



Programs & Services Committee **Report**

City of Newton **In City Council**

Wednesday, April 21, 2021

Present: Councilors Krintzman (Chair), Noel, Humphrey, Baker, Ryan, Albright, Greenberg, and Wright

City Staff: Maura O'Keefe, Assistant City solicitor; Nathan Giacalone, Committee Clerk

Referred to Programs & Services and Finance Committees

#156-20 Request for comparison of dog license fines

COUNCILOR ALBRIGHT requesting a comparison of Newton's fine for failure to license a dog to other communities. In addition, requesting an increase in the fine for failure to license a dog.

Action: **Programs and Services Held 8-0**

Notes: This item was discussed together with #157-20

Councilor Albright motioned to Hold which carried 8-0.

Referred to Programs & Services and Finance Committees

#157-20 Request for review and changes to off-leash dog ordinance

COUNCILOR ALBRIGHT requesting a review and possible changes to the off-leash dog ordinance to include:

- a) raising fees required by dog walking companies in order to better maintain sites heavily used by dog walkers; and
- b) requiring background checks on dog walkers to assure safety of dog owners and dogs; and
- c) requesting the development of regulations for dog walking and dog daycare companies to assure appropriate care for dogs.

Action: **Programs and Services Held 8-0**

Notes: This item was discussed together with #156-20.

The Chair began the discussion saying that the goal of these items is to use them to study possible improvements to dog ordinance enforcement as well as the license fee. He said that the proposals before the Committee were to increase the license fee and introduce a graduated fine

structure for off-leash offenses. These decisions were reached after a prior meeting called for a comparison of Newton's dog ordinances to those of surrounding communities.

It was added that the conversation on dog items in general came from an earlier meeting with Commissioner DeRubeis who was looking for the funds to install extra dog waste barrels across Newton. The medallion program paid for 57 of these barrels, though the fees have not been raised in many years. The proposal is to raise both the fee for spayed/neutered and the fee for non-spayed/neutered dogs by \$10 each. It was confirmed by the Executive Office that this money, despite going into the general fund, would be used for more waste barrels. This fee increase would not take effect in 2021 as the dog license renewals were due at the beginning of April.

Discussion:

C: Should the language refer to dog walkers instead of dog walking companies?

C: Dog fostering is becoming an increasingly common practice in this region of the country. Might residents report each other for license violations as a result of fostering? It is impractical for a resident to license every dog they are fostering as the dogs are usually only kept for a short period of time and the practice is unpaid.

The Committee determined that the docket language before the Committee would not cover raising the license fees. It was decided that an item with the appropriate language would be drafted, docketed and brought before the Committee. The Committee then shifted its discussion to license violation fines and off-leash violation fines.

C: Referring to the attached comparison spreadsheet, the goal is to find more "carrots and sticks" for dog registration. The proposed graduated fine structure would be a proverbial stick to improve enforcement.

C: Something that came up in a prior meeting with city personnel is that many non-licensed dogs are the result of lapsed licenses. An automatic enrollment/billing model could address these cases.

C: After years of owning a dog, nobody has come from the city to check the registration. What does enforcement of this ordinance look like? Does Animal Control have the spreadsheet data on dog ownership?

A: Enforcement occurs primarily in off-leash areas.

C: We should consider adding language to the ordinance to require that a dog needs to be spayed/neutered to be eligible for an off-leash license.

C: The enforcement needs to focus largely on dog walking companies rather than individual pet owners. These residents have voiced concerns over being lumped in with the companies. Many

of the dog walking companies use the Clear Channel conservation area and park all along the road leading into it. This takes over the space from local residents. Further, they often have several dogs with them which they promptly unleash upon reaching the end of Saw Mill Brook Parkway, creating a dangerous situation compounded by their refusal to answer questions. Currently, enforcement usually happens at the dog parks or when there is a dog bite incident.

C: There is not enough enforcement of the dog ordinance, especially at night when Animal Control is not active.

Q: Why is an unneutered dog unsafe?

A: Unneutered puppies can cause otherwise calm dogs to become aggressive. Adult unneutered dogs can become unpredictable as they pick up new scents at the park.

C: Dog walkers should not be negatively generalized as they perform an important job for Newton, especially as more people are returning to work during the day.

C: The minimum age for puppies at the off-leash parks should be raised to six-months from four months as recent trends are to wait until the puppy is older before performing the procedure. It is also increasingly common to spay/neuter different breeds at different ages.

Q: Dogwalkers from Boston often frequent Honeywell Park, can they be fined for lacking an off-leash medallion?

A: Yes, they need to have a Newton medallion.

Councilor Albright motioned to Hold which carried 8-0.

#184-20 Request to authorize the use of remote participation in Council meetings

COUNCILOR ALBRIGHT requesting to authorize the use of remote participation for City Council meetings.

Action: Programs and Services Held 8-0

Notes: The Chair introduced the item saying that materials provided too late for the agenda would be attached to the report. He said that discussion would continue from the January 20th meeting to determine if the Council would adopt remote participation or not. While the state has authorized municipal bodies to adopt remote participation for several years, each body or the chief executive must adopt it. In Newton, this was done through Mayor Warren's executive order, though the Council still has not chosen to accept remote participation.

Ms. O'Keefe joined the committee and spoke on this item. She clarified that since Mayor Warren's executive order, the Council has been authorized to adopt remote participation but has chosen not to. She also said that under the state law, a physical quorum will still need to be present.

The Chair recommended that since the Council may already adopt remote participation, the most

appropriate place to address this question would be through the Rules Subcommittee.

Ms. O'Keefe was thanked for joining the Committee and offering her guidance on the subject.

Discussion:

C: Remote participation should be addressed, but cautiously.

Q: Are there things in the state law impacting the type of rules regarding remote participation which can be set?

A: Yes, the regulations from the Attorney General dictate that only the mayor as the adopting authority can make stricter laws. As the Council addresses remote participation through the Rules Subcommittee it will have many things to consider in this regard. For instance, advance notice to the Chair can be required to ensure that a physical quorum is present for the meeting. It does not seem like there are cases of chairs refusing members from participating remotely from other communities.

C: Would staff also be able to participate remotely?

A: Open Meeting Law pertains to the City Council and staff is not covered. If the Council is considering allowing staff to participate remotely in meetings, then this is a conversation it would need to have with the Mayor's Office as this is an administrative issue.

C: The Council is working with NewTV to make meetings room Zoom enabled for when in-person meetings resume.

C: If the Council accepts remote participation, would an in-person quorum be required?

A: Yes, a physical quorum would need to be in the room. State law would need to change to allow for anything less.

C: Some meetings can have packed attendance in the smaller meeting rooms and it will not be possible to ask the members of the public to wear masks. If a Councilor is not comfortable attending in person due to medical reasons, would they be permitted to participate remotely?

A: Criteria for remote participation, such as medical need, can be discussed in the subcommittee and recommended as part of the city Council Rules.

C: Would remotely participating members be able to vote?

A: Yes, they would need to be able to participate fully.

Q: If a Councilor attends a committee meeting for which they are not a member, would they be able to participate remotely?

A: Yes, the Council Rules stipulate that any Councilor can fully participate in any meeting.

C: Other medical conditions, such as a broken leg, sound like they would be reasons for remote participation. The public also benefits from keeping Zoom as it allows more access to the meeting.

Councilor Wright motioned to Hold which carried 8-0.

#137-21 Public Meeting with City Clerk/Clerk for the Council candidates
CITY CLERK PRELIMINARY SCREENING COMMITTEE submitting recommended candidates for the City Clerk/Clerk of the Council position for review by the Programs & Services Committee and recommendation to the City Council.

Action: Programs & Services Held 8-0

Notes: The Chair introduced the item to give an update on the process to the Committee. He said that originally, there was going to be a separate meeting to begin the public interviews for the three finalists for the City Clerk/Clerk of the Council position. However, the Screening Committee said that one of the finalists withdrew themselves from consideration. Once a new complete slate of finalists is chosen, the finalists will be presented to the Programs & Services Committee for the beginning of the public phase of the process.

C: It will be good if the approach is to ask all candidates the same questions. This method gives Councilors the best way to compare them. The model for this would be the process used to hire the new police chief as it worked incredibly well.

Councilor Albright motioned to Hold which carried 8-0.

The meeting adjourned at 8:24 pm.

Respectfully Submitted,

Josh Krintzman, Chair

Nathan Giacalone

From: Susan Albright
Sent: Thursday, April 15, 2021 3:19 PM
To: Nathan Giacalone
Subject: proposal to raise the fines for failure to have a dog onleash

[DO NOT OPEN links/attachments unless you are sure the content is safe.]

Nathan would you add this to the packet for this docket item

Based on research provided by Mr Giacalone we can see that many communities have a graduated fine for having a dog off-leash; a lower fine for a first offense going up for the 2nd and subsequent offenses. Watertown, Arlington, Winchester, Boston, Framingham, Lynn, Dedham, Westwood and Hopkington all have this graduated approach to the fine for an off-leash dog.

My proposal is to keep \$50 as the first offense and raise the second offense to \$75, and raise the third and subsequent offenses in a calendar year to \$100.

These fines would apply to off-leash dogs in either non-off-leash areas or in off-leash areas, i.e the fine would apply to dogs without an off-leash dog medallion but found off-leash in an off-leash dog park.

I look forward to a discussion on this matter at our meeting.

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**Susan Albright, President
Newton City Council
Councilor-at-Large Ward 2**

Dog Leash and Licensing Fees Comparison Chart							
City/Town	Ordinance Location	Leash Law Summary	Leash Fines	License Law Summary*	License Fees	License Fines	Enforcement Powers
				<i>*State law mandates that all dogs six months of age and older must be annually licensed through a rabies vaccination. This license is demonstrated with a medallion to be worn by the dog at all times.</i>	<i>*State law does not address the license fee.</i>	<i>*The fine for violation of the state dog licensing law is not more than \$100.</i>	<i>*State law does not address dog license enforcement.</i>
Newton	Sec. 3-22, 3-23, 3-30; http://www.newtonma.gov/civicaX/filebank/documents/45812	All dogs must be leashed in public and not allowed to roam free. They are also banned from "tot lots" whether leashed or not. Dogs may go unleashed in designated off-leash areas subject to certain conditions.	\$50 for each offense	All dogs older than 6 months must be regularly vaccinated against rabies on an annual basis.	\$15 or \$10 if dog is spayed/neutered	\$50 for each offense	Dog Officer, Parks, Recreation and Culture Commissioner or their designee
Cambridge	6.04.020, 6.04.030, 6.04.040, 6.04.050, 6.04.060, 6.08.010, 6.04.110, 6.04.120; https://library.municode.com/ma/cambridge/codes/code_of_ordinances?nodeId=TIT6AN_CH6.04ANCORE	All dogs must be leashed in public.	\$25 or each offense plus costs for care and confinement	All dogs older than 6 months must be regularly vaccinated against rabies on an annual basis.	\$30 or \$10 if dog is spayed/neutered	\$50 for each offense	Director, Animal Control Officers, Park Rangers, Police Officers, and the Director of the Animal Commission and their designee
Wellesley	47.4, 47.5, 47.6, 47.7, 47.8, 47.9; https://wellesleyma.gov/DocumentCenter/View/464/Article-47---Animal-Control-Regulations-PDF	Dogs must be on a leash of no-more than 7 feet when not on private property of their owner or with permission.	Maximum penalty is \$300 with each day a violation exists constituting a separate violation.	Dogs older than 6 months must be regularly vaccinated	\$20 or \$12 if the dog is spayed/neutered	Maximum penalty is \$300 with each day a violation exists constituting a separate violation.	Animal Control Officer annually appointed by the Board of Selectmen
Brookline	Article 8.6 (all sections); https://www.brooklinema.gov/DocumentCenter/View/13635/Brookline-Town-By-Laws-PDF	Dogs must be leashed in public when appropriate and refrain from prohibited behavior. They may be off-leash in designated areas but are still subject to certain behavior regulations.	\$25 for the first violation, \$50 for the second, and \$75 for third and subsequent offenses	Dogs must be licensed in accordance with state law (6 months and older)	\$20	\$20 late filing fee	Police officers through the dog officer.
Lexington	Chapter 9, sec 1-3; https://ecode360.com/10531591	All dogs must be properly leashed in public. They are allowed off-leash in certain areas of conservation land during specified times Monday through Friday.	Up to \$50 or state maximum, whichever is higher	All dogs older than 6 months must be regularly licensed. An owner must renew the license within 21 days of being notified that a previously issued license has expired.	\$20 or \$15 if the dog is spayed/neutered	All license late fees are not to exceed \$50	
Needham	Section 3.7; https://www.needhamma.gov/DocumentCenter/View/1859/General-By-Laws-2019-PDF?bidId=	All dogs must be leashed outside of their owner's property.	\$25 for first offense, \$50 for subsequent offenses	Unvaccinated dogs brought into Needham must be licensed and vaccinated within thirty days or reaching six months of age, whichever comes later.	\$25 or \$20 if the dog is spayed/neutered	No more than \$100.	Animal control officer
Waltham	Chapter 3, Article II; https://ecode360.com/26931073	All dogs must be leashed when in public on a restraint no longer than 10 feet in length.	\$25 for first offense, \$50 for subsequent offenses	All dogs older than 6 months must be licensed annually	\$10 or \$6 if the dog is spayed/neutered	\$25 for no license, \$50 for no rabies vaccination	Dog officer and their designee, the Chief of Police is involved in additional hearings and investigations.
Watertown	Chapter 91; https://codelibrary.amlegal.com/codes/watertown/latest/watertown_ma/0-0-0-5991	Dogs must be leashed when not in designated off-leash areas.	\$25 for first offense, \$100 for second offense, \$200 for subsequent offenses.	All dogs older than 6 months must be licensed annually. Additionally, they must either be spayed/neutered or a statement explaining the alternative decision.	\$10, \$6 for persons aged 60 and over.	\$25 for first offense, \$100 for second offense, \$200 for subsequent offenses. Dogs not displaying their license medal are subject to impoundment until the license is attained.	Animal Control Officer, animal control agent, any Watertown Police officer, Director of Parks and Recreation and their designee.
Arlington	Title IV Article I Section 8; Title VIII Article 2 Sections 1-6 (See Sec. 2 and 4); https://www.arlingtonma.gov/home/showdocument?id=27200	All dogs must be leashed except when in designated off-leash areas. In these areas, a handler may have up to two unleashed dogs under their control.	\$75 for first offense, \$100 for second offense, \$150 for subsequent offenses.	All dogs older than 6 months must be licensed. No license will be granted to an owner convicted of animal cruelty.	\$20 or \$15 if the dog is spayed/neutered	\$50 for failure to comply	Dog officer, Arlington Police officers,

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Winchester	Chapter 10, Sec 1-7; https://winchester.town.codes/Code/10	All dogs must be leashed unless otherwise appropriate. Any dog found in violation of the leash ordinance will be confined by the dog officer.	\$40 for first offense, \$50 for second offense, \$60 for subsequent offenses within one calendar year	No dog older than 6 months shall be kept without a rabies license	\$20 or \$15 if the dog is spayed/neutered	\$40 for first offense, \$50 for second offense, \$60 for subsequent offenses within one calendar year	Dog officer and the police department
Reading	Article 8, Section 8.8 https://www.readingma.gov/sites/g/files/vyhlif1116/ff/uploads/2019-05_general_bylaw.pdf ; License Fees: https://www.readingma.gov/town-clerk/pages/dog-licenses	Dogs must be leashed in public when not on private property. The dog may be within effective voice control when within the Town Forest or on other conservation lands if allowed by Conservation Commission rules.		All dogs older than 6 months must be licensed. License fees are set annually by town meeting, but spayed/neutered fees must always be cheaper and no fee shall be charged to an owner over 70.	\$20 or \$10 if dog is spayed/neutered	\$10 fine if not licensed by April 1 and \$5 for each subsequent month. There is a \$50 fine if still unlicensed.	Animal Control Officer appointed by the Town Manager to enforce this ordinance along with other duties determined by the Town Manager or their designee.
Boston	Chapter XVI, Section 16-1.9, and 16-1.9c: http://library.amlegal.com/nxt/gateway.dll/Massachusetts/boston/chapterxviprohibitionspenaltiesandpermit?f=templates\$fn=default.htm\$3.0\$vid=amlegal:boston_ma\$anc=0-0-0-1449	Dogs must be leashed when in public.	First offense in calendar year is a written warning, followed by \$50, \$60, and \$100 for each subsequent offense for the remainder of the calendar year	All dogs older than 6 months must be licensed annually.	\$30 or \$15 if the dog is spayed/neutered		Boston Police Department and the Animal Care and control Unit of the Parks and Recreation Department.
Somerville	Chapter 3, Sec 3-5 - 3-30, Article II: https://library.municode.com/ma/somerville/codes/code_of_ordinances?nodeId=PTIIICOOOR_CH3AN Licenses found at: https://www.somervillema.gov/departments/programs/dog-licensing-vaccination-and-ownership	Dogs must be leashed outside of the owner's private property and in designated off-leash areas, in which they must still follow posted rules.	\$50 for each offense	All dogs older than 6 months must be licensed annually.	\$30 or \$20 if dog is spayed/neutered	\$50	Police, animal control, commissioner of public works, inspectional services
Framingham	Article II, Section 14: https://www.framinghamma.gov/DocumentCenter/View/265/Article-2?bidId=	All dogs must be leashed when in public on a restraint no longer than 10 feet in length.	First offense is a written warning, followed by \$50, \$60, and \$100 for each subsequent offense	All dogs older than 6 months must be licensed annually.	\$15 or \$10 if dog is spayed/neutered	\$50 for licenses not purchased between January 2 and February 28. There is a \$10 for each year an owner of an unlicensed dog has neglected to get a license.	Animal Control Officers
Quincy	Part II, Chapter 113, Article III https://ecode360.com/29043175	Dogs may go unleashed to exercise and play in a controlled environment under the supervision of their owner.	May be penalized by a noncriminal disposition.	All dogs older than 6 months must be licensed with a current rabies vaccination.	\$10	\$10 late fee for any dog not licensed on or before April 30.	The Animal Control Officer shall be any person who is designated so by the Mayor.
Brockton	Part II, Chapter 3, Article II: https://library.municode.com/ma/brockton/codes/code_of_ordinances?nodeId=PTIIREOR_CH3ANFO_ARTIIDO	Dogs must be restrained on a leash when in public.	No less than \$38 and no more than \$300	All dogs older than 6 months must be licensed or within 30 days of being brought into Brockton, whichever is first.	\$24 or \$10 if spayed/neutered	No less than \$78	Persons or agencies designated by the City and also law enforcement officials.
Lynn	http://www.lynnma.gov/departments/isd_animal_control.shtml#gpm1_5 http://lynnpolice.org/announcements/lynn-ordinances/section/	Dogs must be leashed in public except at the city dog park. When in the park, they must be accompanied by their handler and display a valid license tag.	\$25 for first offense, \$50 for all subsequent offenses	All dogs must be licensed annually by April 1.	\$10		Animal Control Department
Dedham	Part II, Chapter 117, Article III; enforcement found at Chapter 1, Article I: http://dedham-ma.elaws.us/code/coor_ptii_ch117_artiii ; http://dedham-ma.elaws.us/code/de3083/15734225/#15734225	Dogs must be leashed in public. They are only allowed on public park lands with a special exception in order to chase off geese.	Warning for first offense, \$50 for the second, \$100 for the third, and \$300 for all subsequent	All dogs older than 6 months must be licensed annually with a rabies vaccination.	\$15 or \$10 if the dog is spayed/neutered		Dedham police officer, Town Administrator, DPW Director, other town officials, and their designees.
Westwood	Part II, Chapter 184 Article I: http://westwood-ma.elaws.us/code/coor_ptii_ch184_arti ; Fees found at: https://www.townhall.westwood.ma.us/departments/town-clerk/dog-licensing/-fsiteid-1	Dogs must be restrained on a leash when in public. They may go off-leash in designated areas but must still be under the control of a handler.	\$25 for first offense, \$50 for the second offense, \$75 for all subsequent offenses.	All dogs must be annually licensed. Residents 70 and older are exempt from the license fee for one dog per year.	\$15 or \$10 if dog is spayed/neutered	\$25 for first offense, \$50 for the second offense, \$75 for all subsequent offenses.	Animal Control Officer and/or others appointed from time to time by the Board of Selectmen
Hopkinton	Chapter 62, Article II, Article III, and Article VII: https://www.hopkintonma.gov/General%20Bylaw%20Book%202019%20(1).pdf	Dogs must be leashed when in public.	\$25 for first offense, \$45 for second offense, \$75 for subsequent offenses	All dogs older than 6 months must be licensed annually with a rabies vaccination. Any late fee will be charged per household, not per dog.	\$15 or \$10 if dog is spayed/neutered	\$25 for first offense, \$45 for second offense, \$75 for subsequent offenses: \$25 for license late fee.	Animal Control Officer, any Hopkinton police officer, or the Select Board through any means available by law

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Milford	Article 15A: https://www.milfordma.gov/sites/g/files/vyhlf3466/f/uploads/dog_control_law_article_15a.pdf	Dogs must be leashed in public. Under no circumstances are they allowed on schoolyards, cemeteries, playing fields, or public parks.	\$15 for first offense, \$25 for second offense, \$50 for subsequent offenses. \$50 for any offense involving unspayed/neutered dog.	All dogs three months of age or older must be licensed annually.	\$25 or \$6 if dog is spayed/neutered.	\$10 license late fee	Dog officer
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DRAFT FOR DISCUSSION 4/16/2021 #156-20

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)~~ twenty-five dollars (\$25.00) 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)~~ twenty dollars (\$20.00). The fee for the issuance of a duplicate dog license shall be two dollars (\$2.00).

Sec. 17-3. Fees for certain licenses, permits and fees.

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be paid a fee on an annual basis or unless otherwise noted to the city clerk for each of the following applications, permits, licenses or charges, the sum set forth as follows:

(36) Dog License (Sec. 3-23).....	\$25 <u>15</u> .00
Spayed or Neutered.....	\$20 <u>10</u> .00
(37) Off-Leash Dog Park Permit (Sec. 3-30).....	\$50.00
(38) Public Hearing Advertising Cost	See Sec. 6-6
(39) Vehicles Transporting Goods License (Sec. 19-316(b)).....	\$1.00
(40) Bus license fee, each vehicle (Sec. 19-363)	\$10.00

SEC. 17-23

d) POLICE DEPARTMENT: City police officers shall be authorized to issue written notice of the following violations:

..... FINE
() Warning \$0.00

Sec. 3-22. Vaccination certification.

() Any offense..... \$50.00

Sec. 3-23. License fees; vaccination; certification and exemptions (dogs)

() Any offense..... \$50.00

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

() Any offense..... \$50.00

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

() Any offense..... \$50.00

Sec. 3-26. Restraint of dogs.

() First Any offense in calendar year \$50.00

() Second offense in calendar year \$75.00

() Third and subsequent offenses in calendar year \$100.00

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

() Any offense..... \$50.00

Sec. 3-29. Removal and disposal of canine waste.

() Any Offense..... \$50.00

Sec. 3-30. Dogs Off-Leash Program

() First offense in calendar year \$50.00

() Second offense in calendar year \$75.00

() Third and subsequent offenses in calendar year \$100.00

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
- *Angier School (approximately 155' x 30')
- *Burr Park (approximately 95' x 75')
- Burr School
- Carleton Street area
- Cabot Park. East Side Parkway
- *Crescent Street Playground (approximately 90' x 70')
- Davis School Playground

- Emerson Playground
- Franklin School
- Hawthorn Park
- Hunnewell Park
- **Lower Falls Community Center (approximately 80' x 80')
- *Memorial-Spaulding School (approximately 90' x 90')
- **Newton Centre Playground, (approximately 115' x 105')
- Newton Highlands Playground
- Winchester Street (Centre and Needham Streets)
- Newton North High School
- Newton South High School
- *Richardson Playground, Allen Avenue (approximately 150' x 62')
- River Street Playground
- Sterns Playground
- Upper Falls Playground
- *Ware's Cove (approximately 200' x 60')
- Wellington Playground
- West Newton Common, Elm and Webster Streets
- *Williams School (approximately 50' x 60')

* Tot lots which are not surrounded by a fence. Area measurements of non-fenced sites are in excess of ground cover.

** Tot lots which are partially surrounded by a fence.

(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 the first each offense in a calendar year; seventy-five dollars (\$75.00) for the second offense in a calendar year; and \$100.00 for the third and subsequent offenses in a calendar year.

(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 therefor. 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; Ord. No. Z-92, 06-20-11)

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.

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 fifty dollars (\$50.00) for each offense, unless otherwise specified. (Rev. Ords. 1973, § 3-23; Ord. No. 626, 2-19-74; Ord. No. T-168, 9-3-91; Ord. No. Z-61, 12-07-09)

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. (Ord. No. S-139, 11-18-85; Ord. No. X-175, 05-26-05; Ord. No. Z-61, 12-07-09)

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, recreation and culture, 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.
- (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, recreation and culture, 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, recreation and culture 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 department of parks, recreation and culture, 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.

- (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 require permits and set reasonable fees for participation in the off-leash program. 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 the first each offense in a calendar year; \$75.00 for a second offense in a calendar year; and \$100.00 for a third and subsequent offenses in a calendar year. (Ord. No. Z-11, 12-03-07; Ord. No Z-54, 11-02-09; Ord. No. Z-65, 05-17-10; Ord. No. Z-70, 08-09-10; Ord. No. Z-82, 03-07-11; Ord. No. B-53, 03-02-20)

#157-20 Draft for Discussion 4/16/2021

SEC. 17-23

(e) DEPARTMENT OF PARKS, RECREATION AND CULTURE: The Commissioner of Parks, Recreation and Culture or designee shall be authorized to issue written notice of the following violations:

..... FINE

Sec. 3-30. Dogs Off-Leash Program

- () ~~First~~Any offense in calendar year \$50.00
- () Second offense in calendar year \$75.00
- () Third and subsequent offenses in calendar year \$100.00

29.09: Other Enforcement Actions

Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, §§ 18 through 25 pursuant to M.G.L. c. 30A, § 23(f).

29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating 940 CMR 29.10, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of M.G.L. c. 30A, §§ 18 through 25, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

(a) Local Public Bodies. The Chief Executive Officer, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

(b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of all county public bodies in that county.

(e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(f) Retirement Boards. A retirement board created pursuant to M.G.L. c. 32, § 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.

(g) Local Commissions on Disability. In accordance with M.G.L. c. 30A, § 20(e), a local commission on disability may, by majority vote of the commissioners at a regular meeting, authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.

(3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

(a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other as required by M.G.L. c. 30A, § 20(d);

(b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location as required by M.G.L. c. 30A, § 20(d);

(c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

29.10: continued

- (5) Permissible Reason for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting in accordance with the procedures described in 940 CMR 29.10(7) only if physical attendance would be unreasonably difficult.
- (6) Technology.
- (a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.
 - 1. telephone, internet, or satellite enabled audio or video conferencing;
 - 2. any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.
 - (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
 - (c) The public body shall determine which of the acceptable methods may be used by its members.
 - (d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged wherever possible to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.
 - (e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).
- (7) Procedures for Remote Participation.
- (a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.
 - (b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.
 - (c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
 - (d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.
 - (e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.
- (8) Further Restriction by Adopting Authority. 940 CMR 29.10 does not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.
- (9) Remedy for Violation. If the Attorney General determines after investigation that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

**By His Honor
Setti D. Warren
Mayor**

Executive Order No. 1

**ORDER REGARDING REMOTE PARTICIPATION
FOR MEMBERS OF PUBLIC BODIES OF THE CITY OF NEWTON**

WHEREAS, the Open Meeting Law was enacted to ensure transparency in government by allowing the public to witness the deliberations of public bodies;

WHEREAS, the Office of the Attorney General for the Commonwealth of Massachusetts has promulgated regulations in relation to the Open Meeting Law in order to permit the public to participate in local government through access to deliberations;

WHEREAS, the City of Newton is committed to promoting transparency in government;

WHEREAS, the City of Newton is dedicated to fostering an environment that allows its residents to participate in various boards, commissions, committees and other public bodies.

NOW THEREFORE, I, Setti D. Warren, Mayor of the City of Newton, as authorized by 940 CMR 29.10, do hereby order as follows:

Section 1:

This Executive Order shall apply to all Boards, Commissions, Committees, and any other public body of the City of Newton subject to the requirements of the Open Meeting Law at M.G.L. c. 30A §§18-25.

Section 2:

The public bodies of the City of Newton, and individual members thereof, shall comply with the requirements of the regulations promulgated by the Attorney General's Office at 940 CMR 29.10, as amended.

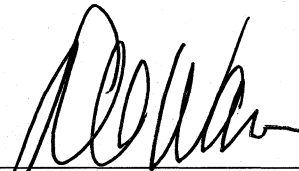
Section 3:

The public bodies of the City of Newton, and individual members thereof, shall comply with the City of Newton Open Meeting Remote Participation Policy, established pursuant to this Executive Order.

Section 4:

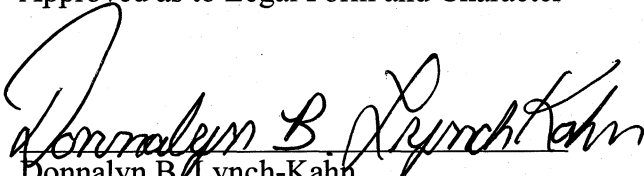
This Executive Order shall take effect immediately and shall continue in effect until amended, superseded or revoked by subsequent Executive Order.

Given at the Office of the Mayor of the City of Newton this 14th day of September, 2012.



Seth D. Warren,
Mayor

Approved as to Legal Form and Character



Donnalyn B. Lynch-Kahn
City Solicitor

**The City of Newton
Open Meeting Remote Participation Policy**

I. INTRODUCTION

The City of Newton, as a municipal government, relies on the active participation of its residents in the various boards, commissions, and committees of the City. These positions require a high level of commitment in order for the proper administration of municipal affairs. The boards, commissions, and committees are often a bridge between the people of the City of Newton and the inner workings of City government.

While the Office of the Attorney General strongly encourages physical participation in all public meetings required of a public body member, remote participation may be available under certain circumstances. Because of the requirements of the Open Meeting Law, participation in public meetings has, until recently, mandated the physical presence of public body members. However, in recognition that current technology allows for a virtual presence that is commensurate with the intention of the Open Meeting Law, the Office of the Attorney General has amended the regulations promulgated under the Open Meeting Law to permit remote participation in meetings of public bodies. 940 CMR 29.10. Remote participation is intended to facilitate the promotion of transparency in government, ensuring that deliberations of public bodies are open to all.

This Policy, which is adopted in accordance with Executive Order dated September 14, 2012, expresses the permitted parameters of remote participation for all public bodies of the City of Newton. This Policy shall be reviewed periodically and may be updated or amended at any time, as required by law, or in the discretion of the Mayor.

II. DEFINITIONS

Remote participation: the involvement of a member of a governmental body, subject to the Open Meeting Law, in a public meeting by means of telephone, internet, or satellite when such member cannot physically attend the public meeting due to a specifically enumerated reason, as found by the Chair or designated Chair of a public body.

III. SCOPE OF APPLICABILITY

This policy shall apply to all boards, commissions, and committees of the City of Newton. The individual boards, commissions, and committees may, by vote, opt out of this policy, and prohibit its members from participating remotely.

IV. POLICY STATEMENT

By Executive Order dated September 14, 2012, all public bodies of the City of Newton subject to the Open Meeting Law at M.G.L. c. 30A §§18-25 shall be entitled to engage in remote participation.

Remote participation is not intended to be a substitute for physical participation, but may only be used in extreme circumstances. Members of the various boards, commissions and committees of the City of Newton are strongly encouraged to attend all public meetings. However, the City acknowledges that, from time to time, circumstances arise which preclude participation at every meeting. For this reason, the City permits participation for members of public bodies via telephone, internet, or satellite, under certain circumstances.

Remote participation under this policy is intended to further the purpose and intention of the Open Meeting Law. Transparency in government, involvement by residents at every level of government, and promotion of frank and candid discussions about governmental operations are all furthered by the ability of officials to participate in public meeting even when physically impossible to do so.

V. RESPONSIBILITY

At all times, public bodies of the City of Newton shall adhere to the requirements of the Open Meeting Law, the Regulations promulgated thereunder, and the Guidelines issued by the Division of Open Government of the Office of the Attorney General. M.G.L. c. 30A §§18-25; 940 CMR 1.00, et seq.

In accordance therewith, at any meeting in which a member of a public body participates remotely, the Chair, or designated Chair, upon a request by a member of a public body, must make a determination for the record that the physical presence of a member of a public body would be unreasonably difficult.

In making this determination, the Chair may consider the following factors:

- 1) personal illness of the public body member;
- 2) physical disability;
- 3) emergency;
- 4) military service;
- 5) prohibitive geographic distance.

VI. REQUIREMENTS OF THE LAW

In addition to the responsibilities of the Chair or designated Chair, the following requirements are mandatory before a member of a public body may participate remotely:

- All members of the public body, whether participating actually or remotely, must be audible to each other.
- A quorum of the public body must be physically present at the open meeting.
- The quorum must include the chair, or one who is authorized to chair the meeting.
- The chair or authorized acting chair must announce the name of the remote participant and the reason for remote participation, for inclusion into the minutes.

29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating these regulations, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

(a) Local Public Bodies. The Chief Executive Officer, as defined in [M.G.L. c. 4, sec. 7](#), must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

(b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of all county public bodies in that county.

(e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(f) Retirement Boards. A retirement board created pursuant to [M.G.L. c. 32, sec. 20](#) or [M.G.L. c. 34B, § 19](#) must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

(a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;

(b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by [M.G.L. c. 30A, sec 20\(d\)](#);

(c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of [M.G.L. c. 39, sec. 23D](#).

(5) Permissible Reasons for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that one or more of the following factors makes the member's physical attendance unreasonably difficult:

(a) Personal illness;

(b) Personal disability;

(c) Emergency;

(d) Military service; or

(e) Geographic distance.

(6) Technology.

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

(i) telephone, internet, or satellite enabled audio or video conferencing;

(ii) any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The public body shall determine which of the acceptable methods may be used by its members.

(d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

(e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with [M.G.L. c. 30A, sec. 22](#).

(8) Further Restriction by Adopting Authority. These regulations do not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines, after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:

- in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
- in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Remote Participation

May a member of a public body participate remotely?

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

Note that the Attorney General's regulations enable members of public bodies to participate remotely if the practice has been properly adopted, but do not require that a public body permit members of the public to participate remotely. If a public body chooses to allow

individuals who are not members of the public body to participate remotely in a meeting, it may do so without following the Open Meeting Law's remote participation procedures.

[How can the practice of remote participation be adopted?](#)

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization applies to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation and may decide to fund the practice only for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

Note about Local Commissions on Disability: Local commissions on disability may decide by majority vote of the commissioners at a regular meeting to permit remote participation during a specific meeting or during all commission meetings. G.L. c. 30A, § 20(e). Adoption by the municipal adopting authority is not required.

[What are the permissible reasons for remote participation?](#)

Once remote participation is adopted, any member of a public body may participate remotely only if physical attendance would be unreasonably difficult.

[What are the acceptable means of remote participation?](#)

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable methods of remote participation. Note that accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

What are the minimum requirements for remote participation?

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

1. A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;
2. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
3. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

What procedures must be followed if remote participation is used at a meeting?

At the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely; such information must also be recorded in the meeting minutes. The chair's statement does not need to contain any detail about the reason for the member's remote participation.

Members of public bodies who participate remotely may vote and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions but must state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair (or, in the chair's absence, person chairing the meeting) may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

Public Participation

What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual may not disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion, the