

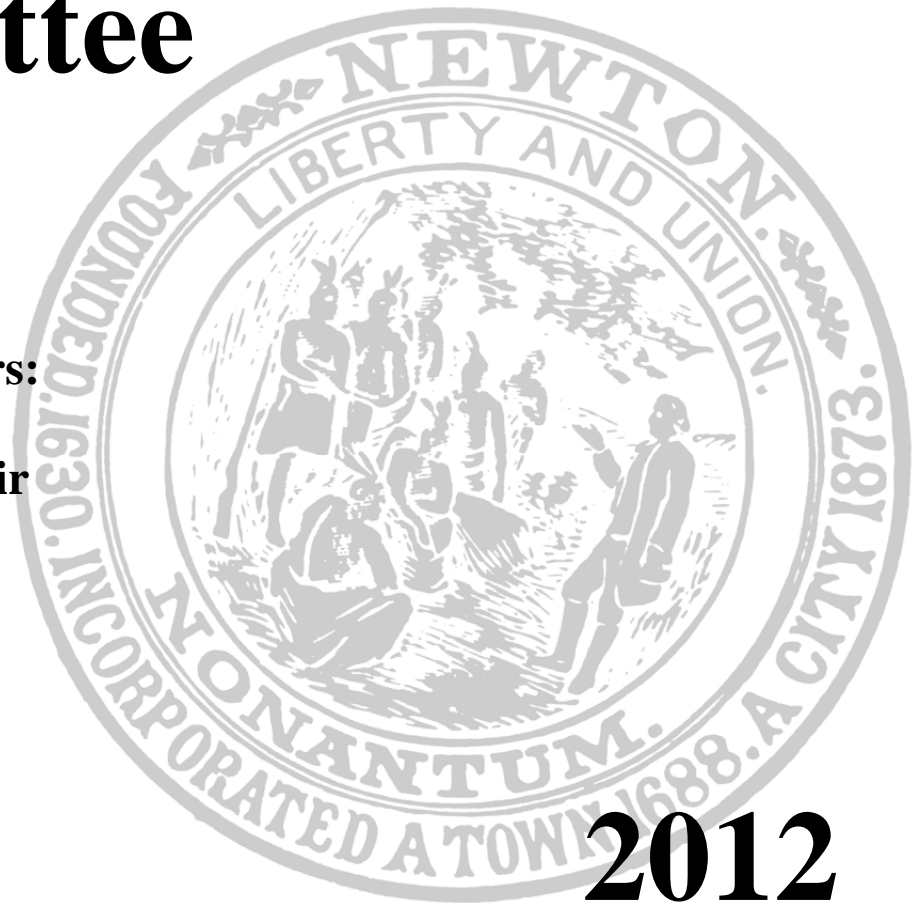
**Newton Board of Aldermen**

# **Report of the Recodification Committee**

**June 4, 2012**

**Committee Members:**

**R. Lisle Baker, Chair  
Cheryl Lappin**



**2012**





# Memorandum

To: Members of the Board of Aldermen  
From: Aldermen Baker and Lappin  
Re: Report of the Recodification Committee  
Date: June 4, 2012  
Cc: Honorable Setti Warren, Newton Law Department, Gayle Smalley, Esq.

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Included with this introductory memorandum is the Report of the Recodification Committee, which will be docketed tonight and then moved to be laid on the table until the Board of Aldermen meeting on June 18, 2012, when the Committee hopes that it will be acted upon favorably by the Board so as to have the recodification take effect as close as possible to the start of the new fiscal year.

As required by City Charter which states in Article 11, Section 4 the “Board of Aldermen shall, not later than one year after the charter is adopted and at five-year intervals thereafter, cause to be prepared by a special committee of the Board of Aldermen appointed for that purpose, a proposed revision or recodification of all ordinances of the City which shall be presented to the Board of Aldermen for reenactment.”

The format of the Committee Report is as follows:

1. The formal Board Order for enacting the recodification.
2. An Executive Summary of the proposed changes by Chapter.
3. A list of the ordinances passed by the Board of Aldermen during the past five years which have been incorporated into the Revised Ordinances of Newton 2012.
4. The body of the report which contains the specific items addressed and the recommended changes. This section includes:
  - (a) problems discovered by Aldermen, city staff, and committee members that were addressed by the Recodification Committee;
  - (b) the research conducted on the problems;
  - (c) the committee’s proposed changes to correct the problems identified;
  - (d) the rationale for the change, and references to any memos in the appendix of the report which will provide further explanation; and
  - (e) any proposed substantive changes that will be docketed by the Recodification Committee for the Board of Aldermen to address at a future date. In the course of the committee’s work, the Recodification Committee identified a number of substantive concerns that went beyond technical changes and the scope of recodification. The Recodification Committee will be docketing these items for

Board consideration as potential changes to the ordinances outside of the recodification process in the coming months.

As you read the report you will notice that each specific recodification change has a number associated with it. That number represents an easy way of referencing the Recodification Committee's recommended change. If you would like to discuss a particular change, please let City Clerk David Olson know its number before June 15, 2012 and the Recodification Committee can be prepared to address and discuss it at the Board meeting on the 18<sup>th</sup>. We hope that the full report will be able to be voted under suspension of the Rules on First Call on June 18, 2012. If, however, there are any of the changes that have been recommended that you would like to discuss, we can take those elements as part of the discussion of the Report on second call.

In addition, a supplemental Report of those items that are part of the ordinance book, but not part of the recodification vote, is anticipated to be available for the June 18, 2012 meeting so you can see the context for the formal ordinances we will vote. The ultimate version of these supplemental materials will be completed under the supervision of Mr. Olson. They include:

1. An updated Letter of Introduction from the Clerk indicating that the new ordinances have been revised;
2. An updated table of contents;
3. An updated index;
4. A new feature, a User's Guide, which would be targeted to new or experienced users, and reference other sources to which the ordinance relates, including statutes, and the Board's Rules and Orders.;
5. An introductory preface to the ordinances themselves (Note that they are no longer being titled "Code" because that term is not used in the ordinances.); and
6. Compilation of amendments which produced the updated ordinances, so that attorneys interested in seeing not only the change but what was changed can find it.

Finally, we want to acknowledge the contributions of City Clerk David Olson, Asst. Clerk of the Board Linda Finucane, Associate City Solicitor Ouida Young, and especially former Associate City Solicitor, Gayle Smalley who served as consultant to the Committee. This group worked and met regularly during the last several months to undertake and complete this project. This group was joined from time to time by City Solicitor Donnalyn Kahn, Assistant Solicitor Marie Lawlor, and Assistant Solicitor Robert Waddick. It is also important to acknowledge the Department Heads and other staff who responded to our inquiry for problems they saw with the current ordinances. What you have before you could not have been done without them all, and on behalf of the Board, we want to express our thanks.

Ms. Smalley and Ms. Young will also be available on June 18<sup>th</sup> to answer any questions the Board of Aldermen may have about components of the Recodification.

Please let us know if you have any questions.

Thank you.

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# Draft Ordinance







CITY OF NEWTON

IN BOARD OF ALDERMEN

June 18, 2012

ORDINANCE NO. Z-111

*An Ordinance Adopting and Enacting a Revision of the Ordinances of the City of Newton, Massachusetts; Establishing the same; Providing for the Repeal of Certain Ordinances not Included Therein, Except as Herein Expressly Provided; Providing for the Effective Date of Such Revision and a Penalty for the Violation Thereof, Providing for the Manner of Amending Such Revision; and Providing When This Ordinance Shall Become Effective.*

*Be It Ordained by the Board of Aldermen of the City of Newton as Follows:*

**Section 1.** That the Revised Ordinances, consisting of Chapters 1 to 30, each inclusive, be hereby adopted, and enacted as the "Revised Ordinances of Newton, Massachusetts, 2012" and shall be in full force and effect from and after the enactment hereof; and Section 1-1 of the Revised Ordinances shall be amended to so state.

**Section 2.** That the Revised Ordinances herein enacted shall not affect any of the following:

1. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such revision;
2. Any ordinance promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness;
3. Any contract or obligation assumed by the City;
4. Any right or franchise granted by the City;
5. Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the City;
6. Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;
7. Any ordinance relating to local improvements and assessments therefor;
8. Any ordinance annexing territory to the City or discontinuing territory as a part of the City;
9. Any ordinance relating to classification and compensation plans and salaries of officers and employees of the City;
10. Any ordinance establishing official bonds, not inconsistent herewith;
11. Any ordinance rezoning specific property;
12. Any ordinance enacted after June 18, 2012;
13. Any ordinance accepting any General Laws of the Commonwealth.

**Section 3.** Whoever violates a provision of any ordinance of the City, whether included in the Revision hereby adopted or any other ordinances of the City, whereby any act or thing is enjoined or prohibited or required, shall unless other provision is expressly made, be liable to a penalty not exceeding three hundred dollars (\$300.00) for each offense, unless another penalty is specifically provided.

Each day any violation of these Revised Ordinances or of any other ordinance of the City continues shall constitute a separate offense.

**Section 4.** That any and all additions and amendments to such Revision, when passed in such form as to indicate the intention of the Board of Aldermen to make the same a part thereof, shall be deemed to be incorporated in such Revision so that reference to the "Revised Ordinances of Newton, Massachusetts, 2012" shall be understood and intended to include such additions and amendments.

**Section 5.** In case of the amendment of any section of such Revision for which a penalty is not provided, the general penalty as provided in Section 3 of this ordinance and Section 1-6 of such Revision shall apply to the section as amended; or, in the case such amendment contains provisions for which a penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended unless such penalty is specifically repealed therein.

**Section 6.** That a copy of such Revision shall be kept on file in the office of the City Clerk, preserved in loose-leaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk or someone authorized by him to insert in their designated places all amendments or ordinances which indicate the intention of the Board of Aldermen to make the same a part of such Revision when the same have been printed or reprinted in page form, and to extract from such Revision all provisions which may be from time to time repealed by the Board of Aldermen. This copy of such Revision shall be available for all persons desiring to examine the same.

**Section 7.** That it shall be unlawful for any person to change or amend by additions or deletions any part or portion of such Revision, or to insert or delete pages or portions thereof, or to alter or tamper with such Revision in any manner whatsoever which shall cause the law of the City of Newton to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 3 of this ordinance.

**Section 8.** That this ordinance shall become effective on the 8th day of July, 2012.

Approved as to legal form and character:

DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTID. WARREN  
Mayor

Date: \_\_\_\_\_

# Executive Summary





# Executive Summary of Changes by Chapter incorporated in The Revised Ordinances - Newton, Massachusetts 2012

## In General

### Technical Changes Made

The page header in all chapters was changed from Newton Code to Newton Ordinances to reflect the actual term used to refer to the Ordinances as set out in Chapter 1, Section 1 of the Ordinances. See #75.

## Chapter 1 – General Provisions

### Ordinances Incorporated

Z-89	147-11	June 6, 2011	1-15	Ward boundaries
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### Technical Changes Made

The definition of Code has been deleted in this Chapter as the proper name for the document as set out in Chapter 1, Section 1 is Revised Ordinances. See #75

The text of Sec 1-1 has been updated to reflect “The Revised Ordinances of Newton, Massachusetts, 2012.

### Suggested Substantive Changes to be Docketed with the Board

None

## Chapter 2 - Administration

### Ordinances Incorporated

Z-28	148-08	May 19, 2008	2-7	Sale or Lease of City Property
Z-96	8-09	Nov. 7, 2011	2-205	Synthetic Turf
Z-106	72-12	April 2, 2012	2-7	City Owned Property – solar panels
Z-107	77-12	April 17, 2012	2-363	Financial Information Systems Department

### Technical Changes Made

The Boards and Commissions listed in Chapter 2-Administration were not tied to any particular department, and their location in Chapter 2 was not intuitive for users trying to find them. To remedy this situation, the Boards and Commissions listed in Chapter 2 were moved to the previously unused Chapter 7 which was retitled “Boards and Commissions”. With this shift, these Boards and Commissions are more easily findable and reduces the overall length of Chapter 2. Extensive cross references in Chapter 7 will provide guidance to users to find other Boards and Commissions appropriately located with their respective departments throughout the ordinances. With this move it was important to also move Chapter 2, Section 8. **Commissions, boards, committees and councils**, a section dealing with the duties of Boards and Commission generally to Chapter 7. See #78

### Suggested Substantive Changes to be Docketed with the Board

None

### **Chapter 3 – Animals & Fowl**

#### Ordinances Incorporated

Z-11	242-03	Dec. 3, 2007	3-30	Dogs Off-Leash Pilot Program
Z-41	397-07	January 20, 2009	3-26	Restraint of Dogs
Z-54	242-03(4)	Nov. 2, 2009	3-30	Dogs Off-Leash Pilot Program
Z-61	233-09	Dec. 7, 2009	3-38 20-21	Dog Fines Dog Fines
Z-65	242-03(6)(B)	May 17, 2010	3-30	Dogs Off-Leash Program Expiration
Z-70	242-03(6)(B)	August 9, 2010	3-30	Dogs Off-Leash Pilot Program
Z-82	360-09(4)	March 7, 2011	3-30	Dogs Off-Leash Program
Z-92	114-11	June 20, 2011	3-26(a)(2)	Restraint of Dogs

#### Technical Changes Made

None

#### Suggested Substantive Changes to be Docketed with the Board

None

### **Chapter 4 – Board of Aldermen**

#### Ordinances Incorporated

Z-10	227-07(3)	Nov. 19, 2007	4-21	Clerk Salary
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#### Technical Changes Made

None

#### Suggested Substantive Changes to be Docketed with the Board

None

### **Chapter 5 – Public Buildings and Inspectional Services**

#### Ordinances Incorporated

Z-109	97-12	May 7, 2012	5-35	Designer Selection Recommendations
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#### Technical Changes Made

The title of **CHAPTER 5 – BUILDINGS** was changed to **CHAPTER 5 - PUBLIC BUILDINGS AND INSPECTIONAL SERVICES** to better reflect the departments and contents included in the Chapter.

To place permitting ordinances found in **CHAPTER 20 – CIVIL FINES AND MISCELLANEOUS OFFENSES** more appropriately with the oversight of the Inspectional

Services Department, the following articles and sections were moved from Chapter 20 to  
**CHAPTER 5 – PUBLIC BUILDINGS AND INSPECTIONAL SERVICES**

- **Art. VIII - Vacant Buildings** to Chapter 5 and inserted as Section 21.
- **Chapter 20, Section 59, Soil, loam, sand or gravel, removal**, was moved to Chapter 5 and inserted as Sections 20-21.
- **Chapter 20, Article VI., Fences** was moved to Chapter 5 and inserted as Article III.

Article III, Designer Selection Committee in Chapter 5 was renumbered to Article IV with no change to the Section Numbers.

Article IV, Design Review Committee in Chapter 5 was renumbered to Article V with no change to the Section Numbers.

Suggested Substantive Changes to be Docketed with the Board  
None

**Chapter 6 – City Clerk**  
**No Changes Were Made to this Chapter**

**Chapter 7 – Boards and Commissions**  
Ordinances Incorporated  
None

Technical Changes Made  
Boards and Commissions found in Chapter 2, and the general provisions for boards and commissions previously found in Chap 2, Sec. 8 were moved here to form a new chapter entitled  
**CHAPTER 7 - BOARDS AND COMMISSIONS**

Suggested Substantive Changes to be Docketed with the Board  
None

**Chapter 8 – Civil Defense**  
**No Changes Were Made to this Chapter**

**Chapter 9 – Information Technology Department**  
**No Changes Were Made to this Chapter**

**Chapter 10 – Fire Protection and Prevention**  
**No Changes Were Made to this Chapter**

## **Chapter 11 – Recycling and Trash**

### Ordinances Incorporated

Z-68	106-10	June 21, 2010	11-1 20-21	Recycling/Trash Fines
Z-87	129-11(4)	May 16, 2011	11-1 11-15	White goods

### Technical Changes Made

There was a discrepancy between the fines for recycling listed in Chapter 11, Sections 7(h), 8(i), 9(a) and 10(c) and the fines listed in Chapter 20, Section 21. The fines listed in Chapter 11 were corrected to match the fines in Chapter 20. This accomplishes the Board's intent when the fines were approved. For a complete description of the changes please see the report of Item #2.

Title of Chapter 11, Section 5 was changed to reflect the intent of the section. See #3

### Suggested Substantive Changes to be Docketed with the Board

Refer the Chapter in its entirety to the Public Facilities Committee for review, discussion and potential re-drafting due to a number of inconsistencies which make the chapter confusing. – See #3

## **Chapter 12 – Health and Human Services**

### Ordinances Incorporated

Z-97	52-07	Nov. 7, 2011	12-66 to12-69	Health Care Advisory Committee
Z-98	296-11	Nov. 21, 2011	12-18	Reorganization Plan for Weights & Measures
Z-103	297-11(3)	April 2, 2012	12-18	Board of License Commissioners to Health Department

### Technical Changes Made

None

### Suggested Substantive Changes to be Docketed with the Board

None

## **Chapter 13 – History Museum**

**No Changes Were Made to this Chapter**

## **Chapter 14 – Senior Services**

**No Changes Were Made to this Chapter**



**Chapter 15 – Law Department**  
**No Changes Were Made to this Chapter**

**Chapter 16 - Library**  
**No Changes Were Made to this Chapter**

**Chapter 17 – Licensing and Permits Generally**  
Ordinances Incorporated

Z-21	382-07	April 7, 2008	17-8	Fees for permits
Z-36	305-08	Nov. 17, 2008	27-22 17-23	Senior Services

Technical Changes Made  
None

Suggested Substantive Changes to be Docketed with the Board  
Review of Chapter to make sure that fees stated in ordinances are what departments are charging.  
See #76

**Chapter 18 – Memorial Funds and Trusts**  
Ordinances Incorporated  
None

Technical Changes Made  
A new Article **XVII. INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER** was added to Chapter 18. In 2007, the General Court passed Chapter 75 of the Acts of 2007, which addressed the investment of trust funds by the City of Newton. To incorporate the provisions of this act in the ordinances, Article XVII was added to Chapter 18 to allow the unique provisions of each trust fund to remain intact while applying the provisions of the special legislation.

Suggested Substantive Changes to be Docketed with the Board  
Review the Special Legislation: Chapter 75 of the Acts of 2007, to see if the requirement of professional fund management makes sense for all trust funds.

**Chapter 19 – Motor Vehicles and Traffic**  
Ordinances Incorporated

Z-1	12-07(2)	October 1, 2007	19-96	No Turn on Red; Crafts Street
Z-2	89-07	October 1, 2007	19-92 19-85	Vehicles Prohibited on Parkview Avenue One-way Streets; Bridges and Parkview Ave
Z-3	77-07	October 1, 2007	19-176	Parking Regulations; Chapel Street

Z-4	123-07	October 1, 2007	19-176	Parking Regulations; Lakewood Road
Z-5	158-07(2) 158-07(3)	October 1, 2007	19-176	Parking Regulations; Forest Avenue Parking Regulations; Seminary Avenue
Z-6	158-07	Nov. 5, 2007	19-176	Parking Regulations; Studio Road
Z-7	153-07	Nov. 5, 2007	19-147	Stop Sign: Channing Street
Z-8	155-07	Nov. 5, 2007	19-176	Parking Regulations: California Street
Z-9	156-07	Nov. 5, 2007	19-85	One Way Streets; Vernon Street
Z-12	421-05	Dec. 3, 2007	19	Creation of Traffic & Parking Regulations
Z-13	217-05	October 15, 2007	19-87	Left Turns Prohibited; Crafts Street
Z-14	437-06	Nov. 5, 2007	19-174	Parking of Commercial Vehicles
Z-18	134-04(4)	Dec. 3, 2007	19-176	Parking Regulations: Washington St.
Z-19	421-05(2)(A), (B), (F)	March 17, 2008	19	Traffic Parking Regulations
Z-23	133-08	April 22, 2008	19-25	Establishment of Traffic Council
Z-24	361-06	April 22, 2008	19-49	Temporary Parking Permits
Z-25	421-05(2)(E)	May 5, 2008	19-204	Newton Tiger Parking
Z-30	123-04(3)	July 14, 2008	19-178	Handicap Parking
Z-31	421-05(2)(C) & (D)	July 14, 2008	19-194 19-195 19-196	Off-Street Parking
Z-38	272-04	Nov. 17, 2008	19-201	Resident Permit Parking
Z-39	382-08	Nov. 17, 2008	19-200 19-201	Resident Sticker Parking
Z-40	80-08	January 20, 2009	19-205	Commercial Parking Permits
Z-46	132-08(2)	Dec. 1, 2008	19-32	Field Trials
Z-47	57-09	March 16, 2009	19-9	Penalty for Parking Violations
Z-48	56-09(2)	March 16, 2009	19-201	Resident Parking
Z-53	80-08(2)	October 19, 2009	19-205	Commercial Parking Permits
Z-58	174-08(2)	Dec. 21, 2009	19-191	Parking Meter Fees
Z-63	80-08(3)	May 3, 2010	19-205 19-9	Community Parking Permits
Z-79	39-11	Feb. 22, 2011	19-33(d)	Appeals to Traffic Council
Z-81	196-09 196-09(2)	Feb. 22, 2011	19-1 19-99 26-51	Traffic Calming
Z-84	54-11 [80-08(3)]	April 4, 2011	19-205 19-9(2)	Community Parking Permits
Z-99	371-10	Nov. 21, 2011	19-310	Taxi Identification Card

### Technical Changes Made

The word “Code” has been replaced in this chapter with the word “Ordinances” as this is the proper term for the documents as set out in Chapter 1, Section 1. See #75

In Section 1. Definitions, the following changes were made:

Adjusted the definition of *Curb Marking : Official*. See #15

Added new *Don't walk indication* definition. See #22

Deleted street cars from the definition of *Traffic*. See #42

Add definition for *Traffic and parking regulations*. See #68

Adjusted the definition of *traffic control signal* and *traffic signs: official* to reference the Manual on Uniform Traffic Control Devices (MUTCD). See #18 and #20

Added definition for *Walk indication*. See #22

Reorganized section 19-9 to make it easier to find the specific penalty for a parking violation.

Added new sections (f) & (g) to Section 26 to reference the Traffic and Parking Regulations.

Deleted the completed transitional provisions of the Traffic Council found in Section 27(b) & (c). See #41

Refined the definition of truck exclusions in Section 29(c)(2). See #41

Deleted **Section 35. Transitional provisions** as they were no longer needed. See #41

Deleted **Section 70. Passing streetcars** as there are no longer any street cars operating in Newton, and deleted the word streetcar from Section 143. See #42

Sections 19-112 – 19-115 have been modified to match the pedestrian actuated traffic-control signals that Newton currently uses. See #22 – 25.

Adjustments to **Article VI. Traffic Signs, Signals, Markings and Zones** have been made to remove references to ordinance sections that were moved to the Traffic and Parking Regulations. See #29.

Definition of *Flashing red* in 19-144(1) has been refined to match the definition found in the MUTCD. See #30

Section **19-172. Loading Zones** has been updated to reference the Traffic and Parking Regulations and to update the reference to street commissioner to Commissioner of Public Works. See #31

**Section 19-175. Angle Parking** has been modified to make it clear that the commissioner of public works physically marks and signs the streets. See #20

In **Section 19-178(a)(2)**, **Section 19-199** and **Section 19-226(a)** the text “special handicapped identification plate” was changed to “handicapped placard” to be consistent with MGL Chap 90 Section 2.

**Section 19-188. Establishment of spaces and installation of parking meters; type of meters; operations and maintenance** has been updated to refer to the traffic and parking regulations.

**Section 19-190** has been updated to include reference to the Traffic and Parking regulations. See #33a.

The title of **Section 19-197. Disabled Veterans** was changed to **Section 19-197. Disabled Veterans and Handicapped Persons** to reflect the contents of the section and was updated to include the term handicap placard as required by MGL Chap 90, sec 2.

**Section 19-199** was updated to include handicap placard as required by MGL Chap 90, sec. 2,

**Section 19-200(A)(4)a** has been modified to replace reference to the city engineer with the Commissioner of public works. See #36

**Section 19-200(b)(7)** has been updated to include reference to the traffic and parking regulations. See #37

**Section 19-219(10)** has been removed to reflect the deletion of the Commercial Parking Permit Program. See #38

**Section 19-305. Taxi stands.** Has been updated to replace the traffic engineer with the commissioner of public works. See #40

**Section 19-226(a)** was updated to include handicap placard as required by MGL Chap 90, sec. 2 and to include the text “or Canadian Province” to make the text parallel with 19-178(a)(3).

Suggested Substantive Changes to be Docketed with the Board

Crosswalks definition in Section 19-1 to be docketed and referred to Public Safety and Transportation. See #14.

Speed Humps Definition in Section 19-1 to be docketed and referred to Public Safety and Transportation. See #17.

Crosswalks in Section 19-113 to be docketed and referred to Public Safety and Transportation. See #21

Angle Parking in Section 19-175 to be docketed and referred to Public Safety and Transportation. See #32

Coins in Section 19-188 to be docketed and referred to Public Safety and Transportation. See #33b

**Chapter 20 – Civil Fines and Miscellaneous Offenses**

Ordinances Incorporated

Z-17	263-07	Dec. 17, 2007	20-7	Smoking Prohibited
Z-32	329-05	July 14, 2008	20-13	Construction and Demolition

Z-55	232-09	Nov. 16, 2009	20-2	Sale of Tobacco Products
Z-57	232-09(2)	Nov. 16, 2009	20-2 20-21	Sale of Tobacco Products
Z-60	322-08	Dec. 21, 2009	20-70 20-21	Vacant Buildings Fines for Vacant Buildings
Z-61	233-09	Dec. 7, 2009	3-38 20-21	Dog Fines Dog Fines
Z-67	142-10	June 21, 2010	20-71	Scenic Roads
Z-68	106-10	June 21, 2010	11-1 20-21	Recycling/Trash Fines
Z-78	373-10(2)	Feb. 22, 2011	20-13(j) 20-21(c) 20-21(d)	Noise Control Fines
Z-80	125-09	Feb. 22, 2011	20-72	Public Tree Regulation
Z-104	329-05(3)	April 2, 2012	20-13	Noise Ordinance – Cumulative Noise

Technical Changes Made

The title of Chapter was changed from **OFFENSES AND MISCELLANEOUS PROVISIONS** to **CIVIL FINES AND MISCELLANEOUS OFFENSES** to better reflect the contents and organization of the Chapter. See #66

The title of **Article V. Miscellaneous** was changed to **Article V. Miscellaneous Offenses** to better reflect the contents of the article.

To place permitting ordinances found in **CHAPTER 20 – CIVIL FINES AND MISCELLANEOUS OFFENSES** more appropriately with the oversight of the Inspectional Services Department, the following articles and sections were moved from Chapter 20 to **CHAPTER 5 – PUBLIC BUILDINGS AND INSPECTIONAL SERVICES**

- **Art. VIII - Vacant Buildings** to Chapter 5 and inserted as Section 21.
- **Chapter 20, Section 59, Soil, loam, sand or gravel, removal**, was moved to Chapter 5 and inserted as Section 20.
- **Chapter 20, Article VI., Fences** was moved to Chapter 5 and inserted as Article III.

To place tree related ordinances found in Chapter 20 together with the tree ordinances found in Chapter 21 the following articles and sections were moved from Chapter 20 to **CHAPTER 21 – PARKS AND RECREATION, PUBLIC GROUNDS AND TREES**

- **Art. X. Regulation of Public Trees** was moved to Chapter 21 and became Article III Trees. Division 2. Regulation of Public Trees. See #66
- **Art. V. Tree Preservation** was moved to Chapter 21, and became Article III. Trees, Division 3. Tree Preservation

To place the Scenic Roads ordinance with the Planning and Development Board which has oversight of the promulgation of rules and regulations for the administration of scenic roads, the following section was moved to **CHAPTER 22 – PLANNING AND DEVELOPMENT.**

- **Art. IX. Scenic Roads** was moved to Chapter 22, Section 4, Planning

**Section 20-53. Excavations; protection, erection of barriers**, was deleted from the ordinances as it has been superseded by recent statutory and ordinance amendments; specifically the recently adopted trench permit. See #74

Suggested Substantive Changes to be Docketed with the Board

With the deletion of Section 20-53, the Public Facilities and/or Public Safety Committees should review the requirements for excavations as they relate to trench permits. See #74

Review of the Chapter to make sure that fines stated in ordinances are what departments are charging. See #76

**Chapter 21 – Parks and Recreation, Public Grounds and Trees**

Ordinances Incorporated

None

Technical Changes Made

To better reflect the contents of Chapter 21 the name was changed from **CHAPTER 21 – PARKS, RECREATION AND PUBLIC GROUNDS** to **CHAPTER 21 - PARKS AND RECREATION, PUBLIC GROUNDS AND TREES** to better reflect the character of the Chapter.

To place tree related ordinances found in Chapter 20 together with the tree ordinances found in Chapter 21 the following articles and sections were moved from **CHAPTER 20 - CIVIL FINES AND MISCELLANEOUS OFFENSES** to **CHAPTER 21 – PARKS AND RECREATION, PUBLIC GROUNDS AND TREES**

- **Art. X. Regulation of Public Trees** was moved to Chapter 21 and became Article III Trees. Division 2. Regulation of Public Trees. See #66
- **Art. V. Tree Preservation** was moved to Chapter 21, and became Article III. Trees, Division 3. Tree Preservation

Suggested Substantive Changes to be Docketed with the Board

None

**Chapter 22 – Planning and Development**

Ordinances Incorporated

Z-22	194-06	April 22, 2008	22-50	Demolition Historically Significant
Z-42	379-08	Feb. 17, 2009	22-19	22-20
Z-43	22-09	Feb. 17, 2009	22-80	22-81
Z-74	371-10	Jan.18, 2011	22-100 to 22-104	Commission on Disabilities
Z-66	141-10	June 7, 2010	22-22	Floodplain/Watersheds
Z-76	235-10(A)	February 7, 2011	22-50	Demolition of historically significant buildings
Z-85	235-10(B) & (C)	April 20, 2011	22-50(c)	Demolition of historically significant buildings

Technical Changes Made

To place the Scenic Roads ordinance with the Planning and Development Board which has oversight and the promulgation of rules and regulations for the administration of scenic roads, the following section was moved from **CIVIL FINES AND MISCELLANEOUS OFFENSES** to **CHAPTER 22 – PLANNING AND DEVELOPMENT**.

- **Art. IX. Scenic Roads** was moved to Chapter 22, Section 4, Planning

Suggested Substantive Changes to be Docketed with the Board

None

**Chapter 23 – Poles, Wires and Conduits**

Ordinances Incorporated

Z-102	74-00(2)	February 6, 2012	23-38	Commissioner Review of permission to erect poles
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Technical Changes Made

None

Suggested Substantive Changes to be Docketed with the Board

None

**Chapter 24 - Police**

Ordinances Incorporated

None

Technical Changes Made

The word “Code” has been replaced in this chapter with the word “Ordinances” as this is the proper term for the documents as set out in Chapter 1, Section 1. See #75

Suggested Substantive Changes to be Docketed with the Board

None

**Chapter 25 – Public Works Department**

Ordinances Incorporated

Z-33	343-08	Nov. 3, 2008	25-1	Trench Permits
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Technical Changes Made

None

Suggested Substantive Changes to be Docketed with the Board

None

## **Chapter 26 – Streets and Sidewalks**

### Ordinances Incorporated

Z-81	196-09 196-09(2)	Feb. 22, 2011	19-1 19-99 26-51	Traffic Calming
Z-83	310-10	March 21, 2011	26-8D	Snow Removal
Z-100	49-10	Nov. 21, 2011	26-26	Velocipedes on sidewalks

### Technical Changes Made

None

### Suggested Substantive Changes to be Docketed with the Board

None

## **Chapter 27 - Taxation**

### Ordinances Incorporated

Z-36	305-08	Nov. 17, 2008	27-22 17-23	Senior Services
Z-52	206-09	August 10, 2009	27-09	Hotel Tax
Z-71	210-10 (303-02)	Sept. 20, 2010	27-20	Senior Volunteer Program rate

### Technical Changes Made

None

### Suggested Substantive Changes to be Docketed with the Board

None

## **Chapter 28 – Veterans’ Services**

### Ordinances Incorporated

None

### Technical Changes Made

None

### Suggested Substantive Changes to be Docketed with the Board

#1b – The Veteran’s Physician is no longer used as described in Chapter 28 Sections 8 thru 10 and the sections should be docketed for removal from the ordinances.



## Chapter 29 – Water, Sewers and Drains

### Ordinances Incorporated

Z-29	177-08(2)	June 2, 2008	29-36	Water/Sewer Rates
Z-49	70-09(2)	May 18, 2009	29-36	Water/Sewer Rates
Z-56	70-09(8)	Dec. 7, 2009	29-36 29-80	Water Rates Stormwater/Sewer Rates
Z-64	121-10(2)	May 17, 2010	29-36 29-80	Water Rates Sewer Rates
Z-86	129-11(3)	May 16, 2011	29-67A	Sewer Cleaning Fees
Z-88	129-11(2)	May 23, 2011	29-36 29-80	Water Rates Sewer Rates
Z-105	89-11	April 2, 2012	29-72	Sewer Assessments
Z-110	383-11(3)	May 7, 2012	29-36	Water/Sewer Rates

### Technical Changes Made

None

### Suggested Substantive Changes to be Docketed with the Board

None

## Chapter 30 - Zoning

### Ordinances Incorporated

Z-16	66-07(2)	Dec. 17, 2007	30-15	Planned Multi-Use Business Development
Z-20	110-07 126-07	April 7, 2008	30-1 30-15	Definitions Dormers
Z-26	346-07(A) & (B)	May 19, 2008	30-18A	Wireless Communication Equipment
Z-27	41-07	May 19, 2008	30-20f	Short Term Event Signs
Z-34	110-07(2)	Nov. 3, 2008	30-15	Dormers
Z-35	236-08	Nov. 3, 2008	30-1	Definitions; Floor Area Gross
Z-44	108-07(2)	March 16, 2009	30-15	FAR Footnote Deletion
Z-45	109-07(2)	March 16, 2009	30-5	Retaining Wall, Berm
Z-50	303-07	July 13, 2009	30-24(f)	Inclusionary Zoning
Z-51	142-09	August 10, 2009	30-15	FAR
Z-62	164-09	April 20, 2010	30-1 30-8 30-9	Accessory Apartments
Z-69	142-09(3)	July 12, 2010	30-15(u)	Density & Dimensional Controls
Z-72	142-09(5)	Nov. 15, 2010	30-15(u)	Extension of Date
Z-75	142- 09(6)(B)	February 7, 2011	30-15 (u)	Extension of Date

Z-77	142-09(6)(A)	Feb. 22, 2011	30-1 30-15(u) 30-15 Table 1 30-21(c)(5)	Floor Area Ratio
Z-90	17-11(2)	June 6, 2011	30-1	Grade Plane
Z-91	65-11(2)(A)	June 6, 2011	30-1 30-15 Table 1 30-15 Table 4	Building Height
Z-95	94-11(2)	October 3, 2011	30-1 30-8 30-9 30-22	Accessory Apartments
Z-101	64-11(2)	Dec. 5, 2011	30-15(r)	Rear Lots
Z-108	400-11	April 17, 2012	30	Mixed Use 3/Transit Oriented Development

**Technical Changes Made**

Section 30 18A(h) refers to Urban Design and Beautification Commission, this was changed to the Urban Design Commission to reflect the recently approved title change.

Section 30-11(b) references 30-15(p) which has been corrected to 30-15(o).

Section 30-11(d)(13) references section 30-11(c), it should be section 30-11(d)

**Suggested Substantive Changes to be Docketed with the Board**

46	30	Inaccuracy in definition of usable open space in regards to exterior tennis courts.	Amend definition of usable open space to remove the exemption for exterior tennis courts (as they are now classified as "structures" under that definition.
52	30-19(d)(1) 30-19(g)(1)	Allows two parking stalls tandem in side setback, while 30-19(g)(1) allows no more than one stall in setback for parking facility <5 stalls.	
53	30-19(g)(1)	References an undefined concept: "sideline" distance	
54	30-5(b)(4)	Ordinance Z-45 has conflict between revised language for 30-5(b)(4) and the revised definition of structure in 30-1	
55	30-8(b)(10)a	Section references only "lot area" but then references a table that includes "lot area" and "lot width"	Lot width is an older concept, generally replaced by lot frontage.

### Zoning Map Changes

Z-15	276-07	Dec. 3, 2007	30 – Plans	Zoning Change; Station Avenue
Z-37	102-06(8)	Nov. 17, 2008	30 – Plans	Zoning Change; LaGrange Street
Z-73	214-10	Dec. 6, 2010	Zoning Map Change	Change to Business 4 District
Z-93	161-11	August 8, 2011	Zoning Map Change	Chestnut Hill Shopping Center
Z-94	161-11(3)	August 8, 2011	Zoning Map Change	Chestnut Hill Shopping Center



# List of Ordinances enacted since 2007 incorporated into the 2012 Revised Ordinances





## List of Ordinances Incorporated in the 2012 Ordinances

Ordinance	Docket #	Date	Chapter	Description
Z-1	12-07(2)	October 1, 2007	19-96	No Turn on Red; Crafts Street
Z-2	89-07	October 1, 2007	19-92 19-85	Vehicles Prohibited on Parkview Avenue One-way Streets; Bridges and Parkview Ave
Z-3	77-07	October 1, 2007	19-176	Parking Regulations; Chapel Street
Z-4	123-07	October 1, 2007	19-176	Parking Regulations; Lakewood Road
Z-5	158-07(2) 158-07(3)	October 1, 2007	19-176	Parking Regulations; Forest Avenue Parking Regulations; Seminary Avenue
Z-6	158-07	November 5, 2007	19-176	Parking Regulations; Studio Road
Z-7	153-07	November 5, 2007	19-147	Stop Sign: Channing Street
Z-8	155-07	November 5, 2007	19-176	Parking Regulations: California Street
Z-9	156-07	November 5, 2007	19-85	One Way Streets; Vernon Street
Z-10	227-07(3)	November 19, 2007	4-21	Clerk Salary
Z-11	242-03	December 3, 2007	3-30	Dogs Off-Leash Pilot Program
Z-12	421-05	December 3, 2007	19	Creation of Traffic & Parking Regulations
Z-13	217-05	October 15, 2007	19-87	Left Turns Prohibited; Crafts Street
Z-14	437-06	November 5, 2007	19-174	Parking of Commercial Vehicles
Z-15	276-07	December 3, 2007	30 – Plans	Zoning Change; Station Avenue
Z-16	66-07(2)	December 17, 2007	30-15	Planned Multi-Use Business Development
Z-17	263-07	December 17, 2007	20-7	Smoking Prohibited
Z-18	134-04(4)	December 3, 2007	19-176	Parking Regulations: Washington St.
Z-19	421-05(2)(A), (B), (F)	March 17, 2008	19	Traffic Parking Regulations
Z-20	110-07 126-07	April 7, 2008	30-1 30-15	Definitions Dormers
Z-21	382-07	April 7, 2008	17-8	Fees for permits
Z-22	194-06	April 22, 2008	22-50	Demolition Historically Significant
Z-23	133-08	April 22, 2008	19-25	Establishment of Traffic Council

Ordinance	Docket #	Date	Chapter	Description
Z-24	361-06	April 22, 2008	19-49	Temporary Parking Permits
Z-25	421-05(2)(E)	May 5, 2008	19-204	Newton Tiger Parking
Z-26	346-07(A) & (B)	May 19, 2008	30-18A	Wireless Communication Equipment
Z-27	41-07	May 19, 2008	30-20f	Short Term Event Signs
Z-28	148-08	May 19, 2008	2-7	Sale or Lease of City Property
Z-29	177-08(2)	June 2, 2008	29-36	Water/Sewer Rates
Z-30	123-04(3)	July 14, 2008	19-178	Handicap Parking
Z-31	421-05(2)(C) & (D)	July 14, 2008	19-194 19-195 19-196	Off-Street Parking
Z-32	329-05	July 14, 2008	20-13	Construction and Demolition
Z-33	343-08	November 3, 2008	25-1	Trench Permits
Z-34	110-07(2)	November 3, 2008	30-15	Dormers
Z-35	236-08	November 3, 2008	30-1	Definitions; Floor Area Gross
Z-36	305-08	November 17, 2008	27-22 17-23	Senior Services
Z-37	102-06(8)	November 17, 2008	30 – Plans	Zoning Change; LaGrange Street
Z-38	272-04	November 17, 2008	19-201	Resident Permit Parking
Z-39	382-08	November 17, 2008	19-200 19-201	Resident Sticker Parking
Z-40	80-08	January 20, 2009	19-205	Commercial Parking Permits
Z-41	397-07	January 20, 2009	3-26	Restraint of Dogs
Z-42	379-08	February 17, 2009	22-19	22-20
Z-43	22-09	February 17, 2009	22-80	22-81
Z-44	108-07(2)	March 16, 2009	30-15	FAR Footnote Deletion
Z-45	109-07(2)	March 16, 2009	30-5	Retaining Wall, Berm
Z-46	132-08(2)	December 1, 2008	19-32	Field Trials
Z-47	57-09	March 16, 2009	19-9	Penalty for Parking Violations
Z-48	56-09(2)	March 16, 2009	19-201	Resident Parking
Z-49	70-09(2)	May 18, 2009	29-36	Water/Sewer Rates
Z-50	303-07	July 13, 2009	30-24(f)	Inclusionary Zoning
Z-51	142-09	August 10, 2009	30-15	FAR



Ordinance	Docket #	Date	Chapter	Description
Z-52	206-09	August 10, 2009	27-09	Hotel Tax
Z-53	80-08(2)	October 19, 2009	19-205	Commercial Parking Permits
Z-54	242-03(4)	November 2, 2009	3-30	Dogs Off-Leash Pilot Program
Z-55	232-09	November 16, 2009	20-2	Sale of Tobacco Products
Z-56	70-09(8)	December 7, 2009	29-36 29-80	Water Rates Stormwater/Sewer Rates
Z-57	232-09(2)	November 16, 2009	20-2 20-21	Sale of Tobacco Products
Z-58	174-08(2)	December 21, 2009	19-191	Parking Meter Fees
Z-59	309-01	December 21, 2009	29-36	Rates schedule
Z-60	322-08	December 21, 2009	20-70 20-21	Vacant Buildings Fines for Vacant Buildings
Z-61	233-09	December 7, 2009	3-38 20-21	Dog Fines Dog Fines
Z-62	164-09	April 20, 2010	30-1 30-8 30-9	Accessory Apartments
Z-63	80-08(3)	May 3, 2010	19-205 19-9	Community Parking Permits
Z-64	121-10(2)	May 17, 2010	29-36 29-80	Water Rates Sewer Rates
Z-65	242-03(6)(B)	May 17, 2010	3-30	Dogs Off-Leash Program Expiration
Z-66	141-10	June 7, 2010	22-22	Floodplain/Watersheds
Z-67	142-10	June 21, 2010	20-71	Scenic Roads
Z-68	106-10	June 21, 2010	11-1 20-21	Recycling/Trash Fines
Z-69	142-09(3)	July 12, 2010	30-15(u)	Density & Dimensional Controls
Z-70	242-03(6)(B)	August 9, 2010	3-30	Dogs Off-Leash Pilot Program
Z-71	210-10 (303-02)	September 20, 2010	27-20	Senior Volunteer Program rate
Z-72	142-09(5)	November 15, 2010	30-15(u)	Extension of Date
Z-73	214-10	December 6, 2010	Zoning Map Change	Change to Business 4 District
Z-74	371-10	January 18, 2011	22-100 to 22-104	Commission on Disabilities
Z-75	142-09(6)(B)	February 7, 2011	30-15 (u)	Extension of Date

Ordinance	Docket #	Date	Chapter	Description
Z-76	235-10(A)	February 7, 2011	22-50	Demolition of historically significant buildings
Z-77	142-09(6)(A)	February 22, 2011	30-1 30-15(u) 30-15 Table 1 30-21(c)(5)	Floor Area Ratio
Z-78	373-10(2)	February 22, 2011	20-13(j) 20-21(c) 20-21(d)	Noise Control Fines
Z-79	39-11	February 22, 2011	19-33(d)	Appeals to Traffic Council
Z-80	125-09	February 22, 2011	20-72	Public Tree Regulation
Z-81	196-09 196-09(2)	February 22, 2011	19-1 19-99 26-51	Traffic Calming
Z-82	360-09(4)	March 7, 2011	3-30	Dogs Off-Leash Program
Z-83	310-10	March 21, 2011	26-8D	Snow Removal
Z-84	54-11 [80-08(3)]	April 4, 2011	19-205 19-9(2)	Community Parking Permits
Z-85	235-10(B) & (C)	April 20, 2011	22-50(c)	Demolition of historically significant buildings
Z-86	129-11(3)	May 16, 2011	29-67A	Sewer Cleaning Fees
Z-87	129-11(4)	May 16, 2011	11-1 11-15	White goods
Z-88	129-11(2)	May 23, 2011	29-36 29-80	Water Rates Sewer Rates
Z-89	147-11	June 6, 2011	1-15	Ward boundaries
Z-90	17-11(2)	June 6, 2011	30-1	Grade Plane
Z-91	65-11(2)(A)	June 6, 2011	30-1 30-15 Table 1 30-15 Table 4	Building Height
Z-92	114-11	June 20, 2011	3-26(a)(2)	Restraint of Dogs
Z-93	161-11	August 8, 2011	Zoning Map Change	Chestnut Hill Shopping Center
Z-94	161-11(3)	August 8, 2011	Zoning Map Change	Chestnut Hill Shopping Center
Z-95	94-11(2)	October 3, 2011	30-1 30-8 30-9 30-22	Accessory Apartments
Z-96	8-09	November 7,	2-205	Synthetic Turf

Ordinance	Docket #	Date	Chapter	Description
		2011		
Z-97	52-07	November 7, 2011	12-66 to12-69	Health Care Advisory Committee
Z-98	296-11	November 21, 2011	12-18	Reorganization Plan for Weights & Measures
Z-99	371-10	November 21, 2011	19-310	Taxi Identification Card
Z-100	49-10	November 21, 2011	26-26	Velocipedes on sidewalks
Z-101	64-11(2)	December 5, 2011	30-15(r)	Rear Lots
Z-102	74-00(2)	February 6, 2012	23-38	Commissioner Review of permission to erect poles
Z-103	297-11(3)	April 2, 2012	12-18	Board of License Commissioners to Health Department
Z-104	329-05(3)	April 2, 2012	20-13	Noise Ordinance – Cumulative Noise
Z-105	89-11	April 2, 2012	29-72	Sewer Assessments
Z-106	72-12	April 2, 2012	2-7	City Owned Property – solar panels
Z-107	77-12	April 17, 2012	2-363	Financial Information Systems Department
Z-108	400-11	April 17, 2012	30	Mixed Use 3/Transit Oriented Development
Z-109	97-12	May 7, 2012	5-35	Designer Selection Recommendations
Z-110	383-11(3)	May 7, 2012	29-36	Water/Sewer Rates
Z-111	173-12	June 18, 2012	See Executive Summary	Adopting and Enacting a Revision of the Ordinances



# Recodification Report Specific Recommendations





## List of Corrections Reviewed

#	Chapter	Problem
1a 1b		City Physician and Veterans Physician to be deleted from ordinances
2	11-10	Penalties for recycling in Section 11-10 does not match the penalty in section 20-21
3	11-5	Refers to "garbage" in title and body.
4	18-113(c)	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
5	18-132	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
6	18-154	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
7	18-167	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
8	18-183	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
9	18-194	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
10	18-198	Trustees of the Riley Fund: Correct to reflect loss of Director of Human Services
11	18-5	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
12	18-72	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
13	18-94	Trust Fund: Needs revision under Chapter 75 of the Acts of 2007
14	19-1	Crosswalk definition revisions.
15	19-1	Curb marking, official definition revisions
16	19-1	Parking meter definition revisions
17	19-1	Speed humps definition revision
18	19-1	Traffic-control signal definition revision
19	19-1	Traffic signals, official definition revision
20	19-1	Traffic signs, official definition
21	19-113	Delete Marked Crosswalk definition
22	19-114	Pedestrian actuation of traffic-control signals.
23	19-115(1)	Obedience to traffic-control signals Walk indication
24	19-115(2)	Obedience to traffic-control signals "Don't Walk"
25	19-115(3)	Traffic-control signal locations where no pedestrian indication is given or provided
26	19-115(4)	Flashing "Don't Walk" signal indication.
27	19-115(5)	Flashing red, yellow or green.
28	19-139	Signs and Signals placed and maintained by commissioner of public works.
29	19-140	Necessity for signs and TPR
30	19-144	Traffic-control signal legend.
31	19-172(b)	Loading zones established by the street commissioner.
32	19-175	Angle parking and Traffic Council.
33a 33b	19-188	Spaces and installation of parking meters; type of meters; operation and maintenance.
34	19-197	Disabled veterans placard
35	19-199	Disabled veterans placard
36	19-200(4)a)	Resident sticker and visitor permit; municipal lot parking program.
37	19-200(7)	Municipal parking lots and the Traffic and Parking Regulations (TPR).
38	19-219(10)	Commercial parking permits.
39	19-27(c)	Sections of the Revised Ordinances shall be adopted as Traffic and Parking Regulations..
40	19-305(d)	Taxi stands
41	19-35	Transitional Provisions
42	19-70	Passing streetcars.

#	Chapter	Problem
43	20, 2, 30, 22 Table of Contents	"Urban design and beautification commission" changed to "urban design commission"
44	21	Error in heading with section numbers
45	22-50(2) & 22-62	Refers to National Register of Historic Places or to National Register of Historic Sites
46	30	Inaccuracy in definition of usable open space in regards to exterior tennis courts.
47	30-11(b)	Incorrect section references 30-15(p).
48	30-11(d)(12)	Incorrect references 30-11(c)
49	30-15 Table 1	Footnote numbering in Table 1
50	30-15 Table 4	delete footnote 5, footnote 7" and note TOTAL FL. AREA RATIO
51	30-15(t)	Ord. No. Z-20 lists the subsections of 30-15(t) as letters rather than numbers.
52	30-19(d)(1) 30-19(g)(1)	Parking stalls tandem in side setback while 30-19(g)(1) allows no more than one stall in setback
53	30-19(g)(1)	References an undefined concept: "sideline" distance
54	30-5(b)(4)	Ordinance Z-45 has conflict between revised language for 30-5(b)(4) and the revised definition of structure in 30-1
55	30-8(b)(10)a	Section references only "lot area" but then references a table that includes "lot area" and "lot width"
56	Charter 2-9(b)	Emergency measure, and General Laws Chapter 166, Sections 70 and 71.
57	Charter 6-3	Publication of Reorganization Plan.
58	Index	Index says common victualler fee is at 17-11(2) & 17-13(19)
59	Accepted statutes	Add to acceptances: Chapter 29, §64D acts of 1991 chapter 494
60	Accepted statutes	c. 51, sec 16A, 9D & 11A
61	Related Laws	Acceptance of Chapter 137 of the Acts of 2003. Accepted on December 5, 2005, Docket #548-03
62	Accepted statutes	Check for Ghost References in list of accepted statutes
63	22	Is the paragraph that appears after 22-50(c)(6)(a)(v) and above 22-50(c)(6)(b) wrong?
64	All	Review Chapter and Section Headings for Clarity
65	Index	Index needs to be reviewed
66	20, all	Offenses can be found in multiple locations
67	19 or TPR	Where do HAWK lights fall
68	19	How should TPR be referenced in Chapter 19
69	All	Should the Ordinances that have changed a section be listed going back to 1973 or should the changes be listed only since the last Recodification?
70		Journal on choices made in the process were arrived at for future recodification committees
71		Legislative history of ordinances
72	19-1	Safety zone definition.
73	22-50	Demo Delay Ordinance
74	20-53	Excavations
75	All	Use of the Word Code



#	Chapter	Problem
76	Various	Fees and Fines
77	19-9(8)	Tiger Permit fines
78	2	Move Boards and Commissions found in Chap. 2 to Chap. 7



# #1a & b

<b>Problem:</b>	1a City Physician possibly still in Ordinances 1b Veteran's Physician still in Ordinances
<b>Submitted by:</b>	Donnalyn Kahn
<b>Chapter:</b>	1a Unknown 1b Chap 28-8 thru 28-10
<b>Suggested Correction:</b>	Dolores Hamilton would like any reference to City Physician deleted
<b>Type of Correction:</b>	1a Technical 1b Substantive - Docket ordinance change
<b>Assigned to:</b>	David Olson
<b>Research:</b>	1a A quick search did not find any reference. 1b In searching for City Physician, it was discovered that the Ordinances include a Veterans Physician. In speaking with Veteran's Agent, he no longer uses the services of a Veterans Physician.
<b>Suggested Changes</b>	1a No Action Needed. 1b Request sent on March 7 to Veteran's Agent to work with Mayor to docket an item to delete Sections 8-10 of Chapter 28.
<b>Action Requested</b>	<b>Docket and Refer to Programs &amp; Services Committee</b>

# #2

<b>Problem:</b>	The penalty for recycling set forth in Section 11-10 does not match the penalty set forth in section 20-21
<b>Submitted by:</b>	Donnalyn Kahn
<b>Chapter:</b>	11-10
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Technical & Substantive Changes to be Docketed with Board
<b>Assigned to:</b>	Ouida Young Linda Finucane Marie Lawlor
<b>Research:</b>	<p>2/22 - Checked Z-68. Text for changes to the fines within Z-68 are not exact between the texts for Chapter 11 and the texts for Chapter 20.</p> <p>2/29 - Ouida and Linda will determine Board's intent in approving the ordinance. If the Board's intent was the more expansive language then can be amended by Recod Committee</p> <p>3/21 – Ouida provided memo. She noted that after a review of the Finance Committee Report, it was clear the Committee wanted the more expansive language. She provided suggested for text changes to Chapter 11.</p> <p>It was questioned if Section 11-9(a) needed the second sentence as it seemed redundant. Ouida will check with Elaine Gentile.</p> <p>5/02 – Marie Lawlor finalized the recommendations from the Law Department.</p>
<b>Suggested Changes</b>	<p>In Chapter 11 Sections 11-7(h); 11-8(1); 11-9(a); and 11-10(c) add language counting the graduated offenses per 365 day period; add cross-reference to Chapter 1 section 6 (general penalty); and change the format of the cross-references.</p> <p>The above changes will conform to Board intent and to Chapter 20, section 21(f). Include a cross-reference to general provision that every day an ordinance offense continues constitutes a separate offense; and provide consistency of style with Chapter 20</p> <p>In Chapter 11 Section 11-11 delete the misleading caption and replace with Registration for transporting garbage through Newton; and delete "trash and/or recyclables" and replace with "garbage"</p> <p>The above changes conform to MGL c. 111 sec. 31A, paragraph 2 (registration for transporting non-Newton trash through Newton streets); distinguished from Chapter 11, section 5 which applies only to collection of trash &amp; garbage within Newton.</p>

	<p>In Chapter 20 Section 21(f) delete all references to “first day”, “second day”, “third day and each day thereafter” for each offense.</p> <p>The above changes will provide clarity and add the cross reference to Chapter 1-6 (each day an ordinance offense continues constitutes a separate offense). This change will also be consistent with Chapter 11.</p>
<p><b>Further Information Action Requested</b></p>	<p><b>See Appendix A Docket and refer Chapter 11 to Public Facilities</b></p>

# #3

<b>Problem:</b>	Chapter 11-5 should read "refuse" according to Elaine Gentile
<b>Submitted by:</b>	Donnalyn Kahn
<b>Chapter:</b>	11-5
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Marie Lawlor
<b>Research:</b>	2/22 - Confirm that Refuse is correct term. Check with definitions in Chapter 29  3/21 – Waiting for information from Elaine Gentile  5/2 – Marie Lawlor
<b>Suggested Changes</b>	§11-5 1. Caption: add "trash"; delete "exceptions"; add "recycling services required."  2. Text: Add "trash; insert "such" before "collection" and delete "of trash" after "collection."
<b>Further Information Action Requested</b>	<b>See Appendix A Docket and refer Chapter 11 to Public Facilities</b>

<b>Problem:</b>	"(c) The trustees shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of municipal trust funds."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-113(c)
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	<p>2/22 - Check with David Wilkinson. Potentially add section in Chapter 18 to cover all Trusts.</p> <p>3/21 – Bob Waddick presented memo. He suggested an additional article to cover all Trust Funds. Some amendments were suggested. He will redraft.</p> <p>In 2007, the General Court passed Chapter 75 of the Acts of 2007, which addressed the investment of trust funds by the City of Newton. An intent of the legislation was to provide the City of Newton with greater flexibility in terms of its investments. Section 54 of Chapter 44 sets forth the permissible investments for municipal trust funds. The legislation exempted the City of Newton from this statute. However, the legislation did a bit more. For instance, the legislation required professional fund management for all trust funds. In addition, it appears that the legislation shifted investment authority from the trustees of the funds to the treasurer.</p> <p>One approach to incorporating the provisions of Chapter 75 of the Acts of 2007 into Chapter 18 would be to modify the unique provisions of each of the 16 trust fund sections in Chapter 18. However, it did not appear that this approach would be wise given concerns about the special legislation. The approach that was chosen was to add a section to Chapter 18 which applied the provisions of the special legislation to all of the trust funds while leaving the unique provisions intact. The primary reason for this approach was to provide the City with an opportunity to reassess the provisions of the special legislation and determine if modifications to it are appropriate.</p>
<b>Suggested Changes</b>	<p>Add New Article to Chapter 18</p> <p><b>ARTICLE XVII INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER*</b>  <b>Sec. 18-230. Fund management.</b>  Notwithstanding the provisions of this Chapter 18 relating to how trust funds shall be invested to the contrary, the collector-treasurer, in consultation with each trust fund board of trustees, shall develop investment policies which shall</p>

	<p>include an asset allocation policy for each trust fund and shall select professional investment advisors to manage the trust funds.</p> <p><b>Sec.18-231. Permitted investments.</b> Notwithstanding the provisions of this Chapter 18 to the contrary, the collector-treasurer, after consultation with the trustees of a fund hereunder, may invest funds in his custody as a prudent investor would, considering the purposes, terms and other circumstances of the trust, exercising reasonable skill, care and caution, and acting in accordance with the provisions of sections 3, 4, 5, 8 and 9 of chapter 203C of the general laws which pertain to the prudent investment of trust funds.</p> <p><b>Sec. 18-232. Exemption from G.L. c. 44, § 54</b> Notwithstanding the provisions of this Chapter 18 to the contrary, section 54 of chapter 44 of the general laws shall not apply to the City of Newton and to the investment of trust funds in the custody of the collector-treasurer. <b>State law references</b> – G.L. c. 203C, §§ 3, 4, 5, 8, and 9; G.L. c. 44, § 54; and chapter 75 of the Acts of 2007. <b>* Editor’s note:</b> This article should be read in concert with the investment provisions of the preceding articles in this chapter.</p>
<b>Further Information</b>	<b>Appendix B</b>



# #5

<b>Problem:</b>	"invest the proceeds of said funds in savings banks, trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation, or national banks, or invest it in paid-up shares of federal savings and loan associations or in savings or loan associations doing business in the commonwealth, and any income therefrom shall be credited to the fund."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-132
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	Appendix B

# #6

<b>Problem:</b>	"As custodian of the income of the trust, the city collector-treasurer may deposit or invest the rent heretofore or hereafter received in return for the use and occupancy of the house and outbuildings located on the property in savings banks and trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest it in paid up shares of federal savings and loan associations or in savings and loan associations doing business in the commonwealth" . . .
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-154
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

# #7

<b>Problem:</b>	"As custodian of the income of the Emerson Community Center Trust, the city collector-treasurer may deposit or invest the funds paid to the Newton parks and recreation department upon the sale of the former Emerson School and any funds afterwards received for a similar purpose in savings banks and trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest it in paid up shares of federal savings and loan associations or in savings and loan associations doing business in the commonwealth and any income therefrom shall be credited to the trust."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-167
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

# #8

<b>Problem:</b>	The board of trustees shall manage the Board of Aldermen Scholarship Fund and invest the fund's principal in accordance with the provisions of G.L. c.44, § 54.
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-183
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

# #9

<b>Problem:</b>	"The trustees shall administer, manage and invest the Fund in accordance with the provisions of the Uniform Management of Institutional Funds Act,"
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-194
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	See Appendix B

# #10

<b>Problem:</b>	Trustees of the Riley Fund One trustee is the Health Department Commissioner and other trustee is the Director of Human Services.
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	18-198
<b>Suggested Correction:</b>	Need to correct since these departments are now 1.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Recommend changing text from "Human Services" to "Senior Services" as there is no longer a separate Human Services director.
<b>Suggested Changes</b>	Trustees of the Riley Fund "One trustee shall be the director of senior services, or his/her designee. One trustee shall be the commissioner of the health department or his/her designee."

# #11

<b>Problem:</b>	. . . "which are legal investments for savings banks under the statutes of the commonwealth."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-5
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

# #12

<b>Problem:</b>	. . . "as may be permitted by law for the investment of the funds of savings banks in the commonwealth."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-72
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>



# #13

<b>Problem:</b>	. . . "investing the same only in securities permitted by law for the investment of the funds of savings banks in the commonwealth."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-94
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

# #14

<b>Problem:</b>	Crosswalk: That portion of a roadway ordinarily included within the prolongation or connection of curblines and property lines at intersections, or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface <del>or by other marking or signs.</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	Suggest that the legal definition of crosswalks be limited to locations with marked lines only.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Refer to Public Safety
<b>Suggested Changes</b>	Refer to Public Safety
<b>Action Requested</b>	Refer to Public Safety & Transportation Committee

# #15

<b>Problem:</b>	Curb marking, official: That portion of a curbing, the painting of which has been authorized by the <del>board of aldermen, and which has the written approval of the commissioner</del> department of public works <del>of the commonwealth.</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	State approval is not required; the Commissioner of Public Works has this authority per 19-139.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	David Olson
<b>Research:</b>	2/22 - Check to see if Curb Marking, official is referred to anywhere in Chapter 19.  2/27 - Curb marking is referred to in sections 19-141, 19-188 and 19-189.  Section 19-188 is being looked at in item #33a.  3/28 Gayle Smalley suggests acceptance of Clint's suggested change. Marking of sidewalks is the responsibility of the Commissioner of Public Works.
<b>Suggested Changes</b>	Curb marking, official: That portion of a curbing, the painting of which has been authorized by the commissioner of public works.
<b>Further Information</b>	Appendix C

# #16

Problem:	Parking meter: Any <del>mechanical</del> device, not...
Submitted by:	Clint Schuckel, Traffic Engineer
Chapter:	19-1
Suggested Correction:	Parking meters are no longer mechanical.
Type of Correction:	No Change Warranted
Assigned to:	Gayle Smalley
Research:	<p>2/22 --Delete the word mechanical.</p> <p>2/29 - Gayle to review for possible referral to PS&amp;T.</p> <p>3/21 – Leave the word “mechanical” Gayle’s memo of 3/19:</p> <p>Analysis, Item # 16:          Pointing out that new parking meters are digital in nature, Clint Schuckel recommended striking the word “ mechanical.” To do so would thus describe meters as, “Any device....”</p> <p>Although it’s clear that meters have changed to electronic technology, I question whether there is a compelling reason to make any change. In fact, it seems that the word “mechanical” remains correct. After all, both general use and legal dictionaries make clear that the word “mechanical” refers to having the nature of machinery, tools or mechanism.<sup>1</sup> My impression is that parking meters have continued to take the form of machinery; thus, the current definition would seem to be correct and adequate.</p> <p><sup>1</sup> Merriam-Webster Dictionary (online edition) provides the following as the first definition of mechanical:  <b>a</b> (1) : of or relating to machinery or tools &lt;mechanical applications of science&gt; &lt;a mechanical genius&gt; &lt;mechanical aptitude&gt; (2) : produced or operated by a machine or tool &lt;mechanical power&gt; &lt;a mechanical refrigerator&gt; &lt;a mechanical saw&gt;  <b>b</b> : of or relating to manual operations</p> <p>Black’s Law Dictionary (9<sup>th</sup> ed, online) provides the following definition:          Having relation to, or produced or accomplished by, the use of mechanism or machinery.          source: <a href="http://blackslawdictionary.org/mechanical/">http://blackslawdictionary.org/mechanical/</a></p>
Suggested Changes	<p>Conclusion/Recommendation, Item # 16:</p> <ol style="list-style-type: none"> <li>1. In my opinion, the suggested change to the definition is not warranted.</li> <li>2. It should be noted that Item 33b, which is expected to be referred to the Public Safety Committee, also contains language about the type of parking meters. Item 33b addresses sec. 19-188(a), stating that certain meters shall be of the “automatic coin type.” I would suggest that the committee be mindful of the “parking meter” definition, amending it as necessary to insure that the provisions remain consistent.</li> </ol>
Further Information	Appendix D

# #17

<b>Problem:</b>	Speed humps: A street surface condition consisting of gradual elevations 3 inches to 4 inches high at the midpoint and running <u>12</u> feet to <u>22</u> feet along the length of the street at the base with the one foot sections at each end tapered flush with the street surface to facilitate street drainage, <u>commonly</u> positioned <u>400</u> to <u>600</u> feet apart and subject to such further design criteria as may be determined by the City Engineer. <i>Change dimensions &amp; spacing to match current design practice/standards.</i>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	Change dimensions & spacing to match current design practice/standards.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Linda Finucane
<b>Research:</b>	2/22 - Definition should not be substantive.  2/29 - Review with Board Discussions of Speed Humps. If changes needed refer to PS&T and PF
<b>Suggested Changes</b>	Refer to PS&T and PF
<b>Action Requested</b>	Refer to Public Safety & Transportation & Public Facilities Committees

# #18

<b>Problem:</b>	Traffic-control signal: Any device using colored lights which conforms to the standards as prescribed by the <a href="#">Manual on Uniform Traffic Control Devices (MUTCD)</a> <del>department of public works of the commonwealth</del> , whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	Mass DPW no longer exists, MUTCD is the appropriate legal reference.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Law Department Ouida Young
<b>Research:</b>	2/22 - How is manual described in State Law? MGL 85-2 and MGL 90-18  3/28 Gayle Smalley Memo - It is clear that these existing provisions also were based on a model code. The Massachusetts Amendments to Manual on Uniform Traffic Control Devices for Streets and Highways (2003 Edition) and the Standard Municipal Traffic Code  3/7 – Look into changing text to be descriptive instead of specific so that changes to the title of the manual, or department, in the future will not necessitate changing the ordinances.
<b>Suggested Changes</b>	Traffic-control signal: Any device using colored lights which conforms to the standards as prescribed by the Manual on Uniform Traffic Control Devices (MUTCD), whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.
<b>Further Information</b>	<b>Appendix C</b>

<b>Problem:</b>	Traffic signals, official: All signals conforming to the standards as prescribed by the department of public works of the commonwealth, not inconsistent with these rules and orders, placed or erected by authority of a public body or official having jurisdiction for the purpose of directing or warning traffic.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	Redundant; suggest deleting or combining with "Traffic-control signal."
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	David Olson Gayle Smalley
<b>Research:</b>	<p>2/22 - David will check to see if term is used in ordinances. Gayle will rationalize definitions.</p> <p>2/29 - See Gayle's recommendations in her memo of February 28, 2012</p> <p>Clint Schuckel recommended deleting the definition for "traffic signal, official," and instead combining or relying upon the section 19-1 definition for "Traffic-control signal." Clint Schuckel also recommended updating the reference to the state agency, by substituting a reference to the title of the governing manual. Donnalyn Kahn is looking into the same issue with regard to Clint's identical recommendation concerning the definition of "Traffic-control signal".</p> <p>Several provisions of chapter 19 rely on the phrase "official traffic signs, signals, markings and safety zones," or variations thereof. The relevant ordinance sections are: Sec. 19-76, Sec. 19-139, Sec. 19-140, Sec. 19-141, Sec. 19-142, Sec. 19-143, Sec. 19-175, Sec. 19-221.</p> <p>The utility of these two defined terms becomes clear in provisions that set out rules of the road. For example, sec. 19-76 requires drivers to obey "official signs, signals or markings" in street settings involving ramps and islands. Sec. 19-143 effectively allows drivers to disregard official signals, signs, etc. when so instructed by a police officer. In fact, the importance of these provisions is driven home by those sections that draw a distinction between official and unofficial signals, signs and so on. For example, section 19-141 prohibits the installation of unofficial signs, signals etc.; and section 19-142 punishes any person who willfully defaces, obstructs, etc. any official sign, signal and so on. In my opinion, the distinction between "official" and "unofficial" traffic equipment is an important one that should not be discarded. Thus, the word "official" is a useful provision to be retained.</p> <p>In reviewing the various provisions, I am struck by a pattern whereby the word "official" appears as the lone modifier at the beginning of a string of nouns, i.e. "traffic signs, signals, markings" and so on. Given that the word "signs"</p>

	<p>between “official” and “signals,” it’s a little odd that the defined term “official traffic signs” doesn’t regularly appear in the substantive provisions. I have to conclude that the long-ago drafter was confident that the initial appearance of “official” would carry through the remaining words, without the need to repeat it.</p> <p>Another peculiarity is found at section 19-143, which uses the phrase “official traffic-control signal, sign...,” rather than “official traffic signal” in accordance with the definition.</p> <p>It is also notable that the provisions are somewhat variable for reasons that are not apparent. For example, section 19-142 prohibits interference with “any official traffic sign, signal or marking” but section 19-143 adds the word “legend.” By the terms of the definition, “traffic sign, official” includes markings. In my opinion, the words “markings” and “legend” fail to add any meaning in this context.</p> <p>This analysis also brings to light an outdated provision of section 19-175, relative to marking streets for angle parking. As you will recall, Clint Schuckel had suggested amending the Angle Parking section to place jurisdiction in the Traffic Commission, which the Recodification Committee felt was beyond the scope of its role, in a discussion on 2/15/12. However, closer scrutiny indicates that Clint also suggested amending the text that now identifies responsibility for marking the affected streets. The current provision states that it is the Board of Aldermen that does so. This is outdated, in all likelihood harkening back to the pre-1973 Charter. This amendment appears to be within the Recod Committee’s work.</p> <p>Finally, my research turned up some background information that explains the origins of these definitions (and many other provisions of chapter 19). Word for word, the text came from a model code. The current version, “<i>A Sample Regulation for A Standard Municipal Traffic Code</i>” is published as Appendix A to The Massachusetts Amendments to Manual on Uniform Traffic Control Devices for Streets and Highways (2003 Edition) and the Standard Municipal Traffic Code, which appears on Mass Highway’s website at this link: <a href="http://www.mhd.state.ma.us/downloads/trafficMgmt/MAAmendments-MUTCD.pdf">http://www.mhd.state.ma.us/downloads/trafficMgmt/MAAmendments-MUTCD.pdf</a></p> <p>3/7 – Donnalyn concurs with Gayle’s recommendations.</p>
<p><b>Suggested Changes</b></p>	<p>Conclusions/Recommendations:</p> <ol style="list-style-type: none"> <li>1. In my opinion, the use of the descriptive “official” has legal significance, and should be retained in the definition.</li> <li>2. It would be suitable to inquire of the Police Department whether any enforcement problems have arisen as a result of the drafting that separates “official” from “traffic signal.”</li> <li>3. Amend 19-143 by deleting “official traffic-control signal” and substituting “official traffic signal.” As well, it should probably be updated by deleting the reference to “streetcar.”</li> </ol>



	<p>4. Decide whether it is worth striking the use of "markings" and "legend" from the provisions analyzed above.</p> <p>5. Amend section 19-175(a) as shown below: (a) The board of aldermen shall determine upon what streets angle parking shall be permitted. The commissioner of public works shall mark or sign such streets or cause the same to be marked or signed.</p>
<b>Further Information</b>	<b>Appendix C</b>

# #20

<b>Problem:</b>	Traffic signs, official: All signs, markings and devices, other than signals, not inconsistent with these rules and orders, and which conform to the standards prescribed by the <a href="#">Manual on Uniform Traffic Control Devices (MUTCD)</a> <del>department of public works of the commonwealth</del> , placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	Mass DPW no longer exists, MUTCD is the appropriate legal reference.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	David Olson Gayle Smalley
<b>Research:</b>	<p>2/22 - David will check to see if term is used in ordinances. Gayle will rationalize definitions.</p> <p>2/29 - See Gayle's recommendations in her memo of February 28, 2012</p> <p>My research turned up some background information that explains the origins of these definitions (and many other provisions of chapter 19). Word for word, the text came from a model code. The current version, "<i>A Sample Regulation for A Standard Municipal Traffic Code</i>" is published as Appendix A to The Massachusetts Amendments to Manual on Uniform Traffic Control Devices for Streets and Highways (2003 Edition) and the Standard Municipal Traffic Code, which appears on Mass Highway's website at this link: <a href="http://www.mhd.state.ma.us/downloads/trafficMgmt/MAAmendments-MUTCD.pdf">http://www.mhd.state.ma.us/downloads/trafficMgmt/MAAmendments-MUTCD.pdf</a></p> <p>3/7 – Donnalyne concurs with Gayle's recommendations.</p>
<b>Suggested Changes</b>	Traffic signs, official: All signs, markings and devices, other than signals, not inconsistent with these rules and orders, and which conform to the standards prescribed by the Manual on Uniform Traffic Control Devices (MUTCD), placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.
<b>Further Information</b>	<b>Appendix C</b>

# #21

<b>Problem:</b>	Pedestrians shall obey the directions of police officers directing traffic and whenever there is an officer directing traffic or a traffic-control signal within three hundred (300) feet of a pedestrian, no such pedestrian shall cross a way or roadway except within the limits of the marked crosswalk at the signalized location and as hereinafter provided in this article. <del>For the purpose of this article, a "marked crosswalk" shall only be construed to be that area of a roadway reserved for pedestrian crossing located between two (2) solid white reflectorized twelve-inch pavement markings in rural areas or markings not less than six (6) inches wide in urban areas, such markings or lines being no less than six (6) feet apart.</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-113
<b>Suggested Correction:</b>	Redundant with crosswalk definition found in Section 19-1.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Refer to Public Safety
<b>Suggested Changes</b>	Refer to Public Safety Committee
<b>Action Requested</b>	Refer to Public Safety & Transportation Committee

# #22

Problem:	<p><b>Pedestrian actuation of traffic-control signals.</b></p> <p>(a) At a traffic-control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button <u>or passive detection</u>, a pedestrian shall not cross a roadway unless or until the <del>pedestrian-control signal push button has been actuated and then cross only on the</del> proper pedestrian signal indication <u>is illuminated</u>. <del>At traffic-control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.</del></p>
Submitted by:	Clint Schuckel, Traffic Engineer
Chapter:	19-114
Suggested Correction:	All signals now have "walk/don't walk" pedestrian indications so some text is obsolete, passive detection (new technology) means a push button is not required.
Type of Correction:	Technical
Assigned to:	Gayle Smalley
Research:	<p>2/22 - Gayle will review legal text.</p> <p>2/29 - See Gayle's recommendations in her memo of February 28, 2012</p> <p>It is clear that these existing provisions also were based on a model code. The current version, "Sample Pedestrian Regulations" appears as Appendix B to the The Massachusetts Amendments to Manual on Uniform Traffic Control Devices for Streets and Highways (2003 Edition) and the Standard Municipal Traffic Code (see website reference above).</p> <p>Clint suggested updating the references to "the word 'Walk'" given that current pedestrian traffic controls display symbols. The <i>Manual on Uniform Traffic Control Signals</i> (2009 edition) uses the phrases "Upraised Hand" and "Walking Person," which seem to provide useful text for the ordinances.</p> <p>Clint Schuckel explained that the old Red-Yellow simultaneous display no longer exists at any Newton intersections, noting that use of "Walk" – "Don't Walk" pedestrian signals has become the standard for intersections where motor vehicle operations are governed by a traffic signal light.</p> <p>Nonetheless, in a phone interview 2/28/12, Clint noted two exceptions – Dedham and Nahanton Streets; and Dedham Street and Wells Avenue. At those locations, although motor vehicle operators are subject to traffic signals, no separate "Walk" – "Don't Walk" equipment has been installed for pedestrians, at least not yet. Clint made clear that the City is moving toward such installation; he hopes it will be done during the 2012 or 2013 construction seasons. However, in the meantime, a pedestrian could cross with the</p>

red/green lights that are displayed for vehicles. Thus, my recommendation is to be cautious in updating the ordinances. As well, it would be helpful to draft the new provisions to facilitate further changes at the next recodification cycle.

Digging deeper into the facts about equipment, discussion with Clint revealed a few locations where flashing lights are relevant to pedestrian signals. For example, the traffic signal equipment at Waltham & Lodge Streets flashes red and yellow (red for Lodge Street vehicles and yellow for Waltham Street vehicles) until a pedestrian activates the Walk light, at which point the flashing lights change to solid display. Thus, it seems premature to remove all references to flashing lights in this context.

In my opinion, the reference to the Red/Yellow display is obsolete and should be deleted. However, in light of the circumstances described in the foregoing two paragraphs, it seems premature to entirely delete the provisions regarding "Red alone," "Green alone" or "Flashing." In fact, there is an additional reason that it may be suitable to retain some portion of these provisions even after all the equipment is updated: The phrase "no pedestrian indication is given or provided" would seem to allow a pedestrian to cross with the green light in the event that a pedestrian walk signal malfunctions.

Clint also recommends tweaking the text describing Walk – "Don't Walk" and inserting new text to recognize the use of new technology known as passive detection. In my opinion, the better way to do this may not actually involve express use of the words "passive detection." The existing ordinances already speak to the concept that the pedestrian shall push the button "if necessary." Thus, the draft provisions provided below are not intended to hinder the installation of passive detection.

On a related point, in reviewing the various pedestrian provisions I noted that Chapter 19 sets out two separate definitions for "pedestrian" as follows:

Section 19-1 states: Pedestrian: Any person afoot or riding on a conveyance moved by human muscular power, except bicycles or tricycles, as defined in General Laws, chapter 90, section 18A.

Sec. 19-112. Authority; definition.

(a) The provisions of this article are adopted pursuant to chapter 90, section 18A of the General Laws, and subject to the provisions thereof, are rules regulating the use by pedestrians of ways within the control of the city.

(b) The word "pedestrian" as used in this article shall have the meaning assigned to it in the General Laws. (Rev. Ords. 1973, § 13-93)

The two-definition situation presents the potential for confusion in enforcement. Curiously, one of the provisions defines "pedestrian" by reference to the definition in the General Laws – yet, the General Laws include at least two definitions, as follows:

G.L. chapter 90 sec. 18A (in the context of traffic safety rules) As used in this paragraph, the word "pedestrian" shall include a person in or on any

	<p>conveyance, other than a bicycle, constructed and designed for propulsion by human muscular power, as well as including a person on foot.</p> <p>G.L. chapter 90 sec. 34A (in the context of motor vehicle insurance requirements):</p> <p>The term "pedestrian" shall include persons operating bicycles, tricycles and similar vehicles and persons upon horseback or in vehicles drawn by horses or other draft animals.</p> <p>3/7 – Donnalyn concurs with Gayle's recommendations.</p>
<b>Suggested Changes</b>	<p>1. Amend section 19-114 as shown below:</p> <p>Sec. 19-114. Pedestrian actuation of traffic-control signals.  (a) At a traffic-control signal location where pedestrian indications are provided, a pedestrian shall not cross a roadway unless the Walk Indication is displayed. At traffic-control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the Walk Indication or green indication shall be actuated by the pedestrian by means of a push button.</p> <p>(no change to (b), which requires pedestrians to yield to funeral processions and emergency vehicles)</p>
<b>Further Information</b>	<b>Appendix C</b>

<b>Problem:</b>	<b>Obedience to traffic-control signals.</b>  (1) <del>Red and yellow or the word "Walk"</del> (walking man symbol) signal indication. Whenever the <del>red and yellow lenses are illuminated together or the single word "Walk"</del> signal is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19
<b>Suggested Correction:</b>	All signals now have "walk/don't walk" pedestrian indications so red/yellow text is obsolete.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Gayle will review legal text.  2/29 - See Gayle's recommendations in her memo of February 28, 2012 See analysis in #22  3/7 - Donnalyn concurs with Gayle's recommendations.
<b>Suggested Changes</b>	2. Amend section 19-115 as shown below:  Sec. 19-115. Obedience to traffic-control signals.  Traffic-control signal color indications and legends shall have the following commands ascribed to them and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer:  (1) At locations where pedestrian indications are provided:  a) "Walk Indication." Whenever "Walk" Indication is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.  b) "Don't Walk Signal" Whenever the "Don't Walk Indication" is illuminated, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of the roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the Walk Indication is illuminated, but any pedestrian who has partially completed his crossing on the Walk Indication shall proceed or return to the nearest sidewalk or safety island when the "Don't Walk" Indication is illuminated by rapid intermittent flashes.  (2) At locations where no pedestrian indication is given or provided:  a) Green: Pedestrians facing a green illuminated signal may proceed across

	<p>the roadway in the direction of the green indication.</p> <p><del>(4) Yellow alone, red alone or flashing "Don't Walk."</del></p> <p>b) Yellow or Red: Pedestrians approaching or facing a yellow or red illuminated Indication shall wait in the manner prescribed by the provisions of (1)b) relative to Don't Walk Signal.</p> <p>(5) Flashing red, or yellow. At any traffic-control signal location where a flashing red, or flashing yellow indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian indication and cross the roadway only on the Walk Indication. If no pedestrian indication is provided, pedestrians shall cross within crosswalks with due care. (Rev. Ords. 1973, § 13-96)</p> <p>3. Add new definitions at section 19-1, as follows:</p> <p>Sec. 19-1. Add definition for "Walk Indication" and "Don't Walk Indication."</p> <p>"Walk Indication:" A symbol of a walking person, or other legend that is generally understood to signify "walk."</p> <p>"Don't Walk Indication:" A symbol of an upraised hand, or other legend that is generally understood to signify "don't walk" or "stop"</p>
<p><b>Further Information</b></p>	<p><b>Appendix C</b></p>



<b>Problem:</b>	(2) Red alone or "Don't Walk" ( <u>upraised hand symbol</u> ) <u>signal indication</u> . Whenever the <u>red or words "Don't Walk" signal is illuminated</u> <del>or any indication other than red and yellow shown together are illuminated in a traffic control signal where pedestrian indications are provided</del> , pedestrians approaching or facing such indication shall wait on the sidewalk, edge of the roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the <u>"Walk" signal</u> <del>proper indication</del> is illuminated in the traffic-control signal, but any pedestrian who has partially completed his crossing on the walk indication shall proceed <del>or return</del> to the nearest sidewalk or safety island on the <u>flashing "don't walk" yellow</u> <del>red</del> indication, <del>the red indication or when the words "Don't Walk" are illuminated by rapid intermittent flashes.</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-115(2)
<b>Suggested Correction:</b>	All signals now have "walk/don't walk" pedestrian indications so red/yellow text is obsolete.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Gayle will review legal text. 2/29 - See Gayle's recommendations in her memo of February 28, 2012 3/7 - Donnalyn concurs with Gayle's recommendations. See Research in Number 23
<b>Suggested Changes</b>	b) "Don't Walk Signal" Whenever the "Don't Walk Indication" is illuminated, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of the roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the Walk Indication is illuminated, but any pedestrian who has partially completed his crossing on the Walk Indication shall proceed or return to the nearest sidewalk or safety island when the "Don't Walk" Indication is illuminated by rapid intermittent flashes.
<b>Further Information</b>	<b>Appendix C</b>

# #25

<b>Problem:</b>	<del>(3) Green alone. At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-115(3)
<b>Suggested Correction:</b>	All signals now have "walk/don't walk" pedestrian indications so this sentence is obsolete.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Gayle will review legal text. 2/29 - See Gayle's recommendations in her memo of February 28, 2012 3/7 - Donnalyn concurs with Gayle's recommendations. See Research in Number 23
<b>Suggested Changes</b>	(2) At locations where no pedestrian indication is given or provided: a) Green: Pedestrians facing a green illuminated signal may proceed across the roadway in the direction of the green indication.
<b>Further Information</b>	<b>Appendix C</b>

# #26

<b>Problem:</b>	(4) <del>Yellow alone, red alone or</del> flashing "Don't Walk" <u>signal indication</u> . Pedestrians approaching or facing a yellow, red or flashing "Don't Walk" illuminated indication shall not start to cross a roadway.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-115(4)
<b>Suggested Correction:</b>	All signals now have "walk/don't walk" pedestrian indications so red/yellow text is obsolete.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Gayle will review legal text. 2/29 - See Gayle's recommendations in her memo of February 28, 2012 3/7 - Donnalyn concurs with Gayle's recommendations. See Research in Number 23
<b>Suggested Changes</b>	b) Yellow or Red: Pedestrians approaching or facing a yellow or red illuminated Indication shall wait in the manner prescribed by the provisions of (1)b) relative to Don't Walk Signal.
<b>Further Information</b>	Appendix C

# #27

<b>Problem:</b>	<del>(5) Flashing red, yellow or green. At any traffic control signal location where a flashing red, flashing yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and cross the roadway only on the red-yellow or walk indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-115(5)
<b>Suggested Correction:</b>	All signals now have "walk/don't walk" pedestrian indication so this section is obsolete.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Gayle will review legal text.  2/29 - See Gayle's recommendations in her memo of February 28, 2012  3/7 - Donnalyn concurs with Gayle's recommendations.  See Research in Number 23
<b>Suggested Changes</b>	(5) Flashing red, or yellow. At any traffic-control signal location where a flashing red, or flashing yellow indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian indication and cross the roadway only on the Walk Indication. If no pedestrian indication is provided, pedestrians shall cross within crosswalks with due care. (Rev. Ords. 1973, § 13-96)
<b>Further Information</b>	<b>Appendix C</b>

<b>Problem:</b>	<p>Placed and maintained by commissioner of public works.</p> <p>The commissioner of public works is hereby authorized, and as to those signs and signals required by this chapter it shall be his duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the <a href="#">Manual on Uniform Traffic Control Devices (MUTCD)</a>. <del>department of public works of the commonwealth.</del></p>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-139
<b>Suggested Correction:</b>	Mass DPW no longer exists, MUTCD is the appropriate legal reference.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Law Department
<b>Research:</b>	<p>2/22 - Can it be said without using the term "manual". Use broadest possible language.</p> <p>See #18</p>
<b>Suggested Changes</b>	<p>The commissioner of public works is hereby authorized, and as to those signs and signals required by this chapter it shall be his duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Manual on Uniform Traffic Control Devices (MUTCD).</p>
<b>Further Information</b>	<b>Appendix C</b>

# #29

<p><b>Problem:</b></p>	<p><b>Necessity for signs.</b>          The provisions of sections 19-48 and <a href="#">TPR19-176</a> shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained in each block and located so as to be easily visible to approaching drivers. The provisions of sections <a href="#">TPR19-83</a> and <a href="#">TPR 19-85</a> shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained at each of the exits for each street affected thereby so that at least one sign will be clearly visible for a distance of at least seventy- five (75) feet to drivers approaching such an exit. The provisions of sections 19-47, <a href="#">TPR 19-86</a>, <a href="#">TPR 19-87</a>, 19-166(m) and 19-167 through 19-171 and <a href="#">TPR-172</a>, inclusive, shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections and the locations at which they apply are erected and maintained so as to be easily visible to approaching drivers.</p>
<p><b>Submitted by:</b></p>	<p>Clint Schuckel, Traffic Engineer</p>
<p><b>Chapter:</b></p>	<p>19-140</p>
<p><b>Suggested Correction:</b></p>	<p>Many of the referenced sections have been moved to the TPR, updated accordingly.</p>
<p><b>Type of Correction:</b></p>	<p>Technical</p>
<p><b>Assigned to:</b></p>	<p>Gayle Smalley</p>
<p><b>Research:</b></p>	<p>2/22 - Gayle to draft.</p> <p>3/7 – Gayle provided a suggested draft in her memo of March 5, 2012</p> <p>Law Department will review draft.</p> <p>Possibly add cross-reference to TPR and a note on the history of the Traffic Council legislation.</p> <p>Look at organizational structure of the TPRs to be in concert with the Ordinances</p> <p>Gayle's Analysis, Item #29:          Ordinance Z-12, dated 12/3/2007 delegated certain rule-making authority to the Traffic Council. As part of the change, Ordinance Z-12 deleted a number of ordinance sections. In this item, Clint Schuckel points out that section 19-140 includes references to ordinance sections that no longer exist. Section 19-140 itself governs the placement of signs to inform motorists, specifying the required location and frequency of signs in the field.</p> <p>The vestigial references within section 19-140 are as follows:</p>

	<p>Section 19-83, Heavy vehicle exclusions  Section 19-85, One-way streets  Section 19-86, U-turns  Section 19-87, Left turns prohibited  Section 19-172, Loading zones  Section 19-176, Parking regulations</p> <p>During the intervening years, the Traffic Council adopted corresponding provisions for each of these sections. Indeed, the regulations adopted by the Traffic Council under its new powers have continued the familiar numbering system, with the addition of a prefix "TPR" (an abbreviation for "Traffic and Parking Regulation"). Thus, for example, the Traffic Council adopted TPR-83 governing heavy vehicle exclusions.</p> <p>I agree with Clint's recommendation that section 19-140 be updated. However, in my opinion it would be preferable to avoid writing ordinances that depend on a numbering system currently used by the Traffic Council, which may change in the future.</p> <p>Revisions to section 19-140 are especially tricky because a) some of the ordinances referenced therein do not require any change; and b) it's a run-on provision that already is difficult to read. My recommendation below involves breaking the provision into new subsections and flipping the order of each sentence, all with the goal of greater clarity.</p> <p><i>Related issue – provisions that may be indirectly affected by the new role of the Traffic Council:</i></p> <p>In reviewing Item 29, my attention was drawn to section 19-46, which both establishes the role of the Police Department to enforce the provisions of chapter 19, and further provides that the Police may deviate from the provisions of the chapter in certain circumstances, e.g. emergency, or to safeguard pedestrians and so on. Recognizing the crucial importance of this provision, I invite a discussion about whether there is a need to amend this section (or any other section) to recognize the Police role in enforcing (or not enforcing) the Traffic Council's regulations.</p>
<p><b>Suggested Changes</b></p>	<p>1. In light of the analysis above, I would recommend that section 19-140 be revised to use descriptive language regarding the Traffic Council's regulations. To clarify: This is not intended as a policy change. Rather, it would involve inserting descriptive words, instead of references to section numbers.</p> <p>(a) The following provisions shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained in each block and located so as to be easily visible to approaching drivers:</p> <p>(1) Traffic Council regulations governing parking of vehicles on streets;  (2) Temporary parking prohibitions established pursuant to section 19-48.</p> <p>(b) The following provisions shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections</p>

	<p>are erected and maintained at each of the exits for each street affected thereby so that at least one sign will be clearly visible for a distance of at least seventy-five (75) feet to drivers approaching such an exit:</p> <p>(1) Traffic Council regulations prohibiting the use or operation of heavy vehicles operation;</p> <p>(2) Traffic Council regulations requiring one-way operation of vehicles.</p> <p>(c) The following provisions shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections and the locations at which they apply are erected and maintained so as to be easily visible to approaching drivers:</p> <p>(1) Temporary regulations, including street closings, established pursuant to section 19-47;</p> <p>(2) Traffic Council regulations governing U-turns;</p> <p>(3) Traffic Council regulations prohibiting left turns;</p> <p>(4) Bridge parking prohibitions pursuant to section 19-166(m);</p> <p>(5) Safety zone parking prohibitions pursuant to section 19-167;</p> <p>(6) Traffic Council regulations limiting length of time vehicles may be parked in municipal off-street parking areas;</p> <p>(7) Bus stop parking restrictions pursuant to section 19-170;</p> <p>(8) Taxicab stand parking restrictions pursuant to section 19-170(a);</p> <p>(9) Bus stop parking restrictions pursuant to section 19-170;</p> <p>(10) Traffic Council regulations governing loading zones.</p>
<b>Further Information</b>	<b>Appendix E</b>



<b>Problem:</b>	<b>Traffic-control signal legend.</b>  Flashing red. When a red lens is illuminated in a traffic-control signal <u>in flashing mode</u> , <del>by rapid intermittent flashes, and its use has been specifically authorized by the department of public works of the commonwealth</del> , drivers shall stop before entering the nearer line of a crosswalk of the street intersection, or at a stop line when marked, and the right to proceed shall then be governed by the provisions of chapter 89, section 8 of the General Laws.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-144
<b>Suggested Correction:</b>	Rapid intermittent flashes are not allowed by the MUTCD, nor do they currently exist anywhere in Newton.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Ouida Young
<b>Research:</b>	2/22 - Recommend change
<b>Suggested Changes</b>	Flashing red. When a red lens is illuminated in a traffic-control signal in flashing mode, drivers shall stop before entering the nearer line of a crosswalk of the street intersection, or at a stop line when marked, and the right to proceed shall then be governed by the provisions of chapter 89, section 8 of the General Laws.

# #31

<b>Problem:</b>	(b) The dimensions and markings of loading zones shall be established by the <del>street</del> commissioner <u>of public works</u> .
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-172(b)
<b>Suggested Correction:</b>	Title consistent w/ other references
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Law Department
<b>Research:</b>	2/22 - Check for consistency with Chapter 25.
<b>Suggested Changes</b>	(b) The dimensions and markings of loading zones shall be established by the commissioner of public works.

<b>Problem:</b>	<b>Angle parking.</b> The <del>board of aldermen</del> <u>Traffic Council</u> shall determine upon what streets angle parking shall be permitted and <u>the commissioner of public works</u> shall mark or sign such streets or cause the same to be marked or signed.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-175
<b>Suggested Correction:</b>	Suggestion for consistency with previous sections of Chapter 19 where the authority for site-specific decision-making related to parking is delegated to Traffic Council and implemented and maintained by the Commissioner of Public Works.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Refer to Public Safety
<b>Suggested Changes</b>	
<b>Action Requested</b>	<b>Docket and Refer to Public Safety &amp; Transportation Committee</b>

# #33a

<p><b>Problem:</b></p>	<p><b>Establishment of spaces and installation of parking meters; type of meters; operation and maintenance.</b></p> <p>The commissioner of public works, with the approval of the <a href="#">Traffic Council</a> <del>mayor</del>, is hereby authorized and directed to establish and install parking meter spaces in the parking meter zones including curb or street marking lines, and a parking meter with respect to each such space. Such parking meters shall be in operation for the regulation of parking in such parking meter spaces during the periods specified in <a href="#">the TPR and</a> this chapter. The commissioner of public works shall have charge of the operation of such parking meters and shall maintain the same in good workable condition.</p>
<p><b>Submitted by:</b></p>	<p>Clint Schuckel, Traffic Engineer</p>
<p><b>Chapter:</b></p>	<p>19-188</p>
<p><b>Suggested Correction:</b></p>	<p>The Traffic Council now has authority to add, remove, and relocate parking meters; mayoral approval is not required. All parking meters, regardless of time limit or location, accept nickels, dimes, and quarters for payment of fees. References to TPR added as appropriate.</p>
<p><b>Type of Correction:</b></p>	<p>Technical</p>
<p><b>Assigned to:</b></p>	<p>Gayle Smalley Donnalyn Kahn</p>
<p><b>Research:</b></p>	<p>2/22 - Gayle will look at drafting text. Donnalyn will consult with Mayor.</p> <p>2/29 - Split into 33a &amp; b</p> <p>33b to be referred to PS&amp;T for discussion of the elimination of coin denominations</p> <p>3-21 – See Gayle’s Memo of 3/19 Analysis, Item # 33a: The Law Department will provide analysis on the first of the two suggested amendments above, with regard to the role now assigned to the mayor. My analysis below addresses the second suggestion, which would insert a reference to the “TPR” (Traffic and Parking Regulations).</p> <p>Section 19-188 is the first section of a string of provisions regarding parking meters (together designated Division 2 of Article VII). With the recent delegation of expanded powers to the Traffic Council, many of the general (non-site-specific) parking meter provisions were retained as part of the ordinances.</p> <p>However, former sections 19-194 and 19-195, pertaining to parking meters in municipal parking lots were deleted. Substantially identical provisions now appear in the Traffic Council’s Traffic and Parking Regulations (“TPR”), as</p>

sections 194 and 195. Such TPR's establish both the periods for operation of meters (most typically Monday through Saturday 9:00 a.m. to 6:00 p.m., but without notable exceptions, e.g. Newtonville lot meters operate on weekdays only) and the time limits (for example, in the Cypress Street parking lot 33% of the parking meters have a 3-hour limit; the remaining 67% operate with no time limit).

Thus, under the new arrangement, hours for operation of parking meters in municipal lots are established pursuant to TPR 194 and 195. As such, the suggestion that 19-188 be updated to expressly refer to the TPR is an important one in order to assure that parking tickets will have solid legal backing.

In addition, the same concept seems to apply to section 19-190, which sets out the basic and familiar rule to the effect "you will get a ticket if you park for longer than the time limit." The actual language appears as follows:

**Sec. 19-190. Overtime parking.**

No person shall park a vehicle for a longer consecutive period than the limit specified and between the hours specified on any of the streets or parts of streets designated as parking meter zones in which parking meters and parking meter spaces are to be established pursuant to this chapter. (Rev. Ords. 1973, § 13-156)

Having established the importance of revising the provisions of 19-188 and 19-190, it is suitable to consider the best manner to draft new text. Both sections contain a reference "established pursuant to this chapter." The obvious possibility is to insert additional words to include a reference to the Traffic and Parking Regulations. I would suggest spelling out "traffic and parking regulations" (not just "TPR") and including a definition to describe that "traffic and parking regulations" are those adopted by the traffic council.

However, I raise the possibility that there may be a different or additional approach to this amendment. You may recall that in a memo dated 3/5/12, I raised a similar issue concerning section 19-46, which establishes the role of the Police Department to enforce the provisions of chapter 19, and further provides that the Police may deviate from the provisions of the chapter in certain circumstances. My memo noted a concern about clarity around the police role relative to the TPR, i.e. whether police enforcement was clearly authorized.

With that in mind, I raise the possibility that it may be suitable to insert new language into chapter 19 to provide a rule of construction. Such a provision would set out words to the effect that "In the construction of chapter 19, references to 'this chapter' shall be construed to mean the provisions of chapter 19 and the traffic and parking regulations adopted by the traffic council."

In the course of reviewing item 33a, I noted an additional issue: Section 19-9 contains a cross-reference to section 19-194 and 19-195, which were deleted as part of the new delegation to the Traffic Council. Section 19-9 sets out the

	parking fines for a long list of violations, including several other provisions that were deleted as part of the Traffic Council changes.
<b>Suggested Changes</b>	<ol style="list-style-type: none"> <li>1. Update 19-188 and 19-190 to include express references to “traffic and parking regulations, and insert a new definition regarding “traffic and parking regulations.”</li> <li>2. Consider adding a rule of construction to Chapter 19, to make clear that references “to this chapter” would include provisions of the traffic and parking regulations.</li> <li>3. Review and update section 19-9 regarding the parking fines, relative to the types of parking regulations that have been transferred to the Traffic Council.</li> </ol>
<b>Further Information</b>	<b>Appendix D</b>

# #33b

<b>Problem:</b>	The parking meters installed in parking meter zones shall be of the automatic multiple-coin type capable of receiving sufficient coins of five cent (\$0.05) or ten cent (\$0.10) <u>or twenty-five cent (\$0.25)</u> denominations for the payment of the fee for parking at the location of such meter, for the maximum time permitted by <u>the TPR this chapter</u> . Such meters shall be placed upon the curb next to the individual parking meter spaces. <del>The parking meters established in parking meter areas specified in section 19-194 shall be of the automatic type, capable of receiving a coin of twenty five cent (\$0.25) denomination. The parking meters installed in parking meter zones specified in section 19-195 shall be of the automatic multiple coin type, capable of receiving sufficient coins of ten cent (\$0.10) denomination for the payment of the fee for parking at the location for the maximum time permitted by these regu</del>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-188
<b>Suggested Correction:</b>	All parking meters, regardless of time limit or location, accept nickels, dimes, and quarters for payment of fees. References to TPR added as appropriate.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley Donnalyn Kahn
<b>Research:</b>	2/22 - Gayle will look at drafting text. Donnalyn will consult with Mayor.  2/29 - Split into 33a & b  33b to be referred to PS&T for discussion of the elimination of coin denominations
<b>Suggested Changes</b>	33b to be referred to PS&T for discussion of the elimination of coin denominations
<b>Action Requested</b>	Docket and Refer to Public Safety & Transportation Committee

# #34

<b>Problem:</b>	<b>Disabled veterans.</b> Notwithstanding any other provision of this chapter, no parking meter fee shall be exacted and no penalty shall be imposed for the parking of any vehicle owned and driven by a disabled veteran or by a handicapped person and bearing the distinctive number plates <u>or placard</u> authorized by chapter 90, section 2 of the General Laws.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-197
<b>Suggested Correction:</b>	To make current w/ RMV practice where plate or placard indicates legal use of HP space.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Donnalyn Kahn
<b>Research:</b>	
<b>Suggested Changes</b>	<p>In Sec. 19-197, change the title to "Disabled veterans and handicapped persons" and change the phrase "bearing the distinctive number plates" to "bearing the distinctive handicap placards/plates".</p> <p>In Sec. 19-197, change the title to "Disabled veterans and handicapped persons" and change the phrase "bearing the distinctive number plates" to "bearing the distinctive handicap placards/plates".</p> <p>In Sec. 19-178 (a)((2) delete "special handicapped parking identification plate" and replace with "handicapped placard"</p> <p>19-226(a) which also references "special handicapped parking identification plate". That phrase should be replaced with "handicapped placard". Also, further in (a) there is a reference to official identification of a handicapped person issued by any other state. We need to add after "state" the phrase "or any Canadian Province" to make this section parallel with the text of 19-178(a)(3).</p>
<b>Further Information</b>	<b>Appendix F</b>



<b>Problem:</b>	<p><b>Regulations and enforcement of disabled veterans and handicapped person parking spaces on private property.</b></p> <p>(a) Any person or body that has lawful control of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate <u>or placard</u> authorized by section two of chapter ninety of the General Laws (HP/V plate) according to the following formula...</p>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-199
<b>Suggested Correction:</b>	To make current w/ RMV practice where plate or placard indicates legal use of HP space.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Ouida Young
<b>Research:</b>	
<b>Suggested Changes</b>	In Sec. 19-199(a), the phrase "distinguishing license plate" should be changed to "distinguishing placard/plate". Similarly, in (c), the word "placard" should be added to the parenthetical phrase, without that it would read "(lacking an HP/V placard/plate)"
<b>Further Information</b>	<b>Appendix F</b>

# #36

<b>Problem:</b>	<p><b>Resident sticker and visitor permit; municipal lot parking program.</b></p> <p>(4) The number of resident parking stickers issued to a resident shall be limited as follows:</p> <p>a) Any dwelling unit which has on the property upon which the unit is sited a curb cut and either a garage or some other space, driveway or area suitable for parking one or more cars shall have the maximum number of parking stickers available under the ordinance reduced by the number of spaces on the property.</p> <p>The determination of the number of available parking spaces shall be made by the <u>commissioner of public works or designee</u> <del>city traffic engineer</del>, who shall visit each site on an application-made basis and report his findings to the police department before a parking sticker is issued to the resident.</p>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-200(4)a)
<b>Suggested Correction:</b>	Use Commissioner of Public Works for consistency with other sections.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>2/22 - <del>Recommend Change</del></p> <p>2/29 – Gayle to review</p> <p>See Gayle's Memo of 3/19</p> <p>Analysis, Items # 36 and 40: As a general principle, although ordinance provisions may refer to department heads, it is problematic to include references to subordinate employees. The rules of construction set out at ordinance section 1-3 include the following provision:</p> <p>Delegation of authority. Whenever a provision appears requiring the head of a department or other officer of the city to do some act or perform some duty, or granting some right to him as such official, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty, or it shall grant to them such right, unless the terms of the provisions designate otherwise.</p> <p>Thus, given the public works jurisdiction over streets and traffic control matters (see sections 25-1 and 25-3) it would be appropriate for these two provisions to refer to the public works commissioner. In light of the fact that section 1-3</p>

	generally authorizes department heads to delegate duties to subordinates, it would not be suitable to include a reference to "designee."
<b>Suggested Changes</b>	1. Update section 19-200 A(4)a) as follows: The determination of the number of available parking spaces shall be made by the city traffic engineer, commissioner of public works who shall visit each site...
<b>Further Information</b>	<b>Appendix D</b>

# #37

<b>Problem:</b>	(7) For purposes of this section, all references to municipal parking lots or to municipal lots shall be deemed the equivalent of references to municipal off-street parking areas as may appear in chapter 19 of the Revised Ordinances <a href="#">and the Traffic and Parking Regulations (TPR)</a> .
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-200(7)
<b>Suggested Correction:</b>	The TPR has municipal parking lot references too.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>2/29 – Gayle to review</p> <p>From Gayle's Memo of 3/19:</p> <p>Analysis, Item # 37: It is clear that the drafters of this section 19-200 realized that they needed to clarify the scope of parking lots that would be involved in the overnight parking lot program. They did so by a) stating that school grounds/parking lots were not include; and b) piggy-backing on the list of municipal off-street parking areas that already appeared in the ordinances.</p> <p>In the new era of Traffic Council authority, given that sections 19-194 and 19-195 have been deleted from the ordinances (for background, see Item 33a above), this provision in sec. 19-200 C (7) misses the mark (i.e. there's nothing left to piggy-back onto).</p> <p>I agree with Clint that section 19-200 should be updated. His suggested language above is pretty close; I would simply suggest substituting "or" where Clint used "and." As noted above, it may also be appropriate to include a definition of "Traffic and Parking Regulations" in the definitions.</p>
<b>Suggested Changes</b>	<ol style="list-style-type: none"><li>1. Amend section 19-200 C (7) by adding the phrase "or the Traffic and Parking Regulations."</li><li>2. Add a definition for "Traffic and Parking Regulations" to section 19-1.</li></ol>
<b>Further Information</b>	<b>Appendix D</b>

<b>Problem:</b>	(10) any vehicle parked in violation of section 19-205 "Commercial parking permits.
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	19-219(10)
<b>Suggested Correction:</b>	Refers to Section 19-205 which was deleted
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>2/29 – Gayle to review</p> <p>3/21 – See Gayle's memo of 3/19. Time to Remove Analysis, Item # 38: Section 19-219 sets out a list of general tow zones. e.g. parking upon a sidewalk, parking within 10 feet of a fire hydrant and so on.</p> <p>In 2009, Ordinance Z-40 created section 19-205, "Commercial Parking Permit program," allowing certain parking arrangements for local businesses in certain municipal parking lots. Twice the program was amended, and even re-named as "Prepaid Community Parking Permits" (see Z-53 and Z-63). In 2011, Ordinance Z-84 deleted section 19-205 in its entirety.</p> <p>As part of the commercial parking permit program, Z-40 had inserted a tow zone penalty for vehicles parked in violation thereof, which was inserted as new paragraph (10) of section 19-219. However, when Ordinance Z-84 ended the program, drafters simply overlooked the need to delete the associated tow zone provision. That "ghost reference" serves no purpose and should be deleted.</p>
<b>Suggested Changes</b>	1. Delete paragraph (10) of Sec. 19-219.
<b>Further Information</b>	<b>Appendix D</b>

# #39

<b>Problem:</b>	(c) Upon the effective date of this ordinance, the provisions of the following sections of the Revised Ordinances shall be adopted as Traffic and Parking Regulations, which shall be in effect until the traffic council adopts and publishes Traffic and Parking Regulations as provided in paragraph b) above.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-27(c)
<b>Suggested Correction:</b>	Consider deleting; is section (c) still necessary?
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>2/22 - <del>Create footnote for history.</del></p> <p>2/29 – Gayle to review</p> <p>3/7 - See Gayle's Memo of 3/5 Analysis, Item #41: Ordinance Z-12 included the adoption of Section 19-35, Transitional Provisions. The sole purpose of that section was to establish jurisdictional rules for those traffic and parking docket items that were pending at the time Z-12 was adopted – in other words, to make clear which body would have jurisdiction to act on pending petitions.</p> <p>So long as all such docket items have received final action, it seems quite clear that Section 19-35 may be struck from the published ordinances.</p> <p>In reviewing the new Traffic Council provisions, I also note the transitional provisions that appear in section 19-27(b) and (c). In my opinion, the provisions of subsection (c) should be deleted from the Ordinance. As for subsection (b), I invite a discussion whether it should be deleted or edited, given the fact that the 180-day period long ago passed. In addition, I would recommend including a historical note relative to any such changes.</p> <p>Finally, I also note some awkward language that appears in section 19-29(c)(2). The reference therein to "Massachusetts Department of Transportation" should instead refer, I believe, to Massachusetts Department of Highways. See G.L. chapter 85 sec. 2. For consistency, it would be preferable to use the phrase, "regulations governing</p>
<b>Suggested Changes</b>	1. So long as Mr. Olson is able to confirm that all affected docket items have made it through the Traffic Council and Board of Aldermen's dockets, I recommend deletion of section 19-35 from the upcoming recodified ordinances.

	<p>2. Delete subsection 19-27(c); and discuss whether it is suitable to retain some portion of subsection 19-27(b).</p> <p>3. Amend 19-29(c)(2) as described above, to reflect the correct state agency name and the terms of art relative to "heavy vehicles."</p>
<b>Further Information</b>	<b>Appendix E</b>

# #40

<b>Problem:</b>	<b>Taxi stands</b> (d) All taxi stands designated by the board of aldermen shall be duly posted and marked by the <del>traffic engineer</del> <u>commissioner of public works.</u>
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-305(d)
<b>Suggested Correction:</b>	Use Commissioner of Public Works for consistency with other sections.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/29 – Gayle to review  Gayle reviewed in her memo of 3/19/12 Please refer to #36 for analysis
<b>Suggested Changes</b>	2. Update Section 19-305(d) as follows: (d) All taxi stands designated by the board of aldermen shall be duly posted and marked by the traffic engineer commissioner of public works.
<b>Further Information</b>	<b>Appendix D</b>



# #41

<b>Problem:</b>	Transitional Provisions
<b>Submitted by:</b>	Clint Shuckel
<b>Chapter:</b>	19-35
<b>Suggested Correction:</b>	Consider deleting; is section 19-35 still necessary?
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>3/7 – Recommend removal of transitional provisions</p> <p>See Gayle's Memo of 03/05/12 Analysis, Item #41: Ordinance Z-12 included the adoption of Section 19-35, Transitional Provisions. The sole purpose of that section was to establish jurisdictional rules for those traffic and parking docket items that were pending at the time Z-12 was adopted – in other words, to make clear which body would have jurisdiction to act on pending petitions.</p> <p>So long as all such docket items have received final action, it seems quite clear that Section 19-35 may be struck from the published ordinances.</p> <p>In reviewing the new Traffic Council provisions, I also note the transitional provisions that appear in section 19-27(b) and (c). In my opinion, the provisions of subsection (c) should be deleted from the Ordinance. As for subsection (b), I invite a discussion whether it should be deleted or edited, given the fact that the 180-day period long ago passed. In addition, I would recommend including a historical note relative to any such changes.</p> <p>Finally, I also note some awkward language that appears in section 19-29(c)(2). The reference therein to "Massachusetts Department of Transportation" should instead refer, I believe, to Massachusetts Department of Highways. See G.L. chapter 85 sec. 2. For consistency, it would be preferable to use the phrase, "regulations governing</p>
<b>Suggested Changes</b>	<p>1. So long as Mr. Olson is able to confirm that all affected docket items have made it through the Traffic Council and Board of Aldermen's dockets, I recommend deletion of section 19-35 from the upcoming recodified ordinances.</p>
<b>Further Information</b>	<b>Appendix E</b>

# #42

<b>Problem:</b>	Passing streetcars.
<b>Submitted by:</b>	Clint Schuckel, Traffic Engineer
<b>Chapter:</b>	19-70
<b>Suggested Correction:</b>	Consider deleting; there are no streetcars in Newton.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Search for word in ordinances and recommend deletion.
<b>Suggested Changes</b>	Delete Section 19-70 Remove the word streetcar from 19-143 Remove the word streetcar from 19-1 definition of Traffic

# #43

<b>Problem:</b>	"Urban design and beautification commission" needs to be changed throughout ordinances to "urban design commission"
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	20 2 30 22 Table of Contents
<b>Suggested Correction:</b>	per ordinance Z-43 dated 2-17-09
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Linda Finucane
<b>Research:</b>	2/22 - Double Check
<b>Suggested Changes</b>	Correct the text in all chapters to reflect title approved in ordinance Z-43.

# #44

Problem:	Error in heading with section numbers
Submitted by:	Ouida Young
Chapter:	21
Suggested Correction:	
Type of Correction:	Scrivener's error
Assigned to:	David Olson
Research:	2/22 - Format problem has been corrected.
Suggested Changes	Format Problem has been corrected.

# #45

<b>Problem:</b>	Refers to National Register of Historic Places Refers to National Register of Historic Sites
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	22-50(2) & 22-62
<b>Suggested Correction:</b>	One of these is incorrect, which one?
<b>Type of Correction:</b>	Scrivener's error
<b>Assigned to:</b>	Linda Finucane
<b>Research:</b>	2/22 - Linda consulted Brian Lever and should be changed to "Places"
<b>Suggested Changes</b>	Text in Chapter has been corrected to Places

# #46

<b>Problem:</b>	Inaccuracy in definition of usable open space in regards to exterior tennis courts.
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30
<b>Suggested Correction:</b>	Amend definition of usable open space to remove the exemption for exterior tennis courts (as they are now classified as "structures" under that definition.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	2/22 - Needs to be vetted. Public Hearing needed for changes.
<b>Suggested Changes</b>	Docket with for consideration.
<b>Action Requested</b>	<b>Docket and Refer to Zoning and Planning Committee</b>

# #47

<b>Problem:</b>	Section references 30-15(p).
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30
<b>Suggested Correction:</b>	It should be 30-15(o).
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	
<b>Suggested Changes</b>	Change section reference from 30-15(p) to 30-15(o)

# #48

<b>Problem:</b>	References 30-11(c)
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30-11(d)(12)
<b>Suggested Correction:</b>	Should reference 30-11(d)
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	
<b>Suggested Changes</b>	Change reference to 30-11(d)



# #49

<b>Problem:</b>	<p>X-39, dated 12-2-02 deleted footnote #3, which re-numbering was not picked up in the 2007 recod, resulting in mis-numbering the footnotes. Subsequently, Z-44, dated 3-16-09, which deleted footnote #7, actually deleted footnote #6.</p> <p>Z-51, dated 8/10/09, deleted mis-numbered footnotes #5 and #6.</p> <p>Z-91, , dated 6/6/11 added new footnote 6: referencing the BUILDING HEIGHT column as follows: <sup>6</sup> A building with a sloped roof shall have a maximum height of thirty-six (36) feet. A building with a flat roof shall have a maximum height of thirty (30) feet.</p> <p>And added new footnote 7: <sup>7</sup> A residential care facility in the Multi-Residence 3 District or Multi-Residence 4 District with a sloped roof or a multi-family structure in the Multi-Residence 3 District with a sloped roof shall have a maximum height of forty-two (42) feet. A building with a flat roof shall have a maximum height of thirty-six (36) feet.</p>
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	30-15 Table 1
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Scrivener's Error
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	Scrivener's Error. Make corrections as suggested.
<b>Suggested Changes</b>	

# #50

<b>Problem:</b>	delete footnote 5 – FAR applies as described in Table 1, footnote 7" And note TOTAL FL. AREA RATIO
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	30-15 Table 4
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Scrivener's error
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	2/22 - Recommend Change
<b>Suggested Changes</b>	Change as recommended.

# #51

<b>Problem:</b>	Ord. No. Z-20 lists the subsections of 30-15(t) as letters rather than numbers.
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30-15(t)
<b>Suggested Correction:</b>	Check. It appears to be corrected in the online .pdf
<b>Type of Correction:</b>	Scrivener's error
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	2/22 - Recommend Change
<b>Suggested Changes</b>	Change as Suggested.

# #52

<b>Problem:</b>	Allows to parking stalls tandem in side setback, while 30-19(g)(1) allows no more than one stall in setback for parking facility <5 stalls.
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30-19(d)(1) 30-19(g)(1)
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	2/22 - Chapter 30 needs to be vetted. Public Hearing needed
<b>Suggested Changes</b>	
<b>Action Requested</b>	Docket and Refer to Zoning & Planning Committee

<b>Problem:</b>	References an undefined concept: "sideline" distance
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30-19(g)(1)
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	2/22 - Chapter 30 needs to be vetted. Public Hearing needed for changes.
<b>Suggested Changes</b>	
<b>Action Requested</b>	Docket and Refer to Zoning & Planning Committee

# #54

<b>Problem:</b>	Ordinance Z-45 has conflict between revised language for 30-5(b)(4) and the revised definition of structure in 30-1
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30-5(b)(4)
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Ouida Young Linda Finucane
<b>Research:</b>	2/22 - Chapter 30 needs to be vetted. Public Hearing needed for changes.
<b>Suggested Changes</b>	
<b>Action Requested</b>	<b>Docket and Refer to Zoning &amp; Planning Committee</b>

# #55

<b>Problem:</b>	Section references only "lot area" but then references a table that includes "lot area" and "lot width"
<b>Submitted by:</b>	Candace Havens
<b>Chapter:</b>	30-8(b)(10)a
<b>Suggested Correction:</b>	Lot width is an older concept, generally replaced by lot frontage.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Chapter 30 needs to be vetted. Public Hearing needed for changes.
<b>Suggested Changes</b>	
<b>Action Requested</b>	Docket and Refer to Zoning & Planning Committee

# #56

<b>Problem:</b>	(b) . . . No measure making a grant, renewal or extension, whatever its kind or nature, or any franchise or special privilege shall be passed as an emergency measure, and except as provided in General Laws Chapter <del>166</del> , Sections 70 and 71 (relating to utility lines), no such grant, renewal or extension shall be made other than by ordinance.
<b>Submitted by:</b>	David Olson
<b>Chapter:</b>	Charter 2-9(b)
<b>Suggested Correction:</b>	Should reference Chapter 164, per Bob Waddick
<b>Type of Correction:</b>	
<b>Assigned to:</b>	David Olson
<b>Research:</b>	2/22 - Check to see if there was a typo in 1973.  3/28 - All of the material used to promote the ballot question references Chapter 166  Since reference has been included in Charter materials from the beginning. Would require a charter amendment to change at this point.
<b>Suggested Changes</b>	Do nothing at this time.



<b>Problem:</b>	<b>Publication of Reorganization Plan.</b> An up-to-date record of any reorganization plan adopted under this article shall be kept on file in the office of the City Clerk and copies of all such plans shall be included as an appendix in any publication of the ordinances of the City.
<b>Submitted by:</b>	David Olson
<b>Chapter:</b>	Charter 6-3
<b>Suggested Correction:</b>	Should an organizational chart be included in the Ordinances?
<b>Type of Correction:</b>	
<b>Assigned to:</b>	David Olson
<b>Research:</b>	2/22 - Check with Law Department for files on past reorganizations
<b>Suggested Changes</b>	Due to the time necessary to compile this material. The Clerk's Office will create the document and have it ready for the next recodification.

# #58

<b>Problem:</b>	Index says common victualler fee is at 17-11(2) & 17-13(19)
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	Index
<b>Suggested Correction:</b>	It is actually 17-8(b)
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	2/22 - Recommend change
<b>Suggested Changes</b>	Make Change
<b>Further Information</b>	<b>Appendix F</b>

# #59

<b>Problem:</b>	Add to acceptances: Chapter 29, §64D acts of 1991 chapter 494
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	Index of accepted statutes
<b>Suggested Correction:</b>	Board order #89-92, March 2, 1992.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Recommend change
<b>Suggested Changes</b>	

# #60

<b>Problem:</b>	c. 51, sec 16A, 9D & 11A
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	Index of accepted statutes
<b>Suggested Correction:</b>	References are wrong, these aren't statutes to accept.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Linda Finucane
<b>Research:</b>	2/22 - Check on vote and reenactment chart in green book. 2/29 - Ouida reviewing
<b>Suggested Changes</b>	
	<b>In Process</b>

# #61

<b>Problem:</b>	Added to Related Laws section. Acceptance of Chapter 137 of the Acts of 2003. Accepted on December 5, 2005, Docket Item #548-03
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	Related Laws
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Recommend change
<b>Suggested Changes</b>	
	<b>In Process</b>

# #62

Problem:	Check for Ghost References in list of accepted statutes
Submitted by:	Committee
Chapter:	Index of accepted statutes
Suggested Correction:	
Type of Correction:	
Assigned to:	Gayle Smalley
Research:	2/29 - Gayle will review list once #60 is resolved
Suggested Changes	
	<b>In Process</b>

# #63

<b>Problem:</b>	Is the paragraph that appears after 22-50(c)(6)(a)(v) and above 22-50(c)(6)(b) wrong? The text is just floating
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	22
<b>Suggested Correction:</b>	The text may have been replaced by text that appears in 22-50(c)(6)(a)(iii) and speaks to an 18-month (rather than one year) delay for historically significant buildings.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Ouida Young
<b>Research:</b>	2/29 - Follow-up with Brian Lever.
<b>Suggested Changes</b>	Text should have been removed with ordinance, correct.

# #64

<b>Problem:</b>	Review Chapter and Section Headings for Clarity
<b>Submitted by:</b>	Lisle Baker
<b>Chapter:</b>	All
<b>Suggested Correction:</b>	Make headings easier to understand what the section is about
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	
<b>Suggested Changes</b>	
<b>Further Information</b>	Appendix G



<b>Problem:</b>	Index needs to be reviewed
<b>Submitted by:</b>	Lisle Baker
<b>Chapter:</b>	Index
<b>Suggested Correction:</b>	Review Index to add new Chapter and Section Headings, delete obsolete headings, and add new cross-references.
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>A review of the Index has noted that the Macro Categories generally respond to macro categories, but it is spotty.</p> <p>Specific references can be helpful, but should not be at the expense of general. The indexer must heed macro categories and integrate new items into existing categories or the existing categories become incomplete.</p>
<b>Suggested Changes</b>	As a general rule, the indexer should find the general "macro" category and then consider inserting a new specific ("stand-alone") entry.
	<b>In Process</b>

# #66

<b>Problem:</b>	Offenses can be found in multiple locations
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	20, all
<b>Suggested Correction:</b>	Review for consistency
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	
<b>Suggested Changes</b>	Do nothing at this time

# #67

<b>Problem:</b>	Where do HAWK lights fall
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	19 or TPR
<b>Suggested Correction:</b>	Review Chapter 19 and TPRs
<b>Type of Correction:</b>	
<b>Assigned to:</b>	Law Department
<b>Research:</b>	
<b>Suggested Changes</b>	
<b>Action Requested</b>	Docket and Refer to Public Safety & Transportation Committee

# #68

<b>Problem:</b>	How should TPR be referenced in Chapter 19
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	19
<b>Suggested Correction:</b>	Add new Definition
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	3/28 New definition in chapter 19 for Traffic and Parking Regulations
<b>Suggested Changes</b>	<i>Traffic and parking regulations:</i> Regulations governing the operation or parking at particular locations on streets and public grounds under the control of the city established by the traffic council.
<b>Further Information</b>	<b>Appendix E</b>

# #69

<b>Problem:</b>	Should the Ordinances that have changed a section be listed going back to 1973 or should the changes be listed only since the last Recodification?
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	All
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	
<b>Assigned to:</b>	David Olson
<b>Research:</b>	3/7 – Check with other communities and codification companies to check best practice.
<b>Suggested Changes</b>	Leave as is for now.

# #70

<b>Problem:</b>	Keep Journal of thoughts on how the choices that the committee made in the process were arrived at for future recodification committees
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	
<b>Assigned to:</b>	David Olson
<b>Research:</b>	
<b>Suggested Changes</b>	This Report completes the item.

# #71

<b>Problem:</b>	Legislative history of ordinances passed for each section takes up a lot of room in the published document and for the general public it has no value.
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	
<b>Suggested Correction:</b>	Look at whether there is a need to publish two ordinance books, one with the legislative history for each section and one without. Mirror the Law black books/green books
<b>Type of Correction:</b>	
<b>Assigned to:</b>	
<b>Research:</b>	
<b>Suggested Changes</b>	No Change at this time.

# #72

<b>Problem:</b>	<i>Safety zone:</i> Any area or space set aside within a roadway for the exclusive use of pedestrians and having the written approval of the department of public works of the commonwealth.
<b>Submitted by:</b>	Linda Finucane
<b>Chapter:</b>	19-1
<b>Suggested Correction:</b>	Check on current title of department of public works of the commonwealth. Is written approval still needed?
<b>Type of Correction:</b>	
<b>Assigned to:</b>	
<b>Research:</b>	
<b>Suggested Changes</b>	<i>Safety zone:</i> Any area or space set aside within a roadway for the exclusive use of pedestrians and having the written approval of the department of public works of the commonwealth.



# #73

<b>Problem:</b>	In the Demo Delay ordinance, the paragraph that appears after 22-50(c)(6)(a)(v) and above 22-50(c)(6)(b) is just floating. Was it replaced by text that appears in 22-50(c)(6)(a)(iii) and speaks to an 18 month (rather than one year) delay for historically significant buildings.
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	22-50
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Linda Finucane Ouida Young
<b>Research:</b>	Ordinance Z-85, approved by the Board on March 21, 2011, called for the removal of this paragraph.
<b>Suggested Changes</b>	The paragraph should be deleted from 22-50 as intended in ordinance Z-85.

# #74

<b>Problem:</b>	Recent changes in State Law and ordinances surrounding Trench Permits have made Section 20-53 unnecessary.
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	20-53
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Technical Substantive
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>Given the changes in state law and the corresponding amendment to sec. 25-1, it appears that section 20-53 serves no useful public policy. Indeed, I have some concern that the existence of sec. 20-53 could become the source of confusion or distraction. For example, in the course of an enforcement action by Newton's DPW under the state regulations, an excavator could claim that the City has failed to observe the process required by sec. 20-53. It is also noteworthy that section 20-53 envisions an unusual role for the Board of Aldermen, a regulatory/policing one, which likely dates back to the pre-1971 Charter.</p> <p>Lou Taverna advised that while all trenches are excavations, not all excavations are trenches. Lou thought that there was a reason to retain something that deals with unsafe excavations beyond regulation of trenches. He did agree, however, that using the Board of Aldermen and Mayor to enforce this provision was too cumbersome. Also, the relation of this prohibition to trench regulations needs to be made clear.</p>
<b>Suggested Changes</b>	Recommend that section 20-53 be deleted as part of the recodification and an item be docketed with Public Facilities to determine if a new version needs to be created.
<b>Further Information Action Requested</b>	<b>Appendix H</b> <b>Docket and Refer to Public Facilities Committee</b>

<b>Problem:</b>	In a prior committee meeting, it was noted that while the phrase "Newton Code" appears as the header on all pages of the ordinances, city officials rarely, if ever, use the term to refer to the ordinances. A suggestion was made to delete "Code" as part of the current review and recodification.
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	All
<b>Suggested Correction:</b>	Delete the use of "Code" from the ordinances as part of the current review and recodification.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>The word "Code" appears as a defined term with Section 1-3, as follows:</p> <p><b>Sec. 1-3. Rules of construction.</b> In the construction of the Revised Ordinances, and of all other ordinances, the following rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the board of aldermen or the context of the ordinance: <i>City.</i> The word "city" shall mean the City of Newton. <i>Code or this Code.</i> Unless indicated to the contrary, the term "Code" or "this Code" shall mean the Revised Ordinances referred to in section 1-1.</p> <p>However, a separate section, sec. 1-1 serves to set out the official title for the ordinances. Sec. 1-1 is updated for each recodification cycle. The current (2007) version provides as follows:</p> <p><b>Sec. 1-1. Citation and effect of Revised Ordinances.</b> The ordinances contained in this chapter and in the chapters following, together with all amendments thereof, herein sometimes called the "Revised Ordinances," shall constitute and be designated as "The Revised Ordinances of Newton, Massachusetts, 2006," and may be so cited. So far as their provisions are the same in effect as those of previously existing ordinances, they shall be construed...</p> <p>Accordingly, under section 1-1, in a court of law or other formal setting, the proper term is "Revised Ordinances" or "The Revised Ordinances of Newton, Massachusetts, 2007." As well, the titles that appear in the Table of Contents and on the first page of ordinances do not employ the word "Code."</p>
<b>Suggested Changes</b>	<ol style="list-style-type: none"><li>1. Amend section 1-3, by deleting the definition for "Code."</li><li>2. Amend section 19-166, as follows: Except as provided in section 26-16 no person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road, parkway or private way dedicated to the use of the public in violation of</li></ol>

	<p>any of the provisions of <del>this code</del> <b>these ordinances</b> and in particular in any of the following places except when necessary to avoid conflict with other traffic or in compliance with the direction of any police officer, traffic sign or signal:</p> <p>3. Amend Chapter 24's footnote, as follows:  *<b>Cross references</b>—General penalty for <del>code</del> <b>ordinance</b> violation, § 1-6;</p>
<b>Further Information</b>	<b>Appendix I</b>

# #76

<b>Problem:</b>	<p>On the tickets used by our parking enforcement folks there is no reference to any ordinance or TPR. On the other hand, at least one of the texts is wrong – the commercial vehicle parking ban isn't limited to night parking. And I also wonder what offenses are covered by the "restricted parking" fine. The extended Tiger zone? Resident parking? "parking on private road or driveway?"</p> <p>Clint has asked the Law Department to discuss the ability of the police to issue tickets on City property generally, and school parking lots in particular. The only category that the ticket would fall under might be the "restricted area", but again, that's not obvious.</p>
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	Varied
<b>Suggested Correction:</b>	In the appendix is a copy of the ticket used for other types of violations, and those do reference city ordinances. Fines may have changed, so these may not be correct.
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Ouida Young
<b>Research:</b>	
<b>Suggested Changes</b>	An item should be docketed to review the fees and fines in Chapters 20, 17, and any other chapter where they may appear.
<b>Further Information Action Requested</b>	<b>Appendix J</b> <b>Docket and Refer to Appropriate Committees</b>

# #77

<b>Problem:</b>	When the Tiger Parking Permit Area was made permanent by the Traffic Council, was it expected that the increased fines within the area that are called for in Chap. 19-9(8) were to remain, or was the expectation that they would be eliminated?
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	19-9(8)
<b>Suggested Correction:</b>	
<b>Type of Correction:</b>	Substantive
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>Traffic Council did not consider the fines since it falls under Board jurisdiction.</p> <p>If you follow the resident permit parking model, some of the Tiger permit language really should be in Chapter 19, not entirely in the TPR like it is now.</p> <p>19-200, 19-201 Description of resident parking permit program TPR-202 Locations of resident permits (by street)</p> <p>This is probably the correct way to treat the Tiger permits.</p> <p>19-203 Description of Tiger permit program TPR-204 Locations of Tiger permits (by street or lot)</p> <p>The theory would be that only the Board can create a parking permit program whereas the Traffic Council has the "site specific" jurisdiction to decide where permits should be assigned. One difference between resident and Tiger permits is that for resident permits, the Board/City Ordinance sets the fee of \$25/year. For Tiger permits, it's left to the school to cover admin costs.</p>
<b>Suggested Changes</b>	Docket the Tiger Permit fines and the locations with the Board of Aldermen for review.
<b>Action Requested</b>	<b>Docket and refer to Public Safety &amp; Transportation Committee</b>

# #78

<b>Problem:</b>	It is hard to find general provisions on Boards and Commissions because they are buried in Chapter 2 – Administration.
<b>Submitted by:</b>	Committee
<b>Chapter:</b>	2
<b>Suggested Correction:</b>	Move Boards and Commissions found in Chapter 2 to Chapter 7
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	Gayle Smalley
<b>Research:</b>	<p>The Boards and Commissions listed in Chapter 2-Administration are not tied to any particular department. Chapter 7 is currently unused and would make it easier to find the boards and commissions and have a place with significant cross-references to find other boards and commissions scattered throughout the ordinances. With this shift the overall length of Chapter 2 is greatly reduced.</p> <p>With this move it will also be important to move Chapter 2, Section 8. <b>Commissions, boards, committees and councils</b>, a section dealing with the duties of Boards and Commission generally, to Chapter 7.</p>
<b>Suggested Changes</b>	Move Section 2-8 and the Boards and Commissions listed in Chapter 2 to the formerly unused Chapter 7 and title the Chapter Boards and Commissions





# Appendices





LAW DEPARTMENT MEMORANDUM

To: Recodification Committee

From: Marie Lawlor, Assistant City Solicitor *ML*

Date: May 1, 2012

Re: Chapter 11, Article 1 Recycling and Trash – Penalties

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Review of Chapter 11 for recodification purposes has revealed a number of inconsistencies, both stylistic and substantive, which make the chapter confusing.

Where Board intent was obvious, several minor inconsistencies may be corrected in recodification. Other inconsistencies are substantive in nature and/or require Board clarification as to intent.

I recommend that the Recodification Committee correct the minor inconsistencies, but refer the Chapter in its entirety to the Public Facilities Committee for review, discussion and potential re-drafting as necessary.

Examples: The following are a few examples of sections which require Board review:

1. Sec. 11-1 Definitions.

The definitions of *Cleanouts* and *Moveouts* contain substantive requirements rather than simple definitions. Corresponding sections should be added to the body of the Chapter, and the substantive requirements should be transferred to the appropriate corresponding sections.

The following example is illustrative. In the definition of *Cleanout* quoted below, only the first sentence is appropriate as a definition. The second sentence (underscored) is substantive in nature and should be placed in a separate, corresponding section of the chapter:

*Cleanouts:* cleaning of basements, attics, garages, etc. so that large amounts of trash are generated that require multiple collections or truck load out. Cleanouts are not considered normal residential trash and will not be collected by the City. If, for whatever reason, the city finds it necessary to remove and dispose of a cleanout, the owner or occupant of the building or premises shall pay the city the total cost of removal and disposal as determined by the commissioner of public works or his/her duly appointed agent.

2. Penalties: Stylistic issues: penalties are written in an inconsistent manner. While Sections 11-7, 11-8 and 11-9 recite graduated penalties in a single sentence contained in a sub-paragraph of each section, the graduated penalty in Section 11-10 appears as a list.

Substantive issues:


a) The words “civil fine” as written in the penalty sections have the effect of removing the option of criminal enforcement for violations. It is unclear whether the Board intended this result, as other sections of the ordinance retain the option of criminal enforcement while adding the option for civil enforcement. The law department recommends retaining both options, as criminal enforcement is sometimes ultimately necessary for particularly egregious scofflaws.

b) It is unclear whether the penalty recited in Section 11-9(a) is intended to be a separate offense or is redundant to the penalties cited in Sections 11-7 and 11-8. Section 11-9, which recites its own penalty, appears to require only that all persons whose trash is collected by the city comply with sections 11-7 and 11-8. Those sections, however each recite their own penalty for violation.

c) It is unclear whether any penalty is intended for violations of other sections of Chapter 11, including sections relating to placement of bulky items and white goods. Currently, there is no penalty for violations of these sections.

LAW DEPARTMENT MEMORANDUM

To: Recodification Committee

From: Marie Lawlor, Assistant City Solicitor 

Date: May 2, 2012

Re: Trash and Recycling: Summary and redlines of Law Department's recommended recodification changes to Chapter 11 and to corresponding portions of Chapter 20, § 20-21

SECTION	RECOMMENDED CHANGES	REASON
§11-5	<ol style="list-style-type: none"> <li>1. Caption: add "trash"; delete "exceptions"; add "recycling services required."</li> <li>2. Text: Add "trash"; insert "such" before "collection" and delete "of trash" after "collection."</li> </ol>	Conform to G.L. c. 111 §31A, Paragraph 1 (health dept. permit required for garbage collected within Newton) and to clarify that persons collecting garbage or trash (which includes materials other than garbage) in Newton are required to offer recycling services.
§11-6	Remove italics for "Non-profit rubbish"	Consistency of style
§§11-7(h); 11-8(i); 11-9(a); 11-10(c)	<ol style="list-style-type: none"> <li>1. Add language counting the graduated offenses per 365 day period;</li> <li>2. Add cross-reference to §1-6 (general penalty);</li> <li>3. Change format of cross-references</li> </ol>	<ol style="list-style-type: none"> <li>1. Conform to Board intent and to §20-21(f);</li> <li>2. Cross-reference to general provision that every day an ordinance offense continues constitutes a separate offense;</li> <li>3. Consistency of style</li> </ol>
§11-11	<ol style="list-style-type: none"> <li>1. Caption: Delete misleading caption &amp; replace with "Registration for transporting garbage through Newton."</li> <li>2. Text: delete "trash and/or recyclables"; replace with "garbage"</li> </ol>	Conform to G.L. c. 111 §31A, Paragraph 2 (registration for transporting non-Newton trash through Newton streets); distinguish from §11-5 which applies only to collection of trash & garbage within Newton (see above)
§20-21(f) (for each listed offense)	Delete all references to "first day", "second day", third day and each day thereafter" for each offense.	Clarity; instead, add cross reference to §1-6 (each day an ordinance offense continues constitutes a separate offense) to penalty sections of Chapter 11 (see above)

**Sec. 11-4. Reserved.****Sec. 11-5. Trash, Garbage—Permit required to transport; exceptions recycling services required.**

All persons transporting trash or garbage through the public ways of the city from places within or to destinations within the city shall first obtain from the health department a permit therefor. All persons offering these services are required to offer full recycling services to all places where such collection of trash occurs within the city. All persons shall show evidence of such recycling plan of services, which plan must be approved by the commissioner of public works or his/her designee and recommended to the commissioner of health and human services at the time of the annual permit request. All such permits shall expire at the end of the calendar year in which they are issued. No permit may be transferred without approval of the health and human services department. (Rev. Ords. 1973, § 8-38(a); Ord. No. 59, 2-20-75; Ord. No. S-1, 7-11-83; Ord. No. X-175, 05-26-05; Ord. No. Z-68, 06-21-10)

Cross reference—Licensing and permits generally, Ch. 17; G.L. c. 111, sec. 31A.

**Sec. 11-6. Collection, processing, and disposal of Non-Profit Rubbish for a fee.**

Non-profit rubbish from religious and charitable organizations may be set out for collection for a fee that reflects the total cost of removal and disposal as determined by the commissioner of public works or his/her duly authorized agent. All non-profit rubbish shall be placed for collection in accordance with this chapter. All non-profit rubbish collected by the city under this section shall comply with all requirements of this chapter. (Ord. No. Z-68, 06-21-10)

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**Sec. 11-7. How trash to be placed for collection; weight of receptacles.**

(a) The city shall provide, or cause to be provided, one receptacle to each residential premises which receives municipal rubbish disposal services. The receptacle size shall be determined by the commissioner of public works. The receptacle shall be owned by the city. The residents of each such premises shall:

- (1) take proper care to protect such receptacle from misuse, loss, and damage as the city may require the resident to pay for any replacement carts due to such misuse, loss and/or damage; and
- (2) return such receptacle to the city, or its contractor, upon request of the commissioner of public works; and
- (3) in the event that they vacate the premises, shall leave such receptacle with the premises for use by the subsequent residents or if taken the city may require payment for such cart.

(b) If additional receptacles are required, additional receptacles shall be provided at the request of the homeowner at an annual charge established by the commissioner of public works. Only city authorized receptacles will be accepted for collection.

(c) Residents may also purchase trash bags, designated by the city for the sole purpose of trash collection, at a cost per bag established by the commissioner of public works. Only city authorized bags will be accepted for collection. Bags shall not exceed fifty (50) pounds in weight.

(d) All material set out for collection must be in the city supplied receptacle, additional city supplied receptacle, as requested, or designated bags. Loose material will not be collected. All material put out must fit within the receptacle provided so that the receptacle lid remains closed.

(e) Receptacles and designated bags shall be placed for collection in a manner and on days of the week as designated by the commissioner of public works or his/her designee which does not obstruct vehicular and / or pedestrian passage. All receptacles must be placed so that they are easily accessible for collection by the city, and/or in such a place as the commissioner of public works, or his/her duly authorized agent, may designate or

permit.

(f) The commissioner of public works may determine if a multiple residential site (apartment building, condominium units, townhouses, etc.) currently being collected from will require a dumpster. The commissioner will determine the size and location of the dumpster. Multiple unit locations will abide by the same standards as for collection in single residential sites.

(g) No person except those individuals and companies authorized by the commissioner of public works shall collect or pick up or cause to be collected or picked up, trash which has been placed for collection pursuant to Section 11-7.

(h) Failure to comply shall result in the imposition of a written warning for the first offense, fifty dollar (\$50.00) civil fine for the second offense and seventy-five dollar (\$75.00) civil fine for the third and subsequent offenses occurring in any three hundred sixty-five (365) day period. (Ord. No. Z-68, 06-21-10)  
(see Article III, Section 20-21); (Ord. No. Z-68, 06-21-10)

Cross reference – general penalty, §1-6; civil fines, §20-21

**Sec. 11-8. How recyclable materials to be placed for collection.**

(a) The city shall provide, or cause to be provided, one recycling receptacle to each residential premises which receives municipal rubbish disposal services. The receptacle size shall be determined by the commissioner of public works. Only city authorized receptacles will be accepted for collection. The residents of each such premises shall:

- (1) take proper care to protect such recycling container from misuse, loss and damage as the city may require the resident to pay for any replacement carts due to such misuse, loss and/or damage; and
- (2) return such recycling container to the city, or its contractor, upon request of the commissioner of public works; and
- (3) in the event that they vacate the premises, shall leave such recycling container with the premises for use by the subsequent residents or if taken the city may require payment for such cart.

(b) If additional receptacles are required, additional receptacles shall be provided at the request of the homeowner at an annual charge established by the commissioner of public works. Only city authorized receptacles will be accepted for collection.

(c) Recyclable materials are to be set out in containers as directed by the rules and regulations of the commissioner of public works.

(d) Leaf and yard waste is to be set out in containers as directed by rules and regulations of the commissioner of public works.

(e) All recyclable material set out for collection must be in the city supplied receptacle. Loose material will not be collected. All material put out must fit within the receptacle provided so that the receptacle lid remains closed.

(f) Receptacles shall be placed for collection in a manner and on days of the week as designated by the commissioner of public works or his/her designee which does not obstruct vehicular and / or pedestrian passage. All receptacles must be placed so that they are easily accessible for collection by the city, and/or in such a place as the commissioner of public works, or his/her duly authorized agent, may designate or permit.

(g) The commissioner of public works may determine if a multiple residential site (apartment building, condo

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units, townhouses, etc.) currently being collected from will require a dumpster for single stream recycling. The city will determine the size and location of the dumpster. Multiple unit locations will abide by the same standards as for collection in single residential sites.

(h) No person except those individuals and companies authorized by the commissioner of public works shall collect or pick up or cause to be collected or picked up, recyclable materials which have been placed for collection pursuant to Section 11-8.

(i) Failure to comply shall result in the imposition of a written warning for the first offense, fifty dollar (\$50.00) civil fine for the second offense and seventy-five dollar (\$75.00) civil fine for the third and subsequent offenses occurring in any three hundred sixty-five (365) day period. (see Article III, Section 20-21). (Rev. Ords. 1973, § 8-42; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. R-105, 12-15-80; Ord. No. T-92, 6-18-90; Ord. No. Z-68, 06-21-10)

Cross reference – general penalty, §1-6; civil fines, §20-21.

**Sec. 11-9. Participation in and enforcement of recycling and trash program.**

(a) All persons whose trash is collected by the city shall comply with sections 11-7 and 11-8 when placing materials for collection, unless specifically exempted pursuant to the provisions of subsection (b). Failure to comply with section 11-9 shall result in the imposition of a written warning for the first offense, fifty dollar (\$50.00) civil fine for the second offense and seventy-five dollar (\$75.00) civil fine for the third and subsequent offenses occurring in any three hundred sixty-five (365) day period. (see Article III, Section 20-21)

Cross reference – general penalty, §1-6; civil fines, §20-21.

(b) If compliance with the requirements of subsection (a) imposes undue hardship upon a person, that person may request an exemption from this ordinance from the commissioner of public works. (Ord. No. R-105, 12-15-80; Ord. No. S-249, 3-16-87; Ord. No. T-92, 6-18-90; Ord. No. Z-68, 06-21-10)

**Sec. 11-10. When trash and recyclable materials to be placed for collection; carts to pass through streets only once.**

(a) Trash and recyclable materials shall be placed for collection on such day or days as may be designated for collection by the commissioner of public works. The commissioner of public works may designate the specific days of collection for particular areas of the city and/or types of trash and/or recyclable materials. Trash and recyclable materials shall be placed for collection between 4:00 p.m. of the day preceding collection and 7:00 a.m. of the day of collection. Collection vehicles having passed through the street will not be sent back to collect any such materials placed for collection after 7:00 a.m.

(b) All empty receptacles, barrels, cans or rubbish containers of any kind shall be removed from the area of collection and returned to the private property of the person(s) who owns or is assigned to the specific receptacle(s) prior to midnight of the day of collection.

(c) Any occupant of a building who places or causes to be placed trash or recyclable materials for collection at times other than those designated in subsection (a) of this section or fails to remove said trash containers or recycling containers or receptacles from the area of collection prior to midnight of the day of collection shall be subject to the following penalties for offenses occurring in any three hundred sixty-five (365) day period. (see Article III, Section 20-21):



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- (1) For the first offense—a written warning;
- (2) Second offense-fifty dollars (\$50.00);
- (3) Third and subsequent offenses-seventy-five dollars (\$75.00)

The written warning for each first offense shall be attributable to the dwelling unit occupied by the offending party. Any subsequent offense by any occupant of said dwelling unit shall result in the fine referred to above and shall be attributable to the head of the household.

Provided, however, that when the collection of trash or recyclable materials is delayed due to weather conditions, holidays, or other causes, no penalty shall be imposed for placement thereof in accordance with the time periods established for collection as set forth in subsection (a) above. (Rev.Ords. 1973, § 8-42; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. R-56, 3-17-80; Ord. No. S-1, 7-11-83; Ord. No. T-92, 6-18-90; Ord. No. T-168, 9-3-91; Ord. No. Z-68, 06-21-10)

Cross reference—Licensing and permits generally, Ch. 17; general penalty, §1-6; civil fines, §20-21.

**Sec. 11-11. Permit to cart trash and/or recyclable materials. Registration for transporting garbage through Newton.**

All persons transporting ~~trash and/or recyclable materials~~ garbage on public ways of the city from points outside the city and to destinations outside the city shall register with the city health and human services department pursuant to Mass. Gen. Laws c. 111, § 31A. Such garbage shall be transported in accordance with such rules and regulations as the health and human services department shall make. (Rev. Ords. 1973, § 8-43; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. S-1, 7-11-83; Ord. No. X-175, 5-26-2005; Ord. No. Z-68, 06-21-10)

**Sec. 11-12. Definition of pickup point, placement of refuse for collection from mixed-use buildings, persons responsible for fee.**

For buildings utilizing dumpsters, each dumpster location shall constitute a pickup point. Refuse from non-residential and residential units shall not be placed into the same dumpster for collection. For receptacle or bag collection, each street address shall constitute a pickup point, provided however, that in the case of multi-unit buildings, each unit shall constitute a pickup point, and provided further, that the refuse and recycling generated by each non-residential unit in such building shall not be set out for collection.

Nothing herein shall be deemed to render any person liable for charges incurred by a previous owner. (Rev. Ords. 1973, § 8-45; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. R-105, 12-15-80; Ord. No. R-201, 12-7-81; Ord. No. S-1, 7-11-83; Ord. No. Z-68, 06-21-10)

**Sec. 11-13. Tipping over, etc.; slippery substances.**

No person shall willfully or maliciously disturb or handle the contents of or tip over or upset containers or receptacles standing upon the sidewalk or within the street limits or throw or place upon any sidewalk, crosswalk, street or way any banana skin, orange peel or other slippery substance. (Rev. Ords. 1973, § 8-48; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. S-1, 7-11-83; Ord. No. Z-68, 06-21-10)

**Sec. 11-14. Large, bulky, etc., refuse.**

(a) Large and/or bulky items such as discarded or broken furniture, large toys, mattresses, rugs, and other large or unwieldy refuse which cannot be placed in the assigned receptacle shall be considered bulky waste. The department of public works may remove and dispose of up to five (5) bulky waste items per household per week without charge. All the materials put out for removal shall be of such form and so prepared and placed as the

(f)DEPARTMENT OF PUBLIC WORKS: The commissioner of public works, and/or his or her designee, shall be authorized to issue written notice of the following violations:

.....	<u>PENALTY</u>
Sec. 11-7 How trash to be placed for collection.	
( ) First offense per 365 day period .....	written warning <del>for first day</del>
( ) Second offense per 365 day period .....	\$50.00 <del>for 2<sup>nd</sup> day</del>
( ) Third offense and subsequent offenses..... <del>day thereafter</del> per 365 day period	\$75.00 <del>for 3<sup>rd</sup> day and each</del>

Sec 11-8 How recyclables to be placed for collection.

( ) First offense per 365 day period .....	written warning <del>for first day</del>
( ) Second offense per 365 day period .....	\$50.00 <del>for 2<sup>nd</sup> day</del>
( ) Third offense and subsequent offenses..... <del>day thereafter</del> per 365 day period	\$75.00 <del>for 3<sup>rd</sup> day and each</del>

Sec. 11-9 (a) Participation in and enforcement of recycling and trash program

( ) First offense per 365 day period .....	written warning <del>for first day</del>
( ) Second offense per 365 day period .....	\$50.00 <del>for 2<sup>nd</sup> day</del>
( ) Third offense and subsequent offenses..... <del>day thereafter</del> per 365 day period	\$75.00 <del>for 3<sup>rd</sup> day and each</del>

Sec. 11-10 (c) When trash and recyclable materials to be placed for collection

( ) First offense per 365 day period .....	written warning <del>for first day</del>
( ) Second offense per 365 day period .....	\$50.00 <del>for 2<sup>nd</sup> day</del>
( ) Third offense and subsequent offenses..... <del>day thereafter</del> per 365 day period	\$75.00 <del>for 3<sup>rd</sup> day and each</del>

(Ord. No. T-126, 3-4-91; Ord. No. T-241, 10-21-91; Ord. No. U-29, 10-3-94; Ord. No. V-8, 2-6-95; Ord. No. V-63, 2-5-96; Ord. No. V-69, 3-4-96; Ord. No. V-193, 8-10-98; Ord. No. V-197, 10-5-98; Ord. No. V-255, 8-9-99; Ord. No. V-275, 12-6-99; Ord. No. X-14, 4-1-02; Ord. No. X-142, 03-21-05; Ord. No. X-175, 05-26-05; Ord. No. X-244, 12-18-06; Ord. No. Z-17, 12-17-07; Ord. No. Z-27, 05-19-08; Ord. No. Z-32, 07-14-08; Ord. No. Z-57, 11-16-09; Ord. No. Z-60, 12-21-09; Ord. No. Z-68, 06-21-10; Ord. No. Z-78, 02-22-11)

**Secs. 20-22 Reserved.**

**CITY OF NEWTON  
LAW DEPARTMENT  
MEMORANDUM**

DATE: May 22, 2012  
TO: Recodification Committee  
FROM: Robert J. Waddick  
RE: Chapter 18

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In 2007, the General Court passed Chapter 75 of the Acts of 2007, which addressed the investment of trust funds by the City of Newton. A copy of the legislation is attached.

An intent of the legislation was to provide the City of Newton with greater flexibility in terms of its investments. Section 54 of Chapter 44 sets forth the permissible investments for municipal trust funds. The legislation exempted the City of Newton from this statute. However, the legislation did a bit more. For instance, the legislation required professional fund management for all trust funds. In addition, it appears that the legislation shifted investment authority from the trustees of the funds to the treasurer.

One approach to incorporating the provisions of Chapter 75 of the Acts of 2007 into Chapter 18 would be to modify the unique provisions of each of the 16 trust fund sections in Chapter 18. However, it did not appear that this approach would be wise given concerns about the special legislation. The approach that was chosen was to add a section to Chapter 18 which applied the provisions of the special legislation to all of the trust funds while leaving the unique provisions intact. The primary reason for this approach was to provide the City with an opportunity to reassess the provisions of the special legislation and determine if modifications to it are appropriate.

It appears that the requirement for professional fund managers may not necessarily be cost effective for all of the funds. Moreover, the apparent shift of investment authority from the trustees to the treasurer appears to modify the role of the trustees as set forth under Chapter 18. It is not clear that city intended this shift of investment authority, but it appears to be a result of the special legislation.

The addition of the proposed Article XVII to Chapter 18 will provide the city with the flexibility to reassess the special legislation while following its provisions and maintaining the unique terms relating to each trust. Changes to the special legislation may obviate the need to modify the provisions of the 16 sections of Chapter 18 relating to the individual trusts. Moreover, if the special legislation is amended, the city could simply modify the proposed Article XVII.

Chapter 18

**MEMORIAL FUNDS AND TRUSTS\***

- Art. I. John C. Chaffin Education Fund, §§ 18-1—18-21**
  - Art. II. Horace Cousens Industrial Fund, §§ 18-22—18-46**
  - Art. III. Eliot Memorial, §§ 18-47—18-69**
  - Art. IV. Read Fund, §§ 18-70—18-91**
  - Art. V. Twombly House Fund, §§ 18-92—18-110**
  - Art. VI. Arnold S. Daniels, Jr., Fund, §§ 18-111—18-131**
  - Art. VII. Conservation Fund, § 18-132—18-139**
  - Art. VIII. Newton Commonwealth Fund, §§ 18-140—18-144**
  - Art. IX. Oak Hill Park Association Trust, §§ 18-145—18-150**
  - Art. X. Kennard Park Trust, §§ 18-151—18-159**
  - Art. XI. Nahanton Park Trust Fund, §§ 18-160—18-163**
  - Art. XII. Emerson Community Center Trust, §§ 18-164—18-167**
  - Art. XIII. Mayor Theodore D. Mann/Fig Newtons®Trust Fund, §§ 18-168—179**
  - Art. XIV. Newton Board of Aldermen Scholarship Fund, §§ 18-180—180-189**
  - Art. XV. Lawrence W. Gorin (Class of 1955) Scholarship Fund, §§ 18-190—180-195**
  - Art. XVI. Mabel Louise Riley Trust Fund, §§ 18-196--18-200**
  - Art. XVII. Investment of Funds in Custody of Collector-Treasurer, §§ 18-230—18-232**
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**ARTICLE I. JOHN C. CHAFFIN EDUCATIONAL FUND**

**Sec. 18-1. Designation.**

The gift by the will of the late John C. Chaffin shall be known as the John C. Chaffin Educational Fund. (Rev. Ords. 1973, § 12-1)

**Sec. 18-2. Board of trustees—Composition; appointment, removal, compensation and terms of members.**

The John C. Chaffin Educational Fund shall be in charge of, and shall be administered by, a board of seven (7) trustees, serving without compensation, one of whom shall be the chairman of the school committee of the city by virtue of his office. The other six (6) shall be appointed by the mayor subject, within fourteen (14) days from the date of appointment, to confirmation by the board of aldermen. Such appointment shall be for life, subject to removal by the mayor by reason of disability, removal from the city or other sufficient cause. (Rev. Ords. 1973, § 12-2)

**Sec. 18-3. Same—Treasurer.**

The city collector-treasurer, by virtue of his office, shall be the treasurer of the John C. Chaffin Educational Fund board of trustees and shall receive and take charge of all money or property arising from or a part of such fund. (Rev. Ords. 1973, § 12-3)

Cross reference—City collector-treasurer, Ch. 2, Art. III, Div. 2

**Sec. 18-4. Purpose.**

The income of the John C. Chaffin Educational Fund shall be paid out by the city collector-treasurer as directed by

\* Editor's note: The investment provisions of each article should be read in concert with the provisions of Art. XVII of this chapter.

without compensation. One trustee shall be the director of human services, or his/her designee. One trustee shall be the commissioner of the health department or his/her designee. One trustee shall be a resident of the city, knowledgeable about elder-care services in the city, appointed by the mayor subject to confirmation by the board of aldermen, for a term of three (3) years. The city collector-treasurer shall be treasurer of the board of trustees. (Ord. No. X-42, 2-18-03)

**Sec. 18-199. Same--Duties.**

The board of trustees of the Mabel Louise Riley Trust Fund shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of municipal trust funds.

The board of trustees shall use the income of the fund as provided in Sec. 18-197 and as may be further defined by the Attorney General of the Commonwealth of Massachusetts. (Ord. No. X-42, 2-28-03)

**Sec. 18-200. Duties of the city collector-treasurer.**

All investments, changes in investment and expenditures for the fund approved in writing by a majority of the trustees shall be made by the city collector-treasurer who shall, by virtue of his office, receive and take charge of all monies, securities or other investments constituting this fund. (Ord. No. X-42, 2-18-03)

**Secs. 18-201—18-229 Reserved.**

**ARTICLE XVII INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER\***

**Sec. 18-230. Fund management.**

Notwithstanding the provisions of this Chapter 18 relating to how trust funds shall be invested to the contrary, the collector-treasurer, in consultation with each trust fund board of trustees, shall develop investment policies which shall include an asset allocation policy for each trust fund and shall select professional investment advisors to manage the trust funds.

**Sec.18-231. Permitted investments.**

Notwithstanding the provisions of this Chapter 18 to the contrary, the collector-treasurer, after consultation with the trustees of a fund hereunder, may invest funds in his custody as a prudent investor would, considering the purposes, terms and other circumstances of the trust, exercising reasonable skill, care and caution, and acting in accordance with the provisions of sections 3, 4, 5, 8 and 9 of chapter 203C of the general laws which pertain to the prudent investment of trust funds.

**Sec. 18-232. Exemption from G.L. c. 44, § 54**

Notwithstanding the provisions of this Chapter 18 to the contrary, section 54 of chapter 44 of the general laws shall not apply to the City of Newton and to the investment of trust funds in the custody of the collector-treasurer.

State law references – G.L. c. 203C, §§ 3, 4, 5, 8, and 9; G.L. c. 44, § 54; and chapter 75 of the Acts of 2007.

\* Editor's note: This article should be read in concert with the investment provisions of the preceding articles in this chapter.

**DIVISION 2. COLLECTOR-TREASURER****Sec. 2-132. Powers and duties generally.**

There is hereby established a treasury and collecting department. The city collector-treasurer shall have charge of the treasury and collecting department and the books, documents and papers thereof. (Rev. Ords. 1973, § 2-184)

**Charter reference**—Collector-treasurer, § 3-3(b)

**State law reference**—Treasurers and collectors generally, G.L. c. 41, § 35 et seq.

**Sec. 2-133. Official bond; custodian of money, etc.**

The city collector-treasurer shall give bond, with sufficient sureties, to the satisfaction of the mayor, for the faithful performance of his duties as treasurer and collector. He shall receive, receipt for and have the care and custody of the current funds of the city and of all money, property and securities which may be in his charge by virtue of any law, ordinance, gift, devise, bequest or deposit. He shall negotiate all loans authorized by the board of aldermen and shall sign all bonds, notes and certificates of indebtedness issued for such loans. (Rev. Ords. 1973, § 2-185)

**Cross reference**—[Investment of funds in the custody of collector-treasurer, § 18-230 et seq.](#)

**Sec. 2-134. Payments out of treasury; report to comptroller; cancellation of bonds, etc.**

The city collector-treasurer shall pay all warrants drawn by the comptroller of accounts and countersigned and approved by the mayor for the payment of accounts and claims duly approved as provided in this volume, and shall pay no money from the treasury without a warrant from the comptroller of accounts duly countersigned and approved by the mayor, or from the board of assessors, except for final judgments of courts, rebates, refunds or abatements of water bills and special deposits, with interest on such as have been paid prior to such rebate, refund or abatement. Within forty-eight (48) hours, Sundays and holidays excepted, after any payment made by the city collector-treasurer for which the warrant of the comptroller of accounts is not required, the city collector-treasurer shall certify to the comptroller of accounts the amount so paid and the purpose for which payment was made. The city collector-treasurer shall make the comptroller of accounts a daily report of his gross expenditures, gross receipts and daily cash balances, and at the end of each month a report of his receipts in such detail as may be required by the comptroller of accounts. The city collector-treasurer shall cancel all bonds, coupons and certificates of indebtedness when the same are paid. (Rev. Ords. 1973, 2-186)

**Sec. 2-135. Collection of claims due the city.**

The collector-treasurer, whenever an account is delivered to him for collection as provided in this chapter, shall demand payment of the same. If any such account remains unpaid after three (3) months, he shall proceed to collect the same by legal process, which he may do at any time before the expiration of such three (3) months if, in his judgment or the opinion of the city solicitor, the interests of the city so require. (Rev. Ords. 1973, § 2-187)

**Sec. 2-136. Method of keeping books; crediting accounts of departments.**

The city collector-treasurer shall keep in books provided for that purpose an accurate and true account of all his receipts and payments as city collector-treasurer, making the same conform as nearly as may be with the accounts kept by the comptroller of accounts. He shall, unless otherwise provided, credit to an income account of each department all sums received on its account. (Rev. Ords. 1973, § 2-188)

**MEMO**

**February 28, 2012**

To: Chair R. Lisle Baker and Ald. Cheryl Lappin  
 From: Gayle Smalley

In preparation for tomorrow’s meeting, I am providing this memo presenting analysis and recommendations for several of the chapter 19 issues that I took on at our prior meeting.

Many of these provisions are very detailed and somewhat technical; as such, I would welcome additional careful scrutiny of all recommended text changes.

cc. David Olson, Clerk of the Board  
 Donnalyn B. Lynch Kahn, City Solicitor  
 Ouida C.M. Young, Associate City Solicitor

**I. “Official traffic signals and signs – Definitions; Clint Schuckel recommended the following amendments:**

19-1	<b>Traffic signals, official:</b> All signals conforming to the standards as prescribed by the department of public works of the commonwealth, not inconsistent with these rules and orders, placed or erected by authority of a public body or official having jurisdiction for the purpose of directing or warning traffic.	Redundant; suggest deleting or combining with “Traffic-control signal.”	Clint Schuckel
19-1	<b>Traffic signs, official:</b> All signs, markings and devices, other than signals, not inconsistent with these rules and orders, and which conform to the standards prescribed by the <b>Manual on Uniform Traffic Control Devices (MUTCD)</b> <del>department of public works of the commonwealth</del> , placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.	Mass DPW no longer exists, MUTCD is the appropriate legal reference.	Clint Schuckel

**Analysis:**

Clint Schuckel recommended deleting the definition for “traffic signal, official,” and instead combining or relying upon the section 19-1 definition for “Traffic-control signal.”<sup>1</sup>

Several provisions of chapter 19 rely on the phrase “official traffic signs, signals, markings and safety zones,” or variations thereof. A compilation of relevant occurrences of the phrase appear in the footnote below.<sup>2</sup>

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<sup>1</sup> Clint Schuckel also recommended updating the reference to the state agency, by substituting a reference to the title of the governing manual. Donnalyn Kahn is looking into the same issue with regard to Clint’s identical recommendation concerning the definition of “Traffic-control signal”.

<sup>2</sup> Compilation of relevant occurrences (underlining added throughout):

- Sec. 19-76. Underpasses or overpasses; intersections with islands.** At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings. (Rev. Ords. 1973, § 13-64)
- Sec. 19-139. Placed and maintained by commissioner of public works.** The commissioner of public works is hereby authorized, and as to those signs and signals required by this chapter it shall be his duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the department of public works of the commonwealth. (Rev. Ords. 1973, § 13-115; Ord. No. 90, 10-6-75)
- Sec. 19-140. Necessity for signs.** The provisions of sections 19-48 and 19-176 shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained in each block and located so as to be easily visible to approaching drivers. The provisions of sections 19-83 and 19-85 shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained at each of the exits for each street affected thereby so that at least one sign will be clearly visible for a distance of at least seventy- five (75) feet to drivers approaching such an exit. The provisions of sections 19-47, 19-86, 19-87, 19-166(m) and 19-167 through 19-172, inclusive, shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections and the locations at which they apply are erected and maintained so as to be easily visible to approaching drivers. (Rev. Ords. 1973, § 13-116)
- Sec. 19-141. Unauthorized signs, signals, markings.** No person or corporation shall place, maintain or display upon or in view of any street any unofficial device, sign, signal, curb marking or street marking which purports to be or is an imitation of or resembles an official traffic device, sign, signal, curb marking or street marking or which attempts to direct the movement of traffic or which hides from view any official sign, signal, marking or device. The chief of police is hereby empowered to remove every such prohibited sign, signal, marking or device or cause it to be removed without notice. (Rev. Ords. 1973, § 13-117)
- Sec. 19-142. Interference with signs, signals, markings.** Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal or marking shall be punished as provided in section 19-8. (Rev. Ords. 1973, § 13-118)
- Sec. 19-143. Obedience required.** No driver of any vehicle or of any streetcar shall disobey the instructions of any official traffic-control signal, sign, marking, marker or legend unless otherwise directed by a police officer. (Rev. Ords. 1973, § 13-119)
- Sec. 19-175. Angle parking.** (a) The board of aldermen shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets or cause the same to be marked or signed.  
(b) Upon streets or parts of streets which have been marked or signed for angle parking, vehicles shall be parked with one wheel within twelve (12) inches of the curb and at the angle to the curb indicated by such marks or official signs. The vehicle shall be parked so that all four (4) wheels of the vehicle shall be placed wholly within the painted lines provided. (Rev. Ords. 1973, § 13-145)
- Sec. 19-221. Signs to be erected.**  
The provisions of section 19-220 shall be effective only during such time as a sufficient number of official traffic signs bearing the legend "Tow-Away Zone" are installed, erected, maintained and located so as to be visible to approaching drivers, such signs to be appended above or incorporated into the legend of parking prohibition signs.



The utility of these two defined terms becomes clear in provisions that set out rules of the road. For example, sec. 19-76 requires drivers to obey “official signs, signals or markings” in street settings involving ramps and islands. Sec. 19-143 effectively allows drivers to disregard official signals, signs, etc. when so instructed by a police officer. In fact, the importance of these provisions is driven home by those sections that draw a distinction between official and unofficial signals, signs and so on. For example, section 19-141 prohibits the installation of unofficial signs, signals etc.; and section 19-142 punishes any person who willfully defaces, obstructs, etc. any official sign, signal and so on. In my opinion, the distinction between “official” and “unofficial” traffic equipment is an important one that should not be discarded. Thus, the word “official” is a useful provision to be retained.

In reviewing the various provisions, I am struck by a pattern whereby the word “official” appears as the lone modifier at the beginning of a string of nouns, i.e. “traffic signs, signals, markings” and so on. Given that the word “signs” between “official” and “signals,” it’s a little odd that the defined term “official traffic signs” doesn’t regularly appear in the substantive provisions. I have to conclude that the long-ago drafter was confident that the initial appearance of “official” would carry through the remaining words, without the need to repeat it.

Another peculiarity is found at section 19-143, which uses the phrase “official traffic-control signal, sign...,” rather than “official traffic signal” in accordance with the definition.

It is also notable that the provisions are somewhat variable for reasons that are not apparent. For example, section 19-142 prohibits interference with “any official traffic sign, signal or marking” but section 19-143 adds the word “legend.” By the terms of the definition, “traffic sign, official” includes markings. In my opinion, the words “markings” and “legend” fail to add any meaning in this context.

This analysis also brings to light an outdated provision of section 19-175, relative to marking streets for angle parking. As you will recall, Clint Schuckel had suggested amending the Angle Parking section to place jurisdiction in the Traffic Commission, which the Recodification Committee felt was beyond the scope of its role, in a discussion on 2/15/12. However, closer scrutiny indicates that Clint also suggested amending the text that now identifies responsibility for marking the affected streets. The current provision states that it is the Board of Aldermen that does so. This is outdated, in all likelihood harkening back to the pre-1973 Charter. This amendment appears to be within the Recod Committee’s work (see recommendation #5 below).

Finally, my research turned up some background information that explains the origins of these definitions (and many other provisions of chapter 19). Word for word, the text came from a model code. The current version, “A *Sample Regulation for A Standard Municipal Traffic Code*” is published as Appendix A to The Massachusetts Amendments to Manual on Uniform Traffic Control Devices for Streets and Highways (2003 Edition) and the Standard Municipal Traffic

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Code, which appears on Mass Highway's website at this link: <http://www.mhd.state.ma.us/downloads/trafficMgmt/MA-Amendments-MUTCD.pdf>

Conclusions/Recommendations:

1. In my opinion, the use of the descriptive "official" has legal significance, and should be retained in the definition.
2. It would be suitable to inquire of the Police Department whether any enforcement problems have arisen as a result of the drafting that separates "official" from "traffic signal."
3. Amend 19-143 by deleting "official traffic-control signal" and substituting "official traffic signal." As well, it should probably be updated by deleting the reference to "streetcar."
4. Decide whether it is worth striking the use of "markings" and "legend" from the provisions analyzed above.
5. Amend section 19-175(b) as shown below:  
 (a) The board of aldermen shall determine upon what streets angle parking shall be permitted. The commissioner of public works ~~and~~ shall mark or sign such streets or cause the same to be marked or signed.

**II. Pedestrian controls: Clint Schuckel proposed updating or deleting five provisions relative to pedestrian signals, as shown below:**

19-114	<p><b>Pedestrian actuation of traffic-control signals.</b>                  (a) At a traffic-control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button <b>or passive detection</b>, a pedestrian shall not cross a roadway unless or until the pedestrian-control-signal-push-button has been actuated and then cross only on the proper pedestrian signal indication <b>is illuminated</b>. At traffic-control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.</p>	All signals now have "walk/don't walk" pedestrian indications so some text is obsolete, passive detection (new technology) means a push button is not required.	Clint Schuckel
19-115(1)	<p><b>Obedience to traffic-control signals.</b>                  (1) Red and yellow or the word "Walk" (<b>walking man symbol</b>) <b>signal indication</b>. Whenever the red and yellow lenses are illuminated together or the single word "Walk" <b>signal</b> is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.</p>	All signals now have "walk/don't walk" pedestrian indications so red/yellow text is obsolete.	Clint Schuckel

19-115(2)	<p>(2) Red alone or "Don't Walk" (upraised hand symbol) signal indication. Whenever the red or words "Don't Walk" signal is illuminated or any indication other than red and yellow shown together are illuminated in a traffic-control signal where pedestrian indications are provided, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of the roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the "Walk" signal proper indication is illuminated in the traffic-control signal, but any pedestrian who has partially completed his crossing on the walk indication shall proceed or return to the nearest sidewalk or safety island on the flashing "don't walk" yellow indication, the red indication or when the words "Don't Walk" are illuminated by rapid intermittent flashes.</p>	<p>All signals now have "walk/don't walk" pedestrian indications so red/yellow text is obsolete.</p>	Clint Schuckel
19-115(3)	<p>(3) Green alone. At traffic-control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.</p>	<p>All signals now have "walk/don't walk" pedestrian indications so this sentence is obsolete.</p>	Clint Schuckel
19-115(4)	<p>(4) Yellow alone, red alone or flashing "Don't Walk" signal indication. Pedestrians approaching or facing a yellow, red or flashing "Don't Walk" illuminated indication shall not start to cross a roadway.</p>	<p>All signals now have "walk/don't walk" pedestrian indications so red/yellow text is obsolete.</p>	Clint Schuckel
19-115(5)	<p>(5) Flashing red, yellow or green. At any traffic-control signal location where a flashing red, flashing yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and cross the roadway only on the red yellow or walk indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.</p>	<p>All signals now have "walk/don't walk" pedestrian indication so this section is obsolete.</p>	Clint Schuckel

Analysis:

It is clear that these existing provisions also were based on a model code. The current version, "Sample Pedestrian Regulations" appears as Appendix B to the The Massachusetts Amendments to Manual on Uniform Traffic Control Devices for Streets and Highways (2003 Edition) and the Standard Municipal Traffic Code (see website reference above).

Clint suggested updating the references to "the word 'Walk'" given that current pedestrian traffic controls display symbols. The *Manual on Uniform Traffic Control Signals* (2009 edition) uses the phrases "Upraised Hand" and "Walking Person," which seem to provide useful text for the ordinances.

Clint Schuckel explained that the old Red-Yellow simultaneous display no longer exists at any Newton intersections, noting that use of “Walk” – “Don’t Walk” pedestrian signals has become the standard for intersections where motor vehicle operations are governed by a traffic signal light.

Nonetheless, in a phone interview 2/28/12, Clint noted two exceptions – Dedham and Nahanton Streets; and Dedham Street and Wells Avenue. At those locations, although motor vehicle operators are subject to traffic signals, no separate “Walk” – “Don’t Walk” equipment has been installed for pedestrians, at least not yet. Clint made clear that the City is moving toward such installation; he hopes it will be done during the 2012 or 2013 construction seasons. However, in the meantime, a pedestrian could cross with the red/green lights that are displayed for vehicles. Thus, my recommendation is to be cautious in updating the ordinances. As well, it would be helpful to draft the new provisions to facilitate further changes at the next recodification cycle.

Digging deeper into the facts about equipment, discussion with Clint revealed a few locations where flashing lights are relevant to pedestrian signals. For example, the traffic signal equipment at Waltham & Lodge Streets flashes red and yellow (red for Lodge Street vehicles and yellow for Waltham Street vehicles) until a pedestrian activates the Walk light, at which point the flashing lights change to solid display. Thus, it seems premature to remove all references to flashing lights in this context.

In my opinion, the reference to the Red/Yellow display is obsolete and should be deleted. However, in light of the circumstances described in the foregoing two paragraphs, it seems premature to entirely delete the provisions regarding “Red alone,” “Green alone” or “Flashing.” In fact, there is an additional reason that it may be suitable to retain some portion of these provisions even after all the equipment is updated: The phrase “no pedestrian indication is given or provided” would seem to allow a pedestrian to cross with the green light in the event that a pedestrian walk signal malfunctions.

Clint also recommends tweaking the text describing Walk” – “Don’t Walk” and inserting new text to recognize the use of new technology known as passive detection. In my opinion, the better way to do this may not actually involve express use of the words “passive detection.” The existing ordinances already speak to the concept that the pedestrian shall push the button “if necessary.” Thus, the draft provisions provided below are not intended to hinder the installation of passive detection.

On a related point, in reviewing the various pedestrian provisions I noted that Chapter 19 sets out two separate definitions for “pedestrian” as follows:

Section 19-1 states: *Pedestrian*: Any person afoot or riding on a conveyance moved by human muscular power, except bicycles or tricycles, as defined in General Laws, chapter 90, section 18A.

Sec. 19-112. Authority; definition.

(a) The provisions of this article are adopted pursuant to chapter 90, section 18A of the General Laws, and subject to the provisions thereof, are rules regulating the use by pedestrians of ways within the control of the city.

(b) The word "pedestrian" as used in this article shall have the meaning assigned to it in the General Laws. (Rev. Ords. 1973, § 13-93)

The two-definition situation presents the potential for confusion in enforcement. Curiously, one of the provisions defines "pedestrian" by reference to the definition in the General Laws – yet, the General Laws include at least two definitions, as follows:

G.L. chapter 90 sec. 18A (in the context of traffic safety rules)

As used in this paragraph, the word "pedestrian" shall include a person in or on any conveyance, other than a bicycle, constructed and designed for propulsion by human muscular power, as well as including a person on foot.

G.L. chapter 90 sec. 34A ( in the context of motor vehicle insurance requirements):

The term "pedestrian" shall include persons operating bicycles, tricycles and similar vehicles and persons upon horseback or in vehicles drawn by horses or other draft animals.

Conclusions/Recommendations:

1. Amend section 19-114 as shown below:

**Sec. 19-114. Pedestrian actuation of traffic-control signals.**

(a) At a traffic-control signal location where pedestrian indications are provided ~~but which are shown only upon actuation by means of a pedestrian push button, a pedestrian shall not cross a roadway unless or until the pedestrian-control signal push button has been actuated and then cross only on the proper pedestrian signal indication~~ the Walk Indication is displayed. At traffic-control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the Walk Indication or green indication shall be actuated by the pedestrian by means of a push button. (no change to (b), which requires pedestrians to yield to funeral processions and emergency vehicles)

Note: The above revisions to 19-114(a) were drafted with the goal that at a future date it may be suitable to delete the final sentence.

2. Amend section 19-115 as shown below:

**Sec. 19-115. Obedience to traffic-control signals.**

Traffic-control signal color indications and legends shall have the following commands ascribed to them and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer:

(1) ~~Red and yellow or the word~~ At locations where pedestrian indications are provided:

- a) ~~"Walk Indication."~~ Whenever the red and yellow lenses are illuminated together or the single word "Walk" Indication is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.
- b) ~~Red alone or "Don't Walk-Signal"~~ Whenever the words "Don't Walk Indication" is illuminated, ~~or any indication other than red and yellow shown together are illuminated in a traffic-control signal where pedestrian indications are provided~~, pedestrians approaching or facing such indication shall wait on the side walk, edge of the roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the ~~proper indication~~ Walk Indication is illuminated ~~in the traffic-~~

~~control signal,~~ but any pedestrian who has partially completed his crossing on the ~~W~~Walk ~~H~~indication shall proceed or return to the nearest sidewalk or safety island ~~on the yellow indication, the red indication or when the words "Don't Walk" are~~ Indication is illuminated by rapid intermittent flashes.

(2) At locations where no pedestrian indication is given or provided:

a) ~~Green. none. At traffic control signal locations where no pedestrian indication signal is given or provided, p~~ Pedestrians facing a green illuminated the signal may proceed across the roadway ~~within any marked crosswalk~~ in the direction of the green indication.

~~(4) Yellow alone, red alone or flashing. "Don't Walk."~~

b) Yellow or Red: ~~green~~ Pedestrians approaching or facing a yellow or red or flashing "Don't Walk" illuminated ~~H~~indication shall ~~not start to cross a roadway.~~ shall wait in the manner prescribed by the provisions of (1) b) relative to Don't Walk Signal.

(5) ~~Flashing red; or yellow or green.~~ At any traffic-control signal location where a flashing red; or flashing yellow ~~or flashing green~~ indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian ~~signal~~ indication and cross the roadway only on the red ~~yellow or W~~Walk ~~H~~indication ~~is in operation.~~ If no pedestrian ~~signal~~ indication is provided, pedestrians shall cross within crosswalks with due care. (Rev. Ords. 1973, § 13-96)

3. Add new definitions at section 19-1, as follows:

Sec. 19-1. Add definition for "Walk Indication" and "Don't Walk Indication."

"Walk Indication." A symbol of a walking person, or other legend that is generally understood to signify "walk."

"Don't Walk Indication." A symbol of an upraised hand, or other legend that is generally understood to signify "don't walk" or "stop"

4. Amend the definitions of "pedestrian" by striking subsection (b) of Section 19-112 (thus, relying on the definition that appears in Section 19-1):

Sec. 19-112. Authority; definition.

(a) The provisions of this article are adopted pursuant to chapter 90, section 18A of the General Laws, and subject to the provisions thereof, are rules regulating the use by pedestrians of ways within the control of the city.

~~(b) The word "pedestrian" as used in this article shall have the meaning assigned to it in the General Laws. (Rev. Ords. 1973, § 13-93)~~

**MEMO**

**March 19, 2012**

To: Chair R. Lisle Baker and Ald. Cheryl Lappin  
 From: Gayle Smalley  
 CC: David Olson, Clerk of the Board  
 Donnalyn B. Lynch Kahn, City Solicitor  
 Ouida C.M. Young, Associate City Solicitor

Analysis and recommendations are set out below for the committee’s consideration relative to these items:

- Item 16 - Parking Meter Definition
- Item 33a - Establishment of parking meter spaces
- Item 36 - Resident Sticker and Visitor Parking
- Item 37 - “ “ “ “ “
- Item 38 - Tow zones (re. Commercial parking permits)
- Item 40 - Taxi Stands

**ITEM 16: Definition of Parking Meter**

<u>Sec.</u>	<u>Problem</u>	<u>Submitted By</u>
19-1	<p>Parking meter definition uses phrase “...mechanical device.” However, the City now uses digital parking meters, and thus the suggestion has been made to amend the provision as follows:</p> <p><i>Parking meter: Any <del>mechanical</del> device, not inconsistent with the provisions of this chapter, and placed or erected on any public way or municipal off-street parking area within the city for the regulation of parking. Each parking meter installed shall indicate by proper legend the legal parking time established by this chapter, and when operated shall at all times indicate the balance of legal parking time permitted and at the expiration of such period shall indicate illegal or overtime parking.</i></p>	Clint Schuckel

Analysis, Item # 16:

Pointing out that new parking meters are digital in nature, Clint Schuckel recommended striking the word “ mechanical.” To do so would thus describe meters as, “Any device....”

Although it’s clear that meters have changed to electronic technology, I question whether there is a compelling reason to make any change. In fact, it seems that the word “mechanical” remains correct. After all, both general use and legal dictionaries make clear that the word “mechanical” refers to having the nature of machinery, tools or mechanism.<sup>1</sup> My impression is that parking meters have continued to take the form of machinery; thus, the current definition would seem to be correct and adequate.

<sup>1</sup> Merriam-Webster Dictionary (online edition) provides the following as the first definition of mechanical:  
**a** (1) : of or relating to machinery or tools <mechanical applications of science> <a mechanical genius> <mechanical aptitude> (2) : produced or operated by a machine or tool <mechanical power> <a mechanical refrigerator> <a mechanical saw>  
**b** : of or relating to manual operations

Black’s Law Dictionary (9<sup>th</sup> ed, online) provides the following definition:  
 Having relation to, or produced or accomplished by, the use of mechanism or machinery.  
 source: <http://blackslawdictionary.org/mechanical/>

Conclusion/Recommendation, Item # 16:

1. In my opinion, the suggested change to the definition is not warranted.
2. It should be noted that Item 33b, which is expected to be referred to Programs & Services Committee, also contains language about the type of parking meters. Item 33b addresses sec. 19-188(a), stating that certain meters shall be of the “automatic coin type.” I would suggest that the committee be mindful of the “parking meter” definition, amending it as necessary to insure that the provisions remain consistent.

**ITEM 33a: Establishment of parking meter spaces**

Sec.	Problem	Submitted By
19-188	<p><b>Establishment of spaces and installation of parking meters; type of meters; operation and maintenance.</b></p> <p>In light of the recent delegations of power to the Traffic Council, Clint Schuckel suggests the two changes shown below:</p> <p style="padding-left: 40px;">(a) The commissioner of public works, with the approval of the <del>mayor</del> <u>traffic council</u>, is hereby authorized and directed to establish and install parking meter spaces in the parking meter zones including curb or street marking lines, and a parking meter with respect to each such space. Such parking meters shall be in operation for the regulation of parking in such parking meter spaces during the periods specified in <u>the TPR and this chapter</u>. The commissioner of public works shall have charge of the operation of such parking meters and shall maintain the same in good workable condition.</p> <p>N.B. A separate item, “Item 33b,” pertains to the remaining text of section 19-188 (a), concerning coin denominations.</p>	Clint Schuckel

Analysis, Item # 33a:

The Law Department will provide analysis on the first of the two suggested amendments above, with regard to the role now assigned to the mayor. My analysis below addresses the second suggestion, which would insert a reference to the “TPR” (Traffic and Parking Regulations).

Section 19-188 is the first section of a string of provisions regarding parking meters (together designated Division 2 of Article VII). With the recent delegation of expanded powers to the Traffic Council, many of the general (non-site-specific) parking meter provisions were retained as part of the ordinances.

However, former sections 19-194 and 19-195, pertaining to parking meters in municipal parking lots were deleted. Substantially identical provisions now appear in the Traffic Council’s Traffic and Parking Regulations (“TPR”), as sections 194 and 195. Such TPR’s establish both the periods for operation of meters (most typically Monday through Saturday 9:00 a.m. to 6:00 p.m., but without notable exceptions, e.g. Newtonville lot meters operate on weekdays only) and the time limits (for example, in the Cypress Street parking lot 33% of the parking meters have a 3-hour limit; the remaining 67% operate with no time limit).

Thus, under the new arrangement, hours for operation of parking meters in municipal lots are established pursuant to TPR 194 and 195. As such, the suggestion that 19-188 be updated to expressly refer to the TPR is an important one in order to assure that parking tickets will have solid legal backing.



In addition, the same concept seems to apply to section 19-190, which sets out the basic and familiar rule to the effect “you will get a ticket if you park for longer than the time limit.” The actual language appears as follows:

**Sec. 19-190. Overtime parking.**

No person shall park a vehicle for a longer consecutive period than the limit specified and between the hours specified on any of the streets or parts of streets designated as parking meter zones in which parking meters and parking meter spaces are to be established pursuant to this chapter. (Rev. Ords. 1973, § 13-156)

Having established the importance of revising the provisions of 19-188 and 19-190, it is suitable to consider the best manner to draft new text. Both sections contain a reference “established pursuant to this chapter.” The obvious possibility is to insert additional words to include a reference to the Traffic and Parking Regulations. I would suggest spelling out “traffic and parking regulations” (not just “TPR”) and including a definition to describe that “traffic and parking regulations” are those adopted by the traffic council.

However, I raise the possibility that there may be a different or additional approach to this amendment. You may recall that in a memo dated 3/5/12, I raised a similar issue concerning section 19-46, which establishes the role of the Police Department to enforce the provisions of chapter 19, and further provides that the Police may deviate from the provisions of the chapter in certain circumstances. My memo noted a concern about clarity around the police role relative to the TPR, i.e. whether police enforcement was clearly authorized.

With that in mind, I raise the possibility that it may be suitable to insert new language into chapter 19 to provide a rule of construction. Such a provision would set out words to the effect that “In the construction of chapter 19, references to ‘this chapter’ shall be construed to mean the provisions of chapter 19 and the traffic and parking regulations adopted by the traffic council.”

In the course of reviewing item 33a, I noted an additional issue: Section 19-9 contains a cross-reference to section 19-194 and 19-195, which were deleted as part of the new delegation to the Traffic Council. Section 19-9 sets out the parking fines for a long list of violations, including several other provisions that were deleted as part of the Traffic Council changes.

Conclusion/Recommendation, Item #33a:

1. Update 19-188 and 19-190 to include express references to “traffic and parking regulations, and insert a new definition regarding “traffic and parking regulations.”
2. Consider adding a rule of construction to Chapter 19, to make clear that references “to this chapter” would include provisions of the traffic and parking regulations.
3. Review and update section 19-9 regarding the parking fines, relative to the types of parking regulations that have been transferred to the Traffic Council.

**ITEM 37: Resident sticker and visitor permit; municipal lot parking program.** (This item is taken out of order because of its relationship to foregoing Item 33a.)

<u>Sec.</u>	<u>Problem</u>	<u>Submitted By</u>
19-200 C(7)	<b>Resident sticker and visitor permit; municipal lot parking program.</b> In light of the recent delegations of power to the Traffic Council, Clint Schuckel suggests the change shown below: <i>C. Other Provisions Governing Resident Sticker and Visitor Permit</i>	Clint Schuckel

	<p><i>Municipal Lot Parking:</i></p> <p>...</p> <p>(7) For purposes of this section, all references to municipal parking lots or to municipal lots shall be deemed the equivalent of references to municipal off-street parking areas as may appear in chapter 19 of the Revised Ordinances <u>and the Traffic and Parking Regulations</u>. References to municipal parking lots, municipal lots or municipal off-street parking areas shall not include any parking areas adjacent to Newton public schools or within school grounds.</p>	
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**Analysis, Item # 37:**

It is clear that the drafters of this section 19-200 realized that they needed to clarify the scope of parking lots that would be involved in the overnight parking lot program. They did so by a) stating that school grounds/parking lots were not include; and b) piggy-backing on the list of municipal off-street parking areas that already appeared in the ordinances.

In the new era of Traffic Council authority, given that sections 19-194 and 19-195 have been deleted from the ordinances (for background, see Item 33a above), this provision in sec. 19-200 C (7) misses the mark (i.e. there's nothing left to piggy-back onto).

I agree with Clint that section 19-200 should be updated. His suggested language above is pretty close; I would simply suggest substituting "or" where Clint used "and." As noted above, it may also be appropriate to include a definition of "Traffic and Parking Regulations" in the definitions.

**Conclusion/Recommendation, Item #37:**

1. Amend section 19-200 C (7) by adding the phrase "or the Traffic and Parking Regulations."
2. Add a definition for "Traffic and Parking Regulations" to section 19-1.

**ITEMS 36 and 40: References to Traffic Engineer**

<u>Sec.</u>	<u>Problem</u>	<u>Submitted By</u>
19-200; 19-305	<p>Two separate provisions, each referring to the Traffic Engineer, have been identified. Each item is shown below, with Clint Schuckel's suggested changes:</p> <p><u>Item 36-</u> Section 19-200 A(4)a);</p> <p><b>Resident sticker and visitor permit; municipal lot parking program.</b></p> <p><i>A. Resident Sticker Parking</i></p> <p>...</p> <p>(4) The number of resident parking stickers issued to a resident shall be limited as follows:</p> <p>a) Any dwelling unit which has on the property upon which the unit is sited a curb cut and either a garage or some other space, driveway or area suitable for parking one or more cars shall have the maximum number of parking stickers available under the ordinance reduced by the number of spaces on the property.</p> <p>The determination of the number of available parking spaces shall be made by the <del>city traffic engineer</del>, <u>commissioner of public works or designee</u> who shall visit each site on an application-made basis and report his findings to the police department before a parking sticker is</p>	Clint Schuckel

	<p>issued to the resident. An available parking space shall be any on-site parking area measuring twenty (20) feet by eight (8) feet.</p> <p><u>Item 40- Section 19-305(d)</u>  <b>Taxi stands.</b>          ...          (d) All taxi stands designated by the board of aldermen shall be duly posted and marked by the <del>traffic engineer</del> commissioner of public works.</p>	
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Analysis, Items # 36 and 40:

As a general principle, although ordinance provisions may refer to department heads, it is problematic to include references to subordinate employees. The rules of construction set out at ordinance section 1-3 include the following provision:

*Delegation of authority.* Whenever a provision appears requiring the head of a department or other officer of the city to do some act or perform some duty, or granting some right to him as such official, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty, or it shall grant to them such right, unless the terms of the provisions designate otherwise.

Thus, given the public works jurisdiction over streets and traffic control matters (see sections 25-1 and 25-3) it would be appropriate for these two provisions to refer to the public works commissioner. In light of the fact that section 1-3 generally authorizes department heads to delegate duties to subordinates, it would not be suitable to include a reference to “designee.”

Conclusion/Recommendation, Items #36 and 40:

1. Update section 19-200 A(4)a) as follows:

The determination of the number of available parking spaces shall be made by the ~~city traffic engineer~~, commissioner of public works who shall visit each site...

2. Update Section 19-305(d) as follows:

(d) All taxi stands designated by the board of aldermen shall be duly posted and marked by the ~~traffic engineer~~ commissioner of public works.

**ITEM 38: Tow zone provisions – commercial permit parking**

<u>Sec.</u>	<u>Problem</u>	<u>Submitted By</u>
19-219(10)	Tow zone provisions contain “ghost reference” to former section 19-205, regarding commercial parking permits/prepaid community parking permits.	Clint Schuckel

Analysis, Item # 38:

Section 19-219 sets out a list of general tow zones. e.g. parking upon a sidewalk, parking within 10 feet of a fire hydrant and so on.

In 2009, Ordinance Z-40 created section 19-205, “Commercial Parking Permit program,” allowing certain parking arrangements for local businesses in certain municipal parking lots. Twice the program was amended, and even re-named as “Prepaid Community Parking Permits” (see Z-53 and Z-63). In 2011, Ordinance Z-84 deleted section 19-205 in its entirety.

As part of the commercial parking permit program, Z-40 had inserted a tow zone penalty for vehicles parked in violation thereof, which was inserted as new paragraph (10) of section 19-219. However, when Ordinance Z-84 ended the program, drafters simply overlooked the need to delete the associated tow zone provision. That “ghost reference” serves no purpose and should be deleted.

Conclusion/Recommendation, Item #38:

1. Delete paragraph (10) of Sec. 19-219.

**MEMO**

**March 5, 2012**

To: Chair R. Lisle Baker and Ald. Cheryl Lappin

From: Gayle Smalley

Re: Items 29 and 41, and related items involving Traffic Council

In preparation for the upcoming meeting, I am providing this memo presenting analysis and recommendations for issue involving the increased role of the Traffic Council.

cc. David Olson, Clerk of the Board  
 Donnalyn B. Lynch Kahn, City Solicitor  
 Ouida C.M. Young, Associate City Solicitor

ITEM 29 from Table of Suggested Corrections:

<u>Section</u>	<u>Problem</u>	<u>Submitted By</u>
19-140	<p><b>Necessity for signs.</b>                      The provisions of sections 19-48 and TPR19-176 shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained in each block and located so as to be easily visible to approaching drivers. The provisions of sections TPR19-83 and TPR 19-85 shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained at each of the exits for each street affected thereby so that at least one sign will be clearly visible for a distance of at least seventy- five (75) feet to drivers approaching such an exit. The provisions of sections 19-47, TPR 19-86, TPR 19-87, 19-166(m) and 19-167 through 19-171 and TPR-172, inclusive, shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections and the locations at which they apply are erected and maintained so as to be easily visible to approaching drivers.</p>	Clint Schuckel

Analysis, Item #29:

Ordinance Z-12, dated 12/3/2007 delegated certain rule-making authority to the Traffic Council. As part of the change, Ordinance Z-12 deleted a number of ordinance sections. In this item, Clint Schuckel points out that section 19-140 includes references to ordinance sections that no longer exist. Section 19-140 itself governs the placement of signs to inform motorists, specifying the required location and frequency of signs in the field.

The vestigial references within section 19-140 are as follows:

- Section 19-83, Heavy vehicle exclusions
- Section 19-85, One-way streets
- Section 19-86, U-turns
- Section 19-87, Left turns prohibited
- Section 19-172, Loading zones
- Section 19-176, Parking regulations

During the intervening years, the Traffic Council adopted corresponding provisions for each of these sections. Indeed, the regulations adopted by the Traffic Council under its new powers have continued the familiar numbering system, with the addition of a prefix “TPR” (an abbreviation for “Traffic and Parking Regulation”). Thus, for example, the Traffic Council adopted TPR-83 governing heavy vehicle exclusions.

I agree with Clint’s recommendation that section 19-140 be updated. However, in my opinion it would be preferable to avoid writing ordinances that depend on a numbering system currently used by the Traffic Council, which may change in the future.

Revisions to section 19-140 are especially tricky because a) some of the ordinances referenced therein do not require any change; and b) it’s a run-on provision that already is difficult to read. My recommendation below involves breaking the provision into new subsections and flipping the order of each sentence, all with the goal of greater clarity.

Related issue – provisions that may be indirectly affected by the new role of the Traffic Council:

In reviewing Item 29, my attention was drawn to section 19-46, which both establishes the role of the Police Department to enforce the provisions of chapter 19, and further provides that the Police may deviate from the provisions of the chapter in certain circumstances, e.g. emergency, or to safeguard pedestrians and so on. Recognizing the crucial importance of this provision, I invite a discussion about whether there is a need to amend this section (or any other section) to recognize the Police role in enforcing (or not enforcing) the Traffic Council’s regulations.

Conclusions/Recommendations relative to Item #29:

1. In light of the analysis above, I would recommend that section 19-140 be revised to use descriptive language regarding the Traffic Council’s regulations. To clarify: This is not intended as a policy change. Rather, it would involve inserting descriptive words, instead of references to section numbers.

<p>Sec. 19-140 Existing text (now appears as one long paragraph)</p>	<p>Proposed Text:</p>
<p>The provisions of sections 19-48 and 19-176 shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained in each block and located so as to be easily visible to approaching drivers.</p>	<p>(a) The following provisions shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained in each block and located so as to be easily visible to approaching drivers: (1) Traffic Council regulations governing parking of vehicles on streets; (2) Temporary parking prohibitions established pursuant to section 19-48.</p>
<p>The provisions of sections 19-83 and 19-85 shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and</p>	<p>(b) The following provisions shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections are erected and maintained at each of the exits for each street affected thereby so that at least one sign will be clearly visible for a distance of at least seventy- five (75) feet to drivers approaching such an exit:</p>

<p>maintained at each of the exits for each street affected thereby so that at least one sign will be clearly visible for a distance of at least seventy- five (75) feet to drivers approaching such an exit.</p>	<p>(1) Traffic Council regulations prohibiting the use or operation of heavy vehicles operation; (2) Traffic Council regulations requiring one-way operation of vehicles.</p>
<p>The provisions of sections 19-47, 19-86, 19-87, 19-166(m) and 19-167 through 19-172, inclusive, shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections and the locations at which they apply are erected and maintained so as to be easily visible to approaching drivers. (Rev. Ords. 1973, § 13-116)</p>	<p>(c) The following provisions shall be effective only during such time as a sufficient number of official signs designating the provisions of such sections and the locations at which they apply are erected and maintained so as to be easily visible to approaching drivers: (1) Temporary regulations, including street closings, established pursuant to section 19-47; (2) Traffic Council regulations governing U-turns; (3) Traffic Council regulations prohibiting left turns; (4) Bridge parking prohibitions pursuant to section 19-166(m); (5) Safety zone parking prohibitions pursuant to section 19-167; (6) Traffic Council regulations limiting length of time vehicles may be parked in municipal off-street parking areas; (7) Bus stop parking restrictions pursuant to section 19-170; (8) Taxicab stand parking restrictions pursuant to section 19-170(a); (9) Bus stop parking restrictions pursuant to section 19-170; (10) Traffic Council regulations governing loading zones.</p>

2. With regard to Section 19-146, and the role of the Police Department, I recommend a discussion within an upcoming meeting. It will be helpful to consider whether any change is warranted to section 19-146, or any other section that may be indirectly affected by the new role of the Traffic Council.

ITEM 41 from Table of Suggested Corrections:

<u>Section</u>	<u>Problem</u>	<u>Submitted By</u>
19-35	Transitional Provisions – Traffic Council	Clint Schuckel

Analysis, Item #41:

Ordinance Z-12 included the adoption of Section 19-35, Transitional Provisions. The sole purpose of that section was to establish jurisdictional rules for those traffic and parking docket items that were pending at the time Z-12 was adopted – in other words, to make clear which body would have jurisdiction to act on pending petitions.<sup>1</sup> So long as all

<sup>1</sup> **Section 19-35 Transitional Provisions**

Traffic and parking agenda items relating to particular locations which are pending before the board of aldermen and/or the traffic council on the effective date of this amendment shall be processed as

such docket items have received final action, it seems quite clear that Section 19-35 may be struck from the published ordinances.

In reviewing the new Traffic Council provisions, I also note the transitional provisions that appear in section 19-27(b) and (c).<sup>2</sup> In my opinion, the provisions of subsection (c) should be deleted from the Ordinance. As for subsection (b), I invite a discussion whether it should be deleted or edited, given the fact that the 180-day period long ago passed. In addition, I would recommend including a historical note relative to any such changes.

Finally, I also note some awkward language that appears in section 19-29(c)(2). The reference therein to "Massachusetts Department of Transportation" should instead refer, I believe, to Massachusetts Department of Highways. See G.L. chapter 85 sec. 2. For consistency, it would be preferable to use the phrase, "regulations governing the use or operation of heavy commercial vehicles" instead of "truck exclusions."

Conclusions/Recommendations relative to Item #41:

1. So long as Mr. Olson is able to confirm that all affected docket items have made it through the Traffic Council and Board of Aldermen's dockets, I recommend deletion of section 19-35 from the upcoming recodified ordinances.
2. Delete subsection 19-27(c); and discuss whether it is suitable to retain some portion of subsection 19-27(b).
3. Amend 19-29(c)(2) as described above, to reflect the correct state agency name and the terms of art relative to "heavy vehicles."

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follows:

- a) Pending items which have been docketed on the board of aldermen's agenda and referred to the traffic council shall remain under the jurisdiction of the traffic council and shall be removed from the docket of the board of aldermen.
- b) Pending docket items which the traffic council has already considered and for which it has submitted recommendations to the board of aldermen, acting through the public safety and transportation committee, shall be decided by the board of aldermen in the same manner as an appeal pursuant to Section 19-33 d).
- c) Pending traffic and parking docket items on the agenda of the board of aldermen's public safety and transportation committee which have not been before the traffic council shall be considered on a case-by-case basis by the committee at the start of the 2008-2009 board year. Any such item determined by the committee to relate to a particular location shall be transferred to the jurisdiction of the traffic council and removed from the docket of the board of aldermen. Any such item determined by the committee not to relate to a particular location shall remain under the jurisdiction of the board of aldermen.

<sup>2</sup> The relevant provisions of Section 19-27 provide:

- b) Not later than one hundred eighty (180) days from the effective date of this ordinance, the traffic council shall adopt and publish, in such format as it deems appropriate, Traffic and Parking Regulations.
- c) Upon the effective date of this ordinance, the provisions of the following sections of the Revised Ordinances shall be adopted as Traffic and Parking Regulations, which shall be in effect until the traffic council adopts and publishes Traffic and Parking Regulations as provided in paragraph b) above... (a list of provisions follows)



From Ouida Young  
Veterans and Handicap Plates and Placards

A quick look at the Registry suggests that there are both plates and placards used for handicapped persons, but just plates for disabled vets.

Regarding Sec. 19-197, I think the fix is to change the title to "Disabled veterans and handicapped persons",

and then change the phrase "bearing the distinctive number plates" to "bearing the distinctive handicap placards/plates".

The fix for Sec. 19-199 is more complicated. In (a), the phrase "distinguishing license plate" to "distinguishing placard/plate". Similarly, in (c), the word "placard" should be added to the parathetical phrase, so that it would read "(lacking an HP/V placard/plate)"

I note that on the Registry's website's FAQ on these placards/plates, the Registry uses the "/" in between placard and plate. So, I'm suggesting we follow that convention.

The language about signage in 19-199(b) is current, i.e., that's the exact wording of the signs we now use. We've been updating our signs in muni lots this spring, but many of the spaces out there, public & private included, just have an HP logo on the sign, not the words in 19-199b.

The only record correction for 19-199 is the placard/plate edit we discussed.

However, Clint also pointed out that that same correction needs to be made in 19-178 (a)(1) & (2). I'm not sure that's entirely correct because I think that (a)(1) deals with plates, and then (a)(2) is really talking about the placards. I think I'd suggest keeping (a)(1) as it currently reads and changing (a)(2) as follows: delete "special handicapped parking identification plate" and replace with "handicapped placard"

We need to do the same sort of correction at 19-226(a) which also references "special handicapped parking identification plate". That phrase should be replaced with "handicapped placard". Also, further in (a) there is a reference to official identification of a handicapped person issued by any other state. We need to add after "state" the phrase "or any Canadian Province" if we want to make this section parallel with the text of 19-178(a)(3).



**MEMO**

**April 10, 2012**

To: Chair R. Lisle Baker and Ald. Cheryl Lappin, Recodification Committee

From: Gayle Smalley

CC: David Olson, Clerk of the Board  
Donnalyn B. Lynch Kahn, City Solicitor  
Ouida C.M. Young, Associate City Solicitor

Re: Item 64 - Review Chapter and Section headings  
Item 66 – Chapter 20

\* \* \* \* \*

**ITEM 64:** This item responds to the Committee’s request for review of the headings (captions or titles) that are used for the chapters and sections. Chapters, sections, and articles are discussed below:

***I. Chapter organization:***

Twenty-nine chapters appear within the book (Chapter 7 is reserved), with a huge variation in length. For example, Chapter 6, “City Clerk” takes less than one page, with Chapter 30, “Zoning” spanning more than one hundred pages.

Chapters are organized by subject matter. However, the type of subject matter varies greatly.

- In some cases, a chapter subject includes all ordinance provisions relevant to a particular city department, such as Chapter 12, “Health & Human Services” and Chapter “Library.”
- However, some departments function under multiple chapters. For example, the Public Works Department looks to at least four chapter for its daily operations: Chapter 19, “Motor Vehicles and Traffic,” Chapter 25, “Public Works Department,” Chapter 26, “Streets and Sidewalks” and Chapter 29, “Water, Sewer & Drains.”
- Some chapters set out provisions relevant to multiple, or even all departments. In particular, chapter 2 “Administration” sets out the citywide payroll schedules and procedures. That same chapter also includes the provisions governing operation of particular departments, including Purchasing, Human Resources, Collector-Treasurer and Comptroller of Accounts. Finally, chapter 2 also includes many of the City’s boards and commissions (see comment below).
- A kinship is shared by Chapter 20, “Offenses and Miscellaneous Provisions” and Chapter 17, “Licensing and Permits.” These two chapters prescribe rules of conduct and permit fees for many departments.

Thus, the chapters are organized around various unifying concepts with a large dose of expediency. Nonetheless, my review of the organization leaves me feeling rather impressed by the overall approach. There are good reasons for placing related provisions together. The number of chapters seems just about right. In my opinion the overall organization reflects a practical and workable approach.

One potential issue is found in the list of boards and commissions that appear as part of Chapter 2. Over the years, that list has grown longer, now consisting of eight separate bodies, printed on about nine pages. Now it becomes worth considering breaking out those provisions (now appearing as sections 2-264 to 2-362) for placement into a new chapter. If that is done, it would be important to bring along the governance provisions that apply to all

boards and commissions, which are now set out at section 2-8. Those governance provisions cover subjects such appointments, vacancies and changes of residency.

Thoughts about the overall numbering scheme:

If we were to begin establishing a system of Newton ordinances today, it is likely that we would begin our new ordinance system with a different numbering system.

Perhaps we would use a decimal-based outline such as has become a familiar standard for contracts and many other documents. With such an approach, the number 1 is assigned to the first large category, and then 1.1 is used to mark the next division, continuing on to greater detail designated as 1.11, and so on. One striking advantage would be that the numbers would make clear at a glance how each section or provision relates to the article, chapter and to the whole ordinance. See the related discussion on page 4 about the use of Articles within the chapters.

**II. Section headings and organization:**

My analysis of the section headings falls into three categories, discussed below:

a) Utility of the section headings:

Reviewing the overall use of section headings, I am struck that they provide a great deal of utility to a reader of the hard copy ordinances. Running one’s eyes down any page of the ordinances, the bold section headings serve as useful headlines, helping to navigate along and find the section one is looking for. In fact, many of the headings could alert a reader to other relevant provisions.

These are examples of well-drafted and informative headings:

- Sec. 2-48, Use of special leave for absence for religious observances;
- Sec. 2-106, Custody of bonds;
- Sec. 21-9, Climbing, posting bills on trees;
- Sec. 23-4, Installation of wires to carry current into buildings

At the same time, it is worth considering how a user of the internet version might approach the ordinances. Surely for some internet users, the section headings could be useful; however, given the facility of an electronic word search, the headings may well be less prominent to someone who accesses the ordinances via the internet.

b) Accuracy of the section headings:

My review included a spot check of the accuracy of the section headings. Overall, I found them to be quite accurate, although I did note several headings that merit correction/improvement. The following table is intended to provide examples of poor section headings:

<u>Existing heading</u>	<u>Comment</u>	<u>Suggested revision</u>
Sec. 5-55, Composition, appointment and compensation of members.	Problem: “compensation” is flat out incorrect  In this section relating to the Design Review Committee, the heading refers to “compensation.” However, sec. 5-55 does not include any mention of compensation, although compensation is mentioned in section 5-55 (that the members serve without compensation)	Sec. 5-55. Composition and appointment of members.

	appear in the following section	
Sec. 5-57, Other provisions.	Problem: Weak heading provides no useful information  This section, also pertaining to Design Review Committee, allows public organizations (non-city) to submit themselves to jurisdiction of design review committee. The main provisions relate to municipal facilities.	Sec. 5-57. Jurisdiction concerning other public and quasi-public facilities
Sec. 2-108, Payroll	Problem: Weak heading, could be better.  While this heading isn't all that bad, it could provide more descriptive information.	Sec. 2-108, Payroll schedules and procedures.
2-186, Same – Powers and duties generally	Problem: Use of “Same” as subject matter.  See discussion below about “same” headings	(See discussion below for recommendation)
2-133, Official bond, custodian of money, etc.	Problem: Use of “etc”  See discussion below about “etc” headings	(See discussion below for recommendation)

Recommendations: With regard to the first three examples, I recommend that further attention be put to correcting the occasional incorrect heading, and making all headings as informative as possible.

The final two examples are discussed below:

c) “Same” and “etc” as they appear in section headings:

Looking over the section headings throughout the ordinances, I was struck by a pattern of “Same” and “etc.” as terms that appear here and there throughout the headings. In the table above, the final two items illustrate examples of that pattern.

It appears that all the usages of “Same” and “etc” can be traced back to the 1973 overall organization, which was created by the Municipal Code Corporation. None of the newer provisions seem to include these terms.

Digging deeper into the usages of “Same” and “etc,” it seems that the concept behind their use can be explained by these two examples:

Example 1: “Sec. 2-186, Same – Powers and duties generally” follows after a provision that bears the heading, “Sec. 2-185, Purchasing agent – functions; bond required.” Thus, the word “Same” was inserted rather than repeating the words “Purchasing agent.”

Example 2: Sec. 2-133, The title, which includes “etc,” appears at the top of a section setting out a meaty paragraph about the collector-treasurer’s role, as follows:

**Sec. 2-133. Official bond; custodian of money, etc.**

The city collector-treasurer shall give bond, with sufficient sureties, to the satisfaction of the mayor, for the faithful performance of his duties as treasurer and collector. He shall receive, receipt for and have the care and custody of the current funds of the city and of all money, property and securities which may be in his charge by virtue of any law, ordinance, gift, devise, bequest or deposit. He shall negotiate all

loans authorized by the board of aldermen and shall sign all bonds, notes and certificates of indebtedness issued for such loans. (Rev. Ords. 1973, § 2-185)

Thus, the various provisions of sec. 2-133 require a bond, and establish the collector-treasurer as custodian of money, as noted in the heading. The provisions also a) establish the collector-treasurer's role regarding property and securities, b) appoint collector-treasurer to negotiate loans, and c) to sign bonds, notes and certificates of indebtedness. The drafter who inserted "etc" must have concluded that it was impossible to adequately catalog all these roles of the collector-treasurer into a single heading (to do so could make the heading as long as the section's text).

Recommendations: The inclusion of "Same" in section headings strikes me as a little confusing, and just not very helpful. It can mean that a reader must flip back a page to find the phrase that "Same" represents. A hasty reader might end up overlooking the section that he was looking for. Thus, it seems that it would be worth updating each use of "Same" to the relevant term. In other words, my recommendation is that it is worth repeating a word or phrase, such as "Purchasing Agent."

With regard to the usage of "etc," the heading manages to cue a thoughtful reader that this paragraph contains more than just the items specifically called out in the heading. Thus, I would recommend keeping "etc." wherever it occasionally appears in the headings.

**III. Article structure:**

In reviewing the section and chapter headings my attention was drawn to the system of articles. Except in the shortest chapters (e.g. Chapter 6, "City Clerk," Chapter 15, "Law Department," and Chapter 16, "Library") sections are classified into articles.

My review suggests that articles serve as an extremely useful form of organization, serving to organize the sections into subject-based groups. The existence of articles cues readers to review the related sections that appear within the article, not just a particular section.

The downside to this structure is that the article headings are easily overlooked. Except for lawyers and the experienced, readers who look up particular section may well fail to notice an article heading that appears on a prior page, as it so often does. Users who reach a particular section by means of an internet search are also unlikely to understand that it is advisable to read the article as a whole.

I find myself wondering this problem might be solved by a word processing style/technique or other "printing" approach. In other words, is there a way to present the article heading on the written page (or screen) in a manner that stays visible throughout the article? As well, the discussion above about the overall numbering system (see page 2) is directly related to this challenge. Among the advantages of a decimal-based outline system is that it makes clear the hierarchical relationships among the various sections.

**ITEM 66: Chapter 20:**

In committee meetings, issues have been raised about Chapter 20, "OFFENSES AND MISCELLANEOUS PROVISIONS." If I understood correctly, there is some concern whether the title is effective, and/or whether the word "miscellaneous" serves as an appropriate description.

Most of the provisions of Chapter 20 set out rules for residents and citizens, e.g. rules restricting noise; rules prohibiting smoking and alcohol consumption at certain locations; restricting removal of private trees, except by permit. One article captioned "Miscellaneous" includes a wide variety of provisions, such as prohibition of littering, prohibition of posting

written materials on city property, and games of chance on city property. Article III describes the City's program for "Civil Fines/Non-Criminal Disposition," i.e. ticketing for certain violations, listing fine amounts and personnel involved with such enforcement. Although that article takes a procedural approach, it is nonetheless directly involved with the enforcement of offenses.

Of the ten articles within Chapter 20, three were created within the recent five-year cycle (Art. VIII. "Vacant Buildings," Art. IX. "Scenic Roads" and Art. X. "Regulation of Public Trees"). It's worth considering whether Chapter 20 is becoming too long. Upon publication of the upcoming 2012 Ordinances, chapter 20 will consist of ten articles, and weigh in at more than 40 pages.

I also want to ask the question whether readers would find the ordinances more understandable if any of the Chapter 20 provisions were placed into a different chapter, either an existing chapter or a new one. Many approaches come to mind – for example, there is some logic in placing the Scenic Roads provision into Chapter 22, in connection with existing provisions regarding the Planning and Development Board. Another approach could be based on the logic in placing together the provisions about Light and Noise. Or it's equally logical to put together a) Tree Preservation, b) Regulation of Public Trees and c) Scenic Roads to create a chapter "Trees and Scenic Roads." Whether it's worth breaking Chapter 20 into pieces now is a matter of discretion. It is worth noting that these articles are clearly labeled and each of them tends to be quite well organized.

Interest was expressed in reviewing the chapter title – might there be a more suitable word than "Offense?" The Cambridge ordinances caption a roughly corresponding chapter as "Public Peace, Morals and Welfare." A quick review of Roget's (online) Thesaurus yields these synonyms for the noun "offense": *breach, crime, delinquency, fault, infraction, lapse, malfeasance, misdeed, misdemeanor, peccadillo, sin, transgression, wrong, wrongdoing.*

With regard to the inclusion of the word "Miscellaneous," it seems an accurate description of the whole chapter. Looking to the various provisions, none of them are substantial enough to constitute chapters on their own (although several could be combined to make a new chapter, as described above). Thinking about synonyms for "miscellaneous" Roget's (online) Thesaurus provides these words: *assorted, confused, conglomerate, different, disordered, disparate, divergent, divers, diverse, heterogeneous, indiscriminate, jumbled, many, mingled, mixed, motley, muddled, multifarious, multiform, odd, promiscuous, scattered, scrambled, sundry, unmatched, unsorted, varied, variegated.*"

In my opinion, the existing title "Offenses and Miscellaneous Provisions is adequate. Indeed, I do not see a better alternative.





MEMO

May 11, 2012

To: Chair R. Lisle Baker and Ald. Cheryl Lappin  
From: Gayle Smalley  
CC: David Olson, Clerk of the Board  
Donnalyn B. Lynch Kahn, City Solicitor  
Ouida C.M. Young, Associate City Solicitor

Re: Section 20-53

\* \* \* \* \*

Background:

Section 20-53, which purports to regulate excavation hazards, was noticed in the course of reviewing the overall organization of Chapter 20. This memorandum is provided to address the question of whether sec. 20-53 has been superseded by recent statutory and ordinance amendments.

Analysis:

Existing section 20-53 provides as follows:

**Sec. 20-53. Excavations; protection, erection of barriers.**

Every owner of land that has been excavated shall, within five (5) days after being notified in writing by the mayor and the board of aldermen, acting by its president pursuant to a vote of the board, that in their opinion such excavation constitutes a hazard to public safety, erect barriers or take other suitable measures to eliminate such hazard. Whoever violates the provisions of this section shall be liable to a penalty not exceeding two hundred dollars (\$200.00) for each offense. (Rev. Ords. 1973, § 14-4; Rev . Ords. 1995, § 20-4)

*Recent changes in state law and ordinance:*

In 2002, the Massachusetts General Court adopted G.L. chapter 82A, known as “Jackie’s Law.” The new statutory scheme generally prohibits excavators from leaving open trenches unattended, and charges cities and towns with administering a permitting system. The Massachusetts Department of Public Safety has adopted regulations further specifying the requirements upon excavators. 520 CMR 14.00 *et seq.* Under the new regulatory scheme, excavators are required to place 3/4” steel plates over unattended trenches, or to place 6’ high barricades.

The regulations also set out the requisites for a municipal permitting system, requiring each city and town to designate one board or officer to issue permits for the excavation of trenches on private and municipal land. Newton responded by adopting Ordinance Z-33, amending section 25-1 to designate the Commissioner of Public Works “as the Permitting Authority to issue permits for the purpose of creating a trench...”

Ordinance sec. 20-53 places the Board of Aldermen and Mayor in the position of resolving excavation hazards. Under the ordinance, the City’s enforcement would take a remarkably leisurely approach, requiring a docket item and vote by the Board.

Given the changes in state law and the corresponding amendment to sec. 25-1, it appears that section 20-53 serves no useful public policy. Indeed, I have some concern that the existence of sec. 20-53 could become the source of confusion or distraction. For example, in the course of an enforcement action by Newton’s DPW under the state regulations, an excavator could claim that the City has failed to observe the process required by sec. 20-53. It is also noteworthy that section 20-53 envisions an unusual role for the Board of Aldermen, a regulatory/policing one, which likely dates back to the pre-1971 Charter.

Recommendation: Subject to review by the City Solicitor, I would recommend that section 20-53 be deleted as part of the recodification.



MEMO

May 14, 2012

To: Chair R. Lisle Baker and Ald. Cheryl Lappin
From: Gayle Smalley
CC: David Olson, Clerk of the Board
Donnalyn B. Lynch Kahn, City Solicitor
Ouida C.M. Young, Associate City Solicitor

Re: Use of the word "Code" in the ordinances

\* \* \* \* \*

Background:

In a prior committee meeting, it was noted that while the phrase "Newton Code" appears as the header on all pages of the ordinances, city officials rarely, if ever, use the term to refer to the ordinances. A suggestion was made to delete "Code" as part of the current review and recodification.

Analysis:

The word "Code" appears as a defined term with Section 1-3, as follows:

Sec. 1-3. Rules of construction.

In the construction of the Revised Ordinances, and of all other ordinances, the following rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the board of aldermen or the context of the ordinance:

City. The word "city" shall mean the City of Newton.

Code or this Code. Unless indicated to the contrary, the term "Code" or "this Code" shall mean the Revised Ordinances referred to in section 1-1.

...

However, a separate section, sec. 1-1 serves to set out the official title for the ordinances. Sec. 1-1 is updated for each recodification cycle. The current (2006) version provides as follows:

Sec. 1-1. Citation and effect of Revised Ordinances.

The ordinances contained in this chapter and in the chapters following, together with all amendments thereof, herein sometimes called the "Revised Ordinances," shall constitute and be designated as "The Revised Ordinances of Newton, Massachusetts, 2006," and may be so cited. So far as their provisions are the same in effect as those of previously existing ordinances, they shall be construed...

Accordingly, under section 1-1, in a court of law or other formal setting, the proper term is "Revised Ordinances" or "The Revised Ordinances of Newton, Massachusetts, 2006." As well, the titles that appear in the Table of Contents and on the first page of ordinances do not employ the word "Code."

In considering any such change, it is prudent to check for any potential use of "Code." My work has included reviewing each chapter, using a Microsoft Word's search mechanism. Although the word "code" or "Code" appears throughout the book, all but two instances refer to some other code, such as the Internal Revenue Code, Building Code, or the Code of Massachusetts Regulations. Attached to this memo is a list of "hits" from all thirty chapters.

As noted, the current ordinances do include two uses of "Code" to refer to the ordinances. These two provisions, which would require revision in the event of the proposed deletion, are found in chapters 9 and 24, as follows:

1. Chapter 19, as follows:

**Sec. 19-166. General provisions.**

Except as provided in section 26-16 no person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road, parkway or private way dedicated to the use of the public in violation of any of the provisions of this code and in particular in any of the following places except when necessary to avoid conflict with other traffic or in compliance with the direction of any police officer, traffic sign or signal:

(a) Within an intersection, except within those intersections where the installation of parking meters has been specifically approved by the Massachusetts department of public works.

(b) Upon any sidewalk.

(c) Upon any crosswalk.

...

(section 19-166 continues the list of general parking taboos – fire hydrants, bridges, more than 12” from curb and so on)

2. Chapter 24: The word “Code” appears in a cross-reference footnote, which is linked to the title of the chapter, “Police” as follows:

**Cross references**—General penalty for code violation, § 1-6; weekly reports of junk dealers required to be filed with police department, § 17-84; motor vehicles and traffic, Ch. 19; offenses and miscellaneous provisions, Ch. 20 (emphasis added)

Continuing the search for related appearances of “Code,” I also spot-checked the provisions of several chapters of the General Laws. For example, chapter 4, sections 6 and 7 set out rules of construction and defined terms; chapter 40 and related chapters set out powers of cities and towns, and other provisions affecting municipal operations. While the term “ordinance” is found throughout these statutory chapters, I did not locate any use of “Code” in a municipal context.

Finally, I reviewed the provisions of the City Charter. In particular, section 11-4 compels recodification on a five-year cycle.<sup>1</sup> However, “Code” is not found within the provisions of sec. 11-4, nor of any other section of the City Charter.

In conclusion, I do not see any legal impediment to deleting the usage of “Code.” Doing so would raise a related question – Whether it is advisable to insert a new definition in its place, perhaps “ordinances” or some other term? In my opinion, the use of the word “ordinances” is plain as a result of section 1-1 and other sections. Thus, it seems unnecessary to include any new definition.

Recommendation:

1. Amend section 1-3, by deleting the definition for “Code.”

2. Amend section 19-166, as follows:

Except as provided in section 26-16 no person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road, parkway or private way dedicated to the

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<sup>1</sup> Section 11-4 appears in the City Charter as follows:

**Sec. 11-4. Reenactment and Publication of Ordinances.**

The Board of Aldermen shall, not later than one year after the charter is adopted and at five-year intervals thereafter, cause to be prepared by a special committee of the Board of Aldermen appointed for that purpose, a proposed revision or recodification of all ordinances of the City which shall be presented to the Board of Aldermen for reenactment. Such revisions or recodifications shall be prepared under the supervision of the City Solicitor, or if the Board of Alderman so direct, by special counsel retained for that purpose.

use of the public in violation of any of the provisions of ~~this code~~ these ordinances and in particular in any of the following places except when necessary to avoid conflict with other traffic or in compliance with the direction of any police officer, traffic sign or signal:

3. Amend Chapter 24's footnote, as follows:

~~Cross references~~—General penalty for ~~code~~ ordinance violation, § 1-6;

Attachment (list of "Code" as it appears throughout chapters 1 to 30)

Occurrences of the word “Code” throughout the Newton ordinances  
(searched May 11, 2012)

1. Sec. 1-6 (definitions)

**Sec. 1-3. Rules of construction.**

In the construction of the Revised Ordinances, and of all other ordinances, the following rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the board of aldermen or the context of the ordinance:

*City.* The word "city" shall mean the City of Newton.

*Code or this Code.* Unless indicated to the contrary, the term "Code" or "this Code" shall mean the Revised Ordinances referred to in section 1-1.

...

2. Parking rules -

**Sec. 19-166. General provisions.**

Except as provided in section 26-16 no person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road, parkway or private way dedicated to the use of the public in violation of any of the provisions of this **code** and in particular in any of the following places except when necessary to avoid conflict with other traffic or in compliance with the direction of any police officer, traffic sign or signal:...

(emphasis added)

3. Chapter 24 – Cross reference to section 1-6 (linked to the chapter heading “Police” on first page of chapter)

“Non-occurrences”, i.e. irrelevant uses of “code” to refer to some other source of law:

1. Headers throughout the chapters contain “Code”
2. To refer to “Internal Revenue Code” -
  - 2-117, Sudan investment regulation
  - 27-21, Financial eligibility for participation in Senior Citizen Volunteer Program in exchange for property tax reduction
3. To refer to “applicable code,” “applicable codes” and “applicable health, building and fire codes” and the like -
  - 5-17, skills required of ISD inspectors
  - 17-6(b), electrical inspection fees, re-inspection due to non-compliance with “applicable code”
  - 17-6(c) plumbing inspection fees, same as prior item
  - 30-8(b)(10), Special permits in single residence districts, conversions to multi-family must comply with “applicable health, building and fire codes”
  - 30-8(d)(1) d), Accessory apartments in single residence districts – exterior alterations required to meet “applicable building, fire or health codes”
  - 30-8(d)(1) i), Accessory apartment shall comply with “applicable building, fire and health codes”

- 30-8(d)(2)b), Special permits granted for accessory apartments – exterior alterations required to meet “applicable building, fire or health codes” are permitted if other criteria are met
  - 30-8(d)(4), Pre-existing accessory apartments – applications for validation shall be reviewed by commissioner for compliance with “all zoning, building, health, fire and safety codes;” and upon change of ownership, commissioner must assure that provisions of ...”State Building Code are satisfied”
  - 30-9(c)(1), Multi-Residence 1 districts – Special permits allowing conversion to occupancy by more than 2 families -- no exterior alterations except “to comply with applicable health, building and fire codes”
  - 30-9(g)(2) d) Multi-Residence 4 districts – Special permits allowing accessory apartments – exterior alterations required to meet “applicable building, fire or health codes” permitted in certain situations
  - 30-9(g)(2)i) Multi-Residence 4 districts – Accessory apartments shall comply with “applicable building, fire and health codes”
4. To refer to “state building codes” and “plumbing code” and the like (also see #3 above) -
- 5-16, duties of ISD Commissioner
  - 10-42, requirements for fire protective and alarm systems
  - 10-43, permitting, installation and removal of fire protective systems
  - 20-40(g)(1), fence regulations: exemption for temporary or construction perimeter fences as required by state building code
  - 20-40(g) (3), fences for swimming pools; provisions of building code to prevail
  - 20-40(i), fence regulations not to relieve parties from compliance with other laws, including state building code
  - 20-70, vacant buildings to be maintained in accordance with “relevant sanitary, building, and fire codes.”
  - 22-22, Floodplain district – compliance required with “section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard...”
  - 22-41(j), Historic Districts, for violations of ordinance, building permits to be denied to the extent allowed by ...”state building code”
  - 22-50, definition for “Demolition permit” refers to permits required by “state Building Code.”
  - 22-50(c)(5)(a), Procedures for demolition permits, for certain partial demolitions, applicant required to provide plot plan if required to obtain a permit under the “State Building Code.”
  - 22-50(e) and (f), Non-compliance with demolition ordinance – commissioner may refuse to issue a permit required by “State Building Code” for period of 2 years.
  - 22-50(g) If building destroyed by fire during period of demolition delay, commissioner not to issue permit “under the State Building Code.”
  - 22-51(f), demolition by neglect – building permits to be denied “to the extent allowed by law, including...”state building code.”
  - 29-63, building sewer construction required to conform to “State Building and Plumbing Codes.”

- 29-66, connection of the building sewer into the public sewer shall conform to “State Building and Plumbing Codes.”
  - 30-1(e), definition of “Building size” – for purposes of floor space in an attic, if used to meet minimum building size, must meet height requirements of state building code
  - 30-8(d)(2)b), Special permits granted for accessory apartments – upon change of ownership, commissioner of inspectional services to determine compliance with State Building Code
5. To refer to “state fire code” or “state fire prevention code” and the like (also see #3 above) -
- 10-42, requirements for fire protective and alarm systems
  - 10-43, permitting, installation and removal of fire protective systems
  - 10-47, provisions of state fire prevention code incorporated as part of ordinance
  - 20-21, civil enforcement (ticketing) for violations of “state fire prevention code”
  - 20-70, vacant buildings to be maintained in accordance with “relevant sanitary, building, and fire codes.”
6. To refer to “State Sanitary Code” or “sanitary code” (also see #3 above) and the like -
- 17-7, food service license fees based on risk categories established by “State Sanitary Code.”
  - 20-70(c) – (1) vacant buildings to be maintained in accordance with “relevant sanitary, building, and fire codes”
7. To refer to “other codes” or unspecified codes -
- 20-70(c) – (6) compliance with vacant building maintenance requirements not to relieve owner of applicable requirements under “any other codes, regulations, covenant conditions...”
  - 29-68, City’s permission required to make connection with public sewer, and also permit holder must obtain “any permits from any other city department and/or the M.W.RA. required by ordinance, statute, code or regulation.”
  - 29-76, In the event that permission given by DPW Commissioner or MWRA to accept certain restricted substances into sewers, design and installation of equipment shall be consistent with standards of “all applicable federal, state, and city codes, ordinances and laws.”
  - 29-84, Owners and occupants shall not refuse access to property for sewer inspection is sought “to assure compliance with applicable ordinances, statutes, codes and/or regulations.”
8. As citation to particular provisions of the Massachusetts Code of Regulations -
- 29-42, Cross-connection control program, includes state law reference to “310 Code of Massachusetts Regulations 22.22”
  - 29-58, definitions for chapter include a state law reference to sewer use regulations, which appear at “360 Code of Massachusetts Regulations Chapter 10.000”
  - 29-76 Discharges to sewer, Cross reference to “360 Code of Massachusetts Regulations Chapter 10.000”



**David A. Olson**

From: "Ouida C.M. Young" <[oyoung@newtonma.gov](mailto:oyoung@newtonma.gov)>  
To: [gaylesmalley@mindspring.com](mailto:gaylesmalley@mindspring.com),  
Date sent: Mon, 02 Apr 2012 12:35:00 -0400  
Subject: (Fwd) Proofs  
Priority: normal

Gayle, and David, I'm forwarding along the tickets used by our parking enforcement folks. There is no reference to any ordinance or TPR. On the other hand, at least one of the references is wrong -- the commercial vehicle parking ban isn't limited to night parking. And I also wonder what offenses are covered by the "restricted parking" fine. The extended Tiger zone? Resident parking? "parking on private road or driveway?" I clearly need some education on what our parking regulations are.

Clint has been after our department to discuss the ability of the police to issue tickets on City property generally, and school parking lots in particular. The only category that ticket would follow under might be the "restricted area", but again, that's not obvious to me .

I've also attached a copy of the ticket used for other types of violations, and those do reference city ordinances. Again, fines may have changed, and I'm not sure these are correct. Ouida

----- Forwarded message follows -----

Subject: Proofs  
Date sent: Fri, 30 Mar 2012 15:29:24 -0500  
Priority: Urgent  
From: "Hammond, Bob" <[Robert.Hammond2@acs-inc.com](mailto:Robert.Hammond2@acs-inc.com)>  
To: <[oyoung@newtonma.gov](mailto:oyoung@newtonma.gov)>, <[hmintz@newtonma.gov](mailto:hmintz@newtonma.gov)>

Ms. Young,

Capt. Mintz requested that I send you the proofs of both the Paper Tickets and Hand Held tickets the City of Newton is currently using.

Attached are those proofs.

Please let me know if you have any questions.

Regards,

Bob

Robert L. Hammond, Jr.  
Director, New England Cities  
Transportation Solutions Group

ACS State and Local Solutions, Inc. A Xerox Company  
260 Franklin Street, Suite 500  
Boston, MA. 02110

p 617.239.2360  
f 617.239.2371

m 781.424.0869

----- End of forwarded message -----

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Tel.: (617) 796-1240; Fax: (617) 796-1254