Chapter 2

ADMINISTRATION*

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ARTICLE I.
IN GENERAL

Sec. 2-1. Mayor's salary.

The salary of the Mayor shall be one hundred twenty-five thousand dollars ($125,000) per year. (Rev. Ords. 1973, § 2-2; Ord. No. 200, 3-7-77; Ord. No. R-313, 4-19-83; Ord. No. S-268, 9-8-87; Ord. V-131, 8-11-97; Ord. No. X-144, 03-21-05)

Charter reference—Compensation of mayor, § 3-1

Editor's note—Ord. No. X-144 provided that the $125,000 salary became effective on January 1, 2006. The prior version stated that the salary was $97,500

Sec. 2-2. Mayor to execute, deliver instruments; discharge of mortgages.

All deeds, conveyances, leases and other instruments given by the city which must be signed, sealed, and acknowledged shall be signed, acknowledged and delivered on behalf of the city by the mayor, who shall cause the city seal to be affixed thereto. This provision shall not be construed to prevent any officer from executing any conveyance, lease, contract or other instrument in the performance of the duties devolving upon the mayor. The mayor may discharge any mortgage when the amount due and payable thereon has been paid, or may assign the same without liability or recourse to the city, and for that purpose may execute and deliver all necessary papers. (Rev. Ords. 1973, § 2-4)

Sec. 2-3. Annual property inventory.

All boards and officers, including the school committee, having under their charge any property, real or

*Cross references—City council, Ch. 4; public buildings and inspectional services, Ch. 5; city clerk, Ch. 6; civil defense, Ch. 8; information technology, Ch. 9; fire department, Ch. 10; health and human services, Ch. 12;Newton history museum, Ch. 13; senior services, Ch. 14; law department, Ch. 15; library, Ch. 16; parks and recreation department, Ch. 21; planning and development, Ch. 22; police, Ch. 24; public works department, Ch. 25; taxation, Ch. 27; veterans' services, Ch. 28.

*(Ord. No. A-68, 12-08-15 changed references to "Board of Aldermen" to "City Council")

personal, belonging to the city shall, at the close of each financial year, make and transmit to the mayor and comptroller of accounts an inventory thereof and an estimate of its value for each such item of property with a value of one hundred dollars ($100.00) or more. Each such item shall be tagged with an inventory control number to be assigned by the purchasing agent. The comptroller shall audit at least one department's property inventory each year and shall submit a report of the comptroller's findings to the city council. (Rev. Ords. 1973, § 2-5; Ord. No. U-9, 5-2-94)

Sec. 2-4. Workweek for certain employees; overtime.

(a) The provisions of chapter 149, section 33A of the General Laws shall apply to the services and compensation of persons employed by the city, except such as are excluded by such section, who are compensated upon the basis of an hourly wage or employed as building custodians, janitors, sweepers, time and construction clerks (excluding the senior time and construction clerk), time and equipment control clerks, head water meter reader and water meter inspector, water meter readers or water meter repairmen, but shall not apply to the services or compensation of any other employee. The rate of pay for work required to be compensated for as overtime by such section shall be for hourly wage employees, one and one-half (1-1/2) times the regular hourly wage of such employee; for building custodians, janitors and sweepers, the hourly rate of pay of such employee shall be determined by dividing the annual rate of pay of such employee by two thousand eighty (2,080) hours; and for time and construction clerks, time and equipment control clerks, head water meter reader and water meter inspector, water meter readers and water meter repairmen, one and one-half (1-1/2) times the hourly rate of pay of such employee determined by dividing the annual rate of pay of such employee by two thousand eighty (2,080) hours.

(b) Notwithstanding the above, the rate of pay for work required to be compensated for as overtime by such section for building custodians employed in the city hall shall be one-and-one-half (1-1/2) times the hourly rate of pay of such custodians determined by dividing the annual rate of pay of such custodians by two thousand eighty (2,080) hours. (Rev. Ords. 1973, § 2-7)

Sec. 2-5. Salary list to be appended to appropriation ordinance; increase in compensation.

(a) There shall be appended to the annual appropriation order, as made up by the committee on finance and as passed by the city council, a list specifying under one heading all salaries payable from the tax levy or otherwise, and indicating by grouping all cases in which more than one salary is received by the same person, or in which the same person receives a salary for services in more than one office.

(b) The rate of compensation payable to any officer or employee of the city, except officers or employees under the direction of the school committee, shall not be increased without the approval of the mayor; provided, that this provision shall not apply to regular step rate increases provided for in the annual budget and appropriation orders based thereon. (Rev. Ords. 1973, § 2-8)

Sec. 2-6. City reports.

All city department reports shall be printed in pamphlet form of uniform size and two (2) copies of each report shall be filed promptly with the city clerk who shall cause the two (2) sets of such reports to be bound together and held in the clerk's office for public inspection. Two (2) sets of such reports shall also be filed with the librarian. A further distribution of departmental reports may be made by the various departments with the written approval of the mayor. (Rev. Ords. 1973, § 2-9; Ord. No. 302, 11-6-78)

Sec. 2-7. Sale or lease of city owned real property.

Whenever a vote is taken or a policy decision has been adopted by the appropriate city agency or officer to

declare any city owned real property or portion thereof available for potential sale or lease, the procedure for determining the use to which the real property shall be put and the terms of any disposition thereof shall be in accordance with the provisions of this section. Notwithstanding the foregoing, this section shall not apply to the lease of city owned real property for wireless communication equipment which is permitted as of right pursuant to section 30-6.9, provided, however, where the lease of city owned real property for wireless communication equipment is subject to the requirement of a special permit pursuant to section 30-6.9, then the procedures outlined in subsection (8) of this section shall apply. Notwithstanding the foregoing, this section shall not apply to the lease of city owned real property for solar panels; provided, however, that in the case of such a lease the procedures outlined in subsection (9) of this section shall apply.

(1) The city agency or officer declaring said property available for sale or lease shall submit to the clerk of the city council a written record of the vote or policy decision within thirty (30) days of said vote or decision. The clerk of the council shall forthwith notify the director of planning and development of said vote or decision. Within thirty (30) days of said notification, the director of planning and development shall submit a written report to the clerk of the council with recommendations as to whether this property, or any portion thereof, should be declared unnecessary for all municipal purposes. Upon receipt of the report of the director of planning and development, the clerk of the council shall place the matter on the docket of the city council for referral to its real property reuse committee. The membership of the real property reuse committee shall include one councilor from each ward in the city, to be designated by the president of the city council. The chairman of the real property reuse committee shall be designated by the president of the city council.

(2) The real property reuse committee shall oversee the following steps:

a) There shall be an initial determination made as to whether some or all of the subject property shall be declared available for sale or lease. If the decision is made that the property continue to be utilized by the sending city agency, or if the decision is made to transfer the care, custody, management or control over the subject property to another city agency or office, then this recommendation shall be referred to the city council. In such event, the city council may, by a vote of two-thirds (2/3) of the full city council, transfer the care, custody and control of the subject property to another city agency or officer, or to the same city agency for use for another purpose subject to the approval of the mayor, pursuant to G.L. c. 40, § 15A. Should the vote to transfer the subject property to another city agency or to the same city agency for use for another purpose fail to pass by the required two-thirds vote, then the subject property shall return to the sending agency for use for the same purpose.

b) In the event that the city council does not determine that the property continue to be utilized by the sending agency or be transferred to another city agency or officer, then there shall be created a joint advisory planning group. This group shall consist of not more than fourteen (14) persons, half of whom shall be appointed by the city council and half appointed by the mayor. This group shall elect its own chairperson. It shall be the responsibility of this group to work with the department of planning and development to identify alternatives for the future use of the subject property. The joint advisory planning group and the department of planning and development shall file separate written reports containing their respective recommendations to the real property reuse committee. Such reports shall be filed simultaneously. This process shall be completed within ninety (90) days from the date of the initial referral of the matter to the real property reuse committee or within such further time as the city council may determine.

c) Following submission of the report of the department of planning and development and the report of the joint advisory planning group to the real property reuse committee, the item shall be assigned by the city council for a public hearing before said committee, which hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of submission of said reports. The

purpose of this hearing shall be to hear the views of the public and all interested parties with regard to the future use of the subject real property. Notice of said public hearing shall be provided in accordance with G.L. c. 40A, § 11 as amended.

(3) Within sixty (60) days of the public hearing, the real property reuse committee shall make its recommendation to the city council. In making its recommendation the real property reuse committee shall take into account the effect of the proposal on the neighborhood and on the city as a whole and determine that its recommendation is consistent with the goals and policies of the Comprehensive Plan for the City of Newton. The committee's recommendation shall include recommendations as to (1) the disposition and future use of the subject real property; (2) the specific use characteristics of the subject real property, including recommendations with respect to zoning and other land-use controls; and (3) the minimum financial terms for sale or lease of the property or any portion or portions thereof.

(4) The city council shall, within sixty (60) days from receipt of the recommendation of the real property reuse committee, submit its recommendations by resolution to the mayor for the disposition and future use of the subject real property, and may authorize the use of the subject real property, and may authorize the mayor to sell or lease the subject real property and set the minimum financial terms for such sale or lease.

(5) Notwithstanding the foregoing, in the case of the potential sale or lease of all or a portion of city owned real property without buildings thereon, the real property reuse committee may, upon a majority vote, waive the requirement contained in subparagraph (2)(b) that there be created a joint advisory planning group.

In such event, the city council shall utilize the report prepared by the director of planning and development as required in paragraph (1). Provided that notice as set forth in subparagraph (2)(c) has been given, the public hearing required by subparagraph (2)(c) may be held on the same night on which the real property reuse committee votes to waive the requirement that there be created a joint advisory planning group, but in any event, such public hearing shall be held no more than sixty (60) days from the date the real property reuse committee votes to waive such requirement.

(6) Notwithstanding the provisions of subparagraph (2)(a) above, proposals for inter-departmental transfers of real property initiated by city departments or agencies shall not be subject to the provisions of section 2-7, but shall comply with the provisions of G.L. c. 40, § 15A.

(7) Requests for the sale or lease of city owned property, including the abandonment of the city's rights in real property, shall first be made to the city agency or officer having custody of such property. The provisions of section 2-7 shall apply in the event that such city agency or officer declares such property available for sale or lease.

(8) In any instance where the lease of city owned property for wireless communication equipment is subject to the requirement of a special permit pursuant to section 30-6.9, the following procedures shall apply:

a) The executive department shall submit a proposal for such lease to the city council for approval which proposal shall indicate the location of the city owned property for which a lease is sought and such other relevant information as may be available as to the likely types of wireless communication equipment that may be placed at the site. In preparing the proposal, the executive department consultation shall be made with such city departments, councilors for the ward involved and neighborhood groups as the executive department may consider appropriate.

b) At the earliest opportunity, the city council shall, for the purposes of this section, assign the proposal

for public hearing before its committee dealing with matters of public buildings and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the city owned real property which is proposed for lease and to the abutters of such abutters. Said notice shall include the location of the property proposed for lease for wireless equipment and, if available, a description as to the likely types of wireless communication equipment that may be placed at the site. The committee shall deliberate and, if recommending approval, may affix such restrictions and conditions to the lease terms, other than financial conditions, as it deems in the public interest. The committee shall make a recommendation to the city council within forty-five (45) days following the public hearing as to whether the proposed lease is in the public interest.

c) Within sixty (60) days of receipt of the committee report, the city council shall vote as to whether to authorize the mayor to lease such city owned property for wireless communication equipment. If the vote is in the affirmative, then the mayor may proceed to issue a request for proposals on such terms and conditions as determined by the mayor to be in the public interest. If the vote is in the negative, then the mayor shall not lease such property for wireless communication equipment, provided, however, that nothing herein shall be construed to preclude the council from authorizing the mayor to lease such property pursuant to a subsequent request to lease such property.

d) The requirement of notice and a public hearing may be waived by a three-fourths vote of those members of the city council present and voting.

(9) In any instance where the lease of city owned property for solar panels is part of an arrangement under which the city uses power produced by the solar panels and/or receives net metering credits pursuant to state law, the following procedures shall apply:

a) The executive department shall submit a proposal for such lease to the city council for approval. Such proposal shall indicate the location of the city owned property for which a lease is sought and such other information as may be available regarding the likely types of solar panels and related equipment that may be placed at the site. In preparing the proposal, the executive department shall consult with such city departments, councilors for the ward involved and abutting property owners as the executive department may consider appropriate, taking into account the procurement requirements applicable under the General Laws.

b) At the earliest opportunity, the city council shall, for purposes of this section, assign the proposal for public hearing before its committee dealing with matters of public buildings and/or other city owned real property and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the city owned real property which is proposed for lease and to the abutters of such abutters. Said notice shall include the location of the property proposed for lease for solar panels and related equipment and, if available, a description as to the likely types of solar panels and related equipment that may be placed at the site. The committee shall deliberate and, if recommending approval, may affix such restrictions and conditions to the lease terms, other than financial conditions, as it deems in the public interest. The committee shall make a recommendation to the city council within forty-five (45) days following the public hearing as to whether the proposed lease is in the public interest.

c) Within sixty (60) days of receipt of the committee report, the city council shall vote as to whether to authorize the mayor to lease such city owned property for solar panels and related equipment. If the vote is in the affirmative, then the mayor may proceed on such terms and conditions as determined by the mayor to be in the public interest. If the vote is in the negative, then the mayor shall not lease such property for solar panels and related equipment, provided, however, that nothing herein shall preclude the council from authorizing the mayor to lease such property pursuant to a subsequent

request to lease such property.

d) The requirement of notice and public hearing under subsection (9)(b) may be waived by a three-fourths vote of those members of the city council present and voting.

(10) In any sale of city owned real property for which community preservation funds have previously been expended to rehabilitate or restore historic resources pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, such real property shall be bound by a perpetual historic preservation restriction pursuant to G.L. c. 184, sec. 31-33 held by the City or its designee, in a form acceptable to the Massachusetts Historical Commission.

(11) The requirements of this section that are not otherwise required by law or by charter may be waived in whole or in part by a two-thirds (2/3) vote of those members of the city council present and voting. (Rev. Ords. 1973, § 2-10; Ord. No. 222, 6-6-77; Ord. No. 315, 2-20-79; Ord. No. S-52, 4-2-84; Ord. No. S-52A; Ord. No. T-31, 6-5-89; Ord. No. T-212, 1-21-92; V-209, 11-2-98; Ord. No. X-196, 03-06-06; Ord. No. X-243, 12-4-06; Ord. No. Z-28, 05-19-08; Ord. No. Z-106, 04-02-12)

Sec. 2-8. Reserved

Sec. 2-9. Salary and benefits of school committee members.

Each school committee member, with the exception of the mayor, shall receive an annual compensation of four thousand eight hundred seventy-five dollars ($4,875), payable monthly; and each such member shall be eligible to participate in the group insurance program available to other city officials and employees. (Ord. No. S-88, 3-4-85; V-133, 9-15-97)

Sec. 2-10. Gifts of tangible personal property, acceptance thereof

(a) Definitions: For purposes of this section, the following words shall be defined as follows:

Gift receiving entity: The mayor, a department, board, agency, commission, or committee of the city that receives a gift of tangible personal property.

Tangible personal property: Property that has physical form and characteristics that can be seen, weighed, measured, felt, or touched, or is in any way perceptible to the senses. Money, interests in real property, and intangible property are specifically excluded from this definition.

(b) Whenever a gift receiving entity receives and accepts a gift of tangible personal property, such gift shall be deemed accepted pursuant to G.L. c. 44, §53A½, provided, however that each such gift is subject to the following restrictions:

(1) A gift may be received and used by the gift receiving entity only in accordance with the purpose of such gift, or if no restrictions are attached to the gift, for such other purpose as it deems advisable; and

(2) The gift receiving entity may accept only those gifts which are consistent with its respective duties and functions; and

(3) The receipt and use of such gift may not incur new and different costs on the part of the gift receiving entity.

(c) Gifts of tangible personal property that do not come within the restrictions in subsection (b) may be accepted

pursuant to the provisions of G.L. c. 44, §53A½.

(d) Notwithstanding the provisions of subsection (b), gifts of tangible personal property valued at $1,000 or more that are offered to a gift receiving entity on the condition that such property be named in a particular manner may be accepted pursuant to the provisions of G.L. c. 44, §53A½.

(e) Each gift receiving entity shall submit annually to the mayor and the city council a list containing each gift of tangible personal property valued at $1,000 or more received during the prior calendar year. Such gift list shall be submitted on or before March 31 of each year and shall include the identity of the donor of each such gift unless the donor has requested in writing that his/her identity not be revealed. (Ord. No. W-40, 4-2-01)

Secs. 2-11—2-24. Reserved.

ARTICLE II.
SPECIAL LEAVE, VACATIONS AND OTHER ABSENCES

DIVISION 1. GENERALLY

Sec. 2-25. Article not applicable to school employees.

The provisions of this article shall not apply to employees in the school department who are covered by school department regulations filed with the city clerk. (Rev. Ords. 1973, § 2-21)

Sec. 2-26. Holidays established.

(a) Subject to the exceptions and conditions provided in this article, all employees, except policemen and firemen, whose compensation is fixed on an annual basis shall receive their regular compensation and all employees whose compensation is fixed at an hourly rate shall receive eight (8) hours pay (or in the case of a half holiday, four (4) hours pay) at their regular compensation for each of the following holidays: January the first, July the fourth and Christmas Day, or the day following when any of such days occur on Sunday, and the third Monday in February, the third Monday in April, the last Monday in May, the first Monday in September, the second Monday in October, November eleventh and Thanksgiving Day, and a half holiday on either the employee's nearest scheduled working day before Christmas or the employee’s nearest scheduled working day before New Year's Day, the scheduling of such half holiday to be at the discretion of the department head. Each employee shall be compensated for one additional day per year as a holiday. The scheduling of said holiday for each employee shall be at the discretion of the mayor or the mayor’s designee.

(b) If any such holiday falls on an employee's scheduled day off such employee shall be given another day off with pay in lieu thereof, which shall be scheduled at the discretion of the department head subject to the general policy hereby established, that so far as it may be consistent with the proper functioning of the department such day shall be granted on either the last scheduled workday preceding or the next scheduled workday following such holiday.

(c) In order to qualify for compensation for any such holiday such employees shall have worked on all of their last regularly scheduled workday prior to and the next regularly scheduled workday following such holiday, unless their absence on such regularly scheduled workday is due to jury service or is an absence for which compensation is payable under this article. (Rev. Ords. 1973, §§ 2-22; Ord. No. S-277, 10-5-87)

State law reference—Authority to prescribe holidays, G.L. c. 40, § 21A

Sec. 2-27. Working on legal holidays; pay in lieu of holidays.

If any employee, except policemen and firemen, is required to work on any holiday, as set forth in section 2-26, he shall be given an additional day off. If an additional day off as required by this section or section 2-26 cannot be given by reason of a personnel shortage or other cause, the employee shall be entitled to an additional day's pay in lieu thereof. (Rev. Ords. 1973, § 2-23)

Sec. 2-28. Leaves of absence.

(a) Leaves of absence without pay not covered in the provisions of this article or otherwise provided for in the ordinance may be authorized upon recommendation of the department head with the approval of the mayor. Approval shall be obtained prior to such leave of absence.

(b) Leaves of absence with pay not exceeding two (2) days for any one employee for not more than two (2) employees for each local chartered unit of the veterans' organizations listed hereinafter may be authorized upon recommendation of the department head with the approval of the mayor for the purpose of attending state or national conventions of the American Legion, American Veterans committee, AMVETS of World War II, Disabled American Veterans, Legion of Valor, Marine Corps League, Order of the Purple Heart, United Spanish War Veterans, Veterans of Foreign Wars, Reserve Officers Association of the United States, Franco-American War Veterans, Inc., Italian-American War Veterans, Inc., or Jewish War Veterans of the United States. Such employees must be accredited delegates or alternate delegates to such conventions, and no employee shall receive a leave of absence under this subsection more than once in each calendar year. Leaves of absence granted under this subsection will not be charged to such employee's available vacation time.

(c) Leaves of absence with pay may be authorized by the mayor for members of local units of labor organizations for the purpose of attending conventions, conclaves or conferences of their parent labor organizations in accordance with the terms of any collective bargaining agreement between the city and the local unit.

(d) Nothing contained in this section shall be construed to prevent the mayor from authorizing leaves of absence from the city on business connected with city affairs. (Rev. Ords. 1973, § 2-24)

Secs. 2-29—2-39. Reserved.

DIVISION 2. SPECIAL LEAVE

Sec. 2-40. Interpretation.

Special leave shall mean that period of time for which an employee shall be entitled to receive compensation during absence from work because of personal sickness or injury, the illness or injury of certain members of their family, the death of certain members of their family, certain religious observances or personal business in accordance with this division. (Rev. Ords. 1973, § 2-31)

Sec. 2-41. Amount of time allowed.

Every employee shall be entitled to special leave at the rate of one and one-quarter (1-1/4) days for each month of service completed. An employee shall earn one and one-quarter (1-1/4) days of special leave in the first month of employment if the starting date of employment is prior to the fifteenth (15th) day of the month. (Rev Ords. 1973, § 2-32; Ord. No. S-277, 10-5-87)

Sec. 2-42. Special leave not allowed in certain cases.

(a) No person shall be entitled to any compensation or benefits under this division for any period of disability resulting in whole or in part from any of the following:

(1) The voluntary use of intoxicating liquor, drugs or narcotics.

(2) Self-inflicted injuries other than accidental.

(3) Injuries sustained while engaged in or resulting from or arising out of the commission by such person of a felony or of a misdemeanor involving moral turpitude.

(4) Injuries sustained while engaged in or resulting from or arising out of the violation of any lawful rule or regulation of the department in which employed.

(5) Injuries sustained as a result of reckless, improper or vicious conduct, or illegal or immoral practices.

(b) This section shall be subject to all other pertinent provisions of the Revised Ordinances or any law applicable thereto. (Rev. Ords. 1973, § 2-33).

Sec. 2-43. Use of special leave for personal illness.

An employee shall be entitled to use special leave to the full extent of their accumulation during absence from work because of sickness or injury of the employee in accordance with this division. (Rev. Ords. 1973, § 2-34)

Sec. 2-44. Notification of department heads, etc., when absence due to sickness or injury occurs.

When an employee of the city is absent from their duties on account of disability because of sickness or injury, they shall promptly notify their department head or such person as their department head shall designate, and it shall be the duty of the head of the department in which such employee works, or the mayor in the case of the head of the department, to notify the director of human resources and the comptroller of accounts of such absence. When an employee is absent due to illness or injury in excess of three (3) consecutive days, they must present a medical clearance to return to duties from their health care provider or obtain such a clearance from a qualified health care provider provided, without charge to the employee, by the director of human resources. During such absence no salary or wage shall accrue to such employee except during periods of authorized special leave in accordance with this division. (Rev. Ords. 1973, § 2-35; Ord. No. R-15, 8-13-79; Ord. No. S-91, 4-16-85; Ord. No. X-35, 10-21-02)

Sec. 2-45. Use of special leave to attend ill member of family.

Every employee, except members of the auxiliary school patrol or parking control officers of the police department, shall be entitled to use special leave to the full extent of their accumulation during absence from work because of the illness of the employee's spouse, children or parents residing in the same household as the employee. (Rev. Ords. 1973, § 2-36)

Sec. 2-46. Approval and review of sick leave; hazards.

(a) No salary or wage shall accrue to any employee under section 2-43 or section 2-45, unless the director of human resources shall find that the absence of such employee from duty is justified by reason of sickness or injury. (Rev. Ords. 1973, 2-37)

(b) Upon notification by a department head or the mayor, in accordance with section 2-44, the director of human resources may investigate each case of sickness or injury so reported and certify the findings to the

comptroller of accounts and to the department head or the mayor, as the case may be. As part of the investigation, the director of human resources may accept a written statement in such form as may be prescribed from the absent employee's health care provider, based upon the personal observations of such health care provider as to the nature, extent and probable duration of the sickness or injury. The director of human resources may also require such employee to undergo an examination by a qualified health care provider(s) without charge to the employee. Refusal of an employee to submit to such examination(s) shall disqualify them from receiving any sick leave on account of the absence then under investigation or any continuation thereof.

(c) Upon determination by a department head, the director of human resources or the mayor that an employee, while engaged in the performance of their duty, appears to be suffering from sickness or injury so as to constitute a hazard to their health or the health of other persons, the director of human resources may order such employee to discontinue their duties for such time as the director deems desirable and may require such employee to undergo an examination by a qualified health care provider(s) without charge to the employee. (Rev. Ords. 1973, 2-37; Ord. No. X-35, 10-21-02)

Sec. 2-47. Bereavement leave for absence due to death in family.

Any employee shall be entitled to paid bereavement leave during absence from work for a period not exceeding three (3) days due to the death of a parent, stepparent, husband, wife, child, stepchild, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparent, grandchild, brother-in-law or sister-in-law. There shall be no limit on the number of times an employee may use bereavement leave in any calendar year, and bereavement leave shall not be charged to special leave. Every such absence shall be approved and certified to by the head of the department in which such official or employee works, or in the case of the department head by the mayor. (Rev. Ords. 1973, § 2-38; Ord. No. S-91, 4-16-85)

Sec. 2-48. Use of special leave for absence for religious observances.

An employee, except a member of the police or fire force, shall be entitled to use special leave during absence from work for religious observances as approved by the mayor. Such absences shall be limited to a total of three (3) days during any calendar year and the right thereto shall not be cumulative. (Rev. Ords. 1973, § 2-39)

Sec. 2-49. Use of special leave for personal business.

An employee, except a member of the auxiliary school patrol or parking control officer of the police department, shall be entitled to use special leave during absence from work to attend to personal business. Every such absence shall be requested not later than the third working day in advance or such earlier time period as the department head may require. The scheduling of such absences for personal business shall be at the reasonable discretion of the department head. Such absences shall be limited to two (2) days during any calendar year and the right thereto shall not be cumulative. (Rev. Ords. 1973, § 2-40)

Sec. 2-50. Accumulation of time.

(a) Unused portions of special leave shall be cumulative and such unused special leave, except during the first year of employment, shall be calculated as of January first of each year. Sick leave as accumulated prior to January 1, 1967, in accordance with the applicable ordinances in effect prior to that date shall be converted as of that date to special leave and all leaves of absence with pay taken during the year 1967 prior to May 1, 1967, for any of the purposes named in this division shall be deemed to have been taken under this division.

(b) Unused special leave will not be available for use or payment in cash upon termination of employment except as provided in section 2-51, but it shall continue to be available upon an employee's transfer to another position in the same or another department. An employee who is laid off or resigns under conditions that are not

discreditable shall, if reemployed within twelve (12) months, have available any unused special leave accumulation existing at the time of separation. (Rev. Ords. 1973, § 2-41)

Sec. 2-51. Payment of accumulated special leave for certain separated employees; conditions.

Whenever the employment of any person is terminated by retirement under the General Laws of the Commonwealth of Massachusetts or death and such person has accrued at least 175 days of unused accumulated special leave, they, or in the case of their death, their estate, shall be paid a monetary amount as set out in the chart below.

Accumulated special leave monetary payment

175 - 224 days.....$4,000.00

225 - 249 days.....$5,000.00

250 days or more.....$6,000.00

(Rev. Ords. 1973, § 2-42; Ord. No. S-91, 4-16-85; Ord. No. S-277, 10-5-87)

Sec. 2-52. Substitutes, etc., for absentees.

Should the disability of an employee make it advisable in the judgment of the mayor to employ a substitute, such substitute shall be paid at such rate as may be authorized by the mayor, which payment shall be charged to such appropriation as may be available or as the city council may direct. Extra work or duties performed by employees regularly in the employ of the city and necessitated by reason of the disability of a fellow employee shall not be paid for except upon the approval of the city council. (Rev. Ords. 1973, § 2-43)

Sec. 2-53. Leave obtained contrary to provisions of division.

Any employee who shall be found by the mayor, after a hearing, to have obtained special leave pay contrary to this division, or through any misrepresentation by them or by any other person in connivance with them, shall not be entitled to the benefit of this division for a period of one year after such finding. (Rev. Ords. 1973, § 2-44)

Secs. 2-54—2-64. Reserved.

DIVISION 3. ANNUAL VACATIONS

Sec. 2-65. Eligibility; amount of time allowed.

(a) For the purpose of this division, the following terms shall have the following meanings:

Group I employees are those employees who are subject to a collective bargaining agreement or who are classified as non-exempt pursuant to the Federal Labor Standards Act.

Group II employees are all other employees.

(b) The provisions of chapter 41, section 111 of the General Laws shall, except as otherwise provided, apply to all employees of the city whether or not of a class of employee covered by such section, but in determining the length of time worked in accordance with such section, the provisions of section 2-69 shall govern. Every employee who is not entitled to a vacation under chapter 41, section 111 of the General Laws and section 2-69,

but who was employed for not less than fifteen (15) weeks during the twelve (12) months preceding the first day of June in any year shall, except as hereinafter provided, be entitled during such year to vacation leave with pay as follows: Group I employees shall be entitled to one (1) day of such vacation leave for each full five (5) week period of such employment. Group II employees shall be entitled to one and one-half (1-1/2) day of such vacation leave for each full five (5) week period of such employment. Such vacations shall be granted in the manner provided in chapter 41, section 111 of the General Laws.

If a normal workweek for any employee who has accrued five (5) days of vacation leave under the preceding sentence exceeds five (5) days, they shall be entitled to one full normal work week of vacation leave accrued. Notwithstanding the preceding provisions, during the calendar year in which their most recent period of employment commences, an employee shall be entitled to vacation leave with pay only after the completion of six (6) months of employment prior to December first in such year, in which case a Group I employee shall be entitled to one full workweek of vacation leave and a Group II employee shall be entitled to one and one-half (1-1/2) weeks of vacation leave.

(c) Additional vacation leave, with pay, shall be granted in conformance with section 2-67. (Rev. Ords. 1973, § 2-52)

Cross reference—Vacations for library employees, § 16-4

Sec. 2-66. Time not cumulative.

The vacation periods allowable under sections 2-65 and 2-67 shall not be cumulative, but shall be taken only in the calendar year in which an employee first becomes entitled thereto, provided, however, that subject to the discretion of their department head, or the mayor for an employee who is a department head, Group II employees may accumulate no more than a one week vacation period which vacation period must be taken in the calendar year next following the year in which it accrued. (Rev. Ords. 1973, § 2-53; Ord. No. S-277, 10-5-87)

Sec. 2-67. Additional vacation, certain employees.

All full-time employees or permanent part-time Group I employees who shall have completed an aggregate of five (5) years of service in the employ of the city shall be entitled to a total of three (3) weeks of vacation annually commencing with the calendar year in which they complete such service. All such Group I and Group II employees who shall have completed an aggregate of ten (10) years of service in the employ of the city shall be entitled to a total of four (4) weeks of vacation annually commencing with a calendar year in which they complete such service. All Group II employees who shall have completed an aggregate of twenty (20) years of service in the employ of the city shall be entitled to a total of five (5) weeks of vacation annually commencing with the calendar year in which they complete such service. All such Group I employees who shall have completed a specified aggregate of years of service as enumerated in Table 1 below shall be entitled to the total period of vacation annually which corresponds to said aggregate years of service, commencing with the calendar year in which they complete such service.

Table 1

Aggregate years of service	Vacation earned
10 years	4 weeks
20 years	4 weeks, 1 day
21 years	4 weeks, 2 days

22 years ..... 4 weeks, 3 days

23 years ..... 4 weeks, 4 days

24 years .....5 weeks

In any year in which an employee first becomes entitled to an additional third, fourth, or fifth week of vacation specified herein, and the entitlement would not vest until after November 1st of the calendar year, the employee may take additional vacation beginning November 1st of the calendar year, subject to the regular vacation scheduling procedure. No employee shall be entitled to such additional vacation in a calendar year unless the employee is entitled to a vacation under the provisions of section 2-65. (Rev. Ords. 1973, § 2-54; Ord. No. S-91, 4-16-85; Ord. No. S-276, 10-5-87; Ord. No. T-197, 12-16-91; Ord. No. T-315, 12-6-93)

Sec. 2-68. Vacation pay in advance.

Any employee entitled to a vacation under the provisions of sections 2-65 and 2-67 shall be entitled to receive their pay for the period of such vacation in advance on the payday next preceding the date on which their vacation is to commence. (Rev. Ords. 1973, § 2-55)

Sec. 2-69. Certain time off not to be deducted.

The time or period of absence during which any person shall be entitled to compensation under Divisions 1 and 2 of this article shall not be deducted from the vacation time to which such person is otherwise entitled. Such time or period of absence as well as vacation time taken under this Division 3 shall be included in computing the number of weeks of service in determining eligibility for vacation. (Rev. Ords. 1973, § 2-56)

Secs. 2-70—2-105. Reserved.

ARTICLE III.
FINANCE

DIVISION 1. GENERALLY

Sec. 2-106. Custody of bonds.

The bond of the city collector-treasurer shall be kept by the mayor; and the bonds of other city officers shall be kept by the collector-treasurer, unless otherwise provided by law. (Rev. Ords. 1973, § 2-167)

Sec. 2-107. Procedure for expenditure of money generally.

No officer, department head, board or commission authorized to expend money shall make requisition for purchasing of supplies or materials until funds are available therefor, nor shall they enter into contracts for services to be rendered to the city, other than for personal services provided for in the budget or supplemental appropriation, without issuing a written order therefor, the order before delivery to the contractor to have certified thereon a statement from the city comptroller that there is sufficient unencumbered balance of the appropriation to be charged to the amount due under the order. No obligation shall be incurred against appropriations until the city comptroller verifies in writing the availability of an appropriation for such expenditure. Orders issued by the departments shall not be delivered to the vendors until the city comptroller shall have certified thereon that there is a sufficient unencumbered balance of the appropriation to be charged to pay the amount due under the purchase order.

Further, no city department shall substitute for, create a substantially new position, or increase the number of fulltime regular payroll positions therein from the number that was authorized by the most recent city budget without approval of the mayor and the city council. This paragraph is meant to apply solely to those positions funded directly by the City of Newton through municipal funds. (Rev. Ords. 1973, § 2-168; Ord. No. R-97, 11-17-80)

Sec. 2-108. Payrolls.

Such payrolls as are payable monthly shall be approved and certified by the proper department, board or officer, or by the mayor, and presented to the comptroller of accounts on or before the first day of each month, Sundays and holidays excepted, with a schedule showing the appropriation chargeable therewith and the amount thereof. The payroll of all employees required by law to be paid weekly shall be approved and certified by the proper department, board or officer, or by the mayor, and transmitted with such certificates as are required by law to the comptroller of accounts on or before 12:00 noon of the Monday following. The schedules showing the appropriations chargeable therewith and the amounts thereof shall be presented on or before 12:00 noon on the Tuesday following. (Rev. Ords. 1973, § 2-169)

Sec. 2-109. Accounts and claims due city.

The several boards and officers of the city shall cause to be delivered to the collector-treasurer on or before the close of such month all accounts and claims against persons indebted to the city. They shall also, at the close of each month, furnish the comptroller of accounts a certificate of such accounts and claims in such form and detail as he may require. All bills shall be upon forms with coupons attached, and such bills shall be retained in the office of the collector-treasurer until paid, unless otherwise provided. Notices thereof with demand for payment shall be issued to the debtors. No officer or board of the executive department shall receive payment of any such account or claim. (Rev. Ords. 1973, § 2-170)

Sec. 2-110. Control of expenditures; reports to mayor.

The several boards and officers of the city shall have the expenditure of the appropriations made for the several matters under their charge, subject to the supervision and control of the mayor, and shall at the close of each financial year make a written statement to the mayor of the receipts and expenditures for the year in such detail as he shall require. All boards and officers of the city shall make a written report to the mayor at the close of the year of their transactions for the year, with such suggestions and recommendations as they deem proper. They shall also make such other reports as the mayor may require. (Rev. Ords. 1973, § 2-172)

Sec. 2-111. Disposition and account of money received.

All city officers and boards which receive any money on behalf of the city shall pay the same to the city collector-treasurer at the close of each month, unless otherwise provided, and at the same time shall transmit to the comptroller of accounts a true statement of the amount so paid to the collector-treasurer and for what it was received. (Rev. Ords. 1973, § 2-173)

Sec. 2-112. Books and accounts to conform to financial year.

The books and accounts of the several departments, boards and officers of the city shall be kept and made up to correspond with the financial year. (Rev. Ords. 1973, § 2-174)

Sec. 2-113. Traveling expenses.

(a) The collector-treasurer may, upon requisition by the head of a department which is approved by the mayor

and certified as to the sufficiency of the appropriation and grant by the comptroller of accounts, pay to the head of the department such sum as shall have been certified to in such requisition as necessary in connection with the work of the department for the traveling expenses of the head of the department or subordinates.

(b) Each department head to whom such payments are made shall keep an accurate account of the expenses incurred for traveling, and shall, upon request of the comptroller of accounts, submit such account with proper vouchers for approval. The comptroller of accounts shall issue a warrant for the amount of the account as approved and the head of the department shall immediately pay to the collector-treasurer such unexpended balance as the comptroller of accounts may determine to be due. (Rev. Ords. 1973, § 2-175)

Sec. 2-114. Express or freight charges.

The comptroller of accounts, upon request of the head of any department, may issue a warrant for the payment by the collector-treasurer to such head of a department for such sums as may be required to meet express or freight charges. The head of any department to whom such payments are made shall keep accurate accounts of all payments made by them from money so received and upon the first day of each month or upon request shall render to the comptroller of accounts a transcript thereof with proper vouchers attached. Not more than two hundred dollars ($200.00) shall be advanced at any time to any department and no additional advance shall be made unless all money previously advanced shall have been properly accounted for. (Rev. Ords. 1973, § 2-176)

Sec. 2-115. Incidental school expenses.

The comptroller of accounts, upon request of the superintendent of schools, may issue a warrant for the payment by the collector-treasurer to the superintendent of schools of such sums as may be required to meet incidental expenses or, subject to the approval of the mayor, for the purchase of incidental school supplies in an amount not exceeding ten dollars ($10.00) for each such purchase. The superintendent of schools shall keep accurate accounts of all payments made from money so received, and upon the first day of each month or upon request shall render to the comptroller of accounts a transcript thereof with proper vouchers attached. Advances to the superintendent of schools under this section shall not at any time exceed five hundred dollars ($500.00) for incidental expenses and seven hundred fifty dollars ($750.00) for the purchase of incidental school supplies, and no additional advance shall be made unless all money previously advanced for either purpose shall have been properly accounted for. (Rev. Ords. 1973, § 2-177)

Sec. 2-116. Indemnification of certain officers.

The city shall indemnify and save harmless members of the school committee and the city council, the mayor, the superintendent of schools and the department heads from personal financial loss and expenses, including costs, if any, in an amount not to exceed one million dollars arising out of any claim, action, award, compromise, settlement or judgment by reason of any act or omission which constitutes a violation of the civil rights of any person under federal or state law if such member of the school committee or city council, mayor, superintendent of schools or department head at the time of such act or omission was acting within the scope of their official duties or employment, provided, however, that such member of the school committee or city council, mayor, superintendent of schools or department head shall provide reasonable cooperation to the city in the negotiation, investigation and defense of any claim or action brought as a result of such act or omission. No such member of the school committee or city council, mayor, superintendent of schools or department head shall be indemnified under this section for violation of any civil rights if he or she acted intentionally or in a grossly negligent, willful or malicious manner.

The defense and/or settlement of any such claim shall be undertaken or negotiated by the city solicitor, the solicitor’s agent or designee. However, in the event that the city solicitor determines that a conflict of interest has arisen or is likely to arise by the solicitor’s mutual defense of the City of Newton and the officer(s) in question,

the officer(s) in question shall not be defended by the city solicitor, the solicitor's agent or designee but shall seek outside counsel for such defense. The expense incurred by the employee for outside counsel shall be borne by the city unless the mayor and the city council shall deem said legal fees to be unreasonable in which event said legal fees shall be subject to the fee arbitration procedure of the Massachusetts Bar Association.

Nothing in this section shall be deemed to limit the effect of any indemnification statute applicable to the city at the time of any such act or omission. This section shall apply to any settlement or judgment made in compliance with this section on or after the date this section is approved. (Ord. No. R-129, 3-16-81.)

Sec. 2-117. Regulation of Investments in Sudan.

(a) The assets of investment accounts under the care and custody of the city collector-treasurer or other official custodian in charge of such assets shall not be invested in companies which either directly or through an affiliated instrumentality meet any one of the following criteria:

(1) Provide revenues to the Sudanese government through business with the government, government-owned companies or government-controlled consortiums;

(2) Offer little substantive benefit to those outside of the Sudanese government or its affiliated supporters in Khartoum, Northern Sudan and the Nile River Valley; this outside population includes the country's disaffected Eastern, Southern, and Western regions;

(3) Have either demonstrated complicity in the Darfur genocide or have not taken any substantial action to halt the genocide. Substantial action shall include but is not limited to curtailment of operations or placement of public pressure on the Sudanese government. Simple company statements shall not constitute evidence of substantial action;

(4) Companies providing military equipment, arms, or defense supplies to any domestic party in Sudan, including the Sudanese government and rebels, or providing any domestic party in Sudan with equipment that may be readily co-opted for military use, including radar systems and military-grade transport vehicles, unless that company has implemented safeguards against such co-option.

(b) Companies which, either directly or through an affiliated instrumentality provide services clearly dedicated to social development for the whole country shall be excluded from the provisions of this section. Such companies include, but are not limited to those providing medicine and medical equipment, agricultural supplies and agricultural infrastructure, educational opportunities, journalism-related activities, and general consumer goods.

(c) The Newton human rights commission shall compile a list of companies (targeted companies) which meet the criteria set forth in subsection (a). To determine the list of companies which meet these criteria, the commission shall solicit information and testimony from knowledgeable parties; may engage a reputable, non-biased third-party research firm; may consider Sudan divestiture lists of other governmental bodies and/or non-profit institutions; and may directly request information from companies under consideration for inclusion on the list. The commission shall periodically review and revise its list.

(d) The city collector-treasurer or other official custodian shall take appropriate action to divest the following types of existing investments in targeted companies:

(1) Direct holdings of public equity, corporate bonds, and Sudanese government-issued bonds. Direct holdings are holdings directly managed by the collector-treasurer or other official custodian and all holdings administered by a contracted manager in separately managed accounts, including both actively-

managed and passively-managed/indexed funds;

(2) Holdings of public equity, corporate bonds, and Sudanese-government issued bonds in commingled accounts that are passively-managed/indexed;

(3) Private equity holdings with readily identifiable ties to Sudan, as determined by the collector-treasurer or other such official custodian.

(e) The collector-treasurer or other official custodian shall divest existing investments subject to section (d) in accordance with the following timeframe:

(1) At least fifty percent (50%) of assets in such investments shall be divested within six (6) months after the effective date of this section;

(2) One hundred percent (100%) of assets in such investments shall be divested within one (1) year after the effective date of this section.

(f) Investments held in actively managed, commingled accounts, for both public equity and qualified fixed-income investments, are not subject to divestment under subsections (d) and (e). Instead, the city collector-treasurer or other official custodian shall submit letters to contracted managers of such accounts requesting that the manager consider creating an actively-managed, commingled account, which is free of targeted companies. The city collector-treasurer or other such custodian shall transfer assets in actively-managed commingled accounts into such Sudan-free accounts, should any become available, in an expedited timeframe, which is still consistent with prudent investor obligations.

(g) Prior to divestment from a targeted company, the city collector-treasurer or other official custodian shall notify the targeted company of the impending decision and encourage the company to alter its current practices. If a targeted company demonstrates to the satisfaction of the city collector-treasurer or other official custodian and to the human rights commission that it has taken substantial action to change its current practices within three (3) months of such notification, that company shall not be subject to divestment. Substantial action shall include but is not limited to curtailment of operations or placement of pressure on the Sudanese government. Simple company statements shall not constitute evidence of substantial action.

(h) The city collector-treasurer or other official custodian shall file a report to the mayor and city council describing all investments subject to divestiture which are held as of the effective date of this section. Annually thereafter, the city collector-treasurer or other official custodian shall report to the mayor and the city council describing all investments divested in compliance with this section, and shall report on the status of any requests made under subsection (f).

(i) The provisions of this section shall expire upon the occurrence of one or both of the following events:

(1) The Sudanese government sufficiently halts the ongoing genocide in Darfur for at least twelve (12) months, as determined jointly by the State Department and Congress of the United States; or

(2) The United States revokes its current sanctions on the Sudan.

(j) Nothing in this section is intended to supersede existing fiduciary or statutory obligations and other terms, conditions, and limitations on the investment of assets subject to this section.

(k) This section shall not apply to investments of employee contributions to deferred compensation or annuity plans authorized under Section 457 and/or 403b of the Internal Revenue Code, nor shall it apply to any private

purpose trust funds and/or permanent funds established for investment of legacies, gifts or grants to the city from private donors. (Ord. No. X-242, 11-6-06)

Secs. 2-118—2-131. Reserved.

DIVISION 2. COLLECTOR-TREASURER

Sec. 2-132. Powers and duties generally.

There is hereby established a treasury and collecting department. The city collector-treasurer shall have charge of the treasury and collecting department and the books, documents and papers thereof. (Rev. Ords. 1973, § 2-184)

Charter reference—Collector-treasurer, § 3-3(b)

State law reference—Treasurers and collectors generally, G.L. c. 41, § 35 et seq.

Sec. 2-133. Official bond; custodian of money, etc.

The city collector-treasurer shall give bond, with sufficient sureties, to the satisfaction of the mayor, for the faithful performance of duties as treasurer and collector. the collector-treasurer shall receive, receipt for and have the care and custody of the current funds of the city and of all money, property and securities which may be in the collector-treasurer's charge by virtue of any law, ordinance, gift, devise, bequest or deposit. the collector-tresurer shall negotiate all loans authorized by the city council and shall sign all bonds, notes and certificates of indebtedness issued for such loans. (Rev. Ords. 1973, § 2-185)

Cross reference—Investment of funds in the custody of collector-treasurer, § 18-230 et seq.

Sec. 2-134. Payments out of treasury; report to comptroller; cancellation of bonds, etc.

The city collector-treasurer shall pay all warrants drawn by the comptroller of accounts and countersigned and approved by the mayor for the payment of accounts and claims duly approved as provided in this volume, and shall pay no money from the treasury without a warrant from the comptroller of accounts duly countersigned and approved by the mayor, or from the board of assessors, except for final judgments of courts, rebates, refunds or abatements of water bills and special deposits, with interest on such as have been paid prior to such rebate, refund or abatement. Within forty-eight (48) hours, Sundays and holidays excepted, after any payment made by the city collector-treasurer for which the warrant of the comptroller of accounts is not required, the city collector-treasurer shall certify to the comptroller of accounts the amount so paid and the purpose for which payment was made. The city collector-treasurer shall make the comptroller of accounts a daily report of gross expenditures, gross receipts and daily cash balances, and at the end of each month a report of receipts in such detail as may be required by the comptroller of accounts. The city collector-treasurer shall cancel all bonds, coupons and certificates of indebtedness when the same are paid. (Rev. Ords. 1973, 2-186)

Sec. 2-135. Collection of claims due the city.

The collector-treasurer, whenever an account is delivered for collection as provided in this chapter, shall demand payment of the same. If any such account remains unpaid after three (3) months, the collector-treasurer shall proceed to collect the same by legal process, which the collector-treasurer may do at any time before the expiration of such three (3) months if, in the collector-treasurer's judgment or the opinion of the city solicitor, the interests of the city so require. (Rev. Ords. 1973, § 2-187)

Sec. 2-136. Method of keeping books; crediting accounts of departments.

The city collector-treasurer shall keep in books provided for that purpose an accurate and true account of all

receipts and payments as city collector-treasurer, making the same conform as nearly as may be with the accounts kept by the comptroller of accounts. He shall, unless otherwise provided, credit to an income account of each department all sums received on its account. (Rev. Ords. 1973, § 2-188)

Sec. 2-137. Payment of salaries, etc.

After heads of departments shall have furnished weekly payrolls of such employees in their respective departments as are entitled by law to be paid weekly, and shall have furnished monthly payrolls for all other employees, stating the name and residence of each employee, the time for which the payment is to be made, the rate of wages and the amount due such employee, and after such payroll shall have been properly approved and certified, the collector-treasurer shall, in person or by deputy, make payment to such employee, their authorized agent or attorney, and shall take therefor the receipt of no other person than such employee, agent or attorney. (Rev. Ords. 1973, § 2-189)

Sec. 2-138. Collection of water bills.

The city collector-treasurer shall perform such duties relative to the collection of water bills as are set forth in chapter 29, article II, of these Revised Ordinances. (Rev. Ords. 1973, § 2-190)

Sec. 2-139. Receipt of money from dog fund.

The collector-treasurer shall receive all sums of money paid under the provisions of chapter 140, section 172 of the General Laws. (Rev. Ords. 1973, § 2-191)

Cross reference—Regulation of dogs, § 3-23 et seq.

Sec. 2-140. Annual statement of financial condition of city; annual account; information to city council.

The city collector-treasurer shall annually, and more often if required, lay before the city council a statement of the condition of the city treasury, and all money received and paid by the collector-treasurer during the current year. The collector-treasurer shall make up an annual account to and including the last day of December. The collector-treasurer shall furnish such information respecting the accounts and finances as the city council may require. (Rev. Ords. 1973, § 2-192)

Sec. 2-141. Examination and audit of books.

The mayor shall, and the city council may, at the close of each financial year and at such other times as they deem expedient, cause the accounts of the city collector-treasurer to be examined and audited, and for this purpose shall have access to all books and vouchers of the city, shall compare the accounts with the vouchers, ascertain whether all money due the city has been collected and accounted for, examine all notes and securities in the collector-treasurer's hands and report to the city council. (Rev. Ords. 1973, § 2-193)

Sec. 2-142. Access of finance committee to books and vouchers.

The committee on finance shall have access to all books and vouchers of the city in the possession of the city collector-treasurer. (Rev. Ords. 1973, § 2-194)

Secs. 2-143—2-158. Reserved.

DIVISION 3. COMPTROLLER OF ACCOUNTS

Sec. 2-159. To be in charge of accounting department; duties in connection with books and accounts.

There is hereby established an accounting department which shall be under the charge of the comptroller of accounts, who shall keep a complete set of books and accounts which shall comprise all of the financial transactions of the city through the various departments and offices under their respective appropriations. All accounts rendered to or kept in the departments of the city shall be subject to the inspection and revision of the comptroller of accounts and shall be rendered and kept in such form as he shall prescribe. The comptroller of accounts shall carefully examine all the accounts, bills and payrolls which have been approved and certified by the several boards and officers authorized to make expenditures, and if they are correctly cast and duly approved, or if such indebtedness arises from a written contract and such account, bill or payroll conforms with the terms of such contract, he shall approve the same. (Rev. Ords. 1973, § 2-203)

Charter reference—Comptroller of accounts generally, § 2-7

Cross reference—Payment of emergency relief money for veterans by warrants of comptroller of accounts, § 28-6

Sec. 2-160. Allowance or disallowance of claims.

The comptroller of accounts may disallow and refuse to pay in whole or in part any claim on the ground that it is fraudulent, unlawful or excessive, and in that case he shall file with the collector-treasurer and with the mayor a written statement of the specific reasons for the refusal to approve. No such account, bill or payroll shall be approved by the comptroller of accounts if not properly chargeable to the appropriation to which it is sought to be charged and properly itemized. If such account, bill or payroll is not properly chargeable to the appropriation to which it is sought to be charged by the board or officer authorized to make the expenditure, the comptroller of accounts may, nevertheless, if there is in the comptroller’s opinion another appropriation to which such account, bill or payroll is properly chargeable, approve it against such other appropriation. (Rev. Ords. 1973, § 2-204)

Sec. 2-161. Method of making payments from the treasury.

All payments from the treasury shall be made upon warrants of the comptroller of accounts, except as provided in section 2-134. All warrants drawn by the comptroller of accounts shall be valid only when countersigned and approved by the mayor. (Rev. Ords. 1973, § 2-205)

Sec. 2-162. Payments under workmen's compensation law.

The comptroller of accounts shall issue warrants for the payment of all claims or items of expense arising under the workmen's compensation law, where such claims or items of expense are in payment of liabilities incurred under the provisions of the laws relative to workmen's compensation for an injury for which a claim for compensation is made, upon certificates signed by the agent appointed under the provisions of chapter 152 of the General Laws.-(Rev. Ords. 1973, § 2-206; Ord. No. T-106, 10-1-90; Ord. X-35, 10-21-02)

Sec. 2-163. Record of loans; duties in connection with receipts and expenditures.

(a) The comptroller of accounts shall keep a record of all funded and temporary loans, the rate of interest thereon and the time when the principal and interest are payable. He shall at the close of each financial year report to the mayor the expenditures and receipts during the year, giving in detail the amount of the appropriations and expenditures and the receipts from each source of income, and the whole shall be arranged, so far as practicable, so as to show the expenses of maintaining each department. He shall include in such report a statement of the funded and temporary loans, with the rate of interest thereon and when payable.

(b) The comptroller of accounts shall keep accounts in such form and in such detail as may be necessary to show clearly all expenditures and receipts. He shall credit each city account with its appropriations for the financial year and charge against the same the expenditures as they shall from time to time be allowed. He shall,

once in each month, prepare and furnish to the mayor, to the city clerk and to the city collector-treasurer, and when requested, to the city council, a balance sheet showing the true financial condition of the city and a statement showing the condition of every account of the city with the amount of the appropriations, expenditures and unexpended balance under the same. He shall also, once in each month, furnish to each board or officer of the city having charge of the expenditures of any appropriation a statement showing the condition of every account of such board or officer.

(c) The word "expenditures," wherever used in this section, shall be deemed to include liabilities incurred but not paid; and the word "receipts," wherever used in this section, shall be deemed to include assets accrued but not received. (Rev. Ords. 1973, § 2-207)

Sec. 2-164. Record of assessments and apportionments thereof.

The comptroller of accounts shall keep a record of all assessments and apportionments thereof. (Rev. Ords. 1973, § 2-208)

Sec. 2-165. Examination and audit of books.

The mayor or the city council may at such times as they deem expedient cause the accounts of the comptroller of accounts to be examined and audited and for this purpose shall have access to all books and vouchers of the city. (Rev. Ords. 1973, § 2-209)

Secs. 2-166—2-181. Reserved.

ARTICLE IV. PURCHASES AND CONTRACTS

Sec. 2-182. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

Agent or purchasing agent: The purchasing agent appointed pursuant to the provisions of this article or an acting purchasing agent appointed pursuant to law or to any ordinance of the city.

Contractual services: All public utility services; collection and disposal of garbage; towel and cleaning services; insurance; leases for all grounds, buildings, offices or other space required by the using agencies; the repair, maintenance or operation by other than city employees and the rental, with or without attendant personnel, of equipment, machinery and other personal property. Such term shall include contractual services in the construction or repair of public buildings, highways and other public works but shall not include professional expert consultant or other contractual services which are in their nature unique and not subject to competition.

Obsolete, unsuitable for use and surplus: Supplies which have been determined to be such by the head of the using agency, and which he has decided should be replaced or disposed of; provided, that in the case of replacement, an appropriation has been made therefor.

Supplies: All supplies, materials, commodities and equipment.

Using agency: Any department, agency, commission, bureau or other unit in the city government using supplies or contractual services as provided in this article. (Rev. Ords. 1973, § 2-231)

Cross reference—Rules of construction and definitions generally, § 1-3

Sec. 2-183. Applicability and effect of article.

All purchases of supplies and contractual services shall be made in accordance with the provisions of this article to the extent required thereby, notwithstanding any inconsistent provision of any other ordinance. (Rev. Ords. 1973, § 2-232)

Sec. 2-184. Control of purchasing department.

There is hereby established a purchasing department which shall be under the charge of a purchasing agent. (Rev. Ords. 1973, §2-233)

Sec. 2-185. Purchasing agent—functions; bond required.

The purchasing agent shall be the head of and have general supervision of the purchasing department. The purchasing agent shall perform all duties required of a department head by law or by ordinance and shall have the responsibilities, powers and duties prescribed by this article. He shall give bond in an amount and with sureties satisfactory to the mayor for the faithful performance of the purchasing agents duties. (Rev. Ords. 1973, § 2-234)

Sec. 2-186. Same—Powers and duties generally.

(a) The purchasing agent shall have the power and it shall be the purchasing agent's duty to purchase or contract for all supplies and contractual services needed by any using agency which derives its support wholly or in part from city funds in accordance with purchasing procedures as prescribed by this article and such rules and regulations as may be prescribed by the mayor. Except as otherwise expressly provided in this article, the authority of the purchasing agent to negotiate all purchases for all using agencies shall not be abridged by excepting any particular using agency and it shall be unlawful for any city officer to order the purchase of any supplies or make any contract for supplies or for contractual services other than through the purchasing department. Any purchase order or contract made contrary to the provisions of this article shall not be approved by the city officials and the city shall not be bound thereby. The mayor shall have the right to exempt any category of purchases for any using agency from the provisions of this article to the extent the mayor shall deem advisable and to revoke or modify such exemptions at any time, stating in writing the reasons therefor; however, no using agency shall be exempt, as such, from the provisions of this article.

(b) In addition to the purchasing authority conferred in this section and in addition to any other powers and duties conferred by this article, the purchasing agent shall:

(1) Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city.

(2) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

(3) Establish and amend, when necessary, with the approval of the mayor, all rules and regulations authorized by this article and any others necessary to the operation of the purchasing department.

(4) Prescribe and maintain, with the approval of the mayor, such forms for the use of either the purchasing department or the using agencies as he shall find reasonably necessary to the operation of the purchasing department.

(5) Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time.

(6) Have the power to transfer supplies, with the approval of the mayor, from one using agency to another as he may deem advisable, and to determine the resultant charge and credit to the appropriations of the respective agencies.

(7) Have the power to sell, by public auction or competitive bid if possible, exchange or trade any supplies which have become obsolete, overage, unsuitable for use, or surplus. (Rev. Ords. 1973, § 2-235)

Sec. 2-187. Standards and specifications.

(a) The purchasing agent shall prepare and secure with the cooperation of the various department heads standards and written specifications for supplies used by the using agencies.

(b) It shall be the duty of the purchasing agent to classify supplies used in the various using agencies, to adopt as standards the minimum number of qualities, sizes and varieties of supplies consistent with the successful operation of the city government, and to prepare and adopt written specifications of all such standard supplies. Except in the cases of noncompetitive types and kinds of supplies, all specifications shall be definite and certain and shall permit of competition. After its adoption, each standard specification shall, unless revised or rescinded, apply alike in terms and effects to any future purchase order or contract for the supply described in such specifications, except that the agent shall have the authority, with the written approval of the mayor, to exempt any using agency of the city from the use of any supply described in such specifications. The agent shall consult with the heads of the using agencies to determine their precise requirements and shall endeavor to prescribe those standards which best meet the needs of the majority of those agencies. For the purpose of complying with the requirements of this subsection, the purchasing agent shall have authority to make use of the laboratory and engineering facilities of the city and the technical staffs thereof. The purchasing agent shall enforce the written specifications adopted pursuant to this section.

(c) In all cases where supplies to be purchased are peculiar to the field of education, the school committee's determination as to the specifications of supplies to be purchased shall be conclusive upon the purchasing department. (Rev. Ords. 1973, § 2-236)

Sec. 2-188. Requisitions.

Except as provided in section 2-200, requisitions for the purchase of supplies or contractual services for any using agency shall be received by the purchasing department prior to the issuance of a purchase order or contract for such supplies or contractual services and shall be signed by the head of the using agency or the head’s authorized agent. The purchasing agent shall examine each requisition and shall have the authority, only after consultation with the head of the using agency, to revise it as to the quantity, quality or estimated cost, but revision as to quality shall be in accordance with standards and specifications provided pursuant to section 2-187. The purchasing agent shall promptly and in writing notify the head of the requisitioning agency of any such revisions, and if dissatisfied therewith, the head of such agency shall have the right, at any time within forty-eight (48) hours after the receipt of such notice, to cancel the requisition, which cancellation shall also be in writing. (Rev. Ords. 1973, § 2-237)

Sec. 2-189. Estimates of using agencies.

All using agencies of the city shall file with the purchasing department detailed estimates of their requirements for supplies and contractual services in such manner, at such times and for such future periods as the purchasing agent shall prescribe. This shall not prevent the using agency from filing with the purchasing department at any time a requisition for any supplies or contractual services the need for which was not foreseen when the detailed estimates were filed. (Rev. Ords. 1973, § 2-238)

Sec. 2-190. Certification of unencumbered funds.

Except in cases of emergency, the purchasing agent shall not issue any order for delivery on a contract or open market purchase, or for transfer of supplies from one using agency to another, until the comptroller of accounts shall have certified that there is to the credit of the using agency concerned or to the credit of the purchasing department, a sufficient unexpended and unencumbered appropriation balance to defray the amount of such order. (Rev. Ords. 1973, § 2-239)

Sec. 2-191. Inventory; surplus stock.

All using agencies shall submit to the purchasing department at such times as the purchasing agent shall prescribe, and in any event at each calendar year end, full and complete inventories of the personal property under the charge of such using agency for each such item of property with a value of one hundred dollars ($100.00) or more. All using agencies shall submit to the purchasing agent at such times as he shall prescribe reports showing stocks on hand of all supplies which are no longer used or shall have become obsolete, overage, unsuitable for use, or surplus. The purchasing agent shall have the authority, with the approval of the mayor, to transfer surplus stock to other using agencies. The purchasing agent shall require a perpetual inventory to be maintained and prescribe procedures, rules and regulations for so doing. (Rev. Ords. 1973, § 2-240; Ord. No. U-9, 5-2-94)

Sec. 2-192. Storerooms, warehouses, etc.; storerooms revolving fund.

The purchasing agent may formulate policies and procedures for the purpose of establishing, coordinating and consolidating storage and warehouse procedures and practices among the various using agencies. Policies and procedures so established, when approved by the mayor, shall be put into effect under instructions from the purchasing agent. The purchasing agent shall control and supervise all storerooms and warehouses assigned to the purchasing department. The city council may provide a storerooms revolving fund for the purchase and storage of supplies which are used in large quantities and which may be purchased and stored advantageously. Such funds shall be under the control of the purchasing agent who shall also be responsible and accountable for all supplies in the custody of the purchasing department and shall maintain a perpetual inventory record thereof. Requisitions for supplies purchased from the storerooms revolving fund shall be credited by the purchasing agent to the storerooms revolving fund by a charge against the appropriation of the using agency. The filling of such requisitions shall be made only after certification of the comptroller of accounts as provided in section 2-190. (Rev. Ords. 1973, § 2-241)

Sec. 2-193. Purchases and sales of more than two thousand dollars—Competitive bids required; exception.

All purchases of and contracts for supplies and contractual services and all sales pursuant to this article involving a sum of two thousand dollars ($2,000.00) or more shall be based upon competitive bids unless the mayor gives written authority to do otherwise, stating the reasons therefor. (Rev. Ords. 1973, § 2-242; Ord. No. 25, 11-4-74)

Sec. 2-194. Same—Solicitation of bids.

Proposals for contracts under section 2-193 shall be invited by advertisements in not less than two (2) newspapers published in the city or of general circulation therein at least one week preceding the date specified for the opening of such proposals. Such notice shall include a general description of the articles to be purchased or sold, shall state where the bid blanks and specifications may be secured and the time and place for opening bids, and shall reserve to the city the right to reject any such proposals. The purchasing agent shall also solicit sealed bids from responsible prospective suppliers or purchasers, including those who have requested their names to be added to a "bidders' list" which the purchasing agent shall maintain, by sending them a copy of such or such other

notice as will acquaint them with the proposed purchase or sale, but invitations sent to the suppliers on the bidders' list shall be limited to commodities which are similar in character to those ordinarily handled by the trade group to which the invitations are sent. The purchasing agent shall also advertise all pending purchases or sales by notice published on a bulletin board in the office of the department. (Rev. Ords. 1973, § 2-243)

Sec. 2-195. Same—Submittal of bids; when security required; return of security.

All bids for purchases under section 2-193 shall be submitted sealed to the purchasing department and, when deemed necessary by the purchasing agent, shall be accompanied by security in the form of a check, cash or bond in such amount as shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to return of the security where the purchasing agent has required such. A successful bidder shall be entitled to the return of their security upon theirentering into a contract within ten (10) days after written notice to themof the award, but shall, at the discretion of the purchasing agent, forfeit any such security upon failure on their part to enter into a contract within such time. (Rev. Ords. 1973, § 2-244; Ord. No. 35, 1-6-75)

Sec. 2-196. Same—Opening and tabulation of bids.

Bids for purchases under section 2-193 shall be opened in public at the time and place stated in the newspaper notice which shall also be the closing time for bids. A tabulation of all bids received shall be posted for public inspection in the purchasing agent's office and a record of same maintained by the purchasing agent. (Rev. Ords. 1973, § 2-245)

Sec. 2-197. Same—Rejection of bids generally.

The purchasing agent shall have the authority to reject any bids or parts of bids or bids for any one or more supplies or contractual services included in the proposed contract under section 2-193 when he shall deem that the public interest shall be served thereby. (Rev. Ords. 1973, § 2-247)

Sec. 2-198. Same—Award of contract.

Contracts for purchases under section 2-193 shall be awarded to the lowest responsible bidder and contracts for sales shall be awarded to the highest responsible bidder. In determining the lowest or highest responsible bidder, the purchasing agent may consider, in addition to price, the quality, the cost of maintenance and availability of parts, the terms of delivery offered, the experience of the bidder, the sufficiency of the financial resources of the bidder, and the reputation of the bidder for ability, integrity, judgment and performance, as well as the ability of the bidder to provide future maintenance and service. In the case of tie bids, the purchasing agent shall have the authority to award the contract to one of the tie bidders; except when quality, price and service are equal, preference shall be given to bidders doing business in the city or to bidders who have already established a satisfactory service reputation with the city. When the award is not given to the lowest bidder or the highest bidder, as the case may be, a full and complete statement of the reasons for awarding the contract elsewhere shall be prepared by the purchasing agent and filed with the other papers relating to the transactions. (Rev. Ords. 1973, § 2-249)

Sec. 2-199. Purchases and sales involving less than two thousand dollars.

All purchases and sales where the amount involved is less than two thousand dollars ($2,000.00) may be made in the open market without newspaper advertisement and without observing the procedure prescribed by sections 2-193 to 2-198 for the award of contracts. All open market purchases or sales shall, when feasible, be based on at least three (3) competitive bids and shall be awarded to the lowest or highest responsible bidder, as the case may be. The purchasing agent may solicit bids, preferably by direct mail request to prospective vendors or by telephone, and shall solicit bids by public notice posted on a bulletin board in the office of the purchasing

department as long as possible before the contemplated purchase date. The purchasing agent shall keep a record of all open market orders and the bids submitted in competition therein, which record shall be open to public inspection. (Rev. Ords. 1973, § 2-250)

Sec. 2-200. Purchases in emergencies.

In case of apparent emergency which requires the immediate purchase of supplies or contractual services for the protection of the health or safety of persons or property, the purchasing agent may, with the written approval of the mayor, or in the mayor's absence the acting mayor, acquire such supplies or contractual services by open market procedure in accordance with section 2-199, regardless of the amount of the expenditure. In case of an actual emergency, the head of any using agency may, with the approval in writing of the purchasing agent or the mayor, purchase directly any supplies or contractual services immediate procurement of which is essential to the health or safety of persons or property. The head of such using agency shall send to the purchasing department a requisition and a copy of the delivery record. In every case of the purchase of supplies or contractual services under this section, a full written report of the circumstances of the emergency shall be made by the purchasing agent or the head of the using agency, as the case may be, and shall be filed by the purchasing department as a permanent and public record of the purchase. (Rev. Ords. 1973, § 2-251)

Sec. 2-201. Inspection and testing of purchases.

The purchasing agent shall inspect or supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract. The purchasing agent shall have the authority to authorize any using agency having the staff and facilities for adequate inspection to inspect all deliveries made to such using agency under rules and regulations prescribed by the purchasing agent. The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformity with the specifications. To perform such tests the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or of an outside laboratory. (Rev. Ords. 1973, § 2-252)

Sec. 2-202. Splitting requisitions, orders, etc., to avoid requirements.

No requisition, order or contract shall be subdivided to avoid any of the requirements of this article. (Rev. Ords. 1973, § 2-253)

Sec. 2-203. Financial interest of city employees in purchases.

Any purchase order or contract made on behalf of the city under this article or otherwise in which the purchasing agent or any employee of the purchasing agent's department, the heads of using agencies or any other officer or employee of the city having a part in the placing of such order or contract is financially interested, directly or indirectly, shall be void. (Rev. Ords. 1973, § 2-254)

Sec. 2-204. Mayor to give written notice to the city council in certain instances.

Whenever the city council approves special appropriations for a city contract based on factual representations and written provisions as to the nature and content of said contract, it shall be the obligation of the mayor to give written notice to the clerk of the city council of any and all subsequent changes or amendments to said original contract prior to the execution by the mayor of such contract amendment. (Ord. No. R-303, 4-19-83)

Sec. 2-205. Installation of synthetic in-filled turf athletic fields on city-owned property.

The installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable,

lead-free, non-toxic products to the maximum extent feasible. The department responsible for the project, in conjunction with the city's chief procurement officer, shall make the determination of the maximum extent feasible for installation in any particular site. The determination shall take into account the best available technology, cost effectiveness, public health and safety, and environmental risks and benefits, and shall consider each proposed installation in light of site conditions, engineering feasibility, commercial availability, public safety, environmental impact and cost. Cost, however, shall not be the overriding factor in determining maximum extent feasible, and a determination of cost shall include consideration of projected life cycle costs including maintenance, repair, replacement, recycling and/or disposal costs over the estimated useful life of the installation. (Ord. No. Z-96, 11-07-11)

Secs. 2-206—2-220. Reserved.

ARTICLE V. HUMAN RESOURCES DEPARTMENT

Sec. 2-221. Established; head.

There is hereby established a human resources department under the charge of a director of human resources to be appointed by the mayor. (Rev. Ords. 1973, § 2-400)

Sec. 2-222. Qualifications, salary of director.

The director of human resources shall have experience and skill in the fields of personnel administration, civil service, labor relations, management, finance and insurance, and he shall receive such salary as the mayor and city council may, from time to time, determine. (Rev. Ords. 1973, § 2-401)

Sec. 2-223. Functions of department.

The human resources department shall perform the following functions:

(1) Administer the civil service system.

(2) Maintain job descriptions, evaluations and a classification plan.

(3) Develop a city personnel information system.

(4) Respond to departmental and individual requests concerning personnel positions, pay and benefits.

(5) Consolidate, establish and maintain all records of personnel for uniform record keeping and application, including sick leave and vacation.

(6) Advise the mayor and department heads on manpower utilization.

(7) Foster and develop programs for improving employee effectiveness, including training, safety and health.

(8) Prepare an annual report regarding the work of the department.

(9) Assist in administrating labor relations with organized employees, and give opinions regarding grievances and disputes.

(10) Coordinate recruitment, selection and appointment of personnel.

(11) Establish and maintain working relationships with union officials.

(12) Establish, administer and evaluate training and development programs for all levels of staff.

(13) Advise on and administer separation procedures.

(14) Advise on administration of disciplinary action procedures.

(15) Arrange for the services of qualified health care providers to perform pre-employment examinations of candidates and examinations of employees as provided under the laws of the Commonwealth and these Revised Ordinances.

(16) Coordinate the administration of employee retirement benefits.

In order to carry out this function, the director of human resources shall establish such liaison communication procedures with the retirement board as are reasonably necessary for this purpose. (Rev. Ords. 1973, § 2-402; Ord. No. 12, 9-3-74; Ord. No. X-35, 10-21-02)

Sec. 2-224. School department not affected.

The school department shall not be affected by the director of human resources. (Rev. Ords. 1973, § 2-403)
Cross reference—Newton community education program, Ch. 2, Art. VI, Div. 2

Secs. 2-225—2-245. Reserved.

ARTICLE VI.
FINANCIAL INFORMATION SYSTEMS DEPARTMENT

Sec. 2-246. Established.

There is hereby established a financial information systems department in the city. (Ord. No. Z-107, 04-17-12)

Sec. 2-247. Director, authority.

The financial information systems department shall be headed by a director who is appointed by the mayor. The director shall be responsible for planning, organizing and controlling the overall activities of financial information systems, and shall act as liaison between the department of financial information systems and other departments of municipal government. (Ord. No. Z-107, 04-17-12)

Sec. 2-248. Functions of department.

The financial information systems department shall:
(1) Process payroll for the city, including the school department and including retirees;

(2) Provide to the city treasurer data necessary to prepare reporting required by state and federal agencies;

(3) Generate receivables for the city, including but not limited to real estate, excise, and personal property tax billings;

(4) Support and train other city departments, including the school department, in use of financial software;

(5) Implement new financial modules as needed. (Ord. No. Z-107, 04-17-12)