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**#54-16, #54-16(2)**  
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**James Freas**  
Acting Director

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**PUBLIC HEARING MEMORANDUM**

**DATE:** March 11, 2016

**TO:** Councilor Ted Hess-Mahan, Chairman  
Members of the Zoning and Planning Committee

**FROM:** James Freas, Acting Director of Planning and Development

**RE:** #54-16: ACTING DIRECTOR OF PLANNING proposing amendments to the Newton Zoning Ordinance to allow the "Health Club" use in Business 1, Business 2, and Business 4 districts; and to clarify the definition of "Personal Services" as it relates to health and fitness uses.

#54-16(2): ACTING DIRECTOR OF PLANNING proposing amendments to the Newton Zoning Ordinance, Chapter 30, which became effective November 1, 2015, to allow the "Health Club" use in Manufacturing, Limited Manufacturing, Mixed Use 1, and Mixed Use 2 districts.

**MEETING DATE:** March 14, 2016

**CC:** City Council  
Planning and Development Board  
Donnalyn Kahn, City Solicitor

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The process of reformatting and modernizing the Newton Zoning Ordinance highlighted many examples where the lack of a use table and organization of use definitions and regulations had led to conflicting provisions and the inadvertent elimination of uses as allowed in various districts. While many of these were corrected in the reformatting process of Phase 1, the "Health Club" use is one special case that escaped attention. In short, "Health Clubs" were for many years considered an allowed use in most commercial districts under an interpretation that identified the use as most similar to the "Club" use, as "Health Clubs" were not otherwise defined or allowed in the Ordinance. In 2002 a definition of "Health Club" was adopted into the ordinance in order to establish a parking

standard, but there is no indication of the use being allowed in any districts until the 2012 adoption of the Mixed Use 3 District. With the adoption of a definition of the “Health Club” use in 2002, the interpretation that this use was similar to a “Club” and therefore allowed in those districts where “Clubs” were allowed should have been superseded. The end result is that the Newton Zoning Ordinance does not allow “Health Clubs” in any districts except Mixed Use 3 and Mixed Use 4. Despite this situation, “Health Clubs” exist in a number of locations in Newton. The intent of these docket items is to allow “Health Clubs” on a wider basis.

In addition to the “Health Club” use issue, docket item #54-16 proposes additional clarification in the definition of “Personal Services” where the personal services and fitness studio uses have potential overlap with the “Health Club” use.

## **ANALYSIS**

### Health Clubs

Health clubs, fitness centers and similar are a widely recognized part of the commercial landscape in Newton and across the United States. Generally requiring a membership, these establishments offer some combination of exercise equipment, pools, indoor tracks or courts, exercise classes and instruction, and locker rooms/showers. For mixed-use areas, office parks, and other commercial districts, health clubs are widely seen as an important amenity that increases the value of nearby office, residential, and general commercial space. These uses are anchors and activity generators. The size of many health clubs can make them difficult to locate, but increasingly, this use can be found in second floor space above retail and, because many of the patrons arrive on foot from nearby offices or residences and may also visit other shops, restaurants, and services in the area, the parking demand of this use is not necessarily as great as it would seem.

The “Health Club” use is proposed to be allowed in most commercial districts, as described in the docket items and shown on the attached red-line Zoning Ordinance pages. Generally, the use is proposed to be allowed by-right, as depicted with a ‘P’ for ‘Permitted,’ as that has been the standard for this use in Newton historically. The “Club” use, which was the basis for where “Health Clubs” have been allowed, is allowed by-right in all Business districts. In addition to these, staff is proposing allowing the use in the Manufacturing and Limited Manufacturing districts. These districts are transitioning in many places towards office and research and development and, as described above, health clubs are a good complimentary use in such areas. Further, many of the warehouse type buildings in Newton’s Manufacturing districts lends themselves well to conversion to health clubs. Consistent with the standards in Mixed Use 3 and 4, “Health Clubs” are proposed as by Special Permit on the ground floor in these districts.

### Personal Services Definition

The current definition of “Personal Services” includes a range of uses including barbershops, salons, and tailors. What these uses have in common is that they are generally uses where there is a small ratio of client to service provider. The outliers are the personal trainers and fitness studios (laundry

and dry-cleaning are also outliers here. Since these are handled in a different location in the Use Table, staff will be proposing that these uses also be removed from “Personal Services”). Staff proposes that the language be clarified to read:

Personal services, including but not limited to barbershop, salon, tailor, cobbler, personal trainer ~~or fitness studio~~ where the program offers a ratio of one trainer to up to 4 clients, laundry, and dry cleaning drop off.

The proposed language includes removing fitness studios and specifying that personal trainers are for one-on-one or small group training purposes, so that the uses under this definition are consistent with each other and can be similarly regulated. A future ordinance amendment will be necessary to create a “Studio” use to include fitness, dance, and similar studio space used for group instruction of these types.

#### **RECOMMENDATION AND NEXT STEPS**

The Planning Department recommends that docket item #54-16 and #54-16(2) be approved and forwarded to the City Council for consideration.

#### Attachments:

Section 4.4.1, Ordinance page 4-19

Section 6.4.25.A, Ordinance page 6-12

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Bank	P	P	P	P	--	SP	P	--	--	--	P	<a href="#">Sec. 6.4.4</a>
Bowling alley	--	P	--	--	--	--	--	--	--	--	P	<a href="#">Sec. 6.4.5</a>
Business incubator	--	--	--	--	--	--	--	P	--	--	--	<a href="#">Sec. 6.4.6</a>
Business services	--	--	--	--	--	SP	P	--	--	--	--	<a href="#">Sec. 6.4.7</a>
Car-sharing service, car rental, bike rental, electric car-charging station	--	--	--	--	--	--	--	P	P	--	--	<a href="#">Sec. 6.4.8</a>
Car wash	--	--	--	--	--	--	--	--	--	SP	--	<a href="#">Sec. 6.4.9</a>
Drive-in business	SP	SP	SP	SP	--	--	--	--	--	--	SP	<a href="#">Sec. 6.4.11</a>
Dry cleaning or laundry, retail	P	P	P	P	--	SP	P	P	P	--	--	<a href="#">Sec. 6.4.12</a>
Fast food establishment	--	SP	--	--	--	--	--	--	--	--	SP	<a href="#">Sec. 6.4.13</a>
Fuel establishment	--	SP	--	--	--	SP	SP	--	--	SP	SP	<a href="#">Sec. 6.4.14</a>
Funeral home	SP	SP	SP	SP	--	--	SP	--	--	--	--	<a href="#">Sec. 6.4.15</a>
Health club, above or below ground floor	<del>P</del>	<del>P</del>	--	<del>P</del>	--	<del>P</del>	<del>P</del>	P	SP	<del>P</del>	<del>P</del>	<a href="#">Sec. 6.4.16</a>
Health club, ground floor	<del>P</del>	<del>P</del>	--	<del>P</del>	--	<del>SP</del>	<del>SP</del>	SP	SP	<del>P</del>	<del>P</del>	<a href="#">Sec. 6.4.16</a>
Hotel or lodging establishment	SP	SP	SP	SP	SP	--	SP	SP	SP	--	--	<a href="#">Sec. 6.4.17</a>
Job printing, up to 3,000 square feet (area used for work and storage)	P	P	P	P	--	--	P	--	--	P	--	<a href="#">Sec. 6.4.18</a>
Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	<a href="#">Sec. 6.4.18</a>
Kennel	--	--	--	--	--	--	--	--	--	--	P	<a href="#">Sec. 6.4.19</a>
Office	P	P	P	P	P	P	P	L	P	P	P	<a href="#">Sec. 6.4.20</a>
Office of a contractor, builder, electrician or plumber or similar enterprises	--	L	--	--	--	--	--	--	--	--	L	<a href="#">Sec. 6.4.21</a>
Open-air business	SP	SP	SP	SP	--	--	--	--	SP	--	SP	<a href="#">Sec. 6.4.22</a>
Outdoor storage	--	SP	--	--	--	--	--	--	--	--	--	<a href="#">Sec. 6.4.23</a>
Parking facility, accessory, single level	P	P	P	P	--	--	P	--	P	P	P/SP	<a href="#">Sec. 6.4.24</a>
Parking facility, non-accessory, single level	SP	SP	SP	SP	--	--	SP	--	SP	SP	SP	<a href="#">Sec. 6.4.24</a>
Parking facility, accessory, multi-level	SP	SP	SP	SP	--	--	--	--	P	SP	SP	<a href="#">Sec. 6.4.24</a>
Parking facility, non-accessory, multi-level	SP	SP	SP	SP	--	--	--	--	SP	SP	SP	<a href="#">Sec. 6.4.24</a>
Parking facility, public	--	--	--	--	--	--	--	P	P	--	SP	<a href="#">Sec. 6.4.24</a>
Personal service, up to 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	<a href="#">Sec. 6.4.25</a>
Personal service, over 5,000 square feet	P	P	P	P	--	--	P	SP	SP	--	P	<a href="#">Sec. 6.4.25</a>
Place of amusement, indoor or outdoor	--	SP	--	--	--	--	--	SP	SP	--	SP	<a href="#">Sec. 6.4.26</a>

P = Allowed by Right   L = Allowed Subject to Listed Standards   SP = Special Permit by Board of Aldermen Required   -- Not Allowed

operated as a business even if open only to members and their guests on a membership basis and not to the public at large paying a daily admission fee.

(Ord. No. X-10, 03/18/02)

### 6.4.17. Hotel or Lodging Establishment

- A. **Defined.** A building or several buildings containing 6 or more sleeping rooms for guests, other than a dormitory, lodging house or apartment house.
- B. **Standards.**
  1. In a Business 5 district, in addition to the density and dimensional controls set forth in [Sec. 4.1.3](#), the lot or tract of land shall have a minimum area of 2 acres and 25 percent of the lot or tract of land shall be in landscaped area.

(Ord. No. S-260, 08/03/87)

### 6.4.18. Job Printing

- A. **Defined.** [reserved]

### 6.4.19. Kennel

- A. **Defined.** [reserved]

### 6.4.20. Office

- A. **Defined.** Offices for professional, business, or medical purposes, excluding the retail sale of tangible personal property from a stock of goods on the premises.

(Ord. No. S-260, 08/03/87)

### 6.4.21. Office of a Contractor, Builder, Electrician, Plumber or Similar Enterprises

- A. **Defined.** Office of a contractor, builder, electrician, plumber or similar enterprises, together with such storage buildings as are necessarily appurtenant thereto.
- B. **Standards.** No outside storage is permitted and no more than 40 percent of the total gross floor area may be used for storage.

(Ord. No. S-260, 08/03/87)

### 6.4.22. Open-Air Business

- A. **Defined.** A business conducted outdoors, without any primary structures.

### 6.4.23. Outdoor Storage

- A. **Defined.** Areas for outside storage, display and sale of goods and materials.
- B. **Standards.** No lighting shall be allowed except such as is necessary for the safety and protection of the public and prospective purchasers and such reasonable display lighting as the Board of Aldermen shall approve by special permit.

(Ord. No. S-260, 08/03/87)

### 6.4.24. Parking Facility

- A. **Defined.**
  1. Single Level [reserved]
  2. Multi-Level [reserved]
  3. Accessory [reserved]
  4. Non-Accessory [reserved]
  5. Public [reserved]

### 6.4.25. Personal Service

- A. **Defined.** Personal services, including but not limited to barbershop, salon, tailor, cobbler, personal trainer ~~or fitness studio where the program offers a ratio of one trainer to up to 4 clients~~, laundry, and dry cleaning drop off.

(Ord. No. Z-108, 04/17/12)

### 6.4.26. Place of Amusement, Indoor and Outdoor

- A. **Defined.** [reserved]

### 6.4.27. Radio or Television Transmission Station

- A. **Defined.** [reserved]
- B. **Standards.** Wireless communication equipment shall be subject to [Sec. 6.9](#).

### 6.4.28. Research and Development

- A. **Defined.** [reserved]

### 6.4.29. Restaurant

- A. **Defined.** An establishment where the principal activity is the service or sale of food or drink for on-premises consumption.
- B. **Standards for Allowed Uses**