

**CITY COUNCIL "REMOTE"**

**MEETING AGENDA**

**January 10, 2022**

**City Council Meeting 7:30 pm**

**LOCATION: City Council Chambers, City Hall**

**60 Pleasant Street, Newburyport**

\*\*\*\*\*

**Remote Joint Meeting of the City Council and the School Committee 6:30 pm**

Zoom Details:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89498517476>

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US: +13126266799,

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US: +1 312 626 6799

Webinar ID: 894 9851 7476

International numbers available: <https://us02web.zoom.us/j/89498517476>

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**Remote Pole Hearing 7:15 pm**

**Remote Regular City Council Meeting 7:30 pm**

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Zoom details:

<https://us02web.zoom.us/j/81299990548>

Or One tap mobile :

US: +19292056099,81299990548# or +13017158592,81299990548#

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US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

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Webinar ID: 812 9999 0548

International numbers available: <https://us02web.zoom.us/j/81299990548>

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- 1. MOMENT OF SILENCE**
- 2. PLEDGE OF ALLEGIANCE**
- 3. CALL TO ORDER**
- 4. COMMITTEE ASSIGNMENTS TO BE ANNOUNCED**
- 5. LATE FILE**
- 6. RESOLUTION**
- 7. PUBLIC COMMENT**
- 8. MAYOR'S COMMENT**

**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**

- December 13, 2021 (Approve)
- January 3, 2022 School Committee Inauguration (Approve)
- January 3, 2022 City Council Inauguration (Approve)
- January 3, 2022 Mayoral Inauguration (Approve)

**10. COMMUNICATIONS**

- APPL00060\_01\_10\_2022 State Automotive 2nd Hand MV License (L&P)
- APPL00061\_01\_10\_2022 LCA Motors 2nd Hand MV License (L&P)
- APPL00062\_01\_10\_2022 Newburyport Sunoco 2nd Hand MV License (L&P)
- APPL00063\_01\_10\_2022 28th Frigid Fiver 2/6/22 11am-1pm 5K Rail Trail at Riverwalk (PS)

**11. TRANSFERS**

**12. APPOINTMENTS**

- APPT00296\_01\_10\_2022 KP Law 101 Arch St. 12<sup>th</sup> Fl. Boston City Solicitor 2/1/23 (GG)

ALL ITEMS NOTED BELOW ARE REMOVED FROM THEIR RESPECTIVE COMMITTEES WITH THE MOTION TO APPROVE THE CONSENT AGENDA

**END OF CONSENT AGENDA**

**REGULAR AGENDA**

**9. MAYOR'S UPDATE**

**10. FIRST READING APPOINTMENTS**

**11. COMMUNICATIONS**

**12. TRANSFERS**

**13. SECOND READING APPOINTMENTS**

- APPT295\_12\_13\_2021 David Zinck 6 Laurel Rd. Electrical Inspector 1/1/2023

**14. ORDERS**

- ORDR00314\_01\_10\_2022 West End Fire Station Land Eminent Domain Action
- ORDR00315\_01\_10\_2022 City Council Meetings 2022
- ORDR00316\_01\_10\_2022 City Council Rules 2022

**15. ORDINANCES**

- ODNC084\_07\_12\_2021 (Veto) Streets, Sidewalks, and Other Public Places Alterations & Maintenance
- ODNC00103\_01\_10\_2022 Streets, Sidewalks, and Other Public Places Alterations & Maintenance

**16. COMMITTEE ITEMS**

**Ad Hoc Committee on Economic Development**

*In Committee:*

- ODNC098\_10\_12\_2021 Permanent Parklets Legislation

**Ad Hoc Committee on Market Landing Park and COTW**

*In Committee:*

**Budget & Finance**

*In Committee:*

- ORDR300\_11\_08\_2021 Low St and Brown School Gym Order
- ORDR301\_11\_08\_2021 Authorizing-Acquisition-57-Low-St
- ORDR309\_11\_08\_2021 57 Low Street

**Education**

*In Committee:*

**General Government**

*In Committee:*

**License & Permits**

*In Committee:*

- ODNC047\_01\_27\_2020 General Ordinance - Short Term Rental Units Rules

**Neighborhoods & City Services**

*In Committee:*

- COMM299\_02\_08\_2021 Phillips Dr. Neighborhood Committee Ltr
- ODNC102\_11\_08\_2021 Late File - Ch. 17 Stormwater Management Revisions

**Planning & Development**

*In Committee:*

- ODNC046\_01\_27\_2020 Zoning Amendment Short Term Rental Unit (STRU)

**Public Safety**

*In Committee:*

**Public Utilities**

*In Committee:*

**Rules**

*In Committee:*

- ORDR239\_02\_8\_2021 Council Rule 7 and 10B

**17. GOOD OF THE ORDER**

**18. ADJOURNMENT**

# **CONSENT AGENDA**

**CITY COUNCIL “HYBRID”**

**MEETING MINUTES**

**December 13, 2021**

**107 State Street Hearing 6:00 pm – 7:00 pm**

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**Executive Session to Discuss Real Estate relating to Coffin St. 7:00 pm**

\*\*\*\*\*

**Council Photo 7:15 pm**

\*\*\*\*\*

**City Council Regular Meeting 7:30 pm**

**LOCATION: City Council Chambers, City Hall**

**60 Pleasant Street, Newburyport**

Zoom Details:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87977934012>

Or One tap mobile :

US: +13017158592

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Webinar ID: 879 7793 4012

**107 STATE STREET HEARING:**

**CALL TO ORDER**

The City Council President Jared Eigerman called the hearing to order at 6:00 pm and asked the City Clerk, Richard B. Jones, to call the roll. The following City Councillors answered present Shand, Tontar, Vogel, Wallace, Zeid, Connell, Khan, and Eigerman. 8 present, 3 absent (BL, JM, JD).

6:05 PM Councillor Lane present.

**PRESENTATION**

Jeff Blake, Esq. explained pending agreement between the City of Newburyport and Global.

**PUBLIC COMMENT**

Stephanie Niketic, 93 High St.

Novak Niketic, 93 High St.

Marge Kaczala, 109 State St.

Jennie Donahue, 18 Cherry St.

Jeff Roelofs, 44 Merrimac St.

**DISCUSSION**

Motion to authorize the Mayor and the President of the City Council to enter into the Maintenance Incorporation Agreement and to terminate the MGL c.139 Hearing without prejudice by Councillor Zeid, seconded by Councillor Vogel. Roll call vote. 9 yes, 2 absent (JM, JD). Motion passes.

Motion to adjourn by Councillor Zeid seconded by Councillor Connell. Roll call vote. 9 yes, 2 absent (JM, JD). Motion passes.

**EXECUTIVE SESSION:**

**CALL TO ORDER**

The City Council President Jared Eigerman called the meeting to order at 7:00 pm and asked the City Clerk, Richard B. Jones, to call the roll. The following City Councillors answered present Lane, Shand, Vogel, Wallace, Zeid, Connell, and Eigerman. Roll call vote. 7 present, 3 absent (JM, JD, AK), 1 recused (CT). Motion to go into Executive Session by Councillor for the purpose of discussing real estate relating to Coffin Street, Newburyport by Councillor Zeid, seconded by Councillor Vogel. Roll call vote. 7 present, 3 absent (JM, JD, AK), 1 recused (CT). Motion passes.

Motion to come out of Executive Session at 7:16 PM by Councillor Zeid, seconded by Councillor Lane. Roll call vote. 9 present, 1 absent (AK), 1 recused (CT). Motion passes.

**COUNCIL PHOTO:**

7:17 PM The City Council assembled for a photo taken by John Raleigh.

**City Council Regular Meeting**

**1. MOMENT OF SILENCE**

Remembering Helen Connell, mother of Councillor Barry Connell, and Joseph Levitt, son of teacher Patricia Levitt.

**2. PLEDGE OF ALLEGIANCE**

**3. CALL TO ORDER**

The City Council President Jared Eigerman called the meeting to order at 7:30 pm and asked the City Clerk, Richard B. Jones, to call the roll. The following City Councillors answered present Lane, McCauley, Shand, Tontar, Vogel, Wallace, Zeid, Connell, Devlin, Khan, and Eigerman. 11 present.

**4. LATE FILE**

**5. RESOLUTION**

- ORDR313\_12\_13\_2021 Recognizing the First Responders from 8/2/2021

The Clerk read the Resolution. The Mayor presented Citations to all involved. Paul Rose spoke a few words in appreciation.

**6. PUBLIC COMMENT**

- Brenda Reffett, 3 Doe Run Dr.
- Jane Snow, 9 Coffin St.
- Neil Wilson, 24 Finnegan Way
- Juliette Walker, 13 Eagle St.
- Jared Hubbard, 49 Boardman St.
- Jennie Donahue, 18 Cherry St.
- Kathleen Shaw, 9 Upland St.
- Ed Cameron, 5 Milk St.
- Connie Preston, 18 Atwood St.
- Rich Winoker, 60 Longfellow Dr.
- Peter Twitchell, 20 Dalton St.

**7. MAYOR'S COMMENT**

Council President Eigerman thanked the Mayor for her service to the City of Newburyport and presented her with a gift from the City Council.

**CONSENT AGENDA**

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**8. APPROVAL OF MINUTES**

- November 29, 2021 (Approve)

**9. COMMUNICATIONS**

- APPL058\_12\_13\_2021 Girl Scout Cookie Sale Saturdays 1/1/22, 1/22/22, & 2/5/22 (PS)  
Market Sq. & Inn St.

**10. TRANSFERS**

## 11. APPOINTMENTS

- APPT295\_12\_13\_2021 David Zinck 6 Laurel Rd. Electrical Inspector 1/1/2023

ALL ITEMS NOTED BELOW ARE REMOVED FROM THEIR RESPECTIVE COMMITTEES WITH THE MOTION TO APPROVE THE CONSENT AGENDA

### **Ad Hoc Committee on Economic Development**

- ODNC098\_10\_12\_2021 Permanent Parklets Legislation

### **Ad Hoc Committee on Market Landing Park and COTW**

- ORDR296\_10\_25\_2021 Additional funding the market landing park restroom facility

### **Budget and Finance**

- ORDR300\_11\_08\_2021 Low St and Brown School Gym Order
- ORDR301\_11\_08\_2021 Authorizing-Acquisition-57-Low-St
- ORDR309\_11\_08\_2021 57 Low Street
- TRAN113\_11\_29\_2021 Buc Budget Cont. \$213,963.47 to Fire Sal Deputy Chief \$8,606.69, Fire Sal Firefighters \$180,926.78, Fire Paid Holidays \$24,430
- TRAN114\_11\_29\_2021 Sewer Retained Earnings \$223,000 to Sew Maint-Equipment \$40,000 and CIP Generator Replacement \$183,000
- ORDR311\_11\_29\_2021 Morrill Foundation Gift Acceptance

### **Education**

- COMM273\_10\_13\_2020 Ltr of Non-Support from Mayor on Acts of 1987
- COMM329\_05\_24\_2021 Statement of Interest, School Building Authority
- COMM358\_10\_12\_2021 School Strategic Plan documents

### **License & Permits**

- ODNC047\_01\_27\_2020 General Ordinance - Short Term Rental Units Rules
- APPL056\_11\_29\_2021 2nd Hand Motor Vehicle License RL Currie
- APPL057\_11\_29\_2021 2<sup>nd</sup> Hand Motor Vehicle License Plum Autoworks

### **Neighborhoods & City Services**

- COMM299\_02\_08\_2021 Phillips Dr. Neighborhood Committee Ltr
- ODNC102\_11\_08\_2021 Late File - Ch. 17 Stormwater Management Revisions
- Poll Hearing 14 Shandel Drive

### **Planning & Development**

- ODNC046\_01\_27\_2020 Zoning Amendment Short Term Rental Unit (STRU)
- ORDR305\_11\_08\_2021 Late File - Evergreen-Parcel-A
- ORDR306\_11\_08\_2021 Late File - Evergreen-Parcel-C
- ORDR307\_11\_08\_2021 Late File - Evergreen Trail Easement
- ORDR308\_11\_08\_2021 Late File - Evergreen Utilities Access Easement

### **Public Safety**

- ORDR302\_11\_08\_2021 Late File - Stop Sign at the Intersection of Rawson and Highland Aves.
- APPL055\_11\_29\_2021 Cultural Survival Bazaar Inn Street 7/16/22-7/17/22 10am-8pm
- COMM380\_11\_29\_2021 Jillian Bayko Ltr. Ferry Rd. Dog Park Fence
- ORDR310\_11\_29\_2021 Holiday Parking 2021

## END OF CONSENT AGENDA

APPL058\_12\_13\_2021 removed from the Consent Agenda at the request of Councillor Zeid.  
Motion to approve the consent agenda as amended by Councillor Zeid, seconded by Councillor Tontar. So voted.

## REGULAR AGENDA

### 9. MAYOR'S UPDATE

### 10. FIRST READING APPOINTMENTS

Motion to move APPT295\_12\_13\_2021 David Zinck to next year by Councillor Tontar, seconded by Councillor Devlin. So voted.

### 11. COMMUNICATIONS

- APPL058\_12\_13\_2021 Girl Scout Cookie Sale Saturdays 1/1/22, 1/22/22, & 2/5/22 (PS)  
Market Sq. & Inn St.

Motion to declare an emergency and approve by Councillor Zeid, seconded by Councillor Vogel. Roll call vote. 11 yes. Motion passes.

### 12. TRANSFERS

### 13. SECOND READING APPOINTMENTS

- APPT289\_11\_29\_2021 Omni Raimo 11 Marquand Ln. Comm. On Disabilities 12/15/2024
- APPT290\_11\_29\_2021 Howard M. Adams Special Police Officer
- APPT291\_11\_29\_2021 Paul Knowlton 37 Milk St. Tree Comm. 12/15/2024
- APPT292\_11\_29\_2021 Debbie Campbell 10 Chestnut St. Comm. On Disabilities 12/15/2024
- APPT294\_11\_29\_2021 Nikhil Gehani 18 Strong St. Human Rights Comm. 12/30/2024

Motion to approve collectively by Councillor Tontar, seconded by Councillor Vogel. Roll call vote. 11 yes.  
Motion passes.

### 14. ORDERS

### 15. ORDINANCES

- ODNC084\_07\_12\_2021 Streets, Sidewalks, & Other Public Places 2<sup>nd</sup> Reading  
Alterations & Maintenance

Motion to approve on second reading by Councillor Wallace, seconded by Councillor McCauley. Roll call vote. 7 yes, 4 no (HS, CT, BC, AK). Motion passes.

- ODNC094\_08\_30\_2021 Municipal Fee Schedule 2<sup>nd</sup> Reading

Motion to approve on second reading by Councillor Khan, seconded by Councillor Connell. Roll call vote. 11 yes.  
Motion passes.

- ODNC092\_08\_30\_2021 Zoning Amendment Encouraging Outdoor and Recreational Activities 2<sup>nd</sup> Reading

Motion to approve on second reading by Councillor McCauley, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.

- ODNC096\_09\_13\_2021 Codification of Parking Orders 2<sup>nd</sup> Reading

Motion to approve on second reading by Councillor Khan, seconded by Councillor Tontar. Councillor Zeid recused. Roll call vote. 10 yes, 1 recused (SZ). Motion passes.

### 16. COMMITTEE ITEMS

#### Ad Hoc Committee on Economic Development

*In Committee:*



- **ODNC098 10 12 2021 Permanent Parklets Legislation**

Motion to invoke Rule 7H to move to next City Council Session by Councillor Zeid, seconded by Councillor Lane. Roll call vote. 11 yes. Motion passes.

### **Ad Hoc Committee on Market Landing Park and COTW**

*In Committee:*

- **ORDR296 10 25 2021 Additional funding the market landing park restroom facility**

Motion to approve by Councillor Tontar, seconded by Councillor Vogel. Motion to amend to strike \$187,825 and replace with \$206,800 by Councillor Tontar, seconded by Councillor Vogel. Roll call vote. 8 yes, 3 no (BL, SZ, JD). Motion passes. Roll call vote on motion to approve as amended. 8 yes, 3 no (BL, SZ, JD). Motion passes.

- COMM261\_08\_31\_2020 Proposed Timeline, Waterfront
- ORDR227\_12\_14\_2020 Appropriate NRA funds for RFP award

### **Budget & Finance**

*In Committee:*

- **ORDR300 11 08 2021 Low St and Brown School Gym Order**

- **ORDR301 11 08 2021 Authorizing-Acquisition-57-Low-St**

- **ORDR309 11 08 2021 57 Low Street**

Motion to invoke Rule 7H to collectively move to next City Council Session by Councillor Zeid, seconded by Councillor Devlin. Motion to separate the question by Councillor Tontar, seconded by Councillor Khan. Roll call vote. 6 no, 5 yes (HS, CT, BV, BC, AK). Motion fails. Motion on floor. Roll call vote. 6 yes, 5 no (HS, CT, BV, BC, AK). Motion passes.

- **TRAN113 11 29 2021 Buc Budget Cont. \$213,963.47 to Fire Sal Deputy Chief \$8,606.69, Fire Sal Firefighters \$180,926.78, Fire Paid Holidays \$24,430**

Motion to approve by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.

- **TRAN114 11 29 2021 Sewer Retained Earnings \$223,000 to Sew Maint-Equipment \$40,000 and CIP Generator Replacement \$183,000**

Motion to approve by Councillor Zeid, seconded by Councillor Khan. So voted.

- **ORDR311 11 29 2021 Morrill Foundation Gift Acceptance**

Motion to approve collectively #2, #3 by Councillor Zeid, seconded by Councillor McCauley. Roll call vote 11 yes. Motion passes. Motion to amend #4 to accept with gratitude provided that the gifter understands that it will go towards the Lower Atkinson Court Rehabilitation for multi-use pending all other details (e.g. pickleball aspect) being worked out and by recommendation of the Parks Commission by Councillor Zeid, seconded by Councillor McCauley. Roll call vote. 10 yes, 1 no (BL). Motion passes. (#1 intentionally removed by Councillor Zeid)

### **Education**

*In Committee:*

- **COMM273 10 13 2020 Ltr of Non-Support from Mayor on Acts of 1987**

- **COMM329 05 24 2021 Statement of Interest, School Building Authority**

- **COMM358 10 12 2021 School Strategic Plan documents**

Motion to receive and file collectively by Councillor Khan, seconded by Councillor McCauley. So voted.

### **General Government**

*In Committee:*

- COMM325\_05\_10\_2021 Ordinance Review Committee Report
- COMM330\_05\_24\_2021 Code of Ordinances Edited May 2021

### **License & Permits**

*In Committee:*

- **ODNC047 01 27 2020 General Ordinance - Short Term Rental Units Rules**

Motion to invoke Rule 7H to move to the next City Council Session by Councillor Devlin, seconded by

Councillor Tontar. So Voted.

- **APPL056 11 29 2021 2nd Hand Motor Vehicle License RL Currie**
- **APPL057 11 29 2021 2nd Hand Motor Vehicle License Plum Autoworks**  
Motion to approve collectively by Councillor Devlin, seconded by Councillor Tontar. So Voted.
- **COMM229\_02\_24\_2020** Ltr re: Implementation of Short-Term Rental Ordinance

## Neighborhoods & City Services

### *In Committee:*

- **COMM299 02 08 2021 Phillips Dr. Neighborhood Committee Ltr**
- **ODNC102 11 08 2021 Late File - Ch. 17 Stormwater Management Revisions**  
Motion to invoke Rule 7H to move collectively to the next City Council Session by Councillor Connell, seconded by Councillor Devlin. So Voted.
- **Poll Hearing 14 Shandel Drive**  
Motion to approve by Councillor Connell, seconded by Councillor Vogel. Motion to amend by Councillor Zeid, seconded by Councillor Tontar to include the following:
  - 1) That this work not be commenced until after 1/1/22 to allow some peace through the holiday season.
  - 2) That any disturbances or repairs be completed within 14 days of connection of the existing transformer to the new hand hold with the only exception being seeding any grass which can wait until weather allows.
  - 3) That the abutters shown in the notice (~3 of them) be notified by flyer or phone call 3 days before commencement of work.
  - 4) That access to the driveway at 21 Shandel be restored forthwith and within 10 days maximum from the date of commencement of work. Roll call vote. 11 yes. Motion passes. Roll call vote on motion to approve as amended. 11 yes. Motion passes.
- **ODNC091\_08\_30\_2021** Street, way or grounds specifications
- **ORDR288\_10\_12\_2021** Establishing Pickleball Courts

## Planning & Development

### *In Committee:*

- **ODNC046 01 27 2020 Zoning Amendment Short Term Rental Unit (STRU)**
- Motion to invoke Rule 7H to move to the next City Council Session by Councillor Shand, seconded by Councillor Zeid. So Voted.
- **ORDR305 11 08 2021 Late File - Evergreen-Parcel-A**
- **ORDR306 11 08 2021 Late File - Evergreen-Parcel-C**
- **ORDR307 11 08 2021 Late File - Evergreen Trail Easement**  
Motion to approve collectively by Councillor Shand, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.
- **ORDR308 11 08 2021 Late File - Evergreen Utilities Access Easement**  
Motion to approve by Councillor Shand, seconded by Councillor Vogel. Motion to amend by Councillor Tontar, seconded by Councillor Shand to include:  
Further, that the City Council hereby confirms its intent that the responsibility for such stormwater facilities and private ways shall remain the sole responsibility of the grantor, and not of the city; and. So voted. Roll call vote on motion to approve as amended. 11 yes. Motion passes.
- **COMM231\_03\_09\_2020** Ltr re: Short-Term Rental Ordinance
- **COMM346\_08\_30\_2021** Ltr. Jane Snow Coffin St. safety concerns
- **COMM338\_08\_09\_2021** Blight at State & High, Abandoned Global Oil Service Station
- **COMM351\_09\_13\_2021** Notice of Public Hearing Pursuant 107 State St. (Oct 12, 2021 7 pm)
- **COMM352\_09\_13\_2021** ORDER Pursuant to G.L. c.139, §1 on Dangerous Building at 107 State St.
- **ORDR281\_09\_13\_2021** Authorizing Land Taking w/Waiver of Appraisal & Damages w/Bond

## Public Safety

### *In Committee:*

- **ORDR302 11 08 2021 Late File - Stop Sign at the Intersection of Rawson and Highland Aves.**  
Motion to approve by Councillor McCauley, seconded by Councillor Vogel. So voted.

- **APPL055 11 29 2021 Cultural Survival Bazaar Inn Street 7/16/22-7/17/22 10am-8pm**
- Motion to approve by Councillor McCauley, seconded by Councillor Vogel. So voted.
- **COMM380 11 29 2021 Jillian Bayko Ltr. Ferry Rd. Dog Park Fence**  
Motion to receive and file by Councillor McCauley, seconded by Councillor Lane. So voted.
- **ORDR310 11 29 2021 Holiday Parking 2021**  
Motion to approve by Councillor McCauley, seconded by Councillor Zeid. So voted.
- APPT165\_04\_13\_2020 Dr. Robin Blair 18 Market St. Board of Health 4/30/2023
- ORDR200\_07\_30\_2020 List of Crosswalks Amended
- COMM283\_01\_27\_2021 Ltr from Jim McCarthy-speed limit
- COMM334\_06\_28\_2021 Crosswalk Rawson Ave/High St/Highland Ave
- COMM335\_06\_28\_2021 Safety Review Rawson Ave Ltr. Daniel Blest
- COMM345\_08\_30\_2021 Public Safety Concern, Parker Street
- COMM346\_08\_30\_2021 Ltr. Jane Snow Coffin St. safety concerns

#### Public Utilities

##### *In Committee:*

- COMM290\_02\_08\_2021 Falmouth Broadband Feasibility Study (full text in Clerk's office)
- COMM295\_02\_08\_2021 Best Best & Krieger Small Cells Order Annual Meeting
- COMM296\_02\_08\_2021 Notoa FCC Small Wireless Facilities Rules Compliance Guide

#### Rules

##### *In Committee:*

- COMM220\_01\_27\_2020 Proposed City Council Rule 9F
- ORDR170\_02\_24\_2020 Amendment Council Rules 2020 (COTW)
- ORDR171\_02\_24\_2020 Amendment to Rule 17B (COTW)
- **ORDR239 02 8 2021 Council Rule 7 and 10B**
- Motion to waive the rules and invoke Rule 7H to move to the next City Council Session by Councillor Vogel, seconded by Councillor Khan. So Voted.

#### 17. GOOD OF THE ORDER

Councillors Connell, Tontar, Devlin, and Eigerman spoke about their time on the Council and thanked the voters, city workers and their fellow Councillors.

#### 18. ADJOURNMENT

Motion to adjourn at 10:23 PM by Councillor Tontar, seconded by Councillor Vogel. So voted.

**CITY OF NEWBURYPORT SCHOOL COMMITTEE INAUGURATION  
CEREMONY MINUTES  
CITY COUNCIL CHAMBERS  
60 Pleasant Street  
JANUARY 3, 2022**

Good Morning...I am Patricia Barker, the Assistant City Clerk and *On behalf of all the elected officials and my fellow city employees* I would like to welcome you to the City of Newburyport's 2022 Inauguration.

WE WILL NOW ORGANIZE THE 2022 SCHOOL COMMITTEE

**Oath of Office**

*The Three Newly-elected School Committee Members as I read your name please stand and repeat your name then continue the oath together after me.*

*I –*

*Brian Callahan,  
Sarah Hall,  
Juliet T. H. Walker,*

DO SOLEMNLY SWEAR/ THAT I WILL FAITHFULLY  
AND IMPARTIALLY DISCHARGE/ AND PERFORM THE DUTIES OF  
**SCHOOL COMMITTEE MEMBER** OF THE CITY OF  
NEWBURYPORT/ TO WHICH I HAVE BEEN ELECTED/ IN ACCORDANCE  
WITH THE CONSTITUTION OF THE UNITED STATES/ THE LAWS OF THE  
COMMONWEALTH/ THE CHARTER AND ORDINANCES OF THE  
CITY OF NEWBURYPORT, /TO THE BEST OF MY ABILITY, /SO HELP ME

GOD.

7. The City Clerk calls the School Committee to order and takes the Roll Call:  
**Please answer present when your name is called:**

Members	Present
Callahan	
Hall	
Menin	
Reardon, Sheila	
Walker	

**NEXT IS THE ELECTION OF VICE CHAIR OF THE SCHOOL COMMITTEE;**

**THE CITY CLERK READS THE ROLL AND ASKS THE COMMITTEE MEMBERS**  
*announce your choice for Vice Chair when the roll is called-roll call sheet*

Members	Choice
Callahan	Hall
Hall	Hall
Menin	Hall
Spalding, Sheila	Hall
Walker	Hall

*By a unanimous vote Sarah Hall has been elected vice-chair of the School Committee. Congratulations*

**REMARKS We will now hear some Remarks by the Vice Chair Sarah Hall]**

**I would now entertain a Motion to Adjourn the School Committee meeting**  
9:20AM so voted

**CITY OF NEWBURYPORT CITY COUNCIL INAUGURATION  
CEREMONY MINUTES  
CITY COUNCIL CHAMBERS  
60 Pleasant Street  
JANUARY 3, 2022**

Good Morning...I am Patricia Barker, the Assistant City Clerk and *On behalf of all the elected officials and my fellow city employees* I would like to welcome you to the City of Newburyport's 2022 Inauguration.

*At this point we will begin our formal organization of City Government for the year 2022 by calling the City Council to order  
Councilors-Elect please state present when your name is called*

**Roll call sheet-**   11   present            absent

***Councillor-Elect Edward C. Cameron, Jr.,  
Councillor-Elect Jennie L. Donahue,  
Councillor-Elect Afroz Khan,  
Councillor-Elect Byron J. Lane  
Councillor-Elect James J. McCauley,  
Councillor-Elect Constance Preston,  
Councillor-Elect Heather L. Shand,  
Councillor-Elect Christine E. Wallace,  
Councillor-Elect Mark R. Wright,  
Councillor-Elect Bruce L. Vogel,  
Councillor-Elect Sharif I. Zeid***

**Oath of Office City Councillors-Elect**

2. *Councilors-Elect you will now collectively take your Oath of Office- as I read your name please stand, raise your right hand and repeat your name - and then you will continue the Oath together after me. I*

***Edward C. Cameron, Jr.,  
Jennie L. Donahue,  
Afroz Khan,  
Byron J. Lane,  
James J. McCauley,***

*Constance Preston,  
Heather L. Shand,  
Bruce L. Vogel,  
Christine E. Wallace,  
Mark R. Wright  
Sharif I. Zeid*

I, (YOUR NAME), DO SOLEMNLY SWEAR/ THAT I WILL FAITHFULLY  
AND IMPARTIALLY DISCHARGE/ AND PERFORM THE DUTIES OF  
**WARD COUNCILLOR/COUNCILLOR AT-LARGE** OF THE CITY OF  
NEWBURYPORT/ TO WHICH I HAVE BEEN ELECTED/ IN ACCORDANCE  
WITH THE CONSTITUTION OF THE UNITED STATES/ THE LAWS OF THE  
COMMONWEALTH/ THE CHARTER AND ORDINANCES OF THE  
CITY OF NEWBURYPORT, /TO THE BEST OF MY ABILITY, /SO HELP ME  
GOD.

*Please be seated.*

*3. The City council meeting is now called to order and we will now proceed to elect a President of the City Council for the year 2022. Councilors please announce your choice for President when the roll is called-**roll call sheet***

<b>Councillors</b>	<b>Choice</b>
Cameron	Shand
Donahue	Shand
Khan	Shand
Lane	Shand
McCauley	Shand
Preston	Shand

Shand	Shand
Vogel	Shand
Wallace	Shand
Wright	Shand
Zeid	Shand

*Councillor [ Shand ] by a unanimous vote has been elected  
City Council President for the year 2022.  
Congratulations*

***President's Address.*** *At this time, I would like to ask the newly Elected President of the Council to come to the podium.*

City Council President delivers her Address

7. The City Council President states that a motion to adjourn the City Council Meeting is in order, informing the audience that the City Council will meet in regular session at 7:30 PM on Monday, January 10, 2022.  
Motion to adjourn Councillor Vogel seconded by Councillor Cameron  
(9:44am)



**CITY OF NEWBURYPORT MAYORIAL INAUGURATION  
CEREMONY MINUTES  
CITY AUDITORIUM  
60 Pleasant Street  
JANUARY 3, 2022**

NHS Band Plays

Welcome; may I have your attention please. Thank You.

My name is not Richard Jones, who was supposed to MC this historic event today as he has every inauguration since. Unfortunately Rich is yet another person who has tested positive for the virus and could not be here. My name is Charlie Cullen and I will do the best I can to get through this ceremony to honor and celebrate our newly elected Mayor. As a tribute to Richie, who I trust is watching us at home; I decided to wear his trademark bowtie to honor him. Richie is truly a community treasure and I know we all wish him the best and a quick return. Despite our intimate gathering lets please give Richie a rousing ovation for him to enjoy! Thanks.

Before we get started I would ask that everyone please silence your cell phones, and of course keep your masks on.

**START**

At this time, I invite Bob Morse, one of our Fire Fighters, to set the tone for today's ceremony with his bag pipe, as City Councilor Sharif Zeid, and School Committee Member Brian Callahan escort Mayor-Elect Sean R. Reardon to the stage.

**Acknowledge Dignitaries:**

I would like to take this opportunity to acknowledge some of our current and former elected officials who have joined us today.

State Senator Bruce Tarr  
Representative James Kelcourse

Representative Lenny Mirra  
Amesbury's Mayor Cassandra Gove  
Sheriff Kevin Coppinger  
Former Sheriff Frank Cousins Jr.

And former Mayors of Newburyport;  
Lisa Mead  
Chris Sullivan  
Mary Carrier  
Mary Anne Clancy  
John Moak  
And of course our outgoing Mayor Donna Holaday

But I also want to make special mention of former Mayor Byron Matthews. Mayor Matthew's legacy is well documented and today is about Sean Reardon. But a fun fact Byron is that you were Mayor when you handed out diplomas to the Newburyport High School class of 1969. I was in that class, as was a few other dignitaries here today. But one of the most notable graduates that day was Cornelius Reardon, the proud Dad of our Mayor Elect. We are proud 69ers, and how fitting is it that Sean will become Newburyport's 69<sup>th</sup> Mayor.

Neil and Seans Mom Patti Page Reardon joins us today along with Sean's in-laws Ron and Shelia Trieff, and of course Sean's amazing family, wife Jessie, daughters Sadie and Ruby, and son Oliver!!

Also today we have Reverend Timothy Harrison from the Immaculate Conception Church with us today along with Reverend Laura Biddle from Brookside Congregational Church in Manchester NH who officiated the marriage of Jessie and Sean.

**MOMENT OF SILENCE:**

At this time, I would ask that you join me in a moment of silence for all the local officials who have passed over the last four years.

Let us also remember 3 individuals very close to the Mayor Elect who passed away this past year who would have joyfully celebrated this day with the Reardon's. Sean's Aunt Gail Page; his cousin Ryan Childs; and close friend Jeff Stone.

PAUSE:

Thank you.....

**INVOCATION:**

At this time, I would like to invite Reverend Biddle to offer the invocation.

Thank you Reverend Biddle:

**PLEDGE OF ALLEGIANCE:**

We will now be led in the Pledge of Allegiance by Sadie, Ruby, and Ollie. The Colors will be presented by the Newburyport Police Honor Guard.

**NATIONAL ANTHEM:**

I am so pleased to now introduce Ella Suchecki and Audrey Cooper, seniors at NHS, who will now sing our National Anthem.

**GUEST SPEAKER – SENATOR BRUCE TARR**

Need to grab resume to note highlights.

**MUSICAL SELECTION:**

Ladies and Gentlemen, please welcome Chris O'Donnell who will perform America by Simon and Garfunkel

**INTRODUCE CITY COUNCIL:**

Earlier today we swore in 11 City Councilors; however, I would like to acknowledge the four NEW Councilors Connie Preston, Returning to the Council Ed Cameron; Mark Wright; and Jennie Donahue.

I would be remiss if I didn't mention the 7 returning councilors; Afroz Kahn, Heather Shand, Bruce Vogel, Byron Lane, Jim McCauley,, Christine Wallace, and

Sharif Zeid. Councillor Shand was elected President of the Council for the coming year. Please join me in congratulating these dedicated individuals.

**MUSICAL SELECTION:**

I would now like to introduce Doug and Nora Baker who will perform Rainbow by Kacey Musgrave

**INTRODUCE SCHOOL COMMITTEE:**

Also earlier this morning, two new school committee members were sworn in; Sarah Hall, and Juliet Walker. Sarah and Juliet will join Brian Callahan, Bruce Menin and Sheila Spaulding for the coming term. The committee elected Sarah Hall as Vice Chair. Please join me in congratulating and thanking these individuals for their service to the city.

**MUSICAL SELECTION:**

Please now welcome Karen Kearly who will perform FEELING GOOD by Nina Simone. Karen will be accompanied by Bernadette Curan.

**MAYORS OATH OF OFFICE:**

At this time I would like to invite Jessie, Sadie, Ruby, and Ollie to the podium to assist Tricia Barker, the Assistant City Clerk, as Sean Robert Reardon takes the Oath of Office as the City's 69<sup>th</sup> Mayor.

**SEAN REARDON TAKES OATH**

**PAST MAYOR'S GIFTS;**

Before the Inaugural address, Sean will thank his predecessors with an individual gift

**INAUGURAL ADDRESS:**

Distinguished guests....

Senator Tarr, Representative Kelcourse, Mayor Gove, Honorable Former Mayors, City Councilors, School Committee Members, Superintendent Gallagher, Sheriff Coppinger, residents, friends, and family, thank you all for being here today.

To my beautiful wife Jessie and my three amazing children Sadie, Ruby and Oliver, thank you for taking this journey with me.

To the voters of Newburyport, I stand here today for you. During the campaign, I said time and time again that to be elected mayor was a dream of mine since I was a young Clipper. As we move forward as one people who individually and collectively love our city, I am humbled by the servant leadership I witness everyday- here at City Hall, in our schools, community groups, and neighborhoods. After months of hearing your stories and listening to your voices, my responsibility now as mayor is really an opportunity. An opportunity to bring your stories to the table, and hear all of the voices that deserve to be heard.

It is not the first time Newburyport has been in the business of consensus-building. Our storied history began as a beacon to ships needing a port to find their way, and became a place to dwell, to prosper, and to thrive. From the very beginning, Newburyporters from all walks of life had to learn to live and work together. With the passage of time, the city grew, in size and number, but the story is the same. Newburyporters have and always will be a community of doers. Citizens who see a problem and work to solve it, people who commit to service and teach our children the spirit of volunteerism, creating generations of service for years to come. It is this kind of consensus-building that has led to the fulfillment of many city projects, past, present, and into our future. A future where young people are inspired to support their local community. A future where an active citizenry come together to share new ideas, united in a vision for a more inclusive city, a more innovative city, a city with an invigorated step toward a better tomorrow.

In the promise to move toward a better tomorrow, I think often about the Newburyporters past and present who have had the greatest influence on my own life. I was fortunate enough to be raised in a family whose love for Newburyport never faltered and gave so much of their time and talent to make the city a better place, a safer port, a community of eager doers and helping neighbors in the business of lifting each other up.

I also feel fortunate to have been around strong leaders at a very young age, whose example quietly pushed me towards service to my community. The first Newburyporter I knew beyond my front door was my grandfather Warren Oliver Page, a proud 1940 graduate of Newburyport High School. Gramps was part of what Tom Brokaw called the "Greatest Generation," who went on to serve in the Coast Guard during World War II. Like many his age, he jumped at the chance to serve his country, defend our nation, stand firm and fight injustices far from our native shores. Answering the call of service did not come without sacrifice. Gramps left his beautiful young bride and high school sweetheart, Margaret Anne Daley at home caring for the first of their six children. My grandmother went on to a career in nursing at Anna Jaques hospital

where she became head of purchasing. My grandfather's career started in the fire department where he rose through the ranks quickly to become the city's first permanent fire chief. He was an earnest and strong presence in the fire house and the cornerstone of our family. The roots of my Irish heritage began with songs and stories told in my Gramps' gravelly voice, all with the same contagious themes of friendship, loyalty, and love. He was a true to life example of the "family comes first" mantra. Gramps expected that of his firefighters, and he led by that example. When my grandmother was stricken with polio, it became his life's work looking after his "Maggie" and the Chief looked out for his firefighters with the same kind of servant leadership. He knew that at the heart of any department in the city is the people, and you take care of people.

My father, Neil Reardon, is also an incredible leader who I observed closely from a very young age and learned many valuable lessons on how to take care of people, none more important than the value of hard work. When I was born, my father was not yet the legendary teacher and coach he would one day become. He was a 25 year old education student at Salem State by day and a janitor at Anna Jaques Hospital cleaning operating rooms by night. He carried this strong work ethic throughout his career. When I was a kid, a typical day in the life of my dad was rising at 3am and delivering The Boston Globe throughout many city neighborhoods. He'd finish in time for school to begin, where he would teach a classroom full of faithful 4<sup>th</sup> graders and then end the work day coaching one of his many formidable teams. My siblings and I all wanted to spend as much time as we could with Dad, and would tag along with him whenever we could. We grew up in gymnasiums, courts, and playing fields, watching how he led people, and wanting to be just like dad. When leading people and teams of people, one of the most important lessons learned from Dad is how to put the right people in the right roles to optimize success. Aces in places is what Dad used to say, and my father was a true master at getting the most out of his players. Teams are human organizations and each player was different from the next, but played pivotal roles in executing the game plan. Each had to be coached and encouraged differently. We have so many wonderful people here in Newburyport working for our great city and I look forward to getting to know each and every one of you. For any goal to be met, any purpose fulfilled, any job well done, it begins and ends with people.

Knowing the people that most influenced me growing up, there was no question of my admiration for the mayors that came before me. Byron Matthews, Dick Sullivan, and Peter Matthews were larger than life to me in my earliest days on Congress Street and many an afternoon at my grandparents' house at 1 North Atkinson. Ed Molin was the epitome of consistent educational leadership and putting our city's students first. Lisa Mead was a skilled delegate who inspired so many citizens, Chris Sullivan stepped up to serve as mayor and his City Council campaign was the first one I worked on as a young high school student. Mary Carrier brought an infectious energy to City Hall. John Moak taught me how to run a grassroots campaign that focused on people and Mary Ann Clancy also answered her hometown's call to serve.

There comes a time in our country, city, and community, where the baton passes to the next generation. I want to thank Donna Holaday for her 12 years of selfless and distinguished service to Newburyport as our mayor. It is in that spirit of service that we stand before you today, and by we, I mean myself, and the other elected officials here today, asking you to get involved. I

encourage you to step off the sidelines. Join a city commission or board, volunteer at our schools or senior center. There is so much expertise and excellence in our exceptional city. Just imagine what this community of doers can do together.

When I think of the city where I grew up, I see a Newburyport steeped in tradition and promise, family and new beginnings. It is with this common thread that we start anew, loyal to what makes Newburyport that beacon- a thriving arts community, a bustling historic downtown, a hub of industry and innovation, a hometown that puts the education and safety of our children first, an epicenter that supports are local businesses, and a place where all people feel accepted, valued, and welcomed.

And so we move, Onward! Forward!, inspired by our history, strengthened by those who serve our community today, and confident in the bright future ahead of us. May God continue to bless our country, our troops who defend our freedom, and our great city of Newburyport, and the people who call it home.

Thank you so very much.

### **CHARLIE RETURNS TO INTRODUCE MUSICAL SELECTION:**

Thank You MAYOR REARDON AND A HEARTY CONGRATULATION:

We truly have been blessed today with wonderful musical performances; and we have one more outstanding musician who will perform for us now. Please welcome my friend and local legend, Danny Harrington who will treat us to a beautiful medley of a few songs perfect for today's celebration.

Thank you Danny.

### **BENEDICTION AND CLOSING PRAYER:**

Reverend Timothy Harrison will now offer the benediction and closing prayer.

### **CLOSING REMARKS:**

I want to thank everyone who joined us today at City Hall, and all those who joined us on TV; including you Richie. Regrettably, Mayor Reardon has cancelled the reception originally planned for the Masonic Temple due to the overwhelming concerns of this pandemic; however, stay tuned, as there will hopefully be a celebration sometime in the spring if it is safe to do so.

There will be coffee, hot chocolate, and donuts provided by CHANGING TIDES out front for anyone needing a little sugar or caffeine.

**RECESSIONAL:**

On the back of your program are the words to Newburyport High Schools Alma mater. The Newburyport High School Band under the Direction of Steve Cohen will now play this and I hope you'll all join in as we once again wish our new Mayor our sincere congratulations and success as he leads our city forward.

Sean.....ONWARD FORWARD

**APPLAUSE:**

**BAND PLAYS AS WE APPLAUD.**



# COMMUNICATIONS

THE COMMONWEALTH OF MASSACHUSETTS

RECEIVED  
CITY CLERK'S OFFICE  
NEWBURYPORT, MA

City of Newburyport

2021 DEC 15 PM 12:44

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 2 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? State Automotive Repair LLC

Business address of concern. No. 196 Route One St.,  
Newburyport MA 01950 City — Town.

2. Is the above concern an individual, co-partnership, an association or a corporation? LLC (single member)

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

LLC Manager: Andrew J. de Bernardo  
16 Hickory Lane, Topsfield MA 01983

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

N/A

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? No

If so, is your principal business the sale of new motor vehicles? No

Is your principal business the buying and selling of second hand motor vehicles? No

Is your principal business that of a motor vehicle junk dealer? No

7. Give a complete description of all the premises to be used for the purpose of carrying on the business.  
196 Route One, Newburyport is located just south of the  
Route One traffic circle. State Automotive Repair LLC  
occupies approximately 1/2 of a shared building with a retail  
vendor. Auto repair bays contain lifts, tools, and equipment consistent  
with any typical auto repair shop. Parking is in front, to the  
side, and to the rear of the building.

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? N/A  
(Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? yes  
(Yes or No)

If so, in what city — town Newburyport, MA

Did you receive a license? yes For what year? 2016-2020  
(Yes or No)

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 Frederic Johnson, LLC Manager  
(Duly authorized to represent the concern herein mentioned)

Residence 16 Hickory Lane, Topsfield MA

### 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)

**APPLICANT WILL NOT FILL THE FOLLOWING BLANKS**

Application after investigation \_\_\_\_\_  
(Approved or Disapproved)

License No. \_\_\_\_\_ granted \_\_\_\_\_ 20 \_\_\_\_\_ Fee \$ \_\_\_\_\_

Signed \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)**

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which will expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.

APPLICATION FOR A LICENSE TO BUY, SELL,  
EXCHANGE OR ASSEMBLE SECOND HAND  
MOTOR VEHICLES OR PARTS THEREOF.

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APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application No. \_\_\_\_\_

Class \_\_\_\_\_ License No. \_\_\_\_\_

Name \_\_\_\_\_

St. and No. \_\_\_\_\_

City — Town \_\_\_\_\_

Date Issued \_\_\_\_\_

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Remarks \_\_\_\_\_

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Massachusetts



# Western Surety Company

## SECOND HAND MOTOR VEHICLE DEALER BOND

(Mass. Gen. Laws Ann. 140, § 58(c))

Bond No. 62659263

KNOW ALL PERSONS BY THESE PRESENTS:

Effective Date: February 1st, 2016

That we, State Automotive Repair, LLC, as Principal, and WESTERN SURETY COMPANY, a corporation authorized to do surety business in the Commonwealth of Massachusetts, as Surety, are held and firmly bound unto persons who purchase a vehicle from the Principal and who suffer loss on account of a breach of the condition of this bond described below, in the sum of not to exceed TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), for the payment of which well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

WHEREAS, the Principal is a second hand motor vehicle dealer and is required to furnish a bond or equivalent proof of financial responsibility pursuant to Mass. Gen. Laws Ann. 140, § 58(c)(1).

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay the amount of actual damages, not to exceed the amount of this bond, to any person who purchases a vehicle from the Principal and who suffers loss on account of: (a) the Principal's default or nonpayment of valid bank drafts, including checks drawn by the Principal for the purchase of motor vehicles; (b) the Principal's failure to deliver, in conjunction with the sale of a motor vehicle, a valid motor vehicle title certificate free and clear of any prior owner's interests and all liens, except a lien created by or expressly assumed in writing by the buyer of the vehicle; (c) the fact that the motor vehicle purchased from the Principal was a stolen vehicle; (d) the Principal's failure to disclose the vehicle's actual mileage at the time of sale; (e) the Principal's unfair and deceptive acts or practices, misrepresentations, failure to disclose material facts or failure to honor a warranty claim or arbitration order in a retail transaction; or (f) the Principal's failure to pay off a lien on a vehicle traded in as part of a transaction to purchase a vehicle when the Principal had assumed the obligation to pay off the lien, then this obligation to be void; otherwise to remain in full force and effect.

PROVIDED, that recovery against this bond may be made only by a person who obtains a final judgment in a court of competent jurisdiction against the Principal for an act or omission on which this bond is conditioned, if the act or omission occurred during the term of this bond. No suit may be maintained to enforce any liability on this bond unless brought within one (1) year after the event giving rise to the cause of action. This bond shall cover only those acts and omissions described above. The Surety shall not be liable for total claims in excess of the bond amount, regardless of the number of claims made against this bond or the number of years this bond remains in force.

This bond shall be continuous and may be cancelled by the Surety by giving thirty (30) days' written notice of cancellation to the municipal licensing authority at 60 Pleasant St, Newburyport, MA 01950

by First Class U.S. Mail. Address

Dated this 1st day of February, 2016

State Automotive Repair,  
LLC, Principal

By: [Signature]

WESTERN SURETY COMPANY, Surety

By: [Signature]  
Paul T. Bruffat, Senior Vice President

# Western Surety Company

## POWER OF ATTORNEY

### KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,  
State of South Dakota, its regularly elected Vice President  
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Second Hand Motor Vehicle Dealer

bond with bond number 62659263

for State Automotive Repair, LLC

as Principal in the penalty amount not to exceed: \$ 25,000.00

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 1st day of February, 2016

ATTEST

L. Nelson

L. Nelson, Assistant Secretary

WESTERN SURETY COMPANY

By

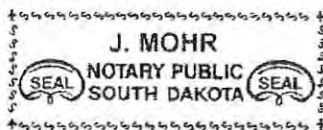
Paul T. Bruflat

Paul T. Bruflat, Vice President

STATE OF SOUTH DAKOTA }  
COUNTY OF MINNEHAHA } ss

On this 1st day of February, 2016, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson

who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires June 23, 2021

J. Mohr

Notary Public

To validate bond authenticity, go to [www.cnasurety.com](http://www.cnasurety.com) > Owner/Obligee Services > Validate Bond Coverage.





Contact Dana  
de Bernardo with  
any questions:

781-334-8077

~~dana@~~  
dana@bulldawgsa  
.com

THE COMMONWEALTH OF MASSACHUSETTS

City

OF

RECEIVED  
CITY CLERK'S OFFICE  
NEWBURYPORT, MA

Newburyport

2022 JAN - 6 AM 8:04

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 second 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? LCA Motors

Business address of concern. No. 4 Lt. Leary Drive St.,  
Newburyport City — Town.

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

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

Charles Ciovacco 4 Lt. Leary Drive Newburyport

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

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? YES

If so, is your principal business the sale of new motor vehicles? NO

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? NO

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

Sale of used automobiles. Business is conducted online. No inventory is kept on the premises.

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? N/A

(Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES

(Yes or No)

If so, in what city — town Newburyport

Did you receive a license? Yes

(Yes or No)

For what year? 2005 - present

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 Clay Cinn

(Duly authorized to represent the concern herein mentioned)

Residence 4 Lt. Leary Drive Npt

### 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)

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application after investigation \_\_\_\_\_  
(Approved or Disapproved)

License No. \_\_\_\_\_ granted \_\_\_\_\_ Fee \$ \_\_\_\_\_

Signed \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which will expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.

APPLICATION FOR A LICENSE TO BUY, SELL,  
EXCHANGE OR ASSEMBLE SECOND HAND  
MOTOR VEHICLES OR PARTS THEREOF.

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APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application No. \_\_\_\_\_

Class \_\_\_\_\_ License No. \_\_\_\_\_

Name \_\_\_\_\_

St. and No. \_\_\_\_\_

City — Town \_\_\_\_\_

Date Issued \_\_\_\_\_

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Remarks \_\_\_\_\_

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# **CNA SURETY**

CNA Plaza, Chicago IL 60685-0001

Jennifer B. Schaller  
Counsel  
Telephone 312-822-7049  
Facsimile 312-755-3737

Re: Second Hand Motor Vehicle Dealer Bond Certificate of  
Continuance for Western Surety Bonds

Western Surety is an underwriting company of CNA Surety and we are contacting your office because several of our bond principals received correspondence indicating the need for a Certificate of Continuance for their Second Hand Motor Vehicle Dealer Bonds issued by Western Surety.

Western Surety's standard bond form expressly states: "This bond shall be continuous and may be cancelled by the Surety by giving (30) days' written notice of cancellation to the municipal licensing authority at (address) by First Class Mail." (emphasis added)." Since, Western Surety's bond form is continuous, it would be inappropriate for Western Surety to issue a Continuation Certificate.

The Commonwealth of Massachusetts, Registry of Motor Vehicles has reviewed Western Surety's bond form and has clearly stated that municipalities do not need to require additional evidence that the bond is in effect. (See attached letter from Attorney William McVey dated November 19, 2004).

If you have any questions, or we can be of any further assistance, please feel free to contact me at (312) 822-7049.

Sincerely,

*Jennifer B. Schaller*

Jennifer B. Schaller



*The Commonwealth of Massachusetts*  
*Registry of Motor Vehicles*  
*One Bayley Place, Boston 02116*

Kimberly Hindon  
Registrar

Mail:  
P.O. Box 199100  
Boston, MA 02119-0100  
www.mass.gov/mv

November 19, 2004

Jennifer B. Schaller, Esq.  
Law Department  
CNA Surety, 13<sup>th</sup> Floor  
CNA Plaza 13 South  
Chicago, IL 60685

Re: Western Surety Company Bond for Massachusetts

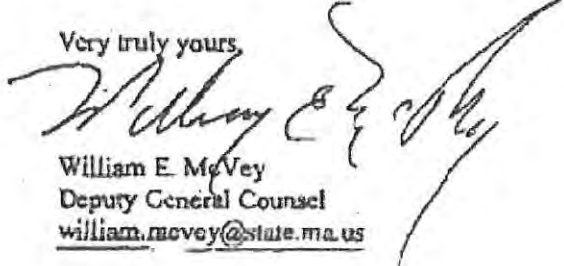
Dear Attorney Schaller:

1. This is in response to your inquiry concerning the bond required by Class 2 motor vehicle dealers in Massachusetts. You have indicated that licensing authorities in some municipalities have insisted that dealers attempting to renew a "Class 2 Dealer's License" must provide proof that the dealer's existing bond is still valid and will remain so throughout the renewal term of one calendar year (January 1, to December 31).
2. Chapter 422 of the Acts of 2002 does state that:  
A municipal licensing authority shall not issue or renew a Class 2 license unless it is satisfied that a bond or equivalent proof of financial responsibility meeting the requirements of this section is in effect during the term under which the license shall be issued or renewed....
3. I have reviewed a copy of a bond you have provided which is issued by Western Surety Company (apparently a related company to CNA). The Form Number of the Western Surety Second Hand Motor Vehicle Dealer Bond is F6333-7-2003 and you have provided oral assurance that this is the only bond form used in Massachusetts by Western Surety Company for Class 2 dealers.
4. The last paragraph of the Western Surety Second Hand Motor Vehicle Dealer Bond states:  
This bond shall be continuous and may be cancelled by the Surety by giving thirty (30) days written notice of cancellation to the municipal licensing authority at \_\_\_\_\_ by First Class U.S. Mail.

5. Based upon the wording contained in the Bond as stated in paragraph # 4, the Registrar is satisfied that the above identified Western Surety Second Hand Motor Vehicle Dealer Bond (F6333-7-2003) provides continuous coverage under the law (unless the municipality is notified of cancellation). As such, a municipality in Massachusetts that is processing a renewal for a Class 2 Dealer License from a dealer who has a Western Surety Second Hand Motor Vehicle Dealer Bond (F6333-7-2003) on file with the municipality, should not require additional evidence that the bond is still valid.

6. I trust this is responsive to your inquiry.

Very truly yours,



William E. McVey  
Deputy General Counsel  
[william.movey@state.ma.us](mailto:william.movey@state.ma.us)



Massachusetts

# Western Surety Company

## SECOND HAND MOTOR VEHICLE DEALER BOND

(Mass. Gen. Laws Ann. 140, § 58(c))

Bond No. 69923000

KNOW ALL PERSONS BY THESE PRESENTS:

Effective Date: June 9, 2005

That we, Charles Ciovacco dba LCA Motors, as Principal, and WESTERN SURETY COMPANY, a corporation authorized to do surety business in the Commonwealth of Massachusetts, as Surety, are held and firmly bound unto persons who purchase a vehicle from the Principal and who suffer loss on account of a breach of the condition of this bond described below, in the sum of not to exceed TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), for the payment of which well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

WHEREAS, the Principal is a second hand motor vehicle dealer and is required to furnish a bond or equivalent proof of financial responsibility pursuant to Mass. Gen. Laws Ann. 140, § 58(c)(1).

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay the amount of actual damages, not to exceed the amount of this bond, to any person who purchases a vehicle from the Principal and who suffers loss on account of (a) the Principal's default or nonpayment of valid bank drafts, including checks drawn by the Principal for the purchase of motor vehicles; (b) the Principal's failure to deliver, in conjunction with the sale of a motor vehicle, a valid motor vehicle title certificate free and clear of any prior owner's interests and all liens, except a lien created by or expressly assumed in writing by the buyer of the vehicle; (c) the fact that the motor vehicle purchased from the Principal was a stolen vehicle; (d) the Principal's failure to disclose the vehicle's actual mileage at the time of sale; (e) the Principal's unfair and deceptive acts or practices, misrepresentations, failure to disclose material facts or failure to honor a warranty claim or arbitration order in a retail transaction; or (f) the Principal's failure to pay off a lien on a vehicle traded in as part of a transaction to purchase a vehicle when the Principal had assumed the obligation to pay off the lien, then this obligation to be void; otherwise to remain in full force and effect.

PROVIDED, that recovery against this bond may be made only by a person who obtains a final judgment in a court of competent jurisdiction against the Principal for an act or omission on which this bond is conditioned, if the act or omission occurred during the term of this bond. No suit may be maintained to enforce any liability on this bond unless brought within one (1) year after the event giving rise to the cause of action. This bond shall cover only those acts and omissions described above. The Surety shall not be liable for total claims in excess of the bond amount, regardless of the number of claims made against this bond or the number of years this bond remains in force.

This bond shall be continuous and may be cancelled by the Surety by giving thirty (30) days' written notice of cancellation to the municipal licensing authority at City Hall, 60 Pleasant St., Newburyport, MA 01950

by First Class U.S. Mail.

Address

Dated this 9th day of June, 2005



Charles Ciovacco dba LCA Motors, Principal

By: \_\_\_\_\_  
WESTERN SURETY COMPANY, Surety

By: Paul T. Bruflat  
Paul T. Bruflat, Senior Vice President

# Western Surety Company

## POWER OF ATTORNEY

### KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls, State of South Dakota, its regularly elected Senior Vice President, as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of documents to-wit:

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity, policies indemnifying employers against loss or damage caused by the misconduct of their employees; official, bail, and surety and fidelity bonds; indemnity in all cases where indemnity may be lawfully given; and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company, and to compromise and settle any and all claims or demands made or existing against said Company.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Senior Vice President with the corporate seal affixed this 9th day of June, 2005.

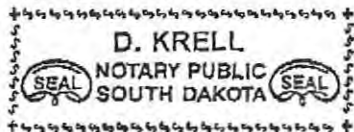
ATTEST

L. Nelson  
Assistant Secretary

WESTERN SURETY COMPANY  
By Paul T. Bruflat  
Paul T. Bruflat, Senior Vice President

STATE OF SOUTH DAKOTA }  
COUNTY OF MINNEHAHA } ss

On this 9th day of June, 2005, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Senior Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires November 30, 2008

D. Krell  
Notary Public



RECEIVED  
CITY CLERK'S OFFICE  
NEWBURYPORT, MA

THE COMMONWEALTH OF MASSACHUSETTS

City OF Newburyport 2022 JAN -3 PM 12: 35

**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 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? GNFD inc DBA.  
Newburyport Sunoco

Business address of concern. No. 59 St.,  
Storey ave, Newburyport MA, 01950 City - Town.

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

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.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. If an association or a corporation, state full names and residential addresses of the principal officers.  
President Georges Daaboul; 44 Clipper way, Newburyport MA 01950  
Secretary \_\_\_\_\_  
Treasurer \_\_\_\_\_

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? No

If so, is your principal business the sale of new motor vehicles? No, Gas station, car dealer & inspection station.

Is your principal business the buying and selling of second hand motor vehicles? No

Is your principal business that of a motor vehicle junk dealer? No

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

59 Storey Ave, Newburyport MA 01950  
Sunoco Gas station in town, to be used as  
a Repair facility & Car ~~lot~~ dealer lot, for  
the purpose above mentioned.  
Gas station, Vehicle inspection station, Car Repairs.

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? \_\_\_\_\_  
(Yes or No)

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

If so, in what city — town Newburyport,

Did you receive a license? Yes (Yes or No) For what year? 2021

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

Georges Daaboul  
(Print authorized to represent the concern herein mentioned)

Residence 44 clipper way Newburyport  
MA 01950

**IMPORTANT**

EVERY QUESTION MUST BE ANSWERED WITH  
FULL INFORMATION, AND FALSE STATEMENTS  
HEREIN MAY RESULT IN THE REJECTION OF  
YOUR APPLICATION OR THE SUBSEQUENT  
REVOCAION 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)

**APPLICANT WILL NOT FILL THE FOLLOWING BLANKS**

Application after investigation \_\_\_\_\_  
(Approved or Disapproved)

License No. \_\_\_\_\_ granted \_\_\_\_\_ Fee \$ \_\_\_\_\_

Signed \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)**

**SECTION 57.** No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

**SECTION 58.** Licenses granted under the following section shall be classified as follows:

**Class 1.** Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

**Class 2.** Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

**Class 3.** Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

**SECTION 59.** The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which will expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licenses within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.



SELECTMEN

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Memorandum

To: Municipal Licensing Authorities of Motor Vehicle Dealers  
From: William E. McVey, Deputy General Counsel  
Date: May 2004  
Re: Issues Relating to Class 2 Dealers under G.L. 140, Section 58

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1. Purpose

The primary purpose of this Memorandum is to provide information to Cities and Towns about the amendments relative to Class 2 dealers that were made to G.L. c. 140, §58 by Chapter 422 of the Acts of 2002 (a copy of which is enclosed). The Legislature amended Section 58 to require Class 2 dealers to post and maintain a bond (or, if permitted, equivalent proof of financial responsibility, e.g., certificate of deposit or letter of credit) with the municipal licensing authority in the amount of \$25,000. The amendments also authorize the licensing of two additional types of businesses engaged in used vehicle sales. The amendment became effective almost a year ago, on March 24, 2003, but some municipalities may be unaware of it and some other issues remain to be clarified.

2. Bond Requirement

The bond requirement is only applicable to Class 2 dealers. It is not applicable to a Class 1 dealer who buys and sells used vehicles and it is not applicable to a Class 3 dealer who sells used vehicles. The bond is for the benefit of a person who purchases a vehicle from the Class 2 licensee and suffers a financial loss. The list of intended beneficiaries is contained within the Act. The bonding requirement modifies the municipal licensing process for Class 2 dealers (and affects the dealer's ability to retain the license). It also affects the RMV, since the agency is prohibited from knowingly issuing or renewing Dealer Plates if it becomes aware that a Class 2 dealer lacks the legally required bond. The RMV will revoke the General Registration and Dealer Plates when it becomes aware the dealer does not have a bond or when it is informed by a municipality that it has revoked a Class 2 license. The RMV has become aware that some municipalities are not enforcing the bond requirement and have been licensing Class 2 dealers without a bond. **A municipality that fails to enforce the bond requirement faces potential liability from claimants under the bond.**

3. Dealers Subject to Bond Requirement

All Class 2 dealer-licensees (no exceptions) renewing or obtaining a new license in 2004 (and in future years) are subject to the bonding requirement of \$25,000. This is true even if the dealer is not selling vehicles covered by the warranty requirements of G.L. c.90, §7N ¼. G.L. c.140, §58 (c)(1) states:

The person shall obtain a bond, or equivalent proof of financial responsibility as described in paragraph (5), and continue in effect a surety bond or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority in the amount of \$25,000 executed by a surety company authorized by the insurance department to transact business in the commonwealth.

The law prohibits a city or town licensing authority from issuing or renewing a Class 2 license unless it is satisfied that a bond or the equivalent meeting the requirements of the law is in effect during the term under which the license shall be issued or renewed. Note also that if a dealer has more than one location in a City or Town and goes by a different name at the other location(s), the dealer needs a separate bond for each location

at which it uses a different name. If a dealer has locations in more than one City or Town, separate bonds must be obtained for each municipality.

#### 4. Bond Issue Clarifications

Two issues needing clarification have recently been raised as to the bond/equivalent requirement.

(a) **Certificates of Deposit and Letters of Credit:** The first has to do with the place where certificates of deposit or irrevocable letters of credit may be deposited. Section 58 (c)(1) states, in part:

In lieu of the bond required by this section, the municipal licensing authority may allow the dealer to deposit collateral in the form of a certificate of deposit or irrevocable letter of credit, as authorized by the banking laws of the commonwealth... The collateral may be deposited with or executed through any authorized state depository designated by the commissioner...

The statute does not define "authorized state depository" but the Massachusetts Commissioner of Banks has issued an opinion to the Registrar, dated March 5, 2004, stating that "the definition covers any state or federally chartered bank or credit union with a banking office in the Commonwealth which has federal deposit insurance." The Commissioner has recommended that if a "Certificate of Deposit" is used, it should be titled:

"Commonwealth of Massachusetts, name of municipality, In Trust for (dealer) under Massachusetts General Laws chapter 140, section 58"

The Commissioner also recommends that an assignment should be executed, and that a municipality wishing to do so should contact the State Treasurer's Office to discuss the mechanics of that option. The Treasurer's Office is familiar with Certificates of Deposit and other alternative collateral since that office holds such collateral for certain licensees of the Commissioner of Banks.

(b) **Filing the Bond with Licensing Authorities:** The second issue relates to the manner in which the bond should be filed and filled out. The original of the bond needs to be filed with the City or Town when an initial Class 2 license is issued. On renewal, the licensing authority should insist on either a new original bond with power of attorney attached or an original continuation certificate showing that the existing bond is valid through the end of the next license period. Bonds may be written for more than one year so a municipality should be sure the bond covers the whole period during which the Class 2 license will be in effect. The amended statute does not specify the manner in which the bond should be filled out. However, a bond should clearly identify the parties and the purpose of the bond. For example:

Town of Willingboro, as obligee for the benefit of a person who purchases a vehicle from (name of dealer) and suffers a loss as defined by G.L. 140, Section 58.

#### 5. Class 2 Licensee Definition Expanded

The definition of a Class 2 dealer was expanded to include two additional categories of used vehicle sellers that were not previously required to obtain a Class 2 license. A Class 2 licensee had always been defined as a person whose principal business is the buying or selling of second hand motor vehicles. The amended law allows a license to be issued even though it is not the applicant's principal business or he/she is not actually a seller. G.L. c. 140, §58 (c) now reads, in part:

(c) Class 2. A person whose principal business is the buying or selling of second hand motor vehicles, a person who purchases and displays second hand motor vehicles for resale in retail transactions, and any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise, may be granted a used car dealer's license ....

#### 6. Comment on the Expanded Definition of Class 2 Licensee

(i) "... a person who purchases and displays second hand motor vehicles for resale in retail transactions." This seller is a dealer of motor vehicles at retail even though it may not be his/her principal business and buys vehicles in order to sell them at retail to make a profit. A person who is selling or negotiating the casual sale of his/her own vehicle (one registered to him/her or to a spouse, another relative, a friend, etc.) is not required to obtain a Class 2 license, in the view of the RMV. Nor is a company that leases



vehicles for the use of its employees and then allows the employee to purchase the vehicle at the expiration of the lease. This provision may be applicable to a local garage or other business that purchases vehicles at auction (or from other sources) and repairs or reconditions them and offers them for sale. Any vehicles this licensee sells to a consumer will be subject to the state-mandated warranty protection of G.L. c.90, §7N¼, and the dealer must maintain or demonstrate access to repair facilities sufficient to enable him/her to satisfy the warranty repair obligations imposed by that section. The licensee must comply with the Consumer Protection Act, G.L. 93A and the Regulations of the Attorney General, and must post the required warranty notices on vehicles offered for sale. As a Class 2 licensee, this dealer is also required to maintain a Used Vehicle Record Book pursuant to G.L. 140, §62. The "authorized officers" identified in G.L. c.140, §66 (State Police, Attorney General, Chief of Police, Police Commissioner in Boston, the Selectmen of a Town, or police officers authorized by said officials) "may at any time enter upon any premises used by any person licensed under section fifty-nine for the purpose of carrying on his licensed business, ascertain how he conducts the same and examine all second hand motor vehicles or parts thereof kept or stored in or upon the premises, and all books, papers and inventories relating thereto."

(ii) "... any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise." This is a person who does not own the vehicles he displays on his property but he receives compensation for the display or the sale from the vehicle's owner. These are usually consignment sales and they should only involve privately owned vehicles. RMV regulations prohibit the holder of a dealer plate from offering vehicles for sale anywhere other than the licensed premises of the dealer (except for sales at recognized automobile auction facilities or at combined-dealer special sale events). Therefore, a dealer who has been issued Dealer Plates may not display other dealer's vehicles on his/her own lot or display his own vehicles on other dealers' lots. However, any licensed Class 2 dealer who has received Dealer Plates from the RMV may display vehicles for sale on the dealer's lot that are owned by a private party and held for consignment, but the vehicle must be entered in the dealer's Used Vehicle Record Book as a consignment vehicle. (The dealer cannot, however, attach its own Dealer Plate to allow a test drive of the consigned vehicle because the dealer does not own the vehicle. If a test drive is contemplated, the vehicle's owner may opt to leave his/her own valid registration plates on the vehicle if the owner's liability insurance will cover a test drive). The record keeping and inspection requirements as contained in 6.(i) (above) are applicable here also.

7. **Local Review Needed** Municipalities are urged to review the Class 2 licenses they have issued in 2004 to ensure that the bond requirement has been met for each license.

8. **A Note About Licensees Working From Home**

The RMV is aware that some municipalities have been issuing Class 2 licenses even though the applicant is doing business from his/her home. Class 2 licensees almost always apply to the RMV for Dealer Plates. The process is that the RMV asks the State Police to perform a site visit to determine if the dealer has a facility that is appropriate for the issuance of such plates. After the visit, the Trooper makes a report and recommendation to the RMV. If the licensed premises do not comply with the relevant provisions of G.L. c.90 and the Regulations of the Registrar at 540 CMR 18.00, the application for plates will be denied.

**Definition of "Dealer."** M.G.L. c. 90, 1, defines a "dealer" as: "any person who is engaged principally and substantially in the business of buying, selling or exchanging motor vehicles or trailers or motor vehicle bodies who maintains a facility dedicated to carrying out said business...." (Emphasis added). An applicant for General Registration Dealer Plates must be principally and substantially engaged in the business and have the required dedicated facility. Even a dealer who sells solely on a "wholesale basis" (although no such Class 2 license category exists) must have the required dedicated facility. The RMV will not issue Dealer Plates to an applicant if his/her business is located within the personal living

quarters of a residential building, whether or not the dealer or someone else actually resides there or whether no one resides there. The law regarding the issuance of dealer plates is clear and plates will not be issued even if the municipality has issued a dealer's license for that location.

Further, the regulations at 540 CMR 18.02(2)(a) were adopted under the Registrar's authority and contain the requirements that a dealer must meet to receive or retain Dealer Plates. These requirements indicate the nature of the required "facility." Generally, the following are relevant to a used vehicle dealer:

- > The dealer's business is situated within a permanent building or permanently affixed structure, including an office trailer, owned or leased by the dealer for his exclusive use and located at the address of record noted on the dealer's license issued under the provisions of M.G.L. 140, §59. Except for a dealer who exchanges vehicles or trailers solely on a wholesale basis, the dealer shall be open to the public.
- > The building, structure or office trailer must have adequate office space to conduct the business.
- > If more than one business is located within the same building or structure, the dealer shall maintain a separate and exclusive entrance, unless the multiple businesses are owned or controlled by the same principals.
- > Subject to local law, and except for a dealer who exchanges vehicles or trailers solely on a wholesale basis, the dealer shall display a permanently affixed exterior sign of sufficient size and design, to give the general public notice of the name and nature of the business.
- > The dealer must have a display area/lot to display the vehicles being offered for sale unless the dealer exchanges vehicles or trailers solely on a wholesale basis.

#### 9. Summary

Personal living quarters cannot be the site of a Class 2 dealer's business because the law requires a dealer to maintain a facility dedicated to carrying out that business and that facility must be used exclusively for the dealer's business. It is possible that a dealer may have premises either attached to or detached from a residential building that could be deemed suitable by the RMV. The State Police site inspection may help to determine suitability. The premises would have to be separate and distinct from any personal living quarters (e.g., it would have to be a secure facility with solid floor-to-ceiling walls, adequate office space to conduct the business, direct access from the outside of the building, not be used or shared with any other person or with any portion of personal living quarters and be licensed by the municipality at that location). The licensee must post and maintain reasonable business hours so that State and local police can accomplish the required facility and record book checks when required.

10. New License Application in Draft Stage G.L. 140, §59 states, in part: ...“application for license shall be made in such form as shall be approved by the registrar of motor vehicles...” The RMV is drafting a proposed new version of an *Application for a License as a Motor Vehicle Dealer*. The purpose is to update and standardize the *Application* to include significantly more information about the applicant (including background information on all principals) so that licensing authorities are better informed before issuing or renewing a license. The RMV is willing to receive and discuss suggestions for the proposed new *Application* that local licensing officials may wish to provide. Please email me with your suggestions at: [william.mcvey@state.ma.us](mailto:william.mcvey@state.ma.us) or write to me at the above address.

Thank you. If you have any questions about this Memorandum you may email or write. You may also call me at: 617-351-9950.



UTICA MUTUAL INSURANCE COMPANY  
 NEW HARTFORD, NEW YORK  
**EXECUTION REPORT FOR BOND**

U/W Code

CODING SOURCE      0# Acct Number:		EFFECTIVE DATE 12/19/2021
POLICY NUMBER SU4490005		EXPIRATION DATE 12/19/2022
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> RENEWAL <input type="checkbox"/> ENDORSEMENT		TRANS. EFFECTIVE DATE
INSURED		BOND AMOUNT \$25,000.00
GNFD, Inc. dba Newburyport Sunoco		TOTAL PREMIUM \$250.00
ADDRESS		CSP/POLICY TYPE
59 Storey Avenue		TRANS. 2111      POLICY CT 1      UND. 4
Newburyport MA 01950		SIC # 55211      BILL CODE 1
OBLIGEE (FULL ADDRESS REQUIRED)		LINE 2273
Commonwealth of MA, Registry of Motor Vehicles		STATE OR FOREIGN COUNTRY 20
One Copley Place		TAX TOWN (Required for AL, FL, GA, KY, LA, SC)
Boston MA 02119		PLAN 01
NATURE OF RISK Dealer Bond		PLAN WITH SURCHARGE (Required for KY)
SERIES X	COMPANY CODE 1	COMMISSION 30%
REG. OFF. 04	AGENT NO. 70135	CLASS CODE 927
AGENT		FIDELITY FORM (Col. 48)
MACDONALD & PANGIONE		SURETY TYPE OF CONTRACT (Col. 50)
ADDRESS		GROSS LIMIT 000      TREATY LIMIT
104 MAIN ST		ENDORSEMENT
NORTH ANDOVER MA 01845		
RENEWAL METHOD: <input checked="" type="checkbox"/> COLLECTION OF PREMIUM <input type="checkbox"/> CONTINUATION CERTIFICATE <input type="checkbox"/> NEW BOND		
BOND APPROVED BY:		BOND SIGNED BY:      DATE
		Lauri A. Emmerich (Attorney-in-Fact)      10/12/2021
REMARKS:		

Contact #15

978-462-9169

Business

603-760-8441

Elias

RECEIVED  
CITY CLERK'S OFFICE  
NEWBURYPORT, MA  
**NEWBURYPORT SPECIAL EVENT APPLICATION**

Tel.

Fax

2022 JAN -5 AM 11:40

(For Parades, Road Races and Walkathons Only - Please complete page 3 of this application)

**NAME OF EVENT:** 28<sup>th</sup> Annual Newburyport Frigid Fiver (5k Rail Trail)

Date: 2/6/22 Time: from 11:00 AM to 1:00 PM

Rain Date: N/A Time: from \_\_\_\_\_ to \_\_\_\_\_

2. Location: 40 Parker St, Newburyport Ma, (Riverwalk Brewery)

3. Description of Property: Riverwalk Brewery Public \_\_\_\_\_ Private

4. Name of Organizer: Newburyport Rotary Club & Joppa Flats Running Club City Sponsored Event: Yes \_\_\_\_\_ No

Contact Person Bob Manning Or (Nikki Misenheimer)

Address: 1 Lorum St, NBPT Telephone: \_\_\_\_\_

E-Mail: Robert.F.Manning@comcast.net Cell Phone: 978 270 7455 or (978-270-9282)

Day of Event Contact & Phone: \_\_\_\_\_

5. Number of Attendees Expected: 200

6. MA Tax Number: 21938749

7. Is the Event Being Advertised? yes Where? Social media

8. What Age Group is the Event Targeted to? 4-75

9. Have You Notified Neighborhood Groups or Abutters? Yes \_\_\_\_\_ No  If no? Will do prior to event

**ACTIVITIES:** (Please check where applicable.) Subject to Licenses & Permits from Relevant City Departments

A. Vending: Food \_\_\_\_\_ Beverages \_\_\_\_\_ Alcohol \_\_\_\_\_ Goods \_\_\_\_\_ Total # of Vendors \_\_\_\_\_

B. Entertainment: (Subject to City's Noise Ordinance.) Live Music  DJ \_\_\_\_\_ Radio/CD \_\_\_\_\_  
Performers \_\_\_\_\_ Dancing \_\_\_\_\_ Amplified Sound \_\_\_\_\_ Stage \_\_\_\_\_

C. Games /Rides: Adult Rides \_\_\_\_\_ Kiddie Rides \_\_\_\_\_ Games \_\_\_\_\_ Raffle \_\_\_\_\_  
Other \_\_\_\_\_ Total # \_\_\_\_\_

Name of Carnival Operator: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

D. Organizer is responsible for clean-up during and after event. All trash must be collected and removed from event location immediately at the end of the event unless prior written agreement had been made with the Department of Public Services (DPS).

Will you be conducting the clean-up for this event? Yes  No \_\_\_\_\_

**If yes:**

a) How many trash receptacles will you be providing? 3

b) How many recycling receptacles will you be providing? 3

c) Will you be contracting for disposal of : **Trash** Yes \_\_\_ No x **Recycling** Yes \_\_\_ No x

i. If yes, size of dumpster(s): **Trash** \_\_\_ **Recycling** \_\_\_

ii. Name of disposal company: **Trash** \_\_\_ **Recycling** \_\_\_

iii. If no, will you remove trash & recycling with organizers' cars or trucks? Yes ✓ No \_\_\_

iv. If no, where will the trash & recycling be disposed ? Riverwalk Brewery dumpster

**If no:**

a) # of trash container(s) to be provided by DPS 0

b) # of recycling container(s) to be provided by Recycling Office 0

c) \$45.00/hr/DPS employee charge must be paid by the organizer to DPS in advance of the event (Fee for Special Events). The hours required for the event will be determined by DPS.

All fees must be paid prior to the event. Check or money order is payable to the City of Newburyport.

**E. Portable Toilets:** (Each cluster of portable toilets must include at least one ADA accessible toilet)

# 0 Standard # \_\_\_ ADA accessible

Name of company providing the portable toilets: \_\_\_\_\_

FOR PARADE, ROAD RACE AND WALKATHON EVENTS ONLY

PARADE \_\_\_\_\_ ROAD RACE   x   WALKATHON \_\_\_\_\_

1. Name of the Group or Person Sponsoring the Road Race, Parade, Walkathon: Riverwalk Brewery & Joppa Flats Running Club

2. Name, Address & Daytime Phone Number of Organizer: Bob Manning, 1 Lorum St, NBPT, 978 270 7455  
Nikki Misenheimer 978-270-9282

3. Name, Address & 24/7 Telephone Number of Person Responsible for Clean Up Bob Manning, 1 Lorum St, NBPT, 978 270 7455

4. Date of Event: 2/6/22 Expected Number of Participants: 200

5. Start Time: 11:00 AM Expected End Time: 2:00 pm

6. Road Race, Parade or Walkathon Route: (List street names & attach map of route): Manning to provide MAP ATTACHED ✓

7. Locations of Water Stops (if any): Yes, Cashman Park

8. Will Detours for Motor Vehicles Be Required? no If so, where? \_\_\_\_\_

9. Formation Location & Time for Participants: Rail Trail, Parker St

10. Dismissal Location & Time for Participants: Riverwalk Brewery, Parker St

11. Additional Parade Information:
- Number of Floats: \_\_\_\_\_
  - Locations of Viewing Stations: \_\_\_\_\_
  - Are Weapons Being Carried: Yes \_\_\_ No \_\_\_
  - Are Marshalls Being Assigned to Keep Parade Moving: Yes \_\_\_ No \_\_\_

APPROVAL SIGNATURES REQUIRED FOR STREET CLOSURE OR ANY USE OF A PUBLIC WAY.

CITY MARSHAL [Signature] 4 Green St. FIRE CHIEF [Signature] 8 Greenleaf St.  
 DEPUTY DIRECTOR [Signature] 16A Perry Way CITY CLERK [Signature] 60 Pleasant St.  
12-30-21

- (e) "Road Closure" No ways, public or private, boat ramps or parking lots controlled or patrolled by the city shall be closed without authorization. Authorization shall be considered granted only if said closure(s) are contained in the approved permit. It is the sole responsibility of the race organizers to notify residents ten (10) days in advance that neighborhood roads will be closed if no alternate route is available to those residents.
- (f) "Insurance" All events shall have an insurance policy or rider in effect for the event naming the "City of Newburyport" as an insured. The policy shall be no less than two million dollars (\$2,000,000.00).
- (g) "Event termination" If in the judgment of the City Marshal, Fire Chief or Department of Public Services (DPS) Director or designees thereof determine that an event is unsafe due to existing conditions, that event may be stopped, terminated or suspended. In the case of a multidiscipline event such as a triathlon, the Harbormaster or his/her designee may likewise stop, terminate or suspend the swimming portion for cause.
- (h) "Event and traffic Security" The City Marshal, Fire Chief, DPS Director or in the case of a triathlon, the Harbormaster can require special duty personnel to oversee the safety and security of the event. All special duty assignments will be paid by the event organizers.
- (i) "Clean-up" The event organizers shall be responsible for post event trash collection, removal of signage, directional arrows, advertisements or other promotional material associated with the event.

**13-101 Enforcement**

- (a) "Regulations" Consistent with this ordinance, the city shall promulgate regulations to enforce and otherwise implement the provisions of this ordinance upon passage by the City Council. Any event previously approved by City Council shall be deemed permitted.
- (b) "Warning" In the circumstance that this ordinance is violated, the enforcement may consist of a warning. Any warnings issued for violation(s) will be reported to the City Clerk and City Council and may be used as a factor in future application approvals and denials.
- (c) "Noncriminal Disposition" If the city determines that a violation has occurred in which a noncriminal violation is issued, the named event organizer shall be penalized by a non-criminal disposition as provided in Massachusetts General Law as adopted by the City of Newburyport as a general ordinance in Subsection 1-17 of Chapter 1 of the Code or Ordinances of the City of Newburyport in the amounts set herein in 13-101(d)
- (d) "Violation" The non-criminal violation shall be \$100.00 for the first offense and \$250.00 for second and subsequent offenses. Any non-criminal citations issued for violation(s) will be reported to the City Clerk and City Council and shall be used as a factor in future application approvals and denials.

*I fully understand and agree to all the terms set forth in this application. The information that I have provided is truthful and accurate. I accept all responsibility related to this event.*

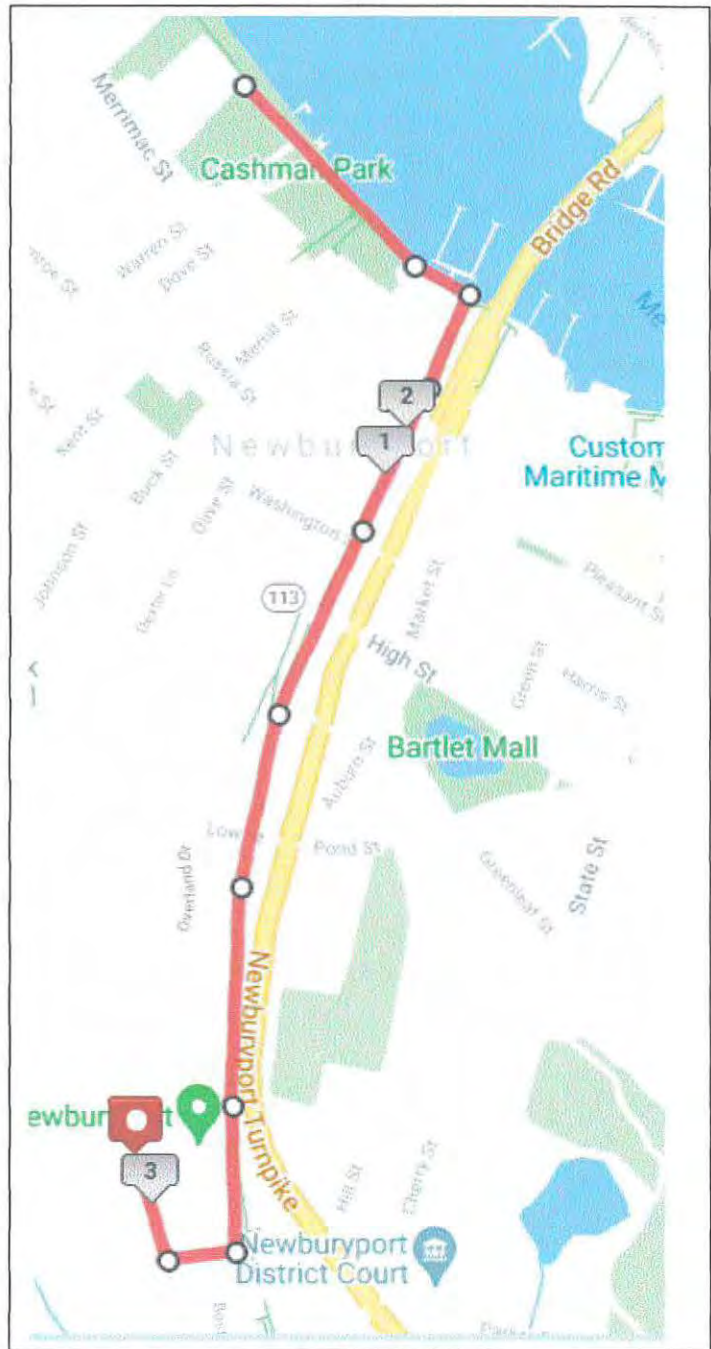
Signed: Walt F. Murray Date: 11-3-21



## Frigid Fiver 5K Course Map

- Course starts in Riverwalk Parking Lot
- Proceed to rail trail via Mark Richey's property
- North on rail trail to the Merrimac River
- Left at the river to Cashman Park
- Turn around point in Cashman Park
- Return to the Riverwalk Brewery returning via the Rail Trail

Note: the only street crossing is Washington St which will be manned with crossing guards





**APPOINTMENTS  
FIRST READING**



RECEIVED  
CITY CLERK'S OFFICE  
NEWBURYPORT, MA

2022 JAN -4 PM 1:28

CITY OF NEWBURYPORT  
OFFICE OF THE MAYOR  
SEAN REARDON, MAYOR  
60 PLEASANT STREET – P.O.BOX 550  
NEWBURYPORT, MA 01950  
978-465-4413 PHONE  
978-465-4402 FAX  
[WWW.CITYOFNEWBURYPORT.COM](http://WWW.CITYOFNEWBURYPORT.COM)

To: President and Members of the City Council  
From: Sean Reardon, Mayor  
Date: January 4, 2022  
Subject: Appointment

-----  
I hereby appoint, subject to your approval, the following named firm to serve in the office of City Solicitor. This term will expire February 1, 2023.

KP Law  
101 Arch Street, 12<sup>th</sup> Floor  
Boston, MA 02110

**END OF CONSENT AGENDA**

**BEGINNING OF REGULAR AGENDA**

**APPOINTMENTS  
SECOND READING**

## SECOND READING APPOINTMENTS

- APPT295\_12\_13\_2021     David Zinck     6 Laurel Rd.     Electrical Inspector     1/1/2023

**In City Council December 13, 2021:**

Motion to approve the consent agenda as amended by Councillor Zeid, seconded by Councillor Tontar. So voted.



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

RECEIVED  
CITY CLERK'S OFFICE  
NEWBURYPORT, MA  
2021 DEC -7 PM 3:00

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

*Donna D. Holaday (dmm)*

To: President and Members of the  
City Council  
From: Donna D. Holaday, Mayor  
Date: December 7, 2021  
Subject: Re-Appointment

-----  
I hereby re-appoint, subject to your approval, the following  
named individual as Electrical Inspector. This term will  
expire on January 1, 2023.

David Zinck  
6 Laurel Road  
Newburyport, MA 01950



## **BIO**

David Zinck

City Electrical Inspector

City of Newburyport, MA

A Newburyport resident, David Zinck came an electrician at the tender age of 12, and entered trade school at the age of 14. He graduated at 17 years old, and worked for three different contractors, before getting his license at the age of 21. Dave started his own business at age 29.

Dave became the wiring inspector for the City of Newburyport on April Fool's Day in 1994, and has been the wiring inspector and city electrician for 27 years. His knowledge of the National Electrical Code is exemplary. David's knowledge and experience surpasses all in the trade.

# ORDERS

## CITY OF NEWBURYPORT



IN CITY COUNCIL

**ORDERED:**

January 10, 2022

AN ORDER TO AUTHORIZE ACQUISITION OF LAND IN CONNECTION WITH RECONSTRUCTION OF THE CUTTER WEST END FIRE STATION AND TO APPROPRIATE FUNDS FOR THE SAME

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

**THAT** the City Council of the City of Newburyport by virtue of and in accordance with the authority of the provisions of Chapter 79 of the Massachusetts General Laws, as amended, and of any and every other power and authority which is hereunto in any way enabling, having by its vote under Section 26 of the Newburyport City Council Rules (2021) suspended application of Rule 7I of such Rules requiring submission of an appraisal as it may apply to the following disposition of land, hereby adopts this Order of Taking to acquire the fee in that certain real estate depicted as “Lot A,” on the plan entitled “Plan of Land in Newburyport, Massachusetts, Surveyed for City of Newburyport, 153 Storey Avenue & 1 Lt. Leary Drive,” prepared by Winter GEC, LLC, dated September 14, 2021, having an area of 7,535 square feet (the “Taking Parcel”), for public safety purposes, including the construction of a municipal fire station, and to authorize the City Council President to execute an Order(s) of Taking to effectuate the purposes of this vote; and

**THAT** upon the recording of such order, in reliance upon and subject to the conditions set forth in a certain Waiver of Appraisal and Damages titled “Friendly Taking of Parcel of Land Located at 1 Lieutenant Leary Drive – Waiver of Appraisal and Damages” and executed by said Owners and the City of Newburyport on October 22<sup>nd</sup>, 2021, on file with the City Clerk, compensation in the amount of Four Hundred Thousand Dollars (\$400,000.00), be paid to the Owners of said property as full compensation for all damages sustained by them as a result of said taking; and

**THAT**, Four-Hundred-Thousand Dollars (\$400,000.00) is appropriated to pay the compensation indicated above, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; and that the Mayor and the Treasurer are authorized to take any other action necessary or convenient to carry out this vote. Any premium received upon the sale of any bonds or notes approved by this order, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

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Councillor James J. McCauley

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Councillor Sharif I. Zeid



CITY OF NEWBURYPORT  
OFFICE OF PLANNING AND DEVELOPMENT  
60 PLEASANT STREET • P.O. BOX 550  
NEWBURYPORT, MA 01950  
(978) 465-4400

SEAN REARDON  
MAYOR

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MEMORANDUM

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TO: NEWBURYPORT CITY COUNCIL  
FROM: GEORDIE VINING, SENIOR PROJECT MANAGER  
SUBJECT: ACQUISITION OF PROPERTY FOR NEW JOHN F. CUTTER JR. FIRE STATION (WEST END)  
DATE: 1/3/22

As recommended by the City Solicitor and Bond Counsel, we respectfully request that the City Council vote again on the Order authorizing the acquisition by friendly taking of 7,535 square feet of property adjacent to the existing John F. Cutter Jr. Fire Station in the west end to facilitate designing and building a modern new facility.

The City of Newburyport has been working for some time to develop a new west end fire station. The current facility is inadequate in nearly every respect, as it has no separation between the living quarters and the carcinogens of the Apparatus Room and equipment area. The facility has no insulation, no cooling system, no fire protection sprinkler system, no handicapped accessibility, no accommodation for a multi-gendered fire service staff, no storage space, and almost no parking. Renovation and reuse of the existing facility is not economically feasible or desirable.

The City reached a written agreement with the owners of the property adjacent to the station on 10/22/21 for \$400,000 along with several other considerations. On 11/29/21, the City Council unanimously authorized the acquisition of the adjacent property as well as borrowing funds to pay the compensation. However, the City ran out of time to complete all the required steps to record a taking at the Registry of Deeds within 30 days of the authorization (per state law MGL Chapter 79, Section 3).

Please note that once any such borrowing is authorized, there is a 20-day referendum period until the authorization becomes valid during which time the City's Bond Counsel reviews all of the required documentation in order to issue an opinion as to its validity, enforceability and tax status of the debt issuance. The City received a letter from its Bond Counsel indicating the need to provide a copy of an appraisal per City Council Rule 7I, or document a vote to waive the rule. The City Council orally reached a consensus while deliberating on this matter that Rule 7I requiring an appraisal should be waived for this project for a number of reasons. However, when the Council unanimously authorized acquisition of the property on 11/29/21, the Council did not formally vote to waive Rule 7I.

In addition, the sellers and their attorney provided documentation of their mortgage assignment later than originally anticipated just as the Christmas holiday began (as the City needs the mortgage to be fully paid off by the proceeds and released). A new mortgage payoff statement is required past 12/25/21. These procedural requirements caused insufficient time in the remaining days of the 30-day period to complete the process, including securing the City Council's vote waiving the appraisal rule, securing a new mortgage payoff

statement, mailing the Mylar plan and all certified documents to the title examiner, and then sending them to the Registry for recording prior to 12/29/21.

This is not the first time that the City has had to vote again to confirm a property acquisition, and with your support these steps should not delay the closing on the property by more than a few weeks. Enclosed with this memo is the updated Order from the City Solicitor with a reference to a vote under Section 26 of the Newburyport City Council Rules (2021) suspending the application of Rule 71 requiring submission of an appraisal as it may apply to this disposition of land. The City Solicitor recommends a separate vote to suspend the application of Rule 71.

Thank you for your consideration.

# CITY OF NEWBURYPORT



IN CITY COUNCIL

**ORDERED:**

**2022**

**City Council Meetings 7:30 PM Hybrid in the Council Chambers, City Hall.**

January 10, 2022  
January 31, 2022

February 14, 2022  
February 28, 2022

March 14, 2022  
March 28, 2022

April 11, 2022  
April 25, 2022

May 09, 2022  
May 31, 2022     \***Tuesday**     **(May 30, 2022 – Memorial Day)**

June 13, 2022  
June 27, 2022

July 11, 2022

August 08, 2022  
August 29, 2022

September 12, 2022  
September 26, 2022

October 11, 2022     \* **Tuesday**     **(October 10, 2022 – Columbus Day)**  
October 31, 2022

November 14, 2022  
November 28, 2022

December 12, 2022

ORDR00315\_01\_10\_2022

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Councillor Heather L. Shand



# CITY OF NEWBURYPORT



IN CITY COUNCIL

**ORDERED:**

## **NEWBURYPORT CITY COUNCIL RULES (2022)**

### **PURPOSE**

Pursuant to the City of Newburyport Home Rule Charter (Charter), except as otherwise provided by the General Laws of the Commonwealth of Massachusetts (General Laws) or by the Charter, the legislative powers of the City Council of the City of Newburyport (Council) may be exercised in a manner determined by it. The purpose of these rules of the Council (Rules) is to establish in writing the manner in which the Council shall exercise its legislative powers.

### **ORGANIZATION**

**Rule 1.** No later than December 31 after each regular municipal election, the City Clerk (Clerk) shall provide written notice to each member of the Council for the coming two-year legislative session of the date, time, and place of the first meeting of the Council in the next calendar year, to be known as the Inaugural Meeting.

**Rule 1A.** At the Inaugural Meeting, the Council shall, by majority vote of all its 11 members, notwithstanding any vacancies (Full Council), elect a President from within its membership. The City Clerk (Clerk) shall preside at the Inaugural Meeting until such time as a President is elected. The Full Council shall vote to set the date of its next regular meeting before it may vote to adjourn the Inaugural Meeting.

**Rule 1B.** No later than at its next meeting after the Inaugural Meeting, the Council shall, by majority vote of the Full Council, adopt its Rules for such calendar year.

**Rule 1C.** No later than at its next meeting after the Inaugural Meeting, the Council shall, by majority vote of the Full Council, adopt a schedule of regular meetings of the Council for the remainder of such calendar year.

**Rule 1D.** In the second year of each two-year legislative session, no Inaugural Meeting shall occur. Instead, at its first meeting of such calendar year, the Council shall, by majority vote of the Full Council: (1) elect a President from within its membership; (2) adopt its Rules for such calendar year; and (3) adopt a schedule of regular meetings of the Council for the remainder of such calendar year.

## MEETINGS

**Rule 2.** Council meetings shall be held in the Council Chamber of City Hall unless the President, or a majority of the Full Council, determine by any means reasonable and practicable, and give written notice to all members, that such meeting will be held in an alternate location.

**Rule 2A.** Special meetings of the Council shall be held at the call of the President, or any six (6) or more members, for any lawful purpose, by causing a notice of such special meeting to be delivered in hand or to the place of business or residence of each member. This notice shall, except in an emergency of which the President shall be the sole judge, be delivered at least forty-eight (48) hours in advance of the time set, and shall specify the purpose or purposes for which the special meeting is to be held. The Clerk shall cause a copy of each such notice to be posted immediately, including on the City's Website, in accordance with applicable laws.

**Rule 2B.** If any meeting of the Council is in session at 11:00pm, said meeting shall be adjourned until 7:30pm of the following evening, unless another date and time is voted by a majority of the Full Council.

## HOLIDAYS

**Rule 3.** Except as otherwise provided in the Charter, whenever the day set by these Rules for any meeting of the Council, regular or special, shall fall upon a holiday, then such meeting shall be canceled or postponed to a date certain by majority vote of the Full Council.

## PRESIDING OFFICER

**Rule 4.** The President, if present, shall preside at all meetings. In the absence of the President, the senior-most member in terms of consecutive, uninterrupted service on the Council shall serve during the absence of the President. If more than one member has served the same length of time, the Council shall elect a President Pro Tem by majority vote from the most senior Councillors in terms of consecutive, uninterrupted service on the Council.

## DUTIES AND POWERS OF THE PRESIDING OFFICER

**Rule 5.** The presiding officer shall: preserve decorum and order; speak to points of order in preference to other members; decide all questions of order, subject to appeal to a super-majority of the Full Council; declare all votes, or permit the Clerk to do so; and perform any other duties consistent with the office that may be provided by charter, ordinance, or by other vote of the Council.

**Rule 5A.** If any member doubts a vote as declared, the presiding officer, without further debate on the question, shall require that a count be taken by roll call of the membership.

**Rule 5B.** During any meeting, whether regular or special, the presiding officer may, at any time, call for a five-minute recess.

## RELINQUISHING THE CHAIR

**Rule 6.** When the presiding officer desires to relinquish the Chair, he or she may call upon any Councillor to take the Chair, but such call to the Chair shall not continue beyond the will of the presiding officer so relinquishing the Chair, or beyond an adjournment of the Council, except as hereafter provided. If the presiding officer wishes to express an opinion on any subject under debate, he or she shall relinquish the Chair as above provided, and shall not resume the Chair until he or she is through speaking, and all points of order arising therefrom have been decided by the Councillor presiding in his or her place. Notwithstanding the foregoing, the presiding officer may, however, state facts and give opinions upon questions of order without relinquishing the Chair.

## COMMITTEES AND COMMITTEE BUSINESS

**Rule 7.** The President shall appoint all members to all City Council Committees, both standing and ad hoc, designate the Chair of each such Committee, who shall serve as its presiding officer, and fill any vacancies thereon as they arise. Likewise, the President may establish, dissolve, and/or reconfigure ad hoc Committees in his or her discretion, provided that such ad hoc Committees shall be re-established each two-year legislative session. Ad hoc committees may include members other than members of the Council for purposes of deliberation, but they may not vote. Except as otherwise provided in Rule 12, the Council shall, by a majority vote, refer each matter newly introduced through the Council agenda (Agenda) to a single Committee, either standing or ad hoc, for review at a public meeting of such Committee, before such matter may be acted upon again by the Council. Notwithstanding the foregoing, a Councillor may make all parliamentary motions, including a motion to receive and file the newly introduced matter.

**Rule 7A.** Pursuant to the Newburyport Code (Code), there shall be nine (9) standing committees of the Council, as follows, each consisting of three (3) members of the Council, and concerned with the matters specified for it in the Code:

- Committee on Budget & Finance
- Committee on Education
- Committee on General Government
- Committee on Licenses & Permits
- Committee on Neighborhoods & City Service;
- Committee on Planning & Development
- Committee on Public Safety
- Committee on Public Utilities
- Committee on Rules

**Rule 7B.** Except as provided expressly otherwise in these Rules, a matter shall not be referred to more than one Committee, either separately or jointly, nor may a matter be referred to the Full Council sitting as the Committee-of-the-Whole except by super-majority vote.

**Rule 7C.** Committees may meet at any time, in open and/or executive session, at any place within the City of Newburyport, subject to the Massachusetts General Laws, the City Charter, and the Newburyport Code.

**Rule 7D.** Committees shall meet and review each matter referred to them by the Council no later than fifteen (15) calendar days after such referral.

**Rule 7E.** Committee meetings shall be cancelled when scheduled during any time when a declared snow emergency is in effect.

**Rule 7F.** During a meeting of the Council, the Chair of a Committee, whether regular or ad hoc, may remove any matter from such Committee to bring it to the floor for discussion by the Council, upon making a motion to do so, receiving a second from any other Councillor, regardless of Committee membership, and upon affirmative vote of the Full Council. Once such matter is before the Council (on the floor), any Councillor may then make a motion regarding such matter to approve it, not approve it, or refer it back to the original or to another Committee, and all parliamentary rules, including motions to amend, to table, and so on, shall be available, subject to these Rules.

**Rule 7G.** In the event that either: (a) the Committee has failed to meet and review a matter within the required 15 days under Rule 7D; or (b) the Chair of a Committee has failed to remove any matter from such Committee after (6) weeks of its original referral to such Committee, such matter may be removed from such Committee to bring it to the floor for discussion by the Council, provided that a petition signed by no fewer than two Councillors has been filed with the City Clerk--with copies to both the President and the relevant Committee Chair -- in accordance with Rule 16.

**Rule 7H.** Any matter that remains in Committee at the end of the Council's two-year legislative session shall die, unless a majority of the Full Council votes at its last meeting of such session to carry such item into the succeeding session. Any item that remains on the table at the end of the Council's two-year legislative term shall die, and may not be carried on.

**Rule 7I.** For any Committee item relating to the disposition of any real property, including, without limitation, purchase or sale, an appraisal of the fair market value of said real property, performed by a duly licensed professional based upon the requirements and guidelines of the current Uniform Standards of Professional Appraisal Practice (USPAP), shall be presented to the Council no fewer than seven (7) calendar days before such Committee item can be brought to the floor. The appraisal must be dated within twelve (12) calendar months of the date the relevant item is removed from Committee. The appraisal may be presented in Executive Session and/or may otherwise remain confidential in accordance with the City's Charter, and applicable law.

**Rule 7J.** Any Measure to authorize the issuance of a bond in an amount over \$500,000 shall not be removed from the committee to which it is first referred until the greater of thirty (30) calendar days or one (1) regular meeting of the City Council has elapsed since such referral.

#### **SUFFICIENCY OF VOTE**

**Rule 8.** The affirmative vote of a majority of the members present shall be sufficient to adjourn any meeting of the Council or its Committees.

**Rule 8A.** Except as expressly provided in these Rules, the affirmative vote of a majority or super-majority, as may be required by law, of the Full Council, rather than of the quorum present, shall be required to adopt any ordinance, order, or other vote or proceeding adopted, or which might be adopted

(Measure). Consistent with the Charter, Measures include, without limitation, all transfers, expenditures, and acceptance of funds, which shall be put into effect by an order of the Full Council.

### MANNER OF VOTING

**Rule 9.** The Council and each of its Committees, standing and ad hoc, shall vote at a duly noticed public meeting, unless otherwise permitted under the Open Meeting Law.

**Rule 9A.** A vote to confirm Mayoral Appointments on a second reading shall be by roll call of the Full Council.

**Rule 9B.** Approval of any ordinance shall require two (2) readings and two (2) roll-call votes to be held at separate City Council meetings, while approval of any other Measure requires one (1) reading and one (1) vote, which, except in the case of bond order, may be by voice vote. Amendments to any motion to approve, not approve, or to refer back to Committee may be recorded by voice vote, including such parliamentary motions in regard to an ordinance. Following its passage on first reading, such ordinance shall be timely posted to the City's Website, as defined in the Charter, in a manner prescribed by the City Clerk. Notwithstanding the foregoing, pursuant to the Charter, votes regarding Mayoral Appointments shall be treated specially under Rule 20.

**Rule 9C.** At the Inaugural Meeting, the Clerk shall begin the order of roll-call voting throughout such meeting with that Councillor whose last name is first in alphabetical order. At each successive meeting that requires a roll call vote or votes, the Clerk shall begin roll calls throughout such meeting with the Councillor whose last name follows the previous Councillor in alphabetical order until the last meeting of the two-year legislative term. Notwithstanding the foregoing, the Clerk shall, for all votes at all meetings, call the President to vote last.

**Rule 9D.** In the event that a member of the Council or one of its Committees wishes to have his or her vote recorded differently after announcement of the results of a roll call vote by the Clerk or presiding officer, the member must receive unanimous consent from every other present member of the Council or the Committee, as the case may be.

**Rule 9E.** A motion to table once seconded is not debatable, but clarifying points of information shall be allowed for the purpose of understanding the effects of such proposed tabling.

### GAINING THE FLOOR

**Rule 10.** All Councillors, when desiring to speak on a matter, shall raise their hands and respectfully address the President, and wait until recognized by the presiding officer.

**Rule 10A.** Once recognized by the President, the Councillor shall stand to speak on the matter. A Councillor shall remain standing while speaking, and shall sit down to indicate to the President the conclusion of the Councillor's speech.

**Rule 10B.** No Councillor shall speak a second time on any motion until each Councillor has the opportunity to speak once, however the President may permit a Councillor to speak out of turn to respond to questions directed to him or her by another Councillor.

**Rule 10C.** In speaking, members shall at all times confine themselves to the motion in order, shall use parliamentary language and appropriate demeanor, and shall strive to refer to all other members by their ward or as an At-Large Councillor, or as the Chair or a member of a particular Committee, etc., rather than by their first or last names.

**Rule 10D.** No member shall leave a Council or Committee meeting while it is in session to seek or accept counsel, nor may such member while away from such meeting exchange information pertaining to an item on the meeting agenda, nor to conduct any other city business.

**Rule 10E.** The Council President and Committee Chairs, as the case may be, shall have the responsibility and discretion for recognizing speakers other than Council or Committee members. Any member of the Council or a Committee may request of the presiding officer recognition of a speaker other than a member, but the presiding officer's determination whether to grant such recognition shall not be appealed.

### **SPONSORSHIP OF MATTERS**

**Rule 11.** With the sole exception of a Mayoral Appointment, as described in Rule 20, no Measure or other matter beside a Communication, of any kind, shall be placed on the Agenda by any City official or other person, including, without limitation, the Mayor, nor may it be acted upon by the Council, unless it is sponsored by a member of the Council. Each such matter carried over from a previous, two-year legislative term must be sponsored by a current member of the Council.

**Rule 12.** Except in the case of an Emergency Measure, as regulated under the Charter, the Council shall not pass or otherwise adopt any Measure until it has first been reviewed at a public meeting of a Committee in accordance with Rule 7.

**Rule 12A.** Failure of by any person, including, without limitation, an applicant or a city official, to meet a deadline, specified by law, regulation, or rule shall not constitute an Emergency. For example, and without limitation, the Council shall not approve a license or permit, or otherwise authorize, any person to use public property for a road race or other event by Emergency Measure solely because such event is scheduled to occur before the Council's next meeting.

**Rule 12B.** Pursuant to the Charter, no Measure making a grant, renewal, or extension, whatever its kind or nature, or a franchise or special privilege, shall be passed as an emergency measure, and, except as provided by the laws of the Commonwealth, no such grant, renewal, or extension shall be made otherwise than by ordinance.

**Rule 12C.** Pursuant to the Charter, an Emergency Measure shall become effective immediately upon its adoption without signature by the Mayor, or at such later time as the emergency measure expressly provides.

**Rule 12D.** In the event that a sponsor of any Measure or other matter is not present physically or telephonically at a meeting of the Council when the Clerk reads such Measure or other matter, then the Council shall not consider such Measure or other matter, unless all sponsors of such measure have presented a written statement requesting the Council to proceed in the absence of such sponsor.

## WITHDRAWING ITEMS FROM THE AGENDA

**Rule 13.** After a Measure or other matter is reached on the Agenda and read aloud by the Clerk, it shall be deemed to be in possession of the Council, and shall be disposed of in some matter by vote. At any time prior to a Measure or other matter being brought before the Council through such reading, it may be withdrawn provided all sponsors so notify the President or the Clerk.

## RECONSIDERATION

**Rule 14.** Notwithstanding Rule 9D, after a vote has been taken on a Measure or other matter, it shall be in order for any member voting with the prevailing side to move reconsideration thereof at the same meeting at which the vote was taken, and such motion shall be disposed of accordingly. Alternatively, such member may file with the Clerk, not later than noon of the next business day following such meeting, written notice of a motion to reconsider such vote. After receiving such written notification from a member, the Clerk shall place the motion for reconsideration on the Agenda for the next regular meeting of the Council, and the Clerk shall forthwith, either verbally or in writing, notify the Full Council of such filing.

## DUTIES OF THE CLERK

**Rule 15.** The Clerk shall attend and keep all records of all meetings of the Council, shall record the names of the members present, shall record the vote of members on roll calls, and shall have the care and custody of the City records, and all documents, plans, and papers pertaining to the business of the Council. The Clerk shall also, at the request of a member, assist in the drafting of items to be presented at the meetings of the Council. The Clerk shall cause notice to be made to each Councillor of each meeting of the Council, regular and special, and of Committee meetings, and shall also post notice on the City Website at least 48 hours prior to commencement.

## DEADLINE FOR AGENDA ITEMS

**Rule 16.** Printed materials regarding any matter, including, without limitation, the full text of new Measures, to be considered by the Council at its next regular meeting shall be presented in complete form to the Clerk not later than 4:00pm on the Tuesday preceding such regular meeting. Notwithstanding the preceding sentence, not later than 4:00pm on the Wednesday preceding a regular meeting, Committee Chairs shall submit to the Clerk the text of any Measures they intend to remove from Committee and put into the possession of the full Council. Except as otherwise provided under Rule 18A, papers presented after these times shall be considered Late-Filed Items, which shall not be taken up without a suspension of these Rules, which requires a super-majority vote of the Council. The provisions of this Rule 16 apply to all persons, and in all cases, without exception, including to all members and other City officials, such as the Mayor and Department heads, as well as the public.

## AGENDA AND PACKET

**Rule 17.** For each meeting of the Council, the Clerk in consultation with the President shall compile the Agenda of all matters to come before the Council at such meeting, in accordance with the order of business listed below, and shall make available to the public such Agenda and all supporting documents (together, Packet) to be considered by the Council by 5:00pm of the fourth (4<sup>th</sup>) calendar day prior to such meeting; provided, however, that in the case of a special meeting the Agenda shall be made available as otherwise provided by law and these Rules, and no Packet shall be required. The Clerk shall cause a printed copy of the Packet to be delivered to each Councillor by their individually preferred means, and to be posted on the City Website at least 48 hours prior to commencement.

Items that are to be added to the Agenda as Late-Filed Items must be submitted for approval to be placed on the Agenda immediately following the Call to Order.

The order of business for the Agenda shall be as follows:

1. Moment of Silence
2. Pledge of Allegiance
3. Call to Order
4. Late-Filed Items
5. Public Comment
6. Proclamations
7. Mayors Comment
8. Consent Agenda
  - a) Approval of Minutes
  - b) Communications (including Applications)
  - c) Orders (including Transfers/Appropriation Orders) and Resolutions
  - d) First Reading of Mayoral Appointments
7. Second Reading of Mayor's Appointments
8. Communications
9. Orders (including Transfers/Appropriation Orders) and Resolutions
10. Ordinances
11. Committee Reports (including all Measures for the Council to consider)
12. Good of the Order
13. Adjournment

**Rule 17A.** The Consent Agenda shall be reserved for routine and non-controversial matters that may be considered apart from the rest of the Agenda and approved collectively and without debate.

The President has the sole discretion to place matters on the Consent Agenda excepting Committee Measures. Pursuant to the deadlines set in Rule 16, Committee Chairs may ask the Clerk to place Committee Measures on the Consent Agenda. This rule shall not be construed to limit or alter other rules relating to removing measures from Committee including, without limitation, Rules 7F and 7G. The retention thereon of any measure in the Consent Agenda is subject to the unanimous consent of the members present when the Council reaches the Consent Agenda during its meeting. Committee items removed from the Consent Agenda shall be handled during the regular agenda under the measure's respective Committee report, under Rule 7F.

The Clerk shall read matters on the Consent Agenda by title only. At any time before the Council acts upon the Consent Agenda, any member of the Council may cause any matter or matters listed upon the Consent Agenda to be removed and then placed into the appropriate portion of the regular Agenda, either by providing written notice to the President and/or the Clerk, or, alternatively, by rising and so requesting by motion. The



Council shall then, without debate permitted, vote collectively on all matters remaining on the Consent Agenda, by simple majority of the Full Council. Such vote may be conducted by voice vote at the discretion of the presiding officer.

**Rule 17B.** Supporting copied (paper copy) documents for Council agenda items shall be placed in the packet and provided to Council members only the first time the item is introduced to the Council. Subsequently, as items are taken up for debate, whether in committee or during regular meetings, it shall be the responsibility of each Councillor to have retained the documents for reference. Notwithstanding the foregoing, the electronic version of the packet, posted on the website, shall be complete.

### **PUBLIC COMMENT**

**Rule 18.** There shall be designated a Public Comment time during each meeting of the City Council. The procedure for this comment time is listed below:

1. Individuals who wish to speak before the Council, whether on their own behalf or on behalf of a group, must sign in on the door of the Council Chamber prior to the start of the Public Comment segment of the meeting. Each speaker must provide his or her name and the address where he or she resides permanently (i.e. legal domicile), and indicate which Agenda item he or she will be speaking on. The President will advise attendees of their right to speak and responsibility to sign-up.
2. Two minutes allotted to each speaker.
3. One opportunity per individual to speak.
4. Comment must be related to an Agenda item.
5. Speakers who are attorneys shall disclose the identity of all clients whose interests are materially affected by the Agenda item upon which they speak.

**Rule 18A.** There shall be designated a Mayor's Comment time during each regular meeting of the City Council. The procedure for this comment time is listed below:

1. To address the Council during the Mayor's Comment period, the Mayor may provide notice to the President at any time prior to the Call to Order.
2. The Mayor will be allowed to speak for a total of seven (7) minutes.
3. The Mayor will be offered reserved seating on the front bench of the Council Chambers
4. Notwithstanding the normal deadline for written materials to be submitted to the City Clerk under Rule 16, the Mayor may submit a written report to the Full City Council not later than 11:00am on the day of the Council meeting, and such report shall not be deemed a Late-Filed item.
5. Nothing in this rule prohibits the Mayor from speaking otherwise in compliance with the Charter and these Rules.

### **PRESENTATIONS**

**Rule 19.** To be included on the Council Agenda, presentations by individuals or groups must be sponsored by a Councillor in writing pursuant to Rule 16, and approved by the President, in which case such presentation shall be placed in the Communications segment of the Agenda, for a period not longer than twenty (20) minutes.

## **MAYORAL APPOINTMENTS**

**Rule 20.** Mayoral Appointments do not require sponsorship by a member of the Council, but shall require two (2) readings and two (2) votes by the Council, the second such vote by roll call. For its first reading, each such appointment, including reappointments, shall be accompanied by submittal to the Clerk of the appointee's resume in accordance with Rule 16. The first reading shall be placed in the Consent segment of the Council's Agenda for referral to the Council's next meeting, sitting as the Committee of the Whole.

**Rule 20A.** As with any Consent Agenda item, a single member of the Council may move such item to the regular Agenda. As provided in the Charter, the Council may elect to refer any proposed Mayoral Appointment to a standing or ad hoc Committee, which shall review such appointment and may make a recommendation to the Full Council not fewer than seven (7) nor more than 45 days after such referral. Such Committee may require any person whose name has been referred to it to appear before such Committee, or before the Full Council, to give any information relevant to the appointment that the Committee of the Full Council may require. Notwithstanding the optional referral of proposed appointments provided for in this Rule 20A, appointments and reappointments of the following officers shall always be referred through the Consent Agenda to the standing committee with oversight over such board or commission:

- Members of the Board of Health and Health Director;
- Building Inspector;
- City Auditor/Director of Finance;
- City Librarian;
- City Treasurer;
- Director of the Department of Public Services;
- Members of the Conservation Commission and Conservation Agent;
- Harbormaster;
- Members of the License Commission;
- Members of the Newburyport Redevelopment Authority board;
- Members of the Newburyport Waterfront Trust board;
- Members of the Planning Board, Planning Director, and Zoning Administrator;
- Members of the Water and Sewer Commission; and
- Members of the Zoning Board of Appeal.

## **MID-YEAR BUDGET REVIEW**

**Rule 21.** Each calendar year, the Committee on Budget & Finance shall schedule and hold a public meeting to conduct a Mid-Year Budget Review as soon as practical after six (6) months of actual expenditures are available in written form, but no later than February 28. The Chair of the Committee shall cause the Finance Director to attend, pursuant to the Charter, the Chair shall invite all members of the Council, as well. Pursuant to the Charter, the Chair shall ask the Finance Director to distribute to the Full Council documentation in support of the Mid-Year Budget Review no less than two (2) weeks before such meeting, including a year-to-date actual budget summary. Further pursuant to the Charter, any member of the Council may request that a Department Head be present at the Mid-Year Budget Review meeting, by making a request through the Chair of Budget & Finance.

## ELECTRONIC COMMUNICATION DEVICES

**Rule 22.** The audible use of mobile phones, radios, and other electronic communication devices by any person, including members of the Council, but excepting on-duty public safety officers, is strictly prohibited within the Council Chamber while the Council is in session, and all such devices shall be turned off or otherwise made to be silent.

**Rule 22A.** Members of the Council may read from or otherwise obtain information from a computer, tablet, or other electronic device within the Council Chamber while the Council is in session, such as by conducting computer searches online.

**Rule 22B.** Except as otherwise permitted under the Open Meeting Law, no member of the Council shall, at any time while the Council is in session, be permitted to communicate with other people, either located within or without the Chamber, using such any electronic device, whether verbally or otherwise, audibly or inaudibly.

## PARLIAMENTARY PRACTICE

**Rule 23.** In all matters of parliamentary practice not provided for in these rules, the Council shall use Robert's Rules of Order as a guide.

## RECUSAL

**Rule 24.** Upon his or her recusal regarding a matter, a member of the Council or a Committee shall leave the room where the meeting is being conducted, and such member shall not be counted as part of the quorum on that matter. Notwithstanding the foregoing, a recused member may, if permitted under applicable law, remain in the room solely if he and she wishes to give testimony on the matter.

**Rule 24A.** If the matter is to be addressed in open session, then the recusal shall be made orally and shall be included as part of the official public record. The recused member may obtain and review any records of such public discussions and/or action by the Council or Committee on the matter.

**Rule 24B.** If the matter is to be addressed in executive session, then the recusal must be made orally during the open session before the Council or Committee goes into such executive session and shall be included as part of the official public record. A member so recused shall not knowingly obtain or review a recording, minutes, or any other non-public information regarding such matter, other than the fact of his or her own recusal.

## AMENDING THE RULES

**Rule 25.** Any amendment of these Rules shall require successful passage of an order by the Full Council, by simple majority, as provided in these Rules.

**SUSPENDING THE RULES**

**Rule 26.** Except as otherwise, expressly provided in these Rules, a motion to suspend the rules shall require a two-thirds super-majority vote of the Full Council.

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Councillor Heather L. Shand

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# **ORDINANCES**

# CITY OF NEWBURYPORT



IN CITY COUNCIL

## ORDERED:

### AN ORDINANCE REGARDING ALTERATION AND MAINTENANCE OF THE PUBLIC RIGHT-OF-WAY INCLUDING, BUT NOT LIMITED TO STREETS AND SIDEWALKS

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

THE Code of Ordinances, City of Newburyport, Massachusetts, is amended to add the following:

#### Chapter 12 – Streets, Sidewalks, and Other Public Places

#### Article VII – Alterations and Maintenance

##### Section 12-200 – Purpose.

The intent of this section to create a transparent process for street and sidewalk projects.

##### Section 12-201 – Definitions.

The following definitions allow to this Article VII:

- 1) **“Alteration”** shall be defined consistently with applicable U.S. Department of Justice and U.S. Department Transportation regulations to mean a change that affects or could affect the usability of all or part of a public street, sidewalk, or within the right-of-way. Alterations include activities such as construction, reconstruction, rehabilitation, resurfacing, widening, grade changes, and projects of similar scale and effect. Some examples of alterations include but are not limited to:
  - a) Street resurfacing or reconstruction, curb and sidewalk installation or reconstruction, drainage and utility installation or reconstruction;
  - b) Crosswalk changes, intersection improvements, complete streets projects or traffic calming retrofits;
  - c) Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of an alteration.
- 2) **“Maintenance”** shall be defined consistently with applicable U.S. Department of Justice and U.S. Department Transportation regulations to mean as activities on public streets, sidewalks, or within the right-of-way that do not significantly affect the public's access to or usability of the road. Maintenance includes smaller scale repairs such as emergency work, pavement patching, crack filling and sealing,

sidewalk or curb repairs, minor drainage and utility repairs, re-painting of existing markings, and projects of similar scale and effect. Some examples of maintenance include but are not limited to:

- a) Sidewalk or curb reconstruction as part of the city sidewalk partnership replacement program;
- b) Right-of-way, utility, trench work or driveway opening permits approved separately by the Department of Public Services;
- c) Emergency work as determined by the Director of the Department of Public Services;
- d) Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of a maintenance.

#### **Section 12-202 – Approval required.**

- a) Alteration of a public street, sidewalk, or right-of-way requires approval by an Order by the City Council.
- b) Maintenance of a public street, sidewalk or within the right-of-way does not require City Council approval.

#### **Section 12-203 – ~~Approval Process~~ Submittal Requirements.**

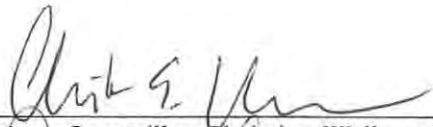
Prior to any alteration of a public street, sidewalk or within the right-of-way, the applicant (including, without limitation, when a City agency or officer is the applicant) shall submit in writing to the City Council the following:

- a) Scope of work, sketch, approximate project schedule, project manager;
- b) Project cost estimates and funding sources;
- c) Construction abutter notification and public communication methods;
- d) Construction staging areas, pedestrian safety, detour routes, and police details;
- e) Location of proposed curb, sidewalk, limits of paving, materials, pavement markings, crosswalks, ADA ramps, signage, traffic-calming elements, complete streets elements, and utilities (if applicable);
- f) Trees being removed or planted

#### **Section 12-204 – Annual Reporting and Planning.**

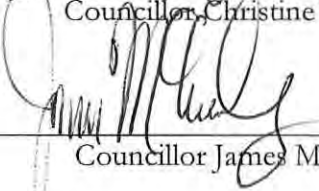
By February 1<sup>st</sup> of each year, the Department of Public Services, the Planning Department, and any other applicable city department shall submit in writing to the City Council the following information:

- a) A list of street and sidewalk projects completed in the preceding fiscal year (including funds expended broken down by source);
- b) Any request-for-proposals and bid documents generated during the preceding fiscal year;
- c) Any grant submissions or award documents generated or received during the preceding fiscal year;
- d) An up-to-date, street and sidewalk project list for the current calendar year and proposed for the next calendar year that includes approximate scope, costs, and funding sources.



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Councillor Christine Wallace, Ward 4



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Councillor James McCauley, Ward 5

**In City Council July 12, 2021:**

Motion to refer to Neighborhood & City Services by Councillor Tontar, seconded by Councillor McCauley. So voted.

**In City Council October 25, 2021:**

Motion to approve on 1<sup>st</sup> reading by Councillor Connell, seconded by Councillor McCauley. Motion to amend by Councillor Wallace, seconded by Councillor McCauley to modify Sec. 12-202 1c to read: "Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of an alteration.", the insertion of 12-202 2c that would add "Emergency work as determined by Department of Public Services.", to add to Sec. 12-202 2d which would read: "Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of a maintenance.", and in Sec. 12-204 2i to replace the word "approval" with the word "review". Motion to continue to November 8<sup>th</sup> by Councillor Vogel, seconded by Councillor Connell. Motion withdrawn. Motion to refer back to Neighborhood and City Services with the condition to come out on November 8<sup>th</sup> by Councillor Connell, seconded by Councillor Vogel. Roll call vote 5 yes (BC, AK, HS, CT, BV), 6 no. Motion fails. Motion to postpone to a date certain, November 8<sup>th</sup>, by Councillor Zeid, seconded by Councillor Shand. Roll call vote 7 yes, 4 no (JD, BL, JM, JE). Motion passes.

**In City Council November 8, 2021:**

Motion to move to a date certain, November 29, 2021, by Councillor McCauley, seconded by Councillor Shand. So voted.

**In City Council November 29, 2021:**

Motion to approve on 1<sup>st</sup> reading on the floor from 11/8/2021 by Councillor Connell, seconded by Councillor McCauley. Motion to strike "approval process" and insert "submittal requirements" in Sec. 12-203 by Councillor Vogel, seconded by Councillor Shand. Roll call vote. 7 yes, 4 no (BL, JM, BC, JD). Motion passes. Motion to approve as amended by Councillor Khan, seconded by Councillor Tontar. Roll call vote. 7 yes, 4 no (AK, CT, HS, BC). Motion passes.

**In City Council December 13, 2021:**

Motion to approve on second reading by Councillor Wallace, seconded by Councillor McCauley. Roll call vote. 7 yes, 4 no (HS, CT, BC, AK). Motion passes.



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

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

Date: \_\_\_\_\_



CITY OF NEWBURYPORT RECEIVED  
OFFICE OF THE MAYOR CITY CLERK'S OFFICE  
DONNA D. HOLADAY, MAYOR NEWBURYPORT, MA

2021 DEC 22 AM 11:55

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

To: President Eigerman & City Councilors

Re: Veto of Ordinance 84: Alteration and Maintenance of the Public Right-of-Way Including, but not limited to Streets and Sidewalks

Date: December 22, 2021

Although I appreciate the modifications made to this original ordinance submitted in July of 2021, the final document continues to violate the Charter which expressly prohibits the City Council for interfering with Administration and directing operations. The reason for this prohibition is the mayor, as chief executive officer, understands the depth of operations of the city and is responsible for the oversight and function. The mayor works closely with DPS each year to identify the roads and streets prioritized for paving and repairs based on assessments developed by Beta Engineering and other factors including needed infrastructure upgrades (water, sewer and gas), impact of winter season and equitable work distributed among the wards. The Beta Engineering assessment should be posted for public review with the understanding it is not the final determinative factor.

One of the greatest concerns regarding this ordinance is the failure to recognize and understand the complexity of securing contractors from a very limited pool and maintaining work flow. To illustrate this, the City contracts with a paving company that begins work and needs to make an "alteration" resulting in work stoppage, communication must then be sent to the City Council for approval and the order is sent to committee for review. This typically takes two readings or a month- where do you think this contractor will be? Obviously in another community and maybe unable to return during the season.

The City Council has not thought this through and your process of review was greatly flawed. It is highly disrespectful to create such a sweeping change to a major department's operations without discussion with the mayor or the impacted department. It was only after criticism that councilors finally obtained input from the director and deputy director.

There is no question that roads and sidewalks continue to be a priority but there were significant capital needs that had to be balanced with appropriation of funding, i.e., school buildings, senior community center, trucks that passed inspections, IT and so much more. We have made great advances and the work will continue but the City Council needs to recognize their role as the legislative body of the city and stay out of operations.

*Donna D. Holaday, Mayor*

# CITY OF NEWBURYPORT



IN CITY COUNCIL

**ORDERED:**

**AN ORDINANCE REGARDING ALTERATION AND MAINTENANCE OF THE PUBLIC RIGHT-OF-WAY INCLUDING, BUT NOT LIMITED TO STREETS AND SIDEWALKS**

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

**THE** Code of Ordinances, City of Newburyport, Massachusetts, is amended to add the following:

**Chapter 12 – Streets, Sidewalks, and Other Public Places**

**Article VII – Alterations and Maintenance**

**Section 12-200 – Purpose.**

The intent of this section to create a transparent process for street and sidewalk projects.

**Section 12-201 – Definitions.**

The following definitions allow to this Article VII:

- 1) **“Alteration”** shall be defined consistently with applicable U.S. Department of Justice and U.S. Department Transportation regulations to mean a change that affects or could affect the usability of all or part of a public street, sidewalk, or within the right-of-way. Alterations include activities such as construction, reconstruction, rehabilitation, resurfacing, widening, grade changes, and projects of similar scale and effect. Some examples of alterations include but are not limited to:
  - a) Street resurfacing or reconstruction, curb and sidewalk installation or reconstruction, drainage and utility installation or reconstruction;
  - b) Crosswalk changes, intersection improvements, complete streets projects or traffic calming retrofits;
  - c) Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of an alteration.
  
- 2) **“Maintenance”** shall be defined consistently with applicable U.S. Department of Justice and U.S. Department Transportation regulations to mean as activities on public streets, sidewalks, or within the right-of-way that do not significantly affect the public's access to or usability of the road. Maintenance includes smaller scale repairs such as emergency work, pavement patching, crack filling and sealing,

sidewalk or curb repairs, minor drainage and utility repairs, re-painting of existing markings, and projects of similar scale and effect. Some examples of maintenance include but are not limited to:

- a) Sidewalk or curb reconstruction as part of the city sidewalk partnership replacement program;
- b) Right-of-way, utility, trench work or driveway opening permits approved separately by the Department of Public Services;
- c) Emergency work as determined by the Director of the Department of Public Services;
- d) Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of a maintenance.

**Section 12-202 – Approval required.**

- a) Alteration of a public street, sidewalk, or right-of-way requires approval by an Order by the City Council.
- b) Maintenance of a public street, sidewalk or within the right-of-way does not require City Council approval.

**Section 12-203 – ~~Approval Process~~ Submittal Requirements.**

Prior to any alteration of a public street, sidewalk or within the right-of-way, the applicant (including, without limitation, when a City agency or officer is the applicant) shall submit in writing to the City Council the following:

- a) Scope of work, sketch, approximate project schedule, project manager;
- b) Project cost estimates and funding sources;
- c) Construction abutter notification and public communication methods;
- d) Construction staging areas, pedestrian safety, detour routes, and police details;
- e) Location of proposed curb, sidewalk, limits of paving, materials, pavement markings, crosswalks, ADA ramps, signage, traffic-calming elements, complete streets elements, and utilities (if applicable);
- f) Trees being removed or planted

**Section 12-204 – Annual Reporting and Planning.**

By February 1<sup>st</sup> of each year, the Department of Public Services, the Planning Department, and any other applicable city department shall submit in writing to the City Council the following information:

- a) A list of street and sidewalk projects completed in the preceding fiscal year (including funds expended broken down by source);
- b) Any request-for-proposals and bid documents generated during the preceding fiscal year;
- c) Any grant submissions or award documents generated or received during the preceding fiscal year;
- d) An up-to-date, street and sidewalk project list for the current calendar year and proposed for the next calendar year that includes approximate scope, costs, and funding sources.

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Councillor Christine Wallace, Ward 4

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Councillor James McCauley, Ward 5

## **COMMITTEE ITEMS**