CITY OF NEWTON
CITY COUNCIL
RULES AND ORDERS
2016-2017

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2016-2017

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ARTICLE I

COMMITTEES

Section l. Establishment of Committees.

A. The standing committees of the City Council are as follows:

l. Land Use
2. Zoning & Planning
3. Programs and Services
4. Public Safety & Transportation
5. Public Facilities
6. Finance

B. The President may appoint special committees as required by ordinance or Massachusetts general law such as the real property reuse, re-precincting, and re-codification committees, as well as special committees deemed necessary to deal with matters that affect the jurisdiction of more than one committee, or to deal with temporary matters, or both.

Section 2. Composition of Committees.

A. The President shall appoint as soon after the organization of the Council as may be convenient, except as otherwise provided by ordinance, one member from each Ward to serve on each of the six committees.

B. The President shall designate from among the members of each committee the Chair, who shall serve at the President's pleasure. When committee members of any committee are chosen other than by the President, the Chair shall be selected by the members of the committee, unless the Council otherwise determines.

C. The Chair of each committee shall appoint a Vice-Chair, subject to the approval of the President.

Section 3. Referral of business to Committees.

A. Unless objection is made and except as otherwise provided herein the President shall refer all new business, communications, petitions and orders to the several committees as follows:

(l) **To the Committee on Land Use.**

(a) Matters relating to Special Permit and Site Plan Approval petitions; utility petitions relating to Special Permit and Site Plan Approval projects; zone change petitions for a specific parcel(s) requested in connection with a Special Permit and Site Plan Approval petition; sign permits; lodging house and dormitory licenses; licensing of automobile dealers; permits for storage of towed vehicles; monitoring and

enforcement of Council Orders; and consistency rulings relating to any of the foregoing.

(2) **To the Committee on Programs and Services.**

(a) Budget review and transfers, policy oversight and review, ordinance amendments, capital improvement programming, and other matters relating to the Human Services Department, Library Department, Recreation Department, Law Department (except for claims), Veterans' Services Department, Licensing Commission, City Clerk, Clerk of the Council, Rules of the Council, Election Commission, Health Department, City Physician, Newton Public Schools, Community Schools, Newton Housing Authority.

(b) Appointments to and policy oversight and review of the Library Council of Trustees, Jackson Homestead, Recreation Commission, Election Commission, Youth Commission, Housing Authority, Council on Aging, Cultural Affairs Commission, Human Rights Commission and Child Care Commission, and appointments to the Cousens Fund and to the Farm Commission.

(c) Matters relating to the inter-relationship of the School Committee, Newton Public Schools, and other areas of City government; inter-governmental relations; cable television contract; maintenance of public grounds; Home Rule petitions; Neighborhood Area Councils; ward and precinct boundaries; housing and housing services; elder services; children's services; and services for persons with special needs.

(3) **To the Committee on Public Safety and Transportation.**

(a) Budget review and transfers, policy oversight and review, ordinance amendments, capital improvement programming, and other matters relating to the Fire Department, Police Department, and Civil Defense Department.

(b) Matters relating to traffic and parking, Traffic Council; taxi routes, stops and licensing; bus routes, stops and licensing; public transportation; and utility petitions relating to specific traffic signals.

(4) **To the Committee on Public Facilities.**

(a) Budget review and transfers, policy oversight and review, ordinance amendments, capital improvement programming, and other matters related to the Department of Public Works, including the Water and Sewer Division, Engineering Division; and Public Buildings Department.

(b) Appointments to and policy oversight and review of the Solid Waste Commission, Designer Selection Committee, Design Review Committee, and Energy Commission.

(c) Matters relating to street acceptance, layout, construction, repair, and maintenance; relocation and discontinuance of public ways; water and sewer services; storm drains; street lighting; public utility easements and poles, except for those related to specific land use developments or traffic improvements; and construction, repair, and maintenance of public buildings.

(5) **To the Committee on Zoning and Planning.**

(a) Budget review and transfers, policy oversight and review, ordinance amendments, capital improvement programming, and other matters relating to the Inspectional Services Department, Planning Department, Conservation Commission, Community Preservation Committee, and Historical Commission.

(b) Appointments to and policy oversight and review of the Planning Council, Economic Development Commission, Zoning Council of Appeals, Historical Commission, Historic District Commissions, Conservation Commission, and Fence Viewers.

(c) Matters relating to the Community Development Block Grant Program, zoning map and ordinance amendments (except those related to specific individual parcels to Land Use Committee), Newton Community Development Authority, comprehensive planning, open space planning and maintenance of conservation land.

(6) **To the Committee on Finance.**

(a) Budget review and transfers, policy oversight and review, ordinance amendments, capital improvement programming, and other matters relating to the Assessing Department, Parking Fine Administration, City Treasurer and Collector, City Comptroller and Accounting Department, Purchasing Department, Executive Office, Personnel Department, and Data Processing Department.

(b) Matters relating to Kenrick Fund and other trust funds, appropriations, transfers of funds, authorization to spend funds, loans, options, pensions, salaries, audits, claims and settlements, taxes, revaluation, users' fees, betterment assessments, contracts, acceptance of grants, overall operating budget review, overall review of Capital Improvement Program, and other matters affecting the finances of the City.

(c) Every Resolution and Order authorizing and including but not limited to a claim, appropriation, grant, salary, pension, loan, the levying of a tax, user charges, the assessment of a betterment, an option or contract, or the expenditure of money, unless the subject matter has been acted on by the Committee on Finance, shall be referred to the Committee on Finance whose duty it shall be to report on its relation to the finances of the City; but new provisions shall not be added to such Resolutions or Orders by said Committee, unless directly connected with the financial feature thereof. Said Resolution or Order, upon recommendation of another Committee

having jurisdiction of the same, may be considered by the Committee on Finance in advance of the presentation thereof to the City Council.

(d) All budget transfers or appropriations of less than fifty thousand dollars ($50,000) and all requests for changes to a funding source for previously discussed items shall be routinely referred only to the Finance Committee, except that if upon notification by the clerk's office the Chairperson of a corresponding substantive committee requests that the item be jointly referred, such requests shall be honored.

B. All appointments requiring confirmation or rejection by this Council shall be referred to the committee to which such matters relate. All such appointments shall be confirmed or denied by the City Council within sixty (60) days following the publication of the Docket on which said appointment first appears.

C. Any other new business that does not fall within the jurisdiction of the six established standing committees as described above shall be referred by the President to such committees as he/she deems appropriate, including the Committee of the Whole; however, upon objection by a member of the council, such referral shall be subject to appeal to the Council who can vote to reassign such new business to an alternate committee or committees. In the event that the President wishes to refer new business that is within the jurisdiction of the six standing committees to a special committee or to the Committee of the Whole, the item shall be placed on second call by the Clerk of the Council and the decision on the referral shall be subject to a majority vote of the Council.

D. No petition addressed to the Council, the subject matter of which has been disposed of during the preceding 12-month period, shall be referred to any committee except by majority vote of the Council. Refusal to refer it to a committee shall constitute a denial of the petition on the ground that no further action by the Council is deemed necessary.

E. The President shall refer appeals from a Traffic Council decision to the Public Safety and Transportation Committee. At the discretion of the President, any such appeal may also be jointly referred to an additional committee or committees in the event such committee has, or committees have, substantive jurisdiction over the subject matter of the appeal.

F. The Chair of each committee may appoint sub-committees of the committee's members to consider specific matters and make recommendations to the committee.

G. Matters relating to the status of items previously passed by the City Council, excluding land use council orders, should first be discussed with the Chair of the substantive committee that originally heard the item to review the status of the item. If further discussion is warranted, the Chair of the substantive committee, in consultation with the President of the Council, will docket the request. The docket item will be heard in the committee within 60 days. Once the item has been taken up, the committee must complete their review within 90 days.

H. Items docketed by the Committee on Community Preservation for approval by the City Council will be referred to the appropriate standing committee/s.

Section 4. Committee meeting schedule.

A. Regular meetings.

(l) **Finance & Zoning and Planning:** on the second and fourth Mondays of each month.

(2) **Programs & Services, Public Facilities, Public Safety & Transportation:** on the Wednesdays following the first and third Monday of each month; Public Facilities to hold utility hearings on the Wednesday following the third Monday of each month.

(3) **Land Use**: on the Tuesdays following the first, second, and third Mondays of each month. Public Hearings shall be held on the Tuesday following the second Monday of each month unless the Chair recommends, with the advice of the Director of Planning and Development, that a public hearing(s) be held on the Tuesday following the first or third Monday of the month to afford applicants a prompt hearing, or when additional time is needed by applicants to file or staff to review a completed land use petition. The times and places for public hearings shall be confirmed in accordance with the provisions of Art. I, Section 7(A) of these Rules.

When regular meetings fall on a legal holiday, such meetings shall be rescheduled by the call of the Chair. The committee, by a majority vote of its members, may reschedule a committee meeting to a date other than that specifically reflected in these Rules and Orders.

B. **Summer Schedule.**

Committee meetings during July and August will be scheduled by the Chair and committee members.

C. **Special meetings.**

(l) The President may require joint meetings as are deemed fit.

(2) All Committees shall meet upon the call of the Chair, or the call of any two members, by notice in writing delivered to the members' respective addresses, giving the time, day, date, place, and agenda; said notice to be posted at least 48 hours prior to the meeting.

(3) No Special Committee meeting shall be called which conflicts with a regularly scheduled committee meeting without having obtained prior permission of the President.

(4) No committee shall sit later than 7:45 P.M. on any day on which the City Council meets unless previously authorized by said Council or the President.

(5) No committee shall sit during a session of the Council without special leave. A request for such leave may be granted by the presiding Officer or, at the discretion of the

Presiding Officer, the question may be put to the membership of the Council. The Chair of the Committee shall, within a time limit not to exceed two minutes, explain the reason behind the request, and the matter shall be voted upon without debate.

Section 5. Committee procedure.

A. Four members of each committee shall constitute a quorum. In the case of at least three members present, they shall proceed with the committee's business, unless there is any objection, and shall make a recommendation to the Council. Such recommendation shall be subject to the requirement of suspension of the rules if any member so requests.

B. In the absence of the Chair and Vice-Chair, a member appointed by the Chair or Vice-chairperson shall be Acting Chair. If no such appointment has been made, the senior member of the Council who sits as a committee member shall be Acting Chair.

C. The agenda for any committee meeting shall be limited to items appearing on the docket at the Council meeting previous to the Committee meeting, and such items as are filed and published in said agenda.

(l) Accompanying the agenda for any committee, there shall be included copies of all petitions, communications and reports from City Officers and others, and all supporting materials for all docket items, including the form of the proposed order, ordinance or resolution. The agenda and supporting materials for each committee shall be sent to each Councilor via mail or messenger on the Friday before said Committee meeting. Any supplement to the committee agenda shall be delivered to each committee member at least 48 hours before the committee meets, and shall be complete with all initiating and supporting papers and proposed Council Orders, ordinances and resolutions. No item not listed on the docket or agenda, or for which supporting documentation has not been supplied at least 48 hours prior to the Committee meeting, shall be taken up in committee without a majority of those committee members present voting to suspend the rules.

D. Any member offering a motion, order, ordinance, or resolution that is referred to a committee shall be given a hearing on same by the committee if so required. If such order, ordinance or resolution is presented by a member of the public, a hearing shall be granted if so requested in writing.

E. Councilors who are not members of the committee are entitled to participate fully in the discussion of the committee.

F. Whenever it is known or anticipated that an executive session may be called by a committee of the Council, the Chair shall request the Clerk to notify each member of the Council at least 48 hours prior to said anticipated executive session by a separate written notice.

G. A committee is encouraged to follow the following procedure for hearing appeals of Traffic Council decisions:

(1) Notification of abutters/interested parties by the Clerk should include, at a minimum, the notification list utilized for the original Traffic Council hearing. The Committee Chair may request the Clerk provide additional notification at his/her discretion;

(2) The Traffic Council report(s) and any correspondence received since the appeal was filed should be attached to the Committee's agenda;

(3) A Traffic Council member who voted in favor on the original petition should begin the hearing with a presentation summarizing the original petition and the corresponding Traffic Council decision that was appealed;

(4) The Committee Chair should provide an opportunity for comment by the appellant. The Chair, at his or her discretion, may provide opportunity for additional public comment and shall limit or close the meeting to public comments at any time at his/her discretion;

(5) The committee shall discuss the appeal among Councilors and City staff only;

(6) The committee will then take a vote and if acted upon, the item is referred to the full Council;

(7) The full City Council votes, and may uphold the Traffic Council decision, or according to Ordinance §19-33(d) "…may order the traffic council to adopt, amend, or repeal regulations concerning the geographic area that was the subject of the petition initially filed with the traffic council, or may remand the matter to the traffic council for further review. (Ord. No. Z-12, 12-03-07); and

(8) If the appeal item is held in committee, notification and public comment at subsequent meetings shall be undertaken at the Committee's Chair's discretion."

Section 6. Committee reports.

A. It shall be the duty of any committee to whom a subject may be specifically referred to take an item up and report thereon with one year from the time said subject is referred to it or to ask for further time. No committee and hence Council action (Approved, Denied, No Action Necessary) may be taken without a discussion with the primary docketer.

B. Records of the proceedings of committees shall be kept in books provided by the City for that purpose, and all votes in the several committees shall be taken by yeas and nays, and record thereof shall be kept by the Chair of each committee, and available to the Clerk of the Council.

C. No report shall be received from any committee unless the subject matter thereof shall have been considered in committee actually assembled, and unless the report shall state the vote by which the same was adopted. In case the number of members voting is different from those recorded as attending the meeting, or in case the vote is not unanimous for all members present, the report shall state the members voting in the affirmative, the members voting in the negative, and the members electing to abstain from voting.

D. The Chair shall have the responsibility for the preparation of committee reports. All committee reports shall be submitted in writing and such reports shall contain an explanation of the item, copies of all relevant material, reports of city officials available to the committee, and the final form of the order, ordinance or resolution that is recommended by the committee. Committee reports shall be assembled in an orderly manner.

E. With regard to all petitions for special permits or site plan approvals, the report of the Land Use Committee should include the reasons supporting the recommendation of the committee and, if applicable, any reasons which support a position contrary to the committee's recommendation. The Land Use Committee shall prepare and include with its report a draft decision for each such land use petition which reflects the recommendation of the committee on such petition.

Section 7. Public Hearings.

A. Except as otherwise required by law, public hearings may be held before the proper committee at its regular meetings as designated in Article l, Section 4, of these Rules, or at such other time and place as the Chair of the respective committee shall determine, with all determinations of times and places for public hearings to be confirmed prior to such hearings by vote of a majority of those present at a regular meeting of the City Council.

B. Public hearings of the Land Use Committee, unless the committee votes otherwise, and public hearings of other committees, at the request of the Chair or by majority vote, shall be electronically recorded.

Section 8. Appointments by His Honor the Mayor requiring City Council Confirmation.

A. Appointments by His Honor the Mayor: All appointees nominated by His Honor the Mayor requiring City Council confirmation shall be interviewed at hearings scheduled by an appropriate committee or committees of the Council prior to final confirmation by the Honorable Council.

B. Reappointments by His Honor the Mayor

(1) All re-appointments nominated by His Honor the Mayor requiring City Council confirmation, designated to serve a term of office of three (3) years duration or longer, shall be interviewed at hearings scheduled by an appropriate committee or committees of the Council prior to final confirmation.

(2) Notwithstanding the usual interview requirement described in the prior paragraph, the appropriate committee(s), at its election, may recommend for confirmation a reappointment without such an interview, in the following circumstances:

a) written information relating to the re-appointee's background and qualifications has been available to the committee, and in turn is provided to the full Council; and

b) a member(s) of the committee has recommended that the formal interview be waived based on a prior interview before such committee, or because of such written information, or because of knowledge of the re-appointee or his/her service.

Section 9. Appointments by the City Council

A. Appointments by the City Council shall be made by the President of the City Council. The President may, at his or her discretion, seek input from other Council members. All appointees nominated by the President shall be interviewed at hearings scheduled by an appropriate committee or committees of the Council prior to final confirmation.

B. All re-appointments nominated by the President shall be interviewed at hearings scheduled by an appropriate committee or committees of the Council prior to final confirmation.

Section 10. The Capital Improvement Program (CIP).

A. The Capital Improvement Program, when received from the Executive, shall be referred to committees of the Council as specified in Article l Section 3.

B. Any capital item for which an appropriation is requested must appear in the current operative CIP.

Section 11. Standards for conduct of committees.

A. The President may at the start of each term convene the Chairs of the committees of the Council for the purpose of establishing certain standards for the management of committee business. Such standards at no time may be in conflict with standards expressed or implied in these Rules and Orders. The standards thus adopted may include, but need not be limited to, report formats, communication with the public, conduct of meetings, and the preparation of specific information to aid Councilors in the discharge of their duties.

ARTICLE II

COUNCIL MEETINGS AND PROCEDURES

Section l. Regular meetings.

A. Regular meetings of the Council shall be held in the months of January through June (inclusive) and in the months of September through December (inclusive) on the first and third Mondays of each month, at 7:45 p.m., unless otherwise ordered, and in the months of July and August on the second Monday of each month pursuant to §4-1 of the Ordinances.

B. Where any such Monday shall be a legal holiday, the meeting shall be held on the next following day that is not a legal holiday.

C. Every adjourned sitting of the City Council, but not an adjourned special meeting, shall constitute a regular meeting, and the order of business thereat shall be the same as in the case of a regular meeting.

D. At the commencement of every regular meeting of the Council, the Presiding Officer shall offer the members present the opportunity to join in the recitation of the Pledge of Allegiance to the Flag of the United States of America.

Section 2. Order of Business.

At every meeting of the Council, unless otherwise determined by a majority of the members present, the order of business shall be as follows:

A. **Communications and reports from City Officers.**

(l) All communications, reports and other documents addressed to the Council shall be presented by the Presiding Officer, or such other person as the Presiding Officer may request, and shall be taken up in the order in which they are presented, except when the Council shall otherwise determine.

B. **First call of committee reports, given in the following order:**

l. Land Use
2. Zoning and Planning
3. Programs and Services
4. Public Safety and Transportation
5. Public Facilities
6. Finance
7. Special Committees

The Chair of each committee on first call shall move the acceptance of that committee report as published, excepting any items already identified for second call.

(2) **Second Call of Committee reports.** Any member wishing to question any items appearing in the Reports Docket as received on the Friday prior to a meeting of the City Council shall notify the Clerk of the Council or the President at least fifteen minutes prior to the meeting, stating the item in question and the reasons for the request for second call. The President of the Council, in consultation with the Clerk, shall create a second call agenda, using his own discretion in determining the order in which items will be considered. The second call agenda will be posted on a screen by the Clerk.

Following the report of first call items by each Committee Chair, any Councilor who wishes to question any item in the committee report shall rise and voice a request for a second call of such item or report, and such item shall be removed from consideration until after all of the unquestioned items in all of the committee reports have been

presented and voted upon. The President shall add all additional second call items to the agenda in the order identified.

Unless the item has already been placed on second call, any member wishing to vote against the recommendation of the Land Use Committee on a petition for a special permit, site plan approval or related zone change shall request a second call on such item. During debate on such item, a member wishing to vote against the committee recommendation should state the reasons for such vote, which reasons may include, but are not limited to the reasons contained in the Land Use Committee report or offered by other members of the Council. Notwithstanding Article II, Section 3.C., a Presiding Officer who wishes to vote against the committee recommendation may briefly state reasons for such vote without leaving the Chair.

(3) Upon approval of the first call vote, all new docket items appearing on the docket bearing the date of the Council's first call vote shall be considered accepted for Council consideration with corresponding committee assignments as noted on the docket. However, the acceptance of any new docket item is subject to being placed on 2nd call for Council discussion at the same meeting at which the item first appears on the docket. At 2nd call, the Council may accept or reject the item for docketing, or postpone to a date certain the decision on whether to accept or reject it as a docket item.

C. **Recess.**

(1) Following first call, the Council shall recess for a period to be specified by the Presiding officer. During such recess, all Councilors requesting a second call of any particular docket item shall present themselves to the Presiding Officer so that he/she may determine the objection, intended motions or amendment, and desire to present arguments for or against any items previously held from Committee reports, and may attempt to resolve matters of inquiry. All items held from first call shall be presented at second call.

(2) Any Chair of a committee of the Council wishing to convene said committee on a matter of urgency during a recess meeting may so request following the vote of the Council on first call reports, pursuant to Article I, Section 4.C.(5) of these Rules and Orders.

D. **Chartered, tabled, or reconsidered items.**

E. Second call of committee reports, given in the order first, as determined by the President in the posted second call agenda and following, as identified during the reporting of first call items. A 2/3 vote of the members present under suspension of the rules shall move any item to the top of the second call agenda.

F. Such other business as may come before the Council.

Section 3. Presiding Officer.

A. The President shall take the Chair at the hour of meeting, call the members to order and, if a quorum is present, business shall proceed. In the absence of the President, the Vice-President shall preside, and if both the President and Vice-President are absent, the President Emeritus shall call the Council to order and preside for the choice of President Pro Tempore.

B. The Presiding Officer shall preserve decorum and order and may speak to points of order in preference to other members. He/she shall decide all questions of order, subject to an appeal to the Council, duly seconded, and no other business shall be in order until the question on appeal has been decided.

C. The Presiding Officer may express an opinion on any subject under debate, but in such case that officer shall leave the Chair and appoint some other member to take it, but the Presiding Officer may state facts and give an opinion upon questions of order without leaving the Chair.

D. The President may call the Vice-President or any other member to the Chair, provided such substitution shall not continue longer than one meeting.

E. The Presiding Officer shall propound all questions in the order in which they are moved, unless the subsequent motion shall be a preferred motion.

F. The first member to rise shall be recognized by the Presiding Officer. When two or more members rise at the same time, the Presiding officer shall name the member who is first to speak.

Section 4. Motions.

A. Every motion shall be reduced to writing if the Presiding Officer shall direct, or if any member of the Council requests it. No order that is not substantially similar to the wording in the docket and no resolution shall be considered by the City Council or any committee unless a copy thereof has been delivered to the address of each member of the City Council or such committee member at least 48 hours prior to the meeting at which it is to be voted by the Council or any committee thereof; provided, however, that before a final vote is taken on any Council order, such order must be reduced to writing and, before the vote, either distributed to the Council members present or read aloud by the Clerk of the Council or such other person as the President may direct.

B. After a motion is stated or read by the Presiding officer, it shall be deemed to be in possession of the Council, and shall be disposed of by vote; but the mover may withdraw it, in the absence of any objection by the seconder, at any time before a decision or amendment. If there is objection, approval of withdrawal shall be by a majority of the members present.

C. The Presiding Officer shall consider a motion to adjourn as always in order, except upon an immediate repetition.

D. When a question is under debate, the Presiding officer shall receive no motion other than the following procedural motions:

l. to adjourn
2. to lay on the table
3. for the previous question
4. to postpone to a day certain
5. to commit
6. to amend, or
7. to postpone indefinitely

Such several motions shall have precedence in the foregoing order. Motions l., 2., and 3. shall be decided without debate. An item laid on the table shall be taken from the table by the conclusion of the next regularly scheduled meeting.

E. The previous question shall be put by the statement, "Shall the last motion made be put?", and all debate upon the last motion made shall be suspended until such motion shall be decided. A motion for the previous question shall be deemed to be defeated unless at least two-thirds of the members present vote in favor of such motion. After the adoption of putting the previous question, the sense of the Council shall forthwith be taken upon the last motion made, and only one amendment to an amendment shall be in order at any one time. A motion for the previous question shall relate only to the last motion made.

(l) All incidental questions of order arising after a motion has been made for the previous question shall be decided without debate.

F. No procedural motion, including a motion for reconsideration, shall be in order where such motion shall render a special permit and/or site plan approval sought pursuant to Chapter 30, Sections 23 and 24 of the Revised Ordinances constructively approved by operation of law prior to the next regularly scheduled meeting due to the expiration of a statutorily imposed time limitation.

Section 5. Debate.

A. Debate shall be limited as follows:

l. On procedural items where debate is permitted, each Councilor shall speak not more than three (3) minutes, nor more than one time.

2. On all other matters, each Councilor may speak no more than three times, nor more than five (5) minutes total.

Section 6. Division of questions.

Any member may call for a division of a question when the sense will admit it, and the presiding officer shall decide this question without appeal.

Section 7. Excused from voting.

A. Every member present within the rail of the Chamber of the Council shall vote "yea" or "nay" unless that member believes he or she has a conflict of interest pursuant to MGL Ch. 268A.

B. Any member unable to vote due to a conflict of interest pursuant to MGL Ch. 268A must state the specific reason therefore when the docket item is moved to the floor or as soon as the conflict of interest becomes apparent, whichever first occurs.

Section 8. Votes and Roll Calls.

A. On all questions and motions where required by the Rules or by law or where requested by any member, the Presiding Officer shall take the vote by roll call, and otherwise may exercise discretion by taking a voice vote, by standing, or roll call. In all cases the President shall vote, but on roll call votes, that officer's name shall be called last.

B. Except as otherwise provided by law, all salaried officers shall be chosen or confirmed, as the case may be, by roll call vote.

C. All appropriations, ordinances, zoning, and other matters so required by law shall have a roll call vote. All other questions shall be put in substantially this form: "Those who are in favor of the question vote 'Aye', those opposed vote 'No'; those in favor, those opposed." Upon the request of any one member, the Presiding Officer shall call for those in favor to stand, and then for those opposed to stand. Upon the request of any one member, the Presiding Officer shall call for a roll call vote.

D. The Presiding Officer shall declare all votes, but if any member doubts a vote, there shall be no debate, and the Clerk shall call the roll (or if the vote was taken by roll call, the roll shall be called again). Every member present shall be required to vote, unless excused by vote of a majority of the members present. The number of votes required for a determination, except where the Rules or law otherwise provide, shall be a majority of the members present at the time of the vote. No members shall leave the meeting after voting and before the vote is announced by the Presiding Officer.

E. If there is no objection, the Presiding Officer shall record that the vote was unanimous. If a small number object, the Presiding Officer shall record that the vote was affirmative and shall name the objecting Councilors.

Section 9. Appealing Rulings.

Any member may appeal the ruling of the Presiding Officer without debate. If such appeal is duly seconded, the appellant may speak once, solely on the question involved, and the Presiding Officer may explain the ruling given, but no other member shall participate in the discussion.

Section 10. Charter Objection.

A Charter Objection shall not be withdrawn after the maker relinquishes the floor. Debate on the chartered item shall cease upon the making of a Charter Objection.

Section 11. Committee of the Whole.

A. Any member of the Council may call for a Committee of the Whole, but shall state the subject matter of said Committee of the Whole.

B. If the majority of those members present and voting approve a Committee of the Whole meeting, the Council shall meet as a Committee of the Whole, meeting in such place as may be designated by the Presiding Officer. The Committee of the Whole shall be conducted in an informal manner and shall be presided over by the Presiding Officer, or such member of the Council as may be designated by the Presiding Officer. The subject matter stated by the call for the Committee of the Whole shall be discussed within said committee meeting; and if a majority of those members of the Council present in the Committee of the Whole approve, additional subject matters may be discussed within said Committee meeting.

C. The Committee of the Whole consists of the entire body of members of the Council in attendance, meeting as if it were in a committee setting and subject to the rules of committee procedure. The results of votes taken in Committee of the Whole are not final decisions of the Council but have the status of recommendations which the Council is given the opportunity to consider further and which it votes on finally under its regular rules.

D. The Committee of the Whole shall be open to the press and public.

Section 12. Executive Session.

A. Any member of the Council may call for an Executive Session, but shall specifically state the purpose of the Executive Session, which shall be only for the following reasons:

(l) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the City Council at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. The City Council shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations that involve that individual.

(b) to have counsel, or a representative chosen by that individual, present and attending for the purpose of advising said individual and not for the purpose of active participation.

(c) to speak in that individual's own behalf.

(2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the City Council at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. The City Council shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations that involve that individual;

(b) to have counsel, or a representative chosen by that individual, present and attending for the purpose of advising said individual and not for the purpose of active participation;

(c) to speak in that individual's own behalf.

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the City.

(4) To discuss the deployment of security personnel or devices.

(5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

(6) To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the renegotiating position of the City with a person, firm or corporation.

(7) To comply with the provisions of any general or special law or federal grant-in-aid requirements.

Section 13. Reconsideration.

A question having been taken, it shall be in order for any member voting with the prevailing side to move a reconsideration at the same meeting, or at the next meeting, provided the subject of the vote has not passed out of the custody of the Council.

A. Whenever a vote is taken on a question, each member on the prevailing side of the vote may:

(1) move for reconsideration of the question at the same meeting, and/or

(2) file with the Clerk of the Council, within 24 hours after adjournment of the meeting at which the question either passed or failed, a motion for reconsideration. The member

filing the motion for reconsideration may withdraw such motion provided that the withdrawal occurs within the same time period allowed for the filing of such motion. The Clerk shall schedule this motion for reconsideration for the next regular or special meeting of the Council. Once such written motion shall have been filed and not withdrawn, such matter shall not be twice reconsidered.

B. Any motion for reconsideration shall not be subject to the reconsideration procedures as set forth herein.

C. For purposes of this section only, the term "question" shall have the equivalent meaning of the term "measure" as defined in Section 11-13(g) of the City Charter.

D. A motion for reconsideration shall not be in order where reconsideration of the item in question would render it approved or disapproved by operation of law due to the expiration of a statutorily imposed time limitation, provided the item in question is one that need not be submitted to the Mayor pursuant to Section 3-8 of the City Charter (e.g., the budget, special permit applications, etc.).

ARTICLE III

RIGHTS AND DUTIES OF MEMBERS

Section l. Attendance.

Every member shall take notice of the meetings of the Council and its Committees, and shall exercise punctual attendance accordingly.

Section 2. Seating.

The seats of the Council shall be numbered and shall be determined by vote at the time of organization, and members shall not thereafter change their designated seats without permission of the President or presiding officer.

Section 3. Speaking.

A. Every member, when about to speak, shall rise, address the Presiding Officer, and limit remarks to the question under debate, avoiding personalities. Councilors shall also address each other with respect and in debate shall refer to other members by their respective Wards, by name, or by such other designation as may be intelligible and respectful. Members shall not speak or vote out of their assigned seats without leave of the Presiding Officer.

B. No member, while speaking either before the Council or in Committee, shall be interrupted by another, except by a call to order by the Presiding Officer, or by a point of order or information, or personal privilege.

C. No member shall speak to the same question more than once until all members choosing to speak shall have spoken.

D. No member shall be permitted to stand up to the interruption of another member who is speaking, or to pass unnecessarily between the Presiding Officer and the person speaking.

ARTICLE IV

ORDERS, ORDINANCES, ETC.

Section l. Draft Ordinances.

A. The draft of every new ordinance to be reported to the City Council by a committee, whether reported by a majority or minority of said committee, shall be first submitted by the committee to the City Solicitor for examination and approval as to form and legal character.

B. The City Solicitor shall forthwith examine the draft ordinance. If the form and legal character thereof is disapproved, that disapproval shall be signified thereon and the draft returned to the Committee. If the form and legal character thereof is approved, that approval shall be signified thereon and the draft transmitted to the Clerk, who shall cause the same to be printed in the usual form of printed ordinances, showing thereon the approval of the City Solicitor, and shall provide a copy thereof to the Mayor and the City Solicitor and shall deliver same to the address of each member of the City Council at least 48 hours before the meeting at which the report is to be offered.

C. If the draft of a proposed ordinance has been returned to the committee disapproved by the City Solicitor and if, after further consideration, the committee or a minority thereof decides to report the ordinance to the Council unchanged, the draft shall be filed with the Clerk, who shall cause the same to be printed showing the disapproval of the City Solicitor, and shall provide a copy to the Mayor and the City Solicitor and to each member of the City Council at least 48 hours before the meeting at which the report is to be offered.

Section 2. Recommended appropriations.

All recommendations for appropriation presented to the City Council shall be submitted to the Comptroller of Accounts as to form, detail and source of appropriation before action by the Council.

Section 3. Ordered, Resolved.

In all votes that express anything by way of command, the form of expression shall be ORDERED, and when the Council expresses opinion, principles, facts or purposes, the form shall be RESOLVED.

Section 4. Recommendations.

In order to facilitate the Council's expression of interest in an item to the Executive Department, a recommendation may be adopted by the Council reflecting such expression of interest or opinion. Said recommendations, to the Mayor shall be Resolutions that are only advisory.

ARTICLE V

CLERK OF THE COUNCIL

Section l. Notice of Meetings.

The Clerk of the Council, referred to in these articles as Clerk, shall give written notice to members of all meetings. Such notice of regular and adjourned meetings may be sent by mail, sent electronically, or delivered by messenger.

Section 2. Dockets, Committee Reports.

A. On the Friday before any Council meeting, the Clerk shall send to each Councilor via mail, electronically, or messenger the Docket, Reports Docket, and Committee Reports to be reported at the next Council meeting. In the event that a committee report is not submitted by a Chair, notice to that effect shall be provided to the Councilors.

B. The Clerk shall make available to all Councilors, departments of the City, and other interested parties a Docket Request Form, to be revised by the Clerk from time to time. Any Councilor, City department head, or other interested party wishing to docket an item must use this form and must do so no later than 7:45 PM on Monday, prior to the distribution of the docket. The Mayor of the City may file items in such form as he or she deems appropriate within the time limitation referred to above. Any item submitted after the aforementioned deadline may only be admitted to that docket by the Council under suspension of the rules. If the item is not admitted to the docket under suspension of the rules, it may not be discussed by any committee of the Council until after it has been admitted to a subsequent docket in accordance with these rules. This provision shall not interfere with emergency powers granted the Mayor by operation of law. In no way shall this rule affect the power of the Mayor to call a special meeting under Section 3-7b of the City Charter.

C. By noon of the day following a committee meeting, unless a Committee Clerk is in attendance at the meeting, each Chair shall provide to the Clerk a marked agenda showing members of the Council in attendance, and votes taken, with members of the committee voting "aye" and those voting "nay" on each item.

D. Any Chair wishing to have a committee report typed by the Committee Clerk staffing his/her committee shall provide dictated or handwritten draft materials no later than forty-eight (48) hours prior to the Friday distribution of that report, or at such other time as may be agreed upon with the Committee Clerk. Councilors wishing to present committee reports to be included

in the Friday packet must present prepared material to the Clerk of the Council no later than 5:00 PM Thursday prior to the Friday mailing. All material intended for reproduction must be legible and clear as to intent.

E. In addition to quantities of the Docket, Reports Docket, and Committee Reports printed for distribution to Councilors, the Clerk shall have available such additional copies as may be deemed necessary for distribution to the public.

Section 4. Attendance at meetings.

The Clerk shall attend all meetings of the Council and its Committees and keep the records thereof. In the absence of the Clerk, an assistant designated by the Clerk shall perform the Clerk's duties.

Section 5. Responsibilities at meetings.

A. The Clerk shall record the names of members present and absent, and shall have the custody of all records, documents, maps, plans and papers of the Council, respecting the care and custody of which no other provision is made.

B. When the Roll Call is taken, the Clerk shall call the names of all the members in alphabetical order, excepting that of the President which shall be called last.

Section 6. Admission within the rail.

The Clerk shall not permit any person other than an Councilor or a member of the Clerk's staff to be admitted within the rail of the Chamber of the Council, or within the Members' Lobby connected therewith, at any meeting of the Council except upon permission of the Presiding officer or vote of a majority of the Council.

Section 7. Records of proceedings.

A. The Clerk shall be responsible for the protection and storage of records of all regular and special meetings of the City Council and all committee meetings, according to the requirements of the Public Records Law (M.G.L. Chapter 66, Public Records Law). The voice tapes recorded during the course of such meetings shall be filed by date in safekeeping by the clerk and maintained for a period of three years following the date of the meeting, or for a time period otherwise set by law.

B. Immediately following each Council or committee meeting, the taped record thereof shall be stored in the Clerk's office. Any member of the Council may request a copy of said tape, and the Clerk shall provide such copy within 24 hours. Members of the public may request a copy of any tape, and the Clerk will make every effort to provide such copy within three days, but in no case later than the maximum time allowed under the Public Records Law.

C. The Clerk shall keep a journal and publish a Council Order Booklet containing all proceedings of the Council, including motions, orders, ordinances, resolutions, amendments to same and votes thereon. Such Journal and Council Order Booklet shall be available to the public, and a copy of the Council order Booklet shall be provided to each member of the Council.

D. The Clerk shall post on the City's website all main and subsidiary motions, the makers of such motions, and the subsequent votes taken at City Council meetings.

Section 8. Special recording requirements.

A. Whenever the City Council votes on a petition for a special permit or site plan approval, the Clerk shall prepare a record of the proceedings of the Council, showing the vote of each member upon such petition, or, if absent or failing to vote, indicating such fact, and the decision of the Council setting forth clearly the reasons for the Council's action on such petition.

If the Council approves the recommendation of the Land Use Committee either to approve or deny a particular petition for a special permit or site plan approval, then the Clerk shall file as the decision of the Council the draft decision prepared by the Land Use Committee and included with the Committee report, together with any amendments thereto made by the Council.

If the Council fails to approve a recommendation of the Land Use Committee, then the Clerk shall prepare a decision incorporating the reasons in opposition to the committee recommendation offered by Council members during debate upon the petition, which reasons may include, but are not limited to, the reasons contained in the Land Use Committee report or offered by other members of the Council. The Clerk may consult with Council members, the Planning Department, Law Department or other City departments or staff to prepare the decision.

A decision shall include the vote of each member upon the petition, shall state whether the petition was approved or denied, and shall be certified by the Clerk as the decision of the Council.

B. The decision, and the record of the proceedings before the Council for each application for a special permit or site plan approval shall be filed in the office of the City Clerk within fourteen (14) days after the vote of the Council, or within the statutory time for such decision, whichever date is earlier.

C. Notice of the decisions shall be mailed forthwith, postage prepaid, to the petitioner, the applicant or appellant, the parties in interest as designated in Section 11 of Chapter 40A of the General Laws, and every person present at the hearing who requested that notice be sent and who stated the address to which such notice was to be sent. The notice shall also state that appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, and shall be filed within twenty (20) days after the date of filing of such notice in the office of the City Clerk.

D. Furthermore, in the case of granting of a special permit, or any extension, modification or renewal thereof, the Council shall also send to the owner and to the applicant, if other than the

owner, a copy of its decision, Council certified, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for such action as was taken and certifying that copies of the decision and all plans referred to in the decision have been filed in the office of the City Clerk.

E. All of the above procedures shall be in compliance at all times with Section 11 and Section 15 of Chapter 40A of the General Laws as they may be from time to time amended.

ARTICLE VI

PRESIDENT EMERITUS

The Council may elect a President Emeritus, whose duties and functions shall be prescribed by the President of the City Council.

ARTICLE VII

NO SMOKING

No smoking shall be allowed in the Chamber of the City Council or in any committee meeting room thereof, or in the Members' Lobby during Council meetings.

ARTICLE VIII

ELECTION OF OFFICERS

Section 1. Meeting for Election.

After the Council members have been sworn, the Council shall convene to elect a President, Vice-President and President Emeritus. The Mayor shall preside for the purpose of electing a Temporary Presiding Officer whose powers shall be limited to the conduct of the election. In default of the election of such a Temporary Presiding Officer, the former President-Emeritus, if then a member of the Council, and if not, the most senior member then serving shall act as Temporary Presiding Officer to preside over the election of officers until a President is duly elected by the Council and can act as Presiding Officer and the Council can be formally organized. For purposes of this section, the "most senior member" shall mean the Council member with the greatest number of years of service on the City Council. The Council must elect its President before balloting can begin for Vice President.

Section 2. Special Committee of the Whole.

In order to facilitate the election of officers who command the support of a majority of the full Council, the Council shall entertain nominations and preliminary voting on candidates for office

under the procedures hereinafter set forth in a Special Committee of the Whole, Temporary Presiding Officer presiding. No candidate shall be reported to the full Council for subsequent formal election who has not attained a majority of the full Council or thirteen (13) votes.

Section 3. Balloting Procedure.

After nominations are closed, votes are cast repeatedly for the slate of nominees on the ballot until a candidate receives an absolute majority vote in favor of his or her election (13 or more votes). For the purposes of this Article, "absolute majority" shall mean a majority of the members of the full City Council, or at least thirteen (13) votes. Votes shall be cast in the manner provided in paragraph B until the field is narrowed to 2 candidates.

B) **Narrowing the Field to two candidates:** If more than two candidates remain in the race after votes are cast for the first slate of nominees, then the candidate receiving the fewest votes on that ballot is eliminated as a candidate and may not again become a candidate until such time as an inability to elect (deadlock) is declared. If two or more candidates tie for the lowest vote total and three or more candidates remain in contention, repeat ballots are cast until one of the tied candidates is eliminated from contention. After three rounds of votes to break a tie among nominees on a particular ballot, candidates who are tied for the fewest votes shall also be removed if the removal of all such candidates (who are tied) would leave at least two candidates remaining.

C) **Tie-breaking Ballots for 2 Remaining Nominees:** If the field is narrowed to 2 candidates, neither of whom receives an absolute majority, then the possibility of opening the field to more candidates is disallowed until three ballots between the two candidates are cast. If no winner emerges during the course of those three ballots, then an inability to elect a candidate (deadlock) is declared and both candidates are eliminated from contention. In the event of an inability to elect a candidate (deadlock), then nominations are re-opened, provided, however, that the two candidates who were on the ballot that resulted in the inability to elect (deadlock) cannot be nominated again until such time as a second inability to elect (deadlock) is declared, in which case, the process begins again and any Council member may be nominated.

ARTICLE IX

ALTERATION, REPEAL, OR SUSPENSION OF RULES AND ORDERS

Section l.

This article shall not be suspended if any member present objects, and no other standing Rule or Order of the Council shall be suspended unless three-fourths of the members present shall consent thereto. No standing Rule or Order of the Council shall be repealed or amended except upon written notice being given of the motion therefor delivered to the address of each member of the Council at least 48 hours prior to the meeting at which motion is to be presented and by a vote of the majority of all members of the Council.

Section 2.

All differences of opinion in regard to points of order or modes of procedure not otherwise provided for shall be governed by parliamentary practice as set forth in the Robert's Rules Newly Revised 10th Edition (Cambridge, Mass; Perseus Publishing, 2000)

ARTICLE X

RULES PERTAINING TO SPECIAL PERMIT AND SITE PLAN APPROVAL PETITIONS

Pursuant to G.L. c. 40A, §9, the City Council acting as a special permit granting authority adopts the following rules relative to the submission of applications for special permits and site plan approvals.

Section 1. Contents of Applications for Special Permits or Site Plan Approvals

All applications for special permits or site plan approvals shall contain the information required by §§ 30-7.3 and 30-7.4 of the Newton Zoning Ordinance. The Director of Planning and Development, or his/her designee, (hereafter the "Director") shall have the discretion to waive the requirement for a landscape plan in instances where the type of approval sought does not raise issues involving screening or buffering. In addition, the Director shall have the authority to require more information (hereafter "Additional Information") relating to a proposed project beyond the requirements of §§ 30-7.3 and 30-7.4 of the Newton Zoning Ordinance where the Director determines that the project is likely to raise significant questions requiring more extensive review of relevant information beyond that required by ordinance. The Director may require this Additional Information in order to assess the potential impact of the proposed project on its neighborhood, on the roads serving such project, and on other City resources in light of the criteria set out in the Newton Zoning Ordinance for such special permit or site plan approval. Applications for special permits or site plan approvals must include all information required either by ordinance or by the Director in order to be complete and ready for filing as provided below.

All plans, maps, photographs, and other documents and exhibits required to be filed with applications for special permits/site plan approvals and/or presented at public hearings and working sessions of the Land Use Committee shall also be submitted in electronic file format. "File format" means the type of data file stored on CD ROMs, DVDs, USB storage devices and any other media designed to store information electronically in an application program used by the City of Newton. All documents and exhibits required to be submitted in electronic file format by this rule shall be submitted in a form acceptable to the Director in consultation with the Clerk of the Council. The Director shall consult with the Clerk of the Council, the Law Department, the Information Technology (IT) Department and the Land Use Committee from time to time to determine the appropriate digital format(s) for all documents and exhibits to be submitted and preserved within a framework that balances the relevant legal technical, legibility, quality, functionality and sustainability factors as well as the publication process of the material

to be submitted and preserved, and cost factors. The file format that provides this balance may change over time as new formats are adopted for creation and use. The Director shall have the discretion to waive all or part of the requirement by this rule to submit documents and exhibits in electronic file format where the circumstances indicate that such requirement would be impracticable or create an undue hardship for the applicant.

The Director shall develop guidelines or criteria to be used in determining what kinds of projects may require Additional Information, and shall have the discretion to waive all or part of such Additional Information in a particular case where the circumstances indicate that such information will not be needed for the review anticipated. The Director shall consult with the Land Use Committee from time to time regarding such guidelines/criteria. The Director may require more information beyond that specified in such guidelines/criteria if the Director deems it necessary for an appropriate review of the project. The Land Use Committee may also require more information beyond that required by the Director during its review of a request for a special permit or site plan approval.

Section 2. Pre-application information, scoping, and review.

The Director shall prepare a standard checklist form based upon the guidelines/criteria to help applicants understand what information and reviews by various City agencies might be needed to file an application for a special permit or site plan approval. Applicants shall meet with a staff member of the Planning and Development Department (hereinafter "Department") to complete a checklist for their project prior to submitting plans and supporting information for a zoning determination, as set forth below. At the request of either the applicant or the Director, the Department will schedule a pre-zoning determination meeting to discuss issues that may be raised by the proposed project and to identify any need to coordinate review of the proposed project by other City agencies or departments. The Director shall request that staff with relevant experience from other City departments or agencies and the Chief Zoning Code Official (thereafter the "CZCO") attend the pre-zoning determination meeting. In the event that the CZCO does not attend the pre-zoning determination meeting scheduled by the Department, promptly after such meeting the applicant shall meet with the CZCO to determine what materials and information the CZCO requires from the applicant for a zoning review and determination of what zoning permits, if any, are required for the applicant’s proposed project.

Section 3. Determination of what zoning relief is required.

In order to determine the zoning relief that may be required for a proposed use or structure, prior to filing an application for a special permit or site plan approval, an applicant shall submit plans, a completed checklist and such information as is necessary to the CZCO for a zoning review of the proposed project. If the CZCO makes a preliminary determination that such plans and information are incomplete, the CZCO shall notify the applicant in writing within twenty-one (21) days of receipt of such a request for determination so that the omission(s) can be corrected in a timely manner. The CZCO shall make a final written determination of the zoning permits that are required for the proposed project within forty-five (45) days from receipt of all plans and information needed for such zoning review. If the final written zoning determination

is not completed within 45 days, an applicant may file an application for a special permit/site plan approval without the written determination.

During the CZCO's review, the Director shall review the checklist submitted by the applicant and determine what Additional Information beyond that required by ordinance must be submitted with the special permit or site plan approval application or whether the proposed project should be classified as a Major Project and subject to the time restrictions set out in Section 5 below. As part of the written zoning determination, the CZCO shall transmit to the applicant the Director's determination regarding the Additional Information that must be included with the application for a special permit or site plan approval and whether the proposed project has been classified as a Major Project.

Section 4. Pre-filing Review of Applications for Completeness.

An application for a special permit or site plan approval shall not be deemed complete and ready for filing with the City Clerk in accordance with the provisions of the Revised Ordinances of Newton and the Rules of the City Council unless the application and supporting materials have been reviewed by the Director and found to include all the required information as provided above.

The applicant shall submit the completed application form together with a copy of the written zoning determination and one set of all plans and required information to the Department. The applicant shall not be required to include the CZCO's written determination as part of an application for special permit or site plan approval if the CZCO fails to prepare a written determination within the time set out in Section 3. Within ten (10) days from the date of receipt, the Director shall review the application to determine if the same includes all the required information and is ready for filing. If so, the Director shall indicate that the application is complete by stamping and initialing the application. If not, the Director shall provide the applicant with a written determination of how the application is incomplete so that it can be corrected in a timely manner. If the Director determines that the application is incomplete because the applicant has made a timely request for, but has not received, a document or documents that must be obtained from an agency or department of the City, the Director shall promptly request that such agency or department submit such document or documents to the applicant and the Department. If all such documents have not been so submitted within five (5) business days after the Director has made such request, the Director shall stamp and initial such application as complete and ready for filing notwithstanding the lack of such documents. The Director’s stamping and initialling of the application as complete and ready for filing in a case where such documents have not yet been provided shall not waive the requirement for submission of such documents during the post-filing stage of the process. The City Clerk shall not accept an application for a special permit or site plan approval unless the same has been stamped and initialed by the Director as complete and ready for filing, provided, however, that the City Clerk shall accept an application if the Director has not completed his review and either returned the application as incomplete or stamped the same as complete within ten (10) days from the date the application is received by the Director.

For purposes of determining the completeness of an application, the Director's review shall not consider the adequacy of the information submitted, but shall only consider whether the application includes all the types of information required either by the Zoning Ordinance or as Additional Information. However, the Director shall advise the applicant in writing at the time the Director stamps and initials the application as complete of any inadequacies that have been identified in the submitted information. Thereafter, prior to the public hearing with respect to such application, the Director shall advise the applicant and the Land Use Committee of any inadequacies still outstanding in the application materials.

Nothing in this section shall prevent the Land Use Committee from requesting the submission of additional or supplemental information in connection with a special permit or site plan application. The Land Use Committee may elect to continue the public hearing on applications, where appropriate, to receive such additional or supplemental information. The Land Use Committee may consider the Director's comments on the adequacy of the information submitted in the application for a special permit or site plan approval in deciding whether to continue a public hearing for the receipt of additional or supplemental information.

Section 5. Time Restrictions for Filing Special Permits/Site Plan Projects for Major Projects

Purpose

The purpose of this rule is to avoid scheduling public hearings during the months of July or August, or during the months of November or December in the last year of the Council's term for Major Projects. Major Projects are projects that are likely to require the submission of Additional Information and which may involve significant land use issues either due to the location of the proposed use, the type of proposed use, or the size of the proposed use. Holding public hearings for Major Projects during the aforementioned months may not allow sufficient opportunity for public comment, review by the Land Use Committee and City departments or agencies, or deliberation by the City Council. This rule shall not apply to special permit/site plan projects that are not classified as Major Projects.

Criteria for Major Project Classification

If any of the following criteria apply, the Director shall determine that a proposed project qualifies as a Major Project:

- Projects that require a waiver of more than five (5) parking stalls from the parking ordinance; seek to locate required parking off-site, or seek to locate a parking facility in a residential district that is accessory to business or manufacturing use.

- projects that involve a multi-level parking structure constructed either above or below ground.

- Projects likely to generate more than 500 cars per day or 50 cars per peak hour.

- Projects that increase average daily traffic or peak hour traffic along the adjacent street(s) by more than 10%.

- Projects where the proposed use(s), principal or accessory, involve(s) activities that include designated pick-up/drop-off times.

- Projects that involve the construction of 20,000 or more square feet in gross floor area, or the renovation of 10,000 or more square feet in gross floor area.

- Projects that involve a non-residential use that immediately abuts a residential zone.

- Projects that exceed six (6) residential units and trigger the Inclusionary Zoning Ordinance (see Section 30-5.11).

- Projects that involve the construction of a tower associated with a radio or television transmission station.

- Projects that include a Newton Landmark Preservation Site (see Section 22-90 to Section 22-103).

- Projects that involve a use identified in G.L. c. 40A, §3.

Time Restrictions

Due to the City Council's reduced summer schedule for meetings as well as the need to afford the public an opportunity to participate at the public hearing, the City Clerk shall not accept for filing a completed application for a proposed project that is classified as a Major Project during the period from June 1st through July 20th in any year.

Due to the expiration of the two-year term for councilors at the end of every odd-numbered calendar year and the need for sufficient time for the Land Use Committee to review proposed projects and the Council to reach a decision regarding such projects, the City Clerk shall not accept for filing a completed application for a proposed project that is classified as a Major Project after the second Tuesday after the first Monday in September through November 15th during the last year of any term of the City Council.

Suspension of Time Restrictions

The time restrictions in this section of these Rules may be suspended by the Council pursuant to Article IX, Section 1 of the Council Rules at the request of a petitioner for a special permit or site plan review. Such requests must be made by filing such a request with the Clerk of the Council by the docketing deadline for the next regular Council meeting. The request must have appended to it the subject application, and provide summary information sufficient to indicate the nature of the Major Project and that the application for a special permit is otherwise complete for filing with the City Clerk under these Rules but for this time restriction. The request shall be

presented for decision by the Council at Second Call at the beginning of the Land Use Committee Report, if any, and if this Rule is suspended, the item shall be deemed docketed and accepted by the City Clerk at that time. In such instance, the Chair of Land Use or his designee may then request an assignment of the item for a public hearing within 65 days of such acceptance. If this Rule is not so suspended then all the provisions of these Rules relating to time restrictions would continue to apply.

Section 6. Additional Notification Requirements

Any applicant for site plan approval or a special permit shall be required to erect and maintain in legible condition, one or more public notification panels at the site for which the site plan approval or special permit relief is requested. The panels shall be secured by the applicant from the Department and shall be paid for by the applicant. For Major Projects, the method of installation and the locations(s) of any panel(s) shall be shown on the plans included in the application documents. For all Projects, the Department shall determine the exact location(s) of the panels(s) on the site consistent with the provisions of this section.

The following requirements shall apply to all public notification panels:

(a) Location and Number. Panels shall be securely mounted on the subject lot at the street line or within the property where readable from the public way and without the necessity of trespass onto private property. For lots having street frontage of two hundred (200) feet or less, one panel shall be installed. One additional panel shall be installed for each additional five hundred (500) feet of street frontage. Lots with more than one street frontage shall have panels installed on each frontage. The panels shall be considered erected on order of a governmental agency pursuant to Section 30-5.2.6 A 1 of the Newton Zoning Ordinance. The Department staff may require the relocation of any panel if necessary to improve the visibility of the panel.

(b) Schedule and Duration. The required panels shall be installed as required in this Section 6, not less than fourteen (14) days before the date of the public hearing. They shall be maintained in legible condition by the applicant until a Notice of Decision has been filed with the City Clerk by the City Council acting as a special permit granting authority. Panels that are stolen, destroyed, or rendered illegible shall be promptly replaced by the applicant. Panels shall be promptly removed by the applicant after the Notice of Decision has been filed or the petition for the site plan approval or special permit has been withdrawn.

(c) Contents of Panels. All panels shall include the name of the city department where further information may be obtained; where the full application can be inspected; and where further comments can be directed. The site specific text of the panel shall include the name of the applicant, street address or other information adequate to identify the location or area subject of the application; the date, time and place of the public hearing; the subject matter of the hearing; the nature of the action or relief required; the place where the full application may be inspected; docket number of the application; the phone number and email address of the city department or contact person where further

information may be obtained. Reasonable modifications of the text requirements of this paragraph (c) shall be permitted to enable the most important information to be provided in the most legible form.

(d) Graphic and Construction Standards. The Department shall develop a design for the panels and a method of installation. On Major Projects, the Department may modify the design of the panels and method of installation for a particular site if necessary to improve the visibility of the panels. Panels shall be made of materials adequately weather resistant and durable for the time they are required to be posted. The text of the panels shall be in indelible ink.

Section 7. Employment of outside consultants.

Pursuant to G.L. c. 44, §53G and Newton Revised Ordinances, § 22-4. Employment Of Outside Consultants, the Council, sitting as a special permit granting authority under G.L. c. 40A, and acting through its designee, the Land Use Committee, may hire outside consultants whenever the Land Use Committee determines that the City lacks sufficient staff resources or expertise to provide timely reports or reviews of pending land use petitions. The Land Use Committee may confer with the Director of Planning and Development and any other City officials, departments, commissions or agencies it deems appropriate in determining the need to hire an outside consultant(s) to provide reports or reviews on issues raised in connection with a pending land use application, including but not limited to, issues of (1) traffic, parking and circulation, (2) noise, (3) telecommunications, (4) historic preservation, (5) blasting, (6) removal of toxic or hazardous waste, (7) drainage systems capacity, (8) environmental protection, including conservation, erosion control, and watershed and floodplain protection, or (9) similar issues affecting the public health, safety or welfare.

The applicant filing the land use petition for which an outside consultant is hired pursuant to this Rule shall pay the consultant's fee to the City. The fee shall be set by the Director of Planning and Development, shall be reasonable and shall reflect the estimated cost for the type of review or report requested from the consultant. Any fee charged in excess of the actual cost of the review or report shall be repaid to the applicant in accordance with the provisions of Rev. Ord. §22-4.

Any consultant hired pursuant to this Rule shall have an educational degree in or related to the field at issue, or three (3) or more years of practice in the field at issue or a related field. The Director of Planning and Development shall select the consultant in accordance with all applicable ordinances and state statutes. An applicant required to pay a fee for an outside consultant pursuant to this Rule may appeal the choice of consultant by requesting that the City Council reconsider the selection made by the Director of Planning and Development or by seeking direct judicial review, if otherwise permitted by law. The applicant's appeal shall be limited to claims that the selected outside consultant has a conflict of interest or does not possess the educational or professional qualifications required by this Rule.

ARTICLE XI

The City Council shall review the salary of the City Clerk/Clerk of the Council during a 90 day period following the Clerk's election pursuant to §4-20 of the City of Newton Rev Ord, 2012

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Revised January 1,2016

#262-10

CITY OF NEWTON

IN BOARD OF ALDERMEN

December 6, 2010

RESOLUTION CREATING A FINANCIAL AUDIT ADVISORY COMMITTEE[1]

BE IT RESOLVED: that the Board of Aldermen hereby sets out its purpose to create a Financial Audit Advisory Committee to assist the Comptroller and the Board's Finance Committee in the review of audit and fiscal accountability matters.

Financial Audit Advisory Committee
Purposes, Composition and Appointment, Meetings and Duties

Purpose: The Financial Audit Advisory Committee will advise the Board of Aldermen through the Board's Finance Committee and has as its purpose to allow and encourage the Board to devote more time to fiscal accountability matters, and thereby elevate the importance of fiscal accountability through strong internal controls, budgetary and other legal compliance, accurate and timely financial reporting and a culture of ethical behavior.

The Financial Audit Advisory Committee will assist Newton's Board of Aldermen and the Comptroller in fulfilling its oversight responsibilities for the financial reporting process to ensure transparency and integrity, effective systems of internal control, auditing, and monitoring of compliance with laws and regulations.

Composition and Appointment: The Financial Audit Advisory Committee shall consist of nine members as follows:

- The Finance Committee Chairman, and three other aldermen appointed by the President of the Board of Aldermen, and four citizens of the City with financial expertise[2] appointed by the President of the Board of Aldermen with input from members of the Board of Aldermen, all of whom shall serve at the pleasure of the President of the Board.

- One School Committee member appointed by the President of the Board upon the recommendation of the Chair of the School Committee, who shall serve at the pleasure of the Chair of the School Committee.

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[1] *Note: in order to conform to Article IV, Section 3 of the Board Rules, this is a resolution, but it is intended that it be reprinted as a continuing resolution with the Rules and Orders of the Board so that it will be easily available to Board members and the public after its adoption.*

[2] Financial expertise may include the person having completed a program of learning in accounting or auditing; having experience as a principal financial officer, comptroller, public accountant or auditor; having experience overseeing or assessing the performance of companies, non-profits or municipal organizations or accountants with respect to the preparation of financial statements; or having other relevant experience. For example, the person may have an understanding of generally accepted accounting principles (GAAP) and financial statements; the ability to apply such principles in connection with the accounting for estimates, accruals, and reserves; experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that can reasonably be expected to be raised by the City's financial statements, or experience actively supervising one or more persons engaged in such activities; and an understanding of internal controls and procedures for financial reporting.

The President, in consultation with the Finance Committee Chairman, will appoint the Chairman of this Audit Committee from among the members of the Board of Aldermen on the Committee. Initial citizen terms shall be staggered as follows: one for a term of one year, one for a term of two years, and two for a term of three years. Thereafter, each citizen appointment shall be for a term of three years. No citizen member shall be eligible to serve as a member for more than two consecutive full terms, not counting any initial one or two year term appointment.

Meetings The Committee is expected to meet at least four times a year, customarily on the Wednesday following the fourth Monday of the month. The committee may invite members of the Executive Department, management, auditors, or others to attend meetings and provide pertinent information, as necessary. It may hold meetings with auditors and, when appropriate, with the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Comptroller, the City Solicitor, or others.

Duties The Financial Audit Advisory Committee will advise and assist the Board, acting through the Finance Committee, and the Comptroller, by:

- Recommending to the Board of Aldermen appointment of registered public accounting firms employed by the City for auditing and financial review.
- Assisting in oversight of registered public accounting firms employed by the City for auditing and financial review.
- Assisting in resolving any disagreements between the City and the auditor regarding financial reporting.
- Helping pre-approve auditing and non-audit services by outside firms.
- Advising the Board about when it is appropriate to request funding from the Mayor to retain independent counsel, accountants, or others to advise the Financial Audit Advisory Committee.
- Requesting information from employees or external parties.
- Meeting with City officials, external auditors, or outside counsel, as necessary.

The Financial Audit Advisory Committee will report and make recommendations to the Finance Committee. The Finance Committee will receive and, as appropriate, vote on recommendations from the Financial Audit Advisory Committee. As the Financial Audit Advisory Committee has citizen members, items docketed to the Finance Committee may then be referred to the Financial Audit Advisory Committee by vote of the Finance Committee.

In its advisory function, the committee will carry out the following responsibilities:
Financial Statements Obtain from Comptroller and/or external auditors information on significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.

- Review the external annual financial statements, and consider whether they are complete, consistent with information known to committee members, and reflect appropriate accounting principles.
- Review with City officials and the external auditors all matters required to be communicated to the committee under generally accepted auditing standards.

- Review draft external financial reports with management and the external auditors before filing, and consider whether they are complete and consistent with the information known to committee members.

Internal Control Consider the effectiveness of the City's internal control systems, including information technology security and control.

- Evaluate areas of significant risk or exposure facing the City; assess the steps City officials have taken or propose to take to minimize such risks; and periodically review compliance with such steps.
- Understand the scope of external auditors' review of internal control over financial reporting, and obtain reports on significant findings and recommendations, together with management's responses.
- Review with the Executive and School Departments the policies and procedures with respect to use of appropriated monies and funds within its control.

External Audit Review the external auditors' proposed audit scope, approach, and fees, including coordination of audit effort with internal employees.

- Review the performance of the external auditors, and exercise approval on the appointment, replacement, reassignment, or dismissal of the auditors.
- Review and confirm the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the City, including non-audit services, and discussing the relationships with the auditors.
- Establish a regular schedule for periodically discussing whether to re-bid the audit contract with an outside CPA firm.
- Review with City officials and the external auditors the results of the audit, including any difficulties encountered.
- Review City's responses to the audit.
- Review with the independent auditor all critical accounting policies and practices used and alternative treatments of financial information within generally accepted accounting principles.
- On a regular basis, meet with the external auditors to discuss any matters that the committee or auditors believe should be discussed.

Compliance Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of noncompliance.

- Review the findings of any examinations by regulatory agencies, and any auditor observations.
- Review the process for communicating any code of conduct in effect as well as conflict of interest policies to City and School personnel, and for monitoring compliance therewith, including whistleblower policies in effect.
- Review the procedures for the receipt, retention, and treatment of complaints (including confidential or anonymous ones) received by the City regarding accounting, internal

accounting controls, auditing matters, or suspected fraud that may be submitted by internal or external parties; as well as assisting any Finance Committee review of any complaints that have been received, current status, and resolution.

- Obtain regular updates from management and City legal counsel regarding compliance matters.

Reporting Responsibilities Report regularly to the Board of Aldermen about committee activities, issues, and related recommendations.

- Provide an open avenue of communication between the Comptroller, the external auditors, the Executive branch, the Board of Aldermen, and the School Committee on financial management and audit matters.

Other Responsibilities Perform other activities related to this resolution as requested by the Board of Aldermen.

- Assist the Finance Committee in any special investigations relating to the Financial Audit Advisory Committee's scope of responsibilities, as requested.
- Review and assess the adequacy of these Financial Audit Advisory Committee purposes and duties annually, requesting Board of Aldermen approval for proposed changes, and ensure appropriate disclosure as may be required by law or regulation.
- Report annually confirming that the responsibilities outlined in these purposes and duties have been carried out.

Under Suspension of Rules
Readings Waived and Resolution Approved
21 yeas 0 nays 3 absent (Aldermen Freedman, Salvucci, and Sangiolo)

(SGD) DAVID A. OLSON, City Clerk