protection under Article 97 of the Massachusetts Constitution shall be deemed Open Space for the purposes of 760 CMR 59.00.

Plan Approval – Standards and procedures which a Project in the SGD must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority – For purposes of reviewing Project applications and issuing decisions on development Projects within the SGD, the Newburyport Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and is authorized to approve a Project consistent with this Section.

Project – A development project undertaken within the SGD in accordance with the requirements of this Section.

Public and Semi-Public Common Space – Plazas, courtyards, gardens, and similar quasi-public spaces intended for use by residents and the general public.

SGD – The Smart Growth District established in accordance with this Section.

Smart Growth – Development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Smart Growth development calls for a return to more historic growth patterns in the region – focused growth in city and City centers, near transit and existing infrastructure. By focusing growth in areas equipped to support it, the region helps preserve both environmental and financial resources that would be lost to sprawling, low-density development. Smart growth means developing and preserving land in a way that gives us high-quality neighborhoods for all residents; preserves our built and natural heritage; expands choice and opportunity in housing, jobs, and transportation; and is fair for people of all backgrounds. The Commonwealth of Massachusetts has identified the following Sustainable Development Principles for the purposes of characterizing “Smart Growth” development:

- a) Concentrate Development and Mix Uses
- b) Advance Equity
- c) Make Efficient Decisions
- d) Protect Land and Ecosystems
- e) Use Natural Resources Wisely
- f) Expand Housing Opportunities
- g) Provide Transportation Choice
- h) Increase Job and Business Opportunities
- i) Promote Clean Energy
- j) Plan Regionally

Zoning Ordinance – The Zoning Ordinance of the City of Newburyport, Massachusetts.

XXIX-D Permitted Uses.

1. The following uses are permitted as-of-right with Plan Approval for Projects within the SGD subject to the requirements of this Section:
 - a. Multi-family residential use (#103), including “live-work” units

- b. Mixed-use Development Project incorporating Multi-family residential use and any of the following non-residential uses, such uses to be primarily located on the first floor of proposed buildings:
 - i. Hotel/Inn (#105), including conference and meeting facilities (South of Parker Street)
 - ii. Bed and Breakfast (#110)
 - iii. Retail trade (#403)
 - iv. Retail services (#404), including banks
 - v. Health/recreation (#407), including gym/fitness centers
 - vi. Entertainment/Clubs (#407) (South of Parker Street)
 - vii. Nursery School/Day Care (#408)
 - viii. Professional/social service/office (#416), including medical offices
 - ix. Neighborhood bakeries/Delis (#422)
 - x. Restaurant (#501)
 - xi. Outdoor Café (#503)
 - xii. Private Parking (#413)
 - xiii. Parking structure (#413B)

The City's intent in requiring that nonresidential use of the first floor of the building or adequate design therefore is to encourage redevelopment that will generate pedestrian activity and complement the existing mix of uses in the neighborhood.

- c. Parking accessory to any of the above-permitted uses, including surface, underground garage and/or structured parking;
 - d. Accessory uses customarily incidental to any of the above-permitted uses.
- 2. **Consistency with State Requirements:** Any Project undertaken within the SGD in accordance with this Section shall comply with the requirements of the Smart Growth Zoning Overlay District Program created by M.G.L. Chapter 40R and the regulations administered by the Massachusetts Department of Community Development (DHCD) in 760 CMR 59.00, as any of them may be amended, from time to time.
 - 3. **Consistency with Design Standards:** Any Project undertaken within the SGD in accordance with this Section shall comply with the Design Standards found in Section XXIX-I.

XXIX-E Prohibited Uses.

- 1. Except as provided in Section XXIX-D (Permitted Uses) any other use of land or buildings in connection with a SGD project is hereby prohibited.

XXIX-F Dimensional & Parking Requirements.

1. Residential Density Requirements

- a) Multi-family residential and Mixed-use Projects in the SGD may be developed as-of-right at a minimum density of twenty (20) dwelling units per acre up to thirty units per acre of Developable Land in Subdistrict areas "A" and "C", and up to forty (40) dwelling units per acre of Developable Land in Subdistrict area "B".

- b) Where a Project involves multiple parcels of land, minimum and maximum densities shall be calculated on the development of the Project area as a whole.
- c) The minimum allowable as-of-right density requirements for residential use specified in Section XXIX-F(1)(a) shall apply to the residential portion of any Mixed-use Development Project.
- d) No less than ten percent (10%) of the required affordable units within a Project shall be three-bedroom units.

2. Lot Area, Frontage, and Yard Setbacks.

- a) Each lot within a Project shall comply with the following requirements:
 - i. Minimum lot (Project) area 10,000 square feet
 - ii. Minimum length of frontage 40 feet
 - iii. Minimum front yard setback no requirement
 - iv. Maximum front yard setback 10 feet
 - v. Minimum side yard setback no requirement
 - vi. Minimum rear yard setback no requirement
- b) For the purposes of this section, frontage shall be determined with respect to public and private streets, as well as to private ways providing similar access.
- c) For the purposes of this section, front yard setbacks shall be determined with respect to public and private streets, private ways providing similar access, and for Projects abutting the Commuter Rail Station and Clipper City Rail Trail front yards may be located along such rights-of-way in lieu of street rights-of-way.
- d) Individual buildings or parcels within a Project site shall have coordinated street access. There shall be not more than one driveway (curb cut) per 100 feet of frontage.

3. Undeveloped Area.

At least 20% of the Developable Land shall be left as undeveloped as public or semi-public common space, or vegetated landscape, and such undeveloped areas shall not include buildings, structures, parking areas, or internal landscaping in parking lots,, but may include wetlands, wetland buffer areas, and floodplains. Landscaped areas intended for public use shall have direct access to any adjacent pedestrian or bicycle network.

4. Building and structure height, bulk, and separation.

Buildings and structures in a Project shall comply with the following requirements.

Maximum Building/Structure Height:

Within Subdistricts A & C: 3 stories / 35 ft

Within Subdistrict B*: 4 stories / 45 ft

Within 250 feet of the Commuter Rail Station Right-of-Way, south of Parker Street*: 5 stories / 55 ft

Maximum height of mechanical penthouses**:

5 feet above the maximum building height

***Provided they are properly screened, do not exceed twenty (20) percent of the total building footprint, and are no closer than 10 feet to the exterior wall of any building.*

Maximum Building/Structure Footprint:

*10,000 sq. ft.****

****Within 250 feet of the Commuter Rail Station building footprints may be a maximum of 20,000 sq.ft.*

5. **Non-Residential Floor Area.** The total gross floor area devoted to non-residential uses within a Mixed-use Development Project shall not exceed 33% of the total gross floor area of the Project.

6. **Parking Requirements**

- a) **Number of Parking Spaces.** Unless otherwise approved by the PAA, the following minimum number of off-street parking spaces for each Project shall be provided in surface parking, underground garages, and/or structured parking:

Use	Minimum Requirement
Residential	1 per dwelling unit
Hotel/Inn	0.7 per guest room
Office	2 per 1,000 sq. ft. GFA
Retail	2 per 1,000 sq. ft. GFA
Restaurant	0.7 per 100 sq. ft. GFA
Outdoor café	0 (no requirement)
Other uses	75% of the number required in Section VII-B

Parking requirements may be met by off-street parking and by on-street parking on private streets within the Project site.

- b) **Shared Parking Spaces.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA if the Applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies). The Project may also share parking with neighboring mixed use developments with approval from the PAA.
- c) **Reduction in Number of Parking Spaces.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced upon a demonstration to the reasonable satisfaction of the PAA that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that a lesser amount of parking will provide positive environmental or other benefits.
- d) **Size of Parking Spaces:** Standard parking spaces shall be 9 feet x 18 feet and parallel spaces shall be at least 9 feet x 20 feet. Up to 35% of the parking spaces may be designated as compact spaces (at least 8 feet x 15 feet.)
- e) **Bicycle Parking:** Bicycle parking facilities shall be integrated into all components of the Project and shall be provided at the rate of 1 bicycle space per 10 vehicle parking spaces.

XXIX-G Requirements for Housing Affordability.

1. **Marketing Plan.** An Applicant for Plan Approval of a Project within the SGD must submit a narrative document and affirmative fair housing marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents, to be submitted with a Plan Approval application, shall include details about the design and construction of units that are accessible to the disabled.
2. **Number of Affordable Housing Units.** For all Projects that contain ten (10) or more dwelling units, not less than twenty-five percent (25%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.
3. **Affordable Housing Requirements.** Affordable Housing shall comply with the following requirements:
 - a) The monthly rent payment, including utilities and parking, for an Affordable Rental Unit shall not exceed thirty percent (30%) of the maximum monthly income allowable for an Eligible Household assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
 - b) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or

homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income allowable for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

- c) Affordable Housing required to be offered for rent or sale shall be rented or sold and occupied only by Eligible Households.

4. Design and Construction:

- a) Units of Affordable Housing shall be dispersed throughout the Project of which they are part and have exteriors that are equivalent in design and materials to the exteriors of other housing units in the Project.
- b) The average number of bedrooms in the Affordable Housing units shall be no less than the average number of bedrooms in all the units in the Project of which the Affordable Housing is part.

5. Affordable Housing Restriction: Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the Essex County Registry of Deeds or district registry of the Land Court and which contains the following:

- a) specification of the term of the affordable housing restriction which shall be in perpetuity, or for the life of the permitted Project, whichever is shorter ;
- b) the name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- c) for Affordable Homeownership Units, the address and number of bedrooms;
- d) for Affordable Rental Units, the total number of units, the total number of bedrooms, and a breakdown of the number of units by the number of bedrooms;
- e) the restriction shall apply individually to the specifically identified Affordable Homeownership Unit;
- f) the restriction shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
- g) reference to a housing marketing and resident selection plan to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for local preferences in resident selection for the Affordable Housing Units. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
- h) a requirement that buyers or tenants will be selected at the initial sale or rental and upon all subsequent sales or rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- i) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;
- j) a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any Affordable Rental Unit shall be given to the Monitoring Agent;
- k) provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;

- l) provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and the municipality in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household.
 - m) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
 - n) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability;
 - o) a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.
6. **Monitoring Agent:** The Monitoring Agent shall be a qualified housing entity designated by the developer with approval of the PAA, which approval shall not be unreasonably withheld. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity with approval of the PAA. In any event, such agency shall ensure the following:
- a) prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
 - b) income eligibility of households applying for Affordable Housing is properly and reliably determined;
 - c) the housing marketing and resident selection plan conforms to all requirements and is properly administered;
 - d) sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
7. **Costs of Housing Marketing and Selection Plan:** The housing marketing and selection plan may provide for payment by the Applicant of reasonable costs to the Monitoring Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.
8. **Project Phasing:** For Projects that are approved and developed in phases, the proportion of Affordable Housing Units to market-rate units (and the proportion of Existing Zoned Units to Bonus Units as described in 760 CMR 59.04 (1)(h)) shall be consistent across all phases.
9. **Computation:** Prior to the granting of any Building Permit for the residential component of a Project, the Applicant for such building permit must demonstrate, to the satisfaction of the PAA, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the City of Newburyport.
10. **No Waiver:** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section shall not be waived.

1. Application for Plan Approval:

- a) Pre-Application Guidance. Prior to the formal submittal of a Project site plan, a Concept Plan may be submitted to the Office of Planning & Development for review in order to help guide the development of the definitive site plan for Project buildout and individual elements thereof. For each Project the Concept Plan shall show the following:
 - i. A description of the proposed project indicating proposed uses, number of residential units, and total square footage devoted to non-residential uses
 - ii. Schematic site plan indicating the location of building footprints, parking areas, public and semi-public common spaces, natural resource areas, site improvements and amenities;
 - iii. Schematic building floor plans and elevations.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project will be consistent with the Design Standards and other requirements within the SGD.

- b) Pre-Application Meeting: Prior to a formal submission to the PAA, all applicants are encouraged to schedule an informal meeting with Director of Planning & Development. The Director at this pre-application meeting may agree to waive certain submittal requirements identified in Section XXIX-H(1)(d) if the Director determines that the information will not aid the PAA in its deliberations. Any such waiver of submission requirements must be made in writing prior to submission of a formal application to the PAA.
- c) Application Submission. Applications for Projects within the SGD shall be submitted to the PAA through the Office of Planning & Development. Applications shall be submitted to the PAA on the standardized form provided by the PAA and Office of Planning & Development, along with application fee(s) which shall be established by the PAA, subject to approval by DHCD. Applicants shall provide to the office of planning and development an electronic copy of all required submittals in PDF, Word or other native file formats, along with a CAD drawing format for all site and architectural plans.
- d) Required Submittals. The office of planning and development shall develop a standardized application form for Projects within the SGD for use by the PAA and applicants, and for the purposes of determining the completeness of all applications in accordance with this section. Each application for Plan Approval within the SGD shall be submitted accompanied by ten (10) printed copies of the following documentation with all information related thereto, unless specifically waived in writing by the Director of Planning & Development, pursuant to Section XXIX-H(1)(b):
 - i. Completed Application Form.

- ii. Application & Advertisement Fees, such fees to be established by the PAA, based upon the associated administrative costs. Such fees shall not take effect until approved by DHCD and filed with the City Clerk.
- iii. Development narrative including a description of the proposed Project, including all uses, breakdown of square footage for each use, number of housing units, number of bedrooms per unit, square footage per unit type and a zoning summary. Any application shall show the full proposed buildout of a Project (both residential and commercial) and whether the Project will be phased or not.
- iv. Certified list of abutters
- v. Building Floor Plans – all levels including basement and roof
- vi. Building Elevations – all sides including courtyards and interior lot elevations (Scale shall not exceed 1/4 inch equals one foot nor less than 1/8 inch equals one foot.)
- vii. Five (5) copies of dimensioned schematic drawings indicating the location of all proposed buildings. (Scale shall not exceed 1/4 inch equals one foot nor less than 1/8 inch equals one foot.)
- viii. Three dimensional (3D) massing perspective sketches or renderings illustrating the key elements of the development proposal within its neighborhood context
- ix. Storm water management plan and report with drainage calculations and proposed Operation and Maintenance (O&M) Plan.
- x. Existing Conditions Plan: Existing Site plan, including all existing structures, parking, driveways, trees, topography, utilities and easements, prepared by a licensed surveyor.
- xi. Project Plans: Plans of the proposed Project at a minimum scale of one inch equals 40 feet and a maximum scale of one inch equals 20 feet. The Plans shall contain:
 - a. Date of Plan with all revisions noted and dated. Title of development; North arrow; scale; map and lot number; name and address of record owner; name and address of person preparing the Plan.
 - b. The names of all owners of record of adjacent properties, and the address, map and lot number of the properties and all buildings.
 - c. Zoning district boundaries and flood zone boundaries shall be shown as they affect the property, including delineation of required setback lines.
 - d. Boundaries of the property and lines of existing street, lots, easements and areas dedicated to public use, including rights-of-way.
 - e. A locus map with lot and address identifications in relation to adjacent streets and rights-of-way showing the location of the property with

reference to surrounding area, including the building footprints of adjacent buildings, if any.

- f. A table indicating all calculations necessary to determine conformance to the requirements of this Section and applicable Design Standards.
- g. Square footage of property to the nearest 10 square feet.
- h. Proposed site plan, indicating project boundaries, building footprints, onsite and remote parking areas (where applicable), and topography
- i. Location of existing and proposed buildings, walls, fences, culverts, parking areas, loading areas, walkways and driveways.
- j. Location and dimensions of utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal.
- k. Location, type and dimensions of landscaping and screening.
- l. Proposed exterior lighting plan with photometric information
- m. Location of existing rock outcroppings, high points, vistas, ponds, depressions, wetlands and buffer zones, major trees (twelve-inch caliper and over) and any other significant existing features.
- n. Two-foot contours where slopes are less than 15% and five-foot contours when 15% or more. Existing contours shall be indicated by dashed line. Proposed contours shall be indicated by solid line.

All site plans shall be prepared by an architect, landscape architect, and/or a civil engineer Registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped.

- xii. Evidence that the Project complies with the affordable housing requirements of Section XXIX-G;
- xiii. A form of Affordable Housing Restriction that satisfies the requirements of Section XXIX-G(5).

2. Procedures:

- a) Plan Approval Authority: For purposes of reviewing Project applications and issuing decisions on Projects within the SGD, the Newburyport Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority, and is authorized to approve a Project consistent with this Section.
- b) Circulation to Other Boards: Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Services, and other municipal officers, agencies or boards as designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within thirty (30) days of its receipt of a copy of the plan and application for approval.

- c) Public Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within one hundred twenty (120) days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and Plan Approval application.
- d) Peer Review. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.
- e) Employment of Outside Consultants: The portions of this Section requiring the payment of consultant fees are promulgated under the concurrent authority of M.G.L. Chapter 44, Section 53G.

3. Decision:

- a) Plan Review: A Plan Approval application shall be reviewed for consistency with the purpose and intent of this Section, and with the dimensional, parking, Design Standards and other requirements applicable to the SGD. Such Plan Approval application shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.
- b) Consistency with Design Standards & Guidelines: To ensure that Projects shall be of high quality, and shall meet the standards envisioned by the City of Newburyport in adopting Smart Growth Zoning, the physical character of the any Project within the SGD shall comply with, and the PAA shall enforce, the Design Standards of Section XXIX-I in the issuance of Plan Approval for any Project within the SGD. A Project shall be approved by the PAA upon a finding of consistency with the Design Standards, unless otherwise waived pursuant to Section XXIX-H(3)(c). Conditions may be added to a Plan Approval as may be necessary to ensure consistency with the Design Standards through project construction prior to occupancy.
- c) Waivers: Upon the request of the Applicant, the PAA may waive or reduce the parking requirements of Section XXIX-F and Design Standards of Section XXIX-I, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character preferred under this Section.
- d) Plan Approval: Plan Approval shall be granted where the PAA finds that:
 - i. the Applicant has submitted the required fees and application materials as set forth in Section XXIX-H(1)(d); and
 - ii. the proposed Project meets the requirements of Section XXIX-G (Requirements for Housing Affordability); and

- iii. the proposed Project meets the requirements of Section XXIX-F (Dimensional and Parking Requirements) and Section XXIX-I (Design Standards), or a waiver has been granted therefrom; and
 - iv. Adverse potential impacts of the Project on nearby properties have been adequately mitigated.
- e) Plan Disapproval: A site plan may be disapproved only where the PAA finds that:
- i. the Applicant has not submitted the required fees and/or application materials as set forth in Section XXIX-H(1)(d) necessary for an adequate and timely review of the design of the Project or potential project impacts; or
 - ii. the proposed Project fails to meet the requirements of Section XXIX-F (Dimensional and Parking Requirements) and/or Section XXIX-I (Design Standards) and a waiver has not been granted therefrom; or
 - v. the proposed Project fails to meet the requirements of Section XXIX-G (Requirements for Housing Affordability); or
 - iii. it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.
- f) Form of Decision: The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans and documents that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of a failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.
- g) Timeline for Approval or Decision: The PAA shall file a decision on the application for Plan Approval within one hundred and twenty (120) days from the date of original filing of a complete application. An Applicant who seeks approval because of the PAA's failure to act on an application within the one hundred twenty (120) days or extended time, if applicable, must notify the City Clerk in writing of such approval, within fourteen (14) days from the expiration of said time limit for a decision, and that a copy of that notice has been sent by the Applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Mass. Gen. Laws Ch. 40R and shall be filed within twenty (20) days after the date the City Clerk received such written notice from the Applicant that the PAA failed to act within the time prescribed.

4. Modifications to Projects and Permits after Initial Approval by PAA:

- a. Minor Change. After Plan Approval, an Applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor changes to building materials or design, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the

approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the City Clerk.

- b. Major Change. Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section XXIX-H(1)(c).

5. Project Phasing:

- a. The PAA, as a condition of any Plan Approval, may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. Any requirement for Project phasing shall not apply to the installation of utilities.
- b. An Applicant may voluntarily elect to develop a Project in phases, subject to Plan Approval by the PAA.
- c. When a Project is developed in phases, each phase shall comply with the requirements of Sections XXIX-F (*Dimensional & Parking Requirements*) XXIX-G (*Requirements for Housing Affordability*), and Section XXIX-I (Design Standards) so that at all times such requirements shall be met as applied only to those portions of the Project for which building permits have been issued; such requirements shall be met prior to the issuance of certificates of occupancy for such buildings.

XXIX-I Design Standards.

- 1. **Authority:** The following Design Standards are adopted to ensure that new development shall be of high quality, and shall be compatible with the character and scale of Newburyport's building types and streetscapes, without limiting creativity through innovative architectural design. These Design Standards are adopted pursuant to the authority of M.G.L. Chapter 40R "Smart Growth Zoning" and 760 CMR 59.00 (Smart Growth Zoning Overlay District). They provide the City of Newburyport and interested developers with a regulatory framework that will define the site and building design requirements for development within the City's Smart Growth District ("SGD" or "District").
- 2. **Applicability:** These Design Standards apply to all proposed development within the Smart Growth District (SGD) undertaken pursuant to this Section. The PAA, at its discretion, can approve waivers from the Design Standards. Any Project undergoing the Plan Approval process within the SGD shall be subject to and shall adhere to the design standards set forth in this section, except where a specific waiver of compliance is granted by the PAA in its deliberations in accordance with Section XXIX-H(3)(c) upon a finding that, in its opinion, such deviations contribute to the Guiding Principles in Section XXIX-I(4) more effectively than literal compliance with specific requirements or that waiver of compliance will ensure the overall viability of a proposed Project in order to achieve the broader purposes identified in Section XXIX-A. Applicants should clarify how requested or proposed deviations further the goals of the City as defined by the Guiding Principles therein, including any references to overall feasibility of the proposed project.

3. **Compliance:** These Design Standards and Guiding Principles shall be used by the PAA in their review and consideration of development proposals within the SGD pursuant to this Section. Notwithstanding anything in the Newburyport Zoning Ordinance to the contrary, within the SGD all projects permitted under this section shall adhere to the following design standards, mandatory for all projects (including as-of-right uses), but which standards may be waived by the PAA pursuant to Section XXIX-H(3)(c) on a case-by-case basis.
4. **Guiding Principles:** The standards set forth in this section are intended to ensure that the physical character of projects in the SGD will comply with the following guiding principles:
 - a. Projects shall further the overarching goals identified in Section XXIX-A;
 - b. Building styles and materials shall be consistent with the character of other densely settled areas of the community and shall reflect, but need not match, the vernacular styles of traditional development forms in scale, massing and overall proportions while allowing design creativity and modern construction methods and materials;
 - c. Development shall be environmentally sustainable and shall incorporate to the degree practical low impact development techniques, energy efficiency, use of renewable energy and best practices for stormwater management;
 - d. Development shall be designed to encourage pedestrian and bicycle travel to and within the site and provide a safe and aesthetically attractive pedestrian and bicycle environment;
 - e. Development shall protect adjacent wetlands and the Little River; and
 - f. Existing natural resources, native vegetation, and the natural topography of the site shall be preserved and integrated into the site design to the greatest extent practical.
5. **Organization:** This subsection is organized into subject headings based on subdistrict areas within the District and also by the subject matter of regulation. Where it provides greater clarity regarding desired design outcomes, illustrative images have been used to complement these Design Standards. Captions have been added to images as necessary to clarify the intent of the illustration and to reinforce the Design Standards included in the text. Standards are typically characterized by use of the words "shall" and "must," while Guidelines are typically characterized by use of the words "should" "may" and "encouraged." These Design Standards and Guidelines establish the design requirements for development within the Smart Growth District (SGD).

Requirements Applicable to all Subdistricts:

6. Architecture:

a. Massing, Scale, Height, Proportions, Orientation & Organization

- i. A minimum of 60% of front facades at ground level shall be located at the minimum setback line to reinforce the adjacent street or right-of-way line. When the space between the façade and setback line is specifically designed for pedestrian uses, such as

outdoor dining, the maximum setback shall be permitted. Stepped back portions of the front façade at ground level are encouraged to articulate entries and provide variety.

- ii. For buildings fronting on State Street, the front yard step-back of upper floor facades shall be such that the maximum building envelope is bounded by a plane projected from the property line at a 1 to 2 ratio (63.4°).
- iii. Mixed use buildings shall use proportions – a dominant horizontality in architectural elements for commercial, and a dominant verticality for residential – to give legibility to building uses.
- iv. Building footprints shall be located roughly parallel with existing public streets, the MBTA Commuter Rail line, or the Clipper City Rail Trail, as the case may be, in order to reinforce the street line.
- v. Wherever it abuts existing development, new development Projects shall incorporate design transitions between new buildings and existing buildings, using comparable materials, roof design, fencing materials and landscaping.
- vi. A new building may have an inconsistent setback from neighboring buildings if the front setback is to be used for landscaped public or semi-public space. Where differing front setbacks are approved, design elements such as a wall, fencing or landscaping of a minimum height of three (3) feet shall be used to reinforce the street line.
- vii. Front yard building setbacks should reinforce the existing street line through consistency with front setbacks of adjacent buildings in existence at the time of application. Front yard building setbacks for new construction shall be located within five (5) linear feet of the front yard setback of neighboring buildings.

b. Exterior Style, Articulation & Appearance

- i. To reduce a building's perceived mass, buildings shall be divided into smaller scale horizontal or vertical components. Building façades over 40' in length are required to have a change in plane articulated by projecting or recessed bays, balconies, or setbacks and should be broken into a series of smaller varied elements by incorporating projections or recesses, canopies or awnings, doorways or windows to vary the facade and emphasize architectural features. Projecting bays, recesses, and cornices are encouraged at all floor levels to define proportions noted above.
- ii. Windows, wall panels, pilasters, and building bays shall be carried across windowless walls to relieve blank surfaces. False commercial storefronts are not permitted.
- iii. The architectural style of the primary façade shall be continued on all publicly visible sides of the building. Façade elements shall continue around to all sides of buildings visible from the street. Blank side and rear wall surfaces greater than twenty (20) linear feet are prohibited on walls that are visible from streets or other public areas. Elements can be simplified at the rear of buildings to clarify a front/back hierarchy.

- iv. Horizontal elements such as belt courses, projecting cornices, canopies, and step backs should be combined with vertical elements such as recesses, projecting bays, parapets and vertically aligned windows, to create facades that provide depth and visual interest.
- v. Rooftop mechanical equipment shall be set back from building facades so that it is not visible from street views, screened from view behind parapets or enclosed within architectural elements that integrate it into the building design. Screening elements shall incorporate sound control devices or construction that mitigates equipment noise.
- vi. For any buildings, visible roofs shall not exceed walls in their respective visible proportions from street views.
- vii. Franchise Architecture, distinctive building design that is trademarked or identified with a particular chain or corporation and is generic in nature, shall not be allowed. Buildings shall not be branded using an architectural style of a company. Franchises or national chains may adapt their architectural style to follow these Design Standards.
- viii. New construction shall incorporate design detail through a combination of architectural elements (particularly on first floor facades), materials, varying setbacks and rooflines to ensure that buildings are visually interesting and to prevent monotony.
- ix. A Project including more than one building shall include varied architectural styles among the buildings to avoid a uniform appearance. This may include but is not limited to variations in building height, rooflines, building materials and color, and variations in unit count per building.
- x. Buildings more than forty (40) feet wide shall be broken down into a series of smaller recessed or projecting bays to add visual character and maintain the pedestrian scale of the streetscape. No uninterrupted length of any façade shall be permitted to exceed thirty (30) horizontal feet without incorporating at least one of the following design elements: color change, material change, expressed joints and details, or texture change; and at least one of the following design elements: recessed or projecting bays, trellises, balconies, or windows.
- xi. Recesses and projections of the building facades shall be a minimum of two (2) feet deep.
- xii. Any side of the building that has frontage on a sidewalk or street shall include a predominance of windows, doors, or other signs of human occupancy, such as porches or balconies.
- xiii. Building design for multi-story buildings shall create or maintain a visual distinction between the first floor and upper floors through materials selection and articulation of the facade. Storefronts shall have large windows.
- xiv. The first floor of buildings within all Projects shall be designed with ceiling heights of twelve (12) feet, to accommodate commercial or non-residential uses in the future, even if such uses are not proposed as part of the initial Project undertaken by the applicant. The design of walls and structural elements on the first floor of buildings shall

demonstrate the ability to allow modification of residential spaces to accommodate such commercial or non-residential uses (i.e. storefronts) with relative ease in the event that such uses are substituted therefore in future years.

- xv. All rooftop mechanical equipment shall be visually screened by parapets.
- xvi. Mechanical equipment, including metal chimneys, and elevator penthouses at grade, attached to, or on the roof of a building, shall be screened from view from streets and from structures on adjacent lots; or they shall be integrated into the overall design of the building by use of materials, placement, roof shape or form, or other means deemed acceptable to the PAA upon their review of a screening plan.
- xvii. Accessory buildings shall be in the same style as the primary building.

c. Entries, Windows, Doorways & Balconies

- i. Primary ground floor commercial building entrances shall orient to plazas, parks, transit stops, or pedestrian-oriented streets.
- ii. Entries are to be clearly articulated with projecting canopies or recesses for convenience, way-finding, and to activate the street front and pedestrian spaces. Residential and commercial entries shall be separated. Primary building entrances shall be accentuated through such other pronounced architectural forms as covered porches and porticos.
- iii. Retail and commercial entries shall face a publicly accessible sidewalk and are to be primarily transparent to reinforce the public nature of the ground floor uses, and they are to be flanked by primarily transparent façade elements to reinforce this perception.
- iv. Lighting and signs shall be integrated into the entry design to reinforce the public nature of the entry.
- v. Entries to upper floor residential and commercial uses are encouraged on public streets, but shall not interrupt the perceived continuity of the commercial streetscape.
- vi. In general, all windows should be taller than they are wide. A ratio of 1:1.6 is encouraged. This is true of windows on the first as well as upper floors. Street front windows that are horizontally oriented may be broken up with the use of muntins. Double hung windows are preferred over casement windows. Use of stone or concrete lintels above all windows is encouraged.
- vii. Recessed doorways are preferred, in order to break up the building façade, provide a welcoming space, and provide protection from sun and rain. Where a recessed doorway is not used, an awning can have a similar effect. Lighting for the doorway shall be provided at night.
- viii. Balconies and porches are encouraged to generate connection between the buildings and the streets and public spaces provided they do not extend over a public right-of-way, and shall be designed to provide functional use by the resident of the dwelling

unit, and should not be simply decorative. Juliet Balconies may be permitted at the discretion of the PAA.

- ix. All buildings shall have at least one primary entrance facing each pedestrian-oriented street, right of way or transit area.

d. Fenestration

- i. For ground floor uses, at least 60 percent of the right-of-way or street-facing building façades between two feet and eight feet in height shall be comprised of clear windows that allow views of indoor space or product display areas.
- ii. The view into the first floor commercial or retail windows shall be maintained with a view into the sales floor or seating area. View windows shall not be blocked. Merchandise displays shall not include full-height backdrops that block the view.
- iii. Transom windows above view windows and doors are encouraged. Upper floor residential and commercial uses shall have relatively less glass area to emphasize the public nature of the street-front uses. Glass shall be clear, or reflective only to the extent that such reflectivity reduces interior heat. Mirror glass is not permitted. No appliqués or other such deliberate screening shall be permitted.
- iv. When designing the façade, neighboring window sill lines and sign lines from buildings permitted under this Section should be extended onto the façade of the new building.
- v. Protecting ground floor fenestration and defining commercial street fronts with overhanging awnings or canopies is encouraged. Operable windows and doors onto balconies and terraces at upper floor uses are encouraged.

e. Materials, Texture & Color

- i. Building materials shall vary, be durable, and reflect the character of the City of Newburyport. Exterior facades shall be of durable materials that have a demonstrated performance history and do not require significant periodic maintenance and/or repair. Allowed exterior finishes include, but are not limited to brick, brick veneer, stone, cast stone or other finished masonry, cementitious panels, glass, metal, wood, and cellular PVC trim. A combination of materials shall be used in order to create visual interest. Simulated materials including but not limited to vinyl, synthetic siding, aluminum siding or large unarticulated expanses of exterior insulation finishing system (EIFS) are prohibited. EIFS paneling shall be detailed and articulated using scoring lines, patterns or other techniques. Reflective materials such as porcelain enamel, tinted glass or sheet metal are prohibited. Fluorescent colors, smooth-faced painted concrete masonry block, and vinyl and plastic awnings are prohibited.
- ii. Changes in materials are encouraged to reinforce the massing requirements noted above. When change in material or colors occur, they shall articulate the difference between public and private uses, upper floors and lower floors. Building design shall maintain a distinction between the first floor and upper floors.

- iii. Materials shall continue around to all sides of buildings, which are visible from the street or public parking areas. Elements can be simplified at the rear of buildings to clarify a front/back hierarchy.
- iv. Blank facades are not permitted. Changes in material, which are accompanied by a change in plane, vertical and / or horizontal elements shall be used to provide a pedestrian scale in areas where windows and doors are not functionally required.
- v. Where more than one material is used, traditionally heavier materials (stone, brick, concrete, etc.) should be located below lighter materials (wood, metal, glass, etc.). The change in material should occur along a horizontal line, preferably at the floor level.

f. Energy Efficiency

- i. All buildings shall incorporate environmentally responsible design and construction practices as governed by the Energy Star Program to the extent applicants are strongly encouraged to receive US Green Building Council LEED (Leadership in Energy and Environmental Design) rating for all buildings.

7. Site Design Standards

g. Placement, Alignment, Width and Grade of Sidewalks

- i. New sidewalks shall be consistent with existing sidewalk materials and dimensions. Widened sidewalks devoted to outdoor uses are encouraged.
- ii. Amenities that increase the comfort of pedestrian movement along sidewalks such as lighting, projecting canopies, and street trees are encouraged.
- iii. Usable public and semi-public common spaces adjoining sidewalks that create activated pedestrian areas for dining or similar social activities are encouraged, especially those in the vicinity of public uses such as the commuter rail station.
- iv. Improvements to adjacent crosswalks, curbing and sidewalks to accommodate increased pedestrian activity associated with new developments may be required by the PAA.
- v. Each Project shall provide lighted pedestrian access to and through the site. Continuous sidewalks shall be provided along the frontage of a site adjacent to any public or private way. Pedestrian access shall be provided to link buildings with public and semi-public spaces, parking areas, recreation facilities, and sidewalks on adjacent properties. Where the proposed development abuts streets or public ways that lack sidewalks, or where sidewalks abutting the proposed development do not meet applicable standards (including the Americans with Disabilities Act and the Rules and Regulations of the Massachusetts Architectural Access Board), Applicants may be required to improve these connecting sidewalks as a condition of Plan Approval.
- vi. For Projects that front on streets without existing sidewalks, an alternate plan for pedestrian access to and through the site, such as providing one or more pathways internal to the Project site, may be proposed by the Applicant.

- vii. All elements of the pedestrian network, including parking areas and sidewalks, shall be accessible to the physically disabled in accordance with the Americans with Disabilities Act and the Rules and Regulations of the Massachusetts Architectural Access Board.
- viii. Where provided, sidewalks shall connect proposed buildings with parking intended to serve the proposed uses.
- ix. Sidewalks shall be a minimum width of five (5) feet.

h. Location of Building & Garage Entrances

- i. New curb cuts should be avoided where access from existing streets or driveways is feasible. Further, The PAA may require the reduction, replacement or relocation of existing curb cuts.
- ii. Building entrances shall provide direct access to sidewalks or paths to emphasize pedestrian ingress and egress as opposed to accommodating vehicles.
- iii. Doorways to upper floors should be visually separated from street-level shop entries.
- iv. If a Project includes more than one residential entrance, consideration should be given to placing entrances on two different sides of the building.
- v. Access drives shall maintain sight lines for pedestrians and motor vehicles. Adequacy of vehicular sight distance shall be reviewed and determined in accordance with accepted AASHTO (American Association of State Highway and Transportation Officials) methodology based on posted or observed speeds on adjacent roadways.

i. Vehicular Access

- i. All curb cuts shall be limited to the minimum width for safe entering and exiting, and shall not exceed 24 feet in width except where mandated by MassDOT.
- ii. The developer shall make improvements on the adjacent public way for vehicular turning movements in or out of the site necessary to ensure public safety.
- iii. Vertical granite curbing shall be used at driveway entrances as they connect to a public way. Cementitious concrete curbing may be substituted for granite curbing in all internal roads, driveways, parking areas and private ways. The use of bituminous asphalt curbing is prohibited.
- iv. The location of vehicular entrances should provide for the convenience and safety of vehicular, bicycle and pedestrian movement within the site. All proposed entrances should be designed to afford pedestrians, bicyclists and motorists exiting to public ways with safe sight distance.

j. Pedestrian & Bicycle Circulation, Amenities & Connections:

- i. Sidewalks throughout the site shall be constructed of brick, stone, pre-cast pavers or (subject to PAA approval of a materials sample prior to installation) cast-in place textured concrete.
- ii. Pedestrian traffic areas shall be clearly distinguished from vehicular and bicycle traffic areas through the use of paving materials, landscaping buffers, or other means.
- iii. Safe and convenient pedestrian and bicycle linkages shall be provided to abutting neighborhoods, commercial areas, the Downtown and public bikeways.
- iv. Off-street walking trails may be constructed of crushed stone, stone dust, or wood.
- v. Pedestrian access shall be provided to link buildings with outdoor spaces, parking areas, and sidewalks on adjacent properties wherever practical.
- vi. Site planning shall include consideration of future access to bike paths, parks, playgrounds, residential neighborhoods, other businesses, and transportation facilities.
- vii. Pedestrian paths through parking areas shall be clearly defined by one or more of the following: 6 inch vertical curb; different paving textures, materials, or striping; a continuous 4-season landscape area at a minimum of 3 feet wide on at least one side of the path.
- viii. Where necessary for public safety, site design shall include bollards or vertical curbing to prevent access to pedestrian areas by motorized vehicles.

k. Driveways & Off-Street Parking

- i. Driveway openings shall maintain the continuity of sidewalks and pedestrian spaces. Curb cuts shall be located away from the primary commercial streets whenever feasible, preferably on side streets and alleys.
- ii. Parking lots shall not face primary commercial streets or be located in front of buildings. Parking areas should be located behind buildings.
- iii. Parking lots behind buildings shall be connected and aggregated across property lines wherever feasible to maximize the efficiency of the paved space and minimize the number of curb cuts and driveways.
- iv. Below grade parking is encouraged, especially where existing changes in grade make on-grade access feasible while allowing economical structuring of buildings above. Ramping must be incorporated within the building envelope or below grade.
- v. Parking areas that abut lots in residential districts shall be screened from view by fencing, planting or both and conform to landscaping requirements in paragraph 8.3, following.
- vi. All parking areas and driveways must be designed to maximize pedestrian and vehicular safety. No driveways are to be located within 50' of an intersection.

- vii. Residential parking lots shall be located to the side or the rear of new buildings and such that buildings or landscaping separate parking areas from the street. Wherever feasible, off-street parking lots shall be set back a minimum of 10 feet from applicable property lines along public right-of-way, excluding alleys. However, parking for nonresidential components of mixed-use buildings may be located adjacent to a street, subject to approval by the PAA.
- viii. Surface parking lots shall be screened from view from public ways with a combination of plantings and fencing such as of cast-iron or brick. Screening shall be at least 3 feet high. Chain link fencing is not acceptable for screening purposes.
- ix. Where parking is proposed to be located interior to the building, either at grade or sub grade, it shall be screened from view from public ways, and the exterior building façade shall be required to comply with the performance standards herein including, without limitation, requirements for façade articulation and detail.
- x. Parking layouts shall minimize the glare from car headlights that beam into residential dwellings through the use of visual screening by use of plantings or fencing.
- xi. Covered parking beneath buildings shall be permitted.
- xii. All surface parking lots shall be designed and constructed with low impact development techniques.
- xiii. The parking portion of any structure shall be architecturally compatible with the rest of the structure and streetscape.
- xiv. Wherever feasible Projects shall include the use of solar parking canopies and solar carports.

I. Public and Semi-Public Common Space

- i. Design and location. The overall site design shall include common public and semi-public common space. Open space should be accessible and visible from the building.
- ii. The plans and any necessary supporting documents submitted with an application for Plan Approval shall show the size and location of any proposed public or semi-public common space, including plazas, courtyards, parks, gardens and similar site amenities.
- iii. The PAA may require as a condition of Plan Approval submission of documentation relative to the proposed ownership and commitment to adequate long-term maintenance of all public or semi-public common space, whether such space is located on or off-site.
- iv. Wherever feasible, all public or semi-public common space shall have direct access to the pedestrian network, including the Clipper City Rail Trail, as applicable.

m. Landscaping

- i. Landscaping shall consist of a combination of grass, flowers, vines, groundcovers, trees and/or shrubs and use a combination of climate tolerant plant material and protective ground cover with a mixture of deciduous and evergreens for visual effect 12 months of the year. Particular attention shall be paid to tolerance to potential road salt and other deicing treatments. Mulch does not count as ground cover.
- ii. Landscaping elements shall be selected from native species that minimize the need for regular mowing, trimming, irrigation, or fertilizer application. Planting of invasive species is prohibited. Plant materials shall be chosen to withstand seasonal weather cycles in New England and for compatibility with existing plantings in the surrounding neighborhood, with consideration for resistance to infestations, resilience to climate exposure, drought tolerance and drainage conditions. Plants located near streets, driveways or parking lots must be salt-tolerant.
- iii. Ground-covers shall be spaced to cover the applicable planting bed within 3 years.
- iv. Tree species shall be selected and located so as to mature to a height and canopy to provide shade during the warm months, assure safe patterns of internal pedestrian and vehicular traffic, and not interfere with parking spaces or snow removal. All trees shall have a minimum caliper size of 3-1/2 inches measured at a point four (4) feet above grade at time of planting.
- v. Street trees shall be provided at intervals of no more than 30 feet along streets and major pedestrians walkways.
- vi. Unless designated as protected open space or wetland resource areas, all open and disturbed areas within a project shall be landscaped. Bare soil is not permitted. Container planting is acceptable when used to accentuate architectural features or enhance pedestrian areas.
- vii. Parking lot design and layout shall incorporate landscaping to break up large areas of pavement. Surface parking lots shall have at least one shade tree per five (5) surface parking spaces, located either in the parking area or within 10 feet of it. At least 5% of the interior of the parking area shall be maintained with landscaping, including trees, in landscape islands or plots of at least 9 feet in width with no more than 10 parking spaces between each island or plot.
- viii. Landscaping along the perimeter of parking areas shall include a combination of trees, shrubs, and groundcover vegetation that provides a continuous vegetated buffer that does not project into or otherwise interfere with parked cars, passenger entry to and from parked vehicles, and pedestrian connections within and along parking areas.
- ix. All required landscaping must be installed before issuance of an occupancy permit for buildings within a Project. The installation of any required landscaping may be deferred during the fall or winter months to the next planting season, but never for more than 6 months.
- x. If a project is built in phases, all required landscaping for a given phase must be installed before issuance of an occupancy permit for that phase.

- xi. Maintenance of landscaping shall include the removal and replacement of dead or diseased plant materials with the same type, size and quantity of plant materials as originally installed, unless alternative plantings are approved by the Newburyport Office of Planning & Development. Such maintenance shall take place yearly each growing season for all Projects after initial approval.
- xii. Landscaping at retail frontages should not interfere with the connection between the sidewalk and interior uses. Landscaping to define commercial entries or outdoor dining areas shall not interfere with the continuity of the sidewalks. Landscaping to define residential entries shall not compete with or overwhelm the continuity of the retail frontages.
- xiii. To the extent feasible, healthy existing trees with a minimum 6" caliper and large canopy shall be preserved.
- xiv. Site design shall include a variety of landscape elements such as trees with irrigation grates, planters, and seasonal plantings. Landscaping improvements shall include amenities such as street furniture, landscaping, and trash receptacles.
- xv. To minimize water consumption, the use of low water vegetative ground cover other than turf is required.
- xvi. Tree selection shall consider canopy spread, branching, root depth, and mature height so as not to interfere with buildings, impede pedestrian travel, sidewalks, and motor vehicle travel.
- xvii. Landscaped islands within parking areas may be in any shape or configuration, provided that they shall be at least one hundred (100) square feet in area and four (4) feet in width.

n. Fencing, Screening and Buffering in Relation to Adjacent Properties

- i. All dumpsters, utilities, mechanical equipment, and storage areas shall be screened from view from adjacent streets and from structures on neighboring lots in existence at the time of Plan Approval through the provision of architectural screening, landscaping, and fencing. Use of chain link and stockade fencing is prohibited. Screening may be required by the PAA to include plantings and/or landscape structures.
- ii. Trash receptacles shall be located and designed for ease of trash service to the site. Trash receptacles shall be located in the garage of buildings or in freestanding trash houses.
- iii. Mechanical equipment at grade, attached to, or on the rooftops shall be screened from view or made an integral part of the overall design of the applicable building.
- iv. All service, loading and trash collection areas shall be screened by a combination of decorative walls of masonry, wood and landscape plantings. Utility and service enclosures shall be designed to be compatible with the architecture of the adjacent building.

- v. Fences may be used to provide continuity to a streetscape, privacy for homeowners and their guests from passersby, to help differentiate private space from public space, and to screen parking or service areas and utilities. Types of fencing may include ornamental metal fencing or decorative wood fencing.

o. Exterior Lighting

- i. Lighting shall be provided at a scale and intensity that creates a comfortable, attractive and safe evening environment for pedestrians as well as vehicles.
- ii. In general all lighting shall be oriented downward and otherwise conform to “dark sky” standards. Uplighting is permitted to light a primary entrance when the light fixture is mounted under an architectural element (e.g. roof, cornice, walkway, entryway or overhanging non-translucent eaves) so that the uplighting is captured.
- iii. Exterior lighting shall be shielded to direct lighting to its targeted feature and so that glare is not visible from a public way or abutting property. In general, uplighting is prohibited, except for illuminating the United States Flag or public monuments. Uplighting to accent building facades or landscaping is permitted provided the light is targeted at the feature to be illuminated and reflected light is the only upward lighting. The PAA may waive these requirements only upon a determination that such waiver is in the public interest in light of the unique character or aesthetic benefit of a particular landmark, architectural or landscape feature.
- iv. Façade lighting and architectural lighting shall articulate building uses and entries and reinforce the public nature of the sidewalk and building frontage.
- v. Lighting along street fronts and public ways shall reinforce rather than compete with the continuity of the City’s street lighting, if applicable. If the sidewalk includes street trees, streetlights shall be located between the trees so that the tree canopy does not interfere with illumination coverage.
- vi. Lighting in parking areas and at the side and rear of buildings abutting adjoining properties should be designed with cutoff fixtures to cut off light at the property line.
- vii. Prohibited lighting includes neon or other edge-glowing sources, mercury vapor, low pressure sodium, high pressure sodium, searchlights, and flashing or changing light sources. Motion-sensitive lights may be used when necessary for security purposes. Lighting shall be metal halide and/or LED or similar to provide a natural uniform quality of light. The use of mercury vapor, low pressure sodium, high pressure sodium and high wattage quartz lamps over 100 watts is prohibited.
- viii. Pedestrian areas shall have poles no more than 12 feet high and parking areas shall have poles no more than 22 feet high.
- ix. Parking and pedestrian light fixtures shall be compatible with the building lighting to provide for a consistent appearance of the Project.

- x. Building and signs lighting must be from an indirect light source hidden from the pedestrian, motorist and adjacent view of public and private property.
- xi. Cobra-head lights and unfinished metal poles are not allowed.
- xii. Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties.

p. Utilities & Service Areas

- i. Where possible and feasible, shared loading areas, dumpsters, and mechanical equipment shall be incorporated into the design.
- ii. All new and relocated utility services, wires, conduits, and cables shall be located underground. No above ground electrical lines or utility cables will be permitted.
- iii. Mechanical equipment, solar panels and communications equipment shall be screened from view with materials compatible with the building or made an integral part of the overall design of the building.
- iv. All mechanical equipment, loading and service areas within the Project shall be screened from view and shall incorporate sound control devices or construction methods that mitigate equipment sound and vibration and ensure noise attenuation.
- v. All electrical and mechanical devices, boxes, and structures shall be located within buildings or screened with landscaping or architectural screens when outside.

q. Protection of Public Safety

- i. Site design shall include adequate water supply distribution and storage for fire protection. Vehicular circulation shall meet the access needs of emergency and public safety vehicles. The adequacy of the foregoing public safety measures will be based on the reasonable requirements of the Newburyport Police Department and Fire Department, in their respective fields.
- ii. All pedestrian paths and entry areas shall be lighted and entry areas to buildings should provide protection from adverse weather through the use of porches, awnings or entryways.

r. Water & Sewer Infrastructure Standards

- i. Each Project shall be designed in accordance with the Department of Public Services (DPS) regulations and standards with regard to water and sewer infrastructure.

s. Drainage and Storm Water Management

- i. All systems which deliver, treat, infiltrate, and/or discharge stormwater runoff to ground or surface waters shall be sufficiently treated and monitored to achieve all

applicable effluent standards of the Newburyport Board of Health, Department of Public Services, Conservation Commission and the Massachusetts Department of Environmental Protection (DEP), as applicable.

- ii. Stormwater management systems shall not increase the volume or rate, or further degrade the quality of, existing discharges/ runoff. Post-development peak runoff shall be maintained at or below pre-development peak runoff rates.
- iii. All development shall incorporate "Best Management Practices" (BMPs) as prescribed by the Massachusetts Department of Environmental Protection, in addition to employing Low Impact Development (LID) strategies throughout the site to intercept, treat and infiltrate stormwater using landscaping, natural features and source control methods. BMP/LID means and methods should be carefully integrated within the site design approach with a goal of decentralizing storm water management systems to the greatest extent practical and minimizing environmental impact of new development. The specific goals of the BMP/LID measures should be mitigation of post-development downstream impacts and achieving the highest level of water quality for all storm water runoff.
- iv. Systems and the designed approach for storm water management should include elements such as bio-retention basins, landscaped swales, vegetated rain-gardens, landscaped swales, infiltration trenches, infiltration chambers, dry-wells, settlement forebays, level spreaders, filter strips, tree boxes permeable pavements and other runoff controlling features that in combination serve to achieve BMP/LID goals. Retention and detention ponds are prohibited.
- v. A Stormwater Operations and Maintenance Plan shall be submitted at the time of application for all Projects. The plan shall include a map of the proposed system, specify the parties responsible for the system, indicate easements required, and provide a schedule for maintenance tasks. The stormwater management plan shall be developed by a professional engineer registered in the Commonwealth of Massachusetts, and shall be reviewed and approved by the PAA, which reserves the right to retain a consultant engineer to review said plan, at the applicant's expense.
- vi. All water from roofs and paved areas shall be retained on site, where possible, and recharged into the ground, or incorporated into a recovery system for use as on-site irrigation, gray water flushing, etc.
- vii. Pervious paving is recommended, along with landscaping and pervious landscaped areas. Sites shall be graded as necessary to prevent ponding of water.
- viii. Infiltration systems shall be designed to control hazardous material spills, remove contamination, and avoid sedimentation of leaching facilities.

8. Signs

t. Exterior Signs in General

- i. All proposed signs shall clearly identify and distinguish residential and non-residential uses.
- ii. A residential-only development or the residential component of a mixed use Project where the building does not front on a public street shall be permitted one free-standing sign at each principal entrance to the site. The sign shall identify the name and address of the development and shall not exceed 16 square feet.
- iii. Each mixed-use development project in the District may include a primary storefront sign (or awning that is used to provide signs) and a storefront cantilevered sign, for each commercial tenant.
- iv. The limitations as to the number of signs permitted do not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors of any business, industry or residence. Such signs shall not carry the name of any business or product.
- v. Signs should be standardized by height above grade, type, size, materials, colors, illumination and method of installation, across the building façade and within the surrounding block to the largest extent practical.
- vi. Signs on buildings should not obstruct elements such as cornices, arches, lintels, pediments, windows, pilasters, etc.
- vii. Signs in the District should be designed primarily to be visible to pedestrians or slow moving vehicular traffic. Wording should be kept to a minimum and the use of logos is encouraged.
- viii. No signmaker labels or other identification (including UL label), are permitted on the exposed surfaces of signs, except as may be required by the building code. If required, such labels or other identification shall be in an inconspicuous location.
- ix. All sign illumination shall be shielded or directed in such a way as to prevent spillage off the building or onto streets, parking, driveway areas or surrounding properties. Signs shall be illuminated only by an external source of steady, stationary white light, of reasonable intensity, shielded and directed solely at the sign, and not casting direct or reflected light off the premises. The use of neon or gas filled tubes is prohibited. No sign shall be illuminated internally or from behind a translucent sign face. All light fixtures shall either be decorative (such as goose-neck lights) or camouflaged. Wiring shall be concealed within building molding and lines.
- x. No sign or other advertising device, or part thereof, shall be more than 20 feet above ground level, unless otherwise approved by the PAA.

u. Primary Storefront Signs

- i. A primary storefront sign for each commercial use shall be located within a sign band along the face of the building between 8 to 15 feet above the finish floor level projecting no more than six (6) inches from the adjacent facade. When a tenant has elevations

fronting on different sides of a building, the tenant may have a primary storefront sign on each façade. Wall signs in multi-tenanted buildings shall be placed within the same sign band. The placement of wall signs on individual buildings shall respect the sign band on adjacent buildings.

- ii. The total sign area for a primary storefront sign shall not contain more than two square feet of sign area for each linear foot of storefront. Sign area shall be calculated by creating a rectangular box around the main body of the primary sign. The storefront leaseline width multiplied by two equals the maximum sign area in square feet, however, no sign shall exceed twelve (12) square feet in area.
- iii. Signs above the sills of the second story windows shall be confined to painted or applied letters on the window glass, provided that such signs advertise the organizations therein. Signs are not permitted on continuous, horizontal "curtainwall" type windows in upper stories.

v. Storefront Cantilevered Sign

- i. Each commercial tenant shall be allowed to construct and install a cantilevered ("blade sign"), installed perpendicular to the building façade, not in excess of eight (8) square feet as measured on one face of the sign. Any such storefront cantilevered sign shall not count toward the total allowable area of signs on a single façade.
- ii. One storefront cantilevered sign will be allowed per tenant on each elevation of a building with a customer entrance. The sign shall be attached to the tenant storefront between 8 to 10 feet above the finish floor level. Storefront cantilevered signs shall project no more than four (4) feet from the adjacent building facade.
- iii. Each storefront cantilevered sign may be externally illuminated with two integrated lights (one light on each sign face or panel). The sign may be square, round, elliptical or other shape. Complex shapes and three-dimensional letters or figures are encouraged. Formed plastic, injection molded plastic, and internally illuminated panels are prohibited.
- iv. Signs on the inside or outside surface of display windows may be permitted provided, however, that such signs shall not cover more than ten percent (10%) of the display window area and shall be lighted only by building illumination (white, non-flashing).

w. Awnings

- i. Awnings that are used to provide signs should be standardized by height above grade, type, size, materials, colors, illumination and method of installation, across the building façade and within the surrounding block to the largest extent practical.
- ii. Awnings shall be made of fire resistant, water repellent marine fabric (e.g. canvas) or may be constructed of metal or glass. Vinyl or vinyl-coated awning fabric will not be permitted.

- iii. Continuous, uninterrupted awning spans are not permitted. Fixed awnings shall not span numerous bays, windows or store fronts. The awnings should delineate storefronts on a multi-tenant building.
- iv. Internally illuminated awnings are not permitted, except that down lighting that is intended to illuminate the sidewalk may be provided under the awning. All lighting under a canopy shall be cutoff or recessed, with no lens dropping below the horizontal plane of the canopy. The light source shall not illuminate or cause the awning to "glow".

x. Temporary Signs

The following additional signs are permitted in a Project:

- i. One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership, provided that it shall not exceed six (6) square feet in surface area.
- ii. One unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected, provided that it shall not exceed six (6) square feet in surface area.

y. Prohibited Sign Types

The following sign types are prohibited:

- i. Signs employing luminous plastic or neon (extremely bright) colored letters.
- ii. Advertising flags, blades, feathers and A-frame signs.
- iii. Box style cabinet signs or "can" signs are prohibited, whether internally illuminated or not.
- iv. Signs or lights that move, change, flash animated or intermittent illumination, have reader boards or make noise are prohibited. Such prohibition shall include commercial balloon devices, high powered search lights and signs expressed or portrayed by emitted light, digital display or liquid crystal display. Where permitted by the PAA, indicators of time or temperature may move.
- v. Signs utilizing paper, cardboard, particle board, plastic, highly reflective metal Styrofoam, stickers or decals hung around, on or behind storefronts, or applied to or located behind the storefront glazing. This restriction shall not apply to carved high-density sign foam or foam board when the finished surface has a matte (non-glossy) finish.
- vi. Any imitation of official traffic signs or signals, or use of such words as "Stop," "Look," "Danger," "Slow," "Caution," or "Warning" is prohibited.
- vii. Red or green lights or any lighting effect utilizing such colors used on any sign if, in the opinion of the Police Department, such light or lighting would create a hazard to the operation of motor vehicles.

- viii. Directories located outside of the buildings, except for unified “wayfinding” signs approved by the PAA.
- ix. Roof, pole or pylon signs.
- x. Inflatable figures and/or signs, whether movable or stationary.

Additional Requirements Applicable to Subdistricts A and C:

- 1. All buildings shall have pitched rooflines with gables and dormers in lieu of flat rooflines.

Additional Requirements Applicable to Subdistrict B:

- 1. [To be determined.]

XXIX-J Mitigation of Development Impacts

[To be determined in consultation with City Solicitor.]

XXIX-K Appeals.

In accordance with M.G.L. Chapter 40R Section 11, an appeal of any decision made by the PAA under this Section may be made by any aggrieved party to any court authorized to hear appeals under section 17 of Chapter 40A. Such appeal may be brought within twenty (20) days after the decision has been filed in the office of the City Clerk. Notice of the appeal, with a copy of the complaint shall be given to the City Clerk so as to be received within such 20 days. Such appeals shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of M.G.L. Chapter 40A.

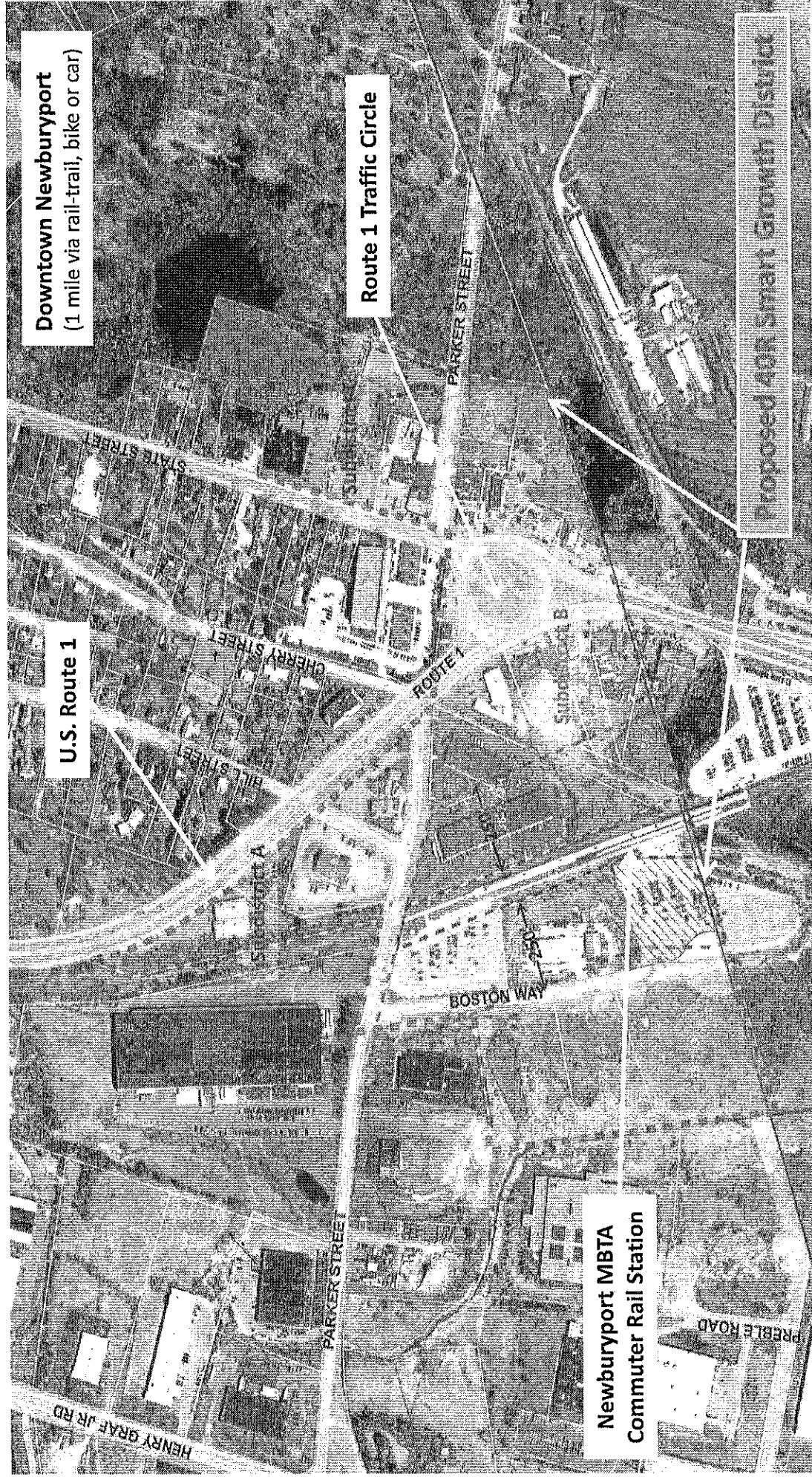
XXIX-L Severability.

The provisions of this section are severable. If any of its provisions, sections, subsections, paragraphs, sentences, or clauses, or the application thereof to any person, entity, establishment, or circumstances shall be held to be invalid or unconstitutional by any court of competent jurisdiction, then the remainder of this section and the application thereof shall continue to be in full force and effect. The invalidity of any provision of this Section shall not affect the validity of the remainder of the Newburyport Zoning Ordinance.

Councilor Jared J. Eigerman

Councilor Meghan C. Kinsey

40R Smart Growth District - Newburyport, MA



COMMITTEE ITEMS

PUBLIC SAFETY COMMITTEE

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

November 10, 2014

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED 'TRAFFIC AND MOTOR VEHICLES

Be it ordained by the City Council of the City of Newburyport as follows:

Chapter 13	Traffic and Motor Vehicles
Article 4	Specific Street Schedules
Division 6	Stopping, Standing and Parking
Section 13-174	Parking limited—Generally

Delete from the table:

State	For a period longer than four (4) hours between the hours of 6:00 a.m. to 7:00 p.m. during weekdays, excluding holidays, on either side from the intersection of Route 1 and State Street and continuing in a northerly direction approximately 1,250 feet.
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Add to the table:

State	For a period longer than four (4) hours between the hours of 6:00 a.m. to 7:00 p.m. during weekdays, excluding holidays, on the westerly side from the intersection of Route 1 and State Street and continuing in a northerly direction approximately 1,250 feet.
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Councillor Jared J. Eigerman

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

JANUARY 12, 2015

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED TRAFFIC AND MOTOR VEHICLES

Be it ordained by the City Council of the City of Newburyport as follows:

Chapter 13: **TRAFFIC AND MOTOR VEHICLES**
Article IV: **Specific Street Schedules**
Division 4: **Stop Intersections**
Section 13-136: **Designated**

The following streets are designated as stop intersections and vehicles traveling thereon shall come to a complete stop before entering such intersections:

Delete:

Beacon Avenue: Northeastbound drivers on Beacon Avenue at Oak Street.

Amend to state as follows:

Beacon Avenue: Northeastbound and southwestbound drivers on Beacon Avenue at Oak Street.

Oak Street: Northwestbound and southeastbound drivers on Oak Street at Beacon Avenue.

Councillor Allison Heartquist

PUBLIC UTILITIES COMMITTEE

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

January 12, 2015

ORDERED that the Newburyport City Council petitions the General Court for special legislation pertaining to water fluoridation, as attached.

Councilor Ari B. Herzog
Councilor Meghan C. Kinsey

Handwritten notes:
Mto Rtd PH
Dnt/MK
AH
RPH/Gur
3/18
EY B2/JO

HOME RULE PETITION

An Act to place the local question, "Are you in favor of discontinuing the fluoride supplementation of the Newburyport water supply?" on the November 2015 biennial election ballot

SECTION 1. Notwithstanding section 8C of chapter 111 of the General Laws or any general or special law to the contrary, the city of Newburyport is authorized to include on the ballot for the November 3, 2015 municipal election the following question: "Are you in favor of discontinuing the fluoride supplementation of the Newburyport water supply?"

Below the ballot question will appear a fair and concise summary of the ballot question to be prepared by legal counsel.

If the majority of votes in answer to this question is in the affirmative, the water supply of the city of Newburyport will not be fluoridated, and the fluoridation of the water supply will not be ordered again by the board of health for a period of at least 2 years from the date of that vote.

SECTION 2. This act will take effect upon passage.