Chapter 18

MEMORIAL FUNDS AND TRUSTS*

Art. I. John C. Chaffin Education Fund, §§ 18-1—18-21
Art. II. Horace Cousens Industrial Fund, §§ 18-22—18-46
Art. III. Eliot Memorial, §§ 18-47—18-69
Art. IV. Read Fund, §§ 18-70—18-91
Art. V. Twombly House Fund, §§ 18-92—18-110
Art. VI. Arnold S. Daniels, Jr., Fund, §§ 18-111—18-131
Art. VII. Conservation Fund, § 18-132—18-139
Art. VIII. Newton Commonwealth Fund, §§ 18-140—18-144
Art. IX. Oak Hill Park Association Trust, §§ 18-145—18-150
Art. X. Kennard Park Trust, §§ 18-151—18-159
Art. XI. Nahanton Park Trust Fund, §§ 18-160—18-163
Art. XII. Emerson Community Center Trust, §§ 18-164—18-167
Art. XIII. Mayor Theodore D. Mann/Fig Newtons®Trust Fund, §§ 18-168—179
Art. XIV. Anthony J. Salvucci Aldermanic Scholarship Fund, §§ 18-180—180-189
Art. XV. Lawrence W. Gorin (Class of 1955) Scholarship Fund, §§ 18-190—180-195
Art. XVI. Mabel Louise Riley Trust Fund, §§ 18-196--18-229
Art. XVII. City of Newton Other Post-Employment Benefits Trust, §§ 18-230--18-235
Art. XVIII. Investment of Funds in Custody of Collector-Treasurer, §§ 18-236--18-238

ARTICLE I.
JOHN C. CHAFFIN EDUCATIONAL FUND

Sec. 18-1. Designation.

The gift by the will of the late John C. Chaffin shall be known as the John C. Chaffin Educational Fund. (Rev. Ords. 1973, § 12-1)

Sec. 18-2. Board of trustees—Composition; appointment, removal, compensation and terms of members.

The John C. Chaffin Educational Fund shall be in charge of, and shall be administered by, a board of seven (7) trustees, serving without compensation, one of whom shall be the chairman of the school committee of the city by virtue of his office. The other six (6) shall be appointed by the mayor subject, within fourteen (14) days from the date of appointment, to confirmation by the board of aldermen. Such appointment shall be for life, subject to removal by the mayor by reason of disability, removal from the city or other sufficient cause. (Rev. Ords. 1973, § 12-2)

Sec. 18-3. Same—Treasurer.

The city collector-treasurer, by virtue of his office, shall be the treasurer of the John C. Chaffin Educational Fund board of trustees and shall receive and take charge of all money or property arising from or a part of such fund. (Rev. Ords. 1973, § 12-3)

Cross reference—City collector-treasurer, Ch. 2, Art. III, Div. 2

* **Editor's note:** The investment provisions of each article should be read in concert with the provisions of Art. XVII of this chapter.

Sec. 18-4. Purpose.

The income of the John C. Chaffin Educational Fund shall be paid out by the city collector-treasurer as directed by the trustees in expenditures for the benefit of graduates of the city's public high schools or of any school of a higher grade that may be established in the city, who have a thirst for knowledge and are anxious to obtain the benefits of an education at a college or the Massachusetts Institute of Technology, but are financially unable to do so. (Rev. Ords. 1973, § 12-4)

Editor's note—This section originally provided that expenditures were to be " . . . for the benefit of graduates of the Newton High School or of any school of a higher grade that may be established in the city . . . "

Sec. 18-5. Investments.

The board of trustees of the John C. Chaffin Educational Fund shall have the management of such fund and the same shall be invested by the city collector-treasurer as directed by the trustees in securities which are legal investments for savings banks under the statutes of the commonwealth. (Rev. Ords. 1973, § 12-5; Ord. No. T-281, 7-12-93)

Cross reference—Municipal finance regulations, Ch.2, Art. III.

Secs. 18-6—18-21. Reserved.

ARTICLE II.
HORACE COUSENS INDUSTRIAL FUND

Sec. 18-22. Designation.

The gift bequeathed to the city in trust by the will of the late Horace Cousens shall be known as the Horace Cousens Industrial Fund. (Rev. Ords. 1973, § 12-17)

Sec. 18-23. Board of trustees—Composition; appointment, removal, compensation and terms of members.

The Horace Cousens Industrial Fund shall be administered by a board of three (3) trustees, who shall serve without compensation and shall be residents of the city, and shall give bond to the city for the faithful performance of their fiduciary duties. At least one of the trustees shall have direct experience as a professional in the social services. At no time shall all three trustees be of the same sex.

Each trustee shall be appointed by the mayor with the approval of the board of aldermen. The trustees shall be subject to removal by the mayor by reason of disability, non-resident status or other good cause.

The term of each appointment shall be three (3) years. However, the initial appointments made under this ordinance shall be shortened in order to provide for staggered terms. These initial appointments shall be made for terms that expire as follows: One appointment to expire June 1, 2000; one appointment to expire June 1, 2001; and one appointment to expire June 1, 2002. (Rev. Ords. 1973, § 12-18; R-305, 3-21-83; Ord. No. V-238, 4-20-99, Ord. No. V-238, 4-20-99)

Sec. 18-24. Same—Investigations and reports on requests for loans.

All loans from and all investments of the Horace Cousens Industrial Fund shall be investigated and reported on by the board of trustees before any action is taken thereupon. (Rev. Ords. 1973, § 12-19)

Sec. 18-25. Same—Applications and recommendations for loans.

All applications for loans under the Horace Cousens Industrial Fund shall be made to and filed with the board of

trustees of such fund, who shall investigate and make reports and recommendations on all applications for loans from such fund. (Rev. Ords. 1973, § 12-20)

Sec.18-26. Same—Investments; registration of bonds; payments to fund.

The board of trustees of the Horace Cousens Industrial Fund shall make recommendations in reference to the investment, including the purchase and sale of the principal and interest of such fund in the class of securities specified in Item Four of such will (see Middlesex Probate, Case Number 55407), namely, United States government bonds, bonds of any of the New England states, bonds of any of the cities of the commonwealth, and loans secured by first mortgages on improved real estate within the commonwealth and all in conformity with the true intent, purpose and meaning of Horace Cousens as expressed in his will. All bonds shall, if possible, be registered as to principal and interest in the name of, and all notes shall be made payable to the order of, "The City of Newton, Horace Cousens Industrial Fund" and shall be sold and transferred or endorsed only on the recommendation of the board of trustees of such fund. (Rev. Ords. 1973, § 12-21)

Cross reference—Municipal finance regulations, Ch. 2, Art. III

Sec. 18-27. Same—Foreclosure of mortgages.

If a mortgage given to secure a loan granted as provided in this article shall be in default and if in the opinion of a majority of the trustees of the Horace Cousens Industrial Fund, with the approval of the mayor, it is necessary to foreclose the mortgage, the trustees shall report the facts to the city collector-treasurer and to the city solicitor who shall proceed to foreclose the mortgage on behalf of "The City of Newton-Horace Cousens Industrial Fund." (Rev. Ords. 1973, § 12-22)

Sec. 18-28. Establishment of permanent fund; authority over and control of fund.

Whereas the Horace Cousens Industrial Fund has accumulated to the sum of one million dollars ($1,000,000.00), and, therefore, under the terms of the will of Horace Cousens (see Middlesex Probate, Case Number 55407), is a permanent fund and, as provided in such will, the income from the fund shall be distributed and given to the deserving poor of the city who are not inmates of the almshouse, it is therefore provided by this section that the income shall be so distributed by the trustees of the Horace Cousens Industrial Fund under such rules and regulations as such trustees may from time to time adopt without action or restraint or control on the part of the mayor or board of aldermen of the city; the trustees shall have full authority to exercise and carry out the directions of the testator as to income. The city collector-treasurer is authorized to recognize and pay out such income in accordance with the written orders bearing two (2) signatures of the board of trustees. (Rev. Ords. 1973, § 12-23)

Sec. 18-29. Duties of city collector-treasurer.

(a) All investments and changes in investments recommended by a majority of the board of trustees of the Horace Cousens Industrial Fund and approved by the mayor and board of aldermen shall be made by the city collector-treasurer who shall, by virtue of his office, receive and take charge of all money, securities and properties belonging to and constituting such fund and its accumulations. All loans, whether approved or disapproved by the board of trustees, approved by the board of aldermen shall be made by the city collector-treasurer as directed by vote of the board of aldermen duly approved by the mayor.

(b) The city collector-treasurer shall execute and deliver a discharge of any mortgage held in such fund upon the payment in full of any sums secured thereby. (Rev. Ords. 1973, § 12-24)

Cross reference—City collector-treasurer, Ch. 2, Art. III, Div. 2

Sec. 18-30. Exhibition of copy of Horace Cousens' will.

An exemplified copy of the will of Horace Cousens shall be kept in the records of the city collector-treasurer for public inspection at all convenient times. (Rev. Ords. 1973, § 12-25)

Secs. 18-31—18-46. Reserved.

ARTICLE III.
ELIOT MEMORIAL

Sec. 18-47. Designation of fund.

The fund referred to in this article shall be known as the Eliot Memorial Fund. (Rev. Ords. 1973, § 12-37)

Sec. 18-48. Purpose.

This fund is established to commemorate John Eliot, and the proceeds shall be used for the purposes recited in the indenture. (Rev. Ords. 1973, § 12-38)

Sec. 18-49. Board of trustees—Composition; appointment, compensation and terms of members; officers.

The board of trustees of the Eliot Memorial Fund shall consist of three (3) persons who shall be appointed by the mayor with the approval of the board of aldermen and who shall serve without compensation. The mayor shall annually appoint one member to serve for three (3) years from the first Monday in June next following his appointment. Such board shall choose annually from its members a secretary. The city collector-treasurer shall be treasurer of the board of trustees. (Rev. Ords. 1973, § 12-39)

Sec.18-50. Same—Duties generally.

The board of trustees of the Eliot Memorial Fund shall have the care, management and improvement of the tract of land known as the Eliot Memorial Terrace, conveyed to the city by Francis J. Parker, Otis Pettee and William C. Bates, trustees of the Eliot Memorial Association, by the indenture on file in the city clerk’s office, as provided in section 18-53, and shall expend thereon such sums of money as may be granted therefor by the board of aldermen. (Rev Ords. 1973, § 12-40)

Sec. 18-51. Same—Charge and management of money; investment of income and collection of interest.

The board of trustees of the Eliot Memorial Fund shall have the charge and management of the money conveyed and paid to the city under the indenture on file in the city clerk's office as provided in section 18-53 and of all additions thereto and further sums which may be given to the city for the purposes named in such indenture, and shall invest the principal and collect the income thereof and pay over the same to the city collector-treasurer semiannually. (Rev. Ords. 1973, § 12-41)

Cross reference-Municipal finance regulations, Ch. 2, Art. III

Sec. 18-52. Use of income of fund.

The income of the Eliot Memorial Fund shall be used for the purposes for which the fund was created, as set forth in the indenture on file in the city clerk's office as provided in section 18-53. (Rev. Ords. 1973, § 12-42)

Sec. 18-53. Indenture to be filed.

The indenture to which reference is made in this article shall be kept on file in the office of the city clerk. (Rev. Ords. 1973, § 12-43)

Secs. 18-54—18-69. Reserved.

ARTICLE IV.
READ FUND

Sec. 18-70. Designation.

The legacy bequeathed to the city by the late Charles A. Read shall be known as the Read Fund. (Rev. Ords. 1973, § 12-55)

Sec. 18-71. Board of trustees—Composition; appointment, compensation and terms of members; officers.

The board of trustees of the Read Fund shall consist of five (5) persons who shall serve without compensation. The city librarian and the ward alderman who represents Newton Corner shall each serve as a trustee ex officio. Three (3) additional trustees who are registered voters of the City of Newton shall be appointed by the mayor with the approval of the board of aldermen. At least one of these appointees shall be a resident of the village of Newton Corner. The mayor shall annually appoint one trustee to serve for three (3) years from the first Monday in June next following the appointment. All vacancies in the office of an appointed trustee shall be filled for the balance of the term of that trustee. The board shall choose annually from its members a secretary. The city collector-treasurer shall be treasurer of such board. (Rev. Ords. 1973, § 12-56; Ord. No. T-290, 8-9-93)

Editor's note—Ord. No. T-290 provided that trustees in office at the effective date were to serve until their terms expired.

Sec. 18-72. Same—Duties.

The board of trustees of the Read Fund shall have charge and management of the Read Fund, and shall, except as otherwise provided in section 18-73, invest the principal thereof in such bonds and notes, other than mortgage notes, as may be permitted by law for the investment of the funds of savings banks in the commonwealth. All bonds, however, shall be registered, at least as to the principal thereof, in the name of, and all notes shall be made payable to the order of, the "City of Newton Read Fund", and shall be sold and transferred or endorsed only with the written consent of all the members of the board of trustees. (Rev. Ords. 1973, § 12-57)

Sec. 18-73. Care of burial lot of Charles A. Read.

Three hundred dollars ($300.00) of the principal of the Read Fund shall be invested with the Newton Cemetery Corporation, the income of which shall be applied perpetually to keep in order the burial lot of Charles A. Read. (Rev. Ords. 1973, § 12-58)

Sec. 18-74. Income for library books.

The portion of the income for books for the public library at Newton Corner shall be paid to the trustees of the Newton Free Library and shall be called the Read Fund. All books purchased therewith shall be marked "Purchased with the Read Fund." (Rev. Ords. 1973, § 12-59)

Sec. 18-75. Projects generally.

The income of the remainder of the legacy under this article shall be expended annually by the board of trustees of the Read Fund, as provided in the will of Charles A. Read, as follows:

First. For an annual sleigh ride or picnic for the children of Newton Corner, not to exceed four hundred dollars ($400.00).

Second. For free lectures on scientific subjects at Newton Corner, not to exceed eight hundred dollars ($800.00).

Third. For books for the public library at Newton Corner, not to exceed six hundred dollars ($600.00).

Fourth. And the balance to poor widows in any part of Newton. (Rev. Ords. 1973, § 12-60)

Secs. 18-76—18-91. Reserved.

ARTICLE V.
TWOMBLY HOUSE FUND

Sec. 18-92. Designation.

The fund turned over to the city by the Twombly House, Incorporated, shall be known as the Twombly House Fund. (Rev. Ords. 1973, § 12-72)

Sec. 18-93. Board of trustees—Composition; compensation; treasurer.

There shall be a board of trustees of the Twombly House Fund consisting of three (3) persons serving without compensation as follows: The chairman of the parks and recreation commission of the city, or his or her designee, the president of the board of aldermen of the city, or his or her designee, and the member of the school committee from ward five, or his or her designee. The city collector-treasurer shall be treasurer of the fund. (Rev. Ords. 1983, § 12-73; Ord. No. T-282, 7-12-93)

Sec. 18-94. Same—Duties.

The board of trustees of the Twombly House Fund shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of the funds of savings banks in the commonwealth. The income shall be expended annually in such a way as in the judgment of the trustees will best promote sportsmanship, junior citizenship and scholarship among the boys and girls of the Newton Upper Falls District as now set out as precinct one of ward five of the city. (Rev. Ords. 1973, § 12-74)

Secs. 18-95—18-110. Reserved.

ARTICLE XVII.
ARNOLD S. DANIELS, JR., FUND

Sec. 18-111. Designation.

The monetary gift to the city from the estate of Arnold S. Daniels, Jr. shall be known as the Arnold S. Daniels, Jr., Fund. (Ord. No. X-241, 11-6-06)

Sec. 18-112. Purpose.

The Arnold S. Daniels, Jr., Fund shall be used to assist needy residents of Newton by providing them with monetary distributions to provide food, shelter and clothing, in strict conformity with the terms of *The Arnold S. Daniels, Jr. Revocable Trust* dated July 20, 2000. (Ord. No. X-241, 11-6-06)

Sec. 18-113. Board of trustees; duties.

(a) The trustees of the Horace Cousens Industrial Fund, as appointed pursuant to the provisions of section 18-23, shall serve as the trustees of the Arnold S. Daniels, Jr., Fund.

(b) The trustees may use the income and/or the principal of the Arnold S. Daniels, Jr., Fund, as they determine, consistent with the purpose of such fund.

(c) The trustees shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of municipal trust funds. (Ord. No. X-241, 11-6-06)

Sec. 18-114. Treasurer.

The collector-treasurer, by virtue of his office, shall be the treasurer and custodian of the Arnold S. Daniels, Jr., Fund. (Ord. No. X-241, 11-6-06)

Editor's Note: The Board of Aldermen expressed through a resolution its wish that the Trustees will guard the principal, and to the extent possible, limit expenditures to the income generated by this fund. (Ord. No. X-194, 12-19-05)

Secs. 18-115—18-131. Reserved.

ARTICLE VII.
CONSERVATION FUND

Sec. 18-132. Established.

A Conservation Fund to receive gifts, bequests, devises and expend same, shall be and is hereby established to be administered by the conservation commission under Massachusetts General Laws, chapter 40, section 8C, with the city treasurer as custodian, to accept donations to be used for conservation purposes. The custodian may deposit or invest the proceeds of said funds in savings banks, trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation, or national banks, or invest it in paid-up shares of federal savings and loan associations or in savings or loan associations doing business in the commonwealth, and any income therefrom shall be credited to the fund. The establishment of this fund shall not be construed as authority for the expenditure of city funds. (Rev. Ords. 1973, § 12-101)

Secs. 18-133—18-139. Reserved.

ARTICLE VIII.
NEWTON COMMONWEALTH FUND

Sec. 18-140. Designation.

The gift given to the city in trust by Newton Commonwealth Foundation shall be known as the Newton Commonwealth Fund. (Ord. No. R-327, 5-16-83)

Sec. 18-141. Purpose.

This fund is established for the purposes set forth in Newton Commonwealth Foundation's deed of trust, a copy of which shall be kept on file in the office of the city clerk. (Ord. No. R-327, 5-16-83)

Sec. 18-142. Board of trustees—Composition; appointment; term of members.

For so long as the Newton Commonwealth Foundation operates a golf course business upon the Chestnut Hill golf

course lands, the Newton Commonwealth Fund shall be administered by a board of three (3) trustees who shall serve without compensation and who shall be appointed bi-annually from among the membership of the Newton Commonwealth Foundation's board of directors. One (1) trustee shall be appointed by the mayor to represent the interests of the City of Newton and two (2) trustees shall be appointed by the Newton Commonwealth Foundation. In the event that the Newton Commonwealth Foundation no longer operates a golf course business upon the Chestnut Hill golf course lands, the members of the board of trustees from the Newton Commonwealth Foundation board of directors shall be removed and three (3) new trustees shall be appointed to the board of trustees by the mayor. The members of the fund's board of trustees appointed by the mayor shall include the parks and recreation commissioner of the city, by virtue of his office; the chairman of the conservation commission of the city, by virtue of his office; and a Newton resident of the immediate neighborhood surrounding the Chestnut Hill golf course lands. Such neighborhood resident shall be confirmed by the board of aldermen within fourteen (14) days of his appointment and shall serve for a term of five (5) years without compensation, subject to removal by the mayor by reason of disability, removal from the immediate area surrounding the Chestnut Hill golf course or for just cause. (Ord. No. R-327, 5-16-83)

Sec. 18-143. Duties.

The board of trustees shall have charge and management of the Newton Commonwealth Fund and shall invest the principal of such fund as may be permitted by law. After disbursement of $25,000.00 from the fund's principal for construction of a clubhouse facility on the golf course lands, the board of trustees shall accumulate the income derived from investment until the fund reaches the sum of $150,000.00; provided, however, that should a golf course business upon the Chestnut Hill golf course no longer be operated, such income as is needed to maintain the Chestnut Hill golf course as open space and a passive recreation resource shall not be accumulated, but shall be disbursed by the board of trustees, any income not so expended being accumulated. The trustees' obligation to prevent the cost of maintaining the Chestnut Hill golf course as open space from becoming an expense upon the city shall include the right to invade the principal of the fund and to exhaust the same if necessary in any year in which the fund's income is insufficient to cover the cost of maintaining the Chestnut Hill golf course as open space.

Once the fund's principal has reached the sum of $150,000.00, the board of trustees shall bi-annually determine whether the amount of principal then in the fund is sufficient to generate enough income annually over the next two years to cover the anticipated yearly maintenance cost of the Chestnut Hill golf course as open space over the next two years; provided however, that under no circumstances except when needed to maintain the Chestnut Hill golf course as open space and a passive recreation resource, shall the board of trustees permit the fund's principal to fall below $150,000.00. To the extent that the board of trustees determines that the fund's principal then on hand is sufficient for this purpose, the board of trustees is not required to continue accumulating that part of the income which is not expended upon maintenance of the Chestnut Hill golf course for whatever reasons, but may distribute all or part or none of the fund's income for acquisition, maintenance, and/or improvement of city-owned or controlled conservation or recreation lands, including capital improvements upon the Chestnut Hill golf course. The board of trustees' decision, by a majority of its members, of whether to distribute income and the manner in which to distribute income shall be within its sole discretion. The city collector-treasurer shall recognize and pay out from the fund in accordance with written orders signed by a majority of the board of trustees. The board of trustees is authorized to accept and to add to the fund's principal any gift or grants made to the City of Newton for the same purpose for which this fund was established and to accept any monies received for lease of the golf course lands to the extent the terms of such lease provide for payment of such rent into the fund. (Ord. No. R-327, 5-16-83).

Sec. 18-144. Duties of city collector-treasurer.

The city collector-treasurer shall be the treasurer of the board of trustees. All investments and disbursements recommended in writing by a majority of the board of trustees shall be made by the city collector-treasurer who shall, by virtue of his office, have custody of all money, securities or other investments constituting this fund and its accumulations. The function of the city collector-treasurer shall be solely ministerial and he shall have no authority

to contradict the acts of the board of trustees. (Ord. No. R-327, 5-16-83).

ARTICLE IX.
OAK HILL PARK ASSOCIATION TRUST

Sec. 18-145. Designation.

The gift given to the city in trust by Saw Mill Brook Realty Associates shall be known as the Oak Hill Park Association Trust. (Ord. No. S-36, 12-19-83).

Sec. 18-146. Purpose.

This trust is established in conformity with a purchase and sale agreement entered into between the City of Newton and Jack Antaramian, dated April 30, 1982 and is designed to provide income in order to allow the Oak Hill Park Community Association to maintain the land and building located on Saw Mill Brook Parkway, and conveyed to the Oak Hill Park Association by deed dated April 20, 1983, recorded at the Middlesex South Registry of Deeds at Book 14976, Page 362, and then as Lot 5A on a plan of land entitled "Subdivision Plan of Land in Newton, Mass." dated July 27, 1982 and recorded therewith. (Ord. No. S-36, 12-19-83).

Sec. 18-147. Trustee term.

For so long as the Oak Hill Park Association owns the land and building thereon located at 675 Saw Mill Brook Parkway the Oak Hill Park Association Trust shall be administered by one trustee who shall be the commissioner of public buildings, by virtue of his office and who shall serve without compensation. (Ord. No. S-36, 12-19-83).

Sec. 18-148. Termination.

In the event that the Oak Hill Park Association shall convey or transfer ownership to the land and building thereon, this trust shall immediately terminate and the principal and any and all income at that time accumulated and undistributed shall be paid over to the City of Newton and shall be treated as receipts from the sale of municipal property. (Ord. No. S-36, 12-19-83)

Sec. 18-149. Duties.

The trustee shall have charge of the income derived from the investment of the principal of the trust; said principal shall always be maintained at least thirty thousand dollars ($30,000). The income only shall be paid out to the Oak Hill Park Association twice annually, commencing with a first distribution on May 1, 1984 and a second on November 1, 1984, and on those dates each year thereafter. The trustee shall be guided by and defer to the collector-treasurer as to the investment of the trust principal.

The trustee shall be authorized to make any such distribution, except that to be made on May 1, 1984, only after the Oak Hill Park Association shall have submitted for his review and approval an accounting which shall state the sums received as of the last distribution, the monies expended, the purposes for which said monies were expended and any balance remaining. This accounting shall be signed by both the president and treasurer (or other financial officer) of the Oak Hill Park Association, and shall be supported by paid invoices or such other similar documentation as the trustee shall from time to time reasonably require. Said review shall be designed solely to ensure that any monies expended by the Oak Hill Park Association were expended for maintenance and repair of the land and building located on Saw Mill Brook Parkway, as described in section 18-146. The city collector-treasurer shall pay out from the trust in accordance with written orders signed by the trustee, which orders shall not be unreasonably withheld. (Ord. No. S-36, 12-19-83)

Sec. 18-150. Duties of city collector-treasurer.

The city collector-treasurer shall be the treasurer of the trust, by virtue of his office. In conformity with the provisions of the aforementioned purchase and sales agreement and after consultation with the trustee he shall have control over the trust principal and shall hold, invest and reinvest same. (Ord. No. S-36, 12-19-83)

ARTICLE X.
KENNARD PARK TRUST

Sec. 18-151. Designation.

Any rent hereto or hereafter collected in return for the use and occupancy of the house and outbuildings on the property bequeathed to the city for use as a park under the will of Harrison E. Kennard shall be known as the Kennard Park Trust. (Ord. No. S-158, 3-17-86).

Sec. 18-152. Board of trustees—Composition, compensation, treasurer.

There shall be a board of trustees of the Kennard Park Trust consisting of three (3) persons serving without compensation as follows: (1) The commissioner of public buildings by virtue of his/her office; (2) the commissioner of parks and recreation by virtue of his/her office, and (3) the chairman of the conservation commission, or his/her designee, by virtue of his/her office. The city collector-treasurer shall be custodian of the income of the trust. (Ord. No. S-158, 3-17-86).

Sec. 18-153. Board of trustees—Duties.

The board of trustees of the Kennard Park Trust may, in their discretion, expend any or all of the rent, heretofore or hereafter received, in return for the use of the house and outbuildings located on the property, bequeathed to the city for use as a park under the will of Harrison E. Kennard, for the maintenance and upkeep of the house, outbuildings, and grounds on said property, provided such maintenance and upkeep is consistent with the use of said property for park purposes. (Ord. No. S-158, 3-17-86).

Sec. 18-154. Duties of city collector-treasurer.

As custodian of the income of the trust, the city collector-treasurer may deposit or invest the rent heretofore or hereafter received in return for the use and occupancy of the house and outbuildings located on the property in savings banks and trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest it in paid up shares of federal savings and loan associations or in savings and loan associations doing business in the commonwealth and any income therefrom shall be credited to the trust. The city collector-treasurer shall make all disbursements recommended in writing by a majority of the board of trustees. (Ord. No. S-158, 3-17-86)

Secs. 18-155—159. Reserved.

ARTICLE XI.
NAHANTON PARK TRUST FUND

Sec. 18-160. Designation.

The funds turned over to the city by the Friends of Nahanton Park, Inc. and any funds subsequently donated to the city or this trust for the development and/or maintenance of Nahanton Park by the Friends of Nahanton Park, Inc., or any other organizations or individuals shall be known as the Nahanton Park Trust. (Ord. No. S-250, 4-6-87).

Sec. 18-161. Board of trustees.

There shall be a board of trustees of the Nahanton Park Trust consisting of 3 persons serving without compensation as follows: the commissioner of parks and recreation by virtue of his office; the chairman of the parks and recreation commission, by virtue of his office; and the secretary to the conservation commission by virtue of his office.

The city collector-treasurer shall be the custodian of the trust. (Ord. No. S-250, 4-6-87).

Sec. 18-162. Duties of the trustees.

The board of trustees shall have the charge and management of the trust funds investing the same only in securities permitted by law for the investment of municipal trust funds.

The board of trustees shall use as much of the principal and income of the trust as is necessary to meet the requirement for local funds imposed as a condition of the Urban Self Help Grant provided by the commonwealth for the development of Nahanton Park. The board of trustees may expend any remaining interest and/or principal of the trust as they determine is necessary for the maintenance of Nahanton Park. (Ord. No. S-250, 4-6-87).

Sec. 18-163. Duties of city collector-treasurer.

All investment, changes in investment and expenditures for the development and/or maintenance of Nahanton Park approved in writing by a majority of the trustees shall be made by the city collector-treasurer who shall, by virtue of his office receive and take charge of all moneys and securities belonging to and constituting the trust. (Ord. No. S-250, 4-6-87)

ARTICLE XII.
EMERSON COMMUNITY CENTER TRUST

Sec. 18-164. Designation.

The funds paid to the Newton recreation department for the sale of the Emerson School and any funds and interest payments afterwards received for a similar purpose shall be known as the Emerson Community Center Trust. (Ord. No. S-304, 6-6-88).

Sec. 18-165. Board of trustees—Composition, compensation, treasurer.

There shall be a board of trustees of the Emerson Community Center consisting of three (3) persons serving without compensation as follows: (1) The commissioner of parks and recreation by virtue of his/her office or his designee; (2) one alderman from ward five designated by the president of the board of aldermen for his/her knowledge of the Emerson Community Center and (3) a resident of Upper Falls who is knowledgeable of the operations of the Emerson Community Center and who shall be appointed by the mayor in accordance with section 3-3 of the Charter. The city collector/treasurer shall be custodian of the income of the trust. (Ord. No. S-304, 6-6-88; Ord. No. U-26, 9-7-94)

Sec. 18-166. Board of trustees—Meetings, annual budget, maintenance guidelines, duties.

The board of trustees of the Emerson Community Center shall have regularly scheduled meetings which shall be publicly noticed as required by law. The first meeting of the trustees shall take place within thirty (30) days after approval of the trust by the board of aldermen and the mayor. At the first meeting of the trustees and at each

succeeding first meeting of the fiscal year the trustees by majority vote shall present and vote on an annual budget including anticipated expenditures for both interior maintenance of the Center and program costs.

The commissioner of public buildings, in consultation with the trustees and the Upper Falls Advisory Committee, shall classify all expenditures as: (1) ordinary and regular maintenance, (2) capital or long term improvements, and (3) all other required repairs, which shall be deemed emergency repairs and shall develop written guidelines stating under what circumstances the expenditures for each such class shall be made. The commissioner of public buildings shall have complete authority to reasonably expend trust funds in cases which he deems to require emergency repairs without consultation with the board of trustees or the Upper Falls Advisory Committee.

The trustees shall communicate a copy of the annual budget in writing within seven (7) days of passage to the commissioner of public buildings who by ordinance section 5-2 is charged with the responsibility to maintain all public buildings, including the interior of the Center. The commissioner of public buildings shall thereafter exercise his responsibility to maintain the interior of the Center by expending the funds of the trust, including principal and interest, in compliance with the written maintenance guidelines developed for the Center and the annual budget as voted by the trustees. (Ord. No. S-304, 6-6-88)

Sec. 18-167. Duties of city collector-treasurer.

As custodian of the income of the Emerson Community Center Trust, the city collector-treasurer may deposit or invest the funds paid to the Newton parks and recreation department upon the sale of the former Emerson School and any funds afterwards received for a similar purpose in savings banks and trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest it in paid up shares of federal savings and loan associations or in savings and loan associations doing business in the commonwealth and any income therefrom shall be credited to the trust. The city collector-treasurer shall make all disbursements recommended in writing by a majority of the board of trustees. (Ord. No. S-304, 6-6-88)

ARTICLE XIII.
MAYOR THEODORE D. MANN/FIG NEWTONS® TRUST FUND

Section 18-168. Designation.

This trust is established to administer the gift to the city in trust by Nabisco Brands, Inc. in conformity with the terms of said gift as described in a letter dated August 5, 1991. This trust shall be known as the Mayor Theodore D. Mann/Fig Newtons® Trust. (Ord. No. T-172, 9-3-91)

Section 18-169. Board of trustees.

The trustees of the John C. Chaffin Educational Fund, as appointed pursuant to the provisions of section 18—2, shall serve as the trustees of the Mayor Theodore D. Mann/Fig Newtons® Trust. (Ord. No. T-172, 9-3-91)

Section 18-170. Purpose.

The income of the Mayor Theodore D. Mann/Fig Newtons® Trust shall be paid out by the city collector-treasurer as directed by the trustees for the benefit of graduates of the Newton high schools who are pursuing a college education or vocational/technical training at an accredited institution and need financial assistance to pursue their educational goals. The payments shall be awarded as grants. To the extent that the annual income allows, the trustees shall award three scholarships each year, one each to a graduate of Newton North High School and Newton South High School, and one to a graduate of either high school whose enrollment in the Newton schools was made possible by the Metropolitan Council for Educational Opportunity, Inc. (METCO) or any similar program which may hereafter be established to provide suburban education for urban minority children. (Ord. No. T-172, 9-3-91)

Section 18-171. Treasurer.

The city collector-treasurer, by virtue of his office, shall be the treasurer and custodian of the Mayor Theodore D. Mann/Fig Newtons® Trust. (Ord. No. T-172, 9-3-91)

Section 18-172. Investments.

The board of trustees shall have charge and management of the funds of the Mayor Theodore D. Mann/Fig Newtons® Trust. The trustees, guided by the faithful exercise of sound discretion and at all times obedient to all applicable law, shall determine the investments of such trust funds by written consent of a majority thereof. The trustees shall notify the city collector-treasurer, in writing, of their investment decisions, and the collector-treasurer shall make such investments as directed by the trustees. All securities and other investments shall be registered or held in the name of the "City of Newton, Mayor Theodore D. Mann/Fig Newtons® Trust." (Ord. No. T-172, 9-3-91)

Section 18-173. Scholarship awards.

The board of trustees, guided by the faithful exercise of sound discretion and at all times obedient to all applicable laws, shall choose scholarship recipients by consent of a majority thereof. Six weeks in advance of the date of issuance of any award, Nabisco Brands, Inc. or any successor of such company shall be advised, by notice to its public relations group, of any Mayor Theodore D. Mann/Fig Newtons® Trust awards and shall be offered the opportunity to present such awards jointly with the Mayor of Newton. (Ord. No. T-172, 9-3-91)

Sec. 18-174—18-179. Reserved.

ARTICLE XIV.
ANTHONY J. SALVUCCI ALDERMANIC SCHOLARSHIP FUND

Sec. 18-180. Purpose.

This fund, to be known as the Anthony J. Salvucci Aldermanic Scholarship Fund, is established for the purpose of annually awarding a college scholarship to two graduating seniors, one selected from Newton North High School and one selected from Newton South High School, who have demonstrated an interest in government through their participation in student affairs at their respective schools. (Ord. No. T-120, 01-22-91; Ord. No. A-40, 06-16-14)

Sec. 18-181. Board of trustees - composition, appointment and removal.

The Anthony J. Salvucci Aldermanic Scholarship Fund shall be administered by a board of three (3) trustees, serving without compensation, one of whom shall be the president of the board of aldermen by virtue of his office. The other two trustees shall be appointed by the board of aldermen, one of whom shall be selected from the aldermen serving Wards 1-4, and one of whom shall be selected serving Wards 5-8. Such appointments shall be for the term of the incumbent aldermen, subject to removal by the board of aldermen by reason of disability, removal from office or other sufficient cause. The trustees shall be required to administer the fund and solicit contributions to the fund from members of the board of aldermen as well as any other source. (Ord. No. T-120, 01-22-91; Ord. No. A-40, 06-16-14)

Sec. 18-182. Selection of recipients.

Recipients of scholarship awards shall be selected by the particular committee at each high school responsible for

making scholarship awards. Recipients shall have demonstrated an interest in government through their participation and involvement in student affairs during their high school years. Recipients shall be selected prior to the last meeting of the full board of aldermen in June of each year. The recipients shall only use the scholarship awards for the purpose of attending an accredited two or four year college. (Ord. No. T-120, 01-22-91)

Sec. 18-183. **Investment of fund; amount of scholarship awards.**

The board of trustees shall manage the Anthony J. Salvucci Aldermanic Scholarship Fund and invest the fund's principal in accordance with the provisions of G.L. c.44, § 54. Prior to the annual selection of recipients, the board of trustees shall determine the amount of the scholarships to be awarded, up to a maximum amount of $1,200.00 per scholarship. The board of trustees shall have the right to accrue or expend any interest earned by the fund and shall have the right to invade the principal of the fund to provide scholarship awards in any given year. (Ord. No. T-120, 01-22-91; Ord. No. A-40, 06-16-14)

Sec. 18-184. Duties of the city collector-treasurer.

The city collector-treasurer shall be the treasurer of the Anthony J. Salvucci Aldermanic Scholarship Fund. All investments and disbursements recommended in writing by the majority of the fund's board of trustees shall be made by the city collector-treasurer who shall, by virtue of his office, have custody of all money, securities or other investments constituting this fund and its accumulations. The function of the city collector-treasurer shall be solely ministerial and he shall have no authority to contradict the acts of the fund's board of trustees.

The city collector-treasurer shall disburse the scholarship funds in a single payment directly to the college being attended by the recipient of the scholarship award. Disbursement shall not be made until the college attended by the recipient of the scholarship award submits verification to the city collector-treasurer that the recipient has commenced his or her second semester of study. (Ord. No. T-120, 01-22-91; Ord. No. A-40, 06-16-14)

Secs. 18-185—18-189. Reserved.

ARTICLE XV.
LAWRENCE W. GORIN (CLASS OF 1955) SCHOLARSHIP FUND

Sec. 18-190. Designation.

The gift given to the city in trust by Lawrence W. Gorin, together with any funds subsequently donated to the city or this trust for the same purpose, shall be known as the Lawrence W. Gorin (Class of 1955) Scholarship Fund. (Ord. No. V-74, 4-1-96)

Sec. 18-191. Board of trustees.

The trustees of the John C. Chaffin Educational Fund, as appointed pursuant to the provisions of section 18-2, shall serve as the trustees of the Lawrence W. Gorin (Class of 1955) Scholarship Fund. (Ord. No. V-74, 4-1-96)

Sec. 18-192. Purpose.

The purpose of this trust is to annually provide a scholarship to a graduate of the city's public high schools who has shown a thirst for knowledge and is pursuing a college education at an accredited institution of higher learning which can award, at a minimum, a bachelor degree. The trustees shall award one or more scholarships from all or a part of the annual income of the trust as they, in their sole discretion, deem appropriate. The full amount of each scholarship award shall be paid out in annual equal installments to the institution of higher learning attended by the scholarship recipient, for so long as the recipient remains a student in good standing.

In addition to the annual scholarship award, the trustees may make low-interest loans from either the Fund's principal or income to graduates of the city's public high schools for the purpose of attending an accredited institution of higher learning which can award, at a minimum, a bachelor degree. The amount of a loan issued annually to any student shall be determined by the trustees and shall be paid over directly to the institution of higher learning attended by the student.

The trustees shall be guided by the donor's intent, as more fully set forth in a gift instrument dated March 22,1996, with regard to the criteria for selection of recipients of the scholarship and loan awards, and the amounts of such awards.(Ord. No. V-74, 4-1-96)

Sec. 18-193. Treasurer.

The city collector-treasurer, by virtue of such office, shall be the treasurer and custodian of funds of the Lawrence W. Gorin (Class of 1955) Scholarship Fund. (Ord. No. V-74, 4-1-96)

Sec. 18-194. Management and investments.

The board of trustees shall have charge and management of the funds of the Lawrence W. Gorin (Class of 1955) Scholarship Fund. The trustees shall administer, manage and invest the Fund in accordance with the provisions of the Uniform Management of Institutional Funds Act, except to the extent otherwise directed by the donor's gift instrument. The trustees shall notify the collector-treasurer, in writing, of their investment decisions, and the collector-treasurer shall make such investment(s) as directed by the trustees. The trustees may delegate investment of the Fund, subject to the approval of the collector-treasurer as to the Fund Manager selected. Except with regard to the selection of the Fund Manager, the function of the collector-treasurer shall be solely ministerial and he shall have no authority to contradict the acts of the board of trustees.

The trustees shall accumulate the Fund's income until the amount of the Fund's principal is deemed by the trustees, in their sole discretion, sufficient to provide an annual scholarship award, provided that prior to such time, the trustees may make low-interest loans from the Fund's principal. Once the trustees deem the amount of the Fund's principal to be sufficient to provide an annual scholarship, they may annually expend the Fund's income, in whole or in part, for scholarships or loans. The trustees may accumulate unexpended income, holding the same in an income reserve or accumulating the unexpended income to principal. The trustees shall periodically decide, in their sole discretion, what amount of the Fund's principal shall be considered unexpendable endowment funds, such amount to be based upon the then prevailing economic conditions and cost to attend an accredited institution of higher learning. The trustees may expend principal which is not determined by them to be part of the Fund's unexpendable endowment.

The trustees may use the Fund's income or such percentage of the Fund's principal as the trustees in their sole discretion deem reasonable for low-interest loans. In considering the amount of low-interest loans to award, the trustees shall be guided by the need of the fund to generate income sufficient to award scholarships. Such loans shall be interest-free while the student is attending college, with interest then to be charged for such loan at one (1%) over the prime rate, such interest rate to be adjusted annually for the life of the loan. (Ord. No. V-74, 4-1-96)

Sec. 18-195. Reserved.

ARTICLE XVI.
MABEL LOUISE RILEY TRUST FUND

Sec. 18-196. Designation of fund.

The gift bequeathed to the city in trust by the will of the late Mabel Louise Riley shall be known as the Mabel Louise Riley Trust Fund. (Ord. No. X-42, 2-18-03)

Sec. 18-197. Purpose.

This income of the fund shall be paid out by the city collector-treasurer as directed by the trustees in expenditures for special treats on holidays for residents of nursing homes, homes for the elderly, and hospitals located in the city and for the sick in the city. (Ord. No. X-42, 2-18-03)

Sec. 18-198. Board of trustees--composition; treasurer.

The board of trustees of the Mabel Louise Riley Trust Fund shall consist of three (3) persons who shall serve without compensation. One trustee shall be the director of senior services, or his/her designee. One trustee shall be the commissioner of the health department or his/her designee. One trustee shall be a resident of the city, knowledgeable about elder-care services in the city, appointed by the mayor subject to confirmation by the board of aldermen, for a term of three (3) years. The city collector-treasurer shall be treasurer of the board of trustees. (Ord. No. X-42, 2-18-03)

Sec. 18-199. Same--Duties.

The board of trustees of the Mabel Louise Riley Trust Fund shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of municipal trust funds.

The board of trustees shall use the income of the fund as provided in Sec. 18-197 and as may be further defined by the Attorney General of the Commonwealth of Massachusetts. (Ord. No. X-42, 2-28-03)

Sec. 18-200. Duties of the city collector-treasurer.

All investments, changes in investment and expenditures for the fund approved in writing by a majority of the trustees shall be made by the city collector-treasurer who shall, by virtue of his office, receive and take charge of all monies, securities or other investments constituting this fund. (Ord. No. X-42, 2-18-03)

Secs. 18-201—18-229 Reserved.

ARTICLE XVII.
CITY OF NEWTON OTHER POST-EMPLOYMENT BENEFITS TRUST

Sec. 18-230. Designation and purpose.

This trust is established to administer the fund known as the City of Newton Other Post-Employment Benefit Trust Fund in conformity with the provisions of G.L. c. 32B, section 20 and with the terms of The City of Newton Other Post-Employment Benefits Trust Agreement (OPEB Trust), a copy of which shall be kept on file with the city clerk. In accordance with its terms, the OPEB Trust shall be irrevocable, and its sole purpose is to provide funding for the City's other post-employment benefits for the exclusive benefit of the City's retired employees and their eligible dependents and for defraying the reasonable expenses of the Trust. (Ord. No. A-20, 05-06-13)

Sec. 18-231. Board of Trustees

There shall be a board of trustees, with the powers and duties set forth in the OPEB Trust, consisting of five members as follows: (1) the Mayor or his designee, the City Comptroller, and the City Chief Financial Officer shall serve as *ex officio* members; (2) the Board of Alderman shall appoint one member of that Board to serve for

a term of two (2) years; and (3) the Mayor, with the consent of the Board of Aldermen, shall appoint one (1) individual, who shall be a registered voter of the City, for a term of three (3) years. Upon the resignation or removal of the Mayor, the City Comptroller, or the City Chief Financial Officer, the corresponding position of Trustee shall be deemed vacant until such time as the underlying City position is filled on either a permanent or temporary basis. Upon resignation or removal of the Trustee appointed by the Board of Aldermen, that board shall appoint an alderman as Trustee to fill the vacancy for the remainder of the term. Upon resignation or removal of the Trustee appointed by the Mayor, the Mayor shall appoint a Trustee to fill the vacancy for the remainder of the term. The City Collector-Treasurer shall serve as a non-voting member of the Board of Trustees. Any member of the Board of Trustees may be removed by the Mayor with the consent of the Board of Aldermen for cause. (Ord. No. A-20, 05-06-13)

Sec. 18-232. Custodian

The City Collector-Treasurer, by virtue of his office, shall be the custodian of the OPEB trust fund, and shall invest and reinvest the funds consistent with the prudent investor rule established in G.L. c. 203C. As provided in G.L. c. 32A, Section 24(d) the Collector-Treasurer is hereby authorized to invest all or a portion of the fund, as directed by the Trustees, in the State Retiree Benefits Trust Fund established in G.L. c. 32A, Section 24. (Ord. No. A-20, 05-06-13)

Secs. 18-233—18-235 Reserved.

ARTICLE XVIII.
INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER*

Sec. 18-236. Fund management.

Notwithstanding the provisions of this Chapter 18 relating to how trust funds shall be invested to the contrary, the collector-treasurer, in consultation with each trust fund board of trustees, shall develop investment policies which shall include an asset allocation policy for each trust fund and shall select professional investment advisors to manage the trust funds**.** (Ord. No. Z-111, 06-18-12; Ord. No. A-20, 05-06-13)

Sec. 18-237. Permitted investments.

Notwithstanding the provisions of this Chapter 18 to the contrary, the collector-treasurer, after consultation with the trustees of a fund hereunder, may invest funds in his custody as a prudent investor would, considering the purposes, terms and other circumstances of the trust, exercising reasonable skill, care and caution, and acting in accordance with the provisions of sections 3, 4, 5, 8 and 9 of chapter 203C of the general laws which pertain to the prudent investment of trust funds. (Ord. No. Z-111, 06-18-12; Ord. No. A-20, 05-06-13)

Sec. 18-238. Exemption from G.L. c. 44, § 54

Notwithstanding the provisions of this Chapter 18 to the contrary, section 54 of chapter 44 of the general laws shall not apply to the City of Newton and to the investment of trust funds in the custody of the collector-treasurer. (Ord. No. Z-111, 06-18-12; Ord. No. A-20, 05-06-13)

State law references – G.L. c. 203C, §§ 3, 4, 5, 8, and 9; G.L. c. 44, § 54; and chapter 75 of the Acts of 2007.

Editor's note: This article should be read in concert with the investment provisions of the preceding articles in this chapter.