

## CITY OF NEWBURYPORT




IN CITY COUNCIL

## ORDERED:

AN ORDER RELATIVE TO A SPECIAL ACT TO DISSOLVE NEWBURYPORT REDEVELOPMENT AUTHORITY AND TRANSFER ITS LANDS TO THE CITY OF NEWBURYPORT FOR PERMANENT DEDICATION FOR PARK AND CONSERVATION PURPOSES, WITH PUBLIC PARKING NOT EXCLUDED, UNDER ARTICLE 97 OF THE MASSACHUSETTS CONSTITUTION

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

That the City Council of the City of Newburyport (City) hereby authorizes the Mayor, on behalf of the City: (a) to submit a Home Rule Petition to the General Court of the Commonwealth of Massachusetts to enact a Special Act for the City in the form attached hereto, and in the manner described below, for the purposes of dissolving the Newburyport Redevelopment Authority and transferring all its monies, and personal and real property to the City, with such lands, including, without limitation tidelands, whether flowed or filled, to be permanently dedicated for park and conservation uses, with public parking not excluded, under Article 97 of the Massachusetts Constitution, provided that the General Court may make clerical or editorial changes of form only to the bill; (b) to act on behalf of the City relative to any inquiries made by the General Court concerning the proposed Special Act; and (c) to approve amendments to such Special Act which shall be within the scope of the general public objectives of the Home Rule Petition.

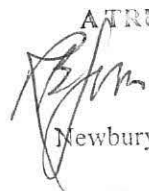
  
 Councillor Sharif I. Zeid, Ward 1

  
 Councillor Larry G. Giunta, Ward 5

  
 Councillor Gregory D. Earls, At-Large

  
 Councillor Joseph H. Devlin, At-Large

A TRUE COPY ATTEST

  
 , City Clerk  
 Newburyport, Massachusetts

**A SPECIAL ACT TO DISSOLVE NEWBURYPORT REDEVELOPMENT AUTHORITY  
AND TRANSFER ITS LANDS TO THE CITY OF NEWBURYPORT FOR  
PERMANENT DEDICATION FOR PARK AND CONSERVATION PURPOSES, WITH  
PUBLIC PARKING NOT EXCLUDED, UNDER ARTICLE 97 OF THE  
MASSACHUSETTS CONSTITUTION**

**WHEREAS**, the City Council of the City of Newburyport voted on February 1, 1960, to create a redevelopment authority, as contemplated by Massachusetts General Laws (MGL) Chapter 121B, now known as the "Newburyport Redevelopment Authority," for the purposes of accomplishing urban renewal objectives, such as the removal of substandard buildings and blight, providing land for public uses, ensuring adequate public amenities and infrastructure, removing impediments to land acquisition and disposition for redevelopment, promoting economic development, and ensuring the preservation and integration of architectural and urban character in historic downtown Newburyport, and

**WHEREAS**, the originally cited purposes for establishing the Newburyport Redevelopment Authority, have since been substantially realized in downtown Newburyport, and maintained without continued assistance from said authority, and

**WHEREAS**, the Urban Renewal Plan of said Newburyport Redevelopment Authority, entitled "Newburyport Central Business Urban Renewal Project" (Mass R-80), dated April 26, 1965, as amended, expired on or about July 21, 2005, approximately fourteen years ago, and is no longer a valid basis for Newburyport Redevelopment Authority activities under MGL Chapter 121B, Section 48, or otherwise, and

**WHEREAS**, the Newburyport Redevelopment Authority has for many years failed to keep an accurate account of all its activities, receipts, and expenditures in connection with the planning and execution of urban renewal projects, as required under MGL Chapter 121B, Section 52, and

**WHEREAS**, the Newburyport Redevelopment Authority has for many years failed annually in the month of January to make a report of such activities, receipts, and expenditures to the Department of Housing Community Development, the state auditor, and the Mayor, as required under MGL Chapter 121B, Section 52, and

**WHEREAS**, the real property acquired by said Newburyport Redevelopment Authority, by purchase and by eminent domain for public purposes, pursuant to said MGL Chapter 121B and said expired Urban Renewal Plan, was intended to be redeveloped for the purposes of accomplishing urban renewal objectives such as the removal of substandard buildings and blight, providing land for public uses, ensuring adequate public amenities and infrastructure, removing impediments to land acquisition and disposition for redevelopment, promoting economic development, and ensuring the preservation and integrity of architectural and urban character in historic downtown Newburyport, and

**WHEREAS**, pursuant to MGL Chapter 121B, Section 16, the real estate and tangible personal property of the Newburyport Redevelopment Authority shall be deemed to be public property used

for essential public and governmental purposes, and shall be exempt from taxation and from betterments and special assessments, and

**WHEREAS**, under that certain confirmatory declaration of trust dated January 28, 1991, as revised (Trust Declaration), the Newburyport Waterfront Trust already controls significant real property located adjacent to the lands currently owned by the Newburyport Redevelopment Authority, and

**WHEREAS**, that pursuant to that certain *Stipulation* in Land Court Case No. 39539, dated March 31, 1980, and recorded in Essex South District Registry of Deeds Book 6695, Page 428, such property controlled by the Waterfront Trust has been dedicated as a public park forever, provided that public parking is not an excluded use in said park, to be known as "Riverside Park," and

**WHEREAS**, the purpose of the Newburyport Waterfront Trust is to hold, manage, maintain, conserve and utilize its real property for use and enjoyment by the public in perpetuity, with free access of the public to and from such real property as "public trust lands," forever, and

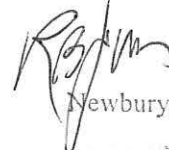
**WHEREAS**, the trustees of the Newburyport Waterfront Trust are appointed by the Mayor of the City of Newburyport with the approval of the City Council of the City of Newburyport, and

**WHEREAS**, the City of Newburyport has made substantial multi-year, good-faith efforts to negotiate a reasonable settlement of disputes related to future use of the lands still owned by the Newburyport Redevelopment Authority, including through nearly two years of public hearings and multilateral negotiations through an *ad-hoc* committee of the City Council of the City of Newburyport, which resulted in a two-page settlement framework, approved unanimously by said City Council on May 30th, 2017 (May 2017 City Council Order), and

**WHEREAS**, despite the direct participation of the Newburyport Redevelopment Authority in negotiations with the City of Newburyport and other interested parties, including through the *ad hoc* committee of the City Council of said City, the Newburyport Redevelopment Authority has taken actions regarding disposition of its public lands during 2018 and 2019 that contradict the plans of the inhabitants of the City of Newburyport for such public lands, as expressed through the May 2017 City Council Order, including by transferring for nominal consideration a portion of such lands to a private, third party, rather than to the City of Newburyport, as planned under the May 2017 City Council Order, or to the Newburyport Waterfront Trust, and

**WHEREAS**, as evidenced by the May 2017 City Council Order as well as the petition regarding these matters submitted to the General Court by the Mayor and the City Council of the City of Newburyport during April 2019, it is the clear and unequivocal intent of said City upon taking ownership of the lands now owned by the Newburyport Redevelopment Authority, including, without limitation tidelands, whether flowed or filled, to dedicate such lands permanently to park and conservation purposes, provided that public parking is not an excluded use, under Article 97 of the Massachusetts Constitution;

**WHEREAS**, as evidenced by the May 2017 City Council Order as well as the petition regarding these matters submitted to the General Court by the Mayor and the City Council of the City of Newburyport in April 2019, it is further the clear and unequivocal intent of said City acceptance of the lands now owned by the Newburyport Redevelopment Authority, including, without limitation



tidelands, whether flowed or filled, to facilitate the actual use of such lands permanently for park and conservation uses, provided that public parking is not an excluded use, under Article 97 of the Massachusetts Constitution by subsequently transferring such lands to the Newburyport Waterfront Trust on the conditions specified in the May 2017 City Council Order; and

**WHEREAS**, the Mayor and the City Council of the City of Newburyport, representing the citizens of that community have petitioned the General Court relative to these matters;

**NOW, THEREFORE, BE IT ENACTED** by the Senate and the House of Representatives in General Court assembled, and by the authority of the same as follows:

**SECTION 1. Newburyport Redevelopment Authority Dissolved.**

Notwithstanding the provisions of Massachusetts General Laws (MGL) Chapter 121B, Section 4, and any general or special law, state agency regulations or guidelines to the contrary, the Newburyport Redevelopment Authority, established on February 1, 1960, by vote of the Newburyport City Council pursuant to said Chapter 121B, Section 4 is hereby dissolved, and no approval from the Department of Housing and Community Development (DHCD) or any other state agency shall be necessary to effect the same, except that upon passage of this chapter, the Clerk of the City of Newburyport shall provide a copy of this chapter to the State Secretary and said Newburyport Redevelopment Authority shall be dissolved forthwith.

Notwithstanding the provisions of Massachusetts General Laws (MGL) Chapter 155, Section 51, the Newburyport Redevelopment Authority shall be dissolved immediately and shall not be continued as a body corporate after the effective date of this chapter.

**SECTION 2. Ownership Interests.**

Notwithstanding any general or special law, state agency regulations or guidelines to the contrary, the entirety, without exception, of all monies, and personal and real property interests whatsoever held by the Newburyport Redevelopment Authority are hereby transferred and conveyed to, and shall be vested in, the City of Newburyport, with all lands whatsoever, including, without limitation tidelands, whether flowed or filled, to be held permanently for the purposes of park and conservation uses, provided that public parking shall not be an excluded use, under Article 97 of the Massachusetts Constitution.

The City may execute and deliver a certificate in a form suitable for recording referencing the passage of this chapter along with a copy of said Chapter, and the Register of Deeds for Essex County shall accept the same for recording and make a marginal reference thereto upon the record of all applicable deeds for real property heretofore owned by the Newburyport Redevelopment Authority, as provided in summary format by the City of Newburyport. The Land Court shall also accept said certificate and a copy of this Chapter for the purposes of issuing a Certificate of Title



to the City of Newburyport for any registered land heretofore owned by the Newburyport Redevelopment Authority.

### **SECTION 3. Elimination of Newburyport Redevelopment Authority Powers.**

Notwithstanding any general or special law, state agency regulations or guidelines to the contrary, after the effective transfer and conveyance to the City of the entirety of all of the monies, and personal and real property interests of the Newburyport Redevelopment Authority, as required by this chapter, all remaining powers and authorities held by the Newburyport Redevelopment Authority, without exception, and including, without limitation, the power of eminent domain, are hereby dissolved.

### **SECTION 4.**

The City shall reserve any monies transferred to the City pursuant to Section 2 above in addition to no less than 100% of any ongoing meter revenues generated from parking on the land solely for the purposes of design, construction, maintenance, or operation of an extended Waterfront Park, as designated in this Order under Article 97. Such funds shall be placed into a separate, designated Receipts Reserved for Appropriation fund for these purposes as improvements to the public realm.

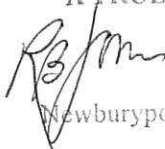
### **SECTION 5. Relation to Existing Statutes and Regulations.**

If any provision of this Chapter conflicts with any provisions of any general or special law, state agency regulations or guidelines, the provisions of this Chapter shall govern.

If at any point after the passage of this chapter, the City of Newburyport determines that a new redevelopment authority shall be necessary in the City for any reason, it may vote to organize a new redevelopment authority in accordance with Massachusetts General Laws (MGL) Chapter 121B, Section 4.

### **SECTION 6. Records of the Newburyport Redevelopment Authority.**

All members of the Newburyport Redevelopment Authority immediately prior to the effective date of this Chapter shall immediately transfer all files, legal and financial records or other materials belonging to the Newburyport Redevelopment Authority to the City of Newburyport, acting through its Office of Planning and Development. Such files, records and materials shall include any such items held by consultants or legal counsel to the Newburyport Redevelopment Authority, without reservation.

A TRUE COPY ATTEST  
  
\_\_\_\_\_, City Clerk  
Newburyport, Massachusetts

**SECTION 7. *Stipulation* in Land Court Case No. 39539, dated March 31, 1980, and recorded in Essex South District Registry of Deeds Book 6695, Page 428.**

For the avoidance of all doubt, the General Court affirms that the City of Newburyport shall be, for all purposes, the successor of interest to the Newburyport Redevelopment Authority under that certain *Stipulation* in Land Court Case No. 39539, dated March 31, 1980, and recorded in Essex South District Registry of Deeds Book 6695, Page 428, including, without limitation, as to all outstanding obligations thereunder.


**SECTION 8. *Effective Date.***

This Chapter shall take effect upon its passage by the General Court.

**SECTION 9.**

The City of Newburyport commits to designing, funding, and building a Waterfront Park, in accordance with the will of the Residents of the City of Newburyport. On a best-efforts basis, the design shall be consistent with the principles and references documented in "COMM067\_05\_30\_17" – Ad Hoc Central Waterfront Committee agreed upon by the Newburyport City Council in May of 2017 by a 10-0 (1 absent) vote.

A TRUE COPY ATTEST

 , City Clerk  
Newburyport, Massachusetts

**In City Council April 8, 2019:**

Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 7 yes, 3 no (Giunta, Khan, Shand), 1 absent (OBrien). Motion passed. Motion to amend by substituting amendment of April 4, 2019, by Councillor Eigerman, seconded by Councillor Vogel. Motion to amend, insert the following language as a new Section 4: "The City shall reserve any monies transferred to the City pursuant to Section 2 above in addition to no less than 100% of any ongoing meter revenues generated from parking on the land solely for the purposes of design, construction, maintenance, or operation of an extended Waterfront Park, as designated in this Order under Article 97. Such funds shall be placed into a separate, designated Receipts Reserved for Appropriation fund for these purposes as improvements to the public realm.", by Councillor Zeid, seconded by Councillor Giunta. Roll call vote, 10 yes, 1 absent (OBrien). Motion to amend, add Section 9: "The City of Newburyport commits to designing, funding, and building a Waterfront Park, in accordance with the will of the Residents of the City of Newburyport. On a best-efforts basis, the design shall be consistent with the principles and references documented in "COMM067\_05\_30\_17" – Ad Hoc Central Waterfront Committee agreed upon by the Newburyport City Council in May of 2017 by a 10-0 (1 absent) vote.", by Councillor Zeid, seconded by Councillor Giunta. Roll call vote, 10 yes, 1 absent (OBrien). Motion to amend with the language of the proposed amendment, update April 4, 2019 amendment to include updated language in sections 4 and 9, by Councillor Eigerman, seconded by Councillor Vogel. Roll call vote, 9 yes, 1 no (Khan), 1 absent (OBrien). Motion to approve as amended by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 9 yes, 1 no (Khan), 1 absent (OBrien). Motion passed.

Approve: Donna D. Holaday  
Donna D. Holaday, Mayor

Attest: Richard B. Jones  
Richard B. Jones, City Clerk

Date: 4/10/2019

A TRUE COPY ATTEST  
Richard B. Jones, City Clerk  
Newburyport, Massachusetts