



City of Newton, Massachusetts  
**Parks & Recreation Commission**  
Information Manual



2020

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## Purpose of This Manual

This Information Manual was prepared for new and current members of the Newton Parks and Recreation Commission. The contents are presented as a matter of information. The purpose is to provide members of the Newton Parks and Recreation Commission with a ready reference as to its mission, function and responsibilities. This Manual also gives an overview of the organization and responsibilities of the Parks and Recreation Department and provides Commission members with an inventory of the many acres in Newton that are under the jurisdiction of the Commission and/or are maintained by the Department. The Manual complements the Parks and Recreation Department, see web-site, [www.newtonma.gov/parks](http://www.newtonma.gov/parks) for the various excellent recreational programs run by the Department. Other documents that are also available to help the Parks and Recreation Commission in its mission include: the *Newton Open Space Plan*, and the *Newton Master Plan*, which is now under development, and the Parks and Recreation Departmental web site.

The Commission reserves the right to modify, revoke, suspend, or terminate any or all such plans, policies, or procedures provided here, in whole or in part, at any time with or without notice. The language used in this handbook is not intended to create, nor is it to be construed to constitute policies of the Commission, except where they are noted as approved by the Commission. In addition, the policies, procedures, or rules included are not intended to amend, alter, or replace any statute of the Commonwealth or ordinances of the City of Newton.



*Levingston Cove at Crystal Lake*

## **Mission Statement of the Parks & Recreation Commission**

Approved February 28, 2000

Ammended March 20, 2000

The mission of the Newton Parks and Recreation Commission is to act in stewardship to enhance the quality of life for all citizens by providing the highest quality parks, recreation programs and recreation areas attainable and to preserve our natural areas for future generations. The Parks & Recreation Commission provides oversight and advice to the Mayor, Board of Aldermen, and the Parks and Recreation Department regarding sports, recreation, parks, open space, and the preservation of scenic beauty throughout the city. The Commission attempts to balance the concerns of natural open space preservation and passive recreation with those of organized sports and active recreation by involving these and other interested parties in its planning, oversight, and decision making processes.

### **Responsibilities of the Commission**

1. In rendering decisions regarding the use of lands under its jurisdiction, the Commission strives to act in accord with written guidelines and procedures (Newton City Ordinances, Rev. 1995, II.42-26).
2. The Commission involves various interested parties (stakeholders) in its planning and decision-making processes. Interested parties include (but are not limited to) local community associations, advocates of preservation of natural open space, other city boards and commissions, sports organizations, proponents of cultural recreation, the elderly, those with disabilities or special needs, and individual Newton citizens.



## History of the Newton Parks and Recreation Commission

*Canoeing at the Turn of the Century Norumbega Park  
(Photo from Newton History Museum)*



In 1882, Newton established its first standing committee on parks, which submitted a report two years later. Expanding on a previous proposal for a series of parks between Chestnut Hill and West Newton, it recommended the acquisition of almost 400 acres extending from Valentine to Centre Streets, between Beacon Street and Bullough's Pond, for a single "Central Park." Although much of the survey work was completed the project was not

developed. In 1885, plans were drawn for Newton's first public park on land given by John Farlow in Newton Corner; five years later the Newton Centre Improvement Association provided funds for the city's first public playground.<sup>1</sup>

For many years, it was the responsibility of the Street Department to supervise and manage Newton's parks and playgrounds along with tree planting and maintenance; but this eventually required more effort than the Street Department could manage. In 1908, the Forestry Department was created with the charge of the maintenance, care and management of parks and playgrounds as well as the planting and care of the city's trees.<sup>2,3</sup>

*Rock Bridge - Auburndale Park*



As the playground movement gained momentum nationally around the turn of the 20th century, the demand for active recreation facilities grew. Tree and forest maintenance, which were taken very seriously, were also recognized to be substantially different than playground management.<sup>4</sup> Consequently, the Playground Commission was established in 1912, with William C. Brewer as its first chair. Ernst Hermann, who was appointed as the first Superintendent of Playgrounds, served until the summer of

1939. Shortly after his retirement, the name of the Playground Department was changed to the Recreation Department and the Recreation Commission was increased from 5 to 6 members, so that a Recreation Commissioner (F. Ewing Wilson) could be appointed. The new Commissioner was charged with the "maintenance, care and management of playgrounds" and could exercise the powers of the Commission except for that of eminent domain.<sup>4</sup> C. Evan Johnson served as Commissioner from 1948-1961 and was succeeded by John B. Penney (1961-1974). Russell J. Halloran headed the Parks and Recreation Department from July 1, 1974 to June 1, 2000, when upon his retirement, Fran L. Towle became the first

woman to serve as Commissioner. In December 2009 Fran Towle retired and Robert J. DeRubeis became P & R Commissioner.

In 1969, the Massachusetts Legislature passed an act empowering Newton to establish a Recreation Commission consisting of a Recreation Commissioner and one resident from each of the wards of the city.<sup>5</sup> As before, the powers of the Commission, except eminent domain, could be exercised by the Recreation Commissioner, who was appointed by the Mayor. In 1982, stewardship over both parks and playgrounds was combined for the first time since 1912 as the Park Commission was abolished by the state legislature and the Recreation Commission became the Parks and Recreation Commission. The legislature conferred upon it all the rights, powers, duties and obligations of a park commission as set forth in Chapter 45 of the General Laws. In addition to this, the City Ordinances (§21-47) charged the Parks and Recreation Commission with advising the mayor and board of aldermen on matters pertaining to sports, recreation, parks, open space and the preservation of scenic beauty. The ordinance further charged the Commission with rendering its decisions concerning parks and recreation programs and the use of lands under its jurisdiction in accordance with written guidelines or policies, which shall preserve and enhance access to parks and recreation opportunities for Newton citizens. In 1994, Section 21-46 of the City Ordinances was modified to provide the guidance that appointments by the mayor shall strive to balance the concerns of parks and open space preservation with the concerns of recreation, and four alternate members were added to the Commission.

1. See "Images of America: Newton", Thelma Fleischman, Newton Historical Society, Arcadia Press, Charleston, SC, 1999.
2. Jean H. Husher, *Newton Tab*, February 10, 2000.
3. City of Newton, Public Documents 1913. Document 12, Report of the Playground Commission.
4. City of Newton, Public Documents, 1939-40. Report of the Recreation Department.
5. Acts of the Massachusetts Legislature, 1969, ch. 631.

## **Parks & Recreation Commission Members**

Nicole Banks  
Commissioner

### Members by Wards

Ward I	Vacant
Ward II	Arthur Magni, Chairman
Ward III	Midge Connolly
Ward IV	Melissa Sommer
Ward V	Byron “Buzz” Dunker
Ward VI	Vacant
Ward VII	Vacant
Ward VIII	Patty Kerwin Derrick

### Alternates

1. Vacant
2. Sam Figler
3. Jack Neville
4. Mark Feldhusen



## **Administration of the Parks and Recreation Department**

**Mission Statement.** To provide traditional and innovative recreation, leisure and cultural activities in a quality environment to all residents of Newton.

**Organization.** The Parks and Recreation Department is comprised of Divisions of Recreation Programs, Maintenance, Forestry and Administration. To meet Newton's growing interest and enthusiasm for both active and passive recreation and to provide Newton's population with meaningful recreation opportunities, the Recreation Programs Division sponsors a variety of year round programs for tots through senior adults.

The Maintenance Division maintains: all City Park Lands, public school grounds, library grounds, City Hall grounds, Police Headquarters and Police Annex grounds, Fire Headquarters grounds, all City baseball fields, football fields, soccer fields, softball fields, tennis courts (asphalt and clay), lacrosse fields, picnic areas, wooded, naturalistic areas, outdoor skating areas, and the outdoor swimming areas at Crystal Lake and Gath Pool. The Newton section of Commonwealth Avenue (5.9 miles) is groomed along with some 1,100 acres of grass cut on a seasonal basis. The Maintenance Division also cares for the City's three historic burial grounds. During the winter months, the Maintenance Division crews handle snow removal of all public school areas, City Hall, library areas, Education Center, and all other recreation facilities. These crews also assist the City's Public Works Department with the removal of snow from all City Streets. Recent initiatives involve landscape maintenance, integrated pest management, and adoption of public spaces for maintenance.

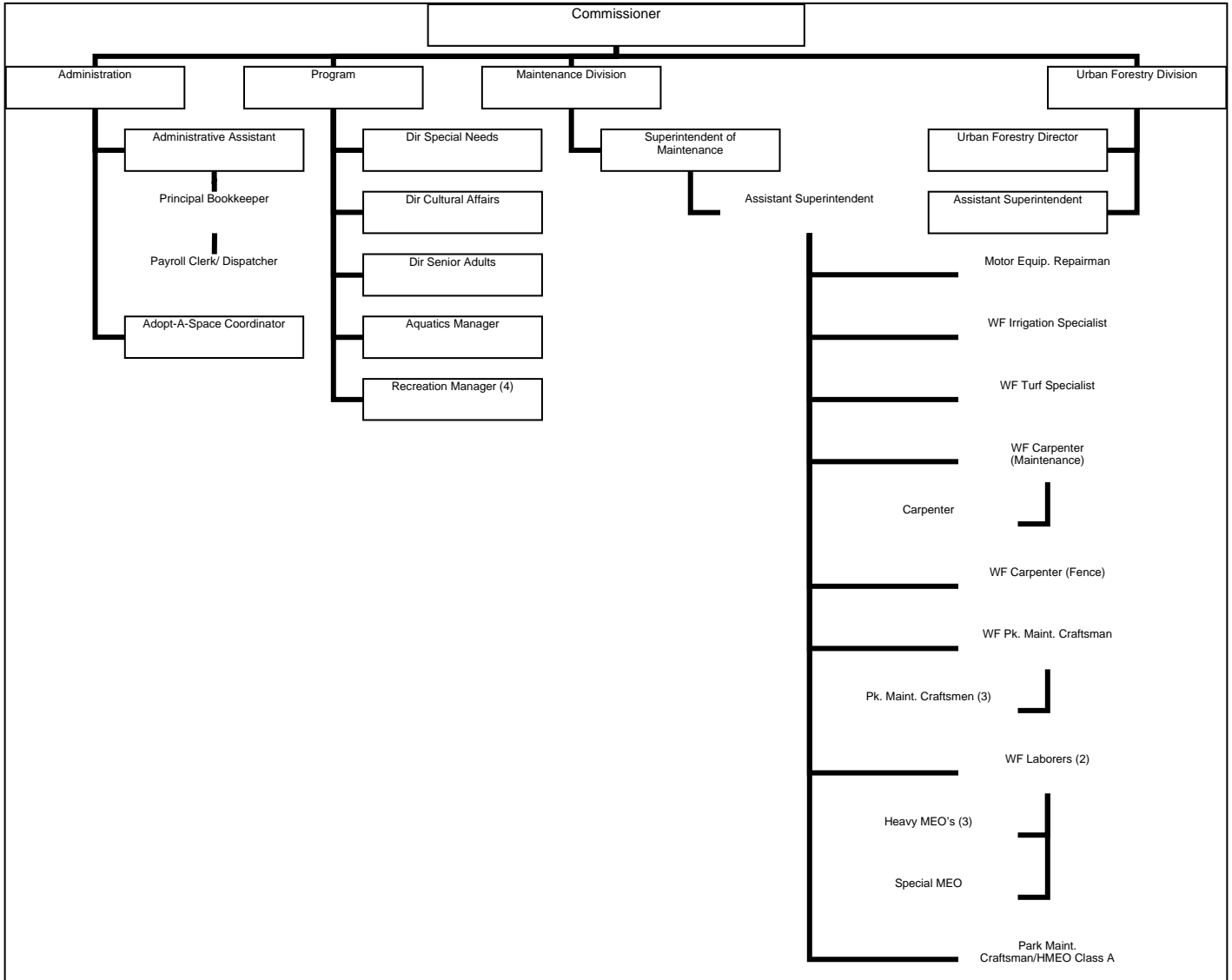
The City's Urban Forestry program is managed within the Forestry Division. With the assistance of a tree contractor, the Director of Urban Forestry and the Assistant Superintendent of trees, maintains all the City trees along City streets, parks, school lands, library lands, City Hall Grounds, and all other municipal lands. They work closely with the City's Urban Tree Commission in the care and maintenance of the City's trees.

*Soccer Game - Forte Park*



# Organizational Chart

## Parks & Recreation Department



## **Recreational Programs**

To meet Newton's growing interest and enthusiasm for both active and passive recreation, and to provide residents with meaningful leisure opportunities, the Parks and Recreation Department sponsors a variety of programs, facilities, multi-use parks, fields, playgrounds, sports leagues, and activities for tots through senior adults of all abilities. Recognizing the tremendous potential for self-fulfillment and development of a positive self-image through participation, the Department staff works tirelessly to fine tune programs already in place. They continually strive to keep abreast of new trends and develop new programs and activities for the diversified citizenry, growing interest and enthusiasm of the Newton community for both active and passive recreation.

The programming staff is deeply committed to providing inclusive programs and activities. Our programs run the gamut of Arts in the Parks concerts, classes, and evening and weekend activities for our Special Needs population to Adult sports leagues and Children's summer camp programs.

See the Department's website [www.newtonma.gov/parks](http://www.newtonma.gov/parks) for more information on programs and activities.

***"Parks and Recreation" - A Lifetime of Fun!***

**2003-2007 Community Preservation Act (CPA) Funded Projects**  
**On Parks and Recreation Land**

Project Name

- Albemarle Community Commons
- Bowen Field Irrigation
- City Hall and War Memorial Historic Landscape Preservation Plan
- Crystal Lake, 20 Rogers Street (land purchase)
- Farlow and Chaffin Parks Master Plan
- Flowed Meadow/Auburndale Park Pedestrian Improvements
- Forte Park (Phase II Only)
- Gath Pool Enhancements (Phases I, II and III)
- Newton Centre Playground Access and Rehabilitation Plan
- Newton Highlands Playground Master Plan
- Stearns and Pelligrini Playgrounds Master Plan(s)
- Washington Park Historic Lighting
- Wellington Park Improvements
- West Newton Common Irrigation
- Upper Falls Playground Master Plan

## Inventory of Parks & Recreation Lands

### Definitions:

**Park:** Generally includes open areas, other than playgrounds and playing fields, and benches. May include natural areas such as woods. May include trails, playgrounds and playfields. MGL ch. 45 §1: "a city or town common dedicated to the use of the public, or appropriated to such use without interruption for a period of twenty years."

**Playground:** An area for playing or sports, which may include playfields, large play structures and/or play apparatus (swings, slides). School Playgrounds are under the jurisdiction of the Newton School Committee, but are maintained by the Parks & Recreation Department Grounds Maintenance Division.

### *Play Structure and Apparatus at Newton Centre Park*

**Playfield:** A sports playing field (baseball, football, soccer, etc). While there is generally little difference in the administration of a "park" or a "playground", MGL ch. 45 §1 defines "park" as including "a city or town common dedicated to the use of the public, or appropriated to such use without interruption for a period of twenty years"; and ch 45 §14 appears to indicate that playgrounds are for active recreation ("play, sport and physical education"). Nevertheless, some names exist for historical reasons, rather than in accord with the above definitions.



The Parks and Recreation Department also maintains 278 other small acreage sites around the city including school grounds, roadside green areas, and public grounds. The Parks & Recreation Commissioner has charge of the maintenance of road triangles, burial grounds and the grounds around public buildings including schools (Rev. City Ordinances, 1995, 21-1b). Public squares are maintained by DPW.



A substantial portion (41.2 acres, formerly Lower Falls Park) of the Leo J. Martin Golf Course is under the jurisdiction of the Parks and Recreation Commission, but is operated by the MDC. The Commonwealth Golf Course (71.8) acres is under the jurisdiction of the Parks and Recreation Commission, but would revert to the Conservation Commission should it no longer be used as a golf facility.

### **Commonwealth Avenue Median Strip.**

This former trolley car right of way along the entire length of Commonwealth Avenue to Norumbega Park at the Charles River traverses several wards.

Following is a list of parks and playgrounds maintained by the Parks and Recreation Department:

## WARD ONE

### **Richard J. Forte Memorial Park** (formerly Allison Park)

235 rear California Street, Nonantum, 6.0 acres

Completely renovated active use park, contiguous to DCR's Charles River Pathway

City memorial site with flagpole

Pre-school play area with swings

Storage facility with accessible restrooms

Accessible exer-trail with bubbler

Lighted and irrigated soccer fields (2) and softball field

Lighted full basketball court, stage performance area, and bocce courts (3)

Parking lot

### **Boyd Park**

Jackson Road, Nonantum, 4.8 acres (including the portion in Watertown)

Rectangular lawn area set down from the street, contiguous to Lincoln-Eliot School Playground

Junior baseball diamonds (2), full basketball court and youth soccer field

On-street parking and school parking lot

### **Lincoln-Eliot School Playground** (contiguous to Boyd Park)

Jackson Road, Nonantum .97 acres

Recently renovated school-age play area, swings and pre-school fire engine structure

School parking lot and on-street parking

### **Carleton Park**

Carleton Street, Newton Corner, .1 acre

Shady neighborhood pocket park with benches and picnic table

No on-street parking

### **Charlesbank Park** (a.k.a. Nonantum Place Playground)

Nonantum Place, Newton Corner, .5 acres

Small neighborhood park with Master Plan to renovate (2009)

Level lawn area, fenced and accessible

School-age and pre-school play area with swings

On-street parking

### **Hunnewell Playground** (alongside the Massachusetts Turnpike)

Grasmere Street, off Hunnewell Avenue, Newton Corner, 4.6 acres

Neighborhood park, large level lawn area, set down from Grasmere Street

Regulation softball and elementary soccer/lacrosse fields

Fenced, pre-school play area with swings

On-street parking, sloped entry, not accessible

Off-leash recreation areas

### **Joanne C. Pellegrini Memorial Playground**

Hawthorn Street, Nonantum, 4.2 acres

Small neighborhood park/playground, with Master Plan (2005)

City memorial site with flagpole

Accessible recreation building with restrooms, gym and meeting room

Tennis courts (2), lighted softball field and soccer field

Large picnic area, pre-school and school age play areas, spray pool and swings

Home to the St. Mary of Carmen Festival, held in July

Parking lot and on-street parking

**Chaffin Park** (contiguous to Newton Corner Branch Library and Farlow Park)

Corner of Vernon Street and Centre Street, Newton Corner, .75 acres

Small neighborhood park with lighted, accessible walkway, garden beds, seating, and game table

Farlow and Chaffin Parks, Historic Landscape Preservation Master Plan, completed 2006

On-street parking

**Farlow Park** (established 1885, contiguous to Chaffin Park, Newton Corner Branch Library and Underwood School) Corner of Eldredge Street and Church Street, Newton Corner, Acres 5.0

Neighborhood park with large historic trees, dry pond area, footbridge, seating, lighted walkways

Newton's first park, listed on the National Historic Register as part of the historic district

Designed by George Meacham, designer of the Boston Public Gardens

Farlow and Chaffin Parks Historic Landscape Preservation Master Plan, completed 2006

School-age play area with swings and new fenced pre-school play area with swings

Irrigated lawn areas, junior baseball field, elementary soccer field, half basketball courts (3)

On-street parking

**Stearns Park** (1906)

Jassett Street, Nonantum, 3.4 acres

Small, shaded neighborhood park/playground, with Master Plan (2005)

Newly renovated tennis courts (2)

Fenced pre-school play area and swing areas (2)

Full basketball court, rain/shade shelter and junior baseball field

Picnic tables, game tables and benches

Alice Webber Way (new accessible pathway alongside tennis courts)

On street parking

**Coletti-Magni Park**

Corner of Watertown Street and Bridge Street., Nonantum, .46 acres

Village center pocket park with walkways, fully accessible (2008 renovation)

City memorial site with flagpole

Many benches and game table

Home to giant Santa Claus statue and Newton's Christmas tree-lighting festivities

On street parking

**Newton Veterans Memorial Park**

Washington Street, opposite Newton History Museum, Newton Corner, .1 acre

Primary Newton memorial site with flagpole

On-street parking only

**Spears Park**

Corner of Washington Street and Walnut Park, Nonantum, .25 acres

Small, open lawn area

On street parking, no walkways

**Burr Park**

Waverly Ave. or Park Street, Newton Corner (across from Bigelow Middle School), 5.1 acres

Historic neighborhood park, fenced

Recreation building with game rooms, storage and restrooms

School-age and pre-school play area and swings

Wading pool, full basketball court, and tennis courts (4)

Open lawn area, irrigated soccer field, softball field

Parking area (Waverly Ave.), on-street parking; accessible pathways



## WARD TWO

### **Russell J. Halloran Sports and Recreation Complex** (a.k.a. Albemarle Park)

Adjacent to Day Middle School and Horace Mann Elementary School  
250 Albemarle Road, Newtonville, 24.9 acres (includes the wooded Avery Estate)  
City's premier, active use City park, includes Gath Pool facility  
Recreation field house with meeting room, snack bar and restrooms  
Harry Gath Memorial Pool and Bathhouse (see below)  
Lighted, fenced softball field (Jean Hays Cole), softball diamond, lighted regulation baseball field, junior baseball field (James E. Murphy Field, Home to Newton North Little League), batting cage, concession stand, junior baseball field (Bob Roche), junior (practice) baseball field, regulation soccer field and lighted football field  
Tennis courts (2) and full basketball court  
Home to Newton's July 4<sup>th</sup> fireworks celebration  
Albemarle Community Classroom (accessible): large gazebo, benches, picnic tables and planters  
Accessible school-age play areas, fenced pre-school play area and large swing area  
250 on-street parking including handicap accessible spaces

### **Harry Gath Memorial Pool and Bathhouses**

250 Albemarle Road, Newtonville  
Outdoor Olympic size pool with diving boards, water slide, and accessible lift  
Large shade structures with benches, accessible deck  
Separate fenced wading pool area with shade structure, accessible  
Bathhouse facility, fully accessible

### **Bullough's Pond Park**

Bullough's Park, Commonwealth Avenue, Newtonville, 1.4 acres (not including pond)  
Well-landscaped lakeside park with benches and perimeter sidewalk  
Ice skating area and heated skating shelter, used only in the coldest winters  
Paved boat ramp  
On-street parking

### **Newton Cultural Center** (formerly Carr School)

Nevada Street, Newtonville, 7.8 acres (includes building site and park, behind)  
Home to "10 humanistic, cultural and educational organizations"  
Includes the Mayor's Office for Cultural Affairs and Arts in the Parks  
Park: pre-school play area, junior baseball diamond, full basketball court and swings  
On-street parking and parking lot

### **Claflin Playground** (formerly Claflin School)

Lowell Avenue, Newtonville, 1.2 acres (stepped slope)  
Fenced informal sledding hill  
Level lawn area, elementary soccer field  
On-street parking  
Off-leash recreation area

### **Cabot Park**

101 Eastside Parkway, Newtonville, 11.6 acres  
Large active-use City park, adjacent to Cabot Elementary School  
Junior baseball field (Home to Newton Central Little League, Leo H. Riley field), softball field, regulation baseball field, grass volleyball court and soccer/football field  
Bocce courts (4), tennis courts (2) and lighted full basketball court  
Small recreation field house with accessible restrooms (2)  
Swing areas (2), school-age play apparatus, and fenced pre-school play area  
On-street parking; level site, no walkways  
Off-leash recreation area

**Newton North High School** (new facility under construction; fall 2010 opening)  
Walnut Street, Newtonville, 18.4 acres

**Edmands Park** (established 1913, a.k.a. Cabot Woods)  
Blake Street, Newtonville, 32.6 acres  
City's largest, natural wooded passive-use park, unpaved trails for walking and nature study  
On-street parking

**Education Center Playground**  
Walnut St., Newtonville, 1.5 acres  
Newton School Department Headquarters  
School-age play area with swings  
On-street parking and rear parking lot with handicap spaces

**Elmwood Park**  
Lowell Avenue and Elmwood Avenue, Newtonville, 1.5 acres  
Small, neighborhood open space/island  
On-street parking, no walkways

**Lowell Park**  
Watertown Street and Walnut Street and Lowell Avenue, Newtonville, .6 acres  
Small, neighborhood open space/island with rehabilitation Master Plan (2008)  
On-street parking, no walkways

**Washington Park** (established 1868)  
Washington Park, Newtonville, 1.0 acre  
Historic neighborhood park/island with new perimeter street lamps  
Within the Newtonville Historic District  
Irrigated turf and trees, shaded seating areas  
On-street parking, no walkways

## WARD THREE

**Tom Torchia Playground** (contiguous to NCSC playground)  
Eden Street, West Newton, 2.0 acres (acreage includes NCSC Playground)  
Small, fenced neighborhood park with softball field and full basketball court  
On-street parking

**Newton Community Service Center (NCSC) Playground** (formerly the Davis School)  
Waltham Street, West Newton  
School-age play area and swings and water spray area  
Half pipe skateboarding ramp  
Parking lot

**Franklin School Playground**  
125 Derby Street, West Newton, 2.7 acres  
Rain shelter, junior baseball fields (2) and full basketball court  
School-age play areas with swings  
On-street parking

**Richard J. McGrath Park** (formerly Warren Jr. High Playground)  
Washington Street, West Newton, 10.1 acres (behind Warren Apartments)  
Large active-use City park with playfields and courts  
Soccer/lacrosse fields (3), football field, junior baseball fields (2), tennis courts (7)  
Fenced pre-school play area  
Parking lot with handicap accessible spaces, no walkways  
Off-leash recreation area

**West Newton Commons Playground**  
Elm Road and Webster Street, 3.7 acres  
Small neighborhood park, fenced, level lawn area with perimeter trees  
Enclosed pre-school play area and swings at the corner  
Regulation baseball field and elementary soccer fields (2)  
On-street parking, no walkways

**Captain Ryan Park** (a.k.a. Police Park)  
Washington Street and Cherry Street, West Newton, .5 acres  
Small, shady pocket park in village center, accessible, with seating and game table  
City memorial site (Captain John Ryan), large boulder and flagpole  
On street parking

**Wellington Playground**  
Kilburn Road, West Newton, 1.9 acres  
Recently renovated neighborhood park, fully accessible  
Fenced pre-school play area with swings, benches  
Full basketball court, tennis court, and practice soccer field  
Neighborhood-maintained border garden  
On-street parking

**River Street Playground**  
River St., West Newton, .5 acres  
Small neighborhood pocket park, fenced  
Level lawn area, pre-school play area and accessible swing area  
On-street parking

## WARD FOUR

### **Burr School Playground**

171 Pine Street, Auburndale, 10.0 acres  
Large school-age play area with swings  
Fenced pre-school area with swings  
School garden/outdoor classroom with seating  
Junior softball field, basketball courts (2), soccer fields (2), tennis courts (2)  
School parking lot and on-street parking

### **Hamilton Playground**

545 Grove St. (Lower Falls Community Center, formerly Hamilton School), 4.3 acres  
Well-landscaped multi-use neighborhood park  
Home to the “Falls Ball” neighborhood event  
Building facility includes indoor gym, meeting rooms, and restrooms  
Pre-school play area, school-age apparatus and swings  
Newly renovated full basketball court and tennis courts (2)  
Irrigated junior baseball field (NWLL), softball field, and junior soccer fields (2)  
Neighborhood-maintained, fenced vegetable garden  
Parking lot and on-street parking

### **Auburndale Park “The Cove” (1894)**

West Pine Street, Auburndale, 29.9 Acres (acreage includes contiguous Lyons Park)  
Large multi-use City park on the Charles River, accessible  
Contiguous to Flowed Meadow Conservation Area and City of Waltham DCR land  
City memorial site (Del Ryan) with flagpole  
City’s sanctioned group picnic area (Chub Ryan), many tables and grills  
School-age play area(s) and swings  
Full basketball court, tennis courts (2), regulation baseball field and junior soccer field  
“Cuz Connelly” recreation building with office, restrooms, changing area, accessible  
City’s only skating area on Charles River, lighted  
1.3 mile life course around and through the woods to Lyons Park  
Parking lot

### **Lyons Park**

Commonwealth Ave., at Islington Road, Auburndale, 29.9 acres (includes Auburndale Park)  
Junior baseball field (Home of Newton West Little League), dugouts, concession stand, and new field lighting (2009)  
On-street parking

### **Islington Oval**

Islington Road, Auburndale, 1.5 acres  
Neighborhood open space, level lawn area with trees, abuts Norumbega Park  
On-street parking, no walkways

### **Pierce School Playground**

170 Temple Street, West Newton, 2.0 acres  
School-age play areas (2) with swings (on the corner and out back behind the school)  
Junior baseball field, elementary soccer field and small basketball court  
Paved play area (hopscotch, four-square, etc.)  
School parking lot and on-street parking

**Williams School Playground**

141 Grove Street, Auburndale, 1.1 acres (behind school)

School-age play area with swings

Junior softball field (NWLL) and basketball area in school courtyard

School garden/planters

School parking lot & on-street parking

**The Reverend Louis E. Ford Playground** (a.k.a. Curve Street Playground)

Behind Baptist Church on Curve Street, West Newton. 2.0 acres

Small, neighborhood playground with school-age play area and swings

Parking, no walkways

## WARD FIVE

### **Angier School Playground**

1697 Beacon Street, Waban, 4.7 acres  
School age play area and pre-school play area and swing areas  
Junior baseball/softball field, soccer area, tennis courts (3), tennis backboard, and basketball court  
School parking lot

### **(New) Cold Spring Park**

Beacon Street, main entrance, Newton Highlands, 65 acres (including Old Cold Spring Park)  
Large multi-use City park with playfields, courts, and natural wooded area with trails  
1.46 mile Life Course/stone dust trail through the woods  
Softball field, irrigated regulation soccer/lacrosse/field hockey field  
Tennis courts (3) and full basketball courts (2)  
Home to the Newton Farmers Market, Tuesdays, July-October  
Parking lot with handicap accessible spaces, no walkways

### **(Old) Cold Spring Park**

Off Dunklee Street, Newton Highlands, 65 acres (including New Cold Spring Park)  
Softball field and large open lawn areas surrounded by wooded areas  
Off-leash recreation area  
On-street parking

### **Emerson Playground** (adjacent to Emerson Community Center)

Pettee Street, Newton Upper Falls (formerly Emerson School Playground), 1.0 acre  
School-age play area with swings  
Open level lawn area, softball field and full basketball court  
Emerson Community Center, handicap accessible entry, indoor gym, meeting rooms and restrooms  
On-street parking

### **Hyde Playground** (adjacent to Hyde Community Center)

Lincoln Street, Newton Highlands, 1.0 acre  
Pre-school play area (Matthew Eappen) with swings and picnic tables  
Open lawn area, junior baseball field and elementary soccer area  
Accessible game table with seats  
City memorial site (on the corner)  
On-street parking

### **Warren Lincoln Playground**

Montclair Street, Waban, 5.4 acres  
Neighborhood park, mostly level open lawn area  
School-age play area and swings, fenced pre-school play areas and swings  
Irrigated regulation baseball field, junior soccer field  
On-street parking, no pathways

### **Officer Robert Braceland Playground** (established 1909, a.k.a. Upper Falls Playground)

Chestnut Street, Newton Upper Falls, 8.8 acres  
Two-level, multi-use City park sited on Charles River bank  
Master Plan to rehabilitate, completed 2008  
New, small fenced pre-school play area with swings  
Regulation baseball field, softball field and elementary soccer fields (2)  
Tennis courts (2) and full basketball court  
Small building (not used) with sun shield  
Parking lot and on-street parking, no pathways

**Richardson Playground**

Allen Avenue, Waban, 5.4 acres

Neighborhood park, fenced, level open lawn area

School-age play area with swings

Irrigated junior baseball field (Home to Newton South Little League) and elementary soccer field

On-street parking

**Zervas School Playground**

30 Beethoven Street, Waban, 1.0 acre

Outdoor classroom/seating area (out front)

School-age play areas (2) and swings

Paved play surface area, basketball court and elementary soccer field

School parking lot and on-street parking



## WARD SIX

### **Newton Centre Playground** (established 1890, formerly Brewer Playground)

81 Tyler Terrace, contiguous to Mason Rice School, Newton Centre, 17.9 acres  
Large multi-use City park/playground located just outside of the village center  
City's first playground, originally designed by Olmsted Bros. firm in 1890  
Includes Hammond Brook, Cochituate and Sudbury Aqueducts  
Rehabilitation and Accessibility Plan, completed 2006  
Home of the City's only toboggan run (now defunct) and the July 4<sup>th</sup> Teddy Bear Parade  
Jeannete West Recreation Center ("The Hut"): gym, activity rooms, restrooms  
New, large universal school-age play area with swings, fenced pre-school play area with swings  
City's only clay tennis courts (5), with practice backboard  
Regulation baseball field, junior baseball field (Jay Gordon Field, Home of Newton East Little League), elementary soccer fields (2), and full basketball court (lights)  
On-street parking, accessible route from Mason-Rice School parking lot  
Off-leash recreation area

### **Mason-Rice School Playground** (contiguous to Newton Centre Playground)

149 Pleasant Street, Newton Centre, 4.0 acres  
School age play area with newer accessible area, pre-school structure, shade structure and swings  
Youth basketball courts (2) and sand volleyball court  
School parking lot with handicap spaces, accessible route to universal play area

### **Crystal Lake Park**

30 Rogers Street (bathhouse and parking lot, .7 acres), newly acquired 20 Rogers (1.0 acre), portion of 230 Lake Avenue plus easement behind house (.2 acres), Newton Highlands,  
Total park area: 2.0 acres; Crystal Lake: 24 acres  
Master Plan, in process (2009)  
"Gil Champagne" bathhouse, seasonal use only, fully accessible with restrooms  
Designated swim area with docks, sandy beach with benches, shaded lawn area with picnic tables (lakefront lawn area fenced, in-season)  
Boating and fishing areas  
New pathway segment (to be constructed 2009) from Livingston Cove to 230 Lake Avenue  
Parking lot with handicap spaces, some nearby on-street parking

### **Louise Livingston Cove**

Lake Avenue, Newton Highlands .5 acres  
Narrow, lakefront park with accessible walkway, benches and boat launch  
On-street parking nearby

### **Cronin's Cove**

Lake Avenue, Newton Highlands, .5 acres  
Narrow, fenced lakefront park with benches, fishing docks (2) and pathway  
On-street parking nearby

### **Joseph Lee Playground** (established 1911, a.k.a. Newton Highlands Playground)

Winchester St., Newton Highlands, 12.6 acres  
Large multi-use City park with playfields, courts and sloped wooded area  
Regulation baseball field, full basketball court, tennis courts (2)  
Irrigated and lighted football field (Home of Pop Warner), trailer/field house  
Metal shade shelter; no pathways  
Pre-school play area with swings  
Parking lot (entrance on Dedham Street)

**Thompsonville Playground** (a.k.a. Bowen Field, two levels, adjacent to Bowen School)

Cypress Street, Thompsonville, 8.8 acres

Newly renovated school-age play area, seating and picnic tables, and small basketball court

Upper level: irrigated junior baseball field (NELL), practice baseball field and soccer field

School parking lot; on-street parking, off of Langley Road

**Newton Centre Common/Green**

Centre Street, Newton Centre, 2.0 acres (divided by Langley Road)

Historic village center green: shaded open lawn areas, benches and flower gardens

Bordered by large, linear flower garden, irrigated (maintained by Newton Pride Committee)

City memorial site with flagpole and pathways

Parking lot and on-street parking

**Weeks Park**

Hereward Rd. or Paul St. or Cedric St., Newton Centre (adjacent to Weeks Housing), 11.1 acres

Multi-use City park with well-landscaped raised berm area with benches/game tables

Irrigated softball fields (2), regulation soccer/lacrosse/field hockey fields (3) and tennis courts (4)

Large wood play chair sculpture (up on hill)

Fenced pre-school play area with bucket swings

Parking lot and on-street parking; no pathways

## WARD SEVEN

### **Eliot Memorial Park**

Eliot Memorial Road, Newton Centre .2 acres  
Small open space with memorial  
On street parking

### **Heartbreak Hill Park @ Waban Hill Reservoir**

5 acre  
Purchased from the MWRA by the City in 2016  
Master Plan 2016  
Renamed December 2017 from Waban Hill Reservoir to Heartbreak Hill Park

### **Ward Park** (contiguous to Ward School Playground)

Montrose Street, Newton Centre, 3.5 acres  
Small neighborhood park with large open lawn area  
Junior baseball field, softball field and soccer field  
School parking lot and on-street parking; no walkways  
Half basketball court and tetherball  
On-street parking

### **Ward School Playground**

Dolphin Road, Newton Centre, 3.1 acres  
Fenced school-age play structure and swings, benches  
Tennis courts (2)  
Parking lot

### **Webster Park**

End of Warren Street, Newton Centre, adjoins Webster Conservation Area, 1.0 acre  
Undeveloped area with open lawn surrounded by woods  
On street parking

## WARD EIGHT

### **Countryside School Playground**

191 Dedham Street, Newton Highlands, 2.0 acres  
School-age play area with swings  
Junior baseball field, elementary soccer fields (2) and full basketball court  
School parking lot and on-street parking

### **Charles Brown and Oak Hill Middle Schools Playfields**

Wheeler Road, Newton Centre, 11.3 acres  
Irrigated, regulation baseball field, practice football field, softball fields (3), and soccer/lacrosse/field hockey fields (4)  
School parking lot(s) and on-street parking

### **Solomon Schecter Playground** (formerly Memorial/Solomon Schecter School)

Stein Circle, Oak Hill, 3.0 acres  
School-age play area with swings  
Open lawn area, junior baseball field, basketball standards (2) and metal shade shelter  
Tennis courts (2), intermediate soccer field  
School parking lot

### **Newton South High School** (contiguous to Oak Hill Middle School playfields)

140 Brandeis Road, Newton Centre, 7.0 acres  
All playfields under construction, 2009  
Lighted tennis courts (12) area, basketball court  
School parking lot with handicap parking

### **Memorial Spaulding School Playground**

250 Brookline Street, Newton Centre, 2.0 acres  
School-age play area with swings and basketball court area  
"Kayla's Garden" outdoor classroom with accessible pathway  
Middle and lower fields: junior baseball field (2), youth soccer fields (2)  
School parking lot and on-street parking

### **Nahanton Park** (formerly Infirmary Land Park)

Nahanton Street and Winchester Street entrances. Newton Highlands, 57.0 acres  
Large multi-use City park set on the Charles River, bordering Needham  
Nature Center building with restroom  
Accessible walkway system includes Florrie's Path along river  
Picnic area, fishing dock, canoe launch, and meadow area/nature study  
Irrigated regulation soccer field and softball field (Winchester St.)  
City's only 'Community Gardens' (Winchester St.)

### **Kennard Park** (contiguous to Kennard Conservation Area and the Town of Brookline)

Dudley Road, Newton Centre, 14.0 acres  
House (leased out by City)  
Orchard, perennial garden and open lawn areas  
Parking area

## Field Houses, Recreation Centers and Community Centers

The Newton Parks and Recreation Department supervises the following Recreation Buildings

**ADMINISTRATION, URBAN FORESTRY, MAINTENANCE HEADQUARTERS 246 Dudley Rd, 02459**, 617-796-1500

**ALBEMARLE FIELDHOUSE\* & GATH POOL** Russell J. Halloran Sports and Recreation Complex (formerly Albemarle Park) 250 Albemarle Road, Newtonville.  
Supervisor: Tom Cahill, Ph: 617-796-1500

**AUBURNDALE COVE FIELD HOUSE** (William “Cuz” Connolly Warming House) Auburndale Park  
Supervisor: Channon Ames, Ph. 617-796-1500

**BURR PARK RECREATION CENTER\*** - Waverly Avenue, Newton Corner.  
Supervisor: Stephanie Pelkowsky, Ph. 617-796-1500  
**Facilities:** Playground Building with game/meeting rooms, toilets & storage

**BULLOUGH'S POND WARMING HOUSE** – (Heated ice skating shelter), Bullough’s Park,  
Supervisor: Carol Stapleton, Ph. 617-796-1500

**CABOT PARK FIELD HOUSE\*** - Building w/Toilets & Storage Facilities  
Supervisor: Judy Dore, Ph. 617-796-1500

**EMERSON COMMUNITY CENTER** (Former Emerson School) Pettee Street, Newton Upper Falls.  
Supervisor: Carol Stapleton, Ph. 617-796-1500.  
**Facilities:** Gymnasium, Kitchen, Classroom

**GIL CHAMPAGNE BATH HOUSE & RECREATION CENTER**, Crystal Lake, 16 Rogers St.,  
Newton Highlands.  
Supervisor: Carol Stapleton. Ph: 617-796-1500.

**LOWER FALLS COMMUNITY CENTER** (Formerly Hamilton School) - 545 Grove Street, Lower Falls. **Facilities:** Gymnasium, Class rooms, Kitchen, Office, Conference Room, Senior Citizen Garden, Neighborhood Reading Room  
Supervisor: Judy Dore. Ph: 617-796-1500

**JEANNETTE CURTIS WEST COMMUNITY CENTER (The Hut)** - 69 Tyler Terrace, Newton Centre. **Facilities:** Large Multi-Purpose Room, Meeting Rooms  
Supervisor: Judy Dore. Ph: 617-796-1500



**JOANNE C. PELLIGRINI MEMORIAL PLAYGROUND** - Hawthorn Street, Newton.  
Supervisor: Tom Cahill. Ph: 617-796-1500  
**Facilities:** Gymnasium, Lounge, Senior Citizen Garden

**NAHANTON PARK NATURE CENTER\*** - Nahanton Park, Nahanton St. \* Facilities used year round for recreation programs, day care, fishing lessons, staffed/supervised rentals  
Supervisor: Judy Dore. Ph: 617-796-1500

## Relationship to Other Boards & Commissions

**Planning Department:** The Planning Department conducts current and long range comprehensive planning. It provides land use analysis develops both the Newton Open Space Plan (every five years) and the Master or Comprehensive Plan for the City. It also develops and provides census, customer satisfaction, and survey information. The Planning Department provides staff support for the Conservation Commission and Historical Commissions and helps to administer their state and local regulations, policies and procedures. It provides staff support for the Land Use and Land Re-Use (of public property) Committees of the Board of Aldermen. It provides review of proposed signage for compliance with the city's sign ordinance and coordinates administrative site plan review for construction. The Planning Department's landscape engineer also assists in designing improvements to parks and recreation areas. The Planning Department coordinates the submission of grant applications for state and federal funds for park improvements and administers the Community Block Grant Development program.

**Conservation Commission:** The Conservation Commission: 1) administers Wetlands Regulations (310 CMR 10.00) and the City of Newton Floodplain Ordinance 22-22 to preserve and protect Newton's wetlands and floodplains. 2) is enabled to acquire properties for the preservation of open space and wildlife protection, to maintain all Conservation Areas in a sound manner, to make the areas accessible to the public and to educate the public about open space issues. Newton (II§22-20) enables this commission to conduct research into the city's natural resources and to prepare conservation and passive outdoor recreation plans and charges it with advising the Planning Department on natural resources.

Alterations to park lands bordering the Charles River, other streams, or wetlands fall under the jurisdiction of the Conservation Commission. Conservation Lands are generally available for passive recreational use and often border park lands.



*Purgatory Cove-Wabasso St.*

**Urban Tree Commission:** The Newton Urban Tree Commission ensures that the canopy of green created by the city's trees is maintained, preserved and extended. This includes setting direction, developing policies, overseeing practices, and guiding outcomes related to the city's management of its urban forest.

*Apple Tree in Nahanton Park*

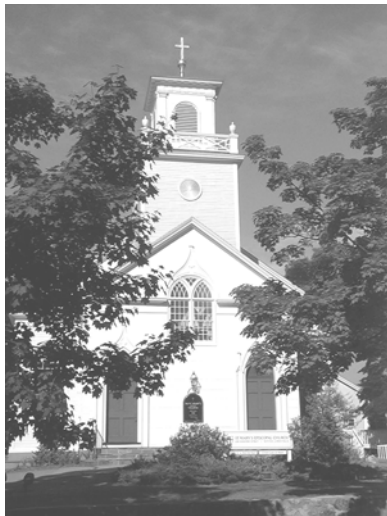
**Integrated Pest Management Advisory Committee:** The IPM Advisory Committee advises the Commissioners of Public Health, Public Buildings, Public Works, Parks and Recreation, the Superintendent of Schools and the Mayor by recommending action in the following areas or by taking action in these areas to the extent that authority is delegated by the above.

- Development of IPM guidelines and oversee their implementation.
- Development of IPM specifications for RFPs and contracts.
- Providing necessary community education about IPM.
- Ensuring that all pertinent staff have appropriate training and experience in IPM practices and access to expert assistance and resources.
- Ensuring that best practices and all nontoxic pest control methods are fully exploited.
- Ensuring that any pesticide considered for use is fully evaluated (both active and inert ingredients) for the least-adverse impact on people and the environment.
- Determining policy for notification of pesticide use to all users and abutters and enforce the full extent of that policy and applicable state law.
- Specifying collection of IPM data and evaluate pesticide-use records of all City departments and make regular reports to the Landscape Advisory Committee, the Mayor and the community.



*Swallowtail Butterfly - Clintonia Flowers*

**Mayor's Committee for People with Disabilities:** The two major goals of the Mayor's Committee for People with Disabilities are the achievement of architectural access in public places in Newton for people with disabilities and fostering awareness among citizens and public officials of the importance of creating an accessible community that can accommodate equally the needs of every person.



*St. Mary's Church Lower Falls*

**Historic Preservation Commission:** The Historic Preservation Commission identifies, evaluates and protects historic resources, which contribute to an understanding of the development of Newton. It provides an overview of City's preservation activities, administers the demolition delay ordinance and the landmark ordinance, updates survey and National Register information. The Newton Upper Falls Historic District and Commission was established in 1976 and expanded in 1985. The Chestnut Hill Historic District and Commission was established in 1991.



## Other Organizations Interacting with the Parks & Recreation Commission

### City of Newton

Accounting  
Archives  
Child Care Commission  
City Clerk  
Bicycle & Pedestrian Task Force  
Board of Aldermen  
Building Department  
Elections  
Engineering  
Executive  
Fire  
Police  
Health  
Human Resources  
Human Services  
Information Technology

Inspectional Services  
Law  
Library  
Jackson Homestead  
Conservation Commission  
Licensing  
Veterans  
Planning and Community Development  
Public Works  
Police  
Purchasing  
School Department  
Treasurers  
Water/Sewer  
Youth Commission

### Other Organizations

American Camping Association  
American Red Cross  
Association for Retarded Citizens  
Auburndale Community Association  
Best Buddies  
Boston Cares Volunteer Organization  
Boston University Sargent Camp  
Boys and Girls Club  
Bulloughs Park Neighborhood Association  
Childcare Resource Center  
Community Development Block Grant (Federal Government)  
Council of Aging  
Crystal Lake Task Force  
Department of Environmental Management  
Department of Mental Retardation  
Department of Social Services  
Dogs Off-Leash Advisory Committee  
Off-leash Area Working Group  
Flowed Meadow Association  
Friends of Nahanton Park  
Green CAP  
Hyde Community Center  
Information Center for Individuals with Disabilities  
League of Women Voters  
MacKenzie Center  
Mass Council for the Arts  
Mass Department of Fishing and Wildlife  
Mass Federation of Farmer's Markets  
Mass. Parks and Recreation Association  
MBTA  
Metropolitan District Commission  
Mass Department of Fishing and Wildlife  
National Recreation and Park Association  
National Therapeutic Recreation Certification Board

Newton 2000  
Newton Area Corporation for the Benefit of Special Athletes  
Newton Athletic Association  
Newton Central Little League  
Newton Commonwealth Golf Foundation  
Newton Community Service Center  
Newton Conservators  
Newton Cultural Center  
Newton Cultural Council  
Newton East Little League  
Newton Girls Basketball Association  
Newton Girls Soccer  
Newton Girls Softball league  
Newton Highlands Area Council  
Newton Housing Authority  
Newton North Little League  
Newton Pride  
Newton Public Schools Parent - Teacher Organizations  
Newton Senior Center  
Newton Serves  
Newton South Little League  
Newton West Little League  
Newton Youth Hockey  
Newton Youth Soccer  
Newton-Wellesley-Weston - Providing Residences for disabilities  
Oak Hill Park Association  
Partners for Youth with Disabilities  
PTO Council  
School Committee  
Special Olympics of Massachusetts  
St. Mary of Carmen Society  
Substance Abuse Coalition  
TILL (Towards Independent Living and Learning)

## **Policies and Procedures of the Commission**

### **Meeting Schedule**

Meetings are usually held in Room 209 at City Hall on the third Monday of each month at 7:00 p.m. (September-June). In the event of a Monday holiday, the meeting is held on the fourth Monday.

#### **Recurring Items by Month (subject to change)**

Since budgetary planning cycles for both the operating budget and capital improvements (CIP) often vary from year to year.

<b>January:</b>	CPA Projects
<b>February:</b>	Requests by Sports Organizations for Structures Including Signs on Playing Fields for the Current Year
<b>March:</b>	Election of Commission Officers Tennis Rules & Regulations
<b>April:</b>	St. Mary of Carmen Carnival Application Review Boating Regulations for Crystal Lake Swimming Regulations for Gath Pool and Crystal Lake
<b>May:</b>	Newton Youth Service Awards New members are seated (ch. 45 §2)
<b>June:</b>	Newton North Indoor Recreational Facility Fees and Policies Youth Service Awards
<b>July:</b>	Usually no meeting (Fiscal year begins July 1)
<b>August:</b>	Usually no meeting.
<b>September:</b>	Annual Beautification Awards (Newton Pride)
<b>October:</b>	Scholarship Report Crystal Lake & Gath Pool Summer figures
<b>November:</b>	CPA Updates
<b>December:</b>	Ice-Skating Rules & Regulations

## Approved Policies and Procedures of the Commission

- Policy Guidelines for Consideration of: Land Use Changes, Inter-Departmental Relinquishments of Custody, and Declaration of Surplus Parks and Recreation Commission Lands
- Policies & Procedures for Approving Alterations of Parks and Recreation Land by Private Persons or Organizations
- Prohibition of Alcoholic Beverages and Tobacco Product Advertising or Promotion in or on City Buildings, Facilities, Land, and in or on Public Transportation Vehicles (City Ordinance)
- Naming of Parklands and Structures Thereon.
- Rules and Regulations for Boating on Crystal Lake
- Provision for Overriding Written Policies and Procedures
- Safety Policy for Playground Apparatus
- *Fencing Guidelines(see the fencing guidelines on page 62 of this manual):* The Parks & Recreation Commission has agreed, whenever possible, to follow the Fencing Guidelines developed by the Mayor's Landscape Advisory Committee, but the Fencing Guidelines are not a policy of the Parks & Recreation Commission. These are given following the adopted procedures of the Commission.



*Cabot Park Little League Field*

Newton Parks & Recreation Department  
**Rules and Regulations for Sponsorship Signs**

at the Jay Gordon Little League Facility, Newton Centre

As recommended by the Newton Parks and Recreation Commission, December 22, 2003

An annual application to install and maintain up to 36 sponsorship signs at the Jay Gordon Little League Facility ("Facility") shall be submitted to the Commissioner of Parks and Recreation (the "Commissioner") for approval prior to the installation by or for the Newton East Little League ("NELL") of any sign that may be permitted by the Commissioner.

All signs shall be installed and maintained strictly in accordance with the following rules and regulations and the plans entitled: "Field Sketch" and "Sign Detail" submitted by NELL in 1991 and attached hereto and made a part hereof.

All signs shall be wooden, be the same size and may not exceed 4' by 8'.

No signs may contain any direct or indirect product or service promotion or logo and the only message thereon shall indicate the name of a sponsor and its support for the NELL. NELL shall, at the time of its application for permission for the signs, submit the final design and content of the signs to the Commissioner for approval.

No more than 36 signs may be installed and maintained at the Facility: no signs may be installed prior to April 21: and all signs must be removed by the earlier of the end of the Fall playing season or October 21.

All signs must have a uniform, dark green background color for both the front and back of the panels and all lettering shall be a single, white color.

All signs may only be located on the inside of the curved outfield perimeter field fence and all signs shall be placed sequentially with no gaps starting from the right field line and then proceeding to the left field line.

As an express condition precedent to the permission to install and maintain any signs and subject to the review and approval of the Commissioner, the NELL shall, at its sole cost and expense, maintain and landscape the Facility in first class condition and repair.

There shall be no additional structures, or any sound systems, lighting or food service, temporary or otherwise, installed or located at the Facility or modification of the grades of the field by or for NELL without the express prior, written approval of the Commissioner and the Parks and Recreation Commission (the "Commission").

In the event NELL shall fail to abide strictly by any of the foregoing rules and regulations, the Commission shall, in its sole and absolute discretion and without limiting any other remedies available to it, cause the immediate removal of any signs; deny NELL permission to install and maintain any signage at the Facility for one or more future years; and may impose such other remedies as it deems appropriate, including, without limitation, the denial of the ability of NELL to use the Facility.

Any approval for NELL to install and maintain signs at the Facility may be rescinded by the Commission at will, for any or no reason, in the exercise of its sole and absolute discretion.

The foregoing rules and regulations are subject to amendment and revision by the Commission.

## **Commemoration Policy**

- Application Forms
- Tier One Project
- Tier Two Project

Newton Parks & Recreation Department  
**Application Form**  
Donation/Commemorative Project

Name(s) of Applicant(s) \_\_\_\_\_  
Address \_\_\_\_\_  
Contact phone number: \_\_\_\_\_  
E-mail \_\_\_\_\_

Project Description

Site Location of Proposal: \_\_\_\_\_

Tier Request – see attached for descriptions

Tier 1 project: \_\_\_\_\_

Tier 2 project: \_\_\_\_\_

Please include the following information as part of your application:

- Background information
- Letters of support for this project
- A listing of all members of the project committee
- Any other information deemed necessary by the Commissioner of Parks and Recreation or designee.
- You will be notified if further information is required.

Please submit to:     Robert J. DeRubeis, Commissioner  
                              Newton Parks & Recreation Department  
                              246 Dudley Rd  
                              Newton, Massachusetts 02459  
  
                              617-796-1500

Upon receipt of this application, you will be contacted by a member of the Parks and Recreation Department Staff.

Thank you.

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

## APPLICATION GUIDELINES

The Newton Parks and Recreation Department reserves the right to establish limitations or declare a moratorium on future installations at a particular location or area.

Maintenance concerns will be a preliminary consideration for this project with adequate provisions made for continued future maintenance of the site. In all cases, any and all materials should be made from durable material that will stand up over time and require little, if any, on going maintenance issues or concerns. Any and all plantings will require a documented warranty agreement.

The donors of the proposed project will be required to pay all related costs for any design, manufacturing, installation and maintenance endowments to ensure quality of care for this project.

Arrangements for installation or any work performed on City of Newton Property by a private contractor will require a separate contract.

Criteria for the site selection will take into consideration the following:

Conceptual Stage and information gathering requirements

Adequacy of funding sources

Special Permitting requirements i.e., site plan approval and certified design plan approval by City of Newton Engineering Department

Landowner or jurisdiction issues

The requirement of an "Impact Report, which would include, but not be limited to: Historic Lands, Wetlands and Conservation Issues, Traffic and Parking issues, Accessibility and Environmental issues, Public and Scenic Way implications and neighborhood and direct abutter concerns that may require a neighborhood meeting or a public hearing as deemed appropriate by the Newton Parks and Recreation Commission. Of primary concern will be the existing and proposed circulation and use patterns of the site selected.

**The City of Newton does not guarantee replacement or repairs to any damaged items.**



## PROJECT CRITERIA

### **Tier 1 Project**

A Tier 1 project is the purchase of park amenities typically found in Newton's Parks or Public and Open Space. Examples are:

A single tree, a single bench with or without a Commemorative plaque placed within an existing area of a park or playground.

The donors of the proposed items will be required to pay for all related costs for any design, manufacturing, installation and maintenance endowments to insure quality of care for the items proposed.

#### Trees/Shrubs:

Any and all tree or shrub selections will be authorized by the Superintendent of Urban Forestry upon site visit. All trees and shrubs will be site selective. Trees will be at least 2-2 ½ inch caliper. Plaques of any kind may not be affixed to a tree. Tree plaques are those that are mounted on a ground pedestal. All trees will be planted by the City of Newton, Urban Forestry Department according to City of Newton planting schedules.

#### Benches:

We strongly urge the selection of a 6-8 ft. maintenance friendly, recycled material bench. Selection of benches will be authorized by the Open Space Coordinator or other Program Managers, upon site visit. A request for a bench made from materials other than recycled materials, i.e., a bench made from special wood or teak is subject to approval by the Commissioner of Parks and Recreation or designee.

A commemorative plaque for a bench is a plaque mounted flush into the bench and will be sized not to exceed 2" X 10".

## Tier 2 Project

A Tier 2 Project is the sponsorship of an area of any open space or parkland that would include any of these components and/or requirements and would be divided into two categories. A minor Tier 2 and a major Tier 2 project.

A minor project would be landscaping, construction of a small pathway, and site furniture.

A major project would be structural components i.e., play equipment, retaining walls, gazebos, major pathways, sanitation facilities, park lighting or parking lot.

Examples of requirements for a major project would be:

Site plan-drawn to scale and a certified design of the proposed area. Any increase in impervious areas need to be infiltrated on the site plan and designed for a capacity for a 100 year storm event (8.37 inches of rain in a 24 hour period). Also required on the site plan is soil evaluation, percolation tests in conformance to Title 5 of Commonwealth of Massachusetts and drainage calculations stamped by a professional engineer.

Dig Safe notification or any other City of Newton utility services.

A report on the impact on current and future use of the proposed area by the appropriate City Agency. Issues such as handicap accessibility, parking site and safety plans.

A long term maintenance endowment plan or fund.

A separate contract will be required if installation of any components of this project require a private contractor to commence work on any city grounds.

Additional site plans drawn to scale for any electrical work as required by the City of Newton Utilities Division.

Plantings and plant material selection that is not considered low maintenance.

Upon receipt of a request for a Tier 2 Project, the Commissioner of Parks and Recreation will assign the appropriate members of the Parks and Recreation Program, Maintenance or Urban Forestry Division or any other City Agencies to commence work on the project.

If deemed necessary by the Commissioner of Parks and Recreation, the project in its entirety may require a special hearing before the Newton Parks and Recreation Commission at a time and place to be agreed upon.

Tier 2 Project will require a written contractual arrangement and a memorandum of understanding prior to any and all work beginning on the project.

The Project Applicant will assume all costs for any and all installations, site work, and purchase of any materials as determined by the Commissioner of Parks and Recreation or designee. The agreement will also include a long-term maintenance agreement or any other requirement as required by the Commissioner of Parks and Recreation.

## **DEDICATIONS**

- Procedure Outline
- General Policy for Naming Park
- Facility & Area
- Renaming of area/facility

### **PROCEDURE OUTLINE:**

A written request by individuals, city-wide/neighborhood groups, or organizations submitted to Parks & Recreation Commission. The request would provide historical and supportive information as appropriate to justify the recommendation.

Acknowledgement by the Parks & Recreation Commission in writing to particular group requesting the naming.

The request would be placed on the Parks & Recreation regular agenda or a special meeting would be held. If there is a special meeting, a minimum of a 48 hours notice to the public is required. A notice sent to abutters/interested parties of facility area indicating that a request is being presented and discussed by Parks & Recreation Commission.

After the proposal is officially submitted to the Parks & Recreation Commission for consideration, there will be a minimum of 30 days before an official vote will be taken at a Parks & Recreation Commission Meeting. During this time a public notice should be made to local papers and interested parties and abutters.

The official vote for approval will need 5 affirmative votes of the commission membership.

### **GENERAL POLICY FOR NAMING PARK FACILITY AND AREA:**

An individual considered must have made major contribution and unselfish efforts to community/Parks & Recreation or have been involved with the particular facility or activity.

An individual considered may have made major donation in acquiring the property.

No official in office will be considered until such person has left office.

In naming sites, consideration shall also be given to geographical location, historic or geologic features.

## RENAMING OF AREA/FACILITY:

### DEDICATION: Change of name of ways or parks

G.L. c. 85, S 3 states in pertinent part

“When the name of any public way, or of any public park, is changed by the board or officer having jurisdiction thereof, if the name changed has been in use for twenty-five (25) years or more, there shall be a right of appeal from such action to the (Massachusetts Highway Department). Such appeal shall be taken within thirty days after such change, and shall be by petition of a least twenty-five inhabitants of the town in which such change has been made, requesting the reversal of such action ... upon the filing of such petition, a public hearing shall be given by said department, after such public notice as it shall determine, and unless the department shall approve of such change, the same shall be of no effect.”  
(Emphasis Added)

The Commission could use this for re-naming a park building or facility as well.

**Newton Parks & Recreation Commission**  
**Special Event Field Permit Policy and Procedure**

The Parks and Recreation Commission (“Commission”) and The Parks and Recreation Department (“Department”) have determined that some special events affecting the property maintained by the Parks and Recreation Department may cause significant property damage to turf, irrigation systems and other park and recreation facilities and equipment. This damage could require the expenditure of significant sums of public money in order to remedy the damages. In order to mitigate these problems the following controls have been established.

**Special Events:**

A sponsor of Special Events (“Sponsor”) whether involving fundraising or not, must file with the Department a special event permit application (“Application”) and receive the approval of the Commissioner and/or the Commission (“Permit”) as applicable. Special Events include, but are not limited to: carnivals, school fairs, concerts, group picnics, exhibitions, animal shows/rides (“Special Events”) but shall not include team or individual athletic events, covered by the field permit policy.

**Special Event Categories:**

**Low Impact Event**–Special Events in this category involve the use of P & R, School and/or Municipal Grounds for a one-day event that expect up to 1,000 participants and involve amusements such as a “moon bounce” and/or “dunk tank” and/or small booths set up by the event sponsor for the sale of goods and wares. A low impact Event will require a Permit issued by the Department after satisfying all other guidelines established by the Law Department and other City of Newton (“City”) permitting agencies as required. If the Event Site is considered a premier site (see listing below) with Irrigation or is a park that has been restored with or without irrigation, a \$500.00 security deposit must accompany the application. If the Site is considered a non-premier site, one without irrigation, a fee of \$15.00 per hour must accompany the application. City Sponsored Events are exempt at this time from the \$15.00 fee All amusements are required to provide an insurance certificate naming the City of Newton as an additionally insured party. This certificate should be made available by the vendor/rental agency.

**Medium Impact Event**–Special Events in this category involve the use of P & R Land, School Land and/or Municipal Grounds for a maximum of two (2) days that expect over 1,000 and up to 3,000 participants and/or have small amusement and/or mechanical/carnival rides. In addition to P&R Policy, events of this type must also meet all Commonwealth of Massachusetts permitting for amusements and carnival rides. Medium Impact events require a Permit issued by the Commission. The use of municipal grounds for a special event that has mechanical/carnival rides requires a two meeting process. Meeting #1 to explain the event to the Commission, Meeting #2 to hear input from abutters to the site and for Commission vote. A \$50.00 payment is required to cover the cost of postage for Parks and Recreation to notify the abutters and allow for their input for the next Commission meeting (this is in addition to the security deposit and is not refundable unless the request is denied at initial Commission meeting). Events in this category require a \$750.00 security deposit. Check made payable to the “City of Newton” that must accompany the application.

All amusements and mechanical rides are required to provide an insurance certificate naming the City of Newton as an additionally insured party. This certificate should be made available by the vendor/rental agency.

**High Impact Event**–Special Events in this category involve the use of P & R. Land, School Land and/or Municipal Grounds for three (3) or more days and/or have larger mechanical/carnival rides that are 8 feet

or higher and/or in excess of 2,000 lbs. Events of this type must also meet all Commonwealth of Massachusetts permitting for amusements and carnival rides. The use of municipal grounds for a special event that has mechanical/carnival rides requires a two meeting process.

Meeting #1 to explain the event to the Commission,

Meeting #2 to hear input from abutters to the site and for Commission vote.

A \$50.00 payment per permit application is required to cover the cost of postage for Parks and Recreation to notify the abutters and allow for their input for the next Commission meeting (This \$50.00 fee is in addition to the security deposit and not refundable unless the request is denied at initial Commission meeting).

Events in this category require a \$1,000.00 security deposit “check made payable to the City of Newton” that must accompany the application.

**All amusements and mechanical rides are required to provide an insurance certificate naming the City of Newton as an additionally insured party. This certificate should be made available by the vendor/rental agency and is different from the insurance bond for repairs.**

The Department must receive completed applications no later than March 1 of each year for spring and summer reservations, and no later than May 1 for early fall reservations. Reservation attempts past deadlines will be filled on an as available basis.

Allocations of P&R Land, School Land and/or Municipal Grounds will be based on availability, scheduled renovations and turf control measures implemented by Parks and Recreation. The Department will manage use of P & R Land, School Land and/or Municipal Grounds taking into consideration the potential impact on field conditions and neighbors.

The Sponsor (or the responsible adult who is designated on the permit for the Sponsor) shall be present at all times during the Special Event. The Permit holder must have his/her/its permit in his/her/its possession at all times.

The Permit is personal to the Sponsor and may not be assigned nor shall the Sponsor allow the P&R land, School Land and/or Municipal Grounds to be used by any other person or entity without the expressed written permission of the Commission.

Any Permit issued by the Commissioner and/or the Commission is subject to revocation by the department, if, conditions (e.g. wetness) of the applicable P&R land, School Land and/or Municipal Grounds warrant such cancellation. The Department will communicate with the sponsor prior to cancellation of an event to discuss the necessary concerns.

If a permit is revoked for failure to abide strictly by its terms, conditions and/or limitations, there shall be no refund of the security deposit.

### **Special Event Application Process**

Applications are available at the Department’s Office 246 Dudley Rd, Newton, MA 02459 Monday through Friday 9AM to 5 PM or on-line using the Department’s web page at [www.newtonma.gov/gov/parks](http://www.newtonma.gov/gov/parks)

The Completed Application together with the required security deposit and supporting materials shall be filed with the Department. No Application will be reviewed until it is complete, fees paid in advance and all supporting documentation is filed.

The sponsor and the “City” will have a pre-event and post event site tour; this will allow proper evaluation of damages created by the special event i.e. ruts from trucks, burned grass, compacted areas, spills of fluids from rides or damage to irrigation systems. The Security Deposit will be used to return the site to its pre-event condition. During the post event site evaluation with the sponsor damage will be assessed and the security deposit will be used to pay for damage with the balance returned to the sponsor after damage has been repaired. If the “City” and the sponsor can not agree to terms of the damage, the “City” will call in an independent party to arbitrate.

## **Security Deposit**

**Low Impact Event** - Security Deposit of \$500.00 bank certified check made payable to the “City of Newton” if the property is considered a premier site (see listing below) or a park that has been restored. On non-premier sites a non-refundable fee of \$15.00 per hour of use is required. City Sponsored Events are exempt from the \$15.00/hour fee. The sponsor and/or the vendor will be required to agree to pay for damages in excess of the \$500.00 security deposit.

**Medium Impact Event** - Security Deposit of \$750.00 bank certified check made payable to the “City of Newton” if the property is considered a premier site (see listing below) or a park that has been restored. The sponsor and/or the vendor will be required to agree to pay for damages in excess of the \$750.00 security deposit.

**High Impact Event** - Security Deposit of \$1000.00 bank certified check made payable to the “City of Newton” if the property is considered a premier site (see listing below) or a park that has been restored. The sponsor and/or the vendor will be required to agree to pay for damages in excess of the \$750.00 security deposit.

**Insurance Certificate:** Insurance requirements of the Law Department must be in place for any amusement rides naming the City of Newton as an additionally insured prior to the final issue of permit

### **Premier Sites:**

New Cold Spring Park - upper and lower  
Halloran Sports and Recreation Complex (Albemarle Park) irrigated areas only  
Franklin School  
Zervas School  
Cabot Park  
Highlands Playground - (Joseph Lee Playground)  
Forte Park  
Burr Park  
Oak Hill/Brown Middle School Park  
Newton North High School  
Newton South High School  
Newton City Hall  
McGrath Playground (Warren Field)  
Lincoln Warren Field  
Bowen School/Thompsonville Playground  
Weeks Field  
Nahanton Park  
Lower Falls Community Center

**Policy Guidelines for Consideration of: Land Use Changes,  
Inter-Departmental Relinquishments of Custody, and Declaration of Surplus Parks and Recreation  
Commission Lands\***

1. The Parks and Recreation Commission supports the long term preservation of open space in the City of Newton for the benefit of current and future generations of Newton citizens. Open space used for park, recreation and playground purposes should be diverted to other uses only as a last resort after all other reasonable options have been found deficient.
  - a) In considering the transfer of land for a proposed new use, the Commission will analyze the short and long-term need for the new use in balance with the public trust served by the existing public open space use.
  - b) The Commission will insure that the intrinsic long-term public values of park and playground open space are weighed explicitly and substantially in the balance and are not overridden by the expediency that publicly owned park and playground open space does not require purchase or eminent domain. The consideration of intrinsic public values will include an estimation of the costs necessary to provide equivalents to the existing park and playground open space. The fact that using park, recreation or playground open space for a new use would be less expensive is not by itself sufficient to warrant the transfer of the land or to reject another potential alternative.
  - c) The Commission will not divert park and playground open space to other uses unless there has been a compelling showing that there is no feasible and prudent alternative, including both publicly and privately owned potential sites, as well as potential sites that are not currently in open space use.
  
2. In assessing the balance between the proposed and existing uses, the following questions will be addressed by the Commission in considering any request for transferring land or declaring it surplus:
  - a) What will be the impact of the loss of an open space parcel on the total publicly owned open space in the city?
  - b) What will be the impact on the distribution of publicly owned open space throughout the city?
  - c) What will be the impact on the city regarding the existing specific uses of the parcel? What is the level of use? Can these uses be diverted to other available sites, and are these sites in reasonable proximity, or will new sites need to be found?
  - d) What will be the costs of these alternatives?
  - e) Does the parcel possess unique features that cannot be duplicated at other sites?
  - f) What will be the impact of the loss of the open space on the adjacent abutters and surrounding neighborhood?
  - g) Are there legal constraints arising from: bequests, the use of federal or state funds to acquire or improve the land, or other restrictions placed when the land was transferred to public ownership by the city or from another city department to Parks & Recreation?
  - h) What compensatory open space is being offered for the land? If other compensation (funds, facilities, substitute services) are to be provided, are they a full and sufficient replacement?
  
3. The Commission recognizes that other issues may arise with regard to the transfer of land and will give them due consideration.

\* In accord with MGL ch. 40 §15A Transfer of land procedure.



## **MGL 40 § 15. Conveyance of Land or Abandonment of Easements; Procedures.**

If any officer of a city or town having charge of any land, easement or right taken for such city or town, otherwise than by purchase, notifies the city council or the selectmen that, in his opinion, such land, easement or right, or part thereof, is no longer required for public purposes, and if thereafter the city council or the inhabitants of the town by a two thirds vote authorize the conveyance of such land, or of part thereof, or the abandonment of such easement or right, or part thereof, and specify the minimum amount to be paid for such conveyance or abandonment, the mayor or the selectmen may, for such amount or a larger amount, and upon such other terms as the mayor or selectmen shall consider proper, convey said land, or part thereof, by deed, or declare said easement or right, or part thereof, to be abandoned. Such declaration, being recorded in the registry of deeds for the district where the land is situated, shall extinguish the easement or right, or part thereof.

No land heretofore or hereafter acquired by eminent domain by one city or town within the limits of another city or town shall be conveyed under this section unless the mayor or selectmen authorized to convey such land offer to convey such land to the city or town wherein such land lies for the minimum amount specified as aforesaid, nor unless such offer is not accepted within six months after notice thereof is given to the mayor or selectmen of the city or town wherein such land lies by the mayor or selectmen authorized to convey, nor unless such conveyance is made within three months after the expiration of said six months. Land so offered to a city or town wherein it lies may be purchased by such city or town whether or not needed for the municipal purposes of such city or town, and, if so purchased and if such land is not needed for municipal purposes, it shall be disposed of as such city or town shall determine.



### **MGL 40 §15A. Transfer of land; procedure.**

Whenever a board or officer having charge of land, including land acquired for playground purposes pursuant to the provisions of section fourteen of chapter forty-five, but excluding land acquired for park purposes, constituting the whole or any part of an estate held by a city or town within its limits for a specific purpose shall determine that such land is no longer needed for such purpose, whether such land was acquired before or after the effective date of this section and whether acquired by eminent domain, purchase, gift, devise or otherwise, such board or officer shall forthwith

give notice of such determination to the city council of any city or the board of selectmen of the town. At any time after the receipt of such notice, the city council of the city by a two thirds vote of all its members, in the case of a city having a city manager, with the approval of said city manager, and in the case of other cities, with the approval of the mayor, or the town by a two thirds vote at a regular or special town meeting, may transfer the care, custody, management and control of such land to the same or another board or officer of the city or town for another specific municipal purpose, any provision of general or special law to the contrary notwithstanding; provided, that no such transfer shall be valid if it is in violation of any term or condition of the title of the city or town to such land.

In any city or town which accepts the provisions of this paragraph, when land is being transferred for the purpose of constructing low and moderate income housing, the vote required of the city council or the town meeting shall be by a majority vote.

## **Policies & Procedures for Approving Alterations of Parks and Recreation Land by Private Persons or Organizations**

October 18, 1993



*Dugout on ball field in Lyons Park, Auburndale*

### **POLICY**

All petitions for construction of any type of structure of physical alteration to parks or recreation land must be deemed by the Recreation Commission to be in the long term interest of the City of Newton and meet all requirements and procedures outlined by the Parks and Recreation Commission.

### **CONDITIONS AND PROCEDURES**

Prior to any meeting at which a written proposal for a structure of physical alteration is to be presented and considered, the Recreation Department will mail notices to all abutters, neighborhood groups and current users holding permits of the facility in questions. A notice of such action will also be posted at the site.

There will be at least two meetings to decide on any proposal. The first meeting will be for proposal presentation, discussion and public comment. The petitioner must submit the proposal to the Planning Department for administrative site plan review, as well as the Design Review Committee. Depending on its nature, the petitioner will be required to submit the proposal to the Traffic Commission, Law Department, Conservation Commission, Engineering Department, and/or other public agencies. These agencies will be given a reasonable time period in which to report their findings to the Commissioner, prior to any decision being made by the Commission concerning the project. The Commission will be the last agency to make a decision.

Prior to any decision being made, in addition to the original proposal in writing, the petitioner must provide the Commission with requested financial information about his/her organization and details of all use and caretaking arrangements for the structure and or physical alteration. For whatever its purpose, the petitioner must demonstrate in writing the need to erect the structure. If the structure is to be used to generate revenue, the petitioner must show that other suitable avenues for fund raising have been researched or attempted.

In making its decision, the Commission must take into consideration the potential adverse effects that the proposal will have on the environmental and economic parameters surrounding it.

A written plan of action must be submitted with the proposal stating alternative plans for use or removal, should said structure no longer be used by the petitioner.

The petitioner will provide the Commission with an itemized estimate of the cost of construction, expected revenue raised and what the proceeds will be used for.

The petitioner may also be subject to other unforeseen conditions or procedures deemed appropriate by the Commission.

Any structure built on Parks and Recreation land will be owned by the City, upon completion, and under direct control of the Commission.

Any construction will be supervised and inspected by the City of Newton to make sure private persons or organizations have complied with plan presented. The City of Newton will oversee all facets involved in the construction process.



*Fences, Batting Cage, Dugouts and Grandstand, Lyons Park*

**Prohibition of Alcoholic Beverages and Tobacco Product Advertising  
or Promotion in or on City Buildings, Facilities, Land, and in or on Public Transportation Vehicles**



*Advertising Signs on Jay Gordon Ball Field, Newton Centre Park*

Ordinance No. V-184, adopted by the Board of Aldermen, June 29, 1998 as an amendment to the Revised Ordinances of the City of Newton, ch. 20 §20-22, 1995. Adopted by Parks and Recreation Commission 5/18/98 and amended to coincide with City Ordinance on 2/28/00.

**a) Declaration of legislative findings and intent:**

**Alcoholic Beverages:**

WHEREAS, Massachusetts General Laws Chapter 138, §34, prohibits the sale of alcoholic beverages to a minor; and

WHEREAS, a 1995 survey of Newton students found that approximately 42 percent of sixth graders surveyed had experimented with alcohol; and

WHEREAS, in 1992, reports by then U.S. Surgeon General, Dr. Antonia Novello (Youth and Alcohol: Dangerous and Deadly Consequences) and then U.S. Inspector General, Richard Kusserow ("Youth and Alcohol: Drinking and Crime") found, inter alia, that about one-third of all juvenile males arrested said they had used alcohol in the previous 72 hours; a "striking association" exists between alcohol use and using firearms to commit suicide by 10-to-19 year-olds;

- 40%-50% of young males who drowned had consumed alcohol prior to drowning;
- 40%-50% of youths injured diving had consumed alcohol prior to diving; among high school seniors, twice as many frequent binge drinkers skipped school (55% versus 25%) and nearly five times as many seniors who had binged frequently damaged school property (36% versus 8%)

WHEREAS, Section 20-17 of the Revised Ordinances of the City of Newton prohibits the consumption of alcoholic beverages on public property;

**Tobacco Products:**

WHEREAS, Section 20-18 of the Revised Ordinances of the City of Newton prohibits distribution of cigarettes or other tobacco or smoking products free to any person in any public park, playground or any other public ground; and,

WHEREAS, Section 20-18A of the Revised Ordinances of the City of Newton prohibits the sale of tobacco products to a minor and restricts the use of free standing displays and tobacco product vending machines so as to prevent the sale of tobacco products to minors; and,

WHEREAS, Section 20-18A of the Revised Ordinances of the City of Newton requires proof of age in order to purchase tobacco products in order to restrict the access by minors to tobacco products; and,

WHEREAS, the Board of Aldermen of the City of Newton has found that at least one-half of all smokers begin smoking before the age of eighteen (18) and that an estimated three thousand (3,000) minors begin smoking every day in the United States; and

WHEREAS; the Board of Aldermen of the City of Newton has declared that it is the policy of the City of Newton to discourage minors from experimenting with tobacco;

WHEREAS: the Board of Aldermen seeks to deter youths from experimenting with alcohol and seeks to act in furtherance of the policy of the Board of Aldermen in discouraging minors from experimenting with tobacco products.

**(b) Definitions:**

**Alcoholic beverage advertisement:** any written word, picture, logo, symbol; motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of alcoholic beverage, a trademark of an alcoholic beverage or a trade name associated exclusively with an alcoholic beverage; or any sign which is used for the purpose or effect of promoting the use or sale of an alcoholic beverage through such means as, but not limited to, the identification of a brand of an alcoholic beverage, a trademark of an alcoholic beverage or a trade name associated exclusively with an alcoholic beverage.

**Person:** Any natural person, firm, partnership, association, corporation, limited liability corporation, company or organization of any kind, or other legal entity.

**Public Place:** Any building, facility or other structure owned or operated by the city including school buildings and grounds or any land or property owned or operated by the city.

**Public transportation vehicle:** Buses, taxis, and other means of transportation the operation of which is subject to licensing or other grant of permission by the city pursuant to these revised ordinances or the general laws, including bus shelters and indoor platforms by which such means of transportation may be accessed.

**Sign:** A permanent or temporary structure, device, letter, word, two (2) or three (3) dimensional model, insignia, banner, streamer, display, emblem, or representation which is designed to attract attention.

**Tobacco product:** A cigarette, cigar, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

**Tobacco product advertisement:** any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of tobacco product, a trademark of a tobacco product or a trade name associated exclusively with a tobacco product; or any sign which is used for the purpose or effect of promoting the use or sale of a tobacco product through such means as, but not limited to, the identification of a brand of a tobacco product, a trademark of a tobacco product or a trade name associated exclusively with a tobacco product.

**(c) Alcohol and tobacco products, advertising and promotion prohibited:**

No person shall place, caused to be placed, maintain or cause to be maintained a sign containing an alcoholic beverage advertisement or a sign containing a tobacco product advertisement in or on a public place or in or on a public transportation vehicle. This section is in addition to and not in substitution for the provisions of chapter 30 of these revised ordinances.

**(d) Removal:**

The city department or agency having control over a public place where a sign is posted in violation of section 20-22(c) is hereby authorized to remove such a sign, provided that the city department or agency shall, as soon as reasonably possible, provide notice of such removal to the owner of the sign, if the name and address of the owner is readily ascertainable from the sign or if the city department or agency has received notice as to the name and address of the owner of the sign.

A sign so removed shall be stored for up to thirty (30) days during which time the permit holder, licensee, or sign owner may reclaim the sign. If a sign removed pursuant section 20-22(c) is not reclaimed within thirty (30) days of removal, then the sign shall be declared to be unclaimed surplus property in the possession of the Commissioner, which shall be disposed of by the chief procurement office of the city pursuant to Section 2-186(b)(7) of these revised ordinances.

In the case of a public transportation vehicle, the owner or operator of such vehicle shall remove a sign found to be in violation of section 20-22(c) within 24 hours of a request by the city to remove such sign. Failure to remove a sign within such time frame shall be cause for the revocation of any license or permission granted by the city in connection with the operation of such public transportation vehicle.

**(e) Nuisance, abatement:**

A sign posted in violation of section 20-22(c) shall constitute a public nuisance and the city shall have the authority to abate such nuisance pursuant to the provisions of section (d) above.

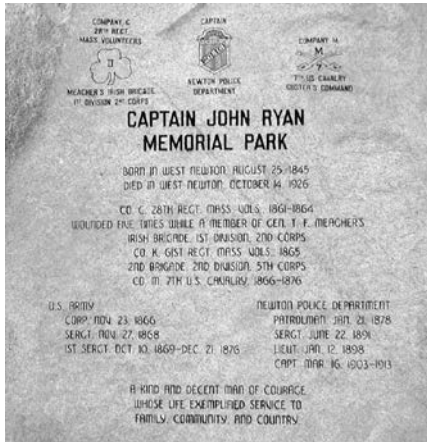
*Donor Acknowledgement Sign - Lyons Playground*





## Naming of Parklands and Structures

Thereon Approved November 1994



### I. PROCEDURE OUTLINE:

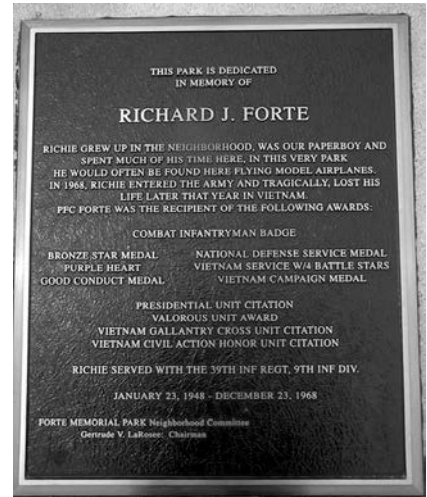
1. A written request by individuals, city-wide/neighborhood groups, or organizations submitted to Parks & Recreation Commission. The request would provide historical and supportive information as appropriate to justify the recommendation.
2. Acknowledgment by the Parks & Recreation Commission in writing to particular group requesting the naming.
3. The request would be placed on the Parks & Recreation regular agenda or a special meeting would be held. If there is a special meeting, a minimum of a 48 hours notice to the public is

required. A notice sent to abutters/interested parties of facility area indicating that a request is being presented and discussed by Parks & Recreation Commission.

4. After the proposal is officially submitted to the Parks & Recreation Commission for consideration, there will be minimum of 30 days before an official vote will be taken at Parks and Recreation Commission meeting. During this time a public notice should be made to local papers and interested parties and abutters.
5. The official vote for approval will need 5 affirmative votes of the commission membership.

### II. GENERAL POLICY FOR NAMING PARK FACILITY AND AREA:

1. An individual considered must have made major contribution and unselfish efforts to community/Parks & Recreation or have been involved with the particular facility or activity.
2. An individual considered may have made major donation in acquiring the property.
3. No official in office will be considered until such person has left office.
4. In naming sites, consideration shall also be given to geographical location, historic or geologic features.



### III. RENAMING OF AREA/FACILITY: DEDICATION:

**Renaming of Park: State Law governs re-naming of Park/Facilities/Area**

**G.L. c. 85, § 3 states in pertinent part** When the name of any public way, ... or of any public park, is changed by the board or officer having jurisdiction thereof-, if the name changed has been in use for twenty-five (25) years or more, there shall be a right of appeal from such action to the [Massachusetts Highway Department]. Such appeal shall be taken within thirty days after such change, and shall be by petition of at least twenty-five inhabitants of the town in which such change has been made, requesting the reversal of such action. ...upon the filing of such petition, a public hearing shall be given by said department, after such public notice as it shall determine, and unless the department shall approve of such change, the same shall be of no effect .

## Rules and Regulations for Boating on Crystal Lake



*Cronin's Cove Crystal Lake 1888 (photo from Jackson Homestead)*

Use of Crystal Lake for boating and fishing is permitted year-round from dawn to dusk subject to the following rules and regulations:

### **RULES AND REGULATIONS FOR BOATING ON CRYSTAL LAKE**

(As amended by the Newton Parks & Recreation Commission, December 18, 2005)

Use of Crystal Lake for boating and fishing is permitted year round from dawn to dusk subject to the following rules and regulations:

#### 1. **TYPES OF BOATS:**

- a. The following boats are permitted:  
Car top boats, including canoes, kayaks, rowboats, wind surfers and inflatable boats that have sides, oar locks and a rated carrying capacity of at least 300lbs.

#### 2. **TYPES OF MOTORS:**

- a. Electric motors not exceeding 3 horsepower or 30lbs of thrust.
- b. All persons using the above permitted boats must wear a coast guard approved personal flotation device at all times. (see rule 7a below)

#### 3. **THE FOLLOWING ARE PROHIBITED:**

- a. Jet skis, crew sculls, water skis, snowmobiles, skimobiles, all terrain vehicles (ATV's) and hovercrafts. (exception – emergency vehicles)
- b. Internal combustion engines on or in the water. (exception – emergency vehicles)

#### 4. **ACCESS POINT:**



- a. All boats must be put into the water by hand carry at the designated area in Cronin's Cove on Lake Avenue. Boats may not be put in the lake from any other site, except boats belonging to owners of property abutting the lake, which may then be launched from the abutter's property.

**5. LAUNCHING AND LANDING:**

- a. Boaters are prohibited from landing their boats on private property along the lake, except that the foregoing restriction shall not apply to private abutters landing boats on their own property.
- b. No person shall moor a boat in the water and no person shall beach a boat within the boundary of the access point or upon any other public land surrounding the lake (a) after dusk, or (b) in a manner that interferes with the reasonable use and enjoyment of the access point and other public land by others entitled thereto.
- c. No person shall dig up, cut, break, remove, deface, defile or ill-use any fence, sign, stairway, bush, plant, turf, rock, or any other thing belonging to the City of Newton, or have possession of any part thereof.

**6. PARKING:**

- a. Subject to an amendment to City parking ordinances, boaters may park in the designated spot on Lake Avenue at Cronin Cove for five (5) minutes while loading and unloading boats. At all other times, boaters' cars must be legally parked in appropriate spaces.
- b. The maximum number of boats permitted on the lake in active use at any one time is limited to twenty (20) boats on a first-come/first-served basis.

**7. SAFETY:**

- a. All boats must be equipped with one Coast Guard approved personal flotation device, in good and serviceable condition, for each person on board, which must be worn at all times by each such person on board (M.G.L. c.90B, sec.5A).
- b. Boaters are required to read and obey State boating regulations, which appear on the Department of Fisheries, Wildlife and Environmental Law Enforcement sign posted at Cronin Cove.
- c. No person shall operate a boat or other craft that exceeds the recommended carrying capacity or recommended number of persons on board. Any person operating a boat in the aforesaid manner shall be ordered to remove such boat from the lake.
- d. No person under age 12 shall operate a boat on the lake, unless accompanied by another person (in the same boat) who is at least 12 years of age.
- e. Boating is not permitted inside the buoyed swimming area, the buoyed area surrounding the high voltage aerator or within one hundred fifty (150) feet of the bathing beach. Boaters should be mindful of swimmers who may stray outside of the swimming area.
- f. Swimming from boats is prohibited (boaters are not permitted to jump into the water or swim from their boats).
- g. All boaters use the lake at their own risks.

**8. FISHING:**

- a. All persons who fish from boats on Crystal Lake must have a valid fishing license as required.
- b. Scuba fishing and spear fishing are prohibited.
- c. Ice fishing or any other activity on the lake is prohibited at any time when the ice is determined by the City of Newton Safety Officer and Parks and Recreation Department to be unsafe for skating and is prohibited at all times in the area planned for skating.

**9. MISCELLANEOUS:**

- a. No person shall throw, drop or place any waste paper, rubbish or refuse in or on Crystal Lake or upon any public land bordering thereon.
- b. No person shall throw any stone or any other missile, or have possession of or discharge any destructive weapon, firearm, firecracker, torpedo or firework in or on Crystal Lake or upon any public or private land bordering thereon.
- c. No person shall, in or on Crystal Lake or upon any public land bordering thereon, engage in disorderly conduct, gambling, use of illegal drugs, or use of obscene or indecent language.
- d. No person shall, in or on Crystal Lake or upon any public land bordering thereon, have possession of or drink any alcoholic beverage.
- e. No person shall throw or place a lighted match, cigar, cigarette or other burning substance in or on Crystal Lake or upon any public land bordering thereon, nor shall any person make a fire upon the ground or in a grill upon any public land bordering Crystal Lake, nor shall any person make a fire in a grill on a boat.

**10. ENFORCEMENT:**

- a. No person shall refuse or neglect to obey any of these rules when directed to do so by any official authorized to enforce these rules as specified in Rule 9b.
- b. The City of Newton Police and Newton Parks and Recreation Officials shall enforce these rules and regulations. Violations are subject to a \$50 fine to be paid to the City of Newton (M.G.L. c.90b, sec.12.14).
- c. The Director of the Division of Law Enforcement of the Department of fisheries, Wildlife and Environmental Law Enforcement: Environmental Police Officers and State Police are authorized to enforce applicable state laws, which may also include \$50 fine for violations (M.G.L. c.90b, sec.12.14).
- d. These rules have been established taking into account the population density of the City and close proximity of Crystal Lake to major thoroughfares and Newton Center. These rules also reflect the desire of the City to deal equitably with abutters and non-abutters and to preserve the ecological balance of Crystal Lake by preventing the over-utilization of this cherished natural resource. These rules will be reviewed annually in April at a formal Parks and Recreation meeting, and as deemed necessary by the Parks and Recreation Commission.

## **11. PRIOR RULES:**

Rule 15, “Boating” and Rule 16 “Fishing” of the “Rules and Regulations for the Government and the Use of Crystal Lake” (City of Newton Playground Commission – 1929), to the extent they are inconsistent with the foregoing, are hereby amended and superseded by these rules. Except as specifically set forth herein, these rules are not intended to displace or supplant existing law.

**These rules and regulations were proposed by the Newton Parks & Recreation Commission on October 9, 1990, and accepted by the Commonwealth of Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement on May 8, 1991, in accordance with M.G.L. c131, sec 45 and 323 CMR5.0. Also see City of Newton Traffic ordinance T-112, approved 10/15/90.**

**The December 18, 2005 amendments were submitted for review and approval by the Department of Fisheries & Wildlife but were determined not to require the approval of the Department via email of December 27, 2005, James J. Hanlon, Director, Massachusetts Environmental Police.**



*Fishing at Crystal Lake*

### **Provision for Overriding Written Policies and Procedures:**

At least a two-thirds majority vote of the Commission is required to set aside an existing, written policy or procedure of the Commission. (Approved January 25, 1999)

## **A Garden City Guide on Fences on Public Property**

**Approved by the Newton Landscape Advisory Council, April 10, 1999**

*This official document of the Newton Landscape Task Force is provided as information for the Parks and Recreation Commission.*



*Chainlink Fences at Newton Centre Park*

### **Fence Decisions**

The decision to erect or remove a fence has an important effect on the public and there should therefore be ample opportunity for the public to participate in the decision-making process. Neighborhood associations, abutters and other concerned groups should be notified of the plan and be given time to assess and comment on it.

The city's Public Safety Officer or the Parks and Recreation Department may determine that danger to the public requires immediate action at a given site. Following emergency measures, notice to neighbors and other concerned parties will be provided to explain the reasons for the action and the steps necessary to have it reconsidered.

Any citizen or group can request that a fence be installed, removed or replaced by contacting the Parks and Recreation Department. The final decision on putting up or taking down a fence on Newton's public land will be made by a city department, usually the Parks and Recreation Department.

### **When to Use Fences**

As a matter of policy in Newton, we want to preserve open, natural vistas and fences should generally be thought of as a solution of last resort. A fence is desirable when there is a clear reason to believe that normal caution or supervision will not be enough to avoid danger for adults and children. A fence may also be needed to prevent misuse or damage to a site, especially if such incursions have already occurred.

### **Kinds of Fences**

First consideration should be given to using plant material rather than hard fencing. Shrubs, hedges, or rows of small trees can create an effective barrier. They look better and provide environmental benefits. If some hard fencing is required, shrubs can supplement and improve its appearance. Landscape boulders can also be an aesthetic, environmentally friendly way to substitute for conventional fencing.

The hard fencing of choice in Newton parks, playgrounds and athletic fields is black vinyl-clad chain link. It calls least attention to itself, it seems almost to disappear in the landscape, and it is durable. Galvanized chain link fencing is somewhat less expensive, but much less attractive than black vinyl-clad chain link. It can be an alternative where aesthetics are not an issue or when a quick, temporary solution is needed. The standard gauge for chain link fences is 2" x 2', but for tot-lots and areas where smaller children play, a smaller gauge 1" x 1" is recommended to discourage climbing and avoid injury.

One major caution about chain link: In Newton, chain link fences should never be installed with twisted wires along the top. They can cause injuries and snag clothing. Most chain link now comes

without these protruding twists, but fences with twists can be installed upside down with no loss of effectiveness.

Wooden fences are very expensive to buy and maintain, and they are the least durable. But they are appropriate on historic sites such as the Jackson Homestead.

For historic cemeteries, cast iron fences are traditional although cast aluminum alternatives are now available. Aluminum is somewhat less expensive than iron, but both are very durable and easily maintained.

Another traditional New England fence is granite pillars and wooden rails. Newton has a few of these and they are easily maintained. They form an open barrier and are appropriate for sites where an unimpeded view of a landscape is desirable.

Stockade fences are rare on Newton public property, but when they are used to screen something unsightly from public view, they should be installed with metal support posts. The metal posts better maintain the vertical posture of the fence and are more durable than wooden posts. For wooden pasture or split rail fences, typically used on dead-end streets, metal posts are again preferable.

### **How High?**

The general rule of fencing is to install the lowest possible fence appropriate for the site. On athletic fields, courts and pools, fence heights are set either by law or by organizations like the Massachusetts Interscholastic Athletic Association. If there is sufficient open space around a soccer field or basketball court, fences may not be needed. To permit multiple uses of athletic fields, movable fences should be considered for seasonal sports.

Wherever fencing around children's playgrounds is required, it should always be a minimum of four feet.

Fencing around municipal parking lots of more than five stalls must be screened by a barrier at least three feet high. (See Zoning Ordinance 30-19 for details.)

In parks and conservation areas intended primarily for passive use, low, open fences to define the area and identify points of pedestrian access should be the rule.

### **Gates**

In the spirit of open access to most public spaces in Newton, gates are not common. A simple opening through a perimeter fence is typical. When required, gates should be constructed of a material compatible with the adjacent fence. Latches or locking devices should be secure and durable.

### **Why this Guide?**

A variety of considerations influence decisions about fencing on public spaces in Newton. They include:

- Preserving the open, natural character of public property
- A need to protect citizens from hazards
- A desire to discourage access
- An attempt to screen an unsightly structure
- The appropriateness of the fence material for the site
- The cost of buying and installing the fence
- The durability and reparability of the materials

The purpose of this Guide is to summarize the city's policies and standards regarding selection and placement of fences. It is also intended to explain to users of public spaces how decisions about fences are made and how they can play a part in those decisions. This Guide is prepared for the benefit of city employees and members of city commissions and boards who are responsible for decisions about purchasing, installing or maintaining city fences.

## **Maintenance**

No matter which city department originally installed them, the Parks and Recreation Department has responsibility for maintaining all fences on city property. If a citizen has a question about an existing fence or wants to report damage to a fence, he or she should call the Parks and Recreation Department.

## **Resources**

For help with questions of design and the choice of plantings, call the Open Space Coordinator (617-796-1500). For all other matters call the Commissioner, or the Superintendent of Maintenance in the Parks and Recreation Department (796-1500)



*Stone Bollard Fence at Weeks Park*

## Budget Information for the Parks & Recreation Department

*Storage Structure in Upper Falls Playground*



Operating Budget Process: The Parks & Recreation process for developing the operating budget is:

- Meet with staff for their input on the budget as to what is needed for programs, buildings, materials, supplies
- Discuss monies/begin to establish budget
- Receive allocation from Executive Department
- Meet with Executive Department
- Meet with Parks & Recreation Commission
- Appear before Programs & Service Committee (substance committee)
- Appear before Finance Committee & Board of Aldermen as a whole

### Capital Improvement Projects (CIP) Budget Process

1. Staff input
2. Department assembles all requests/projects and submits to Executive Board
3. Meeting with Executive Department - Possible tours and site visits
4. Executive recommendations on basic dollar levels and or projects
5. Establish CIP Program, 6 year Capital Spending Program
6. Mayor docket CIP items
7. Department appears before the Programs & Services Committee
8. Department appears before the Finance Committee
9. Department appears before the Board of Aldermen

**CIP Goals.** The Capital Improvement Program (CIP) shall be updated annually based upon changes in the City's capital needs and financing availability in order to: identify needed improvements and/or additions to the City's equipment and infrastructure; schedule projects in priority order over the ensuing five-year period; and ensure adherence to City financial policy and City Charter requirements.

**CIP Policies.** Capital projects shall be undertaken in order to satisfy documented needs and/or demands of the City of Newton. The Capital Improvement Program shall be a realistic multi-year plan of capital spending, based upon revenues and other financial resources, which may reasonably be anticipated over the term of the plan. All capital project proposals shall be thoroughly evaluated in terms of their estimated impact upon the annual operating budget of the City of Newton. The City will maintain its existing capital investments to minimize future maintenance and replacement costs.

Capital improvements shall meet one of the following criteria:

Enhance protection of public health and/or safety

Ensure compliance with state and/or federal law or administrative regulations  
Reduce and/or stabilize operating budget costs  
Prolong the functional life of a capital asset of the City by 10 years or more  
Encourage further expansion of the City's real estate tax base, employment or housing  
Improve the ability of the City to deliver services

**Definition of Capital Projects.** A Capital Project is a physical public betterment or improvement involving facilities, and, or equipment, with a substantial useful life and a cost of \$10,000 or more. Items classified as capital projects include

New public buildings (including equipment needed to furnish such buildings)  
Significant alterations, additions or improvements to existing public building  
Land improvements, acquisition, and development  
Equipment replacement and/or refurbishing  
Street reconstruction and major resurfacing  
Pedestrian walkway construction and major rehabilitation  
Water main construction and rehabilitation  
Sanitary sewer and storm drain construction and rehabilitation  
And, long range planning studies

**CIP Financing Sources.** In order to be a meaningful and useful management tool, the Capital Improvement Program must be based upon a realistic financing plan. The financing plan for the Capital Improvement Plan continues the City of Newton's established policy of pay-as-go financing, combined with prudent use of available debt financing capacity. This policy has allowed the City to obtain and maintain the only AAA credit rating of a City in the Commonwealth of Massachusetts. Financing sources included in the Capital Improvement Plan are divided into two categories Tax-Supported and Non-Tax Supported

#### **Tax-Supported Funding Source**

General Obligation Bonds - The annual debt service is included in the Operating Budget

Free Cash - Unreserved fund balance, certified by the Mass. Department of Revenue, as of the end of the last fiscal year

Operating Budget (General Fund) - Annual departmental budgets supported primarily by property taxes, local revenue and state aid

Other - Available funds such as Overlay Surplus and Capital Stabilization

#### **Non-Tax-Supported Funding Source**

State and Federal Grants - Project specific or block grants from federal, state, or other governmental agencies

Parking Meter Receipts - Curb and parking lot parking meter fees (less appropriation of these funds in the operating budget to partially offset street lighting costs)

Water and Sewer Revenue - Fees and charges paid by water/sewer customers, which are used to support the Operating Budget (Special Revenue Fund) and generate a Water/Sewer Fund Balance (surplus available for water/sewer purposes)

Community Development Block Grant - Federal aid received by formula, spending must be targeted to project types and/or neighborhoods

Other - City trust funds (Kennard Park, Library, etc) or funds designated for specific purposes such as Sale of Surplus Property, etc



## Governing Statutes



*Farmers' Market, Cold Spring Park*

### Mass. Ann. Laws Ch. 45

#### **PART I. ADMINISTRATION OF THE GOVERNMENT. TITLE VII. CITIES, TOWNS AND DISTRICTS, CHAPTER 45. PUBLIC PARKS, PLAYGROUNDS AND THE PUBLIC DOMAIN**

##### **§ 1. Definition.**

Section 1. In this chapter "town" shall not include city. In this chapter "park" shall include a city or town common dedicated to the use of the public, or appropriated to such use without interruption for a period of twenty years.

##### **§ 2. Park Commissioners; Selection; Powers; Terms of Office; Removal.**

Section 2. A town may elect a board of park commissioners, consisting of three or five persons and prescribe their terms of office, or the members of a town planning board or department of public works, or road commissioners may if so authorized by vote of the town act as park commissioners therein. In a town which has not elected a board of park commissioners or has not authorized the town planning board so to act, the selectmen shall act as such board of park commissioners and have authority to approve or disapprove the acquisition of lands by eminent domain as set forth in section seventy-nine of chapter ninety-two and shall have all other powers and duties of a park commission. The mayor of a city may, with the approval of the city council, appoint a board of park commissioners for said city, consisting of five persons, who shall hold office for terms of one, two, three, four and five years respectively from the first Monday in May next following such appointment, or until their successors are qualified; and thereafter the mayor shall annually, before the first Monday in May, with like approval appoint one such commissioner for a term of five years from said first Monday in May. No member of the city council, clerk or treasurer of such city or town shall be such commissioner. In cities a vacancy in such board shall be filled in like manner for the residue of the unexpired term. A commissioner may be removed by a vote of two thirds of the voters of a town, or by a vote of two thirds of all the members of a city council. Such commissioners shall serve without compensation.

##### **§ 3. Acquisition of property for parks**

Section 3. Any such board may locate public parks within its city or town and for that purpose may take in fee by eminent domain under chapter seventy-nine or by purchase, gift, devise or otherwise, land which it considers desirable therefore, or may take bonds for the conveyance thereof to its city or town, but any such taking by eminent domain or by purchase shall be subject to the provisions of section fourteen of chapter forty. A city or town may take and hold in trust or otherwise any grant, gift, bequest or devise, made for the purpose of laying out or improving any parks therein.

#### **§ 4. Connecting ways; extent of power of eminent domain**

Section 4. Such boards may connect any public park or way, under their control, with any part of the city or town for which they are appointed by taking over any connecting ways, or part thereof leading to such park, and may accept and add to such park any way or part thereof, adjoining and parallel with any boundary line of the same; but the consent of the public authorities having control of such way, and the written consent of a majority of the owners of land abutting thereon, shall first be obtained. They shall have the same power and control over such ways as they have over parks, and a town may invest them with the control, improvement and maintenance of any of the ways thereof for the purpose of carrying out this section. If any such way or part thereof shall pass from the control of any such board, the power and authority over the same shall revert to the public authorities having control of ways in the town in which such way is located.

#### **§ 5. Powers and duties of boards of park commissioners**

Section 5. Such boards may lay out and improve public parks, make rules for their use and government, appoint all necessary engineers, surveyors, clerks and other officers, including a police force to act in such parks, define their powers and duties and fix their compensation and do all acts needful for the proper execution of their powers and duties. They shall have the authority given to the mayor, aldermen, selectmen, road commissioners and tree warden respectively by section seven of chapter eighty-four and by chapter eighty-seven, in places under their jurisdiction. Subject to appropriation, such boards shall also have the power to conduct park programs and recreation activities at places other than such public parks

#### **§ 5A. Leasing of concessions; bids**

Section 5A. Whenever the board or officer having charge of the public parks in a city or town having a population of more than fifty thousand determines to lease concessions in any such park, said board or officer shall invite sealed proposals for such leasing which shall be publicly opened and read and shall award the contract for any such concession to the highest responsible bidder who, in the opinion of said board or officer, would be the most suitable from the standpoint of character, reputation and experience to operate such concession, provided, however, that the provisions of this section shall not apply to an award of such a lease to a nonprofit organization or group organized for the purpose of promoting the assistance of youth programs.

#### **§ 6. Funds received for betterments; disposition**

Section 6. All amounts received for betterments which accrue by the laying out of parks under this chapter shall be applied to the payment of park loans.

#### **§ 7. Erection of buildings in parks**

Section 7. Land taken for or held as a park under this chapter shall be forever kept open and maintained as a public park, and no building which exceeds six hundred square feet in area on the ground shall be erected on a common or park dedicated to the use of the public without leave of the general court; but, except in parks in Boston and in parks comprising less than one hundred acres in extent, structures for shelter, refreshment and other purposes may be erected of such material and in such places as, in the opinion of the fire commissioners, if any, do not endanger buildings beyond the limits of such park. The superior court shall have jurisdiction in equity, upon petition of not less than ten taxable inhabitants of the city or town in which such common or park is located, to restrain the erection of a building on a common or park in violation of this section.

#### **§ 8. Use of parks by military forces**

Section 8. Without the consent of such board no military organization shall camp, parade, review, or perform any military evolution or exercise in, or enter, any park laid out as aforesaid, except in case of riot, insurrection, rebellion or war.

### **§ 9. Annual reports of park commissioners**

Section 9. Such boards shall make reports of their respective doings and detailed statements of all receipts, expenditures and liabilities for the preceding financial year, in towns at the annual town meetings and at such other times as the town directs, and in cities to the city council annually within thirty days after the end of the financial year.

**§ 10.** Repealed by 1924, 209, § 3.

### **§ 11. Restrictions on height of buildings on parkways**

Section 11. In a city which by a vote of its city council, or in a town which by vote of a town meeting, accepts this section, or has accepted corresponding provisions of earlier laws, the park commissioners may, in accordance with section thirty-seven of chapter eighty-two, establish a building line distant at no point more than twenty-five feet from any exterior line of a way under their control or the part of a public way on which a park abuts; and the extreme height to which buildings upon such ways may be erected shall be seventy feet exclusive of such steeples, towers, domes, cornices, parapets, balustrades, sculptured ornaments, chimneys and roofs as such board may approve.

### **§ 12. Authorization for improvement of open spaces**

Section 12. A city or town having public grounds or open spaces in any of its public ways, which have been or may be designated by it as not needed for public travel, may give the improvement thereof to corporations within its limits organized under section four of chapter one hundred and eighty, which, under the direction of the city council, selectmen or road commissioners, shall have the use, care and control thereof and may grade, drain, curb and fence the same, set out shade or ornamental trees, lay out flower plats and otherwise improve them.

### **§ 13. Trespassing in parks; destruction of park property; penalty**

Section 13. Any person who willfully or maliciously drives cattle, horses or other animals, or any vehicle, on or across such grounds or ways, or destroys or removes any fence or railing on such grounds or ways, or plays games thereon, or otherwise interferes with or injures the work of the corporation having the care of the property so injured, shall be punished by a fine of not more than twenty dollars, which shall be paid over to such corporation.

### **§ 14. Playgrounds; acquisition; use; management**

Section 14. Any city or town may acquire land and buildings within its limits by gift or purchase, or by eminent domain under chapter seventy-nine, or may lease the same, or may use suitable land or buildings already owned by it, for the purposes of a public playground or recreation centre, and may conduct and promote recreation, play, sport and physical education, for which admission may be charged, on such land and in such buildings, and may construct buildings on land owned or leased by it and may provide equipment for said purposes. Land and buildings so acquired, leased or constructed may be used also for town meetings, and, with the consent of, and subject to the conditions and terms prescribed by, the officer or board in control of the land or building, may be used by the municipality, or by any department thereof, or by any person, society or other organization for such other public, recreational, social or educational purposes as the said officer or board may deem proper. The foregoing provisions shall apply to land and buildings acquired for playground purposes, or for park and playground purposes, but shall not apply to land and buildings acquired solely for park purposes. For the purposes aforesaid, any city or town may appropriate money, and may

employ teachers, supervisors and other officers, and may fix their compensation. Except in Boston and except as to the making of appropriations, the powers conferred by this section shall be exercised by the board of park commissioners, or by the school committee, or by the planning board, or by a playground or recreation commission appointed by the mayor in a city or by the selectmen or town moderator in a town, or elected by the voters of the town at a town meeting; or may be distributed among the board of park commissioners, the school committee, the planning board and such playground or recreation commission, or among any two or more of them; or they may be exercised by a committee consisting of one member each designated by all or any one of said boards or commissions, together with two or more members at large appointed by the mayor or selectmen or town moderator, or elected by the voters, accordingly as the city council or the town may decide. Any municipal officer or board authorized to exercise any of the powers conferred by this section may, within or without the city or town limits, conduct its activities on property under its control, on other public property under the control of other public officers or boards, with the consent of such officers or boards, or on private property, with the consent of the owners. Two or more towns may severally vote to establish co-operative arrangements between those towns for the provision and operation of recreational facilities and programs of mutual benefit to their citizens. The management and control of such facilities and programs and the apportionment of the expenses for their maintenance and support shall be provided for by the authorized recreation agencies of the participating towns. The provisions of section fifteen or sixteen shall not be construed to apply to any city or town because of any action taken under this section.

#### **§ 15. Playgrounds for minors**

Section 15. Every town having a population of more than five thousand which accepts this section, and every city and town having such population which has accepted corresponding provisions of earlier laws, shall provide and maintain at least one public playground conveniently located and of suitable size and equipment, for the recreation and physical education of the minors of such city or town, and at least one other playground for every additional twenty thousand of its population.

#### **§ 16. Procedure for accepting law requiring playgrounds for minors**

Section 16. In towns which have a population of more than five thousand and which have not already satisfied the provisions of the preceding section or corresponding provisions of earlier laws, upon petition to the selectmen by ten per cent of the voters filed fifteen days before the day of the annual election of town officers, the following question shall be submitted to the town at the next annual meeting or shall be placed on the official ballot, if any, at the next town election: "Shall section fifteen of chapter forty-five of the General Laws, requiring certain towns to provide public playgrounds, be accepted by this town?" Said section shall take effect in any town to which it applies upon its acceptance by a majority of the voters voting as aforesaid.

## **§ 17. Temporary playgrounds**

Section 17. If in a town in the metropolitan parks district, or in any city, tenement buildings are built about or contiguous to open spaces, the owners of such buildings may apply to the park commissioners, if any, or, in a city or town of said district having no park commission, to the metropolitan district commission, and said boards may, with the approval of the board of health of the city or town, take a lease of such open spaces for a neighborhood playground for a term not exceeding fifteen years, subject to renewal, at a rental not exceeding the taxes thereon. The owners of such buildings shall have the care and control thereof under the supervision of the park commissioners, or if there are none, of the selectmen.

## **§ 17A. Use of streets for recreation or playground purposes**

Section 17A. For the purpose of promoting recreation, play or sport, the city of Boston, by written order of its commissioner of transportation promulgated upon written request of its commissioner of parks and recreation and written approval of such request by its police commissioner, any other city by ordinance and any town by by-law may provide for the closing to vehicular traffic, during periods of time specified in such order, ordinance or by-law, of any public way or part thereof within the limits of such city or town, except a state highway or a parkway or boulevard, having due regard in every instance to the rights of abutting owners and the general public in the use of such way or part thereof.

## **§18. Persons entitled to use playgrounds**

Section 18. This chapter shall not be construed to prohibit the use of any playgrounds or recreation centers by adults or children of special age groups at the discretion of the body having the grounds or premises in charge.

## **§ 19. Acquisition of property; use**

Section 19. A town, by a two thirds vote at an annual town meeting, or a city, by a two thirds vote of the city council, may determine to take or purchase land within its limits, which shall be a public domain, and any appropriate money and accept gifts of money and land therefore. Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town, and the title thereto shall vest in the city or town in which it lies, except that cities or towns owning land within the territorial limits of other cities and towns for water supply purposes may, as herein provided, convert such land into a public domain and retain the title thereto.

## **§ 20. Method of acquisition**

Section 20. If a city or town has determined to take land for a public domain as provided by the preceding section, the aldermen or the selectmen shall within ten days adopt an order for the taking of such land in fee by eminent domain under chapter seventy-nine.

## **§ 21. City or town forests; management**

Section 21. The selectmen in the town and the mayor and the city council in a city shall appoint a special town forest committee to manage and care for that portion of the public domain known as the city or town forest; provided, however, that a town may vote to designate the conservation commission of said town to manage and care for such town forest; provided, further, that a town may vote to authorize said conservation commission to appoint such forest committee; and provided, further, that in a city, the mayor and the city council may appoint a forester or other board or officer to provide such management and care of such forest. Such forest shall exclude lands held within the watershed of any pond, stream, reservoir, well or other water used by a city or town as a source of water supply. The special town forest committee shall be composed of three members who shall choose their own chairman, and shall serve without compensation. One member of said committee shall be appointed each year for a term of three years, except that, when first appointed, one shall be appointed for a term of three years, one for a term of two years and one for a term of one year.

## **§ 22. Buildings; erection; lease**

Section 22. Any city or town owning a public domain may lease any building thereon, and it may erect thereon any building for public instruction and recreation. All sums derived from rents or from the sale of the products of any such domain shall be applied, so far as may be necessary, to the management thereof.

## **§ 23. Limitation on use of funds**

Section 23. No land shall be taken or purchased for a public domain, no building erected thereon and no expenditures authorized or made or liability incurred therefore until an amount sufficient to cover the estimated expense thereof has been appropriated therefore as provided in section nineteen, and all contracts made for expenditures in excess thereof shall be void. The expenditures shall not exceed the appropriations therefore.

### **§ 23A. Authorization**

Section 23A. A town bordering on tidewater may, at an annual town meeting, vote to instruct its selectmen to petition in writing the county commissioners of the county in which said town is situated, in this and the two following sections called the commissioners, to establish, lay out and maintain, on behalf of the county, a shore reservation bordering on tidewater in such town, and thereupon said selectmen shall so petition. This section and sections twenty-three B and twenty-three C shall not apply to cities.

### **§ 23B. Petition**

Section 23B. If the commissioners, after a public hearing upon the petition and after such further investigation as the commissioners consider desirable, determine that public necessity requires that such a reservation should be so established, laid out and maintained, they shall submit plans and estimates of the cost to the general court by filing the same with the clerk of the house of representatives not later than December first following such determination, for such action as to the general court may seem advisable.

### **§ 23C. Establishment; management**

Section 23C. After being authorized by the general court to establish any such reservation, the commissioners, on behalf of the county, may take by eminent domain under chapter seventy-nine, or acquire by purchase, gift, devise or otherwise, such land in fee as may be necessary therefore, and may establish, lay out and maintain the same. Any person injured in his property by the establishment and laying out of such a reservation may recover compensation therefore from the county under said chapter seventy-nine.

The selectmen of any town instructed to petition for the establishment of such a reservation, if and to the extent authorized by vote of the town at a town meeting, may stipulate in writing in behalf of the town to indemnify and save harmless the county against all or any part of any claims for damages sustained under this section, and to contribute money, labor or materials toward the cost of establishing, laying out, maintaining and properly policing such a reservation.

## **§ 24. Penalty for violation of rules and regulations made under authority of chapter**

Section 24. Whoever violates any rule or regulation for the government or use of any land or way taken or held under this chapter or for like purposes under any special act, and made under authority of law by any board or officer in charge thereof, shall be punished by a fine of not more than two hundred dollars.

**§ 25. Emergency telephone numbers; posting**

Section 25. In cities and towns the emergency telephone numbers of the local municipally-designated emergency ambulance service to render emergency first aid and transport persons to hospitals shall be posted in a conspicuous place at ice skating facilities, both public and private.

**Acts of the Massachusetts Legislature, 1969. Chapter 631.**

**An Act Relative to the Membership of the  
Recreation Commission of the City of Newton**



*Be it enacted, etc., as follows:*

Notwithstanding any provision of section fourteen of chapter forty-five of the General Laws, the city of Newton may by ordinance establish a recreation commission consisting of a recreation commissioner and one resident from each of the wards in said city. The powers conferred by said section, except the power of eminent domain, may be exercised by a committee consisting of one member of the recreation commission of said city, such member to be appointed and designated in accordance with the ordinances of said city. The other members of the commission shall be designated or elected in such manner and for such terms as the board of aldermen may determine.

*Approved August 6, 1969. Presented for historical context; superseded by the 1982 act given below.*

*Goslings Charles River*

*Acts of the Massachusetts Legislature, 1982. Chapter 426.*

**An Act Abolishing the Park Commission and Establishing a Parks and Recreation Commission in the City of Newton**

*Be it enacted, etc., as follows:*

The board of park commissioners in the city of Newton is hereby abolished. The recreation commission of the city of Newton shall hereinafter have all the rights, powers, duties and obligations of a park commission as set forth in chapter forty-five of the General Laws, and as established by the revised ordinances of the city of Newton. The recreation commission of said city shall hereinafter be known as the parks and recreation commission.

*Approved October 15, 1982.*



*Ice-Skating Ware's Cove*



**City of Newton Ordinances (Revised 1995)**

Chapter 21

**PARKS, RECREATION AND PUBLIC GROUNDS\***

**Art. I. In General, §§ 21-1—21-45**

**Art. II. Parks and Recreation Commission, §§ 21-46—21-47**

**Art. III. Urban Tree Commission §§ 21-60 — 21-70**

**ARTICLE I. IN GENERAL**

**Sec. 21-1. Parks and recreation commissioner —Designation; duties generally; compensation.**

(a) The office of commissioner of parks and recreation and the department of parks and recreation are established. The commissioner shall be an officer of the city and the provisions of the law for the appointment and removal of heads of departments shall be applicable to such office. He shall have under his immediate control and direction such assistants and employees as may from time to time be duly authorized. The commissioner shall consult with the Director of the history museum regarding the manner of maintenance, care and management of the burial grounds. He shall receive for his services such salary as shall be fixed by the mayor and board of aldermen.

(b) The parks and recreation commissioner shall have charge of maintenance, care and management of playgrounds and all recreation lands, except to the extent conferred upon the Parks and Recreation Commission, pursuant to Chapter 426 of the Acts of 1982 and G.L. c. 45. He shall have and exercise the power conferred by G. L. c. 45, sec. 14, except that of taking by eminent domain. He shall also be responsible for the control and supervision of the parks and recreation department. The commissioner also shall have charge of the maintenance, care and management of burial grounds and the grounds about public buildings and the maintenance of lands under the jurisdiction and control of the conservation commission. The commissioner shall consult with the conservation commission regarding the manner of maintaining lands under the commission's jurisdiction.

(c) The parks and recreation commissioner shall also be designated as the local superintendent of insect pest control pursuant to the G.L. c. 132, sec. 13. He shall perform the duties of tree warden and have the care and control of all public shade trees and the planting, trimming and cutting thereof. He shall make and keep an itemized account with vouchers, showing the definite amounts expended for the purposes named in the General Laws for the suppression of insects. He shall, under the direction of the mayor, cause notices as required by the statutes to be sent to owners of parcels of land infested with such insects. He shall make lists of the amounts expended on spraying as provided by law, containing the names of the owners of estates, the locations thereof and the amounts expended thereon. (Rev. Ords. 1973, § 2-125, § 19-39; Ord. No. 90, 10-6-75; Ord. No. 190, 12-20-76; Ord. No. 220, 6-7-77; Ord. No. 233, 8-15-77; Ord. No. 317, 2-20-79; Ord. No. R- 267, 10-18-82; Ord. No. T-318, 12-6-93; Ord. No. V-289, 3-20-00)

**State law references**—Office of tree warden, G.L. c. 41, § 1; statements of expenditures of local superintendents of pest control, G.L. c. 132, § 15

**Sec. 21-2. Same—Authority over school property.**

(a) The parks and recreation commissioner shall have charge of the management, care and maintenance of the city's school yards and school grounds. No layout of a school yard or school ground shall be made by the parks and recreation commissioner until the plan and design of the same has received the written approval of the school committee.

\* **Cross references** – Cultural affairs committee, Ch. 2, Art. VI, Div. 3

**State law reference**—Parks and playgrounds generally, G.L. c. 45

Chapter 21 – page 1 NEWTON CODE ONLINE — PARKS, RECREATION AND PUBLIC GROUNDS § 21-8T

(b) Control of the use of school yards and school grounds shall be entirely within the jurisdiction of the school committee which shall determine the persons entitled to use the grounds and how the same shall be used. The school committee may, however, during vacation periods of the school, turn over the control of the use of designated school yards and school grounds to the parks and recreation commissioner and it may turn over the control of the use of any designated portion of such ground during the school year to the parks and recreation commissioner. The release of jurisdiction provided for in this section shall only be accomplished if and when the parks and recreation commissioner in writing applies for and the school committee in writing authorizes the same. In the event of such turning over of jurisdiction, the adjoining school building and the equipment of the school department shall only be used under such regulations as to use as the school committee makes. (Rev. Ords. 1973, § 2-270; Ord. No. 190, 12-20-76; Ord. No. 220, 6-6-77; Ord. No. R-267, 10-18-82)

**Cross reference**—Newton community education program, Ch. 2, Art. VI, Div. 2

**Sec. 21-3. Operation of vehicles.**

No person, unless by permission of the commissioner of public works or, on parks and playgrounds, of the parks and recreation commissioner, shall operate a motor vehicle in or upon parks or other public grounds except upon the driveways thereof. (Rev. Ords. 1973, § 19-102; Ord. No. 90, 10-6-75)

**Sec. 21-4. Selling goods and wares; amusement tents, booths, etc.**

No person, except by permission of the commissioner of public works, or, on parks and playgrounds, of the parks and recreation commissioner, shall expose for sale or sell any goods, wares or merchandise in or upon any park or other public grounds, nor erect or maintain a booth, stand, tent or apparatus of any kind for the purpose of amusement or show in any park or on public grounds. (Rev. Ords. 1973, § 19-103; Ord. No. 90, 10-6-75)

**Cross reference**—Licensing and permits generally, Ch. 17

**Sec. 21-5. Nuisances generally.**

No person shall commit a nuisance in parks or on other public grounds. (Rev. Ords. 1973, § 19-104; Ord. No. 90, 10-6-75)

**Sec. 21-6. Playing games, etc.**

No person, except by the permission of the commissioner of public works, or, on parks and playgrounds, of the parks and recreation commissioner, shall engage in a game of ball, football, baseball or other athletic sports in or upon any park or public grounds, except upon such portions thereof as may be set apart for such purposes. (Rev. Ords. 1973, § 19-105)

**Sec. 21-7. Throwing missiles.**

No person shall throw a stone, snowball or other missile in or upon any park or public playground. (Rev. Ords. 1973, § 19-106; Ord. No. 90, 10-6-75)

**Sec. 21-8. Damaging property.**

No person shall pull up, break, cut or deface any of the seats, fences or railings upon or around any park or other public grounds, nor deface any monument or statue in any park or on public grounds. (Rev. Ords. 1973, § 19-107)

**Sec. 21-9. Climbing, posting bills on trees.**

No person shall climb a tree in any park or upon other public grounds, nor post a bill, nor place a sign upon or around any tree in any park or upon other public grounds of the city. (Rev. Ords. 1973, § 19-108)

**Sec. 21-10. Digging, carrying dirt, etc.**

No person, except by permission of the commissioner of public works, or, on parks and playgrounds, of the parks and recreation commissioner, and for some public use, shall dig or carry away any sward, gravel, sand, turf or earth from, nor place or deposit or cause to be placed or deposited any stones, sand, gravel or other substance upon, any park, playground or other public grounds. (Rev. Ords. 1973, § 19-109; Ord. No. 90, 10-6-75)

**Sec. 21-11. Damaging flowers.**

No person shall walk, stand, sit or lie down in or upon, or pull a flower or plant out of a flower bed, in any park or upon public grounds. (Rev. Ords. 1973, § 19-110)

**Sec. 21-12. Walking on grass.**

No person shall stand, walk or lie upon the grass in any park or upon public grounds where such walking, standing or lying has been prohibited, and notice of such prohibition is given to the public by legible notices placed in or upon such park or public grounds. (Rev. Ords. 1973, § 19-111)

**Sec. 21-13. City-owned burial grounds.**

No further burials are to be permitted in that portion of the City-owned burial ground located on Centre Street, said portion being bounded on the west side by Centre Street and Loring Park, on the south side by Cotton Street, on the east by the land of the Franciscan Sisters, and on the north by a driveway, as more specifically shown on a plan entitled "Plan of Centre Street Cemetery, January 1901; Amended 1918", on file in the engineering division of the department of public works. (Ord. No. R-251, 6-21-82; Ord. No. V-289, 3-20-00)

**Sec. 21-14. Spraying for insects.**

(a) The commissioner of parks and recreation may, at the request of owners of private property in the city, spray trees and shrubs thereon for the purpose of destroying or suppressing insects or pests and preventing or controlling the spread of Dutch Elm Disease. The commissioner of parks and recreation may establish rules and regulations governing such spraying, including the time and manner of making requests and payments therefore.

(b) There shall be charged for each such spraying an amount determined by the size of the lot upon which such spraying is done according to the following table:

Size of lot (square feet)

Amount under 7,500.....	\$ 5.00
7,500 to 9,999.....	7.50
10,000 to 14,999.....	10.00
15,000 to 19,999.....	12.50

25,000 and over the cost of labor and materials employed for the purpose as estimated by the commissioner.

(c) The amount to be charged shall in each case be paid to the parks and recreation commissioner before the spraying is done. (Rev. Ord. 1973, § 2-129, § 19-44; Ord. No. 90, 10-6-75; Ord. No. R-267, 10-18-82)

**Sec. 21-15. Parks and recreation department; functions generally.**

The parks and recreation department shall be responsible for planning, scheduling, organizing and supervising programs for designated city groups and citizens. Under direction of the parks and recreation commissioner, it shall provide supervision and patrol activities at swimming ponds, swimming pools, skating areas, playgrounds and all other recreation areas; it shall also conduct all senior citizens recreation programs. (Rev. Ord. 1973, § 2-271; Ord. No. 190, 12-20-76; Ord. No. R-287, 1-19-83)

**Secs. 21-16—21-45. Reserved.**

**ARTICLE II. PARKS AND RECREATION COMMISSION**

**Sec. 21-46. Composition; appointment of members; vacancies; chairman.**

(a) There shall be a parks and recreation commission comprised of eight (8) voting members together with the parks and recreation commissioner who shall serve, ex officio, as a non-voting member of the parks and recreation commission. One resident from each ward of the city shall be appointed as permanent members by the mayor with the approval of the board of aldermen. Four (4) alternate members selected at large shall also be appointed by the mayor with the approval of the board of aldermen.

(b) Appointments by the mayor shall strive to balance the concerns of parks and open space preservation with the concerns of recreation.

(c)(i) Permanent members of the parks and recreation commission shall be appointed for a term of three (3) years.

(ii) Four (4) alternate members shall be appointed by the mayor following the effective date of passage of this ordinance. The initial terms of three (3) of the alternate members shall be shortened as follows to stagger expiration of their terms: one member shall be appointed for one (1) year; two members shall be appointed for two (2) years; one member shall be appointed for three (3) years. All alternate member appointments subsequent to the initial appointments shall be for a term of three (3) years.

(iii) Both permanent and alternate members shall continue to serve after expiration of their terms until their successors shall be duly appointed and qualified. Vacancies in the offices of either permanent or alternate members shall be filled in the same manner as the original appointment for any unexpired term.

(d) The permanent members shall elect one member to act as chair. In the event that a permanent member is absent or unable to act for any reason, the chair shall designate an alternate member to act. (Rev. Ords. 1973, §2-267; Ord. No. R-287, 1-19-83; Ord. No. T-317, 12-6-93)

**Editor's note**—As amended in 1970, this section provided for the members of the former recreation commission whose terms had not expired to serve until December 31, 1970, as well as for the mayor to appoint additional members to serve until December 31, 1970. The section also provided for appointment of members, commencing January 1, 1971, for staggered terms of one, two (2) and three (3) years.

**Cross references**—Commissions generally, Ch. 2,

Art. VII; regulations governing appointment to and service on commissions and committees, § 2-8 NEWTON CODE ONLINE — PARKS, RECREATION AND PUBLIC GROUNDS § 21-61T

**State law reference**—Recreation commission for city of Newton, c. 631, Acts of 1969

**Sec. 21-47. Powers and duties.**

The parks and recreation commission shall advise the mayor and board of aldermen in relation to matters pertaining to sports, recreation, parks, open space and preservation of scenic beauty and shall render decisions concerning parks and recreation programs and the use of lands under its jurisdiction in accordance with written guidelines or policies. The guidelines or policies established by the parks and recreation commission shall preserve and enhance access to parks and recreation opportunities for Newton citizens. The parks and recreation commission shall also advise the mayor and board of aldermen as to the amount of money to be spent annually by the department of parks and recreation. Pursuant to Chapter 426 of the Acts of 1982, the parks and recreation commission shall have all the rights, powers, duties and obligations of a park commission as set forth in Chapter 45 of the General Laws, and shall exercise the powers of eminent domain conferred by Sections 2 and 14 of Chapter 45 of the General Laws.

Pursuant to Section 2 of Chapter 87 of the General Laws, the commission may delegate its powers as tree warden under Section 5 of Chapter 45 to the parks and recreation commissioner. (Rev. Ords. 1973, § 2-268; Ord. No. 190, 12-20-76; Ord. No. R-287, 1-19-83; Ord. No. T-317, 12-6-93)

**Secs. 21-48. —21-59. Reserved.**

**ARTICLE III. URBAN TREE COMMISSION**

**Sec. 21-60. Establishment and purpose.**

There is hereby established the urban tree commission to advise and assist the tree warden in carrying out his duties and responsibilities. The purpose of the urban tree commission shall be to advise the tree warden, the mayor, the board of aldermen and the general public on all matters concerning public trees, including but not limited to, the selection of trees for planting, planting and pruning of trees, the treatment of disease, and the preservation and regular maintenance of trees. (Ord. No. V-71, 3-4-96)

**Cross reference**—Tree warden, Ch. 21, Art. I, § 21-1

**Sec. 21-61. Powers and duties.**

(a) The commission shall issue a city tree maintenance manual which shall set forth the standards for planting and maintaining all public shade trees in the city and which shall also set forth the general policies in regard to those trees. The commission shall regularly revise and distribute the tree maintenance manual and review the implementation of the practices and policies it enunciates.

(b) The commission shall annually review the needs of various geographical areas of the city for the planting and replacement of trees and shall recommend priorities based on the annual review to the tree warden and superintendent of urban forestry or such other municipal officials as may hereafter be assigned the duties of tree warden and superintendent of urban forestry.

(c) Whenever a hearing is required to be held in regard to cutting down or removal of a tree, the commission may offer written recommendation(s) to the tree warden.

(d) Whenever the tree warden prepares an impact statement on the effect of any construction project on existing trees or the ability to plant trees in that area in the future, the tree commission may submit its advice as part of a submission to appropriate city agencies and/or to the board of aldermen for its review of the project. (Ord. No. V-71, 3-4-96) NEWTON CODE ONLINE — PARKS, RECREATION AND PUBLIC GROUNDS § 21-70T

**Sec. 21-62. Composition and organization.**

(a) The commission shall consist of twelve (12) voting members who shall serve for three year terms in accordance with Section 2-8 of these Revised Ordinances. Ten (10) members shall be appointed by the mayor in accordance with Section 3-3 of the Charter. The commissioner of parks and recreation, in his capacity as tree warden or such other municipal official as may hereafter be assigned the duties of tree warden, shall serve, ex officio, as the eleventh voting member. The superintendent of urban forestry, or such other municipal official as may hereafter be assigned the duties of superintendent of urban forestry, shall serve, ex officio, as the twelfth voting member. Three (3) of the initial appointees shall serve for a term of one year; three (3) of the initial appointees shall serve for a term of two years; and four (4) of the initial appointees shall serve for a term of three years.

(b) Members of the commission, so far as practicable, shall be selected so as to provide representation of citizens with expertise or interest in the preservation and care of trees. Consistent with this requirement, whenever a vacancy occurs on the commission, the commission shall offer a list of prospective members for the mayor's consideration in making appointments.

In making the initial appointees to the urban tree commission, the board of aldermen requests that the mayor consider any active members of the urban tree task force who wish to be appointed, it being the will of the board of aldermen that the urban tree commission be established as the successor to the urban tree task force. The board of aldermen also requests that the mayor also consider appointing any such members of the urban tree task force to the longest terms of office available prior to appointing persons who are not currently serving on the urban tree task force. (Ord. No. V-71, 3-4-96)

**Secs. 21-63. —21-69. Reserved.**

**Sec. 21-70. Volunteer work on city property.**

(a) Improvements to and maintenance of real property owned or controlled by the City of Newton may be carried out by volunteer workers in accordance with a permit issued by the head of the department having care, custody or control of such real property, or his designee. Every such permit shall state the location, scope and nature of the project and any other limitations and requirements which, in the opinion of the department head, are necessary in order to carry out the city's policies for the use of such real property.

(b) Whenever such a permit has been issued, the head of the department shall provide city personnel who shall act as supervisors of the volunteer work on the improvement project. All persons serving as volunteer workers shall follow all instructions of and act under the supervision of the city personnel supervising such work.

(c) Volunteer workers who work on improvement and maintenance projects in accordance with such a permit shall be deemed to be "public employees" within the meaning of section one of chapter 258 of the Massachusetts General Laws for the purpose of third party claims; provided that any such claim arises as a result of the project described in the applicable permit.

(d) In order to facilitate the protection provided to volunteer workers pursuant to subsection (c), the head of the department shall keep a record of the names and addresses of every volunteer worker who works at the site of each such project; and every such volunteer worker shall provide his/her name and address for inclusion in such record. (Ord. No. V-96, 11-18-96)

## Chapter 3 - Art. II. Dogs, §§ 3-22—3-28

### ARTICLE II. DOGS

#### Sec. 3-22. Vaccination, Rabies, Certification.

(a) Whoever is the owner or keeper of a dog in the city six months of age or older shall cause such dog to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog to be re-vaccinated at intervals recommended by the manufacturer. Such vaccination shall be in accordance with chapter 140, section 145B of the General Laws, all relevant regulations of the Commonwealth, and any amendments to the same.

(b) Unvaccinated dogs acquired or moved into the city shall be vaccinated within ninety days after the acquisition or arrival into the city or upon reaching the age of six months, whichever last occurs.

(c) The owner or keeper of such dog shall have available for inspection by authorized persons a tag issued by the veterinarian as evidence of rabies vaccination or such other evidence of rabies vaccination as may be specified by applicable state statute and or regulation(s). Said tag may be secured by the owner or keeper of such dog to the collar or harness made of suitable material to be worn by the dog. (Ord. No.V-62, 2-5-96)

#### Sec. 3-23. License fees; Vaccination Certification and Exemptions; Exemption of fee of Seeing Eye dogs; refund of fees.

(a) The fee for the license for every male and female dog, except as otherwise provided by law, shall be fifteen dollars (\$15.00) except that the license fee for each dog for which written proof as set forth herein can be shown to the City Clerk to be a neutered male dog or spayed female dog shall be ten dollars (\$10.00). The fee for the issuance of a duplicate dog license shall be two dollars (\$2.00). The City Clerk shall accept either a certificate of a registered veterinarian that such operation was performed or a certified copy of such a veterinarian's certificate from the office of any City or Town Clerk within the Commonwealth as proof that a dog has been neutered or spayed and has thereby been deprived of the power of propagation. If the City Clerk is satisfied that the certificate of the veterinarian who spayed the dog cannot be obtained, a statement may be accepted in lieu thereof signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that such dog has been examined and that it appears to have been spayed or neutered and thereby deprived of the power of propagation.

(b) No license shall be granted for any dog unless the owner or keeper thereof provides either a veterinarian's certification that such dog has been vaccinated and sets forth the date of such vaccination and the duration of immunity or provides a notarized letter from a veterinarian that a certification was issued or provides a metal rabies tag bearing an expiration date indicating that such certification is still in effect, or has been certified exempt, as hereinafter provided.

A vaccination exemption may be granted for any dog which has not yet attained the age of six months, any dog which the commissioner of health and human services of the City of Newton, for a specified period of time, declared exempt upon presentation of a veterinarian's certificate stating that because of infirmity, other physical condition or regimen or therapy, that inoculation is thereby deemed inadvisable, or any dog in transit, or dog brought into the Commonwealth of Massachusetts temporarily, for the sole purpose of showing in dog shows or exhibitions.

(c) No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided, that the Division of the Blind certifies that such dog is so trained and actually in the service of a blind person.

(d) No license fee or part thereof shall be refunded because of the subsequent death, loss, neutering, spaying or removal from the Commonwealth or other disposal of the dog, nor shall any license fee or part thereof paid be recovered after it has been paid over to the City Treasurer. (Rev. Ords. 1973, § 3-18; Ord. No. S-51, 3-19-84; Ord.

No. S-56, 4-18-84; Ord. No. S-337, 11-7-88; Ord. No. T-168, 9-3-91; Ord. No. X-175, 05-26-05)

**Cross references**—Receipt of money from dog fund,

§ 2-139; licenses and fees generally, Ch. 17 **State law references**—Authority to regulate dogs, G.L. c. 140, § 173; Establishment of dog licensing fees, G.L. c. 140, § 147A; dog licenses generally, G.L. c. 140, § 137 et seq.

**Sec. 3-24. Disturbing the peace by barking, etc.**

No person shall own or keep in the city any dog which, by barking, biting, howling or in any other manner, disturbs the quiet of any person. (Rev. Ords. 1973, § 3-19)

State law reference—Barking dogs, G.L. c. 140, § 157

**Sec. 3-25. Complaint of nuisance; investigation by dog officer.**

If any person shall make a complaint in writing to the dog officer of the city that any dog owned or harbored within his jurisdiction is a nuisance by reason of a vicious disposition or excessive barking or other disturbance, the dog officer shall investigate such complaint, which may include an examination on oath of the complainant, and may order such dog to be confined or muzzled. (Rev. Ords. 1973, § 3-20)

**Sec. 3-26. Restraint of dogs.**

(a) Prohibitions:

(1) No person owning or harboring a dog shall suffer or allow it to run at large in any of the streets or public places in the city. No person owning or harboring a dog shall allow it upon the premises of anyone other than the owner or keeper of such dog without the permission of the owner or occupant of the premises. No dog shall be permitted in any street or public place within the city unless it is effectively restrained by a chain or leash not exceeding ten (10) feet in length.

(2) Tot Lots: No person owning or harboring a dog shall suffer or allow a dog, leashed or unleashed, to enter a tot lot as hereinafter defined. For the purposes of this section, the term “tot lot” shall mean an outdoor play area located on land owned or controlled by the city intended for use by young children, the boundaries of which may be designated by a fence and/or sand, ground cover, grass or otherwise, and which may contain play equipment. Without limiting the foregoing, tot lot shall include currently designated tot lots which are listed below. Tot lots are fenced unless otherwise noted.

- |  |  |
|--|--|
| Albemarle Park   | ** Newton Centre Playground, (approximately 115' x 105')   |
| *Angier School (approximately 155' x 30')                            | Newton Highlands Playground  |
| *Burr Park (approximately 95' x 75')                                 | Winchester Street (Centre and Needham Streets)   |
| Burr School  | Newton North High School   |
| Carleton Street area   | Newton South High School   |
| Cabot Park. East Side Parkway  | *Richardson Playground, Allen Avenue (approximately 150' x 62')  |
| *Crescent Street Playground (approximately 90' x 70')                | River Street Playground  |
| NEWTON CODE ONLINE <input type="checkbox"/> ANIMALS AND FOWLS § 3-27 | Sterns Playground  |
| Chapter 3 – page 4   | Upper Falls Playground   |
| Davis School Playground  | *Ware’s Cove (approximately 200' x 60')  |
| Emerson Playground   | West Newton Common, Elm and Webster Streets  |
| Franklin School  | *Williams School (approximately 50' x 60')   |
| Hawthorn Park  | * Tot lots which are not surrounded by a fence. Area measurements of non-fenced sites are in excess of ground cover. |
| ** Lower Falls Community Center (approximately 80' x 80')            | ** Tot lots which are partially surrounded by a fence.   |
| *Memorial-Spaulding School (approximately 90' x 90')                 |  |

(b) Penalties: Any owner or keeper of a dog who shall fail to comply with the foregoing provisions of subparagraph (a) shall be punished by a fine of fifty dollars (\$50.00) for each offense.

(c) It shall be the duty of the department of animal control to apprehend any dog found running at large in any street or public place within the city, or any dog, leashed or unleashed, found within a tot lot, or any dog found in violation of any of the provisions of this article, and to impound such dog in the place provided therefore. The department, upon receiving any such dog, shall make a complete registry, entering the breed, color, and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner



and the number of the license tag. The owner, if known, shall be notified as soon as possible that the dog has been impounded. The owner of any dog so impounded may reclaim such dog upon payment of the license fee, if unpaid, and of all costs and charges incurred by the city for impounding and maintenance of such dog as provided by law. (Rev. Ords. 1973, § 3-21; Ord. No. 626, 2-19-74; Ord. No. 77, 7-7-75; Ord. No. 271, 4-18-78; Ord. No. S-50, 3-19-84; Ord. V-72, 3-4-96)

**Sec. 3-27. Muzzling or confinement of dogs.**

(a) The dog officer may order a dog to be muzzled or confined to its owner's premises, whichever in his judgment may be required, for any of the following reasons:

- (1) If found at large or unmuzzled, as the case may be, while an order of the dog officer for the confinement or muzzling of such dog is in effect;
- (2) If found in a school, school yard or public recreational area;
- (3) For having bitten any person;
- (4) For having killed or maimed or otherwise damaged any other domesticated animal;
- (5) For chasing any vehicle upon any public way or way open to public travel in the city;
- (6) For any violation of section 3-24 or 3-26.

(b) The owner or keeper of any dog that has been ordered to be confined or muzzled or has been confined under this article may, within seven (7) days after such order or confinement, file a request in writing with the dog officer that the confining order be vacated, or that the dog be released, and after investigation by the dog officer such officer may vacate such order or release such dog. If such order is not vacated or the dog is not released, as the case may be, the owner or keeper of such dog, within ten (10) days after such order or confinement, may bring a petition in the District Court of Newton addressed to the justice of such court, praying that the order or confinement may be reviewed by the court, and after such notice to the officer or officers involved as the court may deem necessary, it shall review such action, hear the witnesses and affirm such order or confinement, unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed or the dog shall be ordered released. The decision of the court shall be final and conclusive upon the parties. (Rev. Ords. 1973, § 3-22)

**Sec. 3-28. Penalty.**

Except for violations of section 3-26 which are punishable in accordance with the schedule of fines set forth therein, any owner or keeper of a dog who shall fail to comply with the provisions of this article or any order of the dog officer issued pursuant to this article shall be punished by a fine not to exceed twenty-five dollars (\$25.00) for each offense. (Rev. Ords. 1973, § 3-23; Ord. No. 626, 2-19-74; Ord. No. T-168, 9-3-91)

**Sec. 3-29. Removal and disposal of canine wastes.**

It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, gutter, street, park or other public area or on any private property neither owned nor occupied by said person. No person who owns, possesses, or controls such dog shall appear with such dog on any sidewalk, gutter, street, park or other public area or on any private property neither owned nor occupied by said person without the means of removal of any feces left by such dog. For the purposes of this section the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces in a manner that such feces shall be unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of human feces, specifically reserved for the disposal of canine feces, or as otherwise designated as appropriate by the commissioner of health and human services. Penalties for violation of this section shall be in accordance with the penalties prescribed for a violation of section 3-26(b) of these Revised Ordinances. (Ord. No. S-139, 11-18-85; Ord. No. X-175, 05-26-05)

### **Sec. 3-30 Dogs Off-Leash Program**

(a) Notwithstanding the provisions of Sec. 3-26(a) Restraint of Dogs, in areas officially designated as a "Designated Off -Leash Area" by the commissioner of parks and recreation, a dog may be permitted off-leash under the following minimum conditions, and subject to any additional rules, regulations, and restrictions that may from time to time be in effect for an off-leash area.

(1)

The dog shall at all times be accompanied by and under the control of a person, who shall ensure that the animal does not disturb the surrounding area by excessive barking, and shall ensure that it does not disturb or threaten other dogs or persons using the designated off-leash area or surrounding area;

(2)

The dog shall be leashed prior to entering and upon exiting the designated off-leash area.

(3)

Any dog left unattended is subject to impoundment by the Newton police;

(4)

The person in charge of a dog inside a designated off-leash area shall, in accordance with Section 3-29, immediately remove and as soon as practicable properly dispose of any fecal waste deposited by that dog.

(5)

The dog shall wear a collar with identification at all times, be licensed and vaccinated, healthy and parasite free.

(6)

Dogs must be at least four months old to be allowed off-leash.

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(7)

The number of dogs per person in a designated off-leash area is limited to three, unless otherwise specified in the rules and regulations pertaining to a particular off-leash area.

(8)

The person in charge of a dog or dogs must at all times carry a leash for each dog under that person's supervision.

(9)

The dog owner and/or person in charge of a dog are responsible to ensure that the dog's activity conforms to all rules and regulations pertaining to the off-leash area, as well as for any injury to persons or animals, or damage to public or private property caused by the dog.

(10)

No person shall bring a female dog in heat into any designated off-leash area.

(11)

Any dog which is the subject of a complaint, investigation, order or proceeding under Section 3-25 or Section 3-27 of this ordinance, and/or under General Laws Chapter 140, section 157 shall be banned from designated off-leash areas.

(b) Selection and Designation of Sites for Off-Leash Areas.

(1)

Site selection criteria. The commissioner of parks and recreation, together with the director of planning and development, shall establish site selection criteria for the identification of appropriate sites for consideration as dogs off-leash areas on public land owned by the city, and shall identify and list potential sites for consideration as an off-leash area in accordance with such criteria. Site selection criteria may include a preference for areas with natural topography or features that would confine dogs to the off leash area. For any particular potential site or sites, the commissioner and director may recommend additional criteria for designation of the particular site or sites. Such additional criteria may include, but are not limited to, seasonal or time restrictions, and the need for fencing, when the commissioner deems it necessary to confine the dogs to the off leash area. The commissioner and director may appoint a group of interested persons to advise or otherwise assist them in their duties.

(2)

Designation of Off-Leash Areas. Subject to the established site selection criteria, the commissioner of parks and recreation may designate specific off-leash areas on public land under the control of the city. If the identified area is under the jurisdiction of a municipal agency or commission other than the parks and recreation department, the commissioner shall obtain permission of that agency or commission prior to such designation. An agency or commission granting such permission may delegate operation and maintenance of the off-leash area to the commissioner. Prior to designation of any off-leash area, the commissioner or other municipal agency or commission having jurisdiction of the potential site shall conduct a public hearing.

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(3)

Revocation. A designation of any off-leash area may be revoked at any time by the commissioner or by the municipal agency or commission with jurisdiction of the off-leash area.

(4)

Areas not eligible for designation. Notwithstanding anything to the contrary contained herein or hereafter, the following areas shall not be designated under any circumstances as designated off-leash areas: the little league baseball fields on (i) Lyons Playground; (ii) James E. Murphy Field at the Halloran Sports Complex; (iii) Leo H. Riley Field at Cabot Park; (iv) Jay Gordon Field at Newton Centre Playground; and (v) Richardson Field.

(5)

Other Public Land. On land in public use districts that is owned by the Commonwealth or other government entity, the commissioner and director may identify appropriate potential sites and seek the appropriate government entity's approval to designate such sites for off-leash areas, subject to such terms and conditions as the Commonwealth or other government entity may require.

(c)

Rules and Regulations. In addition to the minimum conditions listed in section (a) applicable to all designated off-leash areas, the commissioner may from time to time promulgate rules and regulations for the general operation and use of all off-leash areas, as well as rules and regulations specific to the use and operation of an individual site. The commissioner may impose time, seasonal, or other restrictions for the use of any area. In the case of off-leash areas on sites under the jurisdiction of another agency or commission, that agency or commission shall approve such rules, regulations and restrictions, and may make such additional rules, regulations, and restrictions it deems necessary.

(d)

Signs. All conditions, rules and regulations, and other restrictions applicable to a designated off-leash area, as well as the boundaries of such area, shall be conspicuously posted.

(e)

Penalties. The owner and/or the person in charge of a dog in a designated off-leash area who fails to control said dog or who violates any of the rules, regulations or restrictions pertaining to the designated off-leash area shall be subject to a fine of fifty dollars (\$50.00) for each offense.

## Community Preservation Act

In 1999, the Newton Parks and Recreation Commission endorsed passage of the Community Preservation Act (CPA). In September 2000, the Community Preservation Act passed the Massachusetts House and Senate and was signed by the governor. In November 2001, Newton voters approved a CPA referendum and the Board of Aldermen passed the ordinance establishing the CPA in Newton. The CPA enables cities and towns to develop a dedicated funding source to preserve open space and historic sites and to provide affordable housing. A community can utilize the CPA provisions by voting approval of a local referendum that would establish a surcharge of up to 3% on the real estate tax levy. One or more of three exemptions to the property tax surcharge are allowable:

- 1) \$100,000 of the assessment,
- 2) property owned and lived in by low-income residents, and
- 3) for class 3, commercial, or class 4, industrial property. A CPA referendum can be held only at the time of a regular municipal or state election.

A state fund estimated at \$26.4 million annually is to be available to towns and cities that pass a CPA referendum. This Massachusetts Community Preservation Trust Fund will annually distribute funds collected from a \$10 surcharge on filings in the Registry of Deeds and the Land Court. Collections will begin on Sept. 1, 2000. Since 80% of the Trust Fund's annual collections must be distributed among all those communities that have passed a referendum, the cities and towns first on board are likely to get the largest matching shares, up to 100% of the funds collected locally. In Newton this surcharge is 1% of both the residential and commercial tax bases with no exemptions beginning in Fiscal Year 2002. A full match is expected from the state in the first two years, so that annual CPA revenues in Newton should be \$2.5-3M.

Each community establishes its own Community Preservation Committee to administer its programs and recommend to the local legislative body the allocation of funds. These allocations "shall not replace operating funds, only augment them." Furthermore, each Community Preservation Committee must allocate at least 10% of its annual revenues for "open space, *but not including land for recreational use*, not less the 10% of the annual revenues for historic resources and not less than 10% of the annual revenues for community housing." However, allocations from the remaining 70%, can be made for recreational use, defined as "active or passive recreational use, including but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field."

The local Community Preservation Committee can use all of its revenues in a given year or place in escrow all or part for future projects. It may also float bonds against the local Preservation Fund in which its revenues are held. Before making recommendations to the Board of Aldermen, the Community Preservation Committee would study the needs and resources of Newton with regard to community preservation and consult with existing municipal boards including the Parks and Recreation Commission.

### Members of the Newton Community Preservation Committee

- |   |   |
|---|---|
| 1) Chair, Historical Commission                           | 6) Mayoral Appointee from Recreation              |
| 2) Vice Chair, Mayoral Appointee for<br>Community Housing | 7) Mayoral Appointee for Open Space               |
| 3) Newton Parks & Recreation Commission                   | 8) Planning & Development Board                   |
| 4) Conservation Commission                                | 9) Housing Authority                              |
| 5) Parks & Recreation Commission                          | 10) Mayoral Appointee for Historical Preservation |

Ordinance #64-01(3), Passed November 19, 2001 to amend the Revised Ordinances of the City of Newton, 1995

**ARTICLE VIII, COMMISSIONS AND COMMITTEES**  
**DIVISION 8. COMMUNITY PRESERVATION COMMITTEE**

**Section 2-350, Establishment, duties and organization.**

(a) The Newton community preservation committee is hereby established to carry out the functions and duties of such a community preservation committee as provided in General Laws chapter 44B.

(b) The committee shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations and establish any subcommittees as it deems appropriate.

**Section 2-351, Composition; eligibility**

a) The committee shall consist of nine members, as follows:

1) The Conservation Commission, Planning and Development Board, Housing Authority, Historic Commission and Parks and Recreation Commission shall each designate one of its members, who may be an alternate member, to serve as a member of the committee (the "statutory members").

2) The remaining four members (the "appointed members") shall be appointed in accordance with section 2-8. The appointed members shall include at least one citizen who has expertise or demonstrated interest in open space, at least one citizen who has expertise or demonstrated interest in recreation, at least one citizen who has expertise or demonstrated interest in historic preservation and at least one citizen who have expertise or demonstrated interest in affordable housing. In making such appointments, the mayor shall be guided by the goal that the membership of the committee includes persons with professional expertise in real estate development, finance, architecture and law.

b) There shall be a ward residency requirement for the appointed members. One appointed member shall be appointed from ward for 2, one from ward 3 or 4; one from ward 5 or 6; and one from ward 7 or 8. In order to qualify, an appointee must be a resident of such ward on the effective date of the appointment. An appointed member who subsequently removes his or her residence to another location in the city may continue to serve for the remainder of the term. However, an appointed member who removes his or her residence from the city shall be considered thereby to have resigned from the committee.

**Section 2-352, Terms of office; limits**

(a) Members shall serve for terms of three (3) years or until their successors shall take office. However, in order to provide for staggered terms, the initial appointments shall be as follows:

i) Statutory members: The Planning and Development Board shall designate one member for a one-(1) year term. The Parks and Recreation Commission and Historic Commission shall each designate one statutory member for a two-(2) year term. The Housing Authority and the Conservation Commission shall each designate a statutory member for a three-(3) year term.

ii) Appointed members: Two appointed members shall be appointed for a one year term; one appointed member shall be appointed for a two year term; and one appointed member shall be appointed for a three year term.

(b) No person shall be eligible to serve as a member for more than two (2) consecutive full terms. For purposes of this clause, the initial one (1) and two (2) year appointments shall be deemed not to constitute full terms. The provisions of this Ordinance shall take effect on January 1, 2002, contingent however, upon acceptance of the Community Preservation Act by the voters at the November 2001 election.

Chapter 267 of the Acts of 2000  
AN ACT RELATIVE TO COMMUNITY PRESERVATION.

**SECTION 1.** The General Laws are hereby amended by inserting after chapter 44A the following chapter:

**CHAPTER 44B -COMMUNITY PRESERVATION.**

**Section 1.** This chapter shall be known and may be cited as the Massachusetts Community Preservation Act.

**Section 2.** As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:-

"Acquire", obtain by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. "Acquire" shall not include a taking by eminent domain, except as provided in this chapter.

"Annual income", a family's or person's gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the department of housing and community development, determines.

"Community housing", low and moderate income housing for individuals and families, including low or moderate income senior housing.

"Community preservation", the acquisition, creation and preservation of open space, the acquisition, creation and preservation of historic structures and landscapes and the creation and preservation of community housing.

"Community preservation committee", the committee established by the legislative body of a city or town to make recommendations for community preservation, as provided in section 5.

"Community Preservation Fund", the municipal fund established under section 7.

"CP", community preservation.

"Historic structures and landscapes", a building, structure, vessel or real property that is listed or eligible for listing on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.

"Legislative body", the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

"Low income housing", housing for those persons and families whose annual income is less than 80 per cent of the area wide median income. The area wide median income shall be the area wide median income as determined by the United States Department of Housing and Urban Development.

"Low or moderate income senior housing", housing for those persons having reached the age of 60 or over who would qualify for low or moderate income housing.

"Maintenance", the upkeep of real or personal property.

"Moderate income housing", housing for those persons and families whose annual income is less than 100 per cent of the area wide median income. The area wide median income shall be the area wide median income as determined by the United States Department of Housing and Urban Development.

"Open space", shall include, but not be limited to, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

"Preservation", protection of personal or real property from injury, harm or destruction, but not including maintenance.

"Real property", land, buildings, appurtenant structures and fixtures attached to buildings or land, including, where applicable, real property interests.

"Real property interest", a present or future legal or equitable interest in or to real property, including easements and restrictions, and any beneficial interest therein, including the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but shall not include an interest which is limited to

the following: an estate at will or at sufferance and any estate for years having a term of less than 30 years; the reversionary right, condition or right of entry for condition broken; the interest of a mortgagee or other secured party in a mortgage or security agreement.

"Recreational use", active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field.

"Recreational use" shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure.

**Section 3.** (a) Sections 3 to 7, inclusive, shall take effect in any city or town upon the approval by the legislative body and their acceptance by the voters of a ballot question as set forth in this section.

(b) Notwithstanding the provisions of chapter 59 or any other general or special law to the contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not more than 3 per cent of the real estate tax levy against real property, as determined annually by the board of assessors. The amount of the surcharge shall not be included in a calculation of total taxes assessed for purposes of section 21C of said chapter 59.

(c) All exemptions and abatement of real property authorized by said chapter 59 or any other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. A taxpayer receiving an exemption of real property authorized by said chapter 59 or any other law shall be exempt from any surcharge on real property established under this section. The surcharge to be paid by a taxpayer receiving an abatement of real property authorized by said chapter 59 or any other law shall be reduced in proportion to the amount of such abatement.

(d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum provided in section 57 of said chapter 59.

(e) The legislative body may also vote to accept one or more of the following exemptions:

(1) for property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the city or town;

(2) for class three, commercial, and class four, industrial, properties as defined in section 2A of said chapter 59, in cities or towns with classified tax rates; or

(3) for \$100,000 of the value of each taxable parcel of residential real property.

(f) Upon approval by the legislative body, the actions of the body shall be submitted for acceptance to the voters of a city or town at the next regular municipal or state election. The city or town clerk or the state secretary shall place it on the ballot in the form of the following question:

"Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General Laws, as approved by its legislative body, a summary of which appears below?"

(Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, including in said summary the percentage of the surcharge to be imposed.)

If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in the city or town, but not otherwise.

(g) The final date for notifying or filing a petition with the city or town clerk or the state secretary to place such a question on the ballot shall be 35 days before the city or town election or 60 days before the state election.

(h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90 days before a regular city or town election or 120 days before a state election, then a question seeking said acceptance through approval of a particular surcharge rate with exemption or exemptions, may be so placed on the ballot when a petition signed by at least 5 per cent of the registered voters of the city or town requesting such action is filed with the registrars, who shall have seven days after receipt of such petition to certify its signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall cause the question to be placed on the ballot at the next regular city or town election held more than 35 days after such certification or at the next regular state election held more than 60 days after such certification.

**Section 4.** (a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors' warrant to the tax collector, the accepted surcharge shall be imposed.

(b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount and according to the computation specified in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to the schedule for collection of property taxes for the tax on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books and accounts to be kept with respect to such surcharge, which shall be subject to public examination upon reasonable request from time to time.

(c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall apply to the surcharge on real property pursuant to this chapter.

**Section 5.** (a) A city or town that accepts sections 3 to 7, inclusive, shall establish by ordinance or by-law a community preservation committee. The committee shall consist of not less than five nor more than nine members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the conservation commission established under section 8C of chapter 40 as designated by the commission, one member of the historical commission established under section 8D of said chapter 40 as designated by the commission, one member of the planning board established under section 81A of chapter 41 as designated by the board, one member of the board of park commissioners established under section 2 of chapter 45 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

(b)(1) The community preservation committee shall study the needs, possibilities and resources of the city or town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of park commissioners and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

(2) The community preservation committee shall make recommendations to the legislative body for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.



(3) The community preservation committee may include in its recommendation to the legislative body a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(c) The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

(d) After receiving such recommendations from the community preservation committee, the legislative body shall then take such action and approve such appropriations from the Community Preservation Fund as set forth in section 8, and such additional appropriations as it deems appropriate to carry out the recommendations of the community preservation committee.

(e) For the purposes of community preservation and upon the recommendation of the community preservation committee, a city or town may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city or town if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city or town may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city or town may be liable by reason of a taking for the purposes of community preservation.

**Section 6.** In every fiscal year and upon the recommendation of the community preservation committee, the legislative body shall spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for open space, but not including land for recreational use, not less than 10 per cent of the annual revenues for historic resources and not less than 10 per cent of the annual revenues for community housing. In each fiscal year, the legislative body shall make such appropriations from the Community Preservation Fund as it deems necessary for the administrative and operating expenses of the community preservation committee, but the appropriations shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund. Funds that are set aside shall be held in the Community Preservation Fund and spent in that year or later years, but funds set aside for a specific purpose shall be spent only for the specific purpose. Any funds set aside may be expended in any city or town in the commonwealth. The community preservation funds shall not replace existing operating funds, only augment them.

**Section 7.** Notwithstanding the provisions of section 53 of chapter 44 or any other general or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall establish a separate account to be known as the Community Preservation Fund of which the municipal treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the legislative body and the municipal treasurer shall pay such expenses in accordance with chapter 41.

The following monies shall be deposited in the fund: (a) all funds collected from the real property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11; (b) all funds received from the commonwealth or any other source for such purposes; and (c) proceeds from the disposal of real property acquired with funds from the Community Preservation Fund. The treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth or in the manner authorized by section 54 of chapter 44, and any income therefore shall be credited to the fund. The expenditure of revenues from the fund shall be limited to implementing the recommendations of the community preservation committee and providing administrative and operating expenses to the committee.

**Section 8.** (a) The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$20. The fees for so recording, filing or depositing a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead under chapter 188. No surcharge shall apply to the fees charged for additional pages, photo static copies, abstract cards, and additional square feet for the filing and recording of plans or for additional or required marginal references.

(b) The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge of \$20. The fees for so registering, filing or entering a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead of chapter 188. No surcharge shall apply to the fees charged for additional lots shown on plans, for indexing instruments recorded while a petition for registering is pending, for additional certificates of sewer assessments, for old age assistance liens, for duplicates and for photocopies.

(c) All surcharges on fees collected pursuant to this section shall be forwarded to the Massachusetts Community Preservation Trust Fund, established in section 9.

**Section 9.** (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Community Preservation Trust Fund, for the benefit of cities and towns that have accepted sections 3 to 7, inclusive, and pursuant to said sections 3 to 7, inclusive, have imposed a surcharge on their real property tax levy, subject to any exemptions adopted by a municipality. The fund shall consist of all revenues received by the commonwealth:

- (1) under the provisions of section 8;
- (2) from public and private sources as gifts, grants and donations to further community preservation programs;
- (3) from damages, penalties, costs or interest received on account of litigation or settlement thereof for a violation of section 15;
- or (4) all other monies credited to or transferred to from any other fund or source pursuant to law.

(b) The state treasurer shall deposit the fund in accordance with the provisions of section 10 in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit be available for withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into the fund. The fund shall be expended solely for the administration and implementation of this chapter. Any unexpended balances shall be redeposited for future use consistent with the provisions of this chapter.

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with said section 10. The department of revenue shall report by source all amounts credited to said fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of the department as it may need to administer and manage the fund disbursements and any expense incurred by the department shall be deemed an operating and administrative expense of the program. The operating and administrative expenses shall not exceed 5 per cent of the annual total revenue received under the provisions of said section 10.

**Section 10.** (a) The commissioner of revenue shall annually on October 15 disburse monies from the fund established in section 10 to cities and towns that have accepted sections 3 to 7, inclusive, and notified the commissioner of their acceptance. The community shall notify the commissioner of the date and terms on which the voters accepted said sections 3 to 7, inclusive. The municipal tax collecting authority shall certify to the commissioner the amount the municipality has raised through June 30 by imposing a surcharge on its real property levy and shall certify the percentage of the surcharge applied.

(b) The commissioner shall multiply the amount in the fund by 80 per cent. This amount distributed in the first round distribution shall be known as the match distribution. The first round total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an amount not less than 5 per cent but not greater than 100 per cent of the total amount raised by the additional surcharge on real property by each city or town. The percentage shall be the same for each city and town and shall be determined by the commissioner annually in a manner that distributes the maximum amount available to each participating city or town.

(c) The commissioner shall further divide the remaining 20 per cent of the fund in a second round distribution, known as the equity distribution. The commissioner shall determine the equity distribution in several steps. The first step shall be to divide the remaining 20 per cent of the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive. This dividend shall be known as the base figure for equity distribution. This base figure shall be determined solely for purposes of performing the calculation for equity distribution and shall not be added to the amount received by a participant.

(d) Each city and town in the commonwealth shall be assigned a community preservation rank for purposes of the equity distribution. The commissioner shall determine each community's rank by first determining the municipality's equalized property valuation per capita ranking, ranking municipalities from highest to lowest valuation. The commissioner shall also determine the population of each municipality and rank each from largest to smallest in population. The commissioner shall add each equalized property valuation rank and population rank, and divide the sum by two. The dividend is the community preservation raw score for that municipality.

(e) The commissioner shall then order each municipality by CP raw score, from the lowest raw score to the highest raw score. This order shall be the CP rank for each municipality. If more than one municipality has the same CP raw score, the municipality with the higher equalized valuation rank shall receive the higher CP rank.

(f) After determining the CP rank for each municipality in the commonwealth, the commissioner shall divide all municipalities into deciles according to their CP ranking, with approximately the same number of municipalities in each decile, and with the municipalities with the highest CP rank shall be placed in the lowest decile category, starting with decile 10. Percentages shall be assigned to each decile as follows:

Decile 1	140 per cent of the base figure.
Decile 2	130 per cent of the base figure.
Decile 3	120 per cent of the base figure.
Decile 4	110 per cent of the base figure.
Decile 5	100 per cent of the base figure.
Decile 6	90 per cent of the base figure.
Decile 7	80 per cent of the base figure.
Decile 8	70 per cent of the base figure.
Decile 9	60 per cent of the base figure.
Decile 10	50 per cent of the base figure

After assigning each municipality to a decile according to their CP rank, the commissioner shall multiply the percentage assigned to that decile by the base figure to determine the second round equity distribution for each participant.

(f) Notwithstanding any other provision of this section, the total state contribution for each city or town shall not exceed the amount raised by the municipality's surcharge on its real property levy.

(g) When there are monies remaining in the trust fund after the first and second round distributions, and any necessary administrative expenses have been paid in accordance with section 6, the commissioner may

conduct a third round surplus distribution. Any remaining surplus in the fund may be distributed by dividing the amount of the surplus by the number of cities and towns that have accepted this chapter. The resulting dividend shall be the surplus base figure. The commissioner shall then use the decile categories and percentages as defined in this section to determine a surplus equity distribution for each participant.

(h) The commissioner shall determine each participant's total state grant by adding the amount received in the first round distribution with the amounts received in any later round or rounds of distributions, with the exception of a city or town that has already received a grant equal to 100 per cent of the amount the community raised by its surcharge on its real property levy.

(1) Only those cities and towns that adopt the maximum surcharge allowed by this chapter shall be eligible to receive additional state monies through the equity and surplus distributions.

(2) If less than 10 per cent of the cities and towns in the commonwealth have accepted sections 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the commissioner may calculate the state grant with only one round of distributions, or in any other equitable manner.

(j) After distributing the trust fund in accordance with this section, the commissioner may keep any remaining funds in the trust for distribution in the following year.

**Section 11.** A city or town that accepts sections 3 to 7, inclusive, may issue, from time to time, general obligation bonds or notes in anticipation of revenues to be raised pursuant to section 3, the proceeds of which shall be deposited in the Community Preservation Fund. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. Cities or towns that choose to issue bonds pursuant to this section shall make every effort to limit the administrative costs of issuing such bonds by cooperating among each other using methods including, but not limited to, common issuance of bonds or common retention of bond counsel. Except as otherwise provided in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of chapter 44. The maturities of each issue of bonds or notes issued under this chapter may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

**Section 12.** (a) A real property interest that is purchased with monies from the Community Preservation Fund shall be bound by a permanent deed restriction that meets the requirements of chapter 184, limiting the use of the interest to the purpose for which it was acquired. The deed restriction shall run with the land and shall be enforceable by the city or town or the commonwealth. The deed restriction may also run to the benefit of a nonprofit, charitable corporation or foundation selected by the city or town with the right to enforce the restriction.

(b) Real property interests acquired under this chapter shall be owned and managed by the city or town, but the legislative body may delegate management of such property to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. The legislative body may also delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203.

**Section 13.** The community preservation committee shall keep a full and accurate account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the Community Preservation Fund. The committee shall also keep records of any real property interests acquired, disposed of or improved by the city or town upon its recommendation, including the names and addresses of the grantors or grantees and the nature of the consideration. The records and accounts shall be public records.

**Section 14.** Notwithstanding the provisions of any general or special law to the contrary, every city and town may accept sections 3 to 7, inclusive, and may thereupon receive state grants under section 10. A city or town that accepts said sections 3 to 7, inclusive, shall not be precluded from participating in state grant programs.

State grant programs may include local adoption of this chapter among the criteria for selection of grant recipients. Funds in the Community Preservation Fund may be made available and used by the city or town as the local share for state or federal grants upon recommendation of the community preservation committee and the legislative body, as provided for in section 5, if such grants and such local share are used in a manner consistent with the recommendations of the community preservation committee.

**Section 15.** (a) A person who, without permission, knowingly carries away or steals, mutilates, destroys, damages, causes to be damaged or cuts any tree, shrub, grass or any other portion of real property purchased by a city or town with funds derived from this chapter shall be liable to the city or town in tort for such actions.

(b) Damages, including punitive damages for willful or wanton violation of this chapter or any rule or regulation issued or adopted hereunder, may be recovered in a civil action brought by the city or town or, upon request of the city or town, by the attorney general. The city or town or, upon request of the city or town, the attorney general, may bring an action for injunctive relief against any person violating this chapter or any rule or regulation issued hereunder. The superior court shall have jurisdiction to enjoin violations, to award damages and to grant such further relief as it may deem appropriate.

(c) Any damages, penalties, costs or interest thereon recovered pursuant to this section shall be deposited into the Community Preservation Fund of the city or town in which the violation occurred.

**Section 16.** (a) At any time after imposition of the surcharge, the legislative body may approve and the voters may accept an amendment to the amount and computation of the surcharge, or to the amount of exemption or exemptions, in the same manner and within the limitations set forth in this chapter.

(b) At any time after the expiration of five years after the date on which sections 3 to 7, inclusive, have been accepted in a city or town, said sections may be revoked in the same manner as they were accepted by such city or town, but the surcharge imposed under section 3 shall remain in effect in any such city or town, with respect to unpaid taxes on past transactions and with respect to taxes due on future transactions, until all contractual obligations incurred by the city or town prior to such termination shall have been fully discharged.

**Section 17.** The commissioner of revenue shall have the authority to promulgate rules and regulations to effect the purposes of this chapter.

**SECTION 2.** Section 38 of chapter 262 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:

The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge under section 8 of chapter 44B.

**SECTION 3.** Section 39 of said chapter 262, as so appearing is hereby amended by adding the following paragraph:-

The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge under section 8 of chapter 44B.

Approved September 14, 2000.

## **Open Meeting Law**

Mass. Ann. Laws ch. 39, § 23B (1999)

Part I. Administration of the Government  
Title VII. Cities, Towns and Districts  
Chapter 39. MUNICIPAL GOVERNMENT TOWN MEETINGS

### **§ 23B. Meetings of Governmental Bodies to be Open; Procedure; Enforcement.**

All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided by this section.

No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as provided by this section.

No executive session shall be held until the governmental body has first convened in an open session for which notice has been given, a majority of the members have voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes, the presiding officer has cited the purpose for an executive session, and the presiding officer has stated before the executive session if the governmental body will reconvene after the executive session.

Nothing except the limitation contained in this section shall be construed to prevent the governmental body from holding an executive session after an open meeting has been convened and a recorded vote has been taken to hold an executive session. Executive sessions may be held only for the following purposes:

- (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual,
- (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual,
- (3) To discuss strategy with respect to collective bargaining or litigation.
- (4) To discuss the deployment of security personnel or devices.
- (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- (6) To consider the purchase, exchange, lease or value of real property,
- (7) To comply with the provisions of any general or special law or federal grant-in-aid requirements.
- (8) To consider and interview applicants for employment
- (9) To meet or confer with a mediator, as defined in ch. 233 §23, with respect to any litigation or decision on any public business within its jurisdiction involving another party,

This section shall not apply to any chance meeting, or a social meeting at which matters relating to official business are discussed so long as no final agreement is reached. No chance meeting or social meeting shall be used in circumvention of the spirit or requirements of this section to discuss or act upon a matter over which the governmental body has supervision, control, jurisdiction, or advisory power.

Except in an emergency, a notice of every meeting of any governmental body shall be filed with the clerk of the city or town in which the body acts, and the notice or a copy thereof shall, at least forty-eight hours, including Saturdays but not Sundays and legal holidays, prior to such meeting, be publicly posted in the office of such clerk or on the principal official bulletin board of such city or town.

A governmental body shall maintain accurate records of its meeting, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the

executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions. No votes taken in open session shall be by secret ballot.

A meeting of a governmental body may be recorded by any person in attendance by means of a tape recorder.



*Checkerboard in Weeks Park*

## Mass. Ann. Laws Ch. 87 Shade Trees

### PART I. ADMINISTRATION OF THE GOVERNMENT TITLE XIV. PUBLIC WAYS AND WORKS (1999)



#### **§ 1. Public Shade Trees Defined**

All trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of section 7 shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

#### **§ 2. Powers of Tree Wardens**

The tree warden of a town may appoint and remove deputy tree wardens. He and they shall receive such compensation as the town determines or, in default thereof, as the selectmen allow. He shall have the care and control of all public shade trees, shrubs and growths in the town, except those within a state highway, and those in public parks or open places under the jurisdiction of the park commissioners, and shall

have care and control of the latter, if so requested in writing by the park commissioners, and shall enforce all the provisions of law for the preservation of such trees, shrubs and growths. He shall expend all money appropriated for the setting out and maintenance of such trees, shrubs and growths, and no tree shall be planted within a public way without the approval of the tree warden, and in towns until a location therefore has been obtained from the selectmen or road commissioners. He may make regulations for the care and preservation of public shade trees and establish fines and forfeitures of not more than twenty dollars in any one case for violation thereof; which, when posted in one or more public places, and, in towns, when approved by the selectmen, shall have the effect of town by-laws.

#### **§ 3. Cutting of Public Shade Trees; Hearing; Damages**

Except as provided by section five, public shade trees shall not be cut, trimmed or removed, in whole or in part, by any person other than the tree warden or his deputy, even if he be the owner of the tree in the land on which such tree is situated, except upon a permit in writing from said tree warden, nor shall they be cut down or removed by the tree warden or his deputy or other person without a public hearing and said tree warden or his deputy shall cause a notice of the time and place of such hearing thereof, which shall identify the size, type and location of the shade tree or trees to be cut down or removed, to be posted in two or more public places in the town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing or if no such local newspaper exists then in accordance with the provisions of section six of chapter four; provided, however, that when a public hearing must be held under the provisions of this section and under section fifteen C of chapter forty prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the tree warden and the planning board, or if there is no planning board, the selectmen of a town or the city council of a city, and notice of such consolidated public hearing shall be given by the tree warden or his deputy as provided herein. Any person injured in his property by the action of the officers in charge of the public shade trees as to the trimming, cutting, removal or retention of any such tree, or as to the amount awarded to him for the same, may recover the damages, if any, which he has sustained, from the town under chapter seventy-nine.

#### **§ 4. Approval of Mayor or Selectmen Required if Objection Made.**



Tree wardens shall not cut down or remove or grant a permit for the cutting down or removal of a public shade tree if, at or before a public hearing as provided in the preceding section, objection in writing is made by one or more persons, unless such cutting or removal or permit to cut or remove is approved by the selectmen or by the mayor.

**§ 5. Trimming, Cutting Down or Removing Bushes and Small Trees That Obstruct Travel.**

Tree wardens and their deputies, but no other person, may, without a hearing, trim, cut down or remove trees, less than one and one half inches in diameter one foot from the ground, and bushes, standing in public ways; and, if ordered by the mayor, selectmen, road commissioners or highway surveyor, shall trim or cut down trees and bushes, if the same shall be deemed to obstruct, endanger, hinder or incommode persons traveling thereon or to obstruct buildings being moved pursuant to the provisions of section eighteen of chapter eighty-five. Nothing contained in this chapter shall prevent the trimming, cutting or removal of any tree which endangers persons traveling on a highway, or the removal of any tree, if so ordered by the proper officers for the purpose of widening the highway and nothing herein contained shall interfere with the suppression of pests declared to be public nuisances by section eleven of chapter one hundred and thirty-two, including the Dutch elm disease.

**§ 6. Penalty for Violation of Sections 3 to 5.**

Violations of any provision of the three preceding sections shall be punished by forfeiture of not more than five hundred dollars to the use of the city or town.

**§ 7. Planting of Shade Trees.**

Cities and towns may appropriate money for the purpose of acquiring and planting shade trees in public ways. The tree warden, or a private organization acting with the written consent of the tree warden, may plant shade trees acquired with public or private funds in a public way, or if he deems it expedient, upon adjoining land at a distance not exceeding 20 feet from the layout of such public way for the purpose of improving, protecting, shading or ornamenting the same; provided, however, that the written consent of the owner of such adjoining land shall first be obtained.

**§ 8. Trees on State Highways.**

The department of highways, in this chapter called the department, shall have the care and control of all trees, shrubs and growths within state highways, and may trim, cut or remove such trees, shrubs and growths, or license the trimming, cutting or removal thereof. No such tree, shrub or other growth shall be trimmed, cut or removed by any person other than an agent or employee of the department, even if he be the owner of the fee in the land on which such tree, shrub or growth is situated, except upon a permit in writing from the department. Any person injured in his property by the action of the department as to the trimming, cutting, removal or retention of any such tree, shrub or other growth may recover the damages, if any, which he has sustained, from the commonwealth, under chapter seventy-nine.

**§ 9. Signs and Marks on Shade Trees.**

Whoever affixes to a tree in a public way or place a notice, sign, advertisement or other thing, whether in writing or otherwise, or cuts, paints or marks such tree, except for the purpose of protecting it or the public and under a written permit from the officer having the charge of such trees in a city or from the tree warden in a town, or from the department in the case of a state highway, shall be punished by a fine of not more than fifty dollars. Tree wardens shall enforce the provisions of this section; but if a tree warden fails to act in the case of a state highway within thirty days after the receipt by him of a complaint in writing from the department, the department may proceed to enforce this section.

**§ 10. Injury to Trees on State Highways.**

Whoever without authority trims, cuts down or removes a tree, shrub or growth, within a state highway or maliciously injures, defaces or destroys any such tree, shrub or growth shall be punished by imprisonment for not more than six months, or by a fine of not more than five hundred dollars to the use of the commonwealth

**§ 11. Injury to Trees of Another Person.**

Whoever willfully, maliciously or wantonly cuts, destroys or injures a tree, shrub or growth which is not his own, standing for any useful purpose, shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars.

**§ 12. Injury to Shrubs, Trees and Fixtures.**

Whoever wantonly injures, defaces or destroys a shrub, plant or tree, or fixture of ornament or utility, in a public way or place or in any public enclosure, or negligently or willfully suffers an animal driven by or for him or belonging to him to injure, deface or destroy such shrub, plant, tree or fixture, shall be punished by a fine of not more than five hundred dollars, and shall in addition thereto be liable to the town or any person for all damages to its or his interest in said shrub, plant, tree or fixture caused by such act. Whoever by any other means negligently or willfully injures, defaces or destroys such a shrub, plant, tree or fixture shall likewise be liable to the town or any person for all damages to its or his interest in said shrub, plant, tree or fixture caused by such act.

**§ 13. Powers and Duties of Tree Wardens in Cities.**

The powers and duties conferred and imposed upon tree wardens in towns by this chapter shall be exercised and performed in cities by the officers charged with the care of shade trees within the limits of the highway.

## **Conflict of Interest**

Members of the Newton Parks & Recreation Commission (the Commission), a public agency of the City of Newton are covered as special municipal employees by the Massachusetts Conflict of Interest Statute MGL ch. 268A (On the internet, see: [www.magnet.state.ma.us/ethics/web268A.htm](http://www.magnet.state.ma.us/ethics/web268A.htm)). When in doubt, members of the Commission may request the opinion of the Newton Law Office (see §22) or call the State Ethics Commission's "lawyer-of-the-day" at (617) 727-0060 or write to: Legal Division, State Ethics Commission, Rm. 619, One Ashburton Place, Boston, MA 02108. Useful information is also on the internet at [www.magnet.state.ma.us/ethics/ethics.htm](http://www.magnet.state.ma.us/ethics/ethics.htm)

## **State Ethics Commission**

### **"SPECIAL" MUNICIPAL EMPLOYEES"**

The conflict of interest law, G.L. c. 268A, covers all municipal officials and employees, whether elected or appointed, paid or unpaid, full-time or part-time. However, two sections of the conflict law apply less restrictively to those part-time or unpaid municipal officials who have been designated as "special municipal employees."

"Special municipal employee" status can be assigned to certain municipal positions by a vote of the board of selectmen, board of aldermen, town council or city council. Several specific municipal positions are automatically designated as "special" under the law. Your position is eligible to be designated as a "special municipal employee" position provided that:

- \*you are not paid; or
- \*you hold a part-time position which allows you to work at another job during normal working hours; or
- \*you were not paid by the city or town for more than 800 working hours (approximately 20 weeks full-time) during the preceding 365 days.

It is the municipal position that is designated as having "special" status, not the individual. Therefore, all employees holding the same office or position must have the same classification as "special municipal employees". For instance, one member of a school committee cannot be classified as a "special" unless all members are similarly classified.

The designation may be made by a formal vote of the board of selectmen, board of aldermen, town council or city council at any time. Votes should be taken individually for each board or position is designated -- expressly naming the positions being designated. Once a position is designated as having "special" status, it remains a "special municipal employee" position unless and until the classification is rescinded. A list of all the "special municipal employee" positions should be on file at the town or city clerk's office. This list should also be filed with the Ethics Commission.

Under no circumstances may a mayor, city councilor, town councilor, alderman, or selectman in a town with a population of more than 10,000 be designated as a "special". However, in towns of 10,000 or less, selectmen are automatically considered "special" employees. Other municipal positions in towns with a population of less than 10,000 must still be designated as "special municipal employee" positions by the selectmen.

The Legislature may also designate certain positions to have "special municipal employee" status. For example, board members and part-time employees of local housing and redevelopment authorities are defined by law as "special municipal employees" and does not need to have local authorities approve their designation as "specials". (See G.L. c. 121B, §7.)

## **THE CONFLICT LAW IS LESS RESTRICTIVE FOR "SPECIALS"**

Only two sections of the conflict of interest law apply less restrictively to "specials" -- §§ 17 and 20. All other sections of the conflict law that govern regular municipal employees apply to "special municipal employees" in exactly the same way. See the Summary of the Conflict Law for Municipal Managers or the Practical Guide to the Conflict Law for Municipal Employees for information on your responsibilities under the law (these publications are available from the State Ethics Commission). Remember that even if you serve on an unpaid part-time board or commission, you are still considered a regular municipal employee, unless your position has been expressly designated as having "special municipal employee" status.

### **Section 17 - Acting on Behalf of Others**

Section 17 generally prohibits municipal employees from representing a private party before municipal boards or departments. It also prohibits municipal employees from acting as agent (or attorney) for a private party in connection with any matter of direct and substantial interest to their city or town. Finally, it prohibits municipal employees from accepting pay or other compensation in connection with any matter of direct and substantial interest to their municipality.

However, if you are a "special municipal employee", you may:

1. represent private parties before municipal boards other than your own, provided that you have not officially participated in the matter and the matter is not now (and was not within the past year) within your official responsibility;
2. act as agent for private parties in connection with a matter of interest to your city or town, provided that you have not participated in the matters as a municipal official, and that the matter is not (and has not been, during the past year) within your official responsibility; and
3. receive pay or other compensation in connection with matters involving your city or town, provided that you have not officially participated in the matters and they are not (and have not been, within the past year) within your official responsibility.

Example: You are a Conservation Commissioner. The Commission has been given "special municipal employee" status. You are also an engineer in private practice in town.

You may be hired as site engineer and represent a private development company at a Planning Board hearing, as long as the hearing does not in any way involve Conservation Commission matter.

However, if the hearing is about a wetlands dispute, you could not represent the developer before the Planning Board because the matter is under your official responsibility as Conservation Commissioner.

Also, if you prepare site plans, blueprints, structural analyses or other professional documents, you may not allow the developer to submit those materials to the Conservation Commission (or to any other municipal boards, in connection with matters under the Conservation Commission's responsibility).

Also, you may not be paid for giving the developer advice about how to get his project approved by the Conservation Commission, or for any other activity related to the Conservation Commission review process.

Note that the prohibition against "acting as agent" covers any type of activity that involves representing someone other than your city or town. Activities which can be considered "acting as agent" include: serving as someone's spokesperson; making phone calls or writing letters; acting as a liaison; affixing professional seals or signing supporting documentation; and participating as an electrician, plumber or other contractor during municipal building inspections. For more information about §17, request Advisory No. 13: Municipal Employees Acting as Agent from the State Ethics Commission.

## **Section 20 -- Restrictions on Having an Interest in Contracts with your City or Town**

Section 20 generally prohibits municipal employees from having a direct or indirect financial interest in a contract with their city or town. However, there are many exemptions in this section of the law. For instance, a municipal employee may own less than 1% of the stock of a company that does business with the municipality.

Also, a municipal employee may have a financial interest in a contract with a municipal department which is completely independent of the one where he works, provided that the contract has been publicly advertised or competitively bid, and the employee has filed a disclosure of his interest in the contract with the city or town clerk. Note that there are additional requirements for personal services contracts: contact your town counsel or city solicitor or the State Ethics Commission's Legal Division for more information.

However, if you are a "special municipal employee", you have two additional exemptions to §20:

1. As a "special municipal employee", you may have a financial interest in a contract with a department which is completely independent of the one where you work, provided that you file a disclosure of your interest in the contract with the city or town clerk (there is no "public notice" or "competitive bid" requirement for this "special municipal employee" exemption).
2. As a "special municipal employee", you may even have a financial interest in a contract with your own department (or with a department which has overlapping jurisdiction with your department), provided that you file a disclosure of your interest in the contract with the city or town clerk and the board of selectmen, board of aldermen, town council or city council vote to grant you an exemption to §20.

Example: You are a member of the School Committee, which has been given "special municipal employee" status. You also own a hardware store in town.

You may sell light bulbs to the town's Department of Public Works, because Public Works is not under the jurisdiction of the School Committee; however, you must file a disclosure of your interest in the light bulb sales with the Town Clerk.

You also may sell light bulbs to the School Department (which is under the School Committee's jurisdiction), but only if you file a disclosure of your interest in the light bulb sales with the Town Clerk and the Board of Selectmen vote to exempt your light bulb sales from the restrictions of §20.

For more information about restrictions on holding an interest in municipal contracts, contact your city solicitor or town counsel or the Legal Division of the State Ethics Commission.

## **Section 20 -- Restrictions on Holding Multiple Municipal Positions**

Because the restrictions of §20 also apply to employment contracts, municipal employees are generally prohibited from holding more than one municipal position. However, there are many exemptions to this general prohibition. If you are a municipal employee -- regular or "special" -- you may:

1. hold any number of unpaid positions, because you do not have a financial interest in any of the positions (however, if you hold even one paid appointed position, you must look for other exemptions);
2. hold any number of elected positions, whether paid or unpaid, because you serve in those positions by virtue of your election, rather than because of an appointment or employment contract (however, if you hold even one paid appointed position, you must look for other exemptions); and
3. in some instances, you may hold more than one paid appointed position, provided that the jobs are in separate departments (which do not have overlapping responsibilities) and all paid jobs have been publicly advertised. However, your board of selectmen, board of aldermen, town council or city council must vote to exempt you from §20, and there are also other requirements you must meet. For more

information, request Advisory No. 7: Multiple Office Holding from the State Ethics Commission, or contact your town counsel or city solicitor or the State Ethics Commission's Legal Division.

If you serve in a town with a population of less than 3,500, you may hold more than one position with the town if the board of selectmen formally approves the additional appointments.

If you are a "special municipal employee", you may also:

1. hold any number of other "special municipal employee" positions, provided that the positions are with totally independent departments and you file a disclosure of your financial interest in all the positions with the city or town clerk;
2. hold any number of other "special municipal employee" positions, even if the departments' jurisdictions overlap, provided that you file a disclosure of your financial interest in all the positions with the city or town clerk, and the board of selectmen, board of aldermen, town council or city council vote to exempt you from §20.

Example: As a Cemetery Commissioner, you are a "special municipal employee".

You may also hold "special municipal employee" positions on the Board of Library Trustees and on the Waterways Commission, because the three positions are completely independent of each other. However, you must file a disclosure of your financial interest (e.g., stipends, per diem payments, salary) in the positions with the Town Clerk.

If you wish to hold a "special municipal employee" position with the Department of Public Works (which maintains buildings on the cemetery grounds) or as the town's Tree Warden (who cares for the trees on the cemetery grounds), you must file a disclosure of your financial interest in the positions with the Town Clerk, and the Board of Selectmen must vote to exempt you from §20.

For more information about holding more than one municipal position, request Advisory No. 7: Multiple Office Holding from the State Ethics Commission, or contact your town counsel or city solicitor or the State Ethics Commission's Legal Division.

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The definition of "special municipal employee" can be found in Section 1(n) of the conflict of interest law (G.L. c. 268A). Note that town councils are empowered by G.L. c. 39, §1 to exercise all duties and powers of boards of aldermen.

\* \* \*

Commission Fact Sheets are prepared and issued by the Public Education Division of the State Ethics Commission. They are intended to provide guidance to public officials and employees concerning practical applications of the conflict law. For further information, contact your town counsel or city solicitor, or the Legal Division of the State Ethics Commission.

ISSUED: May 1987, REVISED: March 1990, REVISED: January 1991, REVISED: August 1992

