

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, SEPTEMBER 9, 2013

Present: Ald. Johnson (Chairman), Danberg, Baker, Sangiolo, Yates, Swiston, Kalis and Lennon

Also Present: Ald. Hess-Mahan

Others Present: John Lojek (Commissioner, Inspectional Services), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), James Freas (Long Range Planner), Alice Ingerson (Community Preservation Planner), Robert Muollo (Housing Planner), Phil Herr, Charles Eisenberg, Karyn Dean (Committee Clerk)

Appointment by His Honor the Mayor

#268-13 BERI GILFIX, 121 Cherry Street, Newton, appointed as a member of THE COMMUNITY PRESERVATION COMMISSION for a term to expire July 10, 2016. (60 days 10/11/13) [07/16/13 @ 4:49PM]

ACTION: **APPROVED 7-0 (Ald. Lennon not voting)**

NOTE: Ms. Gilfix joined the Committee. She explained that her chief interest is in the history of Newton and has been on the Board of Historic Newton for a number of years as well as other organizations in the City. The diverse and unique nature of the City is something she would like to share and she feels her involvement with the Community Preservation Commission will allow her to promote these kinds of interests. Members of the Committee were very pleased that Ms. Gilfix was willing to serve and voted unanimously to approve her appointment.

Appointment by His Honor the Mayor

#269-13 JANICE CAILLET, 104 Eldredge Street, Newton, appointed as a member of THE ECONOMIC DEVELOPMENT COMMISSION for a term to expire June 28, 2016. (60 days 10/11/13) [07/16/13 @ 4:49PM]

ACTION: **APPROVED 7-0 (Ald. Lennon not voting)**

NOTE: Ms. Caillet joined the Committee. She noted that she has lived in various places around the country and in Europe and has always become involved in local government issues. She has also been involved in the entrepreneurial and innovation movements in the Boston area and would like to see more of that happening here in Newton. Involvement in the EDC would allow her to bring her experience to the City of Newton. She has had several conversations with current member, Chris Steele, and he has brought her up-to-date on the Commission's work thus

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Joel Reider at 617-796-1145 or jreider@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting.

far. The Committee thanked Ms. Caillett for her willingness to serve and unanimously approved her appointment.

Appointment by His Honor the Mayor

#273-13 JEAN FULKERSON, 51 Middlesex Road, Newton, appointed as a member of THE NEWTON HISTORICAL COMMISSION for a term to expire July 10, 2016. (60 days 10/11/13) [07/16/13 @ 4:48PM]

ACTION: **APPROVED 7-0 (Ald. Lennon not voting)**

NOTE: Ms. Fulkerson addressed the Committee and explained that she has worked in several different cities in planning and has studied planning and historic preservation in graduate school. She worked in the City of Newton's Planning Department for a few years as well as a planner dealing with special permits. She is aware of the historic assets of the City and feels her interests and experience work well with the Historical Commission. She also recently worked on the Waban Hill Reservoir Advisory Group. The Committee thanked her for her willingness to serve and unanimously approved her appointment.

Appointment by His Honor the Mayor

#274-13 MARK ARMSTRONG, 61 Vaughn Avenue, Newton, appointed as an architect member of THE NEWTON HISTORICAL COMMISSION for a term to expire July 23, 2016. (60 days 10/11/13) [07/26/13 @ 2:14PM]

ACTION: **APPROVED 7-0 (Ald. Lennon not voting)**

NOTE: Mr. Armstrong joined the Committee and explained that he is an architect and is on the Auburndale Historic Commission. He feels he brings an architectural point of view to the Newton Historical Commission's work technically, but also in a way that helps people understand why certain decisions are being made relative to projects – for example, that “historic” can refer just as well to something that is 50 years-old as something that is 100 years-old depending on circumstances. He enjoys the educational aspect of this. The Committee voted unanimously to approve this appointment with their thanks to Mr. Armstrong for his willingness to serve.

Appointment by His Honor the Mayor

#275-13 LAURA FITZMAURICE, 67 Fisher Avenue, Newton, appointed as an *alternate member* of THE NEWTON HISTORICAL COMMISSION for a term to expire July 10, 2015. (60 days 10/11/13) [07/16/13 @ 4:48PM]

ACTION: **APPROVED 7-0 (Ald. Lennon not voting)**

NOTE: Ms. Fitzmaurice noted that she has an architectural background and she has been doing small design jobs around the City. In 2009 she worked on a home that was designed by a woman architect in the 1800s, Annie Cobb. She then applied for a grant through the Boston Society of Architects to record and document all of her work. This led to other events around the City and she developed an exhibit last year for Historic Newton on Annie Cobb. She will also be developing a book for a self-guided walking tour of Newton. The Committee commented that all

the appointees this evening were quite impressive. The Committee unanimously voted to approve Ms. Fitzmaurice's appointment.

Appointment by His Honor the Mayor

#276-13 ELLEN KLAPPER, 46 Cochituate Road, Newton, appointed as an *alternate member* of THE NEWTON HISTORICAL COMMISSION for a term to expire July 10, 2015. (60 days 10/11/13) [07/16/13 @ 4:48PM]

ACTION: **APPROVED 7-0 (Ald. Lennon not voting)**

NOTE: Ms. Klapper addressed the Committee and explained that she has been involved and interested in issues regarding local history. She is happy to be volunteering for this Commission and bringing her experience to the table. The Committee thanked Ms. Klapper for her service and the Committee voted to approve this appointment.

Additional Note: The Committee wondered who the departing members were of the Newton Historical Commission. The Committee Clerk learned that David Morton, Donald Tellalian and Alfred Wojciechowski would be leaving the Commission as soon as the new members were sworn in.

The Mayor is currently interviewing prospective new members to The Economic Development Commission. After Janice Caillet is sworn in, there will be three available positions. David Abramson, Frank McGhee, Charles Rudnick and Barry Ambramson have resigned. Chris Steele, and Charles Eisenberg have been re-appointed.

Re-appointment by His Honor the Mayor

#277-13 NANCY GRISSOM, 7 Orris Street, Newton, re-appointed as a member of THE NEWTON HISTORICAL COMMISSION for a term to expire July 10, 2016. (60 days 10/11/13) [07/16/13 @ 4:50PM]

ACTION: **APPROVED 7-0 -1 (Ald. Lennon abstaining)**

NOTE: The Committee voted to approve this re-appointment without any discussion.

Re-appointment by His Honor the Mayor

#278-13 DONALD LANG, 1643 Beacon Street, Newton, re-appointed as a member of THE NEWTON HISTORICAL COMMISSION for a term to expire July 10, 2016. (60 days 10/11/13) [07/16/13 @ 4:50PM]

ACTION: **APPROVED 7-0 -1 (Ald. Lennon abstaining)**

NOTE: The Committee voted to approve this re-appointment without any discussion.

Re-appointment by His Honor the Mayor

#270-13 NORMAN RICHARDSON, 372 Waltham Street, Newton, re-appointed as a member of THE CONSERVATION COMMISSION for a term to expire July 10, 2016. (60 days 10/11/13) [07/16/13 @ 4:50PM]

ACTION: **APPROVED 7-0-1 (Ald. Yates abstaining)**

NOTE: The Committee voted to approve this re-appointment without any discussion.

Re-appointment by His Honor the Mayor

#271-13 JANE BROWN, 104 Atwood Avenue, Newton, re-appointed as a member of THE NEWTON COMMISSION ON DISABILITY for a term to expire on June 30, 2014. (60 days 10/11/13) [07/16/13 @ 4:50PM]

ACTION: **APPROVED 8-0**

NOTE: The Committee voted to approve this re-appointment without any discussion.

Re-appointment by His Honor the Mayor

#272-13 ROSEMARY LARKING, 1600 Washington Street, Newton, re-appointed as a member of THE NEWTON COMMISSION ON DISABILITY for a term to expire June 30, 2015. (60 days 10/11/13) [07/16/13 @ 4:48PM]

ACTION: **APPROVED 8-0**

NOTE: The Committee voted to approve this re-appointment without any discussion.

#328-12 DINO ROSSI, 362 Watertown Street, Newton, requesting that the current Table A in Section 30-15 of the City of Newton Ordinances be replaced with the Sliding FAR Scale Table that was presented by the FAR Working Group in their Final Report [10/26/12 @ 11:08 AM]

ACTION: **HELD 8-0**

NOTE: Mr. Rossi addressed the Committee. He felt that the FAR Working Group which proposed the new Sliding FAR Scale Table brought a level of expertise that should not be disregarded. He did not feel it was fair that people who were not experts changed the numbers. There was discussion in the past about revisiting the numbers and he would like to see what everyone was thinking about this issue. He said the number of multi-family dwellings has dropped substantially. The larger lots are being developed but the smaller lots are not being developed the way they used to be. The single-family segment does not seem to be affected, in his opinion, but the less expensive multi-residence units are becoming less available due to the FAR numbers, and therefore there are fewer affordable options in the City. He also noted that all the special permits asking for relief from FAR have been approved. He felt that petitioners should not have to come in for special permits all the time for FAR relief. Land Use Chair, Ald. Hess-Mahan noted that attached dwellings require a 25 foot setback all around and there is a minimum of 15,000 feet for the lot, therefore they have less of an impact on neighbors. However, a two-family by-right house can be just as large as some of the attached dwellings, but

they do not have the same large setback and would be quite close to the neighbor (10 feet or less).

There was comment in Committee that so many of the multi-residences that are being built are quite expensive and are not actually providing affordable options. There was agreement by some Committee members, however, that the multi-residence projects were not on the rise and there was concern about that. It was referenced that the FAR Working Group came in a couple of months ago and there was sentiment from the Working Group that they did not have any significant issues with the numbers that were ultimately adopted. (An excerpt from that Committee report is attached.) It was noted by some Committee members that there has been an uptick in FAR relief special permits and that was one of the things they were trying to avoid by making the change. Some members also wondered if regardless of the limit, there would always be someone looking for just a little bit more. It was mentioned by James Freas, Long Range Planner, that the increase in special permits was tracking with the improvement in the economy. Most of the special permits would have required a special permit under the old FAR numbers as well as the new. John Lojek, Commissioner of Inspectional Services, noted that the majority of the builders and developers that work in the City have adapted to the new numbers and the pace of business is very brisk.

The Committee wanted it to be clear that they very much respected and appreciated the work of the FAR Working Group. The work they did significantly helped to move forward the process and inform the decisions of the Board and all that worked on this issue.

Follow Up

It was suggested that the two year timeframe (October, 2013) would be a good opportunity to look at the numbers and see what has and has not been working. It was suggested that the review item and this item be taken up together in October. Ald. Johnson would like members of the FAR Working Group to be invited to that meeting.

The Committee voted to hold this item.

#214-12 ALD. DANBERG, BLAZAR, SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment.

ACTION: **HELD 8-0**

NOTE: An updated draft ordinance was included with the agenda and is attached to this report. Maura O'Keefe, Assistant City Solicitor addressed the Committee. She explained that she did a survey to determine how other communities handled this issue and in particular the enforceability aspect of the ordinance. Making the ordinance and definitions as specific as possible was the best way to deal with enforceability. For example, the issue of overgrown vegetation and what constitutes a nuisance are two areas that have seemed vague, so putting as

much information in the ordinance describing what each of those might be would be the best way to make it clear and thus enforceable. The term of art they found over and over was they needed to use language and definitions that a person of “normal intelligence” would understand.

Some Committee members were concerned about homeowners whose home or property fall into disrepair due to a hardship such as a death in the family or a divorce. They did not want those people to be put in the position of violating an ordinance and being fined for having this sort of hardship. It was stated that the intent of the ordinance is to address particularly egregious offenders, not a short-term problem caused by an unfortunate circumstance. Also, there are time allowances of 60 days before a situation would become a violation, and then another 30 days to remedy a situation before any fine is imposed. This could be helpful for the less serious problems.

Commissioner Lojek explained that this issue is very subjective and was concerned about this type of problem as well. There are some residents who would not care about someone’s hardship and there are repeat and habitual calls to ISD for what he would consider very nebulous reasons. He felt the language in the ordinance was still too vague and subjective and he was not comfortable with it. And if an ordinance passed of this kind, he would need more people for enforcement. He was also concerned about being challenged in court as it is so subjective. He did not think the size of the problem warranted this approach. There may be a handful of serious cases around the City and they do what they can to work with them, often with good results. But having an ordinance and opening this up to every citizen’s subjective opinion on what they don’t like in their neighbor’s yard could create a very difficult situation.

Proposed Changes to Language

It was noted that the term “reasonable amount of time” could be struck as the term “Sixty days” is there as well. Under the “Nuisance” definition, it was pointed out that there should be an “or” between the three circumstances so as not to imply that all three were needed to meet the standard. There was also a comment that the word “comfort” should be struck from that definition as well. The “Public View” definition also includes reference to a direct abutter’s residence or property, which is not a public view so that needed to be clarified. The heading for this section is Standards for Property Maintenance when in fact this is dealing with standards of property maintenance to avoid nuisances to neighboring properties, so that should perhaps be clarified as well. There was a question as to whether “Blight” referred to the effect on the offending property or the effect on the neighboring properties. Several members of the Committee felt that this ordinance should relate to health issues alone and should fall under the authority of the Health Department and not Inspectional Services. Some of the provisions in the draft ordinance may already fall under Health Department regulations.

Follow Up

The Chairman explained that it was her recollection that any reference to property values was to be avoided and the issues of health and safety should be the focus. As with other Committee members, she felt this was still too vague and subjective. Ald. Baker pointed out that the standard for litigation between neighbors is the unreasonable interference with and enjoyment of neighboring property and one index of that is sometimes an adverse effect on property values. He

felt that distinction needed to be kept in mind. Ald. Johnson asked that the Committee Clerk provide the Law Department with the suggestions made at the last Committee meetings so that they can all be captured in the next draft. (That information has been sent.) In addition, it was suggested that any other suggestions by Committee members should be emailed to Ald. Danberg, Marie Lawlor and/or Maura O'Keefe.

The Committee voted to hold this item.

#295-13 ALD DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by deleting paragraph (11) *Hotels* in its entirety to remove the requirement that new hotel developments must make cash payments to the City in support of housing for low and moderate income housing. [08/26/13 @ 12:30PM]

ACTION: **HELD 8-0**

NOTE: See note below.

#294-13 ALD. DANBERG proposing amendment to **Sec.30-24(f) Inclusionary Zoning** to clarify the limitation on use of public funds in constructing inclusionary units and to expand on where the use of public funds for inclusionary units will be allowed. [08/26/13 @ 12:30PM]

ACTION: **HELD 8-0**

NOTE: See note below.

#296-13 ALD DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by reorganizing and clarifying the provisions regarding purchaser and renter income limits and sale and rental price limits. [08/26/13 @ 12:30PM]

ACTION: **HELD 8-0**

NOTE: See note below.

#64-12 ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances **Sec 30-24(f)(8)(b)** to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities. [03-14-12 @8:54AM]

ACTION: **HELD 8-0**

NOTE: All four of the inclusionary zoning items were discussed together.

Phil Herr and Chuck Eisenberg joined the Committee. They feel the inclusionary zoning issues are relevant to some development projects that are ongoing and/or upcoming in the City. The EDC and the Newton Housing Partnership each appointed people to a subcommittee to look at inclusionary zoning and they have been working on this issue for the last 18 months. They went through Chapter 30-24 and these four items were singled out for discussion and revision. The

proposals that were included with the agenda have been brought before both the EDC and the Newton Housing Partnership and have been approved by both.

Hotels

The requirement in the City is that a hotel is subject to a 10% inclusionary zoning requirement which comes in the form of a cash payment based on a set of criteria. And it is the only use/business that is subject to this requirement (a reference to apartments was taken out in the 1980s). They have not been able to find any other city or town that has this requirement. Their research has shown that hotels do not want to come to Newton because the 10% charge is too much of a burden. Not one additional hotel room has been built since the ordinance was put in place, nor has anyone even shown any interest in doing so. Hotels generate more revenue on a net basis for a community than any other use because they use very few services but generate revenue and provide jobs. Discouraging their development has a negative impact on the City. It also doesn't seem fair to single out this one use and it projects an un-business-friendly sense of the City. Twenty years ago 28% of the tax revenue came from commercial property and today only 17%. Bringing new business to the City can also bring the need for more affordable housing for employees.

Some Committee members agreed that this provision is unfair and unnecessary. Others wondered if there was a need for more hotels in the City and if there was any downside to having more here. It was noted that the Hotel Indigo eliminated its banquet space, presumably because it wasn't being used. Mr. Eisenberg said the occupancy rates in the City were relatively high. There is a lot of hotel supply created in surrounding communities and those are rooms that could have been in Newton generating revenue and taxes. The demographics and demand by location seem very positive for higher end hotels.

Public Funds

Developers cannot use public funds to meet the affordable housing requirement under inclusionary zoning. This tends to push developers to 40B projects. In this City the difference between market rate and affordable is so great, and the cost of buying land and building is so high, that affordable housing cannot be built without subsidies. Right now, there are no tax credits, no CPA funds, no HOME funds, no tax exempt bond financing, etc. This model is not working anymore. The suggestion is to carve out some exceptions. The definition of affordability is effectively measured as 70% of area median income. The group is suggesting that the prohibition from using public funds should be eliminated if the developer is willing to take that down to 60%. That is also the number that is used for tax credits. There is also a suggestion that there be an accommodation made for provisions for household with residents with disabilities.

Committee members agree that the model needs to change. But rather than add more complexity, it was suggested that the restriction be dropped completely and let the special permit process deal with these types of projects. Mr. Herr said that inclusionary zoning, regulated through a regulatory process, was a way to augment housing that was built using public funds. He did not think it was a good idea to give that up and did not think the restriction should be dropped. Simply put, the City would be obliged to provide without public support as much

affordable housing as it was obliged to do before. But there is no limit to how much it can do in addition to that, through the use of public funds.

Purchaser/Renter Limits

Mr. Herr explained that the rules that govern how these numbers work are inherently complicated. It makes sense to regulate the price of units that a developer may charge in a slightly different way than you regulate the incomes of those who might occupy them. Developers need to have an assurance of what they can get on their property or they cannot get financing to build. In dealing with individual households it makes sense to have some flexibility, however. The substantive change in this section would give developers greater freedom in the way in which they adjust the spectrum of price levels. Otherwise, this section is essentially the same aside from reorganization. It also removes conflict with either state or federal regulations and overall makes it easier to understand and administer.

Households with Persons with Disabilities

Ald. Hess-Mahan addressed the Committee saying that he is a member of the Fair Housing Committee. This item deals with a situation with Myrtle Village. Mr. Herr explained that the Myrtle Village development is going to displace some long-term residents. The intention with this item is to find a way to assure that those displaced residents get first preference for any new units that are developed in this project. They checked into whether this was legal in terms of state and federal laws and regulations and it is. This amendment is the best way to accomplish this.

Rob Muollo, Housing Planner, said he was very familiar with the project and this preference policy for tenant selection. He explained that the residents would have to be eligible and appropriately housed to qualify. Some members of the Committee suggested that the language might be more specific.

Any further questions from the Committee should be submitted to the Committee Clerk of James Freas.

The Committee voted to hold all four items.

Respectfully Submitted,

Marcia T. Johnson, Chairman

JULY 17, 2013
ZONING & PLANNING COMMITTEE REPORT

#423-12 ALD. JOHNSON AND SANGIOLO requesting that the Director of Planning & Development and the Commissioner of Inspectional Services review with the Zoning & Planning Committee their analysis of the FAR regulations and assessment of the possible impact on housing construction and renovation in the City. [12/03/12 @ 9:14 AM]

ACTION: **HELD 4-0 (Ald. Kalis not voting)**

NOTE: James Freas, Long Range Planner, addressed the Committee to give a short update on data compiled since the last discussion of this item. He explained that there has been an increase in the number of building permits and special permit requests since the FAR regulations went into effect in October 2011. The trend has continued through July 1, 2013. (A list is attached to this report.) This is believed to be consistent with the improving economy and housing market. There are more special permit requests to exceed the allowed FAR but the time frame has been relatively short and no significant conclusions are being drawn from these numbers so far. Also, many existing homes are already built up to or over what would be allowed under the FAR regulations, so any additions would require a special permit. The eight special permit requests in the last 6 months would have required special permits prior to the October 2011 change. The other impact of the changes in the regulations is building design. For example, flatter roofs are being used in order to maximize the useable square footage that is counted towards the FAR limit. Some builders and architects seem to be manipulating their designs in order to avoid the special permit process. It was pointed out that most special permits are granted. There is a significant design review process through several City departments, architects and lawyers, which weeds out projects that would be unlikely to be approved.

Several members of the FAR Working Group were present. They expressed that some of their desired goals were achieved through the new regulations. The numbers were oriented towards allowing larger houses on smaller lots than was previously allowable, and avoiding even larger houses on large lots. They also felt the process was streamlined which provided for more helpful review prior to reaching the Land Use Committee. Bad design can still trump good planning, but for the most part they felt this was a policy success. Some members of the Committee felt that there should be a way to track a project through the process to see what is altered and what has changed from the beginning to the final result. Some felt that existing houses and new construction should be dealt with equally in terms of special permits for FAR. One member felt that the public hearing process for special permits, while a necessary part, can often be detrimental to neighborly relations. Neighbors can sometimes express very negative comments about a home or homeowner and that some education for the abutters about what is allowed in the ordinance might be a positive step towards mitigating that. There was also a comment that other communities notice abutters even on by-right projects and involves the neighborhood in conversations. Committee members thought this was an interesting idea.

The Committee will take up this discussion again in September and so voted to hold this item.

Item # 214-12 DRAFT FOR DISCUSSION PURPOSES 9/9/13:

Add the following new section:

Sec. 5 - 22 ~~Keeping of junk, debris, or overgrown vegetation in public view~~ Minimum Standards for Property Maintenance.

(a) *Purpose:* ~~The City of Newton is committed to maintaining and improving the quality of life for our residents.~~ The purpose of this ordinance is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, and protecting the City’s resources by avoiding the creation and maintenance of nuisances on property which are detrimental to neighboring residents, ~~and~~ properties or property values.

(b) *Definitions:*

Blight. Any condition that impairs the value, condition, durability or appearance of real property.

Commissioner. The commissioner of inspectional services or his designee.

Junk or debris. Any materials or combination of materials including but not limited to scrap, metal, scrap construction materials, rags, plastics, batteries, paper trash, inoperable appliances, inoperable machinery, mattresses, tires, and dilapidated or decayed furniture unusable for its intended purpose.

Nuisance. The storage or accumulation of materials or any other prohibitions under this ordinance that:

- (i) injuriously affects the health or comfort of ordinary people in the vicinity to an unreasonable extent;
- (ii) materially diminishes the reasonable use or value of any neighboring properties;
- (iii) produces a hazardous, or blighted condition of private property, land or structures.

Overgrown vegetation. ~~Keeping, maintaining or permitting to be kept or maintained any~~ weeds, grass, bushes, or other shrubbery which are so untrimmed or unkempt that they present a reasonable expectation of and which may ~~harboring or attracting~~ rats and vermin, concealing ~~ing~~ pools of stagnant water, or otherwise creating a nuisance or safety hazard detrimental to neighboring properties.

Public view. Junk, debris, or overgrown vegetation which may be viewed from public property or ways, or from any location within a direct abutter’s residence or property.

Reasonable amount of time. Sixty (60) days.

Substantial amount. A quantity of junk or debris which occupies more than 375 cubic feet in the aggregate on any one lot in a residential district.

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- (c) No owner or occupant of any lot in any residential district shall keep in the public view any substantial amount of junk and debris or a condition of overgrown vegetation for more than ~~a reasonable amount of time~~ sixty (day) days. Such keeping of junk and debris or overgrown vegetation is declared a public nuisance.
- (d) *Regulatory authority.* The commissioner has the authority to promulgate rules and regulations necessary to implement and enforce this section.
- (e) *Enforcement.* The commissioner shall enforce the provisions of this section and shall institute all necessary administrative or legal action to assure compliance.
- (f) *Notice of violation.* The commissioner shall issue a written notice of any violation of this section to the owner or occupant of the lot. Said notice shall describe the condition and order that it be remedied within thirty (30) days. If such condition is not remedied within that time, the commissioner may take action to impose the fines described in sec. 5-22 (g) by criminal disposition or by civil disposition pursuant to authority granted by G.L. c. 40, sec. 21D and by sections 20-20 and 20-21 of these ordinances.
- (g) *Penalty.* Any violation of this section, including any rules and regulations promulgated by the commissioner, shall be penalized by a fine of one hundred dollars (\$100.00) per day for days one through seven that the violation continues; two hundred dollars per day (\$200.00) for days eight through fourteen that the violation continues; and three hundred dollars (\$300.00) per day for each subsequent day the violation continues. Each day a violation continues shall constitute a separate offense.
- (h) Action under this section shall not bar any separate regulation by or action by any other City department for health, fire safety, building code or any other violations.
- (i) If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered severable from the remaining provisions, which shall remain in full force and effect.