

SPECIAL CITY COUNCIL MEETING AGENDA (CONTINUED) - VERSION 1
PURSUANT TO CHARTER SECTION 2-6(c) (ii)
REMOTE – MEETING DETAILS BELOW
APRIL 08, 2020

7:30PM

1. Call to Order
2. Public Comment
3. ODNC056_04_06_2020 – An Ordinance to Prevent Contagion of the Covid 19 Virus in Public Places under the Jurisdiction of the City of Newburyport As Amended.

This is a continuance of the Special Council Meeting noticed on Monday, April 6, 2020 at 7:30 pm wherein the current passed Amendments are as follows:

- a) To reduce the First Violation from \$125 to \$25 in Section (c) (1) AK/BV 10 Y/ 1 N (JD) So Voted.
- b) To amend Section (a) (2) as follows: insert the word 'or' between field and court, strike 'or other area', and add after the word field the following, "however, notwithstanding the foregoing, jogging and running do not constitute a violation of this section. JE/AK 10Y/1N (JD) So Voted.
 - a. Currently there is the following Motion to Strike on the floor for discussion:
- c) Motion to Strike Section A(2), A(3) and modify (c) Violations and penalties as follows: strike 'the Parking Clerk', and 'animal control officers and parking control officers' and the remaining section (c) beginning with the words 'by penalizing violators' to the end of the section (c). JD/SZ
- d) Additionally there is an existing Motion to Approve as Amended pending. JE/AK

4. Adjournment

MEETING DETAILS:

Zoom Meeting info:

Here is the link:

<https://zoom.us/j/879579894>

Telephone: 1 312 626 6799 Webinar ID: 879 579 894

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

April 6, 2020

AN EMERGENCY ORDINANCE TO PREVENT CONTAGION OF THE COVID-19 VIRUS IN PUBLIC PLACES UNDER THE JURISDICTION OF THE CITY OF NEWBURYPORT

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

EMERGENCY PREAMBLE:

WHEREAS on March 10, 2020, due to the worldwide COVID-19 virus pandemic and pursuant to the Chapter 639 of the Acts of 1950, as amended, and Section 2A of Chapter 17 of the Massachusetts General Laws, Governor Charles D. Baker issued a proclamation that there exists in the Commonwealth of Massachusetts a state of emergency, and followed by the Governor's order issued on March 23, 2020, extended on March 31, 2020, that, among other things, prohibits through May 4, 2020, gatherings of ten (10) or more people;

WHEREAS notwithstanding such proclamation and orders, and an advisory issued on March 17, 2020, by Mayor Donna D. Holaday closing to group activities all city playgrounds and athletic and sports facilities, it is manifest that such prohibited gatherings and group activities have continued at public properties under the jurisdiction of the city, including, without limitation, at public parks, playgrounds, and beaches;

WHEREAS as of April 5, 2020, the Massachusetts Department of Public Health reported 12,500 cases of COVID-19 in the Commonwealth confirmed through laboratory testing, including 1,506 confirmed cases within Essex County;

WHEREAS there may, at present, be many thousands more cases of COVID-19 in the Commonwealth, including within Essex County, that are unconfirmed through laboratory testing;

WHEREAS public properties under the jurisdiction of the city, including, without limitation, some of parks, playground, and beaches located within the city, are regional resources that attract visitors from beyond Newburyport and the Commonwealth;

WHEREAS Anna Jaques Hospital, an affiliate of the Beth Israel Lahey Health, is the only licensed hospital located within the City of Newburyport, and had, as of December 31, 2018, a capacity of approximately 140 beds, including approximately eight (8) beds in its intensive care unit;

WHEREAS the virulence of the COVID-19 virus is such that if its spread is not mitigated significantly and immediately it could overwhelm health care facilities serving the City of Newburyport, including Anna Jaques Hospital, with more patients than those facilities and their personnel can treat effectively at the same time;

WHEREAS the City Council finds that these conditions create an emergency, specifically the immediate and present danger to the health and well-being of the people of Newburyport posed by contagion of the COVID-19 virus;

WHEREAS Section 2-5 of the Newburyport Charter provides that, except as otherwise provided by general law or by such charter, all powers of the City shall be vested in the City Council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the City by law;

WHEREAS Section 2-9(b) of the Newburyport Charter provides that an emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms; and

WHEREAS Section 1-17 of the Newburyport Code provides that any ordinance of the City, the violation of which is subject to a specific penalty, may, in the discretion of the City official who is the appropriate enforcing person or persons, as designed by the City Council, be enforced by way of the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws;

NOW, THEREFORE:

- (a) *Banned activities and required personal distances at city property.* Through Monday, May 4, 2020, it shall be unlawful at, upon, or within any public building, right of way, park, playground, or beach under the jurisdiction of the city, including, without limitation, those public parks and playgrounds identified in Section 11-2 of the Newburyport Code:
- (1) For more than ten (10) people to gather for any purpose, whether indoors or out;
 - (2) For any person to use any playground or play equipment, or any athletic or sports equipment or field, court, or other area, including, without limitation, a tennis court, basketball court, baseball field, or soccer field; and
 - (3) For any person to stand, sit, walk, jog, run, or otherwise be located within six (6) feet of any other person with whom such person does not reside in a household, including a group home, excepting solely those persons responding to an emergency in an official capacity and in accordance with applicable law, such as personnel of the City's Fire Department, Police Department or Department of Public Services, physicians, nurses or emergency medical technicians, and repair personal for public utilities.
- (b) *Suspension of licenses and permits to use public properties for events.* Any license or permit issued by the City Council, or by any City officer, board, or commission, is hereby suspended for any event, including, without limitation, any parade, road race, or block party, to take place or otherwise occur at, upon, or within any public building, right of way, park, playground, or beach under the jurisdiction of the City, including, without limitation, those

public parks and playgrounds identified in Section 11-2 of the Newburyport Code, scheduled to occur through Monday, May 4, 2020.

- (c) *Violations and penalties.* The Health Director, the City Marshal, the Parking Clerk, and their respective designees, including, without limitation, police officers, animal control officers, and parking enforcement officers, are expressly authorized to enforce the provisions of this order by penalizing violators by noncriminal disposition as provided in Section 21D of Article 40 of the Massachusetts General Laws, as follows.
- (1) *First violation.* Upon the first violation of this ordinance, the enforcing officer shall impose upon and provide each person in violation with written notice of the accrual of a monetary penalty in the amount of one-hundred-and-twenty-five dollars (\$125).
- (2) *Subsequent violations.* Upon any subsequent violations of this ordinance by the same violator after a first violation, the enforcing officer shall impose upon and provide the violator with written notice of the accrual of a monetary penalty, as follows:
- (A) Two-hundred-and-fifty dollars (\$250) for the second violation;
- (B) Five-hundred dollars (\$500) for the third violation; and
- (C) One-thousand dollars (\$1,000) for the fourth and any subsequent violation.
- (3) *Use of Revenues.* All revenues collected through payments of a monetary penalty under this ordinance shall be used only to defray costs to the City incurred due to the COVID-19 declared state of emergency, including, without limitation, any administrative costs to enforce this ordinance.
- (c) *Effective date.* This ordinance shall take effect at 12:00 p.m. Eastern Daylight Time on Tuesday, April 7, 2020.
- (d) *Severability.* The City Council intends that each separate provision of this ordinance shall be deemed independent of all other provision herein, and that if a court of competent jurisdiction declares that any provision of this ordinance is invalid, then the remaining provisions of this ordinance shall remain valid and enforceable.

Councillor Byron J. Lane

Councillor Jared J. Eigerman

Councillor Charles F. Tontar