



# Zoning & Planning Committee

## Agenda

### City of Newton

### In City Council

**Monday, April 8, 2019**

**7:00PM**  
**Room 205**

#### **Items Scheduled for Discussion:**

- #127-19      Submission of the FY20 Annual Action Plan To HUD**  
HER HONOR THE MAYOR requesting City Council authorization, pursuant to the 2019 Revised Citizen Participation Plan, to submit the FY20 Annual Action Plan to the US Department of Housing and Urban Development (HUD) for the City of Newton Community Development Block Grant (CDBG) and Emergency Solution Grant (ESG) funds and the WestMetro HOME Consortium.
- #187-18      Zoning Amendment for Inclusionary Zoning**  
DIRECTOR OF PLANNING requesting amendments to the Inclusionary Housing provisions of Chapter 30, Newton Zoning Ordinance, to increase the required percentage of affordable units; to require that some affordable units be designated for middle income households; to create a new formula for calculating payments in lieu of affordable units; and to clarify and improve the ordinance with other changes as necessary.
- #220-18      Discussion relative to the Washington Street Corridor Action Plan**  
DIRECTOR OF PLANNING requesting monthly progress discussions on the Washington Street Corridor action plan.
- #128-19      Zoning Amendment for short-term rentals**  
DIRECTOR OF PLANNING proposing to amend Chapter 30, City of Newton Zoning Ordinances, in order to create a short-term rental ordinance that defines the short-term rental and bed & breakfast uses, identifies what zoning districts they would be allowed in and under what criteria, conditions, limitations and permitting process.

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

**Referred to Zoning & Planning, Public Safety, and Finance Committees**

**#136-19 Short-term rental ordinance with fees**

DIRECTOR OF PLANNING proposing amendments to Chapter 20 and 17 of the Revised Ordinances of the City of Newton to create a short-term rental ordinance with fees that would require registration of short-term rentals with the City's Inspectional Services Department and fire inspections to protect public health and safety.

**#43-19 Discussion of Riverside Vision Plan**

DIRECTOR OF PLANNING requesting regular progress reports on the Riverside Vision Plan.

**Respectfully Submitted,**

**Susan S. Albright, Chair**



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

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Barney S. Heath  
Director

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## MEMORANDUM

**TO:** Councilor Susan Albright, Chair  
Members of the Zoning and Planning Committee

**FR:** Barney Heath, Director of Planning & Development  
Amanda Berman, Director of Housing & Community Development  
Rachel Powers, Community Development and HOME Program Manager

**RE:** FY20 Annual Action Plan

**Date:** April 5, 2019

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### SUMMARY

The City of Newton is required by the U.S. Department of Housing and Urban Development to submit an Annual Action Plan which describes the anticipated uses of CDBG, HOME and ESG funds for the fiscal year ahead. The overall goal of these programs is to develop viable urban communities through the provision of decent housing, a suitable living environment and the expansion of economic opportunities for low- and moderate-income persons.

On Monday, April 8, 2019 the Housing and Community Development Division staff will present to ZAP recommendations outlined within the proposed FY20 Annual Action Plan. The draft plan was published on the City website and noticed in the Newton TAB on Wednesday, March 20, 2019. The public comment period began April 2, 2019 at the Public Hearing of the Planning and Development Board and will conclude on May 1, 2019.

### FUNDING ALLOCATIONS

While the City awaits official notice from HUD of its final allocations for FY20 (July 1, 2019-June 30, 2020), the proposed programs and activities included in the FY20 Annual Action Plan are connected to the following anticipated funding allocations, which are based on both the City's FY19 allocations and information recently communicated at the federal level:

- \$1,900,000 in Community Development Block Grant (CDBG) funds (estimated 1% decrease from FY19),
- \$1,437,500 for the HOME Investment Partnerships Program (estimated 10% decrease from FY19), and
- \$161,000 in Emergency Solutions Grant (ESG) funds (estimated 3% increase from FY19)

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**

Proposed FY20 CDBG programs and funding amounts are divided into four general categories:

1. **Affordable Housing:** **\$1,221,250 / 59% of CDBG funding**  
 Funds are used to support housing rehabilitation, site acquisition, and the development of units for low- and moderate-income households, as well as housing program delivery.
  - o \$625,000 in FY20 CDBG funds have been pre-committed to the development of 55 affordable units for seniors at Haywood House.
  - o Approximately \$30,000 is proposed to support downpayment and closing cost assistance for first-time homebuyers seeking to purchase deed-restricted affordable units.
  
2. **Human Services:** **\$308,520 / 15% of CDBG funding**  
 To support a variety of human service projects through 14 sub-grantee agencies and city departments as outlined below.
  
3. **Architectural Access:** **\$95,000 / 5% of CDBG funding**  
 To support the installation of Rectangular Rapid-Flashing Beacons in priority locations, construction of park pathways and city-wide curb cuts.
  
4. **Program Administration:** **\$411,480 / 20% of CDBG funding**  
 To support staff salaries, training and planning efforts.

**HUMAN SERVICES PROGRAM**

The FY20 Human Service RFP was released on January 14<sup>th</sup> and like previous years, proposals were evaluated by a review committee comprised of representation from the Housing and Community Development Division, Department of Health and Human Services, and Planning and Development Board.

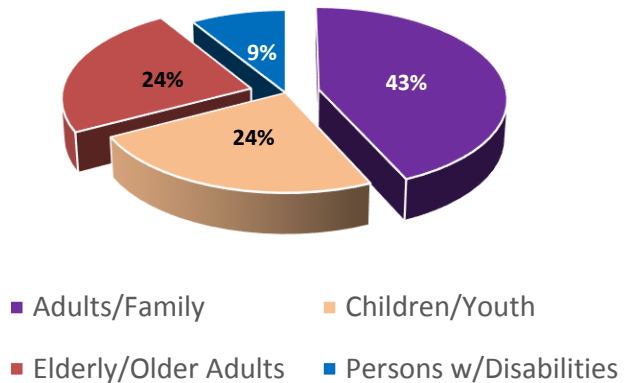
The Review Committee recommends the allocation of \$308,520 as follows:

<b>FY20 Human Service Recommendations</b>		
<b>Agency</b>	<b>Program</b>	<b>Proposed Award</b>
The Second Step	Residential & Community Programs	\$35,000.00
Boys and Girls Club	Financial Aid for Teens/Families	\$16,000.00
NCDF	Resident Services Program	\$28,000.00
EMPath	CFO Program	\$35,000.00
Horace Cousens Fund	Emergency Payments	\$12,000.00
Barry Price Center	Independence/Employment Programs	\$15,000.00
REACH	Ind. Support & Advocacy	\$11,520.00
Family ACCESS	Social Mobility for Young Families	\$48,000.00

Riverside Community Care	Mental Health Services Promoting Economic Mobility	\$40,000.00
2Life Communities (formerly JCHE)	Caring Choices and Wellness Nursing for Low-Income Seniors	\$12,500.00
Newton Housing Authority	Resident Services Program	\$23,000.00
JF & CS	Stabilization & Recovery Services	\$12,500.00
Plowshares	Tuition Assistance	\$10,000.00
Newton Senior Center	Fitness Program	\$10,000.00
<b>TOTAL</b>		<b>\$308,520.00</b>

The graphic to the right illustrates the distribution of target populations served by the proposed FY20 Human Service allocations. Proposed populations are consistent with the needs identified in the FY16-FY20 Five-Year Consolidated Plan, which indicated a high demand for services for older adults, children and youth and supports for individuals with mental illness and development disabilities.

**FY20 Proposed Allocations for Human Services**



**EMERGENCY SOLUTIONS GRANT (ESG)**

Division staff consulted with a combination of former Brookline-Newton-Waltham-Watertown Continuum of Care (BNWW CoC) social service providers and Balance of State Continuum of Care (BoS CoC) representatives to determine FY20 ESG funding priorities across eligible program categories, outlined below:

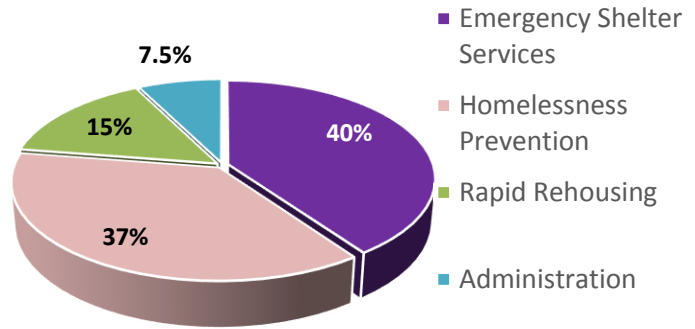
- Emergency Shelter Services:** **\$66,788 / 41% of ESG funding**  
 Funds support essential services, shelter operations and renovations associated with emergency shelters.
- Homelessness Prevention:** **\$58,500 / 36% of ESG funding**  
 Funds support the stabilization and potential relocation, including short-term rental assistance and utility and rent arrears, for individuals and families at immediate risk of homelessness.
- Rapid Rehousing:** **\$23,600 / 15% of ESG funding**  
 Funds assist individuals and families to rapidly re-house and relocate out of emergency shelter

or places not meant for human habitation into permanent housing.

- Program Administration:** **\$12,112 / 7.5% of ESG funding**  
 Funds Division staff salaries for those involved with project management and support efforts.

The ESG RFP was released concurrently with the Human Service RFP on January 14<sup>th</sup>. The City received 8 applications from 5 nonprofit agencies; all were recommended for funding. Proposals were evaluated by a review committee comprised of representatives from the Housing and Community Development Division, Department of Health and Human Services, Planning and Development Board, and Balance of State CoC.

**FY20 ESG Proposed Allocations**



The Review Committee recommends the following allocations:

FY20 ESG Recommendations		
Agency	Program	Proposed Award
Middlesex Human Service Agency	Bristol Lodge Men's & Women's Shelters	\$13,788.00
The Second Step	Transitional DV Shelter Operations	\$18,000.00
Community Day Center of Waltham	Day Shelter Operations	\$17,000.00
REACH Beyond Domestic Violence	Emergency DV Shelter Operations	\$18,000.00
Brookline Community Mental Health Center	Homelessness Prevention	\$52,500.00
The Second Step	Homelessness Prevention	\$6,000.00
Brookline Community Mental Health Center	Rapid Re-housing	\$17,600.00
The Second Step	Rapid Re-housing	\$6,000.00
Administration	Administration	\$12,112.00
<b>TOTAL</b>		<b>\$161,000.00</b>

**HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)**

The purpose of the HOME Program is to support a range of housing activities that expand affordable housing opportunities for low- and moderate- income households. As the lead entity for the WestMetro HOME Consortium, the City receives and administers HOME funds on behalf of the City and twelve other member communities, including the towns of Bedford, Belmont, Brookline, Concord, Lexington, Natick, Needham, Sudbury, Watertown, and Wayland and the cities of Framingham and Waltham.

The Consortium anticipates receiving a total of **\$1,437,500 in FY20 HOME entitlement funds**. Once the award allocations have been finalized, the local HUD Field Office will determine the distribution of funds amongst each community. About 70% of HOME funds will be available for HOME Programs and Projects, 10% will be allocated toward HOME administrative costs, 5% will be allocated for operating expenses of Community Housing Development Organizations (CHDOs) and another 15% will be set-aside for housing activities to be undertaken specifically by CHDOs.

Proposed Consortium-wide HOME programs and activities include the acquisition, rehabilitation and development of affordable rental housing, homeowner rehabilitation and Tenant-Based Rental Assistance (TBRA).

**ADDITIONAL INFORMATION**

Please feel free to review the full Draft FY20 Annual Action Plan on the City's website, including the FY20 program budgets:

<http://www.newtonma.gov/civicax/filebank/documents/95876>

You can also follow up directly with Rachel Powers, Community Development and HOME Program Manager, at (617) 796-1125 or [rpowers@newtonma.gov](mailto:rpowers@newtonma.gov) with any questions or concerns.



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** April 5, 2019

**TO:** Councilor Albright, Chair  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Amanda Berman, Director of Housing & Community Development  
Jennifer Caira, Chief Planner

**RE:** **#187-18** DIRECTOR OF PLANNING requesting amendments to the Inclusionary Housing provisions of Chapter 30, Newton Zoning Ordinance, to increase the required percentage of affordable units; to require that some affordable units be designated for middle income households; to create a new formula for calculating payments in lieu of affordable units; and to clarify and improve the ordinance with other changes as necessary.

**MEETING DATE:** April 8, 2019

**CC:** Jonathan Yeo, Chief Operating Officer  
Jonah Temple, Assistant City Solicitor  
Andrew Lee, Assistant City Solicitor  
Planning & Development Board  
City Council

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At our last meeting on March 11<sup>th</sup>, we provided the committee with an update on the work that the Department had accomplished on the inclusionary zoning ordinance update since the Public Hearing in December 2018. We summarized the February 19<sup>th</sup> roundtable discussion we had with the affordable housing advocates and RKG Associates and identified areas that the committee felt needed further clarification and/or exploration.



In addition, this memo offers a summary of the conversations that staff has had over the last month with for-profit developers. Finally, this memo presents some initial changes to our current proposal, which are reflective of the feedback received from all sources over the last few months.

**Further Clarification Needed:**

➤ **IZ’s connection to Land Values in Newton and neighboring communities**

As detailed in our March memo and presentation to ZAP, Kyle Talente from RKG has stressed that a significant increase in the IZ requirement would likely decrease the value of land in Newton, at least for an unforeseeable amount of time, thereby potentially chilling residential development throughout the city. The table below, created by RKG, shows the potential land value impact in Newton from increasing the city’s current Inclusionary Zoning policy.

<b>LAND VALUE IMPACT FROM EXPANDING CURRENT IZ POLICY</b>		
<b>Unit Count</b>	<b>Adding 2.5% at 110% AMI</b>	<b>Adding 5.0% at 110% AMI</b>
20 Units	10.7% Impact	10.7% Impact (no new units)
35 Units	6.1% Impact	6.7% Impact
50 Units	3.4% Impact	5.4% Impact
75 Units	5.6% Impact	7.7% Impact
105 Units	3.5% Impact	4.1% Impact
150 Units	1.9% Impact	4.0% Impact
205 Units	1.9% Impact	3.8% Impact
250 Units	2.6% Impact	4.7% Impact
400 Units	2.7% Impact	4.7% Impact

*NB - Assumes no payment for partial units*

On March 11<sup>th</sup>, some councilors expressed a desire to understand how increased IZ requirements have affected the land values in neighboring communities.

Over the past year plus, staff has been in communication with a number of neighboring communities regarding their inclusionary zoning policies. In particular, we have spoken with Cambridge and Somerville to better understand how their newly increased requirements have affected development in their respective cities, and the quick answer has been that they are not entirely sure.

In April 2017, changes were made to Cambridge’s inclusionary zoning ordinance for the first time in nearly 20 years. The City recently published a report on the status of its inclusionary housing program, detailing production from development approved both under the revised inclusionary provisions and those in effect prior to the 2017 amendments. As stated in the report, there continues to be a pipeline of developments that were permitted prior to the effective date of the new requirements and that have yet to get approvals for their inclusionary units or sought a building permit.

With its change in requirements came a new methodology for determining a project’s IZ requirement. Previously, the requirement as 15% of total project units, but not is 20% of total

dwelling unit net floor area. The City also instituted a transition period from December 1, 2016 to June 30, 2017, in which the requirement was 15% of total dwelling unit net floor area. Given these factors, and the strong difference between the old and new methodology for its IZ requirement, staff is still investigating how these changes may be affecting land values; and how the overall changes in the requirements may be influencing development throughout the city.

For Somerville, it has only been a year since the introduction of their new IZ requirements, and the city recently contracted with a consultant to study the effects of the new ordinance on residential development throughout Somerville. The City of Boston is also in the midst of putting together a similar study (March 26<sup>th</sup> Boston Globe article attached).

In an effort to help your committee better understand how Newton's IZ provisions compare to those of our neighbors, we have created the attached comparison table which highlights the requirements of Newton, Brookline, Cambridge, Somerville, and Watertown. We have also included a link below to Boston's Inclusionary Development Policy, which, in general, provides for a 13% inclusionary requirement on-site.

➤ **The connection between parking requirements and the level of affordability in a project**

Another question that came up was whether reducing or removing parking requirements would increase the level of affordability in a project. The short answer is yes. Parking is a huge expense for any project, especially underground parking. As discussed before, RKG assumed in its Financial Feasibility model that the cost of parking in Newton is as follows:

- Surface parking: \$8,000 per space
- Aboveground: \$25,000 per space
- Underground: \$40,000 per space

For a 140-unit project, at a parking ratio of 1.25, the developer would provide 175 spaces. Assuming 100% underground parking for a project of this size, the cost to the developer would be **\$7,000,000**.

In comparison, the differential between a market-rate one-bedroom unit and a 50% AMI one-bedroom unit, according to the RKG model, is approximately **\$441,491**. This value reflects the subsidy a developer would need to be "made whole," for that one 50% AMI unit.

In simple terms, the parking costs associated with this project (\$7,000,000) equals a little over **15 one-bedroom units set at 50% AMI**.

This example helps to show the correlation between the cost of providing parking and the potential for increased affordable units for a project whose parking requirements are reduced.

➤ **A new base number / calculation for payments-in-lieu and fractional cash payments**

Some councilors expressed the desire for staff to explore alternative options for calculating the payment-in-lieu and fractional cash payments to better address the concerns of the housing advocates, who felt strongly that this number was too low for Newton and did not result in a fair trade in terms of providing a cash payment in lieu of building an inclusionary unit on-site. There was agreement amongst the advocates that the cash payment should more closely resemble the cost of building an actual unit of housing in Newton, and that \$389,000 is not that number.

Over the past month, staff has been looking closely at the total development costs (TDC) per unit for affordable housing projects that have sought funding from the City's CDBG, HOME and CPA funds. While we are still investigating how each of these projects calculated their TDC (for example, was the cost of land factored into this number?), the average is looking to be close to \$500,000. After further research into these calculations, we will begin to test this number as the basis for the fee-in-lieu and fractional cash payments calculations.

Another possibility that we have begun to explore is to use the average differential between the value of a market-rate unit and an affordable unit, also known as the Value Gap Approach. As discussed above, the differential between a market-rate one-bedroom unit and a 50% AMI one-bedroom unit, according to the RKG model, is approximately **\$441,491**. This value reflects the subsidy a developer would need to be "made whole," for that one 50% AMI unit. By using this methodology to set the per-unit in-lieu cost, we would effectively be saying that the buy-out cost to the developer is the same as the "cost" to the developer of building the unit, in terms of lost revenue. As a way to define this average differential, staff could work with a consultant on an annual or bi-annual basis. Alternatively, staff could recalculate this differential each year based on the Construction Cost Index published annually by Engineering News Record.

Over the next month, staff will continue to better understand the implications of using each of these methods as the basis for the payment-in-lieu and fractional cash payments calculations.

**For-Profit Developer Conversations:**

Over the last month, staff has met or spoken with a number of for-profit developers that are either actively working in Newton or have developed in Newton in the past, including Scott Oran, Dinosaur Capital (developer of 28 Austin Street); William McLaughlin, Avalon Bay (developer of Avalon Needham Street and Avalon Chestnut Hill); Damien Chaviano, Mark Development (developer of Washington Street and Riverside); and Ward Shifman and attorney Laurence Lee (developer of 956 Walnut Street and other smaller Newton developments).

In general, the purpose of these meetings and phone conversations was to not only provide the developers with an update on the ordinance, but to gauge their comfort level with an increased IZ requirement at the middle-income tier (2.5%) and to understand their point of view on how an increased requirement may impact land values and residential development. While each developer had their own interpretation of how an increased IZ requirement could affect development, the

developers of larger-scale multifamily project felt in general that a 2.5% additional requirement at the middle-income tier was a reasonable and manageable change. The developers of the smaller-scale projects, however, were much more concerned about an increased requirement, stating that they don't have the same financial cushion as the larger projects to absorb these additional costs. And with many of these smaller-scale projects now incorporating underground parking, an increase in the affordable requirements becomes too financially burdensome.

The following are some additional points that came out of our discussions with this group:

- **Predictability is key.**

Knowing the IZ requirements (and other mitigation costs) up front is critical to determining a project's financial feasibility. Projects are underwritten to include those known costs. Placing increased requirements on a project after the land has been purchased and the deal has been put together can adversely affect a project to the point of infeasibility.

On the other hand, if a developer knows what will be required of a project prior to purchasing the land, they can properly factor those requirements into the project pro forma – and reduce the costs that they pay for that land.

- **Inclusionary Zoning requirements should be applied consistently and equally.**

Similar to the point above, developers felt strongly that whatever the requirement turns out to be, it should be applied consistently and equally. The potential for negotiation during the Special Permit process creates a strong level of uncertainty for developers, and the inconsistency in how the ordinance has been applied in the past does not create a level or fair playing field.

- **Developers of smaller-scale multifamily projects are concerned about an additional requirement.**

As mentioned above, these developers did not feel that their projects had the ability to withstand an additional affordability requirement, unlike the larger projects that tend to have more financial capital behind them.

- **Allowing for significant increase in density is a sure way to see greater affordability, a la Cambridge.**

There was consensus amongst the group that the best way to see additional affordability in a project is to allow for greater density. Appropriate density is essential to enabling a certain level of affordability, and for supporting other amenities and mitigation items often required of multifamily projects. Newton's incentive bonus is not as meaningful as it needs for projects to provide the level of affordability that Cambridge and Somerville are used to seeing.

- **There should be a transition period – giving developers time to reevaluate how to make their projects work under the new requirements.**

Some of the developers felt that there should be a transition period between the passage of an increased requirement and its implementation. The concern was that land was purchased

under the assumption of a 15% requirement, and project financing came together under those assumptions. To retroactively increase the requirement can be extremely challenging for projects that already have their financing in place.

**A New Required Units Table:**

As discussed in March, there was a strong desire on the part of the housing advocates to keep the current inclusionary zoning requirement at 15%, and to add on to that existing requirement a middle-income requirement. The advocates were clear that they did not want the updated ordinance to decrease the requirements at the 50% and 80% AMI levels.

Over the past few months, staff has considered this desire and attempted to balance it against our learnings and findings from the RKG Financial Feasibility Analysis and Model, as well as our discussions with for-profit developers in Newton.

We believe that the Required Units table below represents this balance in a fair and appropriate way. We adjusted the affordability requirements to match our current IZ requirements and added an additional requirement at the middle-income tier for projects over 20 units. This updated table honors our current ordinance requirements by not decreasing the number of required units at the 50% and 80% AMI levels and provides for an increase in requirement at a middle-income tier as project size increases.

Number of Inclusionary Units Required (April 2019 Concept)								
Tier Level	7-9 units*		10-16 units**		17-20 units***		21+ units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
<b>Tier 1, 50% - 80% AMI</b>	15.0%	15.0%	15.0%	15.0%	15.0%	10.0%	15.0%	10.0%
<b>Tier 2, 110% AMI</b>	0.0%	0.0%	0.0%	0.0%	0.0%	5.0%	2.5%	7.5%
<b>Total</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>17.5%</b>	<b>17.5%</b>
* 1 IZ Rental Unit: at or below 80% AMI								
* 1 or 2 IZ Ownership Units: at or below 80% AMI, priced at 70% AMI								
** 2+ IZ Rental Units: AMI must average out at 65% AMI (1/2 of IZ units at 50% AMI and 1/2 at 80% AMI)								
*** 3+ IZ Ownership Units: Tier 1 units must not exceed 80% AMI (priced at 70% AMI), Tier 2 units may be set up to 110% AMI (priced at 100% AMI)								

As you can see, this updated table closely resembles our existing ordinance, while accomplishing the objective of increasing the overall percentage requirement and adding a middle-income tier of affordability.

Number of Inclusionary Units Required (Existing Ordinance)						
Tier Level	6-9 units		10-16 units*		17+ units**	
	Rental	Owner	Rental	Owner	Rental	Owner
<b>Tier 1, 50% AMI</b>	0.0%	0.0%	7.5%	0.0%	7.5%	0.0%
<b>Tier 2, 80% AMI</b>	15.0%	15.0%	7.5%	15.0%	7.5%	10.0%
<b>Tier 3, 110% AMI</b>	0.0%	0.0%	0.0%	0.0%	0.0%	5.0%
<b>Total</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>	<b>15.0%</b>

\* 2+ IZ rental units: AMI must average out at 65% AMI (1/2 of IZ units at 50% AMI and 1/2 at 80% AMI)

\*\* 3+ IZ ownership units: 2/3 of IZ units must not exceed 80% AMI, remaining 1/3 may be set up to 120%

**Next Steps:**

On April 16<sup>th</sup>, the nine newly-appointment members of the Newton Housing Partnership will meet for their second meeting, where they will focus their time on the update to our inclusionary zoning ordinance. At their first meeting in March, staff presented an overview of the process and outlined the specific areas where we would like their input:

- Help determine an appropriate baseline IZ requirement (Required Units table)
- Identify new basis for cash payment and fractional cash payment calculation (rather than DHCD’s QAP Index of \$389,000)
- Alternative Compliance Option – worth pursuing?

The Housing Partnership plans to spend the majority of its April 16<sup>th</sup> and May 14<sup>th</sup> on this subject, with the goal of providing staff with specific recommendations for changes to our proposal prior to a potential Public Hearing in June.

In May, staff will present your committee with a new proposed ordinance, and we hope for a Public Hearing on this item in June.

**Printed Attachments:**

- IZ Comparison Chart, Newton Neighboring Communities
- March 26, 2019 Boston Globe article, “City to review affordable housing plan”

**Digital Attachments / Additional Documents:**

- 2018 Inclusionary Housing Report, Community Development Department, City of Cambridge, September 2018:  
[https://www.cambridgema.gov/CDD/housing/~/\\_media/152E5933A1404BEBB5619622FFF411F9.ashx](https://www.cambridgema.gov/CDD/housing/~/_media/152E5933A1404BEBB5619622FFF411F9.ashx)
- City of Boston Inclusionary Development Policy:  
<http://www.bostonplans.org/getattachment/91c30f77-6836-43f9-85b9-f0ad73df9f7c>
- Proposed Inclusionary Zoning Ordinance text (clean version), November 9, 2018:  
<http://www.newtonma.gov/civicax/filebank/documents/92905>

- Proposed Inclusionary Zoning Ordinance Guidebook (November 9, 2018):  
<http://www.newtonma.gov/civicax/filebank/documents/93001>
- City of Newton Inclusionary Zoning: Financial Feasibility Analysis, prepared by RKG Associates, Inc., March 2018 (not attached, but can be found on the City's IZ website:  
<http://www.newtonma.gov/civicax/filebank/documents/91410> )
- Further detail and additional memos and supporting documents can be found on the City's Inclusionary Zoning website:  
[http://www.newtonma.gov/gov/planning/lrplan/inclusionary\\_zoning.asp](http://www.newtonma.gov/gov/planning/lrplan/inclusionary_zoning.asp)

IZ Comparison Chart; Newton & Neighboring Communities

4/5/19

<b><u>TABLE</u></b>	<b>Newton (2018 Proposed)</b> <i>Population: 89,000</i>	<b>Brookline</b> <i>Population: 59,000</i>	<b>Cambridge</b> <i>Population: 110,700</i>	<b>Somerville</b> <i>Population: 81,300</i>	<b>Watertown</b> <i>Population: 35,000</i>
<b>Project threshold</b>	Any project with 7+ new units.	Any project resulting in the creation of 6+ units and requires a special permit.  *Brookline is beginning the process of revising its IZ by-law by contracting with RKG Consultants. Brookline hopes to present to Town Selectmen for adoption in Fall/Winter 2019.	Any project applying for a special permit or building permit that creates at least 10+ units <b>or</b> a development containing 10,000+ s.f. of residential space.	Any project seeking a special permit with site plan review to develop 6+ dwelling units.	Any project with 6+ units requiring a special permit.
<b>Inclusionary income eligibility</b>	Tier system for both rental and ownership units: <ul style="list-style-type: none"> <li>➤ Tier 1: up to 50% AMI</li> <li>➤ Tier 2: up to 80% AMI</li> <li>➤ Tier 3: up to 110% AMI</li> </ul>	Up to 100% AMI. <ul style="list-style-type: none"> <li>➤ Unless, if Brookline does not satisfy the town-wide 10% level under 40B, then 2/3 of the affordable units in project must be 80% AMI.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Rental: Between 50% AMI to 80% AMI</li> <li>➤ Ownership: No more than 100% AMI</li> </ul>	<ul style="list-style-type: none"> <li>➤ Tier 1: up to 50% AMI</li> <li>➤ Tier 2: 51% - 80% AMI</li> <li>➤ Tier 3: 81% - 110% AMI</li> </ul> Tier system for ownership: <ul style="list-style-type: none"> <li>➤ Tier 1: up to 80% AMI</li> <li>➤ Tier 2: 81% - 110% AMI</li> <li>➤ Tier 3: 110% - 140% AMI</li> </ul>	<ul style="list-style-type: none"> <li>➤ Rental: Between 65% - 80% AMI</li> <li>➤ Ownership: 80% AMI</li> </ul>



<b><u>TABLE</u></b>	<b>Newton (2018 Proposed)</b> <i>Population: 89,000</i>	<b>Brookline</b> <i>Population: 59,000</i>	<b>Cambridge</b> <i>Population: 110,700</i>	<b>Somerville</b> <i>Population: 81,300</i>	<b>Watertown</b> <i>Population: 35,000</i>
<b>Inclusionary percentage requirement</b>	15% up to 17.5%. Increasing percentage as project size increases. Requirement differs between rental and ownership units.	15% of new units for both rental and ownership projects.	20% of total Dwelling Unit Net Floor Area.	Increase percentage as project size increases: ➤ 6 unit projects: 1 IZ unit <b>or</b> fractional payment for 0.4 units. ➤ 7 unit projects: 1 IZ unit <b>or</b> fractional payment for 0.6 units. ➤ 8 - 17 unit projects: 17.5%. ➤ 18+ unit projects: 20%.	Increase percentage as project size increases: ➤ 6 – 19 units (rental and ownership): 12.5% at 80% AMI ➤ 20+ units (rental): 5% at 65% AMI and 10% at 80% AMI ➤ 20+ units (ownership): 15% at 80% AMI
<b>Round Up and Build</b>	➤ Where project results in a fraction of an IZ unit $\geq 0.5$ , one IZ unit must be provided. ➤ Where project results in a fraction of an IZ unit $\leq 0.5$ , project may choose to provide one IZ unit or contribute a fractional cash payment to the City.	➤ Any calculation resulting in a fraction of $\geq 0.5$ shall be increased to the next whole number. ➤ No mention of fractional payment.	In residential projects of at least 30,000 s.f., 3-BR units shall be provided at a ratio of at least one unit per 6,000 s.f., rounded to the nearest whole unit with fractions of 0.5 or more rounded up and 0.5 or less rounded down.	➤ Any calculation resulting in a fraction of an IZ unit shall not be rounded up. ➤ Resulting fractional units require fractional payment by the developer to the City.	➤ Any calculation resulting in a fraction of $\geq 0.5$ shall be increased to the next whole number. ➤ No mention of fractional payment.

<b><u>TABLE</u></b>	<b>Newton (2018 Proposed)</b> <i>Population: 89,000</i>	<b>Brookline</b> <i>Population: 59,000</i>	<b>Cambridge</b> <i>Population: 110,700</i>	<b>Somerville</b> <i>Population: 81,300</i>	<b>Watertown</b> <i>Population: 35,000</i>
<b>Cash Payment Option in Lieu</b>	<ul style="list-style-type: none"> <li>➤ For projects containing 7-9 units.</li> <li>➤ For projects with 10+ units, eligible only through Special Permit when City Council makes specific findings to unusual net benefit to allowing a fee rather than an IZ unit.</li> </ul>	<p>For projects with 6 – 15 units, developer may make a cash contribution to Brookline Housing Trust.</p>	<p>When City and developer agree that total Dwelling Unit Net Floor Area of all affordable units is less than the Affordable Dwelling Net Floor Area (ADNFA) required, the IZ requirement shall be met through a contribution to the Affordable Housing Trust (AFT) equal to the amount necessary to create an equivalent amount of ADNFA in a project assisted by the AFT.</p>	<ul style="list-style-type: none"> <li>➤ For all fractional units, payment allowed.</li> <li>➤ For whole units, cash payment must be permitted by the Special Permit Granting Authority, but is strongly discourage.</li> </ul>	<p>For projects containing 6 – 10 units.</p>

<b><u>TABLE</u></b>	<b>Newton (2018 Proposed)</b> <i>Population: 89,000</i>	<b>Brookline</b> <i>Population: 59,000</i>	<b>Cambridge</b> <i>Population: 110,700</i>	<b>Somerville</b> <i>Population: 81,300</i>	<b>Watertown</b> <i>Population: 35,000</i>
<b>Cash Payment Calculation</b>	<p>➤ Utilizes the average of DHCD’s QAP “Total Residential Development Cost Limits” index for small and large units, which is \$389,000 for 2018-19.</p> <p>➤ For projects with 7 – 9 units, payment is adjusted at a decreasing percentage depending on unit count.</p> <p>Ex: Cash payment formula for a 7-unit project is 70% of \$389,000 (QAP average index). The resulting payment would be \$272,300.</p> <p>➤ For 10+ unit projects, payment is the result of multiplying the number of units in the project by the IZ requirement for that project and then multiplying by the QAP average index.</p>	<p><u>Ownership:</u> Unit sales price <u>minus</u> \$125,000* <u>multiplied by</u> Contribution Factor (where contribution factor begins at 3% for a 6 unit project and increases 0.75% for every 1 unit increase until reaching 15 units.)</p> <p>*\$125,000 reflects the cost of constructing an additional unit as determined by Brookline in 2004.</p> <p>Ex: Fee in lieu is \$30,375 for an 8-unit project with an initial unit sale price of \$800,000.</p> <p><math>\\$800,000 - \\$125,000 = \\$675,000</math>  <math>\\$675,000 * 4.5\% = \\$30,375</math></p>	<p>➤ City’s AFT periodically provides a report to Planning Dept. on projects AFT has assisted from which the Planning Dept. calculates the amount of subsidy necessary to create a s.f. of Dwelling Unit Net Floor Area in an affordable housing project assisted by the AFT.</p> <p>➤ Planning Dept. multiplies this calculated per s.f. amount by the outstanding Affordable Dwelling Net Unit Floor Area necessary to satisfy the IZ requirement.</p>	<p>Rental: Number of affordable units not constructed <u>multiplied by</u> Current low HOME rent for average bedroom size in project <u>divided by</u> market rate rent charged for the average bedroom size in the project</p> <p><u>multiplied by</u> Net Operating Income <u>divided by</u> Capitalization Rate = Market Value of the Property <u>divided by</u> total number of bedrooms in the project = per bedroom price <u>multiplied by</u> average bedroom size</p>	<p>➤ Cash payment equals the most current Total Development Cost as stated in DHCD’s current QAP for the areas described as Within Metro Boston/Suburban Area, as adjusted for the type of project and number of units.</p> <p>➤ Projects with 6 – 10 units may opt out of providing IZ units on-site by using the QAP with a decreasing percentage of cash payment depending on the project’s unit count.</p> <p>➤ Ex: Developer pays 100% of QAP value for 10 unit project of 80% of QAP value for 8 units project.</p>

IZ Comparison Chart; Newton & Neighboring Communities

4/5/19

<b><u>TABLE</u></b>	<b>Newton (2018 Proposed)</b> <i>Population: 89,000</i>	<b>Brookline</b> <i>Population: 59,000</i>	<b>Cambridge</b> <i>Population: 110,700</i>	<b>Somerville</b> <i>Population: 81,300</i>	<b>Watertown</b> <i>Population: 35,000</i>
<b>Cash Payment Calculation (continued)</b>	<p>Ex: 18 unit project:  <math display="block">\frac{18}{0.175}</math>                     (17.5% is the IZ requirement for this sized project)  <math display="block">\frac{\\$389,000}{18} = \\$21,611</math>                     \$1,225,350 cash payment</p>	<p>Rental:                      Market value* of residential portion of project <i>minus</i> total number of units <u>multiplied by</u> \$125,000.  <u>multiplied by</u> Contribution Factor                      *Assessing Dept. estimates a market value for the property.                      Ex: Fee in lieu is \$99,000 at initial occupancy of an 8 unit rental property with a total market value of \$3.2 million.  <math display="block">[\\$3,200,000 - (8 * \\$125,000)] \times 4.5\% = \\$99,000.</math></p>	<p>This calculation may be adjusted by the Planning Dept. from time to time.</p>	<p>Ownership:                      Number of affordable units not constructed <u>multiplied by</u> the median market sales price for comparable unit types over the preceding four quarters <i>minus</i> the purchase price affordable to a moderate-income household with an income of 65% AMI of Boston-Cambridge-Quincy, MA-NH HUD Metro FMR</p>	<p>Projects with more than 10 units may provide cash payment based upon QAP in certain extraordinary circumstances approved by the SPGA.</p>
<b>Density bonus</b>	<p>➤ For every additional IZ unit provided above the original required IZ units, the project will be awarded 2 additional market-rate units.                      ➤ These additional IZ units shall be affordable up to 80% AMI.</p>	<p>No provisions for density bonus.</p>	<p>Residential floor area ratio increased by 30%, provided that 50% of the additional s.f. is devoted to affordable units.</p>	<p>➤ For every additional IZ unit provided above the original required IZ units, the project will be awarded 2 additional market-rate units.                      ➤ These additional IZ units shall be affordable at not less than 50% AMI.</p>	<p>➤ Available to developers who target lower income households more than the required set-aside percentage.                      ➤ Rents for such units must be set at or below 65% AMI.</p>

**IZ Comparison Chart; Newton & Neighboring Communities**

**4/5/19**

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<b>Off-site units</b>	<ul style="list-style-type: none"> <li>➤ Generally discouraged, but allowed if developer receives special permit and has agreement with nonprofit housing developer.</li> <li>➤ Off-site units must be completed before CO issued for the on-site market units.</li> </ul>	<p>May be allowed, preferably in the same neighborhood as the project. May be located in an existing structure, but potential for displacement of existing tenants will be considered by Town.</p>	<p>Not specifically allowed.</p>	<ul style="list-style-type: none"> <li>➤ May be allowed but preferably in the same neighborhood at sites suitable for housing use.</li> <li>➤ Off-site units may be located in an existing structure, provided that their construction constitutes a net increase in the number of affordable dwelling units in the structure.</li> <li>➤ The number of off-site units shall be, at minimum, equal to that number of units otherwise required to be provided on-site.</li> </ul>	<p>Not specifically allowed.</p>

**IZ Comparison Chart; Newton & Neighboring Communities**

**4/5/19**

<b><u>TABLE</u></b>	<b>Newton (2018 Proposed)</b> <i>Population: 89,000</i>	<b>Brookline</b> <i>Population: 59,000</i>	<b>Cambridge</b> <i>Population: 110,700</i>	<b>Somerville</b> <i>Population: 81,300</i>	<b>Watertown</b> <i>Population: 35,000</i>
<b>Elder Housing with Services</b>	<ul style="list-style-type: none"> <li>➤ 5% of beds on-site must be designated as affordable for elderly households at or below 80% AMI.</li> <li>➤ Monthly housing plus base service costs not to exceed 80% of elderly household's annual gross income.</li> </ul>	No provision.	No provision.	No provision.	<p>Restricted to 80% AMI, with total IZ requirement differentiated by project type and increasing with project size.</p> <p><b>Independent Living:</b></p> <ul style="list-style-type: none"> <li>➤ 6 – 19 units at 12.5 %</li> <li>➤ 20+ units at 15%</li> </ul> <p><b>Assisted Living*:</b></p> <ul style="list-style-type: none"> <li>➤ 10 – 75 units at 5%</li> <li>➤ 76+ units at 10%</li> </ul> <p>*max rent includes required services costs: i.e. meals, transportation, medication management, etc.</p>

Note: Planning Staff is in communication with the Cities of Cambridge and Somerville to better understand their fractional unit and cash payment calculations. Planning Staff will update this chart table when new information is received from these cities.

# Boston to review affordable housing plan



KEITH BEDFORD/GLOBE STAFF/FILE

Boston Mayor Martin J. Walsh toured this renovated house in 2017.

By [Tim Logan](#)

GLOBE STAFF MARCH 26, 2019

Boston officials plan to revamp the city's largest affordable housing program this year, and may require market-rate developers to contribute more to it.

The Boston Planning & Development Agency is pushing ahead with a long-discussed review of its Inclusionary Development Policy, which requires most housing developers to set aside 13 percent of units in new buildings at affordable rents, or pay money into the city's affordable housing funds.



The 19-year-old program is coming off one of its most successful years.

A report set to be released Tuesday shows that 546 inclusionary units opened in 2018 — about one-fourth of its total production since launching in 2000 — with 834 more under construction or permitted.

But the Walsh administration faces mounting pressure from housing advocates to mandate more affordable housing in new projects, especially in parts of the city where fast-rising rents threaten to push lower-income renters from their homes.

The agency recently hired a consulting firm to analyze the city's development market to help determine how much affordable housing to require. City officials will also discuss the issue with developers and housing advocates, and plan to hold a series of community meetings on the plan this spring and early summer.

“Any change to IDP or linkage (a similar program requiring developers of commercial buildings to contribute funding for affordable housing) will come down to the economics of development here in Boston,” said Sheila Dillon, the city's chief of housing.

Years into a building boom that has transformed the city's skyline and pushed large-scale development into neighborhoods across the city, construction costs have risen to a point that even a modest apartment can cost \$400,000 to build.

Meanwhile, the surge of new apartments are starting to put a lid on rent growth, especially on pricier new apartments.

That dynamic, real estate specialists say, could prompt developers and investors to put the brakes on new development.

At the same time, advocates point out that many Bostonians have been left behind, and are facing rents they can no longer afford.

Some groups are pushing for much higher affordability requirements, or for more units that are affordable to lower-income residents.

Many units are set at rents affordable to a family of four earning \$75,000 or more, when [nearly half of city residents earn \\$35,000 or less](#) a year.



Many of the affordable apartments created by the program in the last few years have been downtown and in the Seaport District, where large-scale new development has been concentrated.

Nearly half of the 546 apartments that opened in 2018 came in one building, The Beverly, a fully-affordable 239-unit building near North Station, while several other large Seaport developments added big blocks of affordable housing.

As they look to tweak the program for the future, city officials say they're trying to strike a balance, creating enough housing to better meet the need without mandating so much that they squelch development altogether.

"It is really expensive to build housing of any kind in Boston," said agency director Brian Golden.

"We want a program that is workable," he said.

They expect to finalize a new plan — which needs approval from the agency's board but not the City Council — later this year.

*Tim Logan can be reached at [tim.logan@globe.com](mailto:tim.logan@globe.com). Follow him on Twitter at [@bytimlogan](https://twitter.com/bytimlogan).*



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** April 5, 2019

**TO:** Councilor Albright, Chair, Zoning and Planning Committee  
Honorable Newton City Councilors

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Lily Canan Reynolds, Community Engagement Manager  
Rachel B. Nadkarni, Long-Range Planner

**RE:** **#220-18 Progress reports on Washington Street Visioning Project**

**MEETING DATE:** April 8, 2019

**CC:** Jonathan Yeo, Chief Operating Officer  
Planning and Development Board

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At the upcoming April 8<sup>th</sup>, 2019 meeting, the Committee will continue its review of the second draft of the Washington Street Vision Plan. Attached are the Councilor comments received to date. The comments discussed at the March 25<sup>th</sup> and April 4<sup>th</sup> meetings are included, but in gray, and include responses from Planning Department Staff. The intent is to continue discussion with Councilor comments that have not yet been discussed first.

The Principle Group will return to present the third, and their final draft, to the Committee on April 22<sup>nd</sup>. Alongside the updated draft, staff will include a summary memo of the community comments. From that point forward, staff, working at the Committee's direction, will continue to refine the draft documents.

**Attachments:** Councilor Comments Table

Councilor Comments on the Second Draft Washington Street Vision Plan as of 4.5.2019

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Building Shape	First floor	I really like: Glass first floors and frequent doors to the street for retail, so you don't have street interface like the first floor of West Newton Square's CVS, and Trader Joe's.	*		This comment is inline with what we heard in the community process	Explain more how the zoning attempts to address this
Building Shape	Heights	I really like: Keeping the height between the Armory and Lowell Street to two and a half stories, so there is a pause between Newtonville and West Newton.	*		This comment is inline with what we heard in the community process	Zoning shown in Draft 2 should continue the existing scale in these areas
Building Shape	Incentives	Build quality & green	*		Need more details on how zoning will incentivize using high quality building materials and sustainable buildings	Prepare a deep-dive discussion of this topic for April 8
Building Shape	Narrow buildings	I really like: Narrower variegated buildings, so we don't get any more blocks long malls like the Washington Place project already approved and under construction at the corner of Walnut and Washington Streets.	*		Need more understanding of exactly what zoning tools achieve this	Explain more how the zoning attempts to address this
Building Shape	Precedent Image	Looking at the precedent images, I don't think the photo on the right-hand side belongs. This image looks much more like the boxy (sp?) characterless buildings that residents pretty clearly don't want. Am I misunderstanding something about it?	*	Pg. 115	Need more description of precedent images	Include explanatory line about images and what they indicate
Building Shape	Precedent Image	The sketched graphic of the preferred vision doesn't seem to match the look and feel (or height) of the precedent images here. Which is more accurate to the vision for this site?	*	pg. 149	Consider which sketches are included; show façade variation better; question whether illustrations help understand 20-year potential	Consider removing the birds eye view sketches
Civic Spaces	Cheesecake Brook	I really like: The building of a road that would expose Cheesecake Brook, and the addition of a linear park along it.	*		This comment is inline with what we heard in the community process	Work towards adoption of the vision plan and zoning that prescribe these elements for Washington Street
Civic Spaces	Open Space & Urban Design	I strongly endorse the suggestions about street trees and other appropriate plantings, wider sidewalks, and improved civic spaces. Much of this work should be included in the redesign of the street itself. I also support the statements about discouraging mega-blocks, adding awnings, the location of dumpsters, and other aesthetic issues. The Hello Washington Street document does a great job of highlighting the importance of such measures.	*		This comment is inline with what we heard in the community process	Work towards adoption of the vision plan and zoning that prescribe these elements for Washington Street
Civic Spaces	Open Space & Urban Design	We can learn a lot from places like Post Office Square and the Greenway in Boston which are both excellent examples of well-use space.	*		Interesting comparison cases	Review these comparison sites and incorporate relevant elements
Civic Spaces	Trees	Great idea: Tree canopies	*		This comment is inline with what we heard in the community process	Continue to explore how trees are incorporated in the redesign of Washington Street

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Civic Spaces	Walker Street	at one point Commissioner DeRubeis had his eye on Walker park for an off-leash area - i would love to have that idea remain in the mix.	*	pg. 121	Noted	Consider including this idea in the Vision Plan
Economic Development	Live/Work	Great idea: Artist live/work space	*		This comment is inline with what we heard in the community process	Work towards adoption of the vision plan and zoning that prescribe these elements for Washington Street
Economic Development	Pavilions along Washington	I am supportive of efforts to create pop-up businesses and otherwise engage in creative uses along the Turnpike. This seems like a good use of land and an appropriate barrier to the Turnpike. However, I am not in favor of allowing shipping containers or other temporary structures without at least strong limits on their use, type, and duration.	*		Noted	Include this pavilion building type in the zoning ordinance and appropriate limitations on building materials/uses
Financing Tools	TIF	Is TIF realistic on Washington St – doesn't seem like a distressed area?	*		TIF is not explored, DIF is explored	Continue to include DIF as a tool in Vision Plan
Format	Comparison Cases	The comparisons that are used seem to be to fairly large cities but Newton is a suburb, with village centers more like what one would find in a medium-sized town. Where are the comparisons to those types of communities?	*		Noted that in other parts of the country a city or county boundary include a wider range smaller neighborhoods comparable to Newton	Continue to look for comparable places and incorporate when possible
Format	Fiscal Impact	What are Option 1 and Option 2 in the fiscal impact results?	*	pg. 178	Option 1 is the development program for all areas of the Washington Street zoning code except air rights parcels; Option 2 is development program inclusive of air rights parcels	Significantly expand the explanation of these options in the Vision Plan
Format	Fiscal Impact	Please provide further information on how the financial impact results were developed, including from what sources. Also, what do "Option 1" and "Option 2" refer to?	*		Need more explanation of Fiscal Impact analysis including assumptions used and sources of data	Produce an appendix to this Vision Plan that shows details of how fiscal impact results were developed
Format	Graphic	we need to see this graphic. How do we make sure that we don't get rectangular block style buildings?	*	pg. 115	Consider which sketches are included	Consider removing the birds eye view sketches
Format	Map	there is a map. C is supposed to be a street across the turnpike. Is it? it looks like it runs parallel to the pike.	*	pg. 93	shift c and d to better clarify	
Format	Renderings	The renderings show lots of trees and pedestrians and few cars, all in good weather. Unfortunately, I do not think that will be the reality on some days, especially in our New England climate, when it can be cold, wet, and dark on a late afternoon in winter. We should have renderings that more accurately depict what Washington Street is likely to look like in all seasons, with different levels of traffic.	*		Noted	Incorporate when possible images from different seasons in New England context

Councilor Comments on the Second Draft Washington Street Vision Plan as of 4.5.2019

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Format	Tactical Urbanism	not crazy about the term "tactical urbanism" might there be an alternative name?	*	pg. 46	This term needs more explanation	Reference definition listed in the Vision Plan whenever term is used
Process	Arts and Culture	Great idea: Arts and culture master plan	*		This work is already ongoing with Community Design for Arts and Culture (CDAC) committee	Liaise with this committee
Process	Climate Action Group	Have you run this plan by the people working on the climate action plan for comment?	*		Not yet	Run by Climate Action Plan team
Process	Implementation	I think we talked about creating a master sheet of things that we should do - i.e. an arts plan, various economic development tasks, possible docket items - it feels like it would be great to make this an appendix so they don't get lost	*		Idea to compile a top ten priority actions list instead of a full in-depth implementation plan that can become out of date quickly	Draft priority list
Process	Trial	Great idea: Test before Invest!	*		Analyze the potential to test roadway redesign ideas before major construction	If possible, incorporate testing into the scope of work for conceptual design for Washington Street roadway
Transportation	4:3 Conversion	In the chart showing the ADT counts of the comparative streets to Washington St - all the traffic counts went up. So - how well did these roads handle the traffic. Maybe we need someone to call a few of these places and get some first-hand reports on how it went. And why did all the traffic counts go up?	*	pg. 165	Some of the traffic counts go down, some stay the same, some go up	Include references to source material
Transportation	4:3 Conversion	I strongly support efforts to create a bike and pedestrian connection with the Charles River Greenway.	*		This comment is inline with what we heard in the community process	Adjust the image page 47 to better highlight all routes to Charles River
Transportation	4:3 Conversion	I really like: Wide sidewalks	*		This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	4:3 Conversion	Great idea: Wider sidewalks.	*		This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	4:3 Conversion	I agree with the observation that Washington Street in its current format does not work well. It is a difficult road to drive on, nearly impossible to bike along safely, and dangerous to cross in most places.	*		This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	4:3 Conversion	If we hope to improve the corridor, the city will need to spend the money now (or in the near future) to properly reconfigure the roadway - it should not wait for developers to build along the corridor. Proper design, in turn, will encourage the type of development we are trying to promote.	*		The City is spending \$2M on a conceptual design for the Washington Street roadway	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	4:3 Conversion	Improving access for mobility challenges is appropriately listed as a high priority and we should do all we can to improve street crossings, curb cuts, and the ability to use sidewalks safely.	*		This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	4:3 Conversion	I really like: Wide sidewalks	*		This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	4:3 Conversion	Covered and comfortable bus stops—throughout	*		The City is investing in better bus stops already on Washington Street	Continue to look for opportunities to improve bus stops in the Washington Street roadway study
Transportation	Autonomous Vehicles	How do you anticipate incorporating a driverless future? We talk about sensors and possibly no curbing, but when?	*		One of the clearest aspects of the future of autonomous vehicles is the need for pick up/drop off zones	Include this in the "Smart Driving, Smart Parking" section of the Vision Plan
Transportation	Autonomous Vehicles	Reading everything I can on driverless vehicles. Outside of driverless trains, I don't buy the hype.	*		The impacts of autonomous vehicles will be studied in an ongoing fashion by the City	Include this in the "Smart Driving, Smart Parking" section of the Vision Plan
Transportation	Vision	the concept of better, safer street design, the local storefronts, enjoyable storefronts is appealing. Yes—streets for people.	*	pg. 9	This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	Vision	West Newton area – would we create streets where there are none now, how is this done?	*		Depends on if this is public right of way or private right of way and the location	Further detail implementation for private ways in zoning; new public right of ways would require extensive public process
Transportation	Vision	The vision of a tree-lined Washington Street where pedestrians walk freely, cyclists can ride unimpeded, and vehicles travel smoothly is great (and one that I expect would be supported by the vast majority of our residents). Our challenge is to make sure that the proposed changes in the Hello Washington Street plan enable us to meet that vision.	*		This comment is inline with what we heard in the community process	Further analyze the roadway vision in the conceptual design of the Washington Street
Transportation	Vision	I like the bike bridge, but am not sure how useful it would be. This would need a study.	*		Noted	This concept is not anticipated to be a high priority implementation step, rather it represents a future vision that would need to be studied and appropriate funding allocated
Zoning	Arts and Culture	looking forward to reading the zoning that impact Action item #A to support the arts	*	pg. 38		Incorporate specifics on this in the zoning
Zoning	Process	and all the future-oriented maps - and caveat: I haven't read the zoning document yet - do we zone for this kind of future or do we zone for the present?	*	pg. 155		Work towards adoption of the vision plan and zoning that prescribe these elements for Washington Street

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Building Shape	Height	I think that three story buildings on Washington Street as a matter of right makes sense, as long as we enact appropriate rules regarding the mass of the buildings, setbacks, and other dimensional requirements. I would not allow any building more than three stories without a special permit and would not allow any building of more than five stories, even with a special permit, with the possible exception of the land in West Newton near the entrance to the Turnpike.	**			
Building Shape	Height	Check the new floor heights on the zoning so that three stories don't end up being as tall as a traditional five story building.	**			
Building Shape	Height	Building heights—by right and by special permit—Neighborhood concerns about shade and height. Please mock-up somewhere what these heights might look like—from the bridge over the pike at Lowell, as compared to the extant radio tower in the T parking lot, etc. so we and the community can have a better sense of what we are discussing.	**			
Building Shape	Height	Stepping down heights to neighborhoods/varied heights (but not all the same architect/developer)	**			
Building Shape	Preservation of historic buildings	I really like: Making small additions at the back of buildings where it will fit (like the police station) instead of tearing them down.	**			
Building Shape	Renderings	Height of buildings—5 stories by right? Or as a density bonus for extra affordable housing & high performance? Need to get a street sense—a mock up would be helpful.	**			
Building Shape		Can we have a list of the 20 iconic buildings?	**			
Civic Spaces	Courtyards	the courtyard on the map - should there be some green there? I think so. Also - all the storefronts now park behind those buildings - where will they park? If we are going to take away parking I think we should identify where it will go. Item G on p. 105 also says parking will go somewhere else. We need to figure out where. p.109 says we will use the rockport building for parking ??? how will we make this happen?	**	pg. 99, pg. 105		
Civic Spaces	Decking	Parks near every doorstep (3.3, p 45)—love the idea & would like to apply more widely. But these should be both pleasant and useful—they should not be near the highway if children are using them.	**	pg. 45		
Civic Spaces	Mass Pike	Green wall along the Pike—great idea, but who would “own” and who would maintain this?	**			

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Civic Spaces	Pavilions	Great idea: blocking turnpike noise	**			
Civic Spaces	Turnpike	Blocking Pike noise—yes, but first try the cheapest option. Move up as we can afford?	**			
Civic Spaces	Walker Street	Walker Street Greenspace—I think tactical urbanist pilot of this will show whether it has legs before we invest several million \$\$ into it.	**			
Civic Spaces		Please give examples of where civic space amenities would be allowed (1.7)	**	pg. 35		
Civic Spaces		Love the idea of more al-fresco living. The presence of the fumes & noise off the pike has to be acknowledged as a reality, and spaces that are shielded from same will be most successful.	**			
Economic Development	Business Vitality	Please explain the basis for the statements that there are not enough people living near the Washington Street Corridor to support the businesses there (and future businesses we would like to see). How many people currently live within a quarter mile, a half mile, and a mile of the Corridor? How many additional people do you anticipate living within those radii if the zoning code is implemented?	**			
Economic Development	Business Vitality	What specific types of retail businesses do you believe would be drawn to the Corridor that are not there now? How do the expectations for increased retail compare with the Northland consultant's view that the proposed project had too much retail.	**			
Economic Development	Business Vitality	I do not see much in here that encourages smaller scale places for offices and other non-retail commercial establishments. If we hope to encourage people to be able to walk or bike to work, we need to have places of employment other than retail that are readily available to them. There is a need for smaller scale buildings that can service commercial tenants who might not want or need a large, Class A office building. Service businesses such as architects, accountants and lawyers all fit this model as do web designers and marketing firms, to name just a few.	**			
Economic Development	Business Vitality	Competitively, how do the changes proposed compare to what Waltham and Watertown are doing? Will we be on par and thus be competitive from a retail/investment standpoint?	**			
Economic Development	Business Vitality	What indication do we have that people want to come and locate businesses here? Is this a statement we should have in the plan?	**	pg. 73		
Economic Development	Pavilions	lots of action items - to put on the list above - but who is going to develop the pavilions - is this an action item for the city?	**	pg. 39		



Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Economic Development	Pavilions	how do we make these pavilions that line the street happen?	**	pg. 144		
Economic Development	Pavilions	Temporary/pop-up artist spaces along Turnpike & over the Turnpike bridges at Walnut and Washington west of West Newton—I like this, but what is the cost? Can the creation of the commercial spaces pay for the improvements alone?	**			
Economic Development		Great idea: Local businesses	**			
Financing Tools	DIF	Has our planning department ever executed on a DIF? Examples form other communities?	**			
Financing Tools	Walker Street	how much development does it take to get a pedestrian bridge? great idea but how	**	pg. 124		
Growth		Great idea: Affordable housing/missing middle housing	**			
Newton Corner	Height / Density	I found the sketch for the Newton Corner concept intense. I'm particularly struggling with how we're supposed to reconcile the image of this type of height/density with the suggestion that we should collaborate with the State and the MBTA to bring more frequent train service to Newton. Of course I'd love such a collaboration, but I don't have any confidence that such a collaboration is possible at this point. I'm not sure page 158 belongs in the final plan.	**	Pg. 158		
Newton Corner		Please also give examples of how the proposal differs from how Newton Corner currently looks and feels.	**			
Preservation		Protect iconic buildings. Not sure all historic buildings are iconic or would be missed.	**			
Process		As an initial matter, I think that our discussion about the Washington Street corridor has two separate but interrelated components: (a) the configuration of the roadway itself (including sidewalks, bike lanes, street parking, and trees and other plantings) and (b) the zoning code and policy decisions that need to be made to determine what gets built along the Corridor and in the adjacent neighborhoods. The former is a municipal obligation and I think we should avoid being dependent on developers to accomplish those improvements.	**			
Process		Skeptical of municipally-built affordable housing (p52, item 4.6?)	**	52		

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Sustainability	Trees	I'd like to see changed: Our rules about taking down mature trees must change. Caliper inches is not a sufficient exchange in ANY terms: environmental, or aesthetic and much of the "undeveloped land" between Border Street and the highway on ramp is a small, mature forest.	**			
Transportation	4:3 Conversion	One reason why Needham St doesn't work is the third lane -- why would it work on Washington St?	**		The number of intersections is a key issue to consider in the next step design study. The frequency of driveways on Needham Street is one of its major challenges, and to the extent possible will be addressed in the MassDOT project	
Transportation	4:3 Conversion	Overall, there's a lot that I really like here. The traffic and transportation piece is the biggest hurdle for me. I need more evidence that the road diet is a good idea, and that this plan -- especially coupled with the potential impacts of Riverside and Northland -- isn't going to turn the city into gridlock.	**		noted for next step design study	
Transportation	4:3 Conversion	I am intrigued by the suggestion that the road be made a single lane in both directions (with turning lanes in certain places). I have a number of questions however: Are we able to "pilot" this design without going into a full-scale reconstruction? For example, could we "shrink" the road to one lane in each direction with temporary markers without adding the bike lanes or changing the parking to see what the effect on traffic is? The document indicates that this is feasible but I would like more information on piloting.	**		Yes, see pg. 165 of Vision Plan; future questions noted for next step design study	
Transportation	4:3 Conversion	Have the consultants done any studies of current traffic volumes to see how a single lane road would handle them? What about projections based on future traffic? Can we see those studies?	**		Yes, see pg. 165 of Vision Plan; future questions noted for next step design study	
Transportation	4:3 Conversion	What effect will allowing parallel parking have on the single lane road? I can see situations where traffic has to come to a standstill while someone is parking (a very different situation, for example, than the single lane road next to the Charles River near the MDC ice skating rink which has no street parking on it). At rush hour, that has the potential to cause serious back-ups.	**		noted for next step design study; all street parking changes will be studied in detail	

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	4:3 Conversion	What efforts have been made to synchronize traffic lights as an immediate step to improve traffic flow?	**		Signals are being upgraded to new technology to allow synchronization (e.g. West Newton Square, Washington @ Walnut and @ Harvard)	
Transportation	4:3 Conversion	Should we consider angle parking rather than parallel parking. Brookline has it in Washington Square and Coolidge Corner and we have it near the corner of Washington and Walnut Streets. It is much easier (and safer) to get in and out of those spaces.	**		Parking configurations will be explored in next step design phase; currently Washington has a mix of parallel and angled.	
Transportation	4:3 Conversion	Should we create a two lane protected bike path bordering the Turnpike rather than one lane on each side of the road?	**		This was explored as a concept and single bike lane on each side was preferred for usability and business access. Additional consideration will be given in next step design phase.	
Transportation	4:3 Conversion	What consideration was given to winter conditions in this planning? How will snow be removed and what will be the effect on parking and the roadway when there are banks of snow that narrow the street?	**		Washington Street is a priority clearance route and will continue to be regardless of design.	
Transportation	4:3 Conversion	Great Idea: 4->3 lane conversion with parking protected bike lanes & wider sidewalks/more trees. Floating bus stops. Easier crossings.	**		noted for next step design study	
Transportation	4:3 Conversion	Narrowed intersections (Lowell at WA particularly)	**		noted for next step design study	
Transportation	4:3 Conversion	Protected bike travel on Washington/prioritize people over LOS/slow traffic (10 foot lanes!)/safe crossings @400 ft. Plowing for the mode you want first. Lighting appropriate for pedestrian and bike visibility.	**		Noted	
Transportation	4:3 Conversion	The bike facilities p. 47 should include safe bike travel (lanes or protected lanes) on the length of crafts, the length of Waltham and the length of Jackson (school going in there!)	**	pg. 47	Noted. See bike facilities map pg. 47.	

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	4:3 Conversion	What consideration has been given to undergrounding utility lines and otherwise creating a more inviting streetscape?	**		Costs can be considered as part of the next step design phase.	
Transportation	4:3 Conversion	Would it be feasible to construct a roadway with a protected bike lane in the middle of the road (between traffic flowing in both directions) with angle parking directly abutting it? I am envisioning something similar to Beacon Street in Brookline where the T runs through the middle of the road and parking is adjacent to it.	**		This was explored as a concept and single bike lane on each side was preferred for usability and business access. Additional consideration will be given in next step design phase.	
Transportation	Parking	Do we need more municipal parking? At one point Russel indicated a place where a municipal parking garage could be placed in West Newton - as far as I remember there is no mention of this in the plan. I just saw that this is mention as #8 on p.66 - should places for this be indicated on the plan?	**	pg. 66	pg. 93, 109, 155 each show a location for a municipal garage. These are suggested locations within the site studies, knowing that there may be other locations within each area that may over time be easier to build on	
Transportation	Parking	how does all year on-street parking help?	**	pg. 65	This allows greater flexibility for access to	
Transportation	Parking	Great idea: Dynamic parking/smart meters	**		These tools will help the City manage parking resources more efficiently	
Transportation	TDM	Better signage for parking/TDM/unbundling/ better buses	**		Noted. These are all potential aspects of TDM.	
Transportation	Vision	Great idea: Connect to the Charles! By bike!	**		noted	
Transportation	Vision	Great Idea: Pedestrian/bike connectivity and permeability with new streets, alleys, passages, etc. No mega-blocks —should be applied across all villages	**		Noted	

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	Vision	Build first or get MBTA to improve rail service first?	**		The Vision Plan sets growth over time to be in tandem with improved rail service. Financing tools to tie them closer together are forthcoming.	
Transportation	Vision	Cheesecake Brook park (and street)—this is one of my favorite ideas. (I particularly love the idea of a “neighborhood street” with shared space prioritizing people over cars.) How much would it cost—and can it be a requirement of building on the blocks west of Davis Ct?	**		Noted. Yes this would be a requirement of development in this area.	
Transportation	Vision	Great idea: Local travel priority	**		Noted. Designing Washington Street as a local road, instead of a region thoroughfare, will help serve local trips better.	
Transportation	Vision	I don't think the Yellow Line as proposed is likely. We had talked about more frequent train service. If this, in concert with Riverside improvements and a connection becomes a fiscal reality, then great.	**		The State's Rail Vision Plan calls for 15 minute headways all through Newton. Our goal is for this to occur within the 20 year time frame of this vision.	
Transportation	Vision	I agree sidewalks need maintenance (snow removal, sweeping, etc. p44). Who should be tasked with this? If the city, what is the annual cost?	**		The City maintains sidewalks currently. Implementation of different maintenance would be a decision of City Council.	
Transportation	Vision	I'd like to see changed: I think we have to look harder at the numbers of people and car trips that any of this development would engender.	**	pg. 124	Noted. This would need to be studied in greater detail as an implementation step.	
West Newton area	Fabrication	I'd like to see changed: I believe Border Street should be encouraged to stay a mix of fabrication, small industry, and dance studio space with heights that respect the residential neighbors currently on Border as well as on Webster Street.	**			
West Newton area	Height	I'd like to see changed: What is currently proposed as “Station Area,” is too large a swath, and that if anything above five stories is appropriate, it would only be in the current MBTA lot that is in the current loop of the exit ramp of the Pike (not the lot across from The Local). This land is topographically lower than the square, so presents an opportunity.	**			

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
West Newton area	Process	West Newton area - Does the developer or City engage with MassDOT? The dependence on increased rail service is unsettling – how do we get state buy-in?	**			
West Newton Station area		West Newton area - Is there enough acreage here for taller buildings to step down?	**			
Zoning	Housing	I'd like to see changed: Crucially, I am waiting to see increased zoning for housing along the green line which would be another important part of transit oriented development in the city. If housing is a priority for this administration on Washington Street, we need to see it in all sectors of the city. Period.	**			
Zoning	How to incentivize good design	Increased density for design – how do we execute on this? Who decides what design is worthy of extra density?	**			
Zoning	How to incentivize good design	I think design (meaning the look and feel of what we build) is incredibly important in building places that will be successful for Newton and acceptable to our residents, and often doesn't get enough attention. I'd like a little help in understanding how far the code goes toward dictating design. Admittedly, I spent my time so far on the Vision Plan rather than the code itself, because I knew it would be harder for me to digest. I'm really interested in designing places where people want to spend time.	**			
Zoning	Incentives	I am not in favor of giving "bonuses," such as an increased height, if a developer takes actions that we deem favorable, such as preserving a historic façade, providing space to local businesses, or using certain types of building forms or architecture. First, not everything that might be considered "historic" is truly historic or worth preserving. Second, if we want such preservation, we should simply require it or at least have a developer seek a special permit before allowing such a change. As for having space for local businesses be a justification for increased height, such a rule will be difficult to enforce and far too easy to avoid. Likewise, if we want new buildings to meet certain standards, we should mandate those standards. There is no need to provide "bonuses" for meeting such requirements.	**			
Zoning		I'd like to see changed: I think "green", sustainable buildings should be required and not dependent on a special permit, and that one extra story in order to preserve historic structures -- not just facades -- and very small shops may be appropriate in Village Centers.	**			

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Zoning	Narrow	Great Idea: Narrow shop fronts—I think this should be adopted across town for all our village centers!	**			
Zoning		Please stress incremental nature of zoning and building.	**			
Zoning		Great Idea: Apartments near transit	**			
Building Shape	Character and height	I really like: Keeping the Village Square to three stories* — to match the height of historic buildings (e.g. the police station, courthouse, and CVS).	***			
Building Shape	Character and height	If a major principle is to preserve the character then should we be encouraging 3 stories and no more?	***			
Building Shape	Correlation with Incremental over time	So - From an environmental perspective - wanting to preserve open space. We Cheesecake – I like it. Need to discuss varying heights and development so it looks to be incremental over time.	***			
Building Shape	Preservation of historic buildings	re the cinema block - there is a lot of talk of preserving Newton's neighborhoods which sometimes blends over to preserving our village centers. The single-story buildings in our village centers are not beautiful. Does the plan mean we should preserve those single story buildings? This comes up later in the plan as well as 'the beloved village center buildings". I'd love to have clarifications of which ones are beloved. Who decides whether or not a building is worth saving for historic reasons or decide if the thing is just old and not worth saving? Shouldn't someone weigh in on this? UDC? This will apply to the bonus for historic preservation.	***	pg. 73, pg. 97		
Crafts Street	Height	I do not think the area on Craft Street is an appropriate location for a large scale building.	***			
Economic Development	Tenancy Requirements	I do not think the city should be in the business of regulating the relationships between commercial landlords and certain types of tenants.	***			
Growth	Units	Paragraph 1 states that under the plan proposed, up to 3,234 units could be created over the next 20 years on Washington Street. This number is almost at the upper limit of the range projected by MAPC that Newton will need as a whole by 2030. I'm struggling with whether all 3,234 units belong on Washington Street, especially in the light of the very significant number of units possible at Riverside and Northland.	***	Pg. 181		
Process		Describe the most efficient and helpful licensing/permitting (p37)	***	37		
Process		I'm not ready to create new requirements for the CIP or CEB until the OPEB and pension liability funds are fully-funded.	***			

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	Parking	Explain the thinking behind the recommendation for on-street parking 24/7/12	***		This allows greater flexibility for access to an existing public resource. While allowing 24/7 year-round parking is not an essential piece of this plan, continuous active management of street parking is essential.	
Transportation	Parking	Promotion of shared parking and underground parking, with limited visibility from the street, makes a lot of sense and should be encouraged. Visit a town like Concord, for example, which has interesting shops, buildings of modest heights, lots of bikes, and a central place to park. Downtown Lexington is another example as is Mt. Kisco, New York.	***		Noted. This plan includes shared and underground parking.	
Transportation	Parking	Major cities with good (better than Newton) public transportation seem to be fine without parking minimums – but Newton?	***	n/a	Vision Plan does not recommend elimination of parking. It is fully anticipated that cars will be a long-term component of Newton's transportation system. Parking minimums, however, do not support the City's policy objectives on a range of other issues.	



Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	Parking	<p>I would be very cautious about too great a reduction (or the elimination) of parking requirements. While the advent of new types of transportation might significantly change how we get about the city, for now we still are going to use motor vehicles. Our local businesses do not stand in isolation - they compete with businesses in places like The Street, Chestnut Hill Mall, the Natick Mall and Legacy Place. Convenience, including parking, is a significant factor in consumers' decision-making. Moreover, if our goal is to discourage automobile use then we should not merely shift parking from private land onto city streets. I fail to understand how allowing on-street parking year round will discourage car ownership or driving. In fact, I think that the reverse will happen. There will be more places to park cars and those buildings that have limited parking will now have residents who use the city streets as their parking garages instead. Moreover, witness what happens in communities with year-long street parking and limited private parking - poor clearing of snow, difficulty driving in winter, lack of ease in getting to a vehicle near one's house to name just a few issues. I would like to see examples of suburbs like Newton that have abolished such requirements and a detailed understanding of what their experiences has been over a period of time after the changes were made.</p>	***		<p>Multiple regulatory tools are required to ensure that the "right size" parking is built - not too much, not too little. Management of street parking as a public resource is essential, especially to ensure high turnover for businesses and availability for residents and their visitors.</p>	
Transportation	Parking	<p>what happens if we eliminate mandatory parking to support local restaurants etc. where will people park? this relates to number #3 above. In the Salem ordinance, it is written that these kinds of businesses need not worry about parking because the city will be responsible for municipal parking.</p>	***	pg. 37	<p>Management of street parking as a public resource is essential, especially to ensure high turnover for businesses and availability for residents and their visitors.</p>	
Transportation	TDM	<p>Unbundling parking: There are elements of the idea of unbundling parking with rent and lifting parking minimums that make sense to me. However, I did see a reference elsewhere in the plan (I can't remember where) to eliminating the winter parking ban or any sort of overnight parking restriction to accompany such a change. As you and I have discussed extensively, I'm not comfortable with the idea of shifting the burden of parking from the developers to the neighborhoods. If the idea is to reduce reliance on cars and nudge people toward public transit, I'm intrigued (though I still don't necessarily believe our public transit infrastructure can handle that). But I'm not currently comfortable with the unbundling concept (or eliminating parking minimums) if the cars are still coming and are just parking on our neighborhood streets instead.</p>	***	Pg. 174	<p>This allows greater flexibility for access to an existing public resource. While allowing 24/7 year-round parking is not an essential piece of this plan, continuous active management of street parking is essential.</p>	

Topic	Sub-Topic	Comment / Question	Complexity of Discussion [* low, ** medium, *** high]	Page	Discussion	Next Step / Recommendation
Transportation	Vision	1. I'd like to understand what the message of this page is more clearly. Are we basically saying that "if we build it, the MBTA will come?"	***	pg. 185	The Vision Plan sets growth over time to be in tandem with improved rail service. Financing tools to tie them closer together are forthcoming.	
Transportation	Vision	It appears that using Newton tax dollars alone, we have the choice of either parks	***		Noted.	
Zoning	Decking over Turnpike	If and when there is a realistic proposal to build over the Turnpike, we can consider changing the zoning rules for such a location at that time.	***			
Zoning	Development Standards	Overall comments - there are no development standards - will the development standards in the regular code apply? What about our proposed standard in the new code that would require solar for anything over 10,000 sq ft? Is that something we should make sure passes along with this code?	***			
Zoning	Opportunity for density	Cinema Block – how tall on Davis St are the buildings? With limited residential here, and probably the purchase of existing lots, could be a good place for density.	***			
Zoning		I do not agree with the premise that we must provide much greater density in order to get many of the public improvements that we desire. We have the ability to set the rules and should have the will to pay for what we want desired outcomes to be. Moreover, developers should not be "rewarded" for meeting our standards - they should be "expected" to meet our standards if they want to develop. Nor, for that matter, should we be relying on developers to undertake public improvements. In doing so, we create unhealthy relationships with developers.	***			



Ruthanne Fuller  
Mayor

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#128-19, #136-19

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** April 5, 2019

**TO:** Councilor Susan Albright, Chair, Zoning and Planning Committee  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
James Freas, Deputy Director of Planning  
Rachel Nadkarni, Long Range Planner

**RE:** **#128-19 Zoning Amendment for short-term rentals**  
DIRECTOR OF PLANNING proposing to amend Chapter 30, City of Newton Zoning Ordinances, in order to create a short-term rental ordinance that defines the short-term rental and bed & breakfast uses, identifies what zoning districts they would be allowed in and under what criteria, conditions, limitations and permitting process.

**#136-19 Short-term rental ordinance with fees**  
DIRECTOR OF PLANNING proposing amendments to Chapter 20 and 17 of the Revised Ordinances of the City of Newton to create a short-term rental ordinance with fees that would require registration of short-term rentals with the City's Inspectional Services Department and fire inspections to protect public health and safety.

**MEETING:** April 8, 2019

**CC:** Planning and Development Board  
John Lojek, Commissioner of Inspectional Services  
Alissa O. Giuliani, City Solicitor  
Marie Lawlor and Jonah Temple, Law Department  
Jonathan Yeo, Chief Operating Officer

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A short-term rental is where an individual makes available a room or their entire unit/home for short duration stays to tourists or visitors. While the use has existed for many years, it has recently become much more common as online listing services have simplified the process of connecting people with rooms to rent to travelers looking for a place to stay. The growing popularity of short-term rentals has led to a range of concerns including quality of life impacts associated with a quasi-commercial use in primarily residential neighborhoods to the loss of units that might otherwise be available for full time residents, thus exacerbating the regional housing crisis. At the same time, short-term rental platforms have enabled greater individual entrepreneurial activity, creating entirely new job categories and supplemental income streams. Attached and described below are ordinance amendments intended to address the issues associated with short-term rentals in Newton based in the state law passed this past winter.

The best estimate staff is able to produce at this time is that there are approximately 150 short term rentals in Newton across all of the major online platforms, representing .6% of total housing units. While some of these listings may be very active, serving tourists visiting Boston, business travelers here in Newton, and the guests of Newton residents, most are likely only used during events associated with the colleges or large community events like the Boston Marathon. Approximately half of these listings are for a room in a person's house. The more problematic listings have been for entire houses where there is no resident and the home is only used as a short-term rental and often rented out for parties or events. While there have only been a few of these problem properties, their impacts have been large on the neighborhoods where they exist.

#### State Law

The Short Term Rental Law, MGL 23A (attached), recently passed by the State provides an overall framework for local regulation while also enabling collection of lodging taxes from short-term rentals. The State Short-Term Rental law requires that short-term rental operators register with the state and allows the State to collect lodging taxes from them. As Newton has already adopted a local lodging tax, the incorporation of short-term rentals is automatic and those local taxes, collected on the City's behalf by the State, will be remitted to Newton. Short-term rentals that operate for less than 15 days a year are exempt from the tax. Should the City Council decide to collect the additional Community Impact fees enabled by the State law, as described below, separate action would be required for each fee and administration of this fee, enforcement and collection, would rest with the City. The data generated through the State registration process will be available to the City. A copy of the State law is attached.

#### Proposed Ordinances

Planning and Law Department staff are proposing two ordinances relating to short-term rentals, one in the City's general ordinances and one as part of the Zoning Ordinance (both attached). The following is intended to highlight the key parts of each of the proposed local ordinances.

The general City ordinances short-term rental ordinance covers issues of registration, inspection, enforcement, and operating standards. This ordinance includes:

1. Section 20-160. Definitions, most important of which is the definition of a short-term rental. This definition, which also appears in the Zoning Ordinance, divides short-term rentals into those that are accessory to the primary residential use of the property and those which are "full-time" short term rentals, which means they exceed what is allowed under an accessory short-term rental and/or the short-term rental is the primary use of the property.
2. Section 20-161. This section establishes the requirement that short-term rentals register with the City and provide annual certification of continued compliance with all requirements. This section also establishes the requirement that a short-term rental may not operate where there is any building or zoning enforcement issue.
3. Section 20-162. This section lists the submittal requirements in order to receive a City registration. These include:
  - a. State certificate for the short-term rental – The State requires all short-term rentals to register and provides them with a certificate.
  - b. Smoke and Carbon Monoxide Certificate of Compliance – requires inspection from the Fire Department to ensure compliance and receive this certificate.
  - c. Full-time short-term rentals that are occupied for more than 150 days out of a year must upgrade the fire detection system to a hard-wired system.

- d. Filing fee of \$100.
- 4. Section 20-163. Annual inspections conducted by the Fire Department are required for all full-time short-term rentals.
- 5. Section 20-164. This section establishes a broad standard protecting the neighborhood from general nuisances that might be created by a short-term rental.
- 6. Section 20-165. The state short-term rental law allows a Community Impact Fee to be assessed by the municipality against certain types of short-term rentals. The Community Impact Fee can be assessed against professional short-term rentals, defined as more than one unit in a municipality operated by the same individual and/or against short-term rentals located in two-family or three-family unit where the operator lives in the same building. In either case, the Community Impact Fee is 3% of the rental. Each Community Impact Fee must be adopted separately by the City Council. As required by the State law, 35% of fees collected must be dedicated to affordable housing projects.  
Staff recommends at this time that this section be held in reserve and considered again after a year so that we have time to understand the number of these types of units that might exist and the revenue that might be available. As the municipality is responsible for collecting this fee, and that task would be carried out by ISD, staff believes time should be taken to ensure the amount collected will be worth the effort of establishing a new role for ISD and collecting the fee. The best estimate available at this time is that there might be five operators that would qualify for the Community Impact Fee representing 14 units.
- 7. Section 20-166. This section outlines the responsibilities and requirements placed on operators of short-term rentals. Some of the more significant requirements include:
  - a. Prohibition of commercial events. The most problematic short-term rentals in Newton have been those that have hosted events, parties and similar gatherings. The intent of this rule is to restrict the use of short-term rentals to providing accommodation rather than being a venue for events or parties. As the venue is rented, all such activities are de facto commercial in nature with compensation provided to the venue owner.
  - b. Occupant registries. Just as is required for hotels and similar facilities, short-term rentals would be required to maintain an occupant registry.
  - c. House Rules. Operators are required to create a set of house rules intended to ensure occupants are aware of the requirements of the City ordinance and actions the occupant can take to ensure they are good neighbors within the community. The operator is required to ensure occupants are aware of these rules.
- 8. Section 20-167. This section details the process for enforcement of this ordinance including notice to remedy the violation and fines of \$300 a day that such violation persists.

The proposed Zoning Ordinance amendments address where and under what conditions the short-term rental use would be allowed in the City. In addition, staff is proposing to define and provide conditions for Bed & Breakfasts as this use is currently not described in the Zoning Ordinance and therefore not allowed. These Zoning Amendments are described below.

- 1. ZO section 6.4.3. Bed & Breakfasts. The proposed amendment restricts the Bed & Breakfast use to single-family homes where the owner or manager of the facility lives on site. The use is a traditional bed & breakfast with independently let rooms, no cooking facilities in the rooms, and a common gathering place. The proposed use would be allowed in all Single Residence and the Multi-Residence 1 and 2 Zoning Districts by special permit.

Note, the definition of a Bed & Breakfast use explicitly says that a facility would be considered a bed & breakfast whether the serve food or not. In other jurisdictions, not serving food has been a common mechanism by which to avoid compliance with requirements for the use.

2. ZO section 6.4.32. Short-Term Rental. This proposed amendment includes the definition of short-term rentals, including both the accessory and the full-time and a set of requirements. The accessory short-term rental would be allowed in all districts where there is a residential use. The full-time short-term rental would be allowed in all districts with a residential use by special permit. The requirements for all short-term rentals are:

- a. Registration with the City;
- b. No signage allowed;
- c. Burden of proof for compliance is placed on the operator.

For accessory short-term rentals, the requirements are:

- a. The resident of the dwelling unit must occupy the unit for a minimum of 275 days a year (75%);
- b. The unit may be occupied as a short-term rental a maximum of 30 days per year where the resident of the unit is present and 15 days per year where the resident is not present;
- c. The total number of occupants, guests and resident, may not exceed the maximum allowed in a dwelling unit – one family and up to four unrelated individuals;
- d. No more than 2 bedrooms on the site can be rented as short-term rentals at any given time.
- e. For full-time short-term rentals, the requirements are:
- f. The same limit on the number of occupants as above;
- g. Special permit required.

### Next Steps

As the taxation of short-term rentals under the State law is slated to begin July 1, staff is hopeful that these amendments can be adopted before that date. To that end, staff is requesting that a public hearing date be set now for June 10<sup>th</sup>.

### Attachments

Attachment A – An Act Regulating and Insuring Short-Term Rentals (the State Law)

Attachment B – City of Newton General Ordinance Amendment for Short-Term Rentals

Attachment C – City of Newton Zoning Ordinance Amendment for Bed & Breakfasts and Short-Term Rentals.

## Acts (2018)

### Chapter 337

#### AN ACT REGULATING AND INSURING SHORT-TERM RENTALS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 23A of the General Laws is hereby amended by adding the following section:-

Section 68. (a) The executive office of housing and economic development, in consultation with the executive office of technology services and security and the department of revenue, shall establish and maintain a registry for all operators under chapter 64G who file an application and are issued a certificate of registration in accordance with section 67 of chapter 62C.

(b) The executive office of housing and economic development shall promulgate regulations, in accordance with section 2 of chapter 30A, that are necessary to: (i) develop and implement a registry that is accessible and available to the public; and (ii) support the competitive operation of the traditional lodging industry, short-term rental industry and hosting platforms to operate competitively in the commonwealth. The regulations shall require that a public hearing be held and that a small business impact statement be filed.

(c) The executive office of housing and economic development shall, in developing regulations to implement the registry, consider: (i) existing practices of peer states; (ii) data security practices, protocols and standards; (iii) technological feasibility of existing digital systems, including the feasibility of developing and maintaining a searchable online directory; (iv)

information required to be collected and maintained for operators in the registry, which shall, at a minimum, include a list of accommodations offered for rent by operators who are registered in accordance with section 67 of chapter 62C, provided, however, that the location information for any accommodation offered for rent shall be limited to the name of the street and the city or town where the accommodation is located; (v) any forms or records necessary to implement this section and meet such requirements under this chapter and chapter 64G; (vi) practices utilized to disclose or report information to cities and towns by request; (vii) impacts on the traditional lodging industry, short-term rental industry and hosting platforms; (viii) the fiscal impact to the commonwealth; and (ix) any relevant federal or state laws and regulations.

The executive office of housing and economic development shall establish procedures and protocols to protect the confidentiality and security of an operator's personal information and tax information and prohibit the disclosure of such personal information and tax information maintained pursuant to this section.

SECTION 2. Chapter 29C of the General Laws is hereby amended by adding the following 2 sections:-

Section 19. There shall be a separate fund to be known as the Cape Cod and Islands Water Protection Fund. The fund shall be subject to this chapter, except as otherwise provided in this section. There shall be credited to the fund revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund including, but not limited to, revenues received under the excise imposed under section 3C of chapter 64G, any investment income earned on the fund's assets and all other sources, each source being tracked separately for accounting purposes as of June 30 of each year.



The trust shall hold the fund in an account separate from other funds of the trust. Proceeds of the fund shall not be used to offset or otherwise replace contract assistance funds or reserve funds used for pool financing. The trust shall apply and disburse amounts credited to the fund, without further appropriation, to provide subsidies and other assistance, which may include principal forgiveness, to local governmental units and other eligible borrowers in the payment of debt service costs on loans and other forms of financial assistance made by the trust for water pollution abatement projects in municipalities that are members of the fund. Each municipality within Barnstable or Nantucket counties or within the county of Dukes County shall be a member of the fund if it is subject to: (i) an area wide wastewater management plan under section 208 of the federal Clean Water Act, 33 U.S.C. 1288; or (ii) a suitable equivalent plan determined by the department of environmental protection. Water pollution abatement projects eligible for subsidies and other assistance under this section may include the utilization of innovative strategies and alternative septic system technologies that result in nutrient reduction for marine and fresh waters.

The fund may provide subsidies and other assistance as provided in this section with respect to debt incurred prior to the establishment of the fund in the towns of Nantucket, Edgartown, Tisbury, Oak Bluffs, Falmouth, Chatham and Provincetown and the city of Barnstable for water pollution abatement projects apart from the trust.

Amounts credited to the fund shall be expended or applied only with the approval of the Cape Cod and Islands Water Protection Fund Management Board established under section 20 and in a manner determined by the board, in addition to any approvals required under this chapter. The board, subject to a memorandum of understanding with the department of environmental protection, may direct the comptroller to transfer a specified amount not to exceed 10 per cent of the annual revenue deposited into the fund to the department for the department to contract with a regional planning agency, institution of higher education or non-profit corporation to evaluate and report

on the efficacy of adaptive management measures to reduce nitrogen pollution of coastal waterways undertaken pursuant to an area wide wastewater management plan or a suitable equivalent plan, to monitor the water quality and watersheds of areas subject to the study and to support further assessment and water quality modeling to further refine area wide wastewater management plans or suitable equivalent plans in Barnstable and Nantucket counties and the county of Dukes County. Any amounts remaining in the fund at the end of a fiscal year shall be carried forward into the following fiscal year and shall remain available for application and disbursement without further appropriation.

A municipality that is a member of the fund under this section may withdraw from the fund by a  $\frac{2}{3}$  vote of its legislative body; provided, however, that a municipality shall not withdraw from the fund during the term of any financial assistance award from the fund to the municipality. A municipality that has withdrawn from the fund shall not have representation on the Cape Cod and Islands Water Protection Fund Management Board established under section 20. A municipality that has withdrawn from the fund and votes, by majority vote of its legislative body, to return to the fund shall not receive money from the fund until not less than 2 years from the date of its vote to return.

Section 20. There shall be a Cape Cod and Islands Water Protection Fund Management Board that shall consist of 1 person to be appointed by each board of selectmen or town council in each municipality that is a member of the Cape Cod and Islands Water Protection Fund; provided, however, that an appointee of a board of selectmen or town council shall be a member of the respective appointing authority, a town manager, town administrator or other municipally employed professional staff. The executive director of the Cape Cod commission, the executive director of the Martha's Vineyard commission and the town manager of Nantucket shall serve as non-voting ex-officio members of the board.

Each member of the management board shall serve for a term of 3 years and until a successor is appointed and qualified and each member of the management board shall be eligible for reappointment. Each member of the management board appointed to fill a vacancy on the management board shall be appointed for the unexpired term of the vacant position. The members of the management board shall select a member to serve as chairperson and vice-chairperson for a term established by vote of the management board. The Cape Cod commission, in consultation with the Martha's Vineyard commission, shall provide administrative and technical support to the management board and may be compensated for its associated costs by vote of the management board. The management board's duties shall be limited to determining the method for subsidy allocation, including, but not limited to, an equitable distribution among participating municipalities consistent with revenue deposited from each municipality into the fund, and to ensuring that money from the Cape Cod and Islands Water Protection Fund is spent only for the purposes in section 19.

SECTION 3. Section 1 of chapter 40U of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 5, the words "regulating the" and inserting in place thereof the following words:-related to the use of property for short-term rental use or regulating a.

SECTION 4. Section 16 of chapter 62C of the General Laws, as so appearing, is hereby further amended by inserting after subsection (g) the following subsection:-

(g<sup>1/2</sup>) Notwithstanding subsection (g), the department of revenue shall promulgate regulations to minimize the administrative burden relative to filing returns under said subsection (g) on operators who offer their accommodations to the public for not less than 1 day in 5 separate months, or fewer, in the taxable year. The regulations may authorize an operator to file a return only for a month that the operator's accommodation is offered to the public.

SECTION 5. Subsection (b) of section 21 of said chapter 62C, as amended by section 3 of chapter 90 of the acts of 2018, is hereby amended by adding the following 2 paragraphs:-

(29) the disclosure of information necessary for administration of the community impact fee imposed pursuant to section 3D of chapter 64G.

(30) the disclosure of information to the executive office of housing and economic development necessary for the establishment and maintenance of a registry pursuant to section 68 of chapter 23A.

SECTION 6. Chapter 64G of the General Laws is hereby amended by striking out sections 1 to 6, inclusive, as appearing in the 2016 Official Edition, and inserting in place thereof the following 11 sections:-

Section 1. As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Bed and breakfast establishment”, a private owner-occupied house where not less than 4 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Bed and breakfast home”, a private owner-occupied house where not more than 3 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Commissioner”, the commissioner of revenue.

“Hosting platform”, a service through a digital platform, third-party website, software, online-enabled application, mobile phone application or some other, similar electronic process that allows: (i) an operator to advertise, list or offer the use of an accommodation subject to the excise under this chapter in exchange for rent; (ii) an operator to collect the payment of rent on an accommodation; and (iii) a person to arrange, book, reserve or rent an accommodation.

“Hotel”, a building used for the feeding and lodging of guests licensed or required to be licensed under section 6 of chapter 140.

“Intermediary”, a person or entity, other than an operator, that facilitates the sale, use or possession of an occupancy and charges a room charge to the general public; provided, however, that the term “facilitates” shall include a person or entity that brokers, coordinates or in any other way arranges for the purchase, sale, use or possession of occupancies by the general public; provided further, that the term “intermediary” shall include a hosting platform and operator’s agent.

“Lodging house”, a house licensed or required to be licensed under section 23 of chapter 140 and where lodgings are rented to not less than 4 people who shall not be within the second degree of kindred to the owner or operator of such lodging house.

“Motel”, a building or portion of a building in which a person is lodged for hire with or without meals and that is licensed or required to be licensed under section 32B of chapter 140; provided, however, that a “motel” shall not include a hotel or lodging house.

“Occupancy”, the use or possession or the right to the use or possession of a room in a bed and breakfast establishment, hotel, lodging house or motel designed and normally used for sleeping and living purposes for a period of not more than 90 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee, or the use or possession or the right to the use or possession of a room in a short term rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee; provided, however, that “occupancy” shall include the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment, accompanying the use and possession of such a room.

“Occupant”, a person who uses, possesses or has a right to use or possess a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel for rent under a lease, concession, permit, right of access,

license or agreement.

“Operator”, a person operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in the commonwealth including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such bed and breakfast establishment, hotel, lodging house, short-term rental or motel.

“Operator’s agent”, a person who on behalf of an operator of a bed and breakfast establishment, hotel, motel, short-term rental or lodging house: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent; provided, however, that an “operator’s agent” shall include, but not be limited to, a property manager, property management company or real estate agent.

“Person”, an individual, partnership, trust or association, with or without transferable shares, joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit.

“Professionally-managed unit”, 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator’s primary residence.

“Rent”, the total consideration paid by or on behalf of an occupant, including any service, cleaning or other charge, to an operator or an intermediary collecting and remitting the excise on behalf of an operator under section 13 for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

“Short-term rental”, an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Section 2. This chapter shall not include: (i) lodging accommodations at a federal, state or municipal institution; (ii) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that the exemption allowed shall not apply to accommodations provided by any such institution at a hotel or motel generally open to the public and operated by the institution; (iii) privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; (iv) religious or charitable homes for the aged, infirm, indigent or chronically ill; (v) summer camps for children up to 18 years of age or developmentally disabled individuals; provided, however, that a summer camp that offers its facilities off season to individuals 60 years of age or older for a period of not more than 30 days in a calendar year shall not lose its exemption under this section; (vi) bed and breakfast homes; (vii) lodging accommodations provided to seasonal employees by employers; (viii) alcohol and drug free housing that is certified pursuant to section 18A of chapter 17; (ix) tenancies at will or month-to-month leases; and (x) time-shares, as defined in section 2 of chapter 183B.

For the purposes of this section, “developmentally disabled individual” shall mean an individual who has a severe chronic disability that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is likely to continue indefinitely; (iii) results in substantial functional limitations in not less than 3 of the following areas of major life activity: (A) self-care; (B) receptive and expressive language; (C) learning; (D) mobility; (E) self-direction; (F) capacity for independent living;

and (G) economic self-sufficiency; and (iv) reflects the individual's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.

Section 3. An excise shall be imposed upon the transfer of occupancy of a room or unit in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel by an operator at the rate of 5 per cent of the total amount of rent for each such occupancy. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent.

The operator shall pay the excise to the commissioner at the time provided for filing the return required under section 16 of chapter 62C.

No excises or fees established under this chapter shall be imposed upon the transfer of occupancy of a short-term rental if the operator transfers such short-term rental for not more than 14 days in a calendar year, provided, that the operator has first: (i) registered with the commissioner in accordance with section 67 of chapter 62C; and (ii) filed a declaration with the commissioner, signed by the operator and subject to section 5 of chapter 62C, setting forth the intention to transfer the short-term rental for not more than 14 days in a calendar year. Such a declaration, if applicable, shall be required annually in a manner determined by the commissioner. If the operator transfers the short-term rental for 15 days or more in the same calendar year, or fails to register and file a declaration as required by this section, then the operator shall be liable for the payment of required excises and fees under this chapter, including payment of required taxes and fees on the first 14 days the short-term rental was transferred in the calendar year.

Section 3A. A city or town that accepts this section may impose a local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within that city or town by an operator at a rate of not more than 6 per cent of the total amount of rent for each such occupancy; provided, however, that the city of



Boston may impose such local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within the city by an operator at the rate of not more than 6.5 per cent of the total amount of rent of each such occupancy. No excise shall be imposed if the total amount of rent is less than \$15 per day or its equivalent or if the accommodation is exempt under section 2. An operator shall pay the local excise imposed under this section to the commissioner at the same time and in the same manner as the excise due to the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the transfer of occupancy in each such city or town. Acceptance of this section shall be: (i) by a majority vote of the city council with the approval of the mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city; (ii) by a majority vote of the city council in every other city; (iii) by a majority vote of the annual town meeting or a special meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) by a majority vote of the town council in the case of a municipality with a town council form of government. This section shall take effect on the first day of the calendar quarter following 30 days after its acceptance or on the first day of a later calendar quarter as the city or town may designate. The city or town, in accepting this section, shall not revoke or otherwise amend the applicable local tax rate more often than once in a 12-month period.

The commissioner shall make available to a city or town requesting such information the total amount of room occupancy tax collected in the preceding fiscal year in the city or town requesting the information.

Section 3B. Notwithstanding sections 9 and 10 of chapter 152 of the acts of 1997, the convention center financing fee imposed upon the transfer of occupancy of a short-term rental in the cities of Boston, Cambridge,

Springfield, Worcester, West Springfield and Chicopee shall revert half to the General Fund and half to the city in which the short-term rental was transferred.

Section 3C. In addition to the excise imposed under section 3 and any excise imposed under section 3A, an excise shall be imposed on the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within a municipality that is a member of the Cape Cod and Islands Water Protection Fund established under section 19 of chapter 29C at a rate of 2.75 per cent of the total amount of rent for each such occupancy; provided, however, that all revenues received from the excise under this section shall be credited to the Cape Cod and Islands Water Protection Fund. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent. An operator shall pay the excise due to the Cape Cod and Islands Water Protection Fund to the commissioner at the same time and in the same manner as the excise due to the commonwealth.

Section 3D. (a) A city or town that accepts section 3A may, by a separate vote and in the same manner of acceptance as set forth in section 3A, impose upon an operator a community impact fee of not more than 3 per cent of the total amount of rent for each transfer of occupancy of a professionally managed unit that is located within that city or town.

(b) A city or town that votes to impose a community impact fee under subsection (a) may, by a separate additional vote and in the same manner of acceptance as set forth in section 3A, also impose the community impact fee upon each transfer of occupancy of a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence.

(c) All community impact fees under this section shall be paid monthly by the operator to the municipality. A city or town shall dedicate not less than 35 per cent of the community impact fees collected under this section to affordable housing or local infrastructure projects.

Section 4. Except as provided in section 13, reimbursement for the excise imposed under this chapter shall be paid by the occupant of any such room to the operator and each operator shall add to the rent and collect from the occupant the full amount of the excise imposed by this chapter or an amount equal as nearly as possible or practical to the average equivalent thereof and such excise shall be a debt from the occupant to the operator when so added to the rent and shall be recoverable at law in the same manner as other debts.

Section 5. The amount of the excise collected by the operator from the occupant pursuant to this chapter shall be stated and charged separately from the rent and shown separately on any record of the excise at the time the transfer of occupancy is made or on any evidence of such transfer issued or used by the operator.

Section 6. A person shall not operate a bed and breakfast establishment, hotel, lodging house, short-term rental or motel unless a certificate of registration has been issued to the person in accordance with section 67 of chapter 62C.

Section 6A. No person subject to this chapter shall engage in an unlawful practice under section 4 of chapter 151B.

SECTION 7. Said chapter 64G is hereby further amended by striking out sections 7A and 7B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 7A. An operator who has paid to the commissioner an excise pursuant to section 3 upon an account later determined to be worthless shall be entitled to an abatement of the excise paid on the worthless account. A claim for abatement shall be filed not later than April 15 annually and shall cover the amount of the excise on accounts determined to be worthless in the prior calendar year.

An operator who recovers an excise on an account determined to be worthless and for which an application for abatement has been filed shall report and include the same in a monthly return at the time of recovery.

Section 7B. An operator who fails to pay to the commissioner money required to be paid by this chapter shall be personally and individually liable therefor to the commonwealth. As used in this section, the term “operator” shall include an officer or employee of a corporation or a member or employee of a partnership or a limited liability company who, as such officer, employee or member, is under a duty to pay the excises imposed by this chapter.

An operator who misrepresents to an intermediary that the transfer of occupancy of the operator’s property is exempt from the excise imposed by sections 3, 3A and 3C and the community impact fee imposed by section 3D shall be liable for any unpaid excise under said sections 3, 3A and 3C and the community impact fee imposed by said section 3D and shall be deemed to have committed an unfair trade practice under chapter 93A in making such a misrepresentation to the intermediary.

SECTION 8. Said chapter 64G is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following 7 sections:-

Section 12. No excise shall be imposed under this chapter upon the transfer of occupancy of a room in a hotel, lodging house, short-term rental or motel if the occupant is an employee of the United States military traveling on official United States military orders that encompass the date of such occupancy. Each operator shall maintain such records as the commissioner shall require to substantiate exemptions claimed under this section.

Section 13. (a) An operator may elect to allow an intermediary to collect rent or facilitate the collection or payment of rent on its behalf through a written agreement on an accommodation subject to the excise under this chapter. An intermediary that enters into a written agreement with the operator to collect rent or facilitate the collection or payment of rent on behalf of the operator of an accommodation subject to the excise under this chapter shall: (i) apply for and obtain a certificate of registration from the commissioner in accordance with section 67 of chapter 62C on behalf of the operator; (ii)

assess, collect, report and remit the excise to the commissioner as described for operators in sections 3, 3A, 3B, 3C, 5, 7A, 7B and 12; (iii) assess, collect and remit the community impact fee to the municipality as described for operators in section 3D; (iv) maintain records of any excises collected that have been remitted to the commissioner and shall make these records available to the department upon request; (v) ensure that the operator is registered pursuant to said section 67 of said chapter 62C prior to permitting such operator to list or offer an accommodation for rent through the use of the intermediary; and (vi) notify the operator that the operator must comply with all applicable municipal, state and federal laws including, but not limited to, the collection and remittance of required excises. The certificate of registration obtained from the commissioner pursuant to this subsection shall identify and be in the name of the individual operator, not the intermediary.

(b) An intermediary collecting and remitting the excise on behalf of an operator shall provide notification within a reasonable time to the operator that the excise has been collected and remitted to the commissioner pursuant to section 3. The notification may be delivered in hand or by mail or conveyed by electronic message, mobile or smart phone application or another similar electronic process, digital media or communication portal. An operator shall not be responsible for collecting and remitting the excise on a transaction for which the operator has received notification from an intermediary that the excise has been collected and remitted to the commissioner on their behalf.

(c) The intermediary shall not be liable for faults in collecting or remitting the excise proximately caused by the intermediary's reasonable reliance on representations made to it by the operator about the nature of the property being rented, the duration of the occupancy or other similar misrepresentations made by the operator to the intermediary. The operator shall be liable for any unpaid excise resulting from any such misrepresentation. An intermediary shall not be liable for any over collection of the excise if the excise collected was remitted to the commissioner and the over collection resulted from the intermediary's reasonable reliance on the operator's representations about the

nature of the property being rented or the nature of the occupancy or whether such property was exempt from the excise. The operator shall be liable for monetary damages to the occupant resulting from any such misrepresentations.

Section 14. A city or town, by ordinance or by-law, may regulate operators registered pursuant to section 67 of chapter 62C and impose penalties for the violation of such an ordinance or by-law. A city or town, by ordinance or by-law, may:

(i) regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;

(ii) require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a certificate of registration issued to an operator in accordance with section 67 of chapter 62C in lieu of requiring an operator to obtain a local license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;

(iii) require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices;

(iv) require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under this section shall be charged to

and solely paid by the operator under this section; provided further, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;

(v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this section; provided, however, that a city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance or bylaw shall notify the commissioner of revenue of the suspension or termination; and

(vi) establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.

Notwithstanding any ordinance or by-law adopted by a city or town pursuant to this section, an operator of a short-term rental shall post inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.

Nothing in this section shall preclude a city or town from publishing a public registry of all short-term rental accommodations located within that city or town offered for rent by operators who are registered in accordance with section 67 of chapter 62C. A city or town may determine what relevant information shall be listed, including where the accommodation is located.

Section 15. Nothing in this chapter shall confer a right to lease, sublease or otherwise offer a residential unit as a short-term rental where such use is prohibited by a homeowner's association agreement or requirements, a rental agreement or any other restriction, covenant, requirement or enforceable agreement.

Section 16. For residential units subject to rent control provisions, operators of short-term rentals shall charge not more than the prorated maximum amount allowed.

Section 17. The commissioner shall annually publish a report on the economic activity of short-term rentals in the commonwealth rented for occupancy through a hosting platform or intermediary. The commissioner may require a hosting platform, intermediary or operator of a short-term rental to submit to the department of revenue, in a form approved by the commissioner, information necessary to compile the report including, but not limited to: (i) the aggregate rent paid by all occupants during the reporting period; (ii) the total amount of revenue collected from the excise on the transfer of occupancy of the short-term rentals; and (iii) the total amount of revenue collected from the local excise on the transfer of occupancy of the short-term rentals.

The department shall make available any data set used pursuant to this section to a regional planning agency, municipality or other public agency requesting such information; provided, however, that the department shall utilize the practices that are necessary to prevent the public disclosure of personal information regarding operators and occupants. The department shall annually publish local summary statistics on its website. The department shall take all measures necessary to protect the confidentiality and security of an operator's personal tax information from any disclosure pursuant to this section.

Section 18. The commissioner shall promulgate rules and regulations for assessing, reporting, collecting, remitting and enforcing the room occupancy excise pursuant to this chapter.

SECTION 9. Chapter 175 of the General Laws is hereby amended by inserting after section 4E the following section:-

Section 4F. (a) As used in this section, the terms "hosting platform", "operator" and "short-term rental" shall have the same meanings as under section 1 of chapter 64G unless the context clearly requires otherwise.

(b) An operator shall maintain liability insurance of not less than \$1,000,000 to cover each short-term rental, unless such short-term rental is offered through a hosting platform that maintains equal or greater coverage.



Such coverage shall defend and indemnify the operator and any tenants or owners in the building for bodily injury and property damage arising from the short-term rental.

(c) Prior to an operator offering a short-term rental through the use of a hosting platform, the hosting platform shall provide notice to the operator that standard homeowners or renters insurance may not cover property damage or bodily injury to a third-party arising from the short-term rental.

(d) Insurers that write homeowners and renters insurance may exclude any and all coverage afforded under the policy issued to a homeowner or lessee for any claim resulting from the rental of any accommodation under chapter 64G. Insurers that exclude the coverage described in this section shall not have a duty to defend or indemnify any claim expressly excluded by a policy. Nothing under this section shall preclude an insurer from providing coverage for short-term rentals.

(e) Any policy or policy form intended to cover operators of short-term rentals from liabilities, whether the policy or policy form is provided by a hosting platform or an operator itself, shall be filed according to instructions provided by the division of insurance.

(f) An operator who intends to operate a short-term rental shall provide notice to any insurer that writes a homeowners or renters insurance policy for the property where such short-term rental is to be located of the operator's intent to operate such short-term rental.

**SECTION 10.** There shall be a commission to study the feasibility and potential for use of lodging units within the hospitality industry, including hotel, motel, bed and breakfast and short-term rentals, as resources to increase the availability of emergency shelter for individuals and families displaced during extreme weather events or other states of emergency declared by the governor. The commission shall study and make recommendations relating to: (i) ways to maintain up-to-date inventories of units available for shelter during emergencies; (ii) networks to alert local officials about the availability of

hospitality industry units as emergency shelter; (iii) platforms and protocol for communication and coordination between the hospitality industry and state and local officials during emergencies; and (iv) any other factors deemed relevant by the chair of the commission.

The commission shall consist of: the director of the Massachusetts emergency management agency or a designee, who shall serve as chair; 2 members appointed by the Massachusetts Lodging Association, Inc.; 3 members appointed by the Massachusetts Municipal Association, Inc., 2 of whom shall have experience in local emergency planning and management and 1 of whom shall have experience in municipal licensure processes; and 3 members appointed by the governor, 1 of whom shall be a representative of the department of revenue, 1 of whom shall be a representative of a hosting platform, as defined in section 1 of chapter 64G of the General Laws, and 1 of whom shall be a representative of a non-profit entity with experience in national-level emergency management and relief.

The commission shall report the results of its study, together with drafts of recommended legislation, if any, by filing the report with the clerks of the house of representatives and senate not later than January 1, 2020.

SECTION 11. The transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in a municipality that becomes a member of the Cape Cod and Islands Water Protection Fund under section 19 of chapter 29C of the General Laws after June 1, 2019 shall be subject to the excise under section 3C of chapter 64G of the General Laws on the first day of a calendar quarter after it has joined the fund, as the municipality may designate.

SECTION 12. Notwithstanding section 19 of chapter 29C of the General Laws, a municipality included in the Cape Cod and Islands Water Protection Fund shall not withdraw from the fund for 1 year after the effective date of this act.

SECTION 13. The executive office of housing and economic development shall promulgate regulations necessary to implement a registry pursuant to section 68 of chapter 23A of the General Laws not later than September 30, 2019.

SECTION 14. Sections 3, 3A, 3C and 3D of chapter 64G of the General Laws shall take effect for transfers of occupancies of short-term rentals that commence on or after July 1, 2019 and for which contracts with occupants were entered into on or after January 1, 2019.

SECTION 14A. Section 3B of chapter 64G of the General Laws shall take effect for transfers of occupancies on short-term rentals that commence 90 days after the commonwealth has discharged its obligations on the payment of special obligation bonds of the commonwealth issued pursuant to sections 11 and 12 of chapter 152 of the acts of 1997, as amended, as certified by the secretary of administration and finance.

SECTION 15. A city or town that accepted section 3A of chapter 64G of the General Laws before July 1, 2019 shall be deemed to have accepted said section 3A of said chapter 64G for the purposes of this act.

SECTION 16. Section 9 shall take effect on July 1, 2019.

*Approved, December 28, 2018.*

**[CHAPTER 20]**  
**Article IX**  
**SHORT TERM RENTALS**

**Sec. 20-160. Definitions.**

The meaning of the terms used in this article shall be as follows:

- (a) *Commissioner*: The commissioner of inspectional services.
- (b) *Operator*: A person operating a short-term rental in the City including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental.
- (c) *Occupancy*: The use or possession or the right to the use or possession of a room in a Short Term Rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.
- (d) *Occupant*: A person who uses, possesses or has a right to use or possess a room in a Short Term Rental for rent under a lease, concession, permit, right of access, license or agreement.
- (e) *Professionally-Managed Unit*: 1 of 2 or more short-term rental units that are located in the City, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence.
- (f) *Short Term Rental*: The rental of one or more bedrooms (along with any associated living areas) within a dwelling unit, or the rental of an entire dwelling unit, on an overnight or short-term basis of less than 30 days to guests. There are two types of Short Term Rental, an Accessory Short Term Rental and a Full-Time Short Term Rental.
  - a. Accessory Short Term Rental. The rental of one or more bedrooms within a dwelling unit as a short term rental where the use is accessory to the primary residential use of the dwelling unit.
  - b. Full-Time Short Term Rental. The rental of an entire dwelling unit as a short term rental where that use is the primary use of the dwelling unit and/or does not meet the requirements of an accessory short term rental.

Any terms not expressly defined in this article shall have the meaning prescribed by Massachusetts General Laws Chapter 64G, Section 1.

**Sec. 20-161. Requirements for Short Term Rentals**

- (a) Registration. Operators of any Short Term Rental located in the City of Newton must register with the City in accordance with Sec. 20-162 of this ordinance.

- (b) No Outstanding Code Enforcement or Building Permits. Operators are prohibited from renting any Short Term Rental if the property is subject to an outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices, or if there are any outstanding building permits for the property.
- (c) Annual Certification. All Operators must file with the Inspectional Services Department a sworn certification attesting to continued compliance with the requirements of this article and all applicable public safety codes. Such certification shall be filed annually on the first business day of January.

**Sec. 20-162. Registration Requirements.**

Operators must register with the Inspectional Services Department prior to the occupancy of any Short Term Rental that commences after July 1, 2019 by submitting the following:

- (a) State Certificate. A copy of the State certificate of registration issued in accordance with Massachusetts General Laws Chapter 62C, Section 67.
- (b) Local Operator Affidavit. A completed Local Operator Affidavit, in a form established by the Inspectional Services Department, that at minimum contains the following information:
  - 1) Contact information of Operator and agent/point of contact;
  - 2) Location of all Short Term Rentals in City;
  - 3) Description of operation and number of rooms/units that will be rented;
  - 4) Confirmation that there are no outstanding code enforcement or outstanding building permits;
  - 5) Signature of Operator certifying that Short Term Rental conforms to this ordinance and no outstanding code violations.
- (c) Smoke and Carbon Monoxide Certificate of Compliance. All Short Term Rentals must comply with the applicable smoke detector and carbon monoxide requirements for residential units set forth in Sec. 10-11 of these Ordinances and Massachusetts General Laws Chapter 148, Section 26E. Operators must schedule an inspection with the Fire Department and receive a Certificate of Compliance indicating that the property meets the smoke detector and carbon monoxide requirements prior to the first occupancy commencing after July 1, 2019. Operators shall be responsible for the smoke detector inspection/permit fee to be paid directly to the Fire Department as set forth in Sec. 17-10 of these Ordinances.
- (d) Additional Fire Detection Requirements for Full Time Short Term Rentals. Full Time Short Term Rentals that are occupied for more than 150 days in a calendar year shall be required to install and/or upgrade to a hard-wired fire detection system to current standards in accordance with Massachusetts General Laws Chapter 148 and the Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00, et seq..
- (e) Registration Filing Fee. At the time of registration, Operators must pay a filing fee of \$100, an amount established by the City Council. All applicable inspection fees shall be paid directly to the inspecting department at the time of inspection.

**Sec. 20-163. Inspections.**

- (a) Annual inspections are required for Full Time Short Term Rentals only and shall be conducted by the Fire Department. It is the responsibility of the Operator to schedule annual inspections with the Fire Department and to pay the required on-site inspection fee set forth in Sec. 17-10 of these Ordinances.
- (b) In addition to annual inspections, the Inspectional Services Department, Health and Human Services Department, and Fire Department may conduct further inspections of any Short Term Rental type as may be required to ensure safety and compliance with all applicable ordinances and local, state, and federal codes. All inspecting departments shall keep records of inspections and visits to the property throughout each year.

**Sec. 20-164. Compliance with City Ordinances and State and Local Codes.**

- (a) All Short Term Rentals shall comply with all applicable ordinances and local, state, and federal codes applying generally to residential properties in the City, including but not limited to the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.
- (b) Short Terms Rentals shall not produce noise, vibration, glare, fumes, odors, traffic or parking congestion beyond that which normally occurs in the immediate residential area, nor shall any Short Term Rental result in the repeated disruption of the peace, tranquility, or safety of the immediate residential neighborhood.

**Sec. 20-165. Community Impact Fee.**

- (a) All Operators shall pay the City a community impact fee of three (3) percent of the total amount of rent for each transfer of occupancy of a professionally managed unit that is located within the City.
- (b) All Operators shall pay the City a community impact fee of three (3) percent upon each transfer of occupancy of a Short Term Rental unit that is located within a two-family or three-family dwelling that includes the Operator's primary residence.
- (c) The community impact fee under this section shall be paid monthly by the Operator to the City.
- (d) The City shall dedicate thirty-five (35) percent of the community impact fee collected under this section to affordable housing projects.

**Sec. 20-166. Responsibilities of Operators.**

- (a) General Responsibility. The Operator shall be responsible for the proper supervision, operation, and maintenance of the Short Term Rental in accordance with the requirements of this article and all other pertinent laws, regulations, and codes. The appointment of an agent shall in no way relieve the Operator from responsibility for full compliance with the law.

- (b) Commercial Events Prohibited. A Short Term Rental property shall not be used for a commercial event during its occupancy as a Short Term Rental. Commercial events include luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation.
- (c) Agreements with Occupants. Operators may not enter into any rental agreements that are inconsistent with the terms of this article.
- (d) Minors. No Short Term Rental shall be rented to any unemancipated person who is younger than eighteen (18) years of age.
- (e) Occupant Registries. The Operator of every Short Term Rental must maintain, in permanent form, a registry log of occupants. It must include the names and home addresses of occupants, occupant's license plate numbers if traveling by car, dates of stay, and the room assigned to each occupant. The registry log must be available for inspection by any City official upon request.
- (f) Fire Prevention Notice. Operators shall post in a visible place inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.
- (g) House Rules. Operators shall institute house rules as necessary to prevent the Short Term Rental from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighbors or neighborhood.
  - 1) House rules should make occupants aware of the City's ordinances and the Operator's policies, which shall be in writing. At a minimum, house rules shall adequately address the following:
    - i. Noise control, including use of audio equipment that may disturb the peace
    - ii. Adherence to laws regarding disorderly behavior
    - iii. Proper garbage disposal
    - iv. Location of parking stalls on the property
    - v. Neighborhood parking regulations and restrictions
    - vi. Occupancy limits according to the City's Zoning Ordinance
    - vii. Any other provisions as may be required by City Officials.
  - 2) Operators shall ensure all occupants are aware of the house rules by distributing them prior to the date of occupancy and posting them in a visible place.
- (h) Egress and Access. Operators shall be responsible for ensuring that adequate egress is provided in accordance with the Massachusetts State Building Code, 780 CMR.
- (i) Maintenance. The building and all parts thereof shall be kept in good general repair and properly maintained.
- (j) Burden of Proof. The burden of proof is placed on the Operator to demonstrate that they are operating within the limits of this article.

- (k) False Information. Submission of false information shall be cause for the Commissioner to suspend or terminate an Operator's right to operate an accommodation.

**Sec. 20-167. Violations and Penalties.**

- (a) Enforcement. The Commissioner or designee shall enforce the provisions of this article, including any rule or regulation promulgated hereunder, and shall institute all necessary administrative or legal action to assure compliance.
- (b) Notice of violation. The Commissioner or designee shall issue a written notice of any violation of this article to the Operator. Said notice shall describe the prohibited condition and order that it be remedied within thirty (30) days of receipt of the notice. If such condition is not remedied within that time, the Commissioner may take action to impose the fines described in these Ordinances at sec. 5-22 (g).
- (c) Penalties. Any Operator who violates any provision of this ordinance shall be subject to suspension or termination of the certificate to operate a Short Term Rental and a fine of not more than three hundred dollars (\$300.00) for each violation. Each day a violation occurs shall be a separate offense. The Commissioner shall notify the Massachusetts Commissioner of the Department of Revenue of all such suspensions or terminations. Where non-criminal disposition of this section by civil fine has been provided for in sections 17-22 and 17-23 of these revised ordinances, as amended, pursuant to the authority granted by G.L. c. 40, section 21D, said violation may be enforced in the manner provided in such statute. The civil penalty for each such violation is set forth in section 17-23(c).
- (d) Violations of building, health, or fire code. Any action by the Commissioner to suspend, terminate or issue fines under this section shall not bar any other separate action by any other City Department for health, fire safety, building code or any other violations.

**Sec. 20-168. Effective Date.**

This Ordinance shall take effect on July 1, 2019.

**Sec. 20-169. Severability.**

The provisions of this article are severable. If any provision, paragraph, sentence, or clause, of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

**Sec. 20-170. Reserved.**



#### 6.4.3. Bed & Breakfast.

- A. **Defined.** A single unit residential building providing rooms for temporary, overnight lodging, with or without meals, for paying guests. Rooms may be independently let to unrelated or unaffiliated guests.
- B. **Required Standards.**
  - 1. A bed & breakfast lodging use must be owner or manager occupied.
  - 2. A bed & breakfast lodging use may be located within a principal building and/or an accessory structure.
  - 3. A common gathering space, such as a parlor, dining room, or living room must be maintained for guest use.
  - 4. Cooking facilities are not permitted in guest rooms.

#### 6.4.32. Short Term Rental.

- A. **Defined.** The rental of one or more bedrooms (along with any associated living areas) within a dwelling unit, or the rental of an entire dwelling unit, on an overnight or short-term basis of less than 30 days to guests. There are two types of Short Term Rental, an Accessory Short Term Rental and a Full-Time Short Term Rental.
  - 1. **Accessory Short Term Rental.** The rental of one or more bedrooms within a dwelling unit as a short term rental where the use is accessory to the primary residential use of the dwelling unit.
  - 2. **Full-Time Short Term Rental.** The rental of an entire dwelling unit as a short term rental where that use is the primary use of the dwelling unit and/or does not meet the requirements of an accessory short term rental.
- B. **Required Standards for All Short Term Rentals.**
  - 1. A resident seeking to operate a Short-Term Rental must register with the City in accordance with Sec 20-162 of the Revised Ordinances of the City of Newton.
  - 2. There may be no signage associated with a Short-Term Rental.
  - 3. The burden of proof is placed on the resident registered with the City as the operator of the Short-Term Rental to demonstrate that they are operating within the limits of this section.
- C. **Required Standards for Accessory Short-Term Rentals.**
  - 1. The resident of the dwelling unit must occupy the dwelling unit for a minimum of 275 days during each calendar year.
  - 2. The accessory short-term rental use is limited to no more than 30 days per year while the resident of the dwelling unit is in residence

and no more than 15 days per year while the resident of the dwelling unit is not in residence.

3. The total number of residents and guests may not exceed the maximum allowed in a dwelling unit at any time according to Sec. 3.4.2. and other applicable sections.
4. The maximum number of bedrooms on the site that can be rented to overnight or short-term guests is 2.

D. Required Standards for a Full-Time Short-Term Rental.

1. The total number of guests may not exceed the maximum allowed in a dwelling unit at any time according to Sec. 3.4.2. and other applicable sections.
2. A Full-Time Short-Term Rental requires a special permit, according to sec. 7.3.



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** April 5, 2019

**TO:** Councilor Susan Albright, Chair, Zoning and Planning Committee  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
James Freas, Deputy Director of Planning  
Shubee Sikka, Urban Designer

**RE:** **#43-19 Discussion of Riverside Vision Plan**  
DIRECTOR OF PLANNING requesting regular progress reports on the Riverside Vision Plan.

**MEETING:** April 8, 2019

**CC:** Honorable Newton City Councilors  
Planning & Development Board  
Jonathan Yeo, Chief Operating Officer

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The Planning Department and their consultant, CivicMoxie held the second Community Meeting for Riverside Vision Plan on Thursday, March 28, 2019. There were about 150 attendees at the Community Meeting. The Planning team presented a summary of comments from the first meeting, site analysis and draft guiding principles organized under the following 6 overarching categories:

- Newton Community Connections
- Housing for Newton
- Model for Sustainability
- Quality Design
- Robust Newton Economy
- Transportation Hub

Attached is a summary of the draft principles presented at the meeting. Please go to the webpage below for more information and relevant documents:  
[www.newtonma.gov/riversidevision](http://www.newtonma.gov/riversidevision)

The following are draft principles for the Riverside Vision Plan organized under 6 overarching categories. Please feel free to follow along with the presentation and write in comments in the provided booklet.



NEWTON COMMUNITY CONNECTIONS		Code	Principle
	C1	Establish a safe, healthy community that embodies Newton's values	
	C2	Provide a variety of usable open spaces	
	C3	Energize the site with vibrant ground-floor retail, art, and activity	
	C4	Include dedicated community space and active management and oversight	
	C5	Provide activities and businesses for all ages	

HOUSING FOR NEWTON		Code	Principle
	H1	Help address Newton's current and shifting housing needs	
	H2	Provide a significant number of permanently affordable housing units	
	H3	Prepare for implications of housing on all City services	

MODEL FOR SUSTAINABILITY		Code	Principle
	S1	Provide options for residents to live low-carbon lifestyles	
	S2	Prioritize energy-efficient building principles	
	S3	Protect and improve the Charles River through site design	
	S4	Improve Newton's climate resiliency	
	S5	Reinforce connections to nature	

QUALITY DESIGN		Code	Principle
	D1	Utilize existing site topography for creative and contextual site planning	
	D2	Require high-quality architectural design and construction	
	D3	Highlight the Riverside MBTA Station	
	D4	Create human-scale, walkable blocks	
	D5	Embody the Garden City through street-side landscape design within the site and along Grove Street	
	D6	Celebrate the Charles River and recreation opportunities	
	D7	Develop design guidelines	

ROBUST NEWTON ECONOMY		Code	Principle
	E1	Pursue best-fit of local retail and services	
	E2	Provide an array of commercial space types	
	E3	Support new and existing locally-owned businesses	
	E4	Ensure development supplies substantial fiscal benefit to the City	

TRANSPORTATION HUB		Code	Principle
	T1	Advocate for improvements to the Green Line and Riverside MBTA Station to support increased ridership	
	T2	Support potential expansion or connection of the commuter rail to Riverside	
	T3	Enhance neighbor experience and safety along Grove Street	
	T4	Link to and expand the trail network	
	T5	Improve and manage traffic flow to and from Riverside	
	T6	Maximize efficiency of on-site parking and minimize neighborhood parking overflow	
	T7	Prepare for future transportation trends and technology	