

CITY OF NEWTON
IN BOARD OF ALDERMEN
PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, DECEMBER 9, 2015

7:45 PM
ALDERMANIC CHAMBER

ITEMS SCHEDULED FOR DISCUSSION:

Appointment by His Honor the Mayor

- #330-15 BRYAN BARASH, 47 Gardener Street, Nonantum, appointed as a member of the HUMAN RIGHTS COMMISSION for a term to expire March 15, 2017 (60 days 2/6/16) [11/13/15 @ 11:16AM]

REFERRED PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #345-15 HIS HONOR THE MAYOR requesting authorization to transfer the sum of fifty-six thousand dollars (\$56,000) from Budget Reserve to the Veterans Department's Veterans Benefits Account to pay the second installment for the purchase of the quadrant of graves located in the Newton Cemetery. [11/30/15 @ 1:11 PM]
- #31-15 PROGRAMS & SERVICES COMMITTEE proposing an ordinance to limit the use of leafblowers. [01/26/15 @ 2:20PM]
- #31-15(2) THE PROGRAMS & SERVICES COMMITTEE requesting to amend *Chapter 20-13, Noise Control*, relative to time restrictions on the use of yard, garden or grounds maintenance equipment. [03/19/15 @ 12:14PM]

ITEMS TO BE REFERRED TO 2016-2017 CITY COUNCIL:

Appointment by His Honor the Mayor

- #331-15 NICOLA CURTIN, 236 Bellevue Street, Newton, appointed as a member of the HUMAN RIGHTS COMMISSION for a term to expire March 15, 2017 (60 days 2/6/16) [11/13/15 @ 11:16AM]
- #332-15 CITY CLERK reporting that the November 3, 2015 Non-binding Ballot Question asking that a resolution be sent by the City of Newton to Governor Charles Baker asking him to instruct the Nuclear Regulatory Commission (NRC) to revoke the operating license of the 42-year-old Pilgrim Nuclear Station, 38 miles from

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, *please* contact Jini Fairley, at least two days in advance of the meeting: jfairley@newtonma.gov, or 617-796-1253. For Telecommunications Relay Service dial 711.

PROGRAMS & SERVICES COMMITTEE AGENDA

WEDNESDAY, DECEMBER 9, 2015

PAGE 2

Newton in Plymouth, MA, because the safety of the public cannot be assured, was approved by the voters of Newton, 6,168 in favor and 2,819 opposed.

Respectfully Submitted,

Amy Mah Sangiolo



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#330-15

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

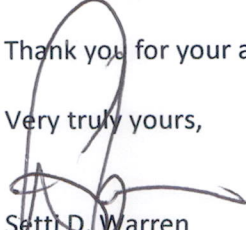
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to appoint Bryan Barash of 47 Gardener Street, Nonantum as a member of the Human Rights Commission. His three year term of office shall expire March 15, 2017 and his appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,


Setti D. Warren
Mayor

RECEIVED
Newton City Clerk
2015 NOV 13 AM 11:16
David A. Olson, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov

DEDICATED TO COMMUNITY EXCELLENCE



BRYAN BARASH

47 Gardner St, Newton, MA 02458 •

BAR ADMISSION

Commonwealth of Massachusetts, November 2013

EDUCATION

Boston College Law School, Newton, MA

Juris Doctor, cum laude, May 2013

- Honors: Pro Bono Excellence Award Recipient.
- BC Law Democrats, President; LSA Elections Committee, Chairman; Negotiation Competition, semi-finalist

Stony Brook University (SUNY), Stonybrook, NY

Bachelor of Science, magna cum laude, Business Management / Marketing, May 2006

EXPERIENCE

Senate Majority Leader Harriette Chandler, Boston, MA

December 2014 to Present

Legislative & Budget Director

- Advise the Majority Leader on all policy, messaging, legislative, and budget matters.
- Draft legislation that falls within the Senator's agenda and usher it through the legislative process.
- Work with the Senator to set budget priorities and draft budget amendments that reflect those priorities.

Warren Tolman for Attorney General, Watertown, MA

January 2014 to September 2014

Policy Director & Counsel

- Researched and drafted policy white papers on a range of issues within the purview of the Attorney General's Office, working with state and local officials, community leaders, business leaders, and advocacy groups.
- Participated in messaging, strategy development, speech preparation and debate preparation meetings.

Massachusetts State Ethics Commission, Boston, MA

Summer 2012

Intern for the Legal & Enforcement Divisions

- Researched and drafted regulations and regulatory interpretations regarding application of the conflict of interest law.
- Managed, investigated, and made recommendations on cases for the enforcement division.

Boston College Law School, Newton, MA

Summer 2011 & Spring 2014

Research Fellow

- Drafted research papers on subjects ranging from the Third Amendment to telecommunications law.
- Researched and prepared presentations for international speaking engagements on NSA data collection and torture.

bb web consulting, LLC, Allston, MA

December 2008 to September 2010

Founder

- Managed large web development projects for political organizations and not-for-profit businesses.

Tom Udall for Senate, Albuquerque, NM

April to November 2008

Internet Communications Manager

- Developed innovative web marketing strategy, including social networking, internet outreach, blog and email content.

Obama for America, Chicago, IL

August 2007 to February 2008

New Media

- Participated in the creation and implementation of President Obama's campaign's 50 state internet strategy.

Modularm Corporation, Commack, NY

July 2006 to August 2007

Marketing Director

- Created and implemented an innovative marketing plan, including traditional and new media marketing.

CIVIC ACTIVITIES

MetroWest Legal Services, Pro Bono Attorney

Jewish Alliance for Law & Social Action, Amicus Brief Working Group

Newton Democratic City Committee, Executive Committee & **Newton Ward 1 Committee**, Vice Chairman



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#345-15

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

November 30, 2015

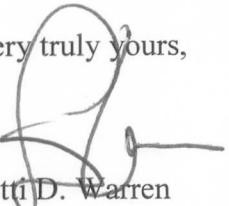
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer \$56,000 from Budget Reserve to 0150301-5709 Veteran Benefits - Veterans' Department for the second installment of the purchase of the quadrant of graves located in the Newton Cemetery.

Thank you for your consideration of this matter.

Very truly yours,


Setti D. Warren
Mayor

RECEIVED
Newton City Clerk
NOV 30 PM 1:11
A. Olson, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

City of Newton



Setti D. Warren
Mayor

DEPARTMENT OF VETERANS' SERVICES

SETH BAI, VSO

Director

1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

Telephone
617- 796-1092
Facsimile
617- 552-7063
TTY
617-796-1089

Mayor Setti D. Warren

Newton City Hall

1000 Commonwealth Ave.

Newton MA 02459

Dear Mayor Warren:

In order to best serve the needs and honor the lives of the veterans served by the City's Veterans Services Department; I respectfully request that Your Honor docket an item with the Board of Aldermen, requesting the purchase of the graves in the agreed upon quadrant located in the veterans lot section I-North per the contracted sales agreement of \$56,000.00 by December 31st 2015. The remaining balance of \$56,000 is to be paid by December 31st 2016.

Thank you for your consideration in this matter.

Very truly yours,

Seth Bai

Veterans Services Director

#345-15



Newton Cemetery Corporation

A Beautiful Garden Cemetery Serving Greater Boston

INVOICE

SOLD TO:

City of Newton

LOCATION		OWNER OF RECORD	DATE	INVOICE NO.
			11/18/2015	33842
ITEM CODE	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
		Partial Payment for the Purchase of Graves in Section I-North, Lot 150 per Sales Agreement		56,000.00
TERMS		SALES TAX	TOTAL	\$56,000.00

791 Walnut Street, Newton Center, Massachusetts 02459-1719 (617) 332-0047 Fax: (617) 969-5520
E-mail: ncc@newcemcorp.org Website: www.newcemcorp.org

#31-15 (LEAF BLOWERS)

DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(10/30/2015)~~

~~(Transition period leading to total ban version)~~

(Added language underscored; deleted language struck through)

ARTICLE II.

NOISE

Sec. 20-13. Noise control.

(a) This ordinance may be cited as the "Noise Control Ordinance of the City of Newton."

(b) *Declaration of findings and policy.* Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, whereas the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; now therefore it is the policy of the City of Newton to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(c) *Scope.* This ordinance shall apply to the control of all sound originating within the limits of the City of Newton except as follows:

- (1) the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in training exercises related to emergency activities; and
- (2) all snow clearance activities; and
- (3) any program or activity supervised by the parks and recreation department of the city in effect and as it exists on June 1, 1983.

(d) *Definitions.* For the purposes of this ordinance the following words and phrases shall have the meanings respectively ascribed to them by this section:

Construction and demolition: Any excavation, highway construction, land development or land clearing work, or the erection, demolition, alteration, repair, or relocation of any building or structure, which uses powered equipment such as backhoes, trucks, tractors, excavators, earth moving equipment, compressors, motorized, or power hand tools, manual tools, or equipment of a similar nature as well as two-way radios or other communication equipment; or use of any equipment for recycling, screening, separating, or any other processing of soil, rocks, concrete, asphalt or other raw material.

Electronic devices: any radio, tape recorder or player, television, phonograph, public address system, loudspeaker, amplified musical instrument or any other similar device, except two-way communication radios.

Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work: any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Gross vehicle weight rating (GVWR): the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

#31-15 DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(11/6/2015)~~

§ 20-13 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-13

Leaf blower: any portable motorized device, whether carried or pushed, whether powered by gasoline or other fuel, electricity or battery, used in any landscape or property construction or maintenance activity, for the purpose of blowing, dispersing, vacuuming, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

Motorcycle: any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters, minibikes, and mopeds.

Motor vehicles: any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

Noise pollution: a condition caused by a noise source that increases noise levels 10dB(A) or more above background noise level, except that if the noise source produces a tonal sound, an increase at 5dB(A) or more above background noise level is sufficient to cause noise pollution.

Tonal sound: any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

(e) *Noise Pollution prohibited.*

- (1) No person shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source (other than a dog or bird) owned, leased, kept, or controlled by such person, or caused by any activity of such person.
- (2) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made in relation to, the boundary line of the property within which the offending source is located, or as close thereto as feasible.
- (3) All noise level measurements made pursuant to subsection (e) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

(f) *Time Restrictions.*

- (1) Notwithstanding the provisions of subsection (e) and subject to the maximum noise levels listed in subsection (g), the generation of any noise from all electric motors and/or internal combustion engines employed in yard, garden, or grounds maintenance is prohibited except during the following time periods:
 - (A) Between 7:00 a.m. and 8:00 p.m. on weekdays; or
 - (B) Between 9:30 a.m. and 8:00 p.m. on Saturdays, Sundays and legal holidays as established in section 2-26 of these revised ordinances.
- (2) Notwithstanding the provisions of subsection (e) and subject to the maximum noise levels listed in subsection (g), the generation of any noise from construction and demolition activity is prohibited except

#31-15 DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(11/6/2015)~~

§ 20-13 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-13

during the following time periods:

(A) Between 7:00 a.m. and 7:00 p.m. on weekdays; or

(B) Between: 8:00 a.m. and 7:00 p.m. on Saturdays;

(C) Generation of any noise from construction and demolition activity is prohibited at any hour on Sundays and legal holidays as established in section 2-26 of these revised ordinances, except by permit issued in accordance with subsection (h)(1).

(3) All public address loudspeakers, either mobile or stationary, shall be prohibited from operating every evening from 9:00 p.m. until 7:00 a.m. the following morning.

(4) No automobile, motorcycle, truck or vehicle-mounted refrigeration equipment or other motorized vehicle shall be left running when not in traffic, within three hundred (300) feet of any dwelling, hotel or residence, for a period of greater than five (5) minutes.

(5) Between the hours of midnight and 6:00 a.m. deliveries and pick-ups for commercial or business purposes are prohibited within 300 feet of any dwelling within a residential zone excepting deliveries to such dwellings, deliveries of gasoline to gasoline stations, deliveries or pick-ups at state or federal governmental offices and any other commercial or business delivery or pick-up operation that does not increase noise levels 5dB(A) or more above background noise level. For purposes of this subsection, "deliveries" and "pick-ups" shall include the loading and unloading of a vehicle.

(6) Between the hours of 7:00 p.m. and 7:00 a.m. trash collection shall be prohibited within five hundred (500) feet of any dwelling.

(7) Between the hours of 11:00 p.m. and 7:00 a.m. no person or persons shall disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any electronic device, or from the playing of any band or orchestra, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, provided however, that any performance, concert, establishment, band group or person who has received and maintains a valid license or permit from any department, board, or commission of the City of Newton authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise for the purposes of this section shall be defined as 5dB(A) or more above background level when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit.

(g) *Maximum Noise Levels.* Notwithstanding the provisions of subsections (e)(1) and (e)(2), the following are the maximum noise levels that are permitted for the specified purposes:

Maximum noise level dB(A) permitted:

(1) *Vehicles*

Vehicle Class Stationary or Moving

#31-15 DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(11/6/2015)~~

§ 20-13 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-13

All vehicles over 10,000 lbs. GVW
or GCWR 86

All Motorcycles 82

Automobiles and light trucks..... 75

Noise measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.

(2) *Construction and demolition.*

The cumulative noise level of all construction and demolition on one site at any one time shall not exceed 90dB(A). No individual piece of equipment shall exceed a maximum noise level of 90 dB(A). If noise barriers are used that effectively shield nearby areas from a condition of noise pollution, the following devices shall be exempt from the maximum noise level limitations: jackhammers; pavement breakers; pile drivers; and rock drills.

Maximum noise level dB(A) permitted:

Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper 90

Air compressor 85

Generator 90

Electric drills, sanders, saws (except chainsaws) or other power tools of all types, whether hand held or otherwise 75

Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

(3) *Yard, Garden, or Grounds Maintenance Equipment*

Maximum noise level dB(A) permitted:

Commercial Chipper, 3 1/2 inch or greater limb capacity (running at full speed but not chipping) 90

Commercial truck-mounted leaf
vacuum..... 90

All other equipment, including home
tractor, ~~leaf blower~~, lawn mower
or trimmer 65

#31-15 DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(11/6/2015)~~

§ 20-13 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-13

Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

- (4) *Tonal Sound Corrections.* When a tonal sound is emitted by a noise source specified in subsections (g)(1), (g)(2) and (g)(3) herein, the limit on maximum noise levels shall be 5dB(A) lower than as specified in subsections (g)(1), (g)(2) and (g)(3).
- (5) *Maximum Noise Levels for HVAC systems.* No person shall operate any air conditioning, refrigeration or heating equipment for any residence or other structure or operate any pumping, filtering or heating equipment for any pool or reservoir in such manner as to create any noise which would cause the noise level on the premises of any other occupied property or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, to exceed the background noise level by more than 5 dB(A). This provision shall not apply, however, to periodic or emergency maintenance or testing of such equipment reasonably necessary to maintain such equipment in good working order. Noise measurements and noise pollution determinations shall be taken in accordance with subsections (e)(2) and (e)(3).
- (6) *Alternative Measurement Procedures.* If it is not possible to make a good noise level measurement at the distance specified in subsections (g)(1), (g)(2) and (g)(3), measurement may be made at an alternate distance and the noise level subsequently calculated for the specified distance. Calculations shall be made in accordance with established engineering procedures.
- (7) All noise-level measurements made pursuant to subsection (g) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

(h) *Restrictions on use of leaf blowers.* Notwithstanding the provisions of sections 20-13 (f) and (g), no person, including any City employee or contractor, shall use or operate a leaf blower within the City of Newton from May 15 through September 15 or from December 15 through March 1 in each year. At all other times leaf blowers may be operated subject to the following provisions:

(1) Permitted hours of use. Leaf blowers may be operated only during the following times:

Monday – Friday: 8:00 a.m. – 5:30 p.m.

Saturday: 9:30 a.m. – 5:30 p.m.

Sundays and legal holidays: prohibited except for operation by a resident of the property on which the leaf blower is operated between 9:30 a.m. and 5:30 p.m.

(2). Only leaf blowers meeting the following criteria are permitted for use:

A. Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;

B. Leaf blowers must bear an affixed manufacturer's label indicating the model number of the leaf blower;

#31-15 DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(11/6/2015)~~

§ 20-13 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-13

C. Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65 dB(A) or less; and

D. Leaf blowers may only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower.

(3) No more than one leaf blower may be used on any lot of 10,000 square feet or smaller. One additional leaf blower may be used for each additional 10,000 square feet or portion thereof comprising one lot.

(4) During times of emergency caused by a storm or other special circumstance, the Mayor or his designee may temporarily suspend application of this section for purposes of cleaning up from such storm or other special circumstance.

(5) The Mayor may grant, on a case by case basis, a permit for exemption from all or a portion of this section in accordance with the provisions of section 20-13 (i).

(hi) Permits for exemptions from this ordinance and for extensions of time to comply with this ordinance.

(1) The mayor or his designee may grant a permit for any activity otherwise forbidden by the provisions of this ordinance upon a determination by the mayor or his designee that compliance in the conduct of such activity would cause undue hardship on the person or persons conducting such activity or on the community, taking into account: (i) the extent of noise pollution caused by not requiring such compliance; and (ii) whether reasonable efforts have been made to abate the noise. The mayor or his designee shall establish appropriate procedures for the processing of requests for such permits, including such hearings as the mayor or his designee deems appropriate. In granting any such permit, the mayor or his designee may impose such appropriate conditions as he deems necessary pursuant to this section. Copies of all such permits shall be filed with the clerk of the board of aldermen promptly after issuance. Promptly after issuance, copies of all such permits shall be filed with the clerk of the board of aldermen and to each ward alderman for the affected ward.

(2) The mayor or his designee may extend to a specified date the time for compliance with this ordinance in the case of any particular activity with respect to which a determination is made that such extension is necessary to provide a reasonable opportunity for such activity to be brought into compliance. No such extension shall be granted which has the effect of exempting such activity from compliance with this ordinance. The mayor or his designee shall establish appropriate procedures for the processing of requests for such extensions of time, including such hearings as the mayor or his designee deems appropriate.

(hj) Judicial Review. Any person aggrieved by the grant or denial of a permit pursuant to subsection (h)(1) or an extension of time pursuant to subsection (h)(2) may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

(jk) Penalties. Violation of any of the provisions of this section shall constitute a misdemeanor and any person, upon conviction of such violation, shall be fined an amount not to exceed three hundred dollars (\$300.00). Each day

#31-15 DRAFT REDLINE FOR DISCUSSION PURPOSES ~~(11/6/2015)~~

§ 20-14 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-19

that such violation continues shall be considered to be a separate offense.

(k) *Non-criminal disposition.* In addition to the penalties set forth in subsection (j), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 20-20 and 20-21 of the Revised Ordinances, as amended, pursuant to the authority granted by G.L. c. 40, sec. 21D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in Sections 20-21(c) and 20-21(d).

(m) In the event the person in violation of section 20-13 (h) pertaining to leaf blower use is a contractor, the property owner shall be notified of the violation and of any warning or other enforcement issued to the contractor.

(n) *Severability.* If any provision(s) of this ordinance or the application of such provision(s) to any person or circumstances shall be held invalid, the validity of the remainder of this ordinance and the applicability of such provision to other persons or circumstances shall not be affected thereby. (Ord. No. R-331, 6-20-83; Ord. No. T-62, 12-4-89; Ord. No. T-200, 12-16-91; Ord. No. V-286, 3-6-00; Ord. Z-32, 7-14-08; Ord. No. Z-78, 02-22-11; Ord. No. Z-104, 04-02-12)

Cross reference—Sounding warning devices on motor vehicles, § 19-72; noise by hawkers and peddlers, § 17-26.

Secs. 20-14—20-19. Reserved.

Memorandum

To: Members of the Programs and Services Committee

From: Alderman Baker

Subject: Some additional language to consider about improving leaf blower technology

Date: November 13, 2015

As we discussed, and observed at City Hall, the technology is improving to the point that battery operated leaf blowers should be available generally. To allow time for existing equipment to be phased out, might we consider something along the following lines?

After January 1, 2018, A "Permitted Blower" is a leaf blower that is powered by an electric battery that is contained within the body of the leaf blower; such blower is certified on the body of the blower by its manufacturer as emitting not more than 65 dB(A) (using ANSI approved methodology) at its highest power, measured 50 feet from the source; and when in use, such blower does not in fact emit a sound any louder than as certified.

Cc: Marie Lawlor, Law Department

Sec. 20-14

In addition to the noise restrictions on leaf blower use and operation contained in §20-13, the following provisions shall apply to use and operation of leaf blowers:

a. Use of Leaf Blowers In Close Proximity to Operable Windows, Doors, or Mechanical Air

Intake Openings or Ducts Prohibited. Leaf blowers shall not be operated in close proximity to any operable window, door, or mechanical air intake opening or duct of any building so as to deposit debris within such windows, doors, openings or ducts unless with the permission of the occupants of the building.

b. Blowing or Depositing Debris onto Neighboring Properties and Public Right-of-Way

Prohibited. Any person operating a leaf blower shall not cause dust, dirt, leaves, grass clippings, cuttings and trimmings from trees or shrubs, or other debris to be blown or deposited on any adjacent or neighboring properties without permission of the owners of such properties, or onto any part of the public right-of-way, including but not limited to sidewalks, streets or storm drains, without permission from the Commissioner of Public Works. Notwithstanding the foregoing provision, a person shall not be in violation of this section for depositing leaves, grass clippings, cuttings and trimmings from trees or shrubs, or other debris on part of a public right-of-way if that person removes the debris immediately thereafter and disposes of the debris in a sanitary manner which will prevent dispersal by wind, vandalism, or similar means. This section does not prohibit any person from placing leaf and yard wastes for collection pursuant to and in compliance with the provisions of Section 11-8 of these Revised Ordinances and the rules and regulations promulgated thereunder.

c. Policies to Ensure Compliance with Foregoing Restrictions by City Departments Responsible for Maintaining City-Owned Property. Any and all City departments responsible for maintaining City-owned property shall develop, implement and enforce policies to ensure compliance by City employees and contractors with the foregoing restrictions, and any applicable state or federal laws or regulations concerning occupational safety and health standards relating to the operation of leaf blowers, including, but not limited to the provision and use of appropriate protective gear.

Secs. 20-154—20-19. Reserved.

ARTICLE III. CIVIL FINES/NON-CRIMINAL DISPOSITION

Sec. 20-20. Certain ordinance violations subject to civil fine.

(a) As an alternative to initiating criminal proceedings, the sections of these revised ordinances which are listed in section 20-21 may be enforced in the manner provided in General Laws c. 40, section 21D.

(b) Any such enforcing person, as listed in section 20-21, who takes cognizance of a violation of such an ordinance may give to the offender a written notice to appear before the clerk of the district court for Newton at any time during the court's office hours, not later than twenty-one (21) days after the date of such notice.

(c) *Non-criminal disposition upon payment of notice of violation.* Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the city clerk together with the notice such specific sum of money as established under section 20-21 as penalty for violation of the ordinance. Upon receipt of such notice

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

and payment, the city clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case. An appearance under this subsection shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

(d) *Right of appeal and hearing in the district court.* If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section and G.L. c. 40 § 21D, he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money established as a penalty as aforesaid or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this subsection shall operate as a final disposition of the case. Proceedings held pursuant to this subsection shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

(e) *Failure of appeal and return to criminal process.* If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money established as a penalty after a hearing and finding as provided in subsection (d), the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a criminal complaint for the violation of the appropriate ordinance. (Ord. No. V-255, 8-9-99)

Sec. 20-21. Enforcing persons and revised ordinances subject to civil fine.

(a) FIRE DEPARTMENT: The fire chief, fire alarm superintendent, all assistant chiefs and fire prevention personnel shall be authorized to issue written notice of following violations:

.....PENALTY

() Warning\$0.00

Sec. 10-5. Setting fire to trees, brush, leaves, etc. prohibited

() Setting fire to a tree brush, grass, leaves, brushwood, rubbish or other substance..... \$50.00

Sec. 10-8. Basements of certain buildings to be kept free of combustibles and inflammables

() Improper basement storage of combustibles and/or inflammables..... \$50.00

Sec. 10-9. Halls, stairways and exits of schools to be unobstructed

() Obstruction of hall(s) and/or stairway(s) of a school building..... \$50.00

Sec. 10-11. Smoke detectors

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

() Failure to provide smoke detectors as required for one or two dwelling units
(Sec. 10-11(b))..... \$50.00

() Failure to provide smoke detectors as required for three or more dwelling units
(Sec. 10-11(c))..... \$50.00

() Failure to provide smoke detectors as required for misc. units or rooms (Sec. 10-11(d)).. \$50.00

Sec. 10-42. Fire protective and alarm systems in general

() Failure to provide fire protective system \$50.00

Sec. 10-43. Installation, removal, permit required

() Failure to obtain permit (Sec. 10-43(a)) \$50.00

() Failure to undertake or to complete installation of a fire protective system (Sec. 10-43(c))\$50.00

() Failure to schedule final inspection (Sec. 10-43(c)) \$50.00

() Failure to perform test for acceptance (Sec. 10-43(c)) \$50.00

() Failure to maintain 100% operating system (Sec. 10-43(d)) \$50.00

Sec. 10-44. Maintenance and testing

() Failure to provide for required maintenance or testing (Sec. 10-44(1)) \$50.00

() Failure to notify fire department of maintenance, testing or other work (Sec. 10-44(2)) ... \$50.00

Sec. 10-45. False alarms, malfunctions

() First offense \$50.00

() 2nd & 3rd* offense..... \$100.00

() 4* or more offenses \$200.00

*References to 2nd, 3rd and 4th or more offenses shall be for subsequent offenses occurring within the same fiscal year.

Sec. 10-46. Connection to municipal alarm

() Failure to complete connection to municipal alarm system (Sec. 10-46(a)) \$50.00

() Unauthorized connection to municipal alarm system (Sec. 10-46(b)) \$50.00

() Unauthorized disconnection from municipal alarm system (Sec. 10-46(c))..... \$50.00

Sec. 10-47. Violation of state fire prevention code

() Violation of 527 CMR 1.00 - 50.00 (citation to note section violated) \$50.00

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

Sec. 26-7. Numbering of buildings

Failure to properly display building numbers or display of unauthorized number:

() First offense\$0.00

() Second and each subsequent offense provided however that a written notice of violation for a second offense may not be issued until at least twenty-one (21) days have passed from the date of issuance of the first offense for the same property. \$50.00

(b) HEALTH AND HUMAN SERVICES DEPARTMENT: The commissioner of health and human services, and/or his or her designee, sanitary inspectors of the health and human services department, the chief of police and/or his or her designee, and the administrative director of the board of license commissioners and/or his or her designees shall be authorized to issue written notice of the following violations:

.....PENALTY

() Warning (ticket to note violation)\$0.00

CITY ORDINANCES

Any offense:

Sec. 12-1, Change of certificate of habitability \$50.00

Section 12-20 through 12-27, recombinant DNA

() Any offense \$300.00

Section 12-71. Plastic Bag Reduction Ordinance

() First offense Warning

() Second offense\$100.00

() Third offense\$200.00

() Fourth or subsequent offenses.....\$300.00

Section 20-2. Sale of tobacco products

() First offense of any provision of § 20-2, except subsection (d)(1).....\$100.00

() Second offense of any provision of § 20-2, except subsection (d)(1)\$200.00

() Third or subsequent offense of any provision of § 20-2, except subsection (d)(1)\$300.00

() Any offense of the provisions of § 20-2, subsection (d)(1).....\$300.00

Sec. 20-7. Smoking prohibited on sidewalks and other public property

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

() First offense.....\$50.00

() Second offense\$100.00

() Third or subsequent offense\$200.00

Section 20-70. Café furniture on sidewalks

() Any offense \$100.00

HEALTH AND HUMAN SERVICES DEPARTMENT REGULATIONS

Any offense:

() Private wells, permits and registration..... \$50.00

() Sandblasting \$50.00

() Keeping of animals..... \$50.00

() Practice of massage \$50.00

() Operating a massage establishment \$50.00

() Removal/transport of offal or garbage..... \$50.00

() Administrative procedures (105 CMR 400.000)..... \$50.00

() Housing standards (105 CMR 410.000)..... \$50.00

() Recreational camps for children (105 CMR 430.000)..... \$50.00

() Swimming pools (105 CMR 435.000) \$50.00

() Medical and/or biological waste (105 CMR 480.000)..... \$50.00

() Food establishments (105 CMR 590.000)..... \$50.00

() Tanning facilities (105 CMR 123.000)..... \$50.00

() Subsurface disposal of sanitary sewage (310 CMR 15.00)..... \$50.00

() General nuisance (G.L. c. 111 § 122 through § 125A) \$50.00

() Atmospheric air pollution (G.L. c. 111 § 31C) \$50.00

() Animal quarantine (G.L. c.129 § 21)..... \$50.00

() Noisome trades (G.L. c.111 § 143)..... \$50.00

() Solid waste disposal facilities (G.L. c.111 § 150A - § 150B)..... \$50.00

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

() Bakeries and bakery products (G.L. c.94 § 1 through § 4) \$50.00

(c) DEPARTMENT OF INSPECTIONAL SERVICES: The commissioner of inspectional services, and/or his or her designee, and building inspectors of the department of inspectional services shall be authorized to issue written notice of the following violations:

..... PENALTY
 Sec. 20-13. Noise Control

() First offense in calendar year Warning

() Second offense in calendar year \$100.00

() Third offense in calendar year \$200.00

() Fourth or subsequent offense in calendar year \$300.00

Sec. 20-14 Leafblower use and operation

() First offense in calendar year Warning

() Second offense in calendar year \$100.00

() Third offense in calendar year \$200.00

() Fourth or subsequent offense in calendar year \$300.00

Sec. 30-20. Signs

() Non-accessory sign (Sec. 30-20(d)(1)) \$50.00

() Roof sign (Sec. 30-20(d)(2)) \$50.00

() Portable sign (Sec. 30-20(d)(3)) \$50.00

() Excessive area of window signs (Sec. 30-20(d)(4)) \$50.00

() Outdated signs (Sec. 30-20(d)(5)) \$50.00

() String lights (Sec. 30-20(d)(6)) \$50.00

() Illegal temporary sign (Sec. 30-20(h)(1)) \$50.00

() Illegal short term event sign (Sec. 30-20(f)(10)) \$300.00

() Illegal campaign sign (Sec. 30-20(h)(6)) \$50.00

() Streamer, display, etc. (Sec. 30-20(b)) \$50.00

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

Sec. 30-8. Use regulations for single residence districts; and

Sec. 30-9. Use regulations for multi-residence districts

- () Trailer, recreational vehicle in setback (Sec. 30-8(a)(3)(c); Sec. 30-9(a)(3)) \$50.00
- () Commercial vehicle: excessive size (Sec. 30-8(a)(3)(d); Sec. 30-9(a)(3))..... \$50.00
- () Commercial vehicle in setback (Sec. 30-8(a)(3)(d); Sec. 30-9(a)(3)) \$50.00
- () Too many commercial vehicles (Sec. 30-8(a)(3)(d); Sec. 30-9(a)(3)) \$50.00
- () Storage of construction equipment or materials not proper and usual with
single-family dwellings (Sec. 30-8(a)(3); Sec. 30-9(a)(3)) \$50.00

Sec. 30-15. Density/dimensional requirements

Any part of a building in a residence district extending nearer the street line than ten (10) feet (Sec. 30-15(d))

- () First offense\$0.00
- () Second offense..... \$50.00
- () Third offense \$100.00
- () Fourth offense..... \$200.00
- () Fifth or subsequent offense \$300.00

An accessory building in a residence district nearer to any lot line than five (5) feet (Sec. 30-15(m))

- () First offense\$0.00
- () Second offense..... \$ 50.00
- () Third offense \$100.00
- () Fourth offense..... \$200.00
- () Fifth or subsequent offense \$300.00

Sec. 30-19. Parking and loading facility requirements

- () Parking in setbacks (less than 5 stalls) (Sec. 30-19(g)(1)) \$50.00
- () Parking in setbacks (more than 5 stalls) (Sec. 30-19(h)(1))..... \$50.00
- () Business or manufacturing parking facilities in a residential district without a
special permit (Sec. 30-19(f)(3)) \$50.00

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

SPECIAL PERMIT CONDITIONS:

Violations of conditions included in special permits granted by the board of aldermen:

- () First offense \$50.00
- () Second offense..... \$100.00
- () Third offense \$200.00
- () Fourth or subsequent offense \$300.00

Sec. 20-24. Light pollution

- () First offense in a one-year period warning
- () Second offense in a one-year period\$75.00
- () Third offense in a one-year period\$150.00
- () Fourth and subsequent offenses in a one-year period\$300.00

Sec. 20-25. Light trespass

- () First offense in a one-year period warning
- () Second offense in a one-year period\$75.00
- () Third offense in a one-year period\$150.00
- () Fourth and subsequent offenses in a one year period.....\$300.00

Sec. 5-30. Perimeter Fences

- () Erection of fence greater than four (4) feet in height without a permit
(Section 20-40(c)).....\$50.00
- () Improper height of fence, residential zoning district (Section 20-40(d)).....\$50.00
- () Improper height of fence, non-residential zoning district (Section 20-40(e)).....\$50.00
- () Improper positioning and/or use of inappropriate material of fence
(Section 20-40(f)(1))\$50.00
- () Use of barbed or razor wire; sharp prongs (Section 20-40(f)(2)).....\$50.00
- () Failure to comply with requirements for Scenic Road fences (Section 20-40 (f)(6))\$50.00
- () Failure to comply with requirements for visibility on corner lots
(Section 20-40 (f)(7))\$50.00

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

Sec. 5-21. Regulation of Inadequately Maintained Vacant Properties

() Any offense\$300.00

Sec. 5-22 Regulation of Public Nuisances: Keeping of Junk, Debris, Overgrown Vegetation

() Any offense; days one (1) through seven (7) that the violation continues\$100.00 per day

() Any offense; days eight (8) through fourteen (14) that the violation continues\$200.00 per day

() Any offense; days fifteen (15) and each subsequent day thereafter that the violation continues\$300.00 per day

(d) POLICE DEPARTMENT: City police officers shall be authorized to issue written notice of the following violations:

.....PENALTY

() Warning\$0.00

Sec. 3-22. Vaccination certification.

() Any offense \$50.00

Sec. 3-23. License fees; vaccination; certification and exemptions (dogs)

() Any offense \$50.00

Sec. 3-24. Disturbing the peace by barking, etc.

() Any offense \$50.00

Sec. 3-25. Complaint of nuisance; investigation by dog officer.

() Any offense \$50.00

Sec. 3-26. Restraint of dogs.

() Any Offense..... \$50.00

Sec. 3-27. Muzzling or confinement of dogs.

() Any offense \$50.00

Sec. 3-29. Removal and disposal of canine waste.

() Any Offense..... \$50.00

Sec. 20-13. Noise Control

() First offense in calendar yearWarning

§ 20-21 NEWTON ORDINANCES — CIVIL FINES AND MISCELLANEOUS OFFENSES § 20-21

- () Second offense in calendar year\$100.00
- () Third offense in calendar year\$200.00
- () Fourth or subsequent offense in calendar year\$300.00

Sec. 20-14 Leafblower use and operation

- () First offense in calendar yearWarning
- () Second offense in calendar year\$100.00
- () Third offense in calendar year\$200.00
- () Fourth or subsequent offense in calendar year\$300.00

Sec. 26-8. Removal of snow and ice from sidewalks in certain districts.

- () First offense in calendar year\$100.00
- () Second offense in calendar year\$200.00
- () Third and subsequent offenses in calendar year\$300.00

Sec. 26-9. Putting snow and ice upon streets, sidewalks and bridges

- () Placing snow or ice on a public way (street, sidewalk or bridge)
- First offense in calendar year\$100.00
- Second offense in calendar year\$200.00
- Third offense and subsequent offenses in calendar year\$300.00
- () Causing or permitting snow or ice to be placed upon a public way (street, sidewalk or bridge)
- First offense in calendar year\$100.00
- Second offense in calendar year\$200.00
- Third offense and subsequent offenses in calendar year\$300.00

Sec. 26-24. Permitting material to remain upon sidewalks and streets.

- () Any offense \$25.00

(e) DEPARTMENT OF PARKS AND RECREATION: The commissioner of parks and recreation, in his capacity as tree warden, or such other municipal official as may hereafter be assigned the duties of tree warden, shall be authorized to issue written notice of the following violations: