

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY FEBRUARY 22, 2012

7:45 PM Room 222, 209

Chairman's Note: After items #30-12 and #32-12 are discussed, the committee will move to room 209 for a joint discussion of #367-10 with the Public Facilities Committee. Upon the completion of that discussion the Programs and Services Committee will return to room 222 to finish their business.

ITEMS SCHEDULED FOR DISCUSSION:

Appointment by His Honor the Mayor:

#30-12 NAZIK KAZIMI, 16 Manemet Road, Newton Centre appointed as a member of the Human Rights Commission for a term of office to expire on January 1, 2015 (60 days 03/06/12). [01/30/2012 @ 4:34PM]

Appointment by His Honor the Mayor:

#32-12 DIANE CHILINGERIAN appointed as a member of the Human Rights Commission for a term of office to expire January 1, 2015 (60 days 03/06/12). [01/30/2012 @ 4:34PM]

The below item will be discussed jointly with the Public Facilities Committee:

REFERRED TO PROG & SERV, PUBLIC FACIL. AND FINANCE COMMITTEES

#367-10 HIS HONOR THE MAYOR requesting authorization to appropriate an amount not to exceed five million dollars (\$5,000,000) from bonded indebtedness for the following:
(B) installation of up to six modular classrooms at five elementary schools as well as the addition of permanent classrooms and renovations to the core of F.A. Day Middle School. [11/29/10 @ 3:23 PM]
(A) \$75,000 for site plan work for 1 modular at Horace Mann, 2 at Zervas, and 1 at Burr was approved on December 20, 2010.
(B1) \$923,375 for installation of 4 modulares was approved on July 11, 2011
(B2A) \$86,545 for additional expenses related to the construction and installation of modular was approved on November 21, 2011.

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, contact the Newton ADA Coordinator Trisha Guditz at 617-796-1156 or tguditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting.

(B2B) \$102,117 for design of sprinkler systems at three elementary schools was approved on November 21, 2011.

(B2C) Six hundred forty-three thousand five hundred dollars (\$643,500) of the remaining \$3,812,963 for the design and other related expenses associated with the building renovations to F.A. Day Middle School was approved on December 19, 2011.

#367-10(B2) – \$3,169,463 (remaining balance) for renovations to the core of F.A. Day Middle School and sprinkler systems.

Note: The Mayor is proposing an appropriation of \$1,196,883 for the construction and construction of administration of the sprinkler system installations at the Burr, Zervas, and Horace-Mann Elementary Schools.

#329-05(3) ALD. YATES requesting a discussion relative to amending the noise control ordinance to (A) prohibit the cumulative noise level from multiple pieces of equipment operating simultaneously on the same site to exceed the maximum noise levels allowed when measured at the nearest lot line and (B) to eliminate various exemptions in residential districts.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#422-06(2) ALD. HESS-MAHAN requesting that a task force be established to meet and prepare a report and recommendations regarding the regulation of noise, air pollution and best practices with respect to the operation of power equipment used in landscaping, property and yard maintenance, including, without limitation, leaf blowers. [01/27/09 @ 3:47 PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

#37-12(2) PROGRAMS AND SERVICES COMMITTEE requesting a discussion to consider the creation of a three-man tree crew to be under the control of the Parks and Recreation Department. [02/09/2012 @ 11:02AM]

#205-11 ALD. SANGIOLO, GENTILE, HARNEY, LINSKY requesting a discussion with the School Committee regarding a proposal to enter into contractual relationships with the Newton Schools Foundation to sell naming rights on behalf of the Newton Public Schools. [06/22/2011 @ 8:32AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#39-12 HIS HONOR THE MAYOR requesting authorization to establish a revolving account with an annual expenditure limit of \$2,000,000 for the purpose of receiving funds collected by the Newton Schools Foundation in connection with the sale of naming rights for Newton Public School buildings and facilities and to be distributed for the sole purpose of public school education technology and curriculum purposes. [01/30/12 @ 4:18 PM]

REFERRED TO PROG. & SERV AND PUBLIC FACILITIES COMMITTEES

- #36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.
- A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;
 - B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale. [01/24/12 @ 8:07 AM]

REFERRED TO PROG & SERV, PUB FACIL. & FINANCE COMMITTEES

- #130-11 PAUL COLETTI, ALD. SANGIOLO, DANBERG, & JOHNSON requesting Home Rule Legislation to create a Capital Preservation Fund for the City of Newton modeled on the Community Preservation Fund to address the capital needs of the City. [04/11/11 @9:42 PM]
FINANCE VOTED NO ACTION NECESSARY ON 10/12/11
PUBLIC FACILITIES VOTED NO ACTION NECESSARY ON 10/19/11
- #207-08(2) PROGRAMS & SERVICES COMMITTEE requesting discussion with the Executive Department and various City Department heads regarding use of debt exclusions to address city needs. [03-14-11 @ 10:26AM]

REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES

- #312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10-27-10 @ 11:07 AM]
FINANCE VOTED NO ACTION NECESSARY on 10/12/11
PUBLIC FACILITIES VOTED NO ACTION NECESSARY on 11/18/11
- #114-11(2) ALD. HESS-MAHAN & ALD. SALVUCCI requesting a discussion on the definition of “tot lot” in the ordinance and whether there are other play areas/structures which should be protected from the presence of dogs.

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #383-11 HIS HONOR THE MAYOR submitting the FY13-FY17 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter and the FY12 Supplemental Capital budget which require Board of Aldermen approval to finance new capital projects over the next several years. [10/31/11 @ 3:12 PM]

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

- #245-10 ALD. SCHNIPPER requesting discussion with National Grid regarding the possible damage to trees as a result of gas leaks. [09/01/10 4:00 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#273-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that the Executive and Human Resources Departments develop a comprehensive human capital strategy for the city to include: performance management, talent development, succession planning, and compensation. [07/17/08 @ 9:53 AM]

FINANCE VOTED NO ACTION NECESSARY on 3/8/10

#298-09 ALD. MANSFIELD proposing Home Rule Legislation to amend **Article 2, Section 2-1(c) Composition; Eligibility; Election and Term** of the Newton Charter to establish four-year terms for Aldermen-at-Large with the provision for one Aldermen-at-Large to be elected from each ward at each biennial municipal election. [09-29-09 @ 6:45 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#270-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, School Department, and School Committee in order to determine the most effective and efficient way to organize the Information Technology Departments. [07/17/08 @ 9:53 AM]

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

REFERRED TO PROG. & SERV., PUB.FAC. AND FINANCE COMMITTEES

#89-08 ALD. PARKER requesting the following:

- A) review of the maintenance practices for buildings, parks and other properties owned by the City (including School Department facilities and grounds)
- B) development of a comprehensive maintenance plan that includes regular schedules for preventive maintenance for each specific site or facility
- C) a RESOLUTION requesting that implementation of said maintenance plan be funded using operating budget funds.

[02/13/08 @ 12:07 PM]

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

PUBLIC FACILITIES NO ACTION NECESSARY ON 11/3/10

REFERRED TO PROG & SERV. AND PUB. FACIL. COMMITTEES

#99-11 ALD. ALBRIGHT, JOHNSON, DANBERG requesting that the Department of Public Works coordinate data on the impact of the snow removal ordinance from the Departments of Public Works, Parks & Recreation, Executive and Senior Services into a monthly report for the winters 2012 and 2013, which will be sent to the Public Facilities Committee that includes the following data: (1) the number of people requesting exemptions; (2) the number of exemptions awarded; (3) the number of warning letters sent; (4) the ability of the City to maintain the same standard regarding treating the surface to preserve safe passage; and (5) cost of the implementation of the program.

PUBLIC FACILITIES COMMITTEE APPROVED 4-0 on 10/5/2011

Respectfully Submitted,
Amy Sangiolo, Chairman

Nazik D. Kazimi

To Whom It May Concern:

I have been a resident of Newton, Ma. for over 30 years and my interest in serving on the Human Rights Commission comes out of my passion for justice, international understanding and caring about people.

Being fortunate to travel to many parts of the world, I have been able to witness different cultures, which I feel has given me a broader appreciation for the world around us.

Serving on various boards of local Arab and Islamic organizations, being part of the Host Family program at M.I.T., volunteering with in-coming refugees from Iraq, and helping with burn victims brought to the Shriner's hospital has further strengthened my desire to help make our community a better place to live.

DIANNE CHILINGERIAN, LCSW

EDUCATION

Boston College Graduate School of Social Work
MSW, Clinical Health/Mental Health, 2009
Graduated with highest honors

Wheelock College Graduate School of Education
M.S. in Human Development, 1997
Certified teacher K-6

Tufts University
B.A. in Social Psychology, Minor in English, 1977

SOCIAL WORK EXPERIENCE

Riverside Outpatient Center, Norwood, MA, 2009-present
Clinical Social Worker

- Provide individual and family therapy for adults
- Collaborate with psychiatrists, social workers, and outside treatment planners

Riverside Outpatient Center, Norwood, MA, 2008-2009
Social Work Intern

- Provided individual and family therapy for adults and children
- Collaborated with psychiatrists, social workers, and outside treatment planners
- Co-led a support group for clients with schizophrenia

Lexington High School Multidisciplinary Support Team, Lexington, MA, 2007-2008
Social Work Intern

- Provided individual counseling for high school students
- Co-led weekly DBT Skills Training group
- Collaborated with team of psychologists, social workers, and teachers

TEACHING EXPERIENCE

Self-employed 2000-2007
English Tutor

- Tutored high school students in writing development, composition, and grammar

Newton Public Schools, Newton, MA, 1998-2000
Substitute Teacher

- Taught grades 1-8

International School, Fontainebleau, France, 1997-1998

Assistant Teacher

- Taught weekly class in English for bilingual students, grades 1-4

Newton Public Schools, Newton, MA, 1996-1997

Reading Teacher

- Taught reading to students with developmental delay
- Earned Orton-Gillingham certification

EDITING/WRITING EXPERIENCE

National Association of Purchasing Management, Oradell, NJ, 1981-1997

Managing Editor

- Edited and supervised production of International Journal of Purchasing Management

Temple, Barker & Sloane, Lexington, MA, 1983-1985

Editor

- Edited and supervised production of reports for strategic management consulting firm
- Wrote articles for company newsletter

National Association of Purchasing Management, Oradell, NJ, 1981-1982

Publications Manager

- Edited and supervised production of Report on Business and International Journal of Purchasing Management
- Wrote and produced all press releases
- Managed budget and staff of outside writers, editors, and printers

Prentice Hall, Englewood Cliffs, NJ, 1978-1981

Production Editor

- Organized and supervised production of college textbooks in the social sciences
- Copy edited college textbooks

ADDITIONAL PROFESSIONAL EXPERIENCE

In the Moment, Natick MA, 2000-2005

Business and Public Relations Manager/Performer

- Searched for performance opportunities, promoted via newspaper and radio, and performed with a cappella singing group
- Negotiated fees and contracts, coordinated performance logistics

European Health Leadership Program, Insead, Fontainebleau, France, 2009

Graduate of 2-week intensive training program in health leadership

COMMISSIONS, BOARDS, & VOLUNTEER EXPERIENCE

Newton Human Rights Commission, Advisory Council, 2005-present

Massachusetts Board of Bar Overseers, Hearing Committee Member, 2005-2009

Newton Public Schools: PTO President 1995-1996; Teacher Appreciation Committee, 1995-2005

Boston Children's Theatre, Member of the Corporation, 2004-present; Board of Trustees, 1994-2001

Armenian Memorial church, Sunday School Superintendent and Teacher, Deacons Chair,
Music Committee Member, 1994-2005
City of Newton, Girls' Softball Coach, 1993-1999



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#367-10

Telephone
(617) 796-1100

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(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

February 13, 2012

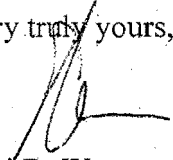
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to amend *Docket #367-10(B2) – \$3,169,463 (remaining balance) for renovations to the core of F.A. Day Middle School and sprinkler systems*, by appropriating \$1,196,883 for the purpose of funding the construction and construction administration of the sprinkler system installation at the Burr, Zervas, and Horace-Mann Elementary Schools.

I look forward to discussing this very important project with your Honorable Board. Thank you for your consideration of this matter.

Very truly yours,


Setti D. Warren
Mayor

RECEIVED
NEWTON CITY CLERK
2012 FEB 13 PM 1:51
David A. Oison, CMO
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

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DEDICATED TO COMMUNITY EXCELLENCE

City of Newton



PUBLIC BUILDINGS DEPARTMENT

Stephanie Kane Gilman, Commissioner
Telephone (617) 796-1600
FAX (617) 796-1601
TTY: (617) 796-1089
52 ELLIOT STREET
NEWTON HIGHLANDS, MA 02461-1605

Setti D. Warren
Mayor

February 9, 2012

Mayor Setti D. Warren
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Re: Request for construction funds to complete the Sprinkler System installation at Burr, Zervas, and Horace-Mann Elementary Schools.

Dear Mayor Warren:

The Public Buildings Department requests the sum of \$1,196,883.00 for the purpose of funding the construction and construction administration of the sprinkler system installation at the Burr, Zervas, and Horace-Mann Elementary Schools.

Sincerely,

Stephanie Kane Gilman
Public Building Commissioner

CC: Robert Rooney, Chief Operations Officer
Maureen Lemieux, Chief Financial Officer

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 therefor 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.

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 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 and](#) noise sources:

Maximum noise level dB(A) permitted:

(1) *Vehicles*

Vehicle Class	Stationary or Moving
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 equipment.~~*

Maximum noise level dB(A) permitted:

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.

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*

(i) 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

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.

~~(ii) Transition period. Notwithstanding the maximum maintenance equipment noise levels listed in subsection (3)(i), maximum noise levels dB(A) for all yard, garden, or grounds maintenance equipment, excluding commercial chippers and vacuums shall be as follows:~~

~~1. Maximum noise level dB(A) permitted up to two (2) years after effective date of this Section:~~

a) Home tractor, leaf blower	80
b) Lawn mower or trimmer.....	75

~~2. Maximum noise level dB(A) permitted from two (2) years to four (4) years after effective date of this section, all equipment..... 70~~

~~(4) *Maximum Noise Level Exclusions.* The following devices shall be exempt from the maximum noise limitations set forth in subsection (g)(2): jack hammers, pavement breakers; pile drivers, rock drills, provided that effective noise barriers are used to shield nearby areas from a condition of noise pollution. The time limitations contained in subsection (f)(2) shall still apply.~~

~~(54) *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).~~

~~(65) *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).~~

~~(76) *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.~~

~~(87) 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) *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.

(i) *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.

(j) *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 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).

(l) *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)

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