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PART I: ADMINISTRATIVE LEGISLATION

Chapter 1 General Provisions

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

Article I Rules of Interpretation

[Adopted as Art. I, §§ 1.02, 1.04, 1.07 and 1.09, of the Code of Ordinances]

§ 1-1 Rules of construction; definitions.

A. Generally. The provisions of this Code shall be liberally construed to effect the purposes expressed therein or implied from the expression thereof. Words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated. Technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

B. The references to state statutes contained within this Code are provided for the purpose of describing the scope of authority which may be exercised by the City in respect to each particular matter. No such enumeration shall in any way be construed to limit the ability of the City to exercise any power or function conferred by the general court not inconsistent with the constitution, the laws enacted by the general court, or the Charter as authorized by MGL c. 43B, § 13.

CB. In the construction of this Code, and of all ordinances, the following rules shall be observed and the following definitions shall apply:

CHARTER

The Charter and any amendment to it hereafter adopted.

CITY AGENCY

Any multiple-member body, any department, division, or office of the City of Beverly, Massachusetts.

CITY BULLETIN BOARD

The bulletin board in the City Hall on which the City Clerk posts official notices of meetings and upon which other official City notices are posted, and the bulletin boards at any other locations as may be designated City bulletin boards by the City Council.

CITY OFFICER

When used without further qualification or description, a person having charge of an office or department of the City who, in the exercise of the powers or duties of such position, exercises some portion of the sovereign power of the City. The term shall include the City Accountant, the City Assessor, the City Clerk, the City Collector, the City Solicitor, the City Treasurer, the Director of Emergency Management, the Director of Public Health, the Director of Municipal Finance, the Director of Municipal Inspections, the Director of Human Resources, the Director of Purchasing, the Director of

Planning and Development, the Commissioner of Public Services, Public Works, the Fire Chief, the Police Chief, and the Director of Parks, Recreation and Community Services.

[Amended 3-17-2014 by Ord. No. 89; 2-16-2016 by Ord. No. 013]

CITY OFFICERS AND DEPARTMENTS

Whenever reference is made to an officer of a department, the same shall be construed as if followed by the words "of the City of Beverly, Massachusetts."

CITY or THIS CITY

The City of Beverly, Massachusetts.

CODE

The Code of Ordinances, City of Beverly, Massachusetts as designated in Article III of this chapter.

COMMONWEALTH

The Commonwealth of Massachusetts.

COMPUTATION OF TIME

In computing time for matters under this Code, if seven days or less, "days" shall refer to calendar days not including Saturdays, Sundays or legal holidays. If more than seven days, every day shall be counted. In computing any period of time prescribed or allowed by this Code, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

~~In computing time under the Charter, if seven days or less, "days" shall refer to secular days, not including Saturdays, Sundays or legal holidays. If more than seven days, every day shall be counted. The time within which an act is to be done as provided in any ordinance or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is Sunday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from 12:00 midnight to 12:00 midnight, shall be excluded.~~

COUNCIL

The City Council of the City of Beverly, Massachusetts, the body vested with the legislative powers of the City of Beverly, Massachusetts.

COUNTY

The County of Essex, the county in which the City of Beverly is located.

DAYS

~~Business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven days; when the time set is seven days or more, every day shall be counted.~~

EMERGENCY

A sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

FULL COUNCIL; FULL MULTIPLE-MEMBER BODY

The entire authorized complement of the City Council, School Committee or other multiple-member body, notwithstanding any vacancy or absence which might exist.

GENDER

The Code is intended to be gender neutral. ~~Words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.~~

GENERAL LAWS

- (1) general laws. The words "general laws" (all lowercase letters) shall mean laws enacted by the State Legislature which apply alike to all cities and towns, to all cities, or to a class of two or more cities and/or cities and towns of which the City of Beverly is a member.
- (2) General Laws. The words "General Laws" (initial letter of each word in uppercase letters) shall mean the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

HERETOFORE; HEREAFTER

Whenever the word "heretofore" occurs in any ordinance, it shall be construed to mean any time previous to the day when such ordinance shall take effect; and whenever the word "hereafter" occurs, it shall be construed to mean the time after the ordinance containing such word shall take effect.

HIGHWAY

Includes any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the City dedicated to public use.

JOINT AUTHORITY

All words purporting to give joint authority to three or more City officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

LOCAL NEWSPAPER

A newspaper of general circulation within the City of Beverly, with either a weekly or daily circulation.

MAJORITY VOTE

When used in connection with a meeting of a multiple-member body, a majority of those present and voting, unless another provision is made by ordinance, by law, or by its own rules.

MAY

Is to be construed as being permissive.

MAY NOT

The phrase "may not" or phrases of like import have a mandatory negative effect and state a prohibition.

MAYOR

The Mayor of the City of Beverly, the officer vested with the executive powers of the City of Beverly, Massachusetts.

MEASURE

Any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted, by the City Council or the School Committee.

MONTH

A calendar month.

MULTIPLE-MEMBER BODY

Any board, commission, committee, subcommittee or other body consisting of two or more persons, whether elected, appointed or otherwise constituted, but not including the City Council or the School Committee.

MUST

Shall be construed as being mandatory.

NUMBER

Words used in the singular include the plural and the plural include the singular.

OATH

Shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

ORDINANCE

A vote or order of the City Council entitled "ordinance" and designed for the permanent regulation of any matter within the jurisdiction of the City Council as laid down in this chapter.

OWNER

As applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

PERSON

Shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to natural persons.

PERSONAL PROPERTY

Includes all tangible and intangible property other than real property.

PRECEDING; FOLLOWING

Next before and next after, respectively.

PROPERTY

Includes real and personal property.

QUORUM

A majority of the members of a multiple-member body shall constitute a quorum. See Charter, Section 8-6.

REAL PROPERTY

Includes lands, tenements and hereditaments.

REASONABLE TIME OR NOTICE

In all cases where any ordinance shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

ROADWAY

That portion of a street improved, designed or ordinarily used for vehicular traffic.

SHALL

Is to be construed as being mandatory.

SIDEWALK

That portion of a street between the curblin and the adjacent property intended for the use of pedestrians.

STATE

The Commonwealth of Massachusetts.

STREET

Includes any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel and causeway in the City dedicated to public use.

TENANT; OCCUPANT

As applied to a building or land, shall include any person who occupies, pursuant to an oral or written lease, the whole or a part of such building or land, whether alone or with others.

TENSES

The use of any verb in the present tense shall include the future when applicable.

VOTERS

Registered voters of the City of Beverly.

WEEK

Shall be construed to mean seven days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week; and all publications heretofore made in accordance with the terms of this subsection are hereby validated.

WRITTEN or IN WRITING

Shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

YEAR

A calendar year.

§ 1-2 Effective date of ordinances.

All ordinances ~~passed by the City Council, except when otherwise specifically provided,~~ shall take effect in accordance with Section 3-7 of the City Charter. ~~and be in force on the 21st day following the date the City Council has voted to approve the ordinance unless the Mayor has exercised his power, pursuant to Charter Section 3-7, to disapprove of the ordinance, in which case the ordinance shall take effect on the 21st day following the date the City Council has voted, by a two-thirds vote of the full Council, to again approve the ordinance notwithstanding the objections of the Mayor.~~

§ 1-3 Regulations.

All City agencies are hereby authorized to adopt rules and regulations, subject to the approval of the City Council.

§ 1-4 City Seal.

A. The City Seal shall be circular in form, and the design hereto annexed shall be the device thereof, as

follows:

[\[Image\]](#)

- B. The field is occupied by the full length ideal figure of the Puritan planter; his left hand rests on the stump of the tree he has just felled, and his right hand holds the King's arm which he has taken up; he stands in an attitude of attention. The forest background is to the left and sea with a ship is to the right of the figure.
- C. The inscription encircling the figure is "Beverly, Founded 1626. Town 1668. City 1894." The legend, or motto, is placed in a scroll to the left of the figure and reads, "Patri Similima Proles," signifying the continuance of the ancestral virtues and public devotion in the children, generation after generation.

Article II Fees and Fines

[Adopted as Art. I, §§ 1.05 and 1.06, of the Code of Ordinances]

§ 1-5 Establishment of fees. [Amended 2-16-2016 by Ord. No. 013]

The City has adopted the provisions of MGL c. 40 § 22F, pursuant to City Council Order 2004-193, permitting that any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department. Such fees shall be subject to the approval of the City Council.

§ 1-6 Noncriminal disposition of violations.

- A. Any ordinance of the City of Beverly or any rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may, in the discretion of the City official who is the appropriate enforcing person, be enforced by the method provided in MGL c. 40, § 21D. The noncriminal fine for each such violation, if not otherwise specified, shall be \$25.
- B. "Enforcing person," as used in this section, shall mean any City police officer of the City of Beverly, with respect to any offense, and the Director of Municipal Inspections and his designees, duly authorized designees of the Conservation Commission, duly authorized designees of the Board of Health, the Director of Engineering, Commissioner of Public Services, Public Works, or his designees, the Animal Inspector, and such other officials as the Mayor may from time to time designate, each with respect to violation of ordinances and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. Police officers shall in all cases be considered enforcing persons for the purpose of this section.
- C. Unless otherwise provided, each day a violation continues shall constitute a separate and repeat violation.

Article III Adoption of Code

[Adopted 2-16-2016 by Ord. No. 013]

§ 1-7 Adoption of Code.

The ordinances of the City of Beverly of a general and permanent nature adopted by the City Council, as previously consolidated in the prior Code of Ordinances of the City of Beverly, and the ordinances of a general and permanent nature adopted by the City Council subsequent to that date, all as revised, codified and consolidated into chapters and sections by General Code, LLC, and consisting of Chapters 1 through 300, are hereby approved, adopted, ordained and enacted as the Code of the City of Beverly, hereinafter known and referred to as the "Code."

§ 1-8 Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-9 When effective.

This ordinance shall take effect immediately upon passage and publication according to law.

§ 1-10 Inclusion of ordinance in Code.

This ordinance shall, upon adoption, be included in the Code as Chapter 1, General Provisions, Article III, Adoption of Code.

§ 1-11 Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the City Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the City of Beverly by impressing thereon the Seal of the City as provided by law, and such certified copy shall remain on file in the office of the Clerk of the City to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-12 Publication; filing.

The Clerk of the City of Beverly, pursuant to law, shall cause to be published, in the manner required, a copy of this adopting ordinance in a newspaper of general circulation in the City. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance, coupled with the availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13 Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the City Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code of the City of Beverly shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing the Code as amendments and supplements thereto.

§ 1-14 Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-20A and prior to the effective date of this ordinance given in § 1-13 are hereby deemed to be part of the Code and shall, upon being printed, be included therein.

§ 1-15 Code to be kept up-to-date.

It shall be the duty of the Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in the Clerk's office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included

therein by reference until such changes or new ordinances are published as supplements to said Code, at which time such supplements shall be inserted therein.

§ 1-16 Sale of Code; supplementation.

Copies of the book containing the Code may be purchased from the Clerk upon the payment of a fee to be set by the City Council, which may also arrange for procedures for the periodic supplementation thereof.

§ 1-17 Altering or tampering with Code; violations and penalties.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Beverly to be misrepresented thereby. Anyone violating this section shall, upon conviction, be subject to a fine of not more than \$300.

§ 1-18 Severability.

- A. Severability of Code provisions. Each section of the Code, and every part of each section, is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.
- B. Severability of ordinance provisions. Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-19 Repeal of ordinances.

- A. All ordinances or parts of ordinances of a general and permanent nature, adopted and in force on the date of the adoption of this ordinance and not contained in the Code, and in conflict and/or inconsistent with the provisions contained in the Code, are hereby repealed as of the effective date of this adopting ordinance, except as hereinafter provided.
- B. The following provisions of the prior Code of Ordinances are specifically repealed:
 - (1) Article XXII, § 22.21, Smoking Around Docks, Warehouses, Etc.
 - (2) Article XXII, § 22.32, Smoking Prohibited in Municipal Buildings and Upon Public School Grounds.

§ 1-20 Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-19 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to December 21, 2015.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision, or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening,

establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place, or any portion thereof.

- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. Any ordinance providing for salaries or compensation.

§ 1-21 Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the City Council that all said changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)
- C. The following nomenclature changes have been made throughout the Code:
 - (1) "Bell Atlantic" is changed to "Verizon and Comcast."
 - (2) "Board of Aldermen" is changed to "City Council."
 - (3) "Boston Gas Company" is changed to "National Grid Gas."
 - (4) "City Electrician" is changed to "Inspector of Wires."
 - (5) "Collector-Treasurer" is changed to "Treasurer-Collector."
 - (6) "Committee on Public Services and Aid" is changed to "Committee on Public Services."
 - (7) "Director of Public Services" is changed to "Director of Engineering, Commissioner of Public Services, Public Works."
 - (8) "Director of Public Works" is changed to "Director of Engineering, Commissioner of Public Services, Public Works."
 - (9) "Historical Commission" is changed to "Historic Districts Commission."
 - (10) "Industrial Development Financing Authority" is changed to "Industrial Development Finance Authority."
 - (11) "Massachusetts Electric Company" is changed to "National Grid Electric."
 - (12) "Recreation Commission" is changed to "Parks and Recreation Commission."

Chapter 7

Agencies

[HISTORY: Adopted by the City Council of the City of Beverly as Art. VI of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commission, councils, committees and authorities — See Ch. 15.

Officers and employees — See Ch. 58.

School Committee — See Ch. 72.

Article I

Administrative Organization

§ 7-1 Departments and offices.

The administrative organization of the City shall be divided under the Mayor into the following service departments, with offices thereunder responsible to each respective department:

A. Community Services Department.

Veterans Services Office

Council on Aging

Parks and Recreation Office

Public Library

Commission on Disabilities

Cultural Council

Beverly Golf and Tennis Commission

Health Services

Youth Activities Commission

Affirmative Action and Equal Employment Opportunity Program

B. Engineering Department.

Office of Engineering Services

Office of Contract Supervision

Office of Cemetery Operations

C. Fire Department.

Fire Office

~~Emergency Management Committee~~

~~Emergency Medical Services Commission~~

D. Municipal Finance Department.

Office of Collections

Office of Treasury Management

Office of Accounting

Office of Assessing

Office of Data Processing and Management-Information Systems

Office of the Parking Clerk

E. Municipal Inspections Department.

Building Code Office

Gas/Plumbing Inspector Office

Electrical Office

Sanitary Office

Weights and Measures Office

Zoning Enforcement Office

~~Historic Districts Commission~~

~~Conservation Commission~~

Fire Safety Office

F. Planning and Development Department.

Planning Office

Zoning Appeals Office

Conservation Office

Historic Districts Office

Office of Community Development

Design Review Board

Airport Office

Parking and Traffic ~~Commission~~Office

Harbor Management Authority

Historic Districts Commission

Conservation Commission

G. Police Department.

Police Office

School traffic supervisors

Animal Control Office

Harbor Office

H. Purchasing Department.

I. Public Services Department.

Office of Labor Services

Office of Garage and Motor Vehicle Maintenance

Water/Sewer Office

Forestry and Grounds Office

§ 7-2 Administrative policy and procedures for department heads.

- A. Responsible to the Mayor. The heads of departments shall be responsible to the Mayor as the chief executive and administrative officer of the City, and shall be immediately responsible to the Mayor for the effective administration of their respective departments and all activities assigned thereto.
- B. Inaugurate sound practices. The heads of departments shall keep informed as to the latest practices in their particular fields and shall inaugurate, with the approval of the Mayor, such new practices as appear

to be of benefit and service to the public.

- C. Report to Mayor. The heads of departments shall submit annual reports of the activities of their departments to the Mayor.
- D. Maintain records. The heads of departments shall establish and maintain systems of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the annual report to the Mayor.
- E. Authority over employees. The heads of departments shall have power, when authorized by the Mayor in accordance with Sections 3-3 and 8-145 of the Beverly Home Rule Charter, to appoint and remove all of their subordinates.
- F. Maintain equipment. The heads of departments shall be responsible for the proper maintenance of all City property and equipment used in their departments.

§ 7-3 Operation of administrative service.

- A. Office hours. All units in the administrative service shall be open between the hours of 8:30 a.m. and 4:30 p.m. on Monday, Tuesday and Wednesday; between the hours of 8:30 a.m. and 7:30 p.m. on Thursday, and between the hours of 8:30 a.m. and 1:00 p.m. on Friday and shall be closed Saturdays, Sundays and legal holidays.
- B. Deposits. All units in the administrative service shall, not less frequently than weekly, make a deposit with the City Treasurer of any monies received directly from the public.
- C. Payment of moneys. All units in the administrative service shall pay out monies belonging to the City only in the manner established by state statutes, City ordinances, and the policies, procedures and other directives established by the Finance Director.

**Article II
Community Services Department**

[Amended 3-17-2014 by Ord. No. 89]

§ 7-4 Establishment.

There shall be a Department of Community Services, which shall be responsible for the coordination of all the community-service-related activities of the City, including, but not limited to, programs or services provided to specific groups, including senior citizens, youths, veterans, and others, services provided to the public generally, including parks and recreation activities, health services, cultural activities and the operation of the public library.

§ 7-5 Scope of activities.

The Department of Community Services shall be responsible for the coordination of all community-service-related activities of the City government, and shall include the following functions:

- A. Veterans Services.
- B. Council on Aging.
- C. Parks and Recreation Commission.
- D. Public Library, Board of Trustees of.
- E. Commission on Disabilities.

- F. Cultural Council.
- G. Beverly Golf and Tennis Commission.
- H. Health Services.
- I. Youth Activities Commission.

§ 7-6 Operating offices.

The Department of Community Services shall consist of the following offices, the duties and responsibilities of which shall be further set forth by ordinance:

- A. Veterans Services Office. The Veterans Services Office shall be headed by a Veterans Services Director appointed by the Mayor. The Veterans Services Office shall be responsible for the delivery of every service to which a veteran is or may be entitled under the provisions of state and federal law. The Director of Veterans Services shall assist veterans and the survivors of veterans in making appropriate applications to secure benefits to which they are entitled under state and federal law.
- B. Council on Aging. The Council on Aging shall coordinate and sponsor programs for the senior citizens of the City of Beverly.
- C. Parks and Recreation Office. The Parks and Recreation Commission shall coordinate and carry out programs for leisuretime activities of persons of all ages.
- D. Public library. The public library shall be headed by a board of trustees which shall set policies to govern the operation of the public library of the City and shall supervise the implementation of such policies by its staff.
- E. Commission on Disabilities. The Commission on Disabilities shall coordinate and carry out programs designed to assist disabled persons.
- F. Cultural Council. The Cultural Council shall coordinate and carry out programs designed to improve the culture of the City and to develop programs in art, music and theater.
- G. Beverly Golf and Tennis Commission. The Beverly Golf and Tennis Club Commission shall set policies to govern the operation and use of the Beverly Golf and Tennis Club and shall supervise the implementation of such policies by its licensee or other operator.
- H. Health services. All health-related programs, activities and services of the City, including those of the Health Department, shall be coordinated through the Department of Community Services.
- I. Youth Activities Commission. The Youth Activities Commission shall establish and conduct programs for the youth of the City in conjunction with other entities, public and private.
- J. Affirmative Action and Equal Employment Opportunity Program. There shall be established within the Department of Community Services an Affirmative Action and Equal Employment Opportunity Program Office which shall be responsible, in conjunction with the Commission on Disabilities, for the development and implementation of the Affirmative Action and Equal Employment Program of the City.

Article III

Emergency Management Department

§ 7-7 Emergency Management Director.

The Emergency Management Department shall be headed by an Emergency Management Director,

appointed by the Mayor, subject to review of the Council as provided in Section 2-10 of the Charter.

§ 7-8 Responsibilities.

The Emergency Management Department shall be responsible for the implementation of the so-called "civil defense law," Chapter 639 of the Acts of 1950, as amended.

**Article IV
Engineering Department**

§ 7-9 Establishment.

There shall be a Department of Engineering which shall be responsible for the management of all the professional engineering-related activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any engineering matter.

§ 7-10 Scope of activities.

The Department of Engineering shall be responsible for and shall include the following functions:

- A. Refuse collection and disposal.
- B. Preparation of technical plans and specifications for contracts for the performance of municipal functions by private entities.
- C. Representation of the City of Beverly on the Board of the Southern Essex Sewerage District.
- D. Representation of the City of Beverly on the Board of the Salem-Beverly Water Supply District.
- E. Maintain plans and records of all public water, sewer, drain and road layouts in the City of Beverly.
- F. Engineering services.
- G. Management and maintenance of the interment records of the public cemeteries and burial places within the City limits. ~~eight City cemeteries.~~
- H. Supervision, inspection and approval of all public works and related work performed by private entities under contract.

I. Parking Regulation and Enforcement.

§ 7-11 Operating offices.

The Department of Engineering shall consist of the following offices:

- A. Office of Engineering Services.
 - (1) The Office of Engineering Services shall be responsible for the engineering-related functions and activities of the City, including geographic information systems and computer assisted design.
 - (2) The Office of Engineering Services shall be responsible for the planning and design of all assigned public works improvement projects and the documentation of all such projects.
- B. Office of Contract Supervision. The Office of Contract Supervision shall be responsible for the oversight of all construction projects performed for the City by outside entities, including water mains, sewers and drains, and paving and reconstruction of streets, sidewalks, and curbs and the documentation of all such projects.
- C. Office of Cemetery Operations. The Office of Cemetery Operations shall be responsible for the care and

management of all public cemeteries and burying grounds in the City of Beverly.

Article V Fire Department

§ 7-12 Establishment.

There shall be a Fire Department which shall be responsible for the coordination of all the fire protection services of the City and for the supervision and coordination of all activities of all City agencies in relation to any fire safety programs, fire suppression and extinguishing fires and emergency management and medical services.

§ 7-13 Scope of activities.

The Fire Department shall be responsible for and shall include the following functions:

- A. Fire.
- B. Emergency management.
- C. Emergency medical service/ambulance.

§ 7-14 Operating offices.

The Fire Department shall consist of the following offices:

- A. Fire Office. The Fire Office shall be responsible for providing fire protection services in the City, including fire safety programs, fire suppression and extinguishing fires. The functions of the Fire Office shall include but are not limited to those enumerated below:
 - (1) Fire extinguishment: take all necessary steps for the extinguishment of fires within the City, including utilization of all necessary personnel and equipment therefor, the destruction of any building or structure and the removal of any obstruction for the purpose of checking or extinguishing any such fire.
 - (2) Public alarm boxes: establish the location, relocation or removal of all public fire alarm boxes.
 - (3) Civil order: assist in the reestablishment of order in the event of civil disturbance, disaster or riot or any other declared emergency.
 - (4) Training: provide for and administer a program for the training of firefighters.
 - (5) Records: maintain a record of all fires which occur within the City requiring the services of the Fire Department.
 - (6) Intergovernmental contracts: carry out the terms and provisions of all fire service contracts entered into with other governmental subdivisions.
 - (7) Investigations: investigate the causes of all fires and provide for written reports of all suspected arsons.
 - (8) Inspections: inspect all buildings and structures as provided for by the state fire code, and for the issuance and renewal of certificates of occupancy.
 - (9) Other services: provide rescue and ambulance service.

§ 7-15 Fire Inspector.

- A. Establishment. There shall be a Fire Inspector as provided in Charter Section 5-8.
- B. Appointment; term of office. The Fire Chief shall appoint a Fire Inspector for a term not to exceed three

years.

- C. Authority and responsibilities. The Fire Inspector shall be responsible for the enforcement of the fire prevention law, General Laws Chapter 148, and the Fire Prevention Code, 527 Code of Massachusetts Regulations, and shall coordinate all such activity between the Fire Department, the Fire Chief, the Department of Municipal Inspections and the Director of Municipal Inspections.

§ 7-16 Forest Warden.

- A. Establishment. There shall be a Forest Warden as provided in MGL c. 48, § 8.
- B. Appointment; term of office. The Fire Chief shall serve, by virtue of office, as Forest Warden.
- C. Authority and responsibilities. The Fire Chief, when acting as Forest Warden, may appoint and may discharge deputies to assist in the duties of Forest Warden; and if in their judgment there is any danger from a forest fire, the Forest Warden or the deputies may employ assistance or require any person in the City between the ages of 18 and 50 to aid in the extinguishment or prevention of forest fires.
 - (1) The Forest Warden may arrest without warrant any person found in the act of setting, maintaining or increasing a fire in violation of MGL c. 48, § 13.
 - (2) The Fire Chief, acting as Forest Warden, shall have all of the powers, duties, and responsibilities assigned to Forest Wardens by MGL c. 48, §§ 8 through 28C.

**Article VI
Health Department**

§ 7-17 Purpose.

It is the mission of the Board of Health and its staff to serve as a resource intended to prevent, promote, protect and meet the multitude of health-related needs of the community.

§ 7-18 Administration; duties.

The Health Department shall be under the charge of the Board of Health. The Board of Health is responsible for directing and administering a program of health-related services for the City and its residents. The Health Department is responsible for enforcing numerous state sanitary and environmental codes as mandated by state law. MGL c. 111, § 31, provides the Board of Health with the authority to make reasonable health regulations. In addition to the mandated state regulations, the Health Department is responsible for the enforcement of local regulations. A variety of inspections are conducted to determine compliance with said codes and regulations.

**Article VII
Human Resources Department**

§ 7-19 Establishment.

There shall be a Department of Human Resources (as provided in Section 5-7 of the Charter) which shall be responsible for all personnel and employee-related functions and activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any personnel or employee-related function or activity.

§ 7-20 Scope of activities.

The Department of Human Resources shall be responsible for and shall include the following functions:

- A. Study, establish and coordinate uniform personnel practices and procedures for City departments.
- B. Provide advice and assistance to individual employees on all personnel matters.

- C. Develop and administer a recruitment and placement program designed to fill vacant positions in the City with the best qualified persons.
- D. Provide advice and assistance to the Mayor, department heads, supervisors and elected and appointed officials on all personnel matters, including position classifications, pay administration, recruitment and placement, employee relations, performance evaluation, disciplinary action, employee grievances and employee training.
- E. Develop a position classification system, which shall include the assignment and utilization of personnel in all departments; make recommendations to such departments for changes which may be necessary to effect the proper classification and assignment of personnel in such duties which will permit the City to receive maximum benefits from the skills and capabilities of such personnel.
- F. Administer the position classification program providing for the classification of all positions, other than those filled by popular elections, into groups and classes doing substantially similar work or having substantially equal responsibilities so as to ensure the payment of equitable compensation.
- G. Provide advice and assistance to supervisory personnel of all levels in planning, developing and conducting training programs.
- H. Standardize forms and records to be used in the City's personnel administration program other than those forms and records whose format is regulated by statute or by state agency or agencies authorized, by law, to exercise oversight over specific elements of personnel management.
- I. Provide guidance to appointing authorities on civil service law, furnish information regarding civil service examinations, render assistance to all departments in civil service matters, and perform liaison duties between City departments and the Office of Personnel Administration of the commonwealth.
- J. Assist and participate (to the extent requested by the Mayor) in the negotiation, implementation, and administration of the City's collective bargaining agreements.
- K. Recommend to the Mayor and City Council the enactment of such ordinances as are considered necessary to implement and administer the City's personnel administration program.
- L. Maintain a centralized, secure location for the individual personnel records of all City employees. Said records shall contain all the vital statistics and other pertinent data for each and every person employed by the City. It shall be the duty of each department head and every other supervisory person to provide to the Personnel Director such records and reports as the Personnel Director may require.
- M. Study, develop, establish and coordinate an occupational safety program for the City as required by state and federal laws.
- N. Implement and coordinate an Affirmative Action and Equal Employment Program for the City.

Article VIII Law Department

§ 7-21 Establishment.

There shall be a Law Department which shall be responsible for all of the legal affairs of the City and for the supervision and coordination of all activities of all City agencies to ensure, insofar as it is possible so to do, that City agencies act, at all times, in conformity with law.

§ 7-22 Scope of activities.

The Law Department shall be responsible for the coordination of all legal and law-related activities of the City government and shall include, but is not limited to, the following functions:

- A. Advise officers: advise the Mayor, the City Council or its committees, and the heads of all departments, agencies, boards, and commissions on all matters relating to their official powers, duties and functions.
- B. Review ordinances: be responsible for the review of all ordinances and resolutions as requested by the Mayor or the City Council. The Law Department shall advise the City Council as to the form and sufficiency of all ordinances prior to their adoption.
- C. Give opinions: render legal opinions upon any question of law submitted in writing by the Mayor, the City Council, or the heads of all departments, agencies, boards, or commissions.
- D. Attend Council meetings: An attorney assigned to the Law Department shall, as requested by the presiding officer of the City Council, attend any meetings of the City Council and any meetings of committees of the City Council.
- E. Prepare legal instruments: prepare or review and approve all contracts, deeds, documents and instruments prior to the execution thereof by or on behalf of the City, its departments and agencies.
- F. Prosecute offenders and defend officials: prepare, when authorized by the Mayor, all charges and complaints on behalf of the City, and all departments, agencies, boards, or commissions of the City, and appear in the appropriate court in the prosecution of every person charged with the violation of a City ordinance or of any regulations adopted under authority of the Charter or ordinances, or by virtue of its authority; appear on behalf of the City and all departments, agencies, boards, or commissions of the City in defending every action brought against it or them in connection with the official business of the City.
- G. Appeals: conduct and prosecute appeals from orders, decisions or judgments affecting any interest of the City as the City Solicitor may, in the exercise of discretion, determine to be necessary or desirable.
- H. Settlement of claims: have the power to adjust, settle, compromise or submit to arbitration any action, causes of action, accounts, debts, claims, demands, disputes and matters of favor of or against the City or in which the City is concerned as debtor or creditor, now existing or which may hereafter arise, not involving or requiring payment to exceed \$5,000, and with the permission of the Mayor may do likewise in matters not involving or requiring payment to exceed \$10,000, provided the money to settle claims generally has been appropriated and is available therefor.

Article IX Municipal Finance Department

§ 7-23 Establishment.

There shall be a Department of Municipal Finance (as provided in Section 5-4 of the Charter) which shall be responsible for the management of the fiscal and financial affairs of the City, and for the supervision and coordination of all activities of all City agencies in relation to any fiscal or financial matter.

§ 7-24 Scope of activities.

The Department of Municipal Finance shall be responsible for and shall include the following functions:

- A. Coordination of all financial services and activities of the City government.
- B. Maintenance of all accounting records and other financial statements for all offices and agencies of the City government.
- C. Payment of all financial obligations on behalf of the City.
- D. Receipt of all funds due to the City from any source.
- E. Maintenance of all property valuation records and systems.

- F. Rendering of advice, assistance and guidance to all other City offices and agencies in any matter relating to financial or fiscal affairs.
- G. Monitoring throughout the fiscal year of the expenditure of funds by every office and agency of the City, including the periodic reporting on the status of all accounts with recommendations concerning fiscal and financial policies to be implemented by such offices and agencies.
- H. Coordination, with the Director of Purchasing and Contracts Administration, of all financial transactions associated with the procurement of all goods, supplies and materials by City governmental offices and agencies with the central procurement procedures established by the Mayor pursuant to Section 3-2, third paragraph, and Section 5-4(1) of the Charter.

§ 7-25 Operating offices.

The Department of Municipal Finance shall consist of the following offices:

A. Office of Collections.

- (1) The Office of Collections shall be headed by a City Collector appointed by the Mayor, subject to the review of the City Council as provided in Section 2-10 of the Charter, who shall serve for a term not to exceed three years.
- (2) The City Collector shall collect all accounts due to the City from any source. The City Collector shall, upon receipt of a tax list and warrant from the Board of Assessors, collect the taxes and make a return thereon to the Board of Assessors. The City Collector shall give to the City Treasurer an account of all funds received by the Office of Collections and shall pay over and account to the City Treasurer all money received by said office. Except as otherwise provided in this section, the City Collector shall have all of the powers, duties and responsibilities which are granted to city collectors by the General Laws.

B. Office of Treasury Management.

- (1) The Office of Treasury Management shall be headed by a City Treasurer appointed by the Mayor, subject to the review of the City Council as provided in Section 2-10 of the Charter, who shall serve for a term not to exceed three years.
- (2) The City Treasurer shall receive and take charge of all money belonging to the City. The City Treasurer shall, according to the order of the authorized officers of the City, pay out and make all disbursements of funds on behalf of the City. Except as otherwise provided in this section, the City Treasurer shall have all of the other powers, duties and responsibilities which are given to city treasurers by General Law.

C. Data Processing and Management Information Systems Office. The Office of Data Processing and Management Information Systems shall be headed by a Director of Information Technology who shall be appointed by the Director of Finance, subject to the consent of the Mayor. The coordination of all of the management information systems for the City shall be accomplished through the Office of Data Processing and Management-Information Systems.

D. Accounting Office.

- (1) Accountant. The Office of Accounting shall be headed by a City Accountant appointed by the Mayor, subject to the review of the City Council as provided in Section 2-10 of the Charter, who shall serve for a term not to exceed three years.
- (2) Responsibilities. The Office of Accounting shall be responsible for the following:

- (a) The maintenance of accounts for all financial transactions of the City.
- (b) The pre-audit of all purchase orders, receipts and disbursements.
- (c) The preparation of payrolls.
- (d) The preparation of warrants for the payment of all bills of the City.
- (e) The preparation of periodic reports on the status of departmental receipts and expenditures.
- (f) The maintenance of a complete set of books and financial records.
- (g) The maintenance of central grant and contract files.
- (h) A duty to notify the appropriate head of the spending agency and the Mayor and City Council whenever it appears that a liability has been incurred which will cause the available balance in a particular account to be exceeded.
- (i) The Office of Accounting shall examine the books and accounts of all offices and agencies entrusted with the custody or expenditure of money. The Office of Accounting shall provide the Budget/Management Analyst appointed by the City Council with free access to all of its books, accounts, bills, vouchers and other records of financial transactions as may be necessary for the performance of the auditing and oversight functions of such officer. The Office of Accounting shall at least once in each fiscal year verify the cash balances of all City offices and agencies by actual count of the cash and by reconciliation of bank balances. The Office of Accounting shall prepare all warrants for the expenditure of City funds before any payment is made by the Office of Treasury Management. Except as otherwise provided in this section, the City Accountant shall have all of the other powers, duties and responsibilities which are given to city accountants by General Law, including the authorization to report matters of fraud, waste, improper or illegal activity to the Mayor.

E. Assessor's office. **[Amended 1-26-2005 by Ord. No. 335]**

- (1) Chief Assessor. The Office of Assessing shall be under the management and control of a Chief Assessor who shall be appointed by the Mayor, subject to review of the City Council as provided in Section 2-10 of the Charter, for a term not to exceed three years.
- (2) Responsibilities. The Office of Assessing shall be responsible for the following:
 - (a) Establishing the valuation of all real and personal property.
 - (b) Maintaining records substantiating all assessments made.
 - (c) Preparing and issuing commitments for the collection of property taxes and motor vehicle excise taxes by the Office of Collections.
 - (d) Acting on abatement and exemption applications filed with it and representing the City in proceedings before the Appellate Tax Board.
- (3) Tax agreements for affordable housing.
 - (a) Intent and purpose. Having determined that it is desirable for the City of Beverly to have an adequate stock of affordable housing and that the City of Beverly should encourage the development of affordable housing for its residents eitizens, it is hereby declared to be the policy of the City of Beverly that, in appropriate circumstances, the City of Beverly may enter into agreements with developers of affordable housing for the payment of outstanding property taxes, as authorized under the provisions of

MGL c. 58, § 8C, as it may be amended from time to time.

- (b) Authority to negotiate tax agreements; approval by the City Council.
- [1] The Mayor is authorized to negotiate agreements for the payment of outstanding property taxes by persons or entities seeking to develop affordable housing on the parcels for which such taxes are owed. Such agreements shall comply in all respects with the requirements established in MGL c. 58, § 8C, as it may be amended from time to time.
- [2] Any such agreement shall be subject to approval by the City Council.
- (c) Delegation of authority. The Mayor may delegate the authority granted hereunder to any one or more of the following: the Director of Municipal Finance of the City of Beverly or the Chief Assessor. Such delegation of authority shall be in writing, with notice to the City Council, and shall remain in effect until it is revoked in writing by the Mayor.
- F. Parking Clerk. The Parking Clerk shall be appointed by the Director of Finance, subject to the consent of the Mayor, and shall be responsible for the collection of fines and penalties imposed under the parking regulations of the City.

Article X Municipal Inspections Department

§ 7-26 Establishment.

There shall be a Department of Municipal Inspections (as provided in Section 5-8 of the Charter) which shall be responsible for the coordination and management of the inspection-related activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any inspection service.

§ 7-27 Scope of activities.

The Department of Municipal Inspections shall be responsible for and shall include the following functions:

- A. Coordination of all inspection functions carried out by any municipal agency or by any officer or employee of the City.
- B. Maintenance in a central place of all records relating to inspections, having a common index.
- C. Coordination of enforcement actions for violations of any provision of state statute, Code of Massachusetts Regulations provision, City ordinance or a rule or regulation of the City pertaining to buildings or structures, municipal inspections or any other inspection which is under the jurisdiction of the Department of Municipal Inspections.
- D. Put in place a system designed to lead to the development of a single application process which would indicate all inspections which might be necessary for a particular project and provide for a consolidated, coordinated review and processing of each such application.
- E. The rendering of advice, assistance and guidance to all other City offices and agencies in any matter relating to City inspection services and City buildings and structures.
- F. The rendering of advice, assistance and guidance to all members of the public relating to City inspection services, and the development of "user friendly" systems for the convenience of the public.

§ 7-28 Coordination of inspections.

It is the intention of this article that all inspections performed by or under the authority of the Director of Municipal Inspections, Conservation Commission, Fire Chief, Board of Health, Historic Districts Commission, Gas/Plumbing Inspector, Sealer of Weights and Measures, Zoning Enforcement Officer and

every other local inspection as may otherwise be authorized is to be coordinated through the Municipal Inspections Department. All personnel performing such inspection services shall continue to serve as employees and members of the department or agency to which they have traditionally been assigned, but all such personnel performing inspection services shall, when in the performance of those functions, be subject to the administrative direction and control of the Director of Municipal Inspections.

§ 7-29 Operating offices.

The Department of Municipal Inspections shall consist of the following offices:

- A. Building Code Office. The Building Code Office shall be headed by a Director of Municipal Inspections appointed by the Mayor, subject to the review of the Council as provided in Section **2-10** of the Charter, for a term not to exceed three years. The Building Code Office shall be responsible for the enforcement of the Building Code of the Commonwealth of Massachusetts in the City of Beverly.
- B. Gas/Plumbing Office. The Gas/Plumbing Office shall be headed by a Gas/Plumbing Inspector who shall be appointed by the Director of Municipal Inspections, subject to the approval of the Mayor. The Gas/Plumbing Office shall be responsible for the enforcement of the provisions of the Code of Massachusetts Regulations applicable to plumbing and gas fitting and gas appliances.
- C. Electrical Office. The Electrical Office shall be headed by an Inspector of Wires appointed by the Director of Municipal Inspections, subject to the approval of the Mayor. The Electrical Office shall be responsible for the enforcement of the provisions of the Code of Massachusetts Regulations applicable to electrical wires and electrical fixtures. **[Amended 9-6-2012 by Ord. No. 131]**
- D. Sanitary Office. The Sanitary Office shall be headed by a Director of Public Health, who shall be appointed by the Mayor, subject to the review of the Council as provided in Section **2-10** of the Charter, for a term not to exceed three years. The Sanitary Office shall be responsible for enforcement of all provisions of the Code of Massachusetts Regulations promulgated by the Department of Public Health of the Commonwealth (the so-called "State Sanitary Code") and all rules and regulations promulgated by the Board of Health of the City of Beverly.
- E. Weights and Measures Office. The Weights and Measures Office shall be headed by a Sealer of Weights and Measures, appointed by the Director of Municipal Inspections, subject to the consent of the Mayor. The Weights and Measures Office shall be responsible for the inspection and sealing of all scales and measuring devices used in the City of Beverly.
- F. Zoning Enforcement Office. The Zoning Enforcement Office shall be headed by a Zoning Enforcement Officer, who shall be the Director of Municipal Inspections. The Zoning Enforcement Office shall be responsible for the enforcement of the provisions of Chapter **300**, Zoning, of the Code of the City of Beverly as provided in MGL c. 40A, § 7.
- G. Historic Districts Commission. The Historic Districts Commission shall be responsible for the enforcement of the provisions of Chapter **168**, Article **I**, Historic Districts, of the Code of the City of Beverly as provided in MGL c. 40, § 8D.
- H. Conservation Commission. The Conservation Commission shall be responsible for the enforcement of the provisions of Chapter **287**, Wetlands Protection, of the Code of the City of Beverly and the enforcement of orders issued by the Conservation Commission as provided in MGL c. 131, §§ 40 and 40A, and in 310 CMR.
- I. Fire Safety Office. The Fire Safety Office shall be headed by the Fire Chief or by a fire safety officer appointed by the Fire Chief, subject to the approval of the Mayor. The Fire Safety Office shall be responsible for the enforcement of the provisions of Chapter 148 of the General Laws and 527 CMR in the City of Beverly.

Article XI
Planning and Development Department

§ 7-30 Establishment.

There shall be a Department of Planning and Development (as provided in Section 5-5 of the Charter) which shall be responsible for the coordination of all of the planning and development-related activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any planning and development-related activities conducted by any such agency of the City.

§ 7-31 Purpose.

The Planning Department shall administer governmental and municipal functions and responsibilities in the field of City planning, and coordinate efforts directed toward the future development of the City to assure its continued improvement consistent with its physical, social and economic conditions and resources.

§ 7-32 Director and staff.

The Planning Department shall consist of a Planning Director as the head thereof, and such subordinate officers and employees as the City Council, with the advice of the Mayor, shall determine are necessary for the proper administration of the Department. All appointments, including that of the Planning Director, shall be made by the Mayor, subject to the confirmation of the City Council. All positions, except that of the Planning Director, shall be subject to the provisions of Chapter 31 of the General Laws.

§ 7-33 Scope of activities.

The Department of Planning and Development shall be responsible for the coordination of all planning and development-related activities of the City government and shall include the following agencies and functions:

- A. Planning Board.
- B. Board of Appeals.
- C. Conservation Commission.
- D. Historic District Commission.
- E. Industrial Development Finance Authority.
- F. Design Review Board.
- G. Parking and Traffic Commission.
- H. Economic and Community Development Council.
- I. Community Development Office.
- J. Airport Commission.
- K. Beverly Harbor Management Authority.

§ 7-34 Operating offices.

The Department of Planning and Development shall consist of the following offices, whose duties and powers shall be set forth by ordinance:

- A. Planning Office. The Planning Office shall make careful studies of the resources, possibilities and needs of the City and shall make careful plans for the development of the City. The Planning Office shall include a Planning Board. The Planning Board shall have the power to regulate the development of land

within the City, as authorized by MGL c. 41, §§ 81A through 81GG, by the adoption, administration and enforcement of rules and regulations. The Planning Board shall report to the City Council its recommendations for all amendments and revisions of Chapter 300, Zoning, of the City Code as is provided in MGL c. 40A, § 5. The Planning Board shall be a special permit granting agency as specifically provided in Chapter 300, Zoning, and as provided in MGL c. 40A, § 9.

- B. Zoning Appeals Office. The Zoning Appeals Office shall consist of a Board of Appeals as may be provided for by ordinance and in Chapter 300, Zoning. The Board of Appeals hears and decides individual cases brought by persons seeking land use relief; all as provided for in MGL c. 40A, §§ 7 through 17, and Chapter 300, Zoning. The Board of Appeals shall be a special permit granting agency for certain uses which are specifically provided in Chapter 300, Zoning, and as provided in MGL c. 40A, § 9. The Board of Appeals acts on matters of subdivision control under the applicable sections of MGL c. 41, §§ 81Y, 81Z, 81AA, and 81BB, and decides on comprehensive permits pursuant to the provisions of MGL c. 40B, §§ 20 through 23.
- C. Conservation Office. The Conservation Office shall consist of a Conservation Commission of seven members as shall be provided for by ordinance. The purpose of the Conservation Commission is to protect, promote and enhance the quantity and quality of the natural resources within the City, especially wetlands, wildlife and water resources, through planning, acquisition, land management, regulation, scientific research and public education. The Conservation Commission may conduct researches into its local land areas, and shall seek to coordinate the activities of unofficial bodies organized for similar purposes. The Conservation Commission is an advisory and regulatory committee of the City. The Conservation Commission may receive gifts, bequests, or devises of personal property or interests in real property in the name of the City, subject to approval of the Mayor. The Conservation Commission may receive monetary gifts for development of a Conservation Fund, and expend the same, subject to the General Laws and the approval of the Mayor. The Conservation Commission is responsible for the implementation of the provisions of MGL c. 131, §§ 40 and 40A, and Chapter 287, Wetlands Protection, of the City Code, in protecting riverfront areas, floodplains, sea coasts, water bodies and other wetlands and inland wetlands within the City, and of the wetlands protection and aquifer protection provisions of the general ordinances of the City (if any). The Conservation Commission is responsible, with the Parks and Recreation Commission, for development and adoption of the City's Open Space and Recreation Plan. The Conservation Commission may adopt policies and promulgate land management plans for properties of the City reserved for conservation purposes.
- D. Historic Districts Office. The Historic Districts Office shall ~~assist the~~ ~~consist of an~~ Historic Districts Commission. ~~to consist of not less than five members nor more than seven members as provided for by ordinance.~~
- (1) The Historic Districts Office shall seek to preserve, protect, and develop the historical, architectural, and archaeological assets of the City. The Historic Districts Office may conduct research for places of historic, architectural, and archaeological value, and shall cooperate with the Massachusetts Historic Commission and State Archaeologist in conducting such research. The Historic Districts Office shall seek to coordinate the activities of unofficial bodies organized for similar purposes and may, subject to appropriation and approval by the Mayor, advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work.
 - (2) The Historic Districts Office, for the purpose of protecting and preserving such places, may make such recommendations as it deems necessary to the Mayor and City Council, and, subject to the approval of the City Council, to the Massachusetts Historical Commission, that any such place be certified as an historical or archaeological landmark.
 - (3) The Historic Districts Office may hold hearings, may recommend to the Mayor execution of contracts with individuals, organizations and institutions or services furthering the objectives of their program, may recommend to the Mayor execution of contracts with local or regional associations for cooperative

endeavors furthering their program, and may, with the approval of the Mayor, accept gifts, contributions and bequests of funds from individuals, foundations and from federal, state or other governmental bodies for the purpose of furthering its programs. The Historic Districts Office may recommend to the Mayor the acquisition of property by gift, purchase, grant, bequest, devise, lease or otherwise of a fee or lesser interest in real or personal property of significant historical value.

- E. Office of Community Development. The Economic Development Office shall include an Office of Community Development. The Office of Community Development shall formulate, under the auspices of the Mayor, a community and economic development policy. The Office of Community Development shall provide a vehicle for coordination and communication between all development agencies and officials and the Mayor's office in order to ensure a timely governmental response to development issues, opportunities and problems. The Office of Economic Development shall include an Industrial Development Finance Authority as provided for by ordinance.
- F. There shall be a Design Review Board as provided for by ordinance.
- G. There shall be an Airport Office headed by an Airport Commission as provided for by ordinance.
- H. There shall be a Parking and Traffic Office as provided for by ordinance.
- I. There shall be a Harbor Management Authority as provided in Chapter 221 of the Acts of 1987 and as provided for by ordinance.

Article XII Police Protection Department

§ 7-35 Establishment.

There shall be a Department of Police Protection which shall be responsible for the coordination of all the police-related activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any police safety matter.

§ 7-36 Scope of activities.

The Department of Police Protection shall be responsible for and shall include the following functions:

- A. Police Office.
- B. Animal Control Office.
- C. Harbor Office.

§ 7-37 Operating offices.

The Department of Police Protection shall consist of the following offices:

- A. Police Office.
 - (1) The Police Office shall be responsible for maintaining, keeping and preserving the public peace and order. It shall be responsible for programs of crime prevention, crime detection and for traffic safety and enforcement of rules and regulations governing the operation of motor vehicles and the use of ways by pedestrians. The functions of the Police Office shall include but are not limited to those enumerated below.
 - (2) The Police Office shall be responsible for the following specific functions:
 - (a) Crime prevention: preserve the public peace, prevent crime, and detect and arrest offenders.

- (b) Traffic enforcement: administer and enforce laws regulating, directing, controlling and restricting the movement of vehicular and pedestrian traffic, and the general use of the streets by vehicles and the public.
 - (c) Training: operate a training program to maintain and improve the competence and efficiency of the members of the Department.
 - (d) Incident report preparation: prepare reports on injuries to persons and property occurring by accident or otherwise on the streets, in alleys and other public places within the City as required by law.
 - (e) Weapons disposition: provide a procedure for the destruction or other disposition of all weapons or other articles used in the commission of crime or coming into the custody of the department; provided that where such weapon or article may be used as evidence in either a civil or criminal proceeding, it shall in no way be disposed of except upon a written order of a court of law.
 - (f) Lost property: provide a procedure for the sale of unclaimed, lost or stolen articles coming into the custody of the Department.
 - (g) Prosecution: The Chief of Police shall cause proceedings to be instituted for the prosecution of violations of laws or ordinances, and attend to the trial of the same; and each member of the Police Department shall enforce laws of the commonwealth and the laws and ordinances of the City and discharge such other duties as may be required of of the officer~~him~~.
 - (h) Investigation of accidents: Upon the happening of any accident, wherein the City may become a party or subject to any liability whatsoever, the Chief of Police or ranking officer shall forthwith cause a thorough investigation to be made. He shall see that all available witnesses are interviewed, measurements taken, plans made by the Director of Engineering, Commissioner of Public Services, Public Works and photographs of the locus taken by a competent photographer, if in his opinion such steps are necessary to protect the City's interest. All data in reference to such accident shall be filed with the permanent records of the Department for reference, and for the use of the City Solicitor.
- B. Animal Control Office. The Animal Control Office shall be headed by the Animal Inspector as provided for by ordinance. In addition to the powers and duties provided by ordinance, the person appointed as the Animal Inspector shall also exercise the powers and perform the duties of Inspector of Animals, as provided by ordinance. The Animal Control Office shall be responsible for the enforcement of all laws relating to dogs, including but not limited to MGL c. 140, §§ 136A to 174E, and all ordinances of the City further regulating animals. The office shall also be responsible for the inspection of animals as required by Chapter 129 of the General Laws and, in particular, for the regular inspection of neat cattle, sheep and swine and all other domestic animals.
- C. Harbor Office. The Harbor Office shall be headed by a Harbormaster as provided for by ordinance.

§ 7-38 Clerical assistants.

There shall be two clerical assistants assigned to the Police Department who may be classified as Clerk-Typists, Senior Clerk-Typists, or Principal Clerks, as the case may be, whose duties shall consist of clerical work only.

§ 7-39 Motor equipment repairman.

There shall be one motor equipment repairman assigned to the Police Department, from the Public Services Department, whose duties shall consist of repairs and the maintenance of Police Department equipment, and Fire Department equipment, when necessary.

§ 7-40 Confidential Secretary.

[Amended by Ord. No. 331]

A. There shall be within the Police Department the position of Confidential Secretary to the Chief of Police. The duties of this secretary shall be prescribed by the Chief of Police. The Chief of Police shall appoint the Confidential Secretary, subject to confirmation by the City Council. The duties and responsibilities may include, but not be limited to, the following:

- (1) Confidential management of reports and information.
- (2) Inter-department liaison for the Chief.
- (3) Liaison with other City, state and federal offices.
- (4) Preparation of confidential reports, letters and records.
- (5) Typing and composition of correspondence; maintenance and responsibility for confidential files.
- (6) Management of office operations for the Office of the Chief.
- (7) Other duties as prescribed by the Chief.

B. This position shall not be subject to MGL Chapter 31 (civil service).

§ 7-41 Appointments by Chief of Police.

All members of the Police Department, except the Chief of Police, shall be appointed by the Chief of Police.

§ 7-42 Suspension and removal.

A. Any neglect of or refusal to perform duty or any disorderly conduct or disobedience or any violation of the rules or regulations of the Police Department shall be proper cause for suspension, reduction in rank or removal from the Department, subject to civil service law and the City Charter.

B. Any such misconduct shall be reported forthwith in writing by the Chief of Police to the Mayor, which report shall contain the name of the offending person and a statement of his misconduct. The Mayor may thereupon suspend such person and may, after a hearing by him in accordance with the laws relating to civil service, reinstate such person or continue such suspension for a definite period or reduce in rank or remove such person from the Police Department. Subject to the provisions of the laws relating to civil service, any member suspended from duty shall not act as a member of the Department or be entitled to any compensation until reinstated by the Mayor, and in all cases of removal from office or Department the name of the person removed, with a statement of the reasons therefor, shall be entered upon the records of the Department.

§ 7-43 Special officers.

A. There shall be appointed annually by the Chief of Police, subject to confirmation by the City Council, such number, as the Chief of Police may deem proper, of special officers with all the powers of regular patrol officers. Authority vested in special officers shall be confined solely to the property of their employers. All special officers shall be subject to the authority of the Chief of Police.

B. Special officers shall hold office until their successors are appointed and qualified, unless previously removed from office by the Chief of Police.

§ 7-44 School traffic supervisors.

The Chief of Police may appoint, subject to confirmation of the City Council, special officers to serve as school traffic supervisors at the request of the School Committee to handle school traffic. The duties of the school traffic supervisors shall be to control the flow of traffic by stopping, starting and directing such traffic. Any operator of any motor vehicle not obeying the hand signals of the school traffic supervisors on active duty shall have his registration number taken and turned in to the Chief of Police or head of the Traffic

Division within the Police Department.

Article XIII Public Services Department

§ 7-45 Establishment.

There shall be a Department of Public Services which shall be responsible for the management of all the public-services-related activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any public services matter.

§ 7-46 Scope of activities.

The Department of Public Services shall be responsible for and shall include (but is not limited to) the following functions:

- A. Highways, including maintenance and repair, sweeping, snow and ice removal and control of all public streets, roads, ways, bridges and sidewalks and storm-drain facilities of the City.
- B. Forestry, including Tree Warden and Superintendent of Shade Tree Management and Pest Control as provided for by ordinance.
- C. Garage, including maintenance and ordinary repair of all motor vehicles and equipment belonging to the City, excluding only School Department and Fire Department vehicles and equipment.
- D. Cemetery maintenance and operation.
- E. Grounds maintenance and landscaping, including all park and playground maintenance.
- F. Maintenance and repair of all equipment and fixtures relative to the water/sewer systems in the City.

§ 7-47 Director of Engineering, Commissioner of Public Services, Public Works.

- A. Appointment; term of office. There shall be a Director of Engineering, Commissioner of Public Services, Public Works appointed by the Mayor, subject to the review of the Council as provided in Section 2-10 of the Charter, to serve for a term not to exceed three years. The Director of Engineering, Commissioner of Public Services, Public Works shall serve until a successor is appointed and qualified.
- B. Qualifications. The Director of Engineering, Commissioner of Public Services, Public Works shall be a person especially fitted by education, training and experience to perform the duties of the office and shall have had at least five years of progressively responsible experience in public works administration.
- C. Powers and duties.
 - (1) The Director of Engineering, Commissioner of Public Services, Public Works shall be responsible to the Mayor for the effective operation of the Department of Public Services.
 - (2) The Director of Engineering, Commissioner of Public Services, Public Works shall be responsible for management of all projects generated externally from public services, but involving more than one line division of the Department and for the supervision of all matters relating to the Department's scope of activities.

§ 7-48 Operating offices.

The Department of Public Services shall consist of the following offices:

- A. Office of Labor Services. The Office of Labor Services shall be responsible for the labor-related functions and activities of the City, except water and sewers for which separate provision is made. The

Office of Labor Services shall be responsible for the planning, design and construction of all assigned public works improvement projects.

- B. Office of Garage and Motor Vehicle Maintenance. The Office of Garage and Motor Vehicle Maintenance shall be responsible for the maintenance and repair of all equipment and vehicles belonging to the Department and of all other City equipment and vehicles which are assigned to it for maintenance and repair.
- C. Water/Sewers Office. The Office of Water and Sewers shall be responsible for the operation, maintenance and emergency repair of all equipment and fixtures belonging to the Office, including the pump station.
- D. Forestry and Grounds Office. The Forestry and Grounds Office shall be responsible for all of the services of a Tree Warden as described in MGL Chapter 87 and for all of the services of a Superintendent of Shade Tree Management and Pest Control as described in MGL Chapter 132. The Forestry and Grounds Office shall be responsible for the care and maintenance of all landscaped areas of the City, including the grounds around buildings, parks, playgrounds, public beaches and landings and such other landscaped areas as may from time to time be assigned to its care.

§ 7-49 Staff.

The Public Services Department shall consist of permanent full-time employees and one permanent part-time employee (Clerk of the Cemetery Division of the Public Services Department, to be funded by the Cemetery Board of Managers). Temporary laborers are to be hired at the discretion of the Director of Engineering, Commissioner of Public Services, Public Works.

§ 7-50 Municipal garage.

There shall be established a division within the Department of Public Services to be known as the "municipal garage." All departmental motor vehicles of the City, including snowplows, with the exception of vehicles controlled by the School Department, shall be sent to the municipal garage for all repairs and inspections.

§ 7-51 Expenditures.

All the expenditures in this Department shall be in conformance with appropriations voted by the City Council.

Article XIV Purchasing Department

§ 7-52 Establishment.

There shall be a Purchasing Department which shall be responsible for all procurements of services and supplies for all offices and agencies of the City government in conformity with the procedures and standards established by Chapter 30B of the General Laws, and which shall oversee the administration of all design and construction contracts for public projects.

§ 7-53 Scope of activities.

The Purchasing Department shall be responsible for and shall include the following functions:

- A. Study, establish and coordinate uniform procurement practices and procedures for City departments.
- B. Provide advice and assistance to individual employees on all procurement matters.
- C. Function as the agent for the Mayor in interfacing with department heads, supervisors and elected and appointed officials on all procurement matters, including both goods and services.
- D. Develop a set of guidelines to govern the disposition of surplus material and outdated, worn out or

obsolete materials.

- E. Administer designer selection in accordance with the provisions of MGL Chapter 7 and guidelines promulgated by the Division of Capital Asset Management and Maintenance, including development of designer selection criteria and evaluation standards, advertising and other search techniques, proposal opening, proposal evaluation, award recommendations and contract execution.
- F. Administer construction bidding in accordance with the provisions of MGL Chapters 30 and 149 and with guidelines promulgated by the Division of Capital Asset Management and Maintenance, including coordination with the project designer of bid advertising, bid opening and contract awards.
- G. Administer all contracts for construction to assure compliance with all statutory legal requirements.
- H. Develop and maintain a "Buy Recycled" policy to be followed by all departments and agencies of the City and provide advice and assistance to supervisory personnel in implementation of that policy; provide a system to track and monitor the implementation of the "Buy Recycled" policy to assure continuing eligibility for any available grant programs.
- I. Standardize forms and records to be used in the City's procurement and contract administration programs other than those forms and records whose format is regulated by statute or by state agency or agencies authorized, by law, to exercise oversight over specific elements of procurements.
- J. Recommend to the Mayor and City Council the enactment of such ordinances as are considered necessary to implement and administer the City's procurements and contract administration programs.

Chapter 15

Boards, Commissions, Councils, Committees and Authorities

[HISTORY: Adopted by the City Council of the City of Beverly as Art. VII of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Agencies — See Ch. 7.

Elective offices — See Ch. 26.

Article I

General Provisions

§ 15-1 Oaths of office.

- A. Persons required to take oath of office. Every person who is elected or appointed to serve in a City office or as a member of a multiple-member body shall be required to take an oath of office in the presence of the City Clerk, before entering upon the duties of the office, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the City Clerk.
- B. Form of oath.

Commonwealth of

Massachusetts

County of Essex, ss.) 20XX

City of Beverly

I, _____, do solemnly swear that I will support the Constitution of the United States, the Constitution of the Commonwealth of Massachusetts, and the Charter and Ordinances of the City of Beverly; that I will faithfully, honestly and impartially discharge my duties as _____ during my service therein, (optional: so help me God.)

(signature)

Subscribed and sworn to before me
this _____ day of _____,
20XX.

(signature)

City Clerk

§ 15-2 Purpose; term of committee membership.

- A. This chapter of the City Code describes all City agencies comprised of multiple-member bodies and City officers and the operating divisions of the departments of the City government which may be established from time to time by the Mayor, all pursuant to Charter Section 5-1. This chapter further delineates the manner and time of appointment and terms of appointment generally, and authority, responsibilities and interrelationships among all City agencies.
- B. Committee membership shall be on an annual fiscal basis.

§ 15-3 Committees and ad hoc committees.

- A. Additional City agencies and committees may be established by the City Council by amendment to this chapter. Ordinances establishing City agencies shall specify the following: membership, term of office, authority and responsibilities, and may provide for the interrelationships among the City Council and the other City agencies.
- B. The Beverly City Council may from time to time, based upon passage by a majority vote of its membership, establish ad hoc committees to assist the City Council in carrying out the Council's responsibilities. Ad hoc committees shall be limited to a particular subject area and serve only in that capacity for a specific period of time.
- C. The Mayor, in like manner, may, from time to time, establish ad hoc committees to assist the Mayor in examining any matter which would assist the Mayor in carrying out the duties and responsibilities of the office.

§ 15-4 Appointment, terms of office, removal and vacancies.

- A. Pursuant to ~~the Beverly Home Rule~~ Charter Section 3-3, all members of all City agencies and City of Beverly representatives to regional governmental boards and committees shall be appointed by the Mayor unless the law establishing such committee provides otherwise.
- B. Appointments made by the Mayor shall be subject to review by the City Council in the manner provided in Charter Section 2-10.
- C. The terms of office of the members of all multiple-member bodies shall be staggered so that approximately 1/3 of the membership, as nearly as is possible, shall expire each year. The term of office shall be designated at the time of the appointment. Numbers of members for multiple-member bodies will vary. The Mayor shall annually evaluate all members subject to reappointment.
- D. Members may be removed, subject to a hearing by the City Council, pursuant to Charter Section 3-4. Any vacancy which occurs shall be filled by the Mayor for the remainder of the unexpired term, subject to Charter Section 2-10.

§ 15-5 Annual reports.

All multiple-member bodies shall prepare annual reports of their activities and submit same to the Mayor for inclusion in the annual report of the City, on or before the fourth Friday in July. The annual report shall describe fiscal-year activities for the year ending each June 30.

§ 15-6 Internal organization.

- A. Each multiple-member body shall, at a minimum, annually elect from its membership a chair, vice-chair and clerk. Multiple-member bodies may further elect a treasurer and such other officer or officers as are deemed necessary or as required by statute. ~~Unless otherwise provided for in this section, the~~ annual election shall occur in July of each year, or as near after appointment of new members as may be practical. The Mayor, the City Council and the City Clerk shall be notified of the officers of the multiple-member body upon their election.
- B. The chair shall preside over all meetings of the multiple-member body, and shall be the official representative of the multiple-member body in all proceedings before the Mayor, the City Council, and other officials of the City. The vice-chair shall perform the chair's functions in the absence of the chair. The clerk shall be responsible for the certification of the board's meeting minutes, observance of the Public Records Law, and maintenance of other records of the board.
- C. In order that newly appointed members of multiple-member bodies might have the opportunity to become acquainted with the type and variety of matters which are likely to come before the multiple-member body during the term of appointment, the chair of each multiple-member body shall, forthwith upon receipt of notice of the appointment of a new member, ~~transmit to provide~~ such member ~~with copies of~~ the minutes of meetings of the body for the two prior years and ~~copies of~~ all laws, ordinances, rules or regulations governing or otherwise applicable to the office. The chair shall, within 30 days following receipt of notice of the appointment, meet with the new member and provide such orientation to the duties of the office as may be deemed necessary or desirable.
- D. Time and place of meetings. The Clerk of each multiple-member body shall be responsible for notifying the City Clerk, the Mayor, and the City Council, on or before January 1, of the regularly scheduled board meeting times and dates for the ensuing calendar year. The notification shall also include a location for each regular meeting. This shall not prevent boards from calling special meetings in addition to those regularly scheduled, provided that, in all instances, standards of the Open Meeting Law (MGL c. 30A, §§ 18 through 25) are followed. The City Clerk shall ensure posting of all meeting schedules consistent with the Open Meeting Law. No multiple-member body shall schedule a regular meeting which conflicts with a regularly scheduled meeting of the City Council.

E. Authority to establish subcommittees. Each multiple-member body may, by a majority vote of its membership, establish subcommittees for the purpose of addressing a particular issue or issues. A report of their activities shall regularly be made to the full multiple-member body. Each subcommittee so established shall observe laws relevant to the keeping of public records, the Open Meeting Law, and any other laws as prescribed by the Charter, by ordinance or by law.

F. Uniform procedures applicable to all multiple member bodies are set forth in Section 8-6 of the Charter. Nothing herein is intended to be inconsistent with or shall supersede the Charter and the Charter shall control in all circumstances.

§ 15-7 References to state statutes.

The references to state statutes which are contained in the sections which follow describing the powers, duties, and responsibilities of the offices and agencies therein enumerated are provided for the purpose of describing the scope of authority which may be exercised by the City in respect to each particular matter. No such enumeration shall in any way be construed to limit the ability of the City to reorganize itself and to redistribute powers, duties and responsibilities to and among various officers and under various titles authorized by MGL c. 43B, § 20, and Article 5 of the Charter.

§ 15-8 Eligibility for service.

A. City employees. No permanent full-time municipal employee of the City is eligible to be appointed to a multiple-member body of the City unless otherwise authorized by ordinance. This limitation shall not apply to ad hoc committees as further defined herein.

B. Residency requirement for other City offices.

(1) Except any individual who is an ex-officio member of a -body as a result of their position as a City employee or as otherwise provided for in this Code herein, Aall members of all multiple-member bodies shall be residents and registered voters of the City, except for the (1) Airport Commission which may have two members from the Town of Danvers as provided by this chapter.

(2) All members shall be at least 18 years old.

(3) If any duly appointed member of a multiple-member body shall no longer reside in~~reside in or~~and be registered to vote in the City, then such member~~he or she~~ shall immediately notify the Mayor or other appointing authority and that position shall be considered vacated immediately. This provision may be waived by a two-thirds vote of the City Council, when acting on a recommendation made by the Mayor, but only for the duration of the unexpired term.

(4) The requirements of sections (B)(1), (2), and (3) may be waived by a two-thirds vote of the City Council upon the request of the appointing authority and for good cause, and as long as the individual is a resident of the Commonwealth of Massachusetts.

§ 15-9 Supplementary administrative assignments.

Whenever the Mayor determines that the needs of the City so require, the Mayor may assign, on a temporary basis, to any City agency duties in addition to those duties detailed for the agency in this chapter, provided such additional duties are reasonably related to the regular duties of such City agency.

Article II Specific Multiple-Member Bodies

§ 15-10 Aging, Council on.

A. Composition; term of office. There shall be a Council on Aging consisting of nine members. The members of the Council on Aging shall annually elect one of the nine members appointed by the Mayor to act as Chair. The term of each member shall be for three years, staggered so that three members are

appointed each year.

- B. Authority and responsibilities. The Council on Aging shall coordinate and conduct programs dealing with problems for the aging and promote facilities for the health, education, welfare and recreation of the aging. It shall annually submit a budget to the Mayor and City Council for their approval. It shall make an annual report on or before the first day of February to the Mayor and City Council, and shall make such other reports as from time to time may be requested. The Council on Aging shall be an advocate for the needs of the elderly people residing in the City. The Council on Aging shall conduct surveys of the elderly population to better determine their needs, problems and concerns. The Council on Aging shall develop criteria for program and supportive services development based upon an assessment of needs, and shall participate in programs offered by the Commonwealth's Department of Elder Affairs. The Council on Aging is an advisory committee of the City.

§ 15-11 Airport Commission.

- A. Composition; terms of office. There shall be an Airport Commission consisting of nine members. Members of such Commission shall not have any affiliation or interests, directly or indirectly, with any operating firm or lessee at the airport and aviation facilities. Two members shall be residents of the Town of Danvers as shall be recommended by the Town Manager of the Town of Danvers, who shall recommend said members to the Mayor for appointment. In the event that such recommendation fails to result in an appointment, additional residents of Danvers shall be sought. The members of the Airport Commission shall be appointed by the Mayor, with the approval of the City Council, for terms of three years each, or until their successors are appointed and approved. Vacancies in the Commission shall be filled for the unexpired term by the appointing authority. **[Amended 1-6-2005 by Ord. No. 358; 2-16-2016 by Ord. No. 013; 3-21-2016 by Ord. No. 069]**
- B. Authority and responsibilities. The Airport Commission is responsible for the custody, care, and maintenance of the Beverly Regional Airport (also known as "John Mountain Field"), all other municipal aviation facilities in the City as well as ensuring safe and efficient operation under pertinent rules and regulations. The Commission operates under the authority provided to airport commissions pursuant to General Laws Chapter 90, by the Charter, ordinances, and by any other state and/or federal rules and regulations governing airports. **[Amended 11-2-2015 by Ord. No. 465]**
- C. The Mayor shall appoint an Airport Manager who is the executive officer of the Commission, who may, with the consent of the Mayor, appoint an Assistant Airport Manager. The Airport Commission may, consistent with state procurement regulations, and with the consent of the Mayor, let or lease land areas at the airport for up to 20 years, determine charges or rentals for property, facilities, installations, landing fees and services, and determine the terms and conditions for such charges. Subject to the approval of the Mayor and City Council, the Airport Commission may let or lease for longer periods.
- D. The Airport Commission, subject to the consent of the Mayor, is authorized to expend any funds granted by the City, state or federal government for airport purposes, and may make contracts for the maintenance, operation, construction, enlargement, and improvement of the airport pursuant to the laws of the commonwealth governing the making of such contracts.
- E. The Airport Commission shall adopt rules and regulations for the use of the airport or for the safety of the public upon or beyond the limits of the airport under its control. Such rules and regulations must be approved by the Massachusetts Aeronautics Commission and published in the same manner that ordinances are required to be published.
- F. If the Airport Commission obtains an offer for a grant of federal funds, it shall designate the Massachusetts Aeronautics Commission as its agent to receive federal funds and receipt therefor in its behalf, and, subject to the consent of the Mayor, shall enter into an agreement with the Massachusetts Aeronautics Commission prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations, and applicable laws of the commonwealth.

- G. The Airport Commission may invite bids for any contract involving the acquisition, establishment, construction, enlargement, protection, equipment, maintenance, or operation of its airport, and shall submit every such proposed contract to the Massachusetts Aeronautics Commission for approval. After approval has been given, the Airport Commission may, subject to the consent of the Mayor, award such contracts, subject to the availability of appropriations.
- H. Except as otherwise provided in this or any other ordinance of the City, the Airport Commission assumes all other responsibilities and authority granted pursuant to General Laws Chapter 90 and pertinent state and/or federal regulations.

§ 15-12 Appeals, Zoning Board of.

- A. Composition. There shall be a Zoning Board of Appeals consisting of five members and five alternate associate-members. (See Chapter 300, Zoning, for specific provisions.)
- B. Authority and responsibilities.
 - (1) The Zoning Board of Appeals hears and decides individual cases brought by persons seeking land use relief; all as provided for in MGL c. 40A, §§ 7 through 17, and Chapter 300, Zoning, of the City Code. The Zoning Board of Appeals is an advisory and regulatory committee of the City.
 - (2) The Zoning Board of Appeals acts as a board of appeals on matters of subdivision control under the applicable sections of MGL c. 41, §§ 81Y, 81Z, 81AA and 81BB; and decides on comprehensive permits pursuant to the provisions of MGL c. 40B, §§ 20 through 23.

§ 15-13 Assessors, Board of.

- A. Composition. There shall be a Board of Assessors consisting of three members, one of whom shall be Chief Assessor and Chairman of the Board. Section 15-8(B)(1) shall not apply as it relates to the requirement to be a resident and registered voter of the City Beverly but said members shall be residents and registered voters of the Commonwealth of Massachusetts.
- B. Authority and responsibilities. The Board of Assessors shall annually determine the valuation of all real and personal property subject to taxation within the City. The Board of Assessors shall annually determine the annual tax rate necessary to provide for the budget approved by the City. The Board of Assessors hears and decides all questions relating to the abatement of taxes levied by it. It has all of the other powers, duties and responsibilities which are given to boards of assessors by general laws.

§ 15-14 Award to Municipal Employees Committee.

- A. There is hereby created an Award to Municipal Employees Committee consisting of five members, appointed yearly by the Mayor, subject to confirmation by the City Council, whose duty shall be to gather, classify and judge suggestions and make monetary awards to eligible City employees who submit the most valuable suggestions for improving the service of the municipality.
- B. The Committee shall be unpaid and shall operate under the following conditions:
 - (1) The Committee shall accept suggestions, in writing only, with the signature of the employee affixed thereto.
 - (2) The suggestions shall become the property of the City.
 - (3) The Committee shall turn over all suggestions to the City Council within three months after they have been received.
 - (4) The Committee shall have the power to make rules and regulations governing the awards and the amounts thereof, subject to the provisions of MGL c. 40, § 5.

- (5) All municipal employees having attained their office by the electorate shall be eligible to participate in this program.
- (6) Department heads and executive boards shall be disqualified from entering suggestions relative to their own department only.

§ 15-15 Beverly Golf and Tennis Club Commission; Club parking restrictions.

- A. Composition. There shall be a Beverly Golf and Tennis Club Commission consisting of nine members which shall have the custody, care and management of the facility known as the "Beverly Golf and Tennis Club." Members of such Commission shall not have any affiliation or interest, directly or indirectly, other than an annual membership as may be prescribed under the rules and regulations of the Commission, with any operating firm, third-party vendor, or lessee of the Beverly Golf and Tennis Club facilities. Its membership shall consist of seven members from the public, one member of the Conservation Commission, and one member of the Parks and Recreation Commission.
- B. Authority and responsibilities.
 - (1) Such Commission shall make rules and regulations not otherwise inconsistent with law, and may set and collect any fees which shall be applied to a specific account established with and supervised by the City Treasurer. All rules and regulations and the fee schedules adopted shall be subject to the approval of the Mayor and City Council.
 - (2) The Commission shall let or lease the Beverly Golf and Tennis Club, or any part thereof, with the approval of the Mayor and the City Council. No modification or waiver of the term of any lease by the Commission shall be effective without the approval of the Mayor and the City Council.
 - (3) Under no circumstances shall the Beverly Golf and Tennis Club Commission hire any personnel.
 - (4) The Beverly Golf and Tennis Club Commission shall make an annual report on or before the first day of August to the Mayor and the City Council, reflecting the financial operation of the previous fiscal year, and shall make such other reports as from time to time may be required.
- C. There shall be no parking in areas properly posted and designated by the Commission as "No parking" areas at the Beverly Golf and Tennis Club.

§ 15-16 Beverly Housing Authority.

- A. Composition. The Housing Authority shall be managed, controlled and governed by five members, appointed as provided in this section, of whom three shall constitute a quorum.
 - (1) Four members of the Beverly Housing Authority shall be appointed by the Mayor, subject to confirmation by the City Council, for terms of three years each, such that the terms of each member expires in a different year.
 - (2) One member of the Beverly Housing Authority shall be appointed by the Massachusetts Department of Housing and Community Development (Department) for a term of three years which expires in a different year than any member appointed by the Mayor.
 - (3) One of the four members of the Beverly Housing Authority appointed by the Mayor shall be a resident of the City and shall be a representative of organized labor who shall be appointed by the Mayor from a list of not fewer than two names nor more than five names, representing different unions, submitted by the Central Labor Council, AFL-CIO and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America of the City or of the district within which the City is included. If no such list of names is submitted within 60 days after a vacancy occurs, the Mayor may appoint any representative of organized labor to the Authority.

- (4) One of the four members of the Beverly Housing Authority appointed by the Mayor shall be a tenant in a building owned and operated by or on behalf of the Beverly Housing Authority who shall be appointed by the Mayor from lists of names submitted by each duly recognized City-wide and project-wide tenants' organization in the City. A tenants' organization may submit a list which contains not fewer than two names nor more than five names to the Mayor, who shall make the selection from among the names so submitted; provided that, where no public housing units are owned and operated by the Beverly Housing Authority and no such units are owned and operated on behalf of the Beverly Housing Authority, the Mayor shall appoint any tenant of the Beverly Housing Authority from lists submitted in accordance with this section. If no list of names is submitted within 60 days after a vacancy occurs, the Mayor shall appoint any tenant to the authority. The Mayor shall notify in writing tenants' organizations as specified herein not less than 90 days prior to the expiration of the term of a tenant member. Whenever a vacancy occurs in the term of a tenant member for any reason other than the expiration of a term, the Mayor shall notify in writing the tenants' organizations specified herein within 10 working days after the vacancy occurs. The Mayor shall make an appointment within a reasonable time after the expiration of 60 days after said notice.
 - (5) Vacancies, other than by reason of expiration of terms, shall be filled for the balance of the unexpired term, in the same manner as the original appointment.
 - (6) As soon as possible after the qualification of the members of the Beverly Housing Authority, the City Clerk shall file a certificate of such appointment with the Department, and a duplicate thereof, in the office of the State Secretary. If the State Secretary finds that the Beverly Housing Authority has been organized and the members thereof appointed according to law, he shall issue to it a certificate of organization, and such certificate shall be conclusive evidence of the lawful organization of the Authority and of the appointment of the members thereof.
- B. Authority and responsibilities. The Beverly Housing Authority shall make careful studies of the housing needs within the City, and shall provide such programs to make available housing for families of low income and for elderly persons of low income as it deems to be necessary or desirable. The Beverly Housing Authority shall have all of the powers, duties, authority and responsibilities as are afforded to such entities under General Laws Chapter 121B.

§ 15-17 Beverly Waste Reduction Committee.

[Amended 6-16-1998 by Ord. No. 144; 4-4-2002 by Ord. No. 41; 5-4-2006 by Ord. No. 83; 11-16-2015 by Ord. No. 480; 11-7-2016 by Ord. No. 236]

- A. Appointment and term. The Beverly Waste Reduction Committee shall consist of nine members, each appointed for a term of three years, or until their successors are qualified. The membership shall include persons interested in fostering decreased solid waste and increased solid waste recycling in the City of Beverly. Ex officio, nonvoting members shall include a representative of the City department responsible for solid waste disposal and the Health Director.
- B. Authority and responsibilities.
 - (1) The Beverly Waste Reduction Committee shall act in an advisory and consulting capacity to the Mayor, City Council, and other interested City departments, boards, committees or commissions and to the ~~residents citizens~~ of the City, relative to any and all matters concerning solid waste management except those matters concerning hazardous wastes that are made the responsibility of the Hazardous Waste Oversight Committee.
 - (2) The Beverly Waste Reduction Committee shall identify ways of increasing recycling and waste reduction.
 - (3) The Beverly Waste Reduction Committee shall serve as a resource for the general education of the

public with respect to matters concerning solid waste management, solid waste reduction, and recycling.

- (4) The Beverly Waste Reduction Committee shall address itself to the following matters dealing with solid waste management:
 - (a) Assisting City officials in establishing a solid waste management policy that aims to decrease waste disposal, particularly by enforcing Massachusetts waste bans, and to increase recycling.
 - (b) Encouraging increased recycling and decreased waste disposal by Beverly ~~residents~~ ~~citizens~~, schools and businesses by utilizing available funds as needed for educational materials.
 - (c) Encouraging composting using household composters and the City compost site.
 - (d) Establishing a mechanism for periodic review of ~~resident~~ ~~citizen~~-inquiries.
 - (e) Reviewing monthly recycling and waste tonnage in order to assess the effectiveness of education programs.
 - (f) Requesting updates on solid waste management at schools and other municipal public buildings on a regular basis.
 - (g) Assisting in writing grants for funds for education, and the purchasing of recycling bins and composters.
- C. Meetings; chairperson. The Beverly Waste Reduction Committee shall meet in the month of January of each year to elect a Chairperson who will preside at the meetings of the Committee. The Beverly Waste Reduction Committee shall meet no less often than bimonthly.

§ 15-18 Building and Other Facilities Planning and Construction Committee.
[Amended 2-16-2016 by Ord. No. 013]

There shall be a Building and Other Facilities Planning and Construction Committee (Planning and Construction Committee) in accordance with Charter Section 5-6.

§ 15-19 Cable Television Advisory Committee.

- A. Composition. There shall be a Cable Television Advisory Committee (CTAC) consisting of nine members and three alternate members.
- B. Authority and responsibilities. The CTAC advises the Mayor on matters relating to the licensing and supervision of a contract for cable services in the City consistent with General Laws Chapter 166A. Consistent with the cable contract, the CTAC may be designated by the Mayor to exercise certain authority under the contract.
 - (1) The CTAC acts as a sounding board for ~~resident~~ ~~citizen~~-complaints and suggestions relating to the cable television services and Internet and shall, under the direction of the Mayor, refer subscriber complaints to the cable operator for appropriate resolution. The CTAC ~~shall not~~ ~~meets~~ ~~not~~ less than once each quarter for the purpose of reviewing cable contract compliance and advising on other licensing matters.
 - (2) The CTAC shall also specifically address itself to the following matters:
 - (a) The continued review of the original contract, with the right to "call for action" to negotiate with the licensee to address discrepancies that occur.
 - (b) The ongoing study of rules and regulations issued by the state advisory commission, and briefings to keep up with changing state of the art in the communications technologies.

- (c) Acting as liaison for the public, for cable TV programming and public access in the City (studies, evaluations, recommendations).
- (d) A commitment to advising and educating regarding all of the above, for the Mayor and for the residents of the City.
- (e) The CTAC shall develop and submit to the City Council a document, including a policy statement and specific procedures for use of cable television, for coverage of political campaigns for elections set by the City Council. The City Council shall approve such document, return it to the Committee for additional work, or amend it as the City Council sees fit. Thereafter, an updated document will be submitted to the City Council once a year on March 1.
- (f) On all matters pertaining to public issues under consideration by City agencies, the CTAC shall see to it that coverage is fair and unbiased.

§ 15-20 Cemetery Commission.

- A. Composition. There shall be a Board of Managers of Public Cemeteries (which shall be called the "Cemetery Commission") which shall consist of five persons: one to be the Director of Engineering, Commissioner of Public Services, Public Works, one to be the Finance Director or a designee of the Finance Director, one to be a member of the Conservation Commission, to be designated by that body, one to be a member of the Historic Districts Commission, to be designated by that body, and one to be appointed in the month of February (in different years) for a term of two years by the Mayor, subject to confirmation by the City Council. One of the members of the Board of Managers shall serve as clerk for the purpose of maintaining minutes of the Board's proceedings and other tasks as may be required from time to time.
- B. Authority and responsibilities.
 - (1) Organizational meeting; record of proceedings. The Cemetery Commission shall meet as frequently as its duties require , and, at its first meeting of each year, it shall elect a Chairman and also a Clerk. The Clerk shall keep a record of all proceedings of the Board.
 - (2) Powers and duties; rules and regulations. The Cemetery Commission shall make all necessary rules and regulations concerning the operation of public cemeteries. The Cemetery Commission may lay out the public cemeteries and burial places of the City into lots and may sell and convey to any persons, whether residents of the City or otherwise, the exclusive right of burial and of erecting tombs, monuments, or cenotaphs. The Cemetery Commission will make recommendations to the Mayor relative to the acquisition of lands for the expansion of public cemeteries, and will be charged with the layout of existing cemetery properties using available space to the maximum practicable extent. The Cemetery Commission shall make an annual report to the City Council.
 - (3) Revenues; disposition of proceeds. Receipts for the delivery of services shall be deposited with the general fund. Proceeds from the sale of cemetery lots will be deposited in the "Sale of Lots Fund" and the "Endowment Fund" according to the then current schedule of rates. The Cemetery Commissioners will annually appropriate transfers from these fund accounts for the care of cemeteries.
 - (4) Maintenance of cemeteries. The maintenance of cemeteries shall be the sole responsibility of the Director of Engineering, Commissioner of Public Services, Public Works.
- C. Endowment of lots; perpetual care. The cost of graves, perpetual care, openings and any other related costs shall be determined by the Board of Managers of the Cemetery Division of the Public Services Department and a fee schedule shall be posted in the City Clerk's office. Such sums shall be entered upon the City Treasurer-Collector's books and shall be invested under the direction of the Commissioner of Trust Funds in such manner as shall show the name of the person from whom, and the lot or lots,


grave or graves on account of which the same was received. Such lot or lots, grave or graves shall be in condition acceptable to the Board of Managers of Public Cemeteries before such donation shall be deposited. The Treasurer-Collector shall keep a separate account of each deposit thus made and collect the income thereof and credit the same on each account. Upon receipt of money for the endowment of a lot or lots, grave or graves, the City Treasurer-Collector shall make receipts in duplicate showing the name or names of the person or persons making the deposit, the date of the same, and designating the location and ownership of the lot or lots, grave or graves to be endowed, one copy of which is to be given to the person or persons making the deposit and one copy to the Clerk of the Board of Managers of Public Cemeteries. It shall be the duty of the Board of Managers to apply the income of all investments made under the provisions of this section for the care and preservation of each particular lot or grave for which a deposit has been made and so invested. [Amended 2-21-1989 by Ord. No. 122]

§ 15-21 Clean Energy Advisory Committee.
[Amended 4-9-2008 by Ord. No. 61]

A. Establishment; composition; term of office; vacancies. There is hereby established a Clean Energy Advisory Committee consisting of seven members, three of whom shall be appointed by the Mayor and four of whom shall be appointed by the City Council. The Clean Energy Advisory Committee shall also consist of three ex officio advisors having no voting authority and shall include the Director of Engineering, Commissioner of Public Services, Public Works, or ~~the Director's his/her~~ designee, the Director of Building and Grounds or ~~the Director's his/her~~ designee and the Inspector of Wires or ~~the Inspector's his/her~~ designee. Each of the appointees preferably shall have demonstrated interest in the field of clean energy. All appointments shall be for a term not to exceed three years. All appointments shall be subject to review by the City Council.

B. Authority and responsibilities.

(1) The Clean Energy Advisory Committee shall act in an advisory capacity to the Mayor, City Council, and other interested departments, boards, commissions or committees and to the ~~residents citizens~~ of Beverly relative to any and all matters concerning the conservation of energy. It shall facilitate the adoption of renewable energy sources and practices.

 ~~A majority of the appointed members presently named and serving on the Committee shall constitute a quorum, and nNo meeting shall be continued without a quorum present. A majority of the members presently named and serving on the Committee shall be necessary for the approval or disapproval of any recommendation.~~

(3) The Committee shall adopt rules and regulations for keeping accurate minutes of its meetings.

(4) The Committee shall appear before the City Council in the months of March and October and present a verbal written annual report.

(5) The Clean Energy Advisory Committee's functions shall include, but are not limited to, the following:

(a) Assist in developing a comprehensive City energy policy for current and future use.

(b) Identify funding sources and resources that could be used to implement energy programs designed to conserve energy.

(c) Facilitate the adoption of energy conservation in public buildings, vehicles and equipment.

(d) Research and provide information regarding municipal strategies related to energy efficiency and sustainable development.

- (e) Educate the public in matters of clean energy.

§ 15-22 Community Preservation Committee.

[Added 6-19-2013 by Ord. No. 51]

- A. Establishment. There is hereby established a Community Preservation Committee, in accordance with Chapter 267 of the Acts of 2000, the Massachusetts Community Preservation Act, MGL c. 44B, § 1 et seq., as amended, which shall consist of nine members.
- B. Membership, appointing authority and terms.
 - (1) The composition of the Committee, the appointment authority and term of office for the Committee members shall be as follows:
 - (a) One member of the Historic Districts Commission, acting as the Historic Commission, as designated by the Commission, for an initial term of three years and thereafter for a term of three years.
 - (b) One member of the Conservation Commission as designated by the Commission, for an initial term of two years and thereafter for a term of three years.
 - (c) One member of the Planning Board as designated by the Board, for an initial term of one year and thereafter for a term of three years.
 - (d) One member of the Parks and Recreation Commission as designated by the Commission, for an initial term of three years and thereafter for a term of three years.
 - (e) One member of the Housing Authority as designated by the Authority, for an initial term of two years and thereafter for a term of three years.
 - (f) One member of the Open Space and Recreation Committee as designated by the Committee, for an initial term of year and thereafter for a term of three years. **[Amended 6-18-2014 by Ord. No. 126]**
 - (g) Three at-large members being residents of the City not currently holding elected office, as appointed by the City Council:
 - [1] One member to be appointed for an initial term of three years, and thereafter for a term of three years.
 - [2] One member to be appointed for an initial term of two years, and thereafter for a term of three years.
 - [3] One member to be appointed for an initial term of one year, and thereafter for a term of three years.
 - (2) The at-large seats shall be open to any resident, and members may include ~~those citizens~~ who have expertise or demonstrated interest in open space, recreation, historic preservation, affordable housing, municipal finance or fiscal accounting practices. Preference will be given to applicants who are not currently members of any of the six boards, commissions and committees listed in Subsection **B(1)(a)** through **(f)**, inclusive. **[Amended 6-18-2014 by Ord. No. 126]**
 - (3) If possible, Committee membership as a whole should be drawn from all wards.
 - (4) The commission, board or committee that has appointment authority under this section shall appoint such representative(s) within 45 days of the effective date of this section. The City Council shall also appoint its representatives within 45 days of the effective date of this section.
 - (5) Any vacancy on the Community Preservation Committee shall be filled by the commission, board or committee that designated the member who creates the vacancy by designating another member in

accordance with the above for the unexpired term, and within 45 days of the date of vacancy.

- (6) The City Council shall also fill any vacancy in its appointments by designating another member in accordance with the above for the unexpired term, and within 45 days of the date of vacancy.
- (7) Should the City Council fail to make an appointment authorized by Subsection **B(4)** or **(6)** above, the Mayor shall fill the position within an additional 45 days.
- (8) Should any of the commissions, boards or committees that have appointment authority under this section no longer be in existence for whatever reason, the appointment authority for that commission, board or committee shall become the responsibility of the City Council.
- (9) All Committee members shall serve on the Committee without compensation.
- (10) Vacancies shall be publicly posted.

C. Duties.

- (1) The Community Preservation Committee shall study the needs, possibilities, and resources of the City regarding community preservation, including the consideration of regional projects for community preservation, and shall develop and publish community preservation guidelines within six months of the Committee's first meeting. Development of the guidelines shall include a public hearing.
 - (a) The Committee shall consult with the public in addition to existing municipal boards, including the City Council, the Conservation Commission, the Historic Districts Commission, the Planning Board, the Open Space and Recreation Committee, the Parks and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies.
 - (b) The Committee shall annually hold at least one public informational hearing (and may hold more than one such meeting in a given year) on the needs, possibilities and resources of the City regarding community preservation, 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 and posted electronically on the City's website. The Committee may, after proper appropriation, incur expenses as permitted by state law using funds from the Community Preservation Fund to pay such expenses.
- (2) The Community Preservation Committee shall make recommendations to the City Council for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created with community preservation funds. 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. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.
- (3) The Community Preservation Committee may include in its recommendation(s) to the City Council 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, or to set aside for later spending funds for general purposes that are consistent with community preservation.
 - (a) The Community Preservation Committee may recommend the issuance of general obligation bonds or notes, in accordance with the provisions of MGL c. 44B, § 11, in anticipation of revenues to be raised pursuant to MGL c. 44B, § 3, the proceeds of which shall be deposited in the Community Preservation

Fund.

- (b) In every fiscal year, the Committee shall recommend that the City Council either spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of the following: open space (not including land for recreational use); historic resources; and community housing.

D. Quorum requirements and cost estimates.

- (1) The Community Preservation Committee shall not meet or conduct business without the presence of a quorum and shall keep a written record of its proceedings. A majority of the members of the Community Preservation Committee shall constitute a quorum.
- (2) When making a recommendation(s) to the City Council, the Community Preservation Committee shall provide the Council with estimates of cost for each recommendation.

E. Rules and regulations.

- (1) 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 subcommittee(s) as it deems appropriate.
- (2) A Committee member may serve as Chairperson for two consecutive years, after which the committee member

~~she or he~~ shall not be eligible to be nominated for the same position for a third year. However, the Committee may waive this provision by a two-thirds vote.

- (3) The Committee shall clearly define and make public its application requirements and evaluation procedures.
- (4) By majority vote of the members of the Committee, the Committee may adopt and promulgate rules and regulations for the conduct of its business on any matter within the Committee's jurisdiction under the Massachusetts Constitution, Massachusetts General or Special Laws, the Code of Massachusetts Regulations (CMR), ordinance, or other legal right or authority granted to or conferred upon the Committee.
- (5) The proposed rule or regulation shall be submitted to all Committee members at least 48 hours prior to any vote to adopt the same; provided, however, the Committee may make such amendments to the proposed rules or regulations as it deems appropriate at the meeting.
- (6) Upon approval of any rule or regulation by the Committee, a copy of the same shall be filed with the City Clerk and publicly posted and become effective as of the date of filing thereof unless the specific vote of the Committee establishes a later effective date.
- (7) To enhance communication, minutes of each meeting shall be sent to the City Clerk for distribution to the City Council and shall be publicly posted.

F. Amendments to the Community Preservation Committee Ordinance. The Community Preservation Committee shall from time to time review the administration of this section and make recommendations as needed for changes to this section and in administrative practice to improve the operations of the Community Preservation Committee. This section may be amended from time to time by the City Council, provided that the amendments do not conflict with MGL Chapter 44B.

G. Community Preservation Act surcharge. Applications for exemption from the Community Preservation

Act surcharge must be filed with the Board of Assessors three months after actual (not preliminary) tax bills are mailed for the fiscal year in the year in which the exemption is sought. [Added 6-18-2014 by Ord. No. 126]

§ 15-23 Conservation Commission.

- A. Composition. There shall be a Conservation Commission consisting of seven members.
- B. Authority and responsibilities. The purpose of the Conservation Commission is to protect, promote and enhance the quantity and quality of the natural resources within the City, especially wetlands, wildlife and water resources, through planning, acquisition, land management, regulation, scientific research and public education. The Commission may conduct research into its local land areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes.
- C. The Conservation Commission may receive gifts, bequests or devises of personal property or interests in real property in the name of the City, subject to approval of the Mayor. The Commission may receive monetary gifts for development of a Conservation Fund, and expend the same, subject to the General Laws and the approval of the Mayor.
- D. The Conservation Commission is responsible for the implementation and enforcement of the provisions of MGL c. 131, §§ 40 and 40A, in protecting floodplains, sea coasts and other wetlands within the City, in accordance with the General Laws and Chapter 287, Wetlands Protection, of the City Code, and it shall have the powers, duties and responsibilities given to Conservation Commissions by MGL c. 40, § 8C.
- E. The Conservation Commission is responsible, with the Open Space and Recreation Committee, for the development and adoption of the City's Open Space and Recreation Plan, subject to City Council approval. The Commission may adopt policies and promulgate land management plans for properties of the City granted to or reserved for conservation purposes.

§ 15-24 Contributory Retirement Board.

- A. Composition. There shall be a Contributory Retirement Board which shall consist of five members. The City Auditor or other officer having similar powers and duties ~~Director of Municipal Finance~~ shall serve, ex officio, as a member of the Board, one member shall be appointed by the Mayor, which in may be a City employee, two members shall be elected by the members in or retired from service of such system from among their number, and the fifth member, who shall not be an employee or retiree or official of the City of Beverly, shall be chosen by the other members. The terms of all members shall be for three years. [Note: See MGL c. 32, § 20(4)(b).]
- B. Authority and responsibilities. The Contributory Retirement Board shall have the powers and duties provided in Subdivision (5) of MGL c. 32, § 20, and shall be responsible for the management of the retirement system for the City of Beverly, subject to the requirements of General Laws Chapter 32 and to the oversight of the Commissioner of Public Employee Retirement as provided in MGL c. 32, § 21, and otherwise.

§ 15-25 Cultural Council.

- A. Composition. There shall be a Cultural Council, to consist of 11 members. Members shall have demonstrated scholarship or creativity in, or distinguished service to, the arts, humanities, or interpretive sciences.
- B. Authority and responsibilities. The Cultural Council decides the distribution of arts lottery funds or other funds that may be available to it, and may also conduct other activities to promote and encourage the arts, humanities, or interpretive sciences. The Cultural Council operates pursuant to the provisions of MGL c. 10, § 58, as amended.

§ 15-26 David S. Lynch Public Parks Fund, Trustees of.

- A. David S. Lynch Public Parks Fund. The legacy bequeathed to the City by the late David S. Lynch shall be known as the "David S. Lynch Public Parks Fund."
- B. Composition; appointments; terms; compensation; officers; vacancies. The David S. Lynch Public Parks Fund shall be administered by a board of seven trustees, serving without compensation, one of whom shall be the Director of Engineering, Commissioner of Public Services, Public Works, of the City by virtue of ~~the Director's~~ office ~~his-office~~, and one member of the Beverly Improvement Society to be chosen annually by the Mayor from a list of three members submitted by ~~him to~~ that body. The other five members shall be appointed by the Mayor, subject to confirmation by the City Council, the original appointment being one member to serve until the first day of October, 1959, and one member to serve until the first day of October in each succeeding year up to 1963; thereafter, all such appointments shall be for terms of five years. Vacancies may, in like manner, be filled for the unexpired term. ~~The Trustees shall annually elect one of their members to act as Chairman.~~
- C. Authority and responsibilities. The Board of Trustees of the David S. Lynch Public Parks Fund shall have the power to expend from the income of such fund and, in addition thereto, \$50,000 from the principal for capital improvements only, the remainder to be left intact and only the interest to be used, and in accordance with the terms of the will of David S. Lynch, such sums of money as are voted from time to time by a two-thirds majority vote of the entire board, subject to approval by the Mayor and City Council. The Board of Trustees of the David S. Lynch Public Parks Fund shall keep a record of its doings and at the close of each municipal year shall make a report thereof to the Mayor and City Council. The Commissioners of Trust Funds of the City shall have the custody of, and invest and distribute in accordance with the lawful vote of the Board of Trustees of the David S. Lynch Public Parks Fund, the income and \$50,000 of the principal of the David S. Lynch Public Parks Fund.

§ 15-27 Design Review Board.

- A. Composition. The Mayor shall appoint, subject to confirmation by the City Council, a Design Review Board to consist of seven members: one member shall be a representative from the Department of Planning and Development ~~planning staff~~, one member from the Planning Board, one member from the Board of Appeals, but not an ~~alternate associate~~-member, one member from the Historic Districts Commission, and the remaining three members shall include, if possible, one architect, one architect or landscape architect or graphic designer and one business or property owner from the City. The members appointed by the Mayor shall serve for terms of three years, such that the term of one member expires each year. Vacancies shall be filled by appointment by the Mayor and confirmation by the City Council for the unexpired term.
- B. Authority and responsibilities.
- (1) Purpose. The Design Review Board shall review items for which building permits are sought and all proposals before the City Council, Board of Appeals, or Planning Board when such permits or proposals concern projects involving new construction or additions amounting to a twenty-five-percent or greater expansion of existing structures as set forth in Chapter 300, Zoning, of the City Code in the Central Business (CC), Neighborhood Commercial (CN), General Commercial (CG), Restricted Industrial (IR), General Industrial (IG), and Waterfront District (WD) zones.
- (2) Additionally, the Design Review Board will review all projects which involve Industrial Development Finance Authority loans, and those projects involving special permits and zoning variances in the CC, CN, CG, IR, IG, and WD Zones at the request of the Director of Municipal Inspections, Director of Planning and Development, Planning Board, Councilors, or Mayor. The Design Review Board shall review any new construction or rehabilitation projects as described in Chapter 300, Zoning, in any commercial, industrial, or WD zoning district.

- (3) The Design Review Board shall also review all signs requiring a sign permit from the Director of Municipal Inspections. The recommendations of the Design Review Board will be made in order to help guide physical changes, so that the changes shall carry out the design objectives of the Waterfront Revitalization Phase II Report (pp. 4, 5, and 6) of the Harbor Management Authority as may be amended from time to time, the building treatment recommendations of the Downtown Revitalization Plan (pp. 103-124), and the general guidelines of the Beverly Sign Ordinance.
- (4) The Design Review Board shall review any other projects referenced in Chapter 300, Zoning, § 300-22, of the City Code.
- C. Recommendation procedure. The Design Review Board shall, in cases where the Planning Board, Zoning Board of Appeals, or City Council is involved, formally notify such multiple-member body of a recommendation at least 14 days before a decision (vote or other action) is to be made. A representative from the Department of Planning and Development ~~planning staff~~ may, in appropriate cases, act as spokesman for the Design Review Board and forward such recommendation to the appropriate board. In cases of building improvements or sign proposals under the Design Review Board's jurisdiction where no Planning Board or ~~Zoning~~ Board of Appeals action is necessary, a representative from the Planning Department of Planning and Development shall formally notify the Director of Municipal Inspections of a recommendation before the applicant in question may obtain the necessary permits. In such cases, the Director of Municipal Inspections shall be notified of a Design Review Board recommendation within 14 days of building permit application and shall deny the building permit unless the Design Review Board approves.

§ 15-28 Disabilities, Commission on.
[Amended 11-21-1988 by Ord. No. 431]

- A. Composition. There is hereby established a Commission on Disabilities to consist of seven members, all of whom shall be residents of the Commonwealth of Massachusetts-City, the majority of whom shall be people with disabilities, one such member shall be a member of immediate family of a person with a disability, and one such member shall be a City employee in the Department of Municipal Inspections, and one such member may shall be the Director of Diversity, Equity, Inclusion and Belonging or their Mayor's designee. Section 15-8(B)(1) shall not apply as it pertains to the requirement that the member be a resident or registered voter.
- B. Authority and responsibilities. The Commission on Disabilities shall act in an advisory and consulting capacity to the Mayor, City Council, City departments and other interested organizations, relative to any and all matters concerning physically and mentally handicapped individuals. Except as otherwise provided in the Charter or by ordinance, it shall have the powers, duties and responsibilities given to a Commission on Disabilities by MGL c. 40, § 8J.

§ 15-29 Economic and Community Development Council.
[Amended 12-6-1993 by Ord. No. 548; 2-9-2005 by Ord. No. 12; 10-6-2014 by Ord. No. 177]

- A. Composition. There is hereby established an Economic and Community Development Council to consist of 17 members. The members shall be appointed as follows:
 - (1) Ex officio (to serve by virtue of their office): the Director of Engineering, Commissioner of Public Services, Public Works (or designee), the Director of Planning and Development (or designee), and the Economic Development Planner.
 - (2) Appointed by the Mayor and coterminous with the Mayor: a member at large with industrial experience, a member at large with financial investment experience, a member at large with publishing and media experience, a member at large with arts, culture or entertainment experience, a member at large with hospitality experience, a member at large with high technology or life science experience, a member at

large with higher education experience, a member at large with health-care experience, a member at large with housing development experience, and three members from the community, and a representative of the Chamber of Commerce.

- (3) The City Council shall elect, by a majority vote, a member from its own number.
- B. Authority and responsibilities. The mission of the Economic and Community Development Council (ECDC) is to enhance the City's economic infrastructure by facilitating investments that build capacity, create jobs, generate economic opportunity and ultimately improve quality of life. The Council shall advise the Mayor in the development of an economic development and community development policy for the City of Beverly and in the creation and implementation of strategic planning initiatives that will effectuate said policy. In order to ensure the City's economic development goals are achieved, the ECDC will advise the Mayor on the development and implementation of specific economic development programs, support development projects aligned with City goals and objectives, advocate for changes to regulations and procedures, and develop methods to attract and retain business.
- C. Staff. The Director of Planning and Development shall provide staff assistance to the Economic and Community Development Council, as requested by that body.

§ 15-30 Emergency Management Department.

- A. Establishment, composition. There is hereby established an Emergency Management Department comprised of six members. Such department shall consist of the Director of Emergency Management, a representative of the Board of Health, a representative of the American Red Cross, a representative of the Beverly Hospital, a physician, and a registered nurse (with either medical or rescue experience).
- B. Authority and responsibilities. The Emergency Management Department has the duty to oversee the City's emergency management services program and to make continuous recommendations to the Mayor and the City Council.

**§ 15-31 Emergency Planning Committee.
[Amended 10-3-1988 by Ord. No. 259]**

- A. Establishment. There is hereby established an Emergency Planning Committee. Such Committee shall serve without pay and shall consist of the Director of Civil Defense, such other department heads and such other persons as the authority appointing the Director may deem necessary. Such member of the Committee as the appointing authority shall designate shall serve as Chairman of the Committee. The Committee shall be responsible for establishing and maintaining an emergency operations plan for the City.
- B. Emergency operations plan.
 - (1) The emergency operations plan will include, but not be limited to: hazardous materials, hurricanes, floods, earthquakes, tornadoes and other potential incidents that threaten the City.
 - (2) The emergency operations plan will include, but not be limited to:
 - (a) A description of problems which are likely to occur, including locations and technical data related to those problems and locations.
 - (b) A description of manpower and equipment which will be required to deal with those problems, the locations, telephone numbers, etc., and a complete resources file on officials of other governmental, military and volunteer organizations.
 - (c) The designation, for each emergency individuality, of a command center and operations chief, whose

authority will only be subject to the Mayor.

- (d) Separate, written general operations for each department.
- C. Termination. This section shall remain in force during the effective period of Chapter 639 of the Acts of 1950 and any act in amendment or continuation thereof or substitution therefor.
- D. References to state law. All references to Chapter 639 of the Acts of 1950, as now in force, shall be applicable to any act or acts in amendment or continuation of or substitution for Chapter 639 of the Acts of 1950.

§ 15-32 Financial Forecasting Committee.

See Chapter 26, Elective Offices, § 26-18.

§ 15-33 Harbor Management Authority.

- A. Composition. There is hereby established in the City of Beverly a Harbor Management Authority which shall consist of 11 persons, nine of whom shall be appointed by the Mayor subject to confirmation by the City Council and two of whom shall be members of the City Council appointed by majority vote of said Council.
- B. Authority and responsibilities. The Authority is hereby authorized and empowered:
 - (1) To review and comment on all proposed waterfront development projects within the Waterfront District zoning district.
 - (2) To implement a comprehensive master plan for Beverly Harbor, to be called the "Beverly Harbor Management Plan."
 - (3) To work with the Harbormaster in enforcing the rules and regulations of the Beverly Harbor.
 - (4) To research, publicize and assist in the complementation of rules and regulations of the Department of Environmental Protection promulgated under the provisions of Chapter 91 of the General Laws and the licensing procedures of the Army Corps of Engineers.
 - (5) To provide for the orderly placement or arrangement of existing and future moorings in the harbor in cooperation with the Harbormaster.
 - (6) To act as liaison between the City of Beverly and the Army Corps of Engineers, Division of Wetlands and Waterways of the Department of Environmental Protection, and the Massachusetts Office of Coastal Zone Management; to work directly with the Army Corps of Engineers in determining the future of the federal channel project.
 - (7) To review and make recommendations on proposed zoning changes for land bordering the Beverly Harbor.
 - (8) To meet at least once a month.
 - (9) To apply for, receive, and administer grants or subsidized funding from any state and federal agency, and to utilize all accepted financial policies to raise revenues for the planning, construction, or financing of any project on the harbor or for the hiring of staff or office and support materials.
 - (10) To prepare an annual budget.
 - (11) To expend, without further appropriation, within the limit of its budget moneys received from licensing or permit fees and leasing activities.

(12) To administer the operation of the public pier facility and all future public facilities on the Beverly Harbor.

C. Geographic jurisdiction. The geographic jurisdiction of the Harbor Management Authority is as follows:

(1) All areas of the tidal zones, not land areas, but only the tidal zones known as "Trust lands" by the Department of Environmental Protection, in that part of the City zoned Waterfront District; and all other tidal zones where moorings or piers exist.

(2) The federal channel, within Beverly Harbor, as determined by the Army Corps of Engineers.

(3) All current and future mooring areas within the oceanic boundaries, shown on United States Geographic Survey maps, of the City of Beverly.

D. Review by City Council; minutes. The City Council may revoke any and all acts of the Authority by a two-thirds vote taken within 30 days of such act. The Authority shall transmit to the Clerk of the City Council the minutes of each meeting within seven days.

§ 15-34 Hazardous Waste Oversight Committee.

A. Composition.

(1) There shall be a Hazardous Waste Oversight Committee to consist of three members. The membership shall include one chemist, one attorney, and one member of the general public, knowledgeable in hazardous substances.

(2) The Mayor shall designate the Fire Chief or the Public Health Officer to be the municipal coordinator as set forth in MGL Chapter 111F, Hazardous Substances Disclosure by Employers.

B. Authority and responsibilities.

(1) The Hazardous Waste Oversight Committee shall act in an advisory and technical consulting capacity to the Mayor, City Council, Board of Health, Fire Department and other interested City departments, boards, committees or commissions and to the ~~residents~~ ~~citizens~~ of the City, relative to any and all matters concerning hazardous or toxic substances and the use or disposal thereof, and the ultimate effect such chemical constituents shall have upon the environment of the City.

(2) The Committee shall address itself to the following matters dealing with hazardous or toxic substances:

(a) Implement the state Right to Know Law, MGL Chapter 111F.

(b) Employer MSDS reporting.

(c) Answer ~~resident~~ ~~citizen~~ "right to know" inquiries.

(d) Establish committee hazardous waste and toxic substances policy.

(e) Oversee work performed by environmental consultants retained to implement Chapter 111F.

(f) Review monthly bills for services rendered.

(g) General supervision and guidance provided for environmental consultants.

(h) Establish monthly mechanism of reviewing ~~resident~~ ~~citizen~~ inquiries.

(i) Technical review of specific environmental issues.

- (j) Review anticipated changes of Chapter 111F.
- (k) Oversee, with technical support and guidance, all issues dealing with hazardous waste and toxic substances within the City.
- (l) Work as the technical oversight committee with the Board of Health on issues dealing with hazardous waste and toxic substances.
- (m) Be a resource committee for the City to review and make advisory recommendations to the Mayor and City Council relative to hazardous waste incidents within the community.
- (n) Be a technical resource committee for the Fire Department when it is involved with hazardous waste or toxic substance incidents.


§ 15-35 Health, Board of.

- A. Composition. There shall be a Board of Health consisting of three persons. One member of the Board of Health shall be a physician.
- B. Authority and responsibilities. Except as otherwise provided in the Charter or by ordinance, the Board of Health shall have and may exercise all of the powers, duties and responsibilities given to local health authorities by General Laws Chapter 111 and by all applicable provisions of the Code of Massachusetts Regulations. It may make all regulations which it may deem necessary in regard to the removal and abatement of filth, rubbish, nuisances and causes of disease.
- C. Records. A full record shall be kept of all votes and acts of the Board of Health, which record may be examined at any time by the Mayor or by any committee of the City Council.

§ 15-36 Historic Districts Commission.

- A. Establishment; powers and duties; composition.
 - (1) In accordance with the Historic Districts Act, MGL Chapter 40C, as amended, there is hereby established the Beverly Historic Districts Commission, which shall have all powers and duties of an historic district commission under the General Laws.
 - (2) All members and alternate members of the Commission shall be appointed by the Mayor, subject to confirmation by the City Council. The Commission shall consist of not less than five members nor more than seven members and up to three alternate members, including one member, where possible, from two nominees submitted by the Beverly Historical Society; one member, where possible, from two nominees, one of whom shall be submitted by the Massachusetts Chapter of the American Institute of Architects and one of whom shall be submitted by the Boston Society of Landscape Architects; and one member, where possible, from two nominees submitted by the Greater Salem Board of Realtors. The Commission shall include one or more residents of or owners of property in an historic district to be administered by the Commission.
 - (3) When the Commission is first established, two members shall be appointed for a term of one year, two shall be appointed for a term of two years, and three shall be appointed for a term of three years and their successors shall be appointed in like manner for terms of three years. When the Commission is first established, one alternate member shall be appointed in like manner for a term of one year, one alternate member shall be appointed for a term of two years and one alternate member for a term of three years and their successors shall be appointed in like manner for terms of three years. All vacancies shall be filled in like manner for the unexpired terms.
 - (4) All members of the Commission shall serve without compensation.

- (5) The Commission shall elect annually a Chairman and Vice Chairman from its own number and a Secretary from within or without its number.
- B. Meetings; quorum; time for action. Meetings of the Historic Districts Commission shall be held at the call of the Chairman and shall be called at the request of two members of the Commission and in such other manner as the Commission shall determine in its rules. A majority of the members of the Commission shall constitute a quorum. When taking action under the provisions of the fourth paragraph of Section 11 of the Historic District Act (MGL c. 40C, § 11), the Commission shall make its determination within 60 days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.
- C. Authority and responsibilities. Except as otherwise provided by the Charter or by ordinance, the Historic Districts Commission shall have and may exercise all powers and duties of an historic district commission as provided in General Laws Chapter 40C.
- D. Adoption of rules and regulations; employment of technical personnel. The Historic Districts Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provision of the Historic Districts Act, MGL Chapter 40C, as amended. The Historic Districts Commission may, subject to appropriation, and with the consent of the Mayor, employ clerical and technical assistants and consultants and incur other expenses appropriate to carrying on its work, and may accept money gifts and expend the same for such purposes.
- E. Exclusions from Commission review. The following categories of buildings or structures or exterior architectural features may be constructed or altered within an historic district without review by the Commission:
- (1) Temporary structures or signs; subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify.
 - (2) Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them, provided that any such structure is substantially at grade level. This is not to be construed as to include parking lots.
 - (3) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennas, and similar appurtenances, or any one or more of them.
 - (4) Colors for use on buildings and roofs.
 - (5) Signs of not more than one square foot in area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and, if illuminated, is illuminated only indirectly; and one sign in connection with the nonresidential use of each building or structure which is not more than 12 square feet in area, consists of letters painted on wood without symbol or trademark and, if illuminated, is illuminated only indirectly; or either of them.
 - (6) The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

§ 1  7 Human Rights Committee.
[Added 10-19-2015 by Ord. No. 453]

- A. Establishment; composition.
- (1) There is hereby established a Human Rights Committee. This Committee shall consist of 11 members,

with at least three members who have demonstrated knowledge and/or experience with addressing matters of human and civil rights. The Committee shall also include one member from the City administration and one member from the School Department. Members of the Committee serve without compensation and shall be appointed by the Mayor, subject to confirmation by the City Council, for a term of three years and a maximum term limit of six consecutive years. The members first appointed shall have staggered terms. The initial appointments of fewer than three years, for purposes of staggering the terms, shall not count towards the six-consecutive-year term limit.

- (2) ~~The members of the Committee shall be~~The membership shall ~~citizens of Beverly and shall, so far as practical,~~ be so selected as to provide broad representation from the fields of advocacy, business, education, labor, law, law enforcement, public health and religion. Members may be removed in accordance with the provisions of the City Charter. Section 15-8(B)(1) shall not apply as it relates to the registered voter requirement.
- B. Purpose. The Committee shall actively seek to enhance equal justice, inclusivity, and human rights for all members of our community.
- (1) The Committee serves as a resource to the City of Beverly and the public. The Committee may provide education and support on human rights, diversity, and inclusivity, with the goal of raising awareness and sensitivity to matters of human and civil rights.
- (2) The Committee may provide the public with contact to agents of the Massachusetts Commission Against Discrimination or other appropriate federal, state, and local agencies.
- (3) The Committee shall meet a minimum of four times each year.
- (4) The Committee may conduct ongoing campaigns and host free public events each year to facilitate public education on diversity, discrimination and inclusive community building as relevant to Beverly.
- (5) The Committee shall not operate as an adjudicatory body.

§ 15-38 Industrial Development Finance Authority.

- A. Composition. There shall be an Industrial Development Finance Authority consisting of five members as provided in MGL Chapter 40D. The members of the Industrial Development Finance Authority shall be appointed by the Mayor for terms of three years each. At least one director shall be experienced in financial matters, one in real estate matters, and one in municipal government.
- B. Authority and responsibilities. The Industrial Development Finance Authority is responsible for coordinating and approving industrial development projects for financing by means of tax-exempt industrial development finance bonds. The Industrial Development Finance Authority acts pursuant to the provisions of General Laws Chapter 40D. The City, acting by and through its Authority, and the Mayor, is authorized and empowered to borrow money in furtherance of the purposes of General Laws Chapter 40D, and to evidence the same by the issuance of bonds.

§ 15-39 Library Trustees, Board of.

- A. Composition. The custody, management and control of the public library and reading rooms, and all property of the City relating thereto, subject to the provisions of the Charter relating to trust funds, shall be vested in a board of trustees consisting of nine persons, residents of the City, who shall serve without compensation.
- B. Appointment; terms. The Mayor shall appoint annually in January, subject to the confirmation of the City Council, three Trustees, whose terms of office shall be for three years, but who shall, however, continue to serve thereafter until their successors are appointed and confirmed.

- C. Chairman; Secretary. The Board of Trustees shall organize annually immediately after the qualification of the Trustees newly appointed by the choice of a Chairman and Secretary from its own number, and shall from time to time prescribe regulations for the government of the library.
- D. Authority and responsibilities.
 - (1) Appropriations and donations. All money appropriated by the City Council for the support and maintenance of the library, and all money or property that the City or library may receive by donation from any source or by devise or bequest on behalf of the library, shall be expended under the direction of the Board of Library Trustees for its support and maintenance, in accordance with the conditions of each donation, devise or bequest accepted by the City.
 - (2) Report to City Council. The Board of Library Trustees shall, annually, make a written report to the Mayor of its doings for the preceding year, and shall include therein a statement of all of the property of the City in its care and custody, and of all devises, bequests and donations which have been made to or are being held by the City in behalf of the library, together with such recommendations as may be deemed proper.
- E. Employee vacations. Notwithstanding the provisions of any other ordinance to the contrary, the Board of Trustees is empowered to determine the vacation period of its employees.

§ 15-40 Licensing Board.

- A. Composition. The Mayor shall appoint three persons to serve as a licensing authority for the City pursuant to the provisions of MGL c. 138, § 4, and MGL c. 140, § 1. The members of the Licensing Board shall be persons who have been resident in the City for at least two years prior to the date of their appointment, and who are not engaged, directly or indirectly, in the manufacture or sale of alcoholic beverages. One member shall be appointed from each of the two leading political parties and the third member may also be appointed from one of said political parties. The terms of office of members shall be three years.
- B. Authority and responsibilities. The Licensing Board may grant licenses relating to alcoholic beverages under Chapter 138 of the General Laws and those licenses under Chapter 140 of the General Laws which are not, by the provisions of said chapter, placed within the jurisdiction of another municipal officer or agency, and shall have all the powers and duties of a licensing authority under said chapters. The Licensing Board is an advisory and regulatory committee of the City.

§ 15-41 Open Space and Recreation Committee.
[Amended 4-21-1999 by Ord. No. 41]

- A. Establishment; composition; term of office; vacancies. There is hereby established the Beverly Open Space and Recreation Committee consisting of 12 members, six of whom shall be appointed by the Mayor and six of whom shall be appointed by the City Council. Of the six members appointed by the Mayor, two will be at-large, one shall be a member of the Conservation Commission, one shall be a member of the Planning Board, one shall be a member of the Parks and Recreation Commission, and one shall be a member of the Beverly Harbor Management Authority. If a member of a particular board is not available, the Mayor shall appoint a person with similar expertise. The Mayor shall assign an employee of the Planning Department to the Committee as resource person and liaison to City government. Of the six members appointed by the City Council, one shall reside in Ward I, one shall reside in Ward II, one shall reside in Ward III, one shall reside in Ward IV, one shall reside in Ward V, and one shall reside in Ward VI, and they shall be nominated by their respective Ward Councilor. All members shall be residents of the City and shall not be in the employ of the City of Beverly. Each of the Council appointees shall have a demonstrated interest in preserving open space/recreation. All appointments shall be for three-year terms. All appointments shall be subject to review by the City Council. Vacancies shall be filled by the appropriate appointing authority for the remainder of the

unexpired term. The appointing authority may remove a member for failure to fulfill the duties and responsibilities of the office. The Committee shall organize, annually, by electing a Chairperson, Vice-Chairperson and Recording Secretary from its membership. [Amended 2-16-2016 by Ord. No. 013]

B. Authority and responsibilities.

- (1) The Open Space and Recreation Committee shall act as an advisory committee to the Mayor, City Council, City departments, private organizations and the general public on matters concerning open space and recreation and shall have no budgetary powers.



~~A majority of the appointed members presently named and serving on the Committee shall constitute a quorum, and no meeting shall be continued without a quorum present. A majority of the members presently named and serving on the Committee shall be necessary for the approval or disapproval of any matter.~~

- (3) Upon its formation, a mission statement shall be formulated and reviewed from time to time as the Committee shall deem proper.
- (4) The Committee shall adopt rules and regulations for keeping accurate minutes and the conduct of its proceedings.
- (5) The Committee shall appear before the City Council in the month of October and present an annual report. [Amended 10-16-2017 by Ord. No. 496]
- (6) The Committee's functions shall include, but are not limited to, the following:
 - (a) Prepare and from time to time update a five-year open space and recreation plan for current and future use.
 - (b) Prepare a continuing inventory of open space in the City.
 - (c) Research and recommend financing alternatives for acquisition and preservation of open space and the development of recreational facilities, including the impact on the City budget.
 - (d) Set criteria for prioritizing open space acquisition, recreational facility development, and redevelopment for current and future use.
 - (e) Explore creative strategies to preserve open space.
 - (f) Recommend any changes in state and local laws to facilitate acquisition and preservation of open space.
 - (g) The Open Space and Recreation Committee will structure ad-hoc committees, as needed, to address specific objectives of the Committee, and shall recruit, as needed, members to serve in a nonvoting advisory capacity.

§ 15-42 Parking and Traffic Commission.

- A. Composition. The Parking and Traffic Commission shall consist of nine members to be appointed as follows: the Chief of Police or ~~the Chief's designee~~ ~~their his or her designee~~, the Chief of the Fire Department or ~~the Fire Chief's~~ ~~their his or her~~ designee, the Planning Director or ~~the Planning Director's~~ ~~their his or her~~ designee, the Commissioner Public Services and Engineering or ~~the Commissioner's~~ ~~their his or her~~ designee, a representative from the Beverly Chamber of Commerce, two residents appointed by the Mayor and two residents appointed by the City Council. The Mayoral and Council appointees shall include, if possible, a traffic engineer, transportation engineer/planner, or parking and traffic consultant. The terms of all members shall be for three years, so arranged that the representatives of the Police and Fire Departments shall expire in one year, the representatives of the Planning

Department and the Beverly Chamber of Commerce shall expire in another year, and the representative of the Mayor's office and the ~~residents~~ ~~citizens~~-appointed by the City Council shall expire in a third year. Vacancies shall be filled by the appropriate entity for the balance of the then-unexpired term. **[Amended 3-20-2017 by Ord. No. 328]**

- B. Authority and responsibilities. **[Amended 3-10-2005; by Ord. No. 44; 11-23-2007 by Ord. No. 224]**
- (1) The Parking and Traffic Commission is established to control and regulate the present municipal lots, both owned and rented by the City (which control and regulation is subject to the approval of the Mayor and City Council), and to monitor and make recommendations regarding traffic flow and patterns within the City of Beverly.
 - (2) The Parking and Traffic Commission shall have the power to direct funds from parking meter receipts into directional signage and parking lot repairs, maintenance and beautification, subject to the recommendation of the Mayor and the approval of the City Council.
 - (3) The Parking and Traffic Commission shall study and make surveys and recommendations to the Mayor, City Council, and municipal boards and commissions pertaining to the development of new parking areas, the impact of new development on traffic patterns, and rules and regulations pertaining to parking and traffic, including loading zones, etc.

§ 15-43 Parks and Recreation Commission.

- A. Established; appointment of members; compensation. There is hereby established a Parks and Recreation Commission. This Commission shall consist of nine members, serving without compensation, who shall be appointed by the Mayor, subject to confirmation by the City Council. **[Amended 3-25-1998 by Ord. No. 91]**
- B. Composition; terms; vacancies. The Parks and Recreation Commission shall consist of four members who have a background in recreation, two members who have a background in maintenance of parks and playgrounds, and three members at large. The members first appointed shall serve staggered terms, and their successors shall be appointed for terms of four years each. **[Amended 3-25-1998 by Ord. No. 91]**
- C. Organization; rules and regulations for conduct of public parks and recreation. ~~Immediately after their appointment, the members of the Parks and Recreation Commission shall meet and organize by electing from their membership one Chairman and such other officers as may be necessary.~~ The Commission shall have the power to adopt bylaws, rules and regulations for the proper conduct of public recreation, parks and playgrounds, subject to such changes as the Mayor and City Council may from time to time adopt.
- D. Powers and duties.
- (1) The Parks and Recreation Commission shall provide, conduct and supervise activities at public playgrounds, playfields, indoor recreation centers and recreation areas and facilities, except Hurd Stadium, which shall be the responsibility of the School Department. It may conduct such activities on property under its own control, on public properties with the consent of the authorities thereof, and on private properties with the consent of the owners. It shall have the power to conduct any form of recreation or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner.
 - (2) The Parks and Recreation Commission shall have charge of capital improvement programs of all parks, the Common, beaches and playgrounds, including Cooney Field but excepting Hurd Stadium, which shall be the responsibility of the School Department.

- (3) The Parks and Recreation Commission shall have the care, control and charge of all parks, playgrounds and public domain, including the Common and Soldiers' Monuments lot, except Hurd Stadium, which shall be the responsibility of the School Department. The Commission may furthermore, subject to appropriations and orders first made by the City Council, take land within the City limits in fee or otherwise by gift, purchase, or by right of eminent domain, or by lease, and maintain the same as a public playground. All proceedings in reference to such taking of land for parks or playgrounds, and with reference to damages connected with the same, shall be in accordance with the provisions of law.
- E. Administrator and other personnel. The Parks and Recreation Commission shall have the power to appoint or designate someone to act as Administrator of Parks and Recreation who shall be trained and properly qualified for the work, and such other personnel as the Commission deems proper. The Administrator shall be a resident or shall become a resident within one year.
- F. Submission of annual budget. The Parks and Recreation Commission shall annually submit a budget to the Mayor and City Council for their approval.
- G. Reports. The Parks and Recreation Commission shall make an annual report on or before the first day of February to the Mayor and the City Council, and shall make such other reports as from time to time may be requested.

§ 15-44 Planning Board.

- A. Composition. There shall be a Planning Board to consist of nine members.
- B. Authority and responsibilities.
 - (1) In general. The duties of the Planning Board shall be such as are stated in MGL c. 41, §§ 70 to 72, and in MGL c. 41, §§ 81A through 81GG. The Planning Board shall also further consider and advise upon municipal improvements either at the request of other officials of the City or upon its own initiative. The Board shall meet at regular intervals. It may also hold public meetings. It shall at times have access to all public documents or information in the possession of any City official or department. It shall examine the plans for the exterior of any public building, monument or similar feature, and for the development and treatment of the grounds about the same before the adoption thereof, and may make such recommendations thereof as it may deem needful. It may make investigations and studies relative to new street and park developments. It may provide for public lectures and other educational work in connection with its recommendations. The Board may incur expenses necessary to carry on its work within the amount of its annual appropriations.
 - (2) Annual reports. The Planning Board shall make a report to the City annually, giving information regarding the conditions of the City and any plans or proposals for the development of the City and estimates of the cost thereof. Such report shall be sent to the Mayor not later than January 15 in each year.
 - (3) Reports of Planning Board required on certain subjects. All plans for laying out, extending, discontinuing or changing the limits of any way, street, public park or square, every purchase of land for the site of any public building, and all plans for the location, erection or alteration of public buildings shall be submitted to the Planning Board for its opinion at least two weeks in advance of action by the Mayor or the City Council.
- C. Appointment; terms. The Mayor shall appoint, subject to confirmation by the City Council, a Planning Board to consist of nine members. Annually, the Mayor shall appoint, as the terms of the present members expire, subject to confirmation by the City Council, three members of the Planning Board, who shall hold office for terms of three years from the time of their appointment.
- D. Vacancies. Vacancies occurring in the Planning Board shall be filled by appointment by the Mayor for

the unexpired term, subject to confirmation by the City Council.

- E. Duties; meetings. The duties of the Planning Board shall be such as are stated in MGL c. 41, §§ 70 to 72, and further to consider and advise upon municipal improvements either at the request of other officials of the City or upon its own initiative. The Board shall meet at regular intervals. It may also hold public meetings. It shall at times have access to all public documents or information in the possession of any City official or department. It shall examine the plans for the exterior of any public building, monument or similar feature, and for the development and treatment of the grounds about the same before the adoption thereof, and may make such recommendations thereof as it may deem needful. It may make investigations and studies relative to new street and park developments. It may provide for public lectures and other educational work in connection with its recommendations. The Board may incur expenses necessary to the carrying on of its work within the amount of its annual appropriations.
- F. Service without compensation. The members of the Planning Board shall serve without compensation.
- G. Report. The Planning Board shall make a report to the City annually, giving information regarding the conditions of the City and any plans or proposals for the development of the City and estimates of the cost thereof. Such report shall be sent to the Mayor not later than January 15 in each year, and a copy thereof shall be filed with the Division of Planning of the Department of Commerce.
- H. Requirement for acceptance of subdivisions. No subdivision shall be accepted by the Planning Board until after approval of the drainage system by the Director of Engineering and the Board of Health.
- I. Earth removal. Chapter 300, Zoning, § 300-21, Removal of sod, loam and gravel, shall apply to all earth removal activities in the City, except those undertaken on public land and except as otherwise limited herein. No permit from the Board of Appeals shall be necessary for the removal of any soil, sod, loam, sand, gravel, or other mineral matter which is to be removed in compliance with the requirements of a residential, commercial or industrial subdivision plan approved by the Planning Board. Excavation of soils is subject to the Sediment Control and Materials Management Ordinance as well as the drainage alteration permit.
- J. Width and grade of streets. No street or way shall be laid out as a public way by the City Council of a width less than 40 feet nor unless the same is in condition for public travel at a grade established by the Director of Engineering, Commissioner of Public Services, Public Works; provided, however, that any street or way in actual use on September 9, 1908, may be laid out as a public way by a vote of 2/3 of all the members of the City Council.
- K. Plans to accompany petitions to lay out ways. Every petition for the laying out of any way shall be accompanied by a suitable plan thereof showing the location of the bound stones.
- L. Conditions prerequisite to acceptance of streets. No street shall be accepted unless the following conditions are complied with:
 - (1) Sewer, water, gas and surface drainage shall be installed in the proposed street and the same then shall be put in an acceptable condition before the acceptance of the proposed street by the City. If, in the opinion of the Director of Engineering, Commissioner of Public Services, Public Works, it is not practicable to install sewer or gas within a reasonable time, then the restriction as to sewer or gas may be waived by the Director.
 - (2) The developer or contractor shall construct five-foot sidewalks of hot top material, and the sidewalks shall be six inches above the gutter line.
 - (3) The contractor or developer shall construct the necessary surface drainage to take care of surface water under the direction of the Director of Engineering, Commissioner of Public Services, Public Works.

- (4) Stone bounds shall be set in accordance with the rules and regulations of subdivision control.

§ 15-45 Registrars of Voters, Board of.

- A. Composition. There shall be a Board of Registrars of Voters consisting of the City Clerk and three other persons. (See MGL Chapter 51.)
- B. Members of the Board of Registrars of Voters shall be appointed by the Mayor for terms of three years each so that they represent the two leading political parties, and in no case shall an appointment be made so as to cause the Board of Registrars of Voters to have more than two members, including the City Clerk, of the same political party. Every such appointment shall be made from a list to be submitted by the City committee of the political party from the members of which the position is to be filled, containing the names of three enrolled members of such party resident in the City, selected by a majority vote at a duly called meeting of such committee.
- C. Authority and responsibilities. The Board of Registrars of Voters hold voter registration sessions, certify the signatures on nomination papers and petitions, hold hearings and decide disputes over signatures on nomination papers, prepare an annual list of registered voters, and perform all other duties as cited in General Laws Chapter 51.

§ 15-46 Stormwater Management Advisory Committee.

[Amended 5-12-2008 by Ord. No. 86]

- A. This section hereby establishes the Beverly Stormwater Management Advisory Committee consisting of eight members made up of representatives from the Engineering Department, Public Services Department, Municipal Inspections Department, Conservation Commission, Planning Department, Board of Health, Parks and Recreation Department and a ~~resident citizen~~ representative. The Mayor shall appoint such members to the Committee. **[Amended 2-16-2016 by Ord. No. 013]**
- B. The Stormwater Management Advisory Committee shall advise the Director of Engineering in establishing and evaluating rules and regulations to further clarify and implement Chapter 249, Stormwater Management, of the City Code as well as coordinating activities and monitoring progress of the City's stormwater management plan. Additionally, a Stormwater Coordinator, as appointed by the Mayor, shall assist in coordinating the Committee's activities and the City's stormwater program.

§ 15-47 Trust Funds, Commissioners of.

- A. Composition. There shall be a Board of Commissioners of Trust Funds consisting of three members.
- B. Authority and responsibilities. The Board of Commissioners of Trust Funds shall, so far as is consistent with the purposes of any trust, manage and control all trust funds which are the property of the City and may from time to time invest and reinvest the same and shall distribute the income from such trusts in accordance with the terms of each such trust. Except as may otherwise be provided by City ordinance, the Board of Commissioners of Trust Funds shall have all of the other powers, duties and responsibilities imposed upon trust fund commissioners by General Laws and otherwise.
- C. It is the policy of the City of Beverly that trust fund management be consistent with the legal requirements, including City ordinances, and spirit of each respective trust document and, to the maximum extent possible, realize the purposes the trusts were intended to achieve.
- D. Trust fund management will be conducted with the primary objectives of:
- (1) Conformance to each trust document's specified purpose, legal requirements, and administrative guidelines.
 - (2) Adherence to the City of Beverly general ordinance providing for the administration of city trusts.


- (3) Preservation of capital.
- (4) Maintenance of security of trust funds and investments.

§ 15-48 Veterans Advisory Committee.
[Amended 1-3-2017 by Ord. No. 280]

A. Establishment; composition. There is hereby established a Veterans Advisory Committee. This Committee shall consist of 13 total members serving without compensation, who shall be appointed by the Mayor, subject to confirmation by the City Council, for a term of three years. Initial appointments of members shall be for staggered terms. At least a majority of the total members shall at all times be veterans. The Director of Veterans' Services shall serve, by virtue of office, as a member of the Committee. The Veterans' Graves Officer appointed by the Mayor according to § 58-45 shall also serve as a member of the Committee. Members may be removed in accordance with the provisions of the City Charter. ~~Notwithstanding § 15-8, the Mayor may appoint, subject to confirmation by a two-thirds vote of the City Council, members who are not residents of the City of Beverly.~~ Full-time municipal employees are eligible to be appointed to the Veterans Advisory Committee. **[Amended 6-5-2017 by Ord. No. 401]**

B. Authority and responsibilities.

(1) The Veterans Advisory Committee shall act in an advisory capacity to the Mayor, City Council, and other interested departments, boards, commissions or committees and to the ~~residents~~ citizens of Beverly relative to any and all matters concerning military veterans.

 ~~A majority of the appointed members presently named and serving on the Committee shall constitute a quorum. A majority of the members presently named and serving on the Committee shall be necessary for the approval or disapproval of any recommendation.~~

(3) ~~The Committee shall, at its first meeting, vote to elect a Chair, Vice Chair and Secretary of the Committee.~~ The Committee shall adopt rules and regulations for keeping accurate minutes of its meetings.

(4) The Committee's functions shall include, but are not limited to, the following:

- (a) The Committee shall serve as a resource to the City of Beverly and the public. The Committee may provide education and support to help raise awareness on veteran-related matters.
- (b) The Committee shall provide the public with contacts to agents of federal, state and local agencies that provide services to veterans and their families.
- (c) The Committee shall assist The City of Beverly's Director of Veterans' Services in coordinating annual and ad hoc veteran-related community events, such as parades, remembrances or other such events.
- (d) The Committee shall provide continuing oversight of the condition of each of the several veterans memorials of the City and shall from time to time, not less frequently than annually, file a report with the Director of Veterans' Services with recommendations as to any needed repairs, upkeep, maintenance and improvements to such memorials as in its judgment may be necessary or advisable. Whenever the Committee believes an expenditure of funds in excess of ordinary maintenance is required to be made, it shall submit its report containing such recommendation in time to be considered as part of the capital improvement plan.

§ 15-49 Youth Activities Commission.

A. Composition. There is hereby established a Youth Activities Commission to consist of seven members,

one of whom shall be a member of the Parks and Recreation Commission. Section 15-8(B)(2) shall not apply.

B. Authority and responsibilities.

- (1) The Youth Activities Commission shall establish and carry on, and encourage others to establish and carry on, programs and activities designed to aid and improve the welfare of youth in the City. For such purposes, the Commission may conduct its activities on property under its control, on other public property under the control of other officers or boards, with the consent of such officers or boards, or on private property, with the consent of the owners; provided, however, that the Mayor and City Council approve the use of any such property. The Commission shall submit a quarterly progress report to the Mayor and City Council.
- (2) The Youth Activities Commission shall keep a record of its doings and at the close of each municipal year shall make a report thereof to the Mayor and City Council of its accounts and proceedings, and of the condition of any buildings under its control, and an account of its receipts for the calendar year. All receipts collected by the Commission shall be paid to the City Treasurer weekly, to be deposited in the general fund. The Commission shall cooperate and coordinate its functions with any federal, state, municipal and private agencies concerned with any of the foregoing.
- (3) Director and other employees. The Youth Activities Commission shall, subject to the consent of the Mayor, appoint such full-time and part-time assistants as the Commission, with the consent of the Mayor, determines is in the best interest of the work of the Youth Activities Commission, but such other employees shall only be paid by the Commission from its own earned receipts accounts unless otherwise specifically provided for at any other times.

Article III

Additional Multiple-Member Bodies

§ 15-50 List of committees and commissions.

~~A. Beautification Committee.~~

B. Comprehensive Rezoning Committee: see website.

C. Financial Resources Committee: see website.

~~D. Homecoming Committee: see website.~~

E. Ordinance Review Committee: see website; see standing committee, Public Services.

~~F. Trash and Recycling Committee: see website.~~

G. Wenham Lake Advisory Committee: see website.

Chapter 26 Elective Offices

[HISTORY: Adopted by the City Council of the City of Beverly as Art. II of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Agencies — See Ch. 7.

Boards, commissions, councils, committees and authorities — See Ch. 15.

Officers and employees — See Ch. 58.

School Committee — See Ch. 72.

Article I
General Provisions

§ 26-1 Enumeration of elective offices.

The offices to be filled by the voters shall be a Mayor, a City Council, a School Committee and such other representatives to regional authorities, districts, or committees as may be established by law or interlocal agreement.

§ 26-2 Eligibility for elective office.

Any voter shall be eligible to hold any elective City office, but no person shall simultaneously hold more than one elective City office.

§ 26-3 Preliminary and regular elections.

A preliminary election is held for the nomination of candidates on the sixth Tuesday preceding every regular City election. The regular City election is held on the first Tuesday following the first Monday in November of each odd-numbered year.

§ 26-4 Terms of office.

The terms of office of all elective City officers shall be two years beginning on the first Monday in January following the election and continuing until their successors are qualified.

Article II
City Council

§ 26-5 Composition, term and authority.

There shall be nine members of the Beverly City Council, one Councilor elected from each ward into which the City is divided and three Council members elected at large. The Beverly City Council shall exercise all of the legislative powers of the City. The term of office for all City Councilors shall be for two years each, beginning on the first Monday of January in the year following their election, and until their successors have been qualified.

§ 26-6 Eligibility; vacancies.

Any voter shall be eligible to hold the office of Councillor-at-Large. A Ward Councillor shall at the time of election be a voter of the ward from which elected; provided, however, if any Ward Councilor shall move his or her principal residence during the first 18 months of the term of office to another ward in the City, such office shall be deemed vacant and the balance of the unexpired term shall be filled in the manner provided in Section 2-11 of the Home Rule Charter. If such move occurs after the first 18 months of the term of office, such Councillor may continue to serve for the balance of the term for which elected. If a Councillor-at-Large or a Ward Councillor moves from the City during the term for which elected, such office shall immediately be deemed vacant and filled in the manner provided in Section 2-11 of the Charter.

§ 26-7 Organization.

A. Council President.

- (1) After the oath of office has been administered to the City Councillors present, as provided in Section 8-11 of the Charter, the Councillors shall organize, with the member elected at large receiving the highest number of votes at the preceding biennial City election as President, as provided in Charter Section 2-2. The President shall be sworn by the City Clerk or, in the case of the absence of the City Clerk, by any person qualified to take oaths or affirmations.
 - (2) The Council President shall preside at all meetings of the City Council, regulate its proceedings, and shall decide all questions of order. The Council President shall appoint all members of all committees of the City Council, whether special or standing. The Council President shall have the same powers to vote upon all measures coming before the City Council as any other member of the City Council. The Council President shall perform such other duties consistent with the office as may be provided by Charter, by ordinance or by other vote of the City Council.
- B. Council Vice President. As soon as practicable after the Councillors-elect have been qualified, the members shall elect from among their members a Vice President who shall act as President during the absence or disability of the Council President. The powers of an Acting Council President shall be limited to only those powers which are indispensably essential to perform the duties of Acting Council President during the absence or disability of the Council President.

§ 26-8 General powers and duties.

Except as otherwise provided by law or by the Charter, all powers of the City of Beverly shall be vested in the City Council, which shall provide for their exercise and for the performance of all duties and obligations imposed on the City by law.

§ 26-9 Filling of vacancies.

If a vacancy in the office of City Councillor occurs, it shall be filled in the manner provided in Section 2-11 of the Home Rule Charter.

§ 26-10 Exercise of powers.

Except as otherwise provided by the laws of the Commonwealth or the Charter, the legislative powers of the City Council may be exercised in a manner determined by the City Council.

§ 26-11 Ordinances, orders and resolves.

A. Ordinances.

- (1) Style of enactment. The enacting style of ordinances shall be "Be it ordained by the City Council of the City of Beverly, as follows."
- (2) Recording. All ordinances shall be recorded by the City Clerk in the order in which they are passed to be ordained, in a book which shall be kept in the office of the City Clerk, subject to public inspection.

B. Orders and resolves. Whenever the City Council expresses anything by way of command, the form of expression shall be "Ordered"; and when such Council expresses opinions, principles, facts or purposes, the form shall be "Resolved."

§ 26-12 Standing committees.

- A. Established. There shall be three standing committees of the City Council: a Standing Committee on Finance and Property, a Standing Committee on Public Services; and a Standing Committee on Legal Affairs and Ordinances.
- B. Appointment of members. Each of the three committees enumerated in Subsection A shall consist of three members of the City Council who shall be appointed by the President of the City Council to serve during the term for which elected. Each member of the City Council shall be appointed to one of the

committees so established. In the event of the prolonged inability of any one member to attend meetings of a standing committee, the President of the City Council may appoint an alternate member to serve on the committee until the regular member can attend such meetings.

- C. Assignment of matters to standing committees. The President shall refer all new business, communications, petitions and orders to the standing committees as follows:
- (1) The Committee on Finance and Property shall review:
 - (a) Budget review and transfers, policy oversight and review, capital improvement planning, and other matters relating to the Department of Municipal Finance, the purchasing function, the Human Resources Department, and management information systems.
 - (b) Matters relating to trust funds, appropriations, transfers of funds, authorization to spend funds, loans, options, pensions, salaries, audits, taxes, revaluation, users' fees, betterment assessments, contracts, acceptance of grants, overall operating budget review, utility petitions and other matters affecting the finances of the City.
 - (c) Every measure involving but not limited to an appropriation, grant, salary, pension, loan, the levying of a tax, user charges, the assessment of a betterment, the sale or lease of City property, an option or contract, or any expenditure of money, unless the subject matter has already been acted on by the Committee on Finance and Property, which shall be referred to the Committee on Finance and Property before it is presented to the full Council, whose duty it shall be to report on its relation to the finances of the City, but no new provisions shall be added to such measure by said Committee unless directly connected with a financial feature of the measure as drafted. Any measure, upon recommendation of another committee having jurisdiction of the same, may be considered by the Committee on Finance and Property in advance of the presentation thereof to the Council.
 - (d) All budget transfers or appropriations shall, ordinarily, be referred only to the Finance and Property Committee; provided, however, if the Chairperson of the Committee on Public Service or the Chairperson of the Committee on Legal Affairs requests that the item be jointly referred, by notification to the Clerk's office, such requests shall be honored.
 - (e) Policy oversight and other matters related to the Economic and Community Development Council, the Community Development Block Grant Program, and the Building and Other Facilities, Planning and Construction Committee.
 - (2) The Committee on Public Services shall:
 - (a) Have policy oversight and review, capital improvement programming, and other matters relating to the Human Resources Department, the Department of Community Services, including the public library, the Recreation Department, Veterans Services, the Board of Health, cemetery management and operations, the Beverly public schools, and the Beverly Housing Authority.
 - (b) Have policy oversight and review of the Library Board of Trustees, Parks and Recreation Commission, Board of Registrars of Voters, Beverly Youth Activities Commission, Council on Aging, Cultural Council, Commission on Disabilities, Airport Commission, Beverly Golf and Tennis Club, Harbor Management Authority and other boards or commissions related to public services.
 - (c) Review matters relating to the inter-relationship of the School Committee, Beverly public schools, and other areas of City government; intergovernmental relations; maintenance of public grounds; housing services; elder services; children's services and services for persons with special needs.
 - (d) Have policy oversight and review and other matters relating to the Fire Department, Police Department,

and emergency management and utility petitions.

- (e) Have policy oversight and review and other matters related to the Department of Public Services, including the Water and Sewer Division; Engineering Department; Hazardous Waste Oversight Committee; Design Review Board.
- (f) Matters relating to street acceptance, layout, relocation and discontinuance of public ways.
- (3) The Committee on Legal Affairs shall:
 - (a) Review and make recommendations regarding all claims and legal settlements referred to the Council by the City Solicitor.
 - (b) Have ongoing oversight and review of all ordinances in the City, recommending changes as appropriate and drafting new ordinances and amendments as necessary.
 - (c) Review matters relating to the legal status of items previously passed by another committee.
 - (d) Have policy oversight and review of the City Clerk, Clerk of the Council, Clerk of Committees and Rules of the Council.
 - (e) Review matters relating to zone change petitions; sign permits; lodging house and dormitory licenses; licensing of automobile dealers; licensing of taxis, and all other licenses except those under the jurisdiction of the Licensing Board.
 - (f) Have policy oversight and review of the Department of Planning and Development, Planning Board, Zoning Board of Appeals, Historic Districts Commission, Conservation Commission, Law Department, and Licensing Board.
 - (g) Review matters relating to the Zoning Map, comprehensive planning, open space planning and maintenance of conservation land, ward and precinct boundaries.
 - (h) Review oversight of the ordinance review committees and the Charter review committees as established by Charter, and matters relating to Home Rule Charter petitions.

§ 26-13 Investigations, reports and expenditures by standing committees.

The three standing committees of the City Council shall investigate and report to the City Council on all matters within their respective jurisdictions which shall be referred to them by the City Council. They may have charge of the expenditure of special appropriations when so ordered by the City Council.

§ 26-14 Salary and expenses of Council members.

- (a) As of January 1, 2024, the annual salary for each member of the City Council shall be \$14,000. The annual salary for the President of the City Council shall be \$15,000.
- (b) On or before October 31st of the first year of a two-year term, the City Council shall meet for the purpose of reviewing the salaries of City Councilors.

**Article III
Annual Budget Review**

§ 26-15 Procedure.

- A. The Committee on Finance and Property shall, upon receiving the proposed budget for the ensuing fiscal year from the Mayor, cause a notice to be published in a local newspaper stating the date, time and place, not less than seven days nor more than 14 days following such publication, at which it will hold a public hearing on the proposed budget as submitted by the Mayor.

- B. The Committee on Finance and Property shall in open public sessions consider the recommendations of the Mayor. The Committee may require the Mayor, or any City officer or City employee, to appear before it to provide such information as the Committee may deem needed in its review of the proposed budget.
- C. The Committee on Finance and Property shall submit its recommendations to the City Council in a form which provides the full Council with all relevant information on which to base its action on the appropriations to be made for the ensuing fiscal year.

§ 26-16 Power to inspect books and require financial information.

The Committee on Finance and Property shall have the power to call upon any agency of the City government to submit for inspection by it the agency's books and vouchers, and to furnish any information pertaining to the financial conduct of the departments. The Budget/Management Analyst employed by the City Council shall have the same power and authority.

§ 26-17 Audit of accounts.

- A. ~~The Committee on Finance and Property shall, at the close of each financial year, be responsible for the selection of a certified public accountant or firm of such accountants to perform the audit required by Charter Section 6-9. The Committee shall supervise the work of such accountant, or accountants, and shall provide for public dissemination of the report filed by the accountant or firm of accountants. The Mayor shall annually provide in the City budget the sum of money as may be required to fund this audit. The sum necessary shall be determined by majority vote of the City Council.~~
- B. From time to time throughout the year, as often as it shall deem it expedient, the Committee shall examine and audit the accounts of the Department of Municipal Finance; and for that purpose shall have access to all books and vouchers in possession of this department. The Committee shall not only compare such accounts with the vouchers therefor, but shall also ascertain by actual proof, as shown by the books, whether all moneys due the City have been collected and accounted for; the Committee shall also examine all notes and securities in the City Treasurer's hands, or in the hands of the Board of Commissioners of Trust Funds belonging to the City, and make report thereof to the City Council. ~~All departments or officers charged with the collection or disbursement of money shall keep their books and accounts in such manner as shall be approved by the Standing Committee on Finance and Property.~~ The Committee may authorize the Budget/Management Analyst to perform this function for it.

§ 26-18 Financial Forecasting Committee.

[Amended 10-8-2008 by Ord. No. 171]

- A. Establishment and composition. There is hereby established a Financial Forecasting Committee. Such Committee shall be composed of nine members: two members of the City Council and a resident citizen, appointed by the City Council President; two ward School Committee members and a resident citizen, appointed by the School Committee President; and a resident citizen, who shall not be an elected official, appointed by the Mayor; the Finance Director, and the School Department Business Manager. The City Council Budget/Management Analyst shall be appointed as an ex-officio member. **[Amended 3-6-2013 by Ord. No. 21]**
- B. Term of appointment; vacancies. Each member shall serve for a term of two years, or until a successor is appointed. The term of each Committee member who is an elected official shall terminate on December 31 of each successive odd-numbered year. The term of each Committee member appointed as a resident citizen-representative shall terminate on December 31 of each successive even-numbered year. In the event of a vacancy during a member's term, a successor shall be selected in the same manner as the departing member for the remainder of the unexpired term. **[Amended 4-16-2019 by Order No. 327]**

C. Authority and responsibilities.

- (1) The Committee shall consider financial goals and objectives, conduct long-range financial planning, evaluate the City budget process, explore ways to acquire revenue, and advise City officials on these matters. Each official and employee of the City shall cooperate with the Committee in the discharge of its duties.
- (2) By the end of each calendar year, the Committee shall file a report of its activities, projections, conclusions and recommendations with the City Clerk, the School Committee, the City Council and the Mayor.

Chapter 33

Funds

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

Article I

Affordable Housing Trust Fund

[Adopted 2-6-2017 by Ord. No. 301]

§ 33-1 Established.

The Beverly Affordable Housing Trust Fund is hereby established.

§ 33-2 Purpose.

The Trustees of the Beverly Affordable Housing Trust Fund shall administer an Affordable Housing Trust Fund to provide for the creation and preservation of affordable housing within the City of Beverly for the benefit of low- to moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of MGL c. 44B.

§ 33-3 Board of Trustees.

- A. **Composition.** The Beverly Affordable Housing Trust Fund shall have a Board of Trustees composed of five (5) Trustees. The Mayor ~~and the Finance Director~~ shall serve as ~~one of the~~ Trustees.
- B. **Appointment of Trustees; terms, vacancies.** The Mayor shall appoint Trustees annually in January, subject to confirmation by the City Council. The Trustees first appointed shall have staggered terms, with two (2) of the appointed Trustees initially serving a one-year term, and the remaining two (2) serving a two-year term. Thereafter, all appointments and reappointments, with the exception of the Mayor's term, shall be for a period of two (2) years. If a vacancy shall occur among the Trustees, it shall be filled in the same manner as the original appointment for the unexpired term.
- C. **Service without compensation.** The Trustees shall serve without compensation.
- D. **Removal.** Trustees may be removed by the Mayor, subject to the provisions of Section 3-4 of the Beverly City Charter.
- E. **Authority and Responsibilities.**
 - (1) The specific authority and responsibilities of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in MGL c. 44, § 55C, and in this article, are as follows:

- (a) To accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants or funds or other property tendered to the trust in connection with provisions of any zoning ordinance or bylaw or any other ordinance or bylaw;
- (b) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (c) To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the Board deems advisable, notwithstanding the length of any such lease or contract;
- (d) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the trust;
- (e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
- (f) To fund grant positions for municipal employees through specified grants established by the trust, whose positions are in furtherance of the purposes set forth in MGL c. 44, § 55C, and in this article;
- (g) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
- (h) To apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (i) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (j) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- (k) To carry property for accounting purposes other than acquisition date values;
- (l) To borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;
- (m) To make distributions or divisions of principal in kind;
- (n) To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor of or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this article, to continue to hold the same for such period of time as the Board may deem appropriate;
- (o) To manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;

- (p) To hold all or part of the trust property uninvested for such purposes and for such time as the Board may deem appropriate;
- (q) To extend the time for payment of any obligation to the trust; and
- (r) To create guidelines and principles for the Trustees as to strategies for the investment and expenditure of trust funds.
- (2) The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the City Council.

§ 33-4 Limitations.

- A. The conveyance of any real property § 33-3E(a), (b), or (c) above, shall require the approval of the Mayor and the City Council.
- B. Any debt incurred by the trust shall not constitute a pledge of the full faith and credit of the City of Beverly, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the City of Beverly, with an acknowledgement of said statement by the holder.

§ 33-5 Meetings.

The trust shall meet at regular intervals.

§ 33-6 Report.

The Trustees shall keep a record of their doings and make a report thereof to the City annually. The report shall include a description and source of funds received and expended and the type of affordable housing programs or properties assisted with the funding. Such report shall be sent to the Mayor not later than January 15 in each year, and a copy thereof shall be filed with the Department of Planning and Community Development. The books and records of the trust shall also be audited annually by an independent auditor in accordance with accepted accounting practice. The audit of the trust may be done by the City's auditors. The Trustees shall also provide the City Council with a copy of the trust's annual audit.

§ 33-7 Funding.

Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or bylaw or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property, and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the trust, remain trust property.

§ 33-8 Legal Status.

- A. The trust is a public employer and the members of the Board are public employees for purposes of Chapter 258 of the Massachusetts General Laws.
- B. The trust shall be deemed a municipal agency and the Trustees shall be deemed as special municipal employees for purposes of Chapter 268A of the Massachusetts General Laws.
- C. The trust is exempt from Chapters 59 and 62 of the Massachusetts General Laws, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.
- D. The trust is a governmental body for purposes of Sections 23A, 23B and 23C of Chapter 39 of the Massachusetts General Laws.

- E. The trust is a Board of the city for purposes of Massachusetts General Law Chapter 30B and MGL c. 40, § 15A; but agreements and conveyances between the trust and agencies, Boards, commissions, authorities, departments and public instrumentalities of the City or town shall be exempt from said Chapter 30B of the Massachusetts General Laws.

Chapter 58

Officers and Employees

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Agencies — See Ch. 7.

Boards, commissions, councils, committees and authorities — See Ch. 15.

Elective offices — See Ch. 26.

Personnel — See Ch. 69.

Article I

City Council Appointments

[Adopted as Art. III of the Code of Ordinances]

§ 58-1 Budget/Management Analyst.

- A. Establishment. There shall be a City Council Budget/Management Analyst as provided in Beverly Home Rule Charter Section 2-8(a).
- B. Appointment; term of office. The Budget/Management Analyst shall be elected by the members of the City Council to serve for a term of three years.
- C. Authority and responsibilities. The Budget/Management Analyst shall from time to time throughout the year examine, or cause to be examined, the books and accounts of all City agencies which are entrusted with the receipt, custody or expenditure of money, including original bills on which money has been paid from the City treasury, the documentation submitted by the agency requesting payment of any such bills supporting such payment, the warrants for the payments of bills and the canceled checks on file in the office of the City Treasurer. The Budget/Management Analyst shall at least once in every year verify, or cause to be verified, the cash balance of each such City agency by the actual count of the cash on hand and by reconciliation of bank balances.
- (1) The Budget/Management Analyst shall keep the City Council President fully informed as to the results of this activity and, not less frequently than quarterly, shall make a detailed report summarizing the results of this overview to the City Council Standing Committee on Finance and Property. All reports to the full City Council shall be made through the City Council Standing Committee on Finance and Property. **[Amended 2-16-2016 by Ord. No. 013]**
- (2) The Budget/Management Analyst shall review each request which is made to the City Council by the Mayor, as provided in Beverly Home Rule Charter Section 6-7, for the transfer of funds or for a supplementary appropriation, and shall make a report to the City Council Standing Committee on Finance and Property, including a recommendation as to the action to be taken by the City Council,

before the City Council acts on the matter. [Amended 2-16-2016 by Ord. No. 013]

- (3) When the proposed capital improvement program is submitted to the City Council by the Mayor, as required by Beverly Home Rule Charter Section 6-8, the Budget/Management Analyst shall review the proposed capital improvement program and shall, before the same is submitted to the City Council for any action, make a report, including specific recommendations for actions to be taken by the City Council concerning the capital improvement program as seem necessary, desirable or expedient.
- (4) When the proposed annual operating budget is submitted to the City Council by the Mayor, as provided in Beverly Home Rule Charter Section 6-3, the Budget/Management Analyst shall review the proposed annual operating budget and shall, before the proposed operating budget is submitted to the City Council for any action, make a report, including recommendations of specific actions to be taken by the City Council concerning the annual operating budget and any part or parts thereof as seem necessary, desirable or expedient.
- (5) The Budget/Management Analyst shall perform such other duties as may from time to time be assigned to such office by the City Council.

§ 58-2 City Clerk.

- A. Establishment. There shall be a City Clerk as provided in Section 2-8(b) of the Charter.
- B. Appointment; term of office. The City Clerk shall be elected by the City Council for a term not to exceed two years.
- C. Authority and responsibilities.
 - (1) In general. The City Clerk shall perform all the duties which are now or may hereafter be required of the office by the laws of the Commonwealth, the Charter or ordinances of the City, and shall have the care and custody of the City Seal and all City contracts.
 - (2) Notification of election or appointment. The City Clerk shall notify all individuals of their election or appointment to any City agency, immediately after they shall have been chosen, by written notices left at their respective places of residence.
 - (3) Furnishing attested copies of orders or votes. The City Clerk shall serve as Clerk of the City Council. When any vote or order is passed by the City Council referring any matter of business to a committee, or authorizing the performance of any special duty by such committee, the City Clerk shall forthwith transmit to the clerk of such committee or the Clerk of Committees an attested copy of such vote or order. ~~The City Clerk~~He shall also furnish to the Director of Municipal Finance attested copies of all orders which relate to the financial business of the City or have reference in any way to finance, appropriation, bonds and accounts.
 - (4) Furnishing copies of legal process to City Solicitor. The City Clerk, immediately upon the service ~~upon him~~ of any legal process in which the City may be interested, shall furnish the City Solicitor with a copy thereof, or an abstract of so much thereof as will enable the City Solicitor to reasonably protect the interests of the City.
 - (5) Publication of notice of meetings in newspaper. It shall be the duty of the City Clerk to cause notices of all committee meetings and of all general meetings of the City Council to be published in one or more newspapers in the City at least 48 weekday hours before any such meeting is to be held.
 - (6) Bond. The City Clerk shall give bond, with sufficient sureties, to be approved in writing by the Mayor, for the faithful performance of ~~City Clerk's~~his duties.

- (7) Assistant City Clerk. The Office of Assistant City Clerk is hereby established. The Assistant City Clerk shall be appointed by the City Clerk and shall assist in the performance of the duties of the office. The Assistant City Clerk shall discharge the duties of the City Clerk when that officer is absent or unable to act, and also when there is a vacancy in the Office of City Clerk. In the absence of the City Clerk, the Assistant City Clerk may act as Clerk of the City Council.
- D. Compensation of City Clerk, Clerk of Committees, and Assistant City Clerk. **[Added 6-6-2022 by Ord. No. 128]**
- (1) The City Council shall be solely responsible for setting the compensation of the City Clerk, Clerk of Committees, and the Assistant City Clerk.
 - (2) The City Council, on or before March 31 of each year, shall conduct an employee evaluation of the City Clerk and Clerk of Committees, which evaluation shall consider benchmarks and goals set by the City Council, as well as overall accomplishments, responsibilities, and job performance. The City Council may, by majority vote, delegate the responsibility of these evaluations to one or more Councilors, subject to the open meeting laws. The City Clerk shall do an annual employee evaluation of the Assistant City Clerk by March 31 of each year, taking into consideration the same criteria.
 - (3) Any salary increase for the City Clerk and/or Clerk of Committees shall be based upon the City Council's evaluation of said employees. Any salary increase for the Assistant City Clerk shall be based on the annual evaluation of the Assistant City Clerk by the City Clerk.
 - (4) The City Clerk shall annually include in their requested departmental operating budget an amount as directed by the City Council to fund merit increases for the ensuing fiscal year for the City Clerk, Clerk of Committees, and Assistant Clerk. Such amount shall take into consideration the annual evaluation of the City Clerk, Clerk of Committees, and Assistant City Clerk, as well as any proposed annual increases for management and nonunion employees.

§ 58-3 Clerk of the Council.

The City Council shall elect a Clerk of the Council in accordance with Charter Section 2-8(c).

§ 58-4 Clerk of Committees.

- A. Establishment. There shall be a Clerk of City Council Committees known as the Clerk of Committees.
- B. Appointment; term of office. The Clerk of ~~City Council~~ Committees shall be elected by the members of the City Council for a term not to exceed three years.
- C. Authority and responsibilities; compensation. The Clerk of ~~City Council~~ Committees shall act as clerk of all committees composed in whole or in part of members of the City Council, and shall receive such compensation as the City Council may from time to time determine.
- D. The Clerk of ~~City Council~~ Committees shall record in books kept for the purpose all proceedings and transactions of the committees of the City Council, and keep a calendar of all meetings of such committees, and shall perform such other duties as shall be required of such Clerk, from time to time, by such committees.

**Article II
Mayor**

[Adopted as Art. V of the Code of Ordinances]

§ 58-5 Election; authority.

Pursuant to Charter Section 3-1, a Mayor shall be elected for a term of two years by and from the voters at

large and shall be the chief executive and administrative officer of the City government.

§ 58-6 Powers and duties.

The following are the powers and duties of the Mayor, subject to Section 3 of the City Charter; and nothing herein shall be deemed to amend or alter Section 3 of the City Charter.

- A. Annual report. The Mayor, within six weeks following the start of each fiscal year, shall, as provided in Charter Section 3-6(a), prepare and present to the Council an annual report of the City's affairs, including a summary of reports of department heads, and such other reports as the Council shall require.
- B. Budget report. The Mayor shall, in the manner provided in Sections 6-3, 6-4 and 6-5 of the Charter, assemble estimates of the financial needs and resources of the City for each ensuing year, and shall prepare a proposed operating budget within the financial power of the City, embodying it in a budget document with proper supporting schedules and analyses.
- C. The executive powers of the City shall be vested solely in the Mayor, and may be exercised by the Mayor either personally or through the several City agencies under the general supervision and control of the Office of the Mayor. The Mayor shall cause the Charter, the laws, the ordinances and other orders for the government of the City to be enforced, and shall cause a record of all official acts of the executive branch of the City to be kept.
- D. The Mayor shall exercise general supervision and direction over all City agencies, unless otherwise provided by law, by the Charter or by ordinance. Each City agency shall furnish to the Mayor, forthwith upon request, any information, materials or otherwise as the Mayor may request and as the needs of the office and the interest of the City may require.
- E. Appointment to acting capacity. The Mayor may personally perform, or may designate some other officer or employee to perform, the duties of any office or position in the administrative service under the control of the Mayor when the office or position is vacant or lacks administration due to the absence or disability of the incumbent in accordance with the provisions of Section 3-5 of the Charter.
- F. Investigations. The Mayor shall have the power, either personally or by any officer or other person designated for the purpose, to investigate and to examine or inquire into the affairs or operation of any department, division, bureau, or office; and, subject to available funds, shall have power to employ consultants and professional counsel to aid in such investigations, examinations, or inquiries.
- G. Delegate duties. The Mayor shall have the power to direct any department, division or bureau to perform work for any other department, division or bureau.
- H. Coordinate departments. The Mayor shall be responsible for the coordination of the administrative heads of each department of City government and for the review and analysis of the operation and administration of all departments, boards, and commissions.
- I. Reports. The Mayor shall have the power to require all City officers to furnish any information connected with or related to their official or assigned duties. Annually, at the request of the Mayor, all City officers shall provide the Mayor with a comprehensive report analyzing the conditions and operations of the City agency, shall recommend measures, and shall project needs for the ensuing fiscal year.

§ 58-7 Interrelationships; staff.

- A. City Council. The Mayor shall meet with the City Council in a manner convenient for the purpose of discussing those matters within the purview of the City Council.
- B. Other officials. The Mayor shall interact on a regular basis with all of the City agencies.

- C. Chief of staff to the Mayor.
- D. Confidential Secretary to the Mayor.
- E. Clerical and other employees of the Mayor. The Mayor shall employ such persons and in such clerical, secretarial, administrative or other positions as the Mayor may deem necessary or advisable and as are within the total appropriation made for the Office of the Mayor as the Mayor deems to be in the best interest of the City.

**Article III
Mayoral Appointments**

[Adopted as Art. VIII, Secs. 8.01, 8.02, 8.04, 8.06, 8.08, 8.12-8.14, 8.16-8.21, 8.26-8.36, 8.38, 8.40, and 8.42, of the Code of Ordinances]

**§ 58-8 "City officer" designation; limits on compensation.
[Amended 7-16-2001 by Ord. No. 132; 12-29-2005 by Ord. No. 289]**

- A. Designation. The following positions shall be designated "City officers" and shall be appointed by the Mayor (except for the City Clerk who is appointed by the Council), subject to all provisions of the City Charter relating to City officers.
- B. Limit on monetary compensation. City officers will not be entitled to monetary compensation for any hours worked in excess of their normal work week.

§ 58-9 Airport Manager.

- A. Establishment. There shall be an Airport Manager.
- B. Appointment; term of office. The Airport Manager, a person qualified by general management experience and aeronautical knowledge to serve as Airport Manager, shall be appointed by the Mayor for a term not to exceed three years.
- C. Authority and responsibilities. The Airport Manager, under the direction of the Airport Commission, shall be responsible for the proper maintenance and operation of the Beverly Regional Airport and of all facilities relating to the airport. **[Amended 11-2-2015 by Ord. No. 465]**

§ 58-10 Assessor, Chief.

- A. Establishment. There shall be a Chief Assessor.
- B. Appointment; term of office. The Chief Assessor shall be appointed by the Mayor, subject to the review of the City Council as provided in Section 2-10 of the Charter, to serve for a term not to exceed three years.
- C. Authority and responsibilities. The Chief Assessor shall be Chair~~man~~ of the Board of Assessors and shall be responsible for its day-to-day operation. The Chief Assessor shall periodically appraise real and personal property within the City, perform field measurements and inspections of residential and commercial buildings, including new buildings, additions, major alterations, demolition and partial construction, and inspect land affected by map changes, deed transfers, subdivision approvals and modifications; using appropriate appraisal techniques to prepare estimates of market values of property. The Chief Assessor shall be responsible for maintaining all office records of properties. The Chief Assessor shall be responsible for the proper administration of the Office of Assessing and shall assure that all statutory and assigned duties and responsibilities are properly exercised and carried out.

§ 58-11 City Accountant.

- A. Establishment. There shall be a City Accountant who shall be primarily responsible for the functions provided in MGL c. 41, §§ 52, 56, 57 and 58.
 - B. Appointment; term of office. The Mayor shall, subject to the review of the City Council as provided in Section 2-10 of the Charter, appoint a person to perform the duties of City Accountant. The City Accountant shall hold no other City office involving the receipt or disbursement of money.
 - C. Authority and responsibilities. The Mayor and City agencies authorized to spend money shall approve and transmit to the City Accountant all bills, drafts, orders and payrolls chargeable to the respective appropriations of which they have the expenditure. The City Accountant shall examine all such bills, drafts, orders and payrolls and, if found correct, shall draw a warrant upon the treasury for the payment of the same, and the Treasurer shall pay no money from the treasury except upon such warrant prepared by the City Accountant and approved by the Mayor. The City Accountant may disallow and refuse to approve for payment any claim as fraudulent, unlawful or excessive, and in such case the City Accountant shall file with the City Treasurer a written statement of the reasons for such refusal.
- (1) The City Accountant shall keep a complete set of books and the accounts shall be kept, so far as practicable, in conformity with the classifications and forms prescribed by the Director of Accounts in accordance with MGL c. 44, § 43. The City Accountant shall transmit all contracts of the City to the City Clerk.
 - (2) Immediately upon the close of the calendar year, the City Accountant shall compile statements in tabulated form showing the amounts appropriated and the amounts expended from each appropriation during the preceding fiscal year, the amounts appropriated for the current fiscal year and the amounts expended from such appropriations during the first six months of such year, and the amounts estimated to be expended from such appropriations during the second six months of such year, and the estimates for the next ensuing fiscal year, and shall forthwith furnish a copy thereof to the Mayor and to the City Council. The City Accountant shall also make an annual report to be published as a City document.
 - (3) All City agencies authorized by law to expend money shall furnish to the City Accountant and to the Mayor, not less than 10 days before the end of the calendar year, or not less than 90 days prior to the date of the start of the annual City meeting, whichever is later, detailed estimates of the amount necessary for the proper maintenance of the departments under their jurisdiction for the ensuing fiscal year, with explanatory statements, and an estimate of amounts necessary for outlays or permanent improvements.

§ 58-12 City Collector.

- A. Establishment. There shall be a City Collector as provided in Section 5-4(2) of the Charter.
 - B. Appointment; term of office. The Mayor shall, subject to the review of the City Council as provided in Section 2-10 of the Charter, appoint a person to perform the duties of City Collector for a term not to exceed three years.
 - C. Authority and responsibilities.
- (1) Bond. The City Collector shall give bond with a suitable fidelity insurance company as surety. Such bond shall be kept in the custody of the City Treasurer.
 - (2) Account of receipts and payments; statement of receipts and disbursements; information respecting accounts and finance. The City Collector shall keep an accurate and true account of all money and other funds received on behalf of the City and shall, on the first day of each month, furnish the City Accountant and the Budget/Management Analyst employed by the City Council pursuant to Charter Section 2-8(a) with a statement in detail of all collections and other receipts during the preceding month.

The Collector shall render such other services and furnish such other information respecting the accounts, finances and payments as may be required by the City Accountant, City Council Budget/Management Analyst, or by the City Council.

- (3) Annual report to City. The City Collector shall annually render to the Mayor a true account of all receipts and other official doings during the preceding financial year. The City Collector shall account to and including the 30th day of June during each year, and the fiscal year shall end on that day.
 - (4) Duties generally. The City Collector shall perform all duties which are now or may hereafter be required of city collectors by the laws of the commonwealth, by the Charter, or by the ordinances of the City. The City Collector shall collect all taxes, charges and fees, water rents and charges, sewer rents and assessments and all other moneys due the City except as may be otherwise specifically prescribed, and shall pay the same to the City Treasurer not less frequently than weekly.
- D. Duplicate bills. Any head of a department or any officer or board issuing bills to any person for money due to the City shall forthwith deliver to the City Collector a duplicate thereof.
- E. Deputy Collectors.
- (1) The City Collector may appoint one or more Deputy Collectors, one of whom shall serve in the office of the City Collector. All other Deputy Collectors appointed shall serve without salary and shall receive fees for the collection of taxes unless otherwise designated by the Mayor and City Council.
 - (2) The Deputy Collector serving in the office shall receive such salary and give such bond as the Mayor and City Council may from time to time determine.

§ 58-13 City Solicitor.

- A. Establishment. There shall be a City Solicitor who shall serve as the chief legal officer of the City and who shall be the head of the Law Department.
- B. Appointment; term of office. The Law Department shall be headed by a City Solicitor appointed by the Mayor, subject to the review of the Council as provided in Section 2-10 of the Charter, for a term not to exceed three years.
- C. Qualifications. The City Solicitor shall be a person especially fitted by education, training and experience to perform the duties of the office. At the time of appointment, the City Solicitor shall at least be an attorney admitted to practice in all courts of the commonwealth and in the federal district courts, and have at least three years of progressively responsible experience in municipal, public or governmental law, or trial practice experience.
- D. Powers and duties. The City Solicitor shall be responsible for all of the legal affairs of the City and shall have the following specific powers and duties:
- (1) The City Solicitor shall be responsible to the Mayor for the effective operation of the Law Department and all of the law and legal services related functions and activities of the City. The City Solicitor shall, with the approval of the Mayor, appoint and discharge employees within the Law Department. The City Solicitor shall perform personally or shall supervise the provision of all legal services by the Law Department, and shall direct and assign all personnel serving in said Department, whether as an employee or as a consultant.
 - (2) Keep records.
 - (a) Suits: keep a complete record of all suits in which the City had or has an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case, or its condition

if pending, and the briefs of counsel.

- (b) Opinions and titles: keep a complete record of all written opinions furnished by any member of the Law Department.
 - (c) Title to real estate: keep a complete record of all real property acquired by the City, and assure that all deeds and other instruments of title are properly recorded in the Registry of Deeds or Land Court as appropriate.
 - (d) Deliver records to successor: deliver all records, documents and property of every description in ~~his~~ possession ~~or,~~ belonging to ~~the Law Department his office~~ or to the City, to ~~the his~~ successor in office, who shall ~~provide give him~~ duplicate receipts therefor, one of which ~~he~~ shall ~~be~~ filed with the City Clerk.
- (3) Professional assistants. The City Solicitor may appoint, subject to the consent of the Mayor, deputy assistants and such other assistants as in ~~the his~~ judgment ~~of the City Solicitor~~ are needed to carry on the legal business of the City.
- (4) Special counsel. In case of special or unusual circumstances or in any case where the City Solicitor by reason of interest cannot represent the City, the Mayor, upon the request of the City Solicitor, may appoint special counsel and fix ~~their his or her~~ compensation.
- (5) Generally.
- (a) It shall be the duty of the City Solicitor to examine all titles of real estate and draft all legal instruments and papers of whatever nature which may be required by any ordinance or order of the City Council, or by any committee thereof, or by the School Committee.
 - (b) It shall be the duty of the City Solicitor to give a legal opinion and professional advice on any subject relating to the affairs of the City or the duties of any of its officers, when required by the Mayor, City Council or any standing or special committee, or by the School Committee, or any officer of the City government, and generally to perform those duties appertaining to the office as the legal adviser and attorney of the City.
 - (c) It shall be the duty of the City Solicitor to commence and prosecute all actions and suits begun by the City and to defend all actions and suits brought against the City in any court or tribunal in the commonwealth, and also to appear as counsel in any other action, suit or prosecution which may involve the rights and interests of the City, and to defend any of the officers of the City in suits and prosecutions against them for any official action or the performance of any official duty when any estate, right, privilege, ordinance, act or direction of the City government may be brought in question, and the City Solicitor shall also appear as counsel before the Legislature of the Commonwealth, or any committee thereof, whenever the interest and welfare of the City may be directly or incidentally affected.
 - (d) Copies of opinions furnished to City Clerk. Whenever the City Solicitor has rendered a written opinion to any board or officer of the City, a copy thereof shall be sent to the City Clerk, together with a copy of the communication to which the City Solicitor's response is being made, and the City Clerk shall thereupon cause the same to be filed for future reference.

§ 58-14 City Treasurer.

- A. Establishment. There shall be a City Treasurer as provided in Section 5-4(2) of the Charter.
- B. Appointment; term of office. The Mayor shall, subject to the review of the City Council as provided in Section 2-10 of the Charter, appoint a City Treasurer to serve for a term not to exceed three years.

C. Powers and duties.

- (1) Bond. The City Treasurer shall give bond with a suitable fidelity insurance company as surety in such sum as the Commissioner of Corporations and Taxation may determine. Such bond shall be in the custody of the Mayor.
 - (2) Custodian of bonds. All other bonds of City officers or agents shall be in the custody of the City Treasurer.
 - (3) Receiving and holding money; no payment except on written order of Mayor. The City Treasurer shall receive and hold all moneys of the City. No money shall be paid or drawn out of the treasury, except on written order of the Mayor addressed to the Treasurer, designating the funds or appropriation from which such orders are to be paid; nor shall any order be drawn in payment for services rendered or material furnished for any department beyond the sum specifically appropriated therefor by the City Council.
 - (4) Account of receipts and payments; statement of receipts and disbursements; information respecting accounts and finances. The City Treasurer shall keep an accurate and true account of all receipts and payments on behalf of the City and shall, on the first day of each month, furnish the City Accountant and the Budget/Management Analyst employed by the City Council pursuant to Charter Section 2-8(a) with a statement in detail of all collections, receipts and disbursements during the preceding month. The Treasurer shall render such other services and furnish such other information respecting the accounts, finances and payments as may be required by the City Accountant, City Council Budget/Management Analyst, or committee of the City Council.
 - (5) Funds received from sewer assessments. All sewer assessments received and paid into the City treasury shall be kept by the Treasurer separate and apart from all other funds and shall only be appropriated and used from time to time to pay for the further construction of sewers or the interest and principal on bonds, notes or scrip heretofore issued or hereafter to be used for such purpose.
 - (6) Annual report to City Council. The Treasurer shall annually render to the Mayor a true account of all receipts, expenditures and other official doings during the preceding financial year. The Treasurer shall account to and including the 30th day of June during each year, and the fiscal year shall end on that day.
 - (7) Duties generally. The City Treasurer shall perform all duties which are now or may hereafter be required of city treasurers by the laws of the commonwealth, by the Charter, or by the ordinances of the City.
- D. Duplicate bills. Any head of a department or any officer or board issuing bills to any person for money due to the City shall forthwith deliver to the City Treasurer a duplicate thereof.

§ 58-15 City Treasurer, Assistant.

The Office of Assistant Treasurer is hereby established. The City Collector, by virtue of office, shall serve as Assistant Treasurer and shall assist in the performance of the duties of the Treasurer when that officer is absent or unable to act, and also when there is a vacancy in the Office of Treasurer. The Assistant Treasurer shall give such bond with a fidelity insurance company as surety as the Department of Revenue of the commonwealth may determine to be desirable.

§ 58-16 Confidential Secretary/Administrative Assistant to the Mayor.

- A. Establishment. There shall be a Confidential Secretary/Administrative Assistant to the Mayor.
- B. Appointment; term of office. The Confidential Secretary/Administrative Assistant to the Mayor shall be appointed by and responsible only to the Mayor. The Confidential Secretary/Administrative Assistant shall serve at the pleasure of the Mayor.

- C. Authority and responsibilities. The Confidential Secretary/Administrative Assistant to the Mayor shall have the following duties:
- (1) Organize and summarize information and prepare it for the Mayor's review and action.
 - (2) Meet with department heads regarding day-to-day business, expediting administrative interaction between the Mayor's office and City departments.
 - (3) Serve as a liaison officer between the Mayor, the media, public interest groups, businesses and residents.
 - (4) Be familiar with all aspects of the City government and with the functions and activities of the various offices and employees of the City.
 - (5) Be familiar with the various services rendered by the City to its residents, in order that callers can be informed of the extent of these services and of the schedule for their performance.
 - (6) Review all correspondence received in the office of the Mayor, and arrange for its routing and for assembling the materials needed by the Mayor to respond to all such correspondence.
 - (7) Answer all telephone calls placed to the office, respond in an appropriate fashion and direct as appropriate.

§ 58-17 Constables.

- A. Establishment. There shall be one or more Constables as provided in MGL c. 41, §§ 91 through 95.
- B. Appointment; term of office. The Mayor shall appoint, subject to the review of the City Council as provided in Section 2-10 of the Charter, one or more constables for a term not to exceed three years each.
- C. Authority and responsibilities. Constables may serve certain civil writs and processes. They have the powers of sheriffs to require aid in the execution of their duties. Constables take due notice of and prosecute all violations of law, respecting the observance of the Lord's Day, profane swearing and illegal gaming. Constables also serve all processes directed to them by the City, for notification of City meetings, or for other purposes.

§ 58-18 Council on Aging Director.

- A. Establishment. There shall be a Director of the Council on Aging.
- B. Appointment; term of office. The Mayor shall appoint some person especially suited by education, training and experience to serve as Director of the Council on Aging for a term not to exceed three years.
- C. Authority and responsibilities. The Director of the Council on Aging shall assist the Council on Aging in coordinating and conducting programs dealing with the problems of aging and shall promote facilities for the health, education, welfare and recreation of the aging. The Director shall be an advocate for the needs of the older adult population ~~the elderly people~~ residing in the City, and shall conduct surveys of the older adult ~~elderly~~ population to better determine their needs, problems and concerns.

§ 58-19 Emergency Management Director.

- A. Establishment. There shall be a Director of Emergency Management to administer the Department of Emergency Management as provided in Chapter 639 of the Acts of 1950, as amended.
- B. Appointment; term of office. The Mayor shall appoint, subject to the review of the City Council as provided in Section 2-10 of the Charter, a Director of Emergency Management to serve for a term not to

exceed three years.

- C. Authority and responsibilities. The Director of Emergency Management shall be responsible for preparing and carrying out all emergency functions and services, including, but not limited to: police and fire-fighting services; medical and other health services; rescue engineering and air-raid warning services; evacuation of persons from stricken areas; emergency welfare services; communications; radiological, chemical and other special weapons of defense; emergency transportation; existing or properly assigned functions of plant protection; temporary restoration of public utility services; and other functions. The Director shall have all other powers and duties given to such directors by general laws, provisions of the Code of Massachusetts Regulations, and City ordinances.

§ 58-20 Engineering, Commissioner of Public Services, Public Works, Director of.
[Amended 9-5-2008 by Ord. No. 174A; 4-6-2011 by Ord. No. 42]

- A. Establishment. There shall be a Director of Engineering, Commissioner of Public Services, Public Works. The Director of Engineering, Commissioner of Public Services, Public Works shall be a City officer.
- B. Appointment; term of office. The Mayor shall, subject to the review of the City Council as provided in Section 2-10 of the Beverly Home Rule Charter, appoint a Director of Engineering, Commissioner of Public Services, Public Works for a term of not more than three years.
- C. Authority and responsibilities.
 - (1) The Director of Engineering, Commissioner of Public Services, Public Works shall be responsible for maintenance of the disposal area, water pollution control facilities, public highways, bridges, sidewalks, parking lots, parks, playgrounds, recreation and conservation areas, cemeteries, City forests, and public buildings, as well as the maintenance of all City-owned vehicles. The Director of Engineering, Commissioner of Public Services, Public Works shall, with the approval of the Mayor, appoint division chiefs.
 - (2) The Department of Public Services shall be under the direction and control of the Director of Engineering, Commissioner of Public Services, Public Works. The Director of Engineering, Commissioner of Public Services, Public Works shall perform all duties and shall have the powers formerly imposed and conferred upon the Commissioner of Public Works, Superintendent of Highways and Sewers, Tree Warden, Water Board, Superintendent of Waterworks, Board of Park Commissioners and Surveyor of Highways.
 - (3) The Director of Engineering, Commissioner of Public Services, Public Works shall have charge and control of maintenance of the public cemeteries and burial places within the City limits.
 - (4) The Director of Engineering, Commissioner of Public Services, Public Works shall have charge of all specific repairs upon all highways, streets and bridges.
 - (5) The Department of Engineering shall be under the direction and control of the Director of Engineering, Commissioner of Public Services, Public Works.
 - (6) The Director of Engineering, Commissioner of Public Services, Public Works shall be responsible to the Mayor for the effective operation of the Department of Engineering and shall be responsible for the management of all projects assigned to the Department of Engineering, whether performed by City employees or outside entities and for all personnel assigned to the Department.
 - (7) The Director of Engineering, Commissioner of Public Services, Public Works shall be responsible for the coordination of all activities of agencies within the Department with all activities of the Salem and

Beverly Water Supply Board and the South Essex Sewerage District.

- (8) The Director of Engineering, Commissioner of Public Services, Public Works shall be responsible for the coordination and oversight of the collection and disposal of solid waste and recyclable materials.

§ 58-21 Fire Chief.

- A. Appointment; term of office. The Fire Chief shall be appointed by the Mayor, subject to the review of the Council as provided in Section 2-10 of the Charter, to serve for a term of not less than three years nor more than five years.
- B. Qualifications. The Fire Chief shall be a person especially fitted by education, training and experience to perform the duties of the office. At the time of appointment, the Fire Chief shall hold at least a degree in a field appropriately related to public safety and shall have had at least five years of progressively responsible experience in fire safety administration.
- C. The Fire Chief shall be a City officer and a public safety official.
- D. Powers and duties. The Fire Chief shall be responsible to the Mayor for the effective operation of the Fire Department and all of the fire safety activities of the City. The Fire Chief shall supervise all activities of the Fire Department, and shall coordinate the assignment of personnel serving in the Department through the heads of the several offices constituting the Department. The Fire Chief may serve, notwithstanding any provision of this section which may appear to the contrary, as the head of any other office within the Department or may appoint the head of one office within the Department to serve in addition as the head of another office within the Department, provided such person so appointed or so serving possesses all of the qualifications for the position which may be prescribed by law, by rule, or otherwise.
- E. The Fire Chief shall have the specific powers and duties as set forth by ordinance, including, but not limited to:
- (1) Administering the affairs of the Fire Department.
 - (2) General authority and control over all office staff and overseeing the proper fulfillment of all tasks and duties assigned to the Fire Department.
 - (3) Prescribing such rules and regulations as ~~the Fire Chief officeholder he~~ deems necessary or expedient for the proper operation of the Fire Office and ~~to that end~~ keeping ~~himself~~ informed of the latest administrative practices; subject to the civil service law and rules and any collective bargaining agreements as may be applicable, taking all personnel actions, including hiring, assigning and reassigning employees, including supervisory personnel, within the Department and supervising their performance.
 - (4) Coordinating all emergency preparedness functions of the City to be compatible with the functions of the federal and state governments and adjacent political subdivisions.
 - (5) Establishing policies for effective use of work force resources and facilities to deal with any major natural disaster or nuclear incident.
 - (6) Providing for emergency functions to prevent and minimize the effects of disasters on persons and providing for the emergency repair of damage to public facilities resulting from enemy attack, fire, flood, tornado, earthquake, or other natural causes.

§ 58-22 Gas/Plumbing Inspector.

- A. Establishment. There shall be Gas/Plumbing Inspector as provided in MGL c. 142, § 11.

- B. Appointment; term of office. The Gas/Plumbing Inspector shall, subject to the consent of the Mayor, be appointed by the Director of Municipal Inspections and shall hold office as provided in Section 5-8 of the Charter for a term not to exceed three years.
- C. Authority and responsibilities. The Gas/Plumbing Inspector is responsible to the Director of Municipal Inspections for the enforcement of the rules and regulations adopted by the Board of State Examiners of Plumbers and Gas Fitters. The Gas/Plumbing Inspector shall have all other powers and duties given to gas/plumbing inspectors by the general laws of the commonwealth, Code of Massachusetts Regulations, and by City ordinances. The Gas/Plumbing Inspector shall be responsible for the enforcement of all rules and regulations with regard to the construction, alteration and repair of all plumbing in the City (MGL c. 142, §§ 11 through 13, and c. 142, generally).

§ 58-23 Harbormaster.

- A. Establishment. There shall be a Harbormaster and such assistants as may be deemed necessary.
- B. Appointment; term of office. The Chief of Police, subject to the consent of the Mayor, shall appoint a Harbormaster to serve for a term of not more than three years. The Harbormaster shall be appointed as a special officer on the City waters and City waterfront property. The Harbormaster, subject to the consent of the Mayor, may appoint Assistant Harbormasters for terms not to exceed three years.
- C. Authority and responsibilities. The Harbormaster and Assistant Harbormasters shall be responsible for the operation of all vessels in the harbor in conformity with MGL c. 102, §§ 17 through 28, and all City ordinances adopted in relation to the harbor.

§ 58-24 Human Resources Director.

- A. Establishment. There shall be a Director of Human Resources as provided in Section 5-7 of the Charter who shall be the head of the Department of Human Resources (as provided in Section 5-7 of the Charter), which shall be responsible for all personnel and employee-related functions and activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any personnel or employee-related function or activity.
- B. Appointment; term of office. The Director of Human Resources shall be appointed by the Mayor, subject to review of the Council as provided in Section 2-10 of the Charter, to serve for a term of not more than three years.
- C. Qualifications. The Director of Human Resources shall be a person especially fitted by education, training and experience to perform the duties of the office. At the time of appointment, the Director of Human Resources shall hold at least a degree in a field appropriately related to business administration or public administration and shall have had at least five years of progressively responsible experience in public or governmental personnel or human services administration.
- D. Powers and duties. The Director of Human Resources shall have the following specific powers and duties:
 - (1) Be responsible for all personnel and employee-related functions and activities of the City government and its administration as provided in Section 5-7 of the Charter.
 - (2) Plan, administer and direct all phases of all municipal personnel plans and collective bargaining agreements, including wage and salary administration, position classification, sick and vacation day administration, accident prevention programs, employee grievance procedures, physical examination processing, testing, review and evaluation of work records and all other recordkeeping related to City employees.
 - (3) Develop new and revised personnel policies and practices to maintain and keep current the existing high

standards for municipal personnel.

- (4) Review and evaluate all requests for new or additional personnel made by City agencies and make recommendations to the Mayor.
- (5) Advise and assist all agency heads and employees in all aspects of municipal personnel matters, including recruitment, promotion, transfer, training, wages, insurance and other benefits of employment.
- (6) Adopt and promulgate rules and regulations governing any subject within the jurisdiction of the Department of Human Resources as are necessary to implement the provisions of this section.

§ 58-25 Information Technology Director.

- A. Establishment. There shall be a Director of Information Technology.
- B. Appointment; term of office. The Mayor shall appoint a Director of Information Technology for a term not to exceed three years.
- C. Authority and responsibilities. The Director of Information Technology shall be responsible for the implementation, development and upkeep of the electronic data processing, document storage, search and retrieval system and other information technology systems and uses of the City.

§ 58-26 Keeper of the Lockup.

- A. Establishment. There shall be a Keeper of the Lockup, as provided in MGL c. 40, § 35.
- B. Appointment; term of office. The Mayor shall appoint a Keeper of the Lockup for a term not to exceed three years.
- C. Authority and responsibilities. The Keeper of the Lockup shall have the care and custody of the City lockup and of all persons who are committed to the lockup, as provided in MGL c. 40, §§ 34 through 37, inclusive.

§ 58-27 Library Director.

- A. Establishment. There shall be a Library Director.
- B. Appointment; term of office. The Library Director shall be appointed by the Mayor for a term not to exceed three years.
- C. Authority and responsibilities. The Library Director shall be responsible for overseeing the entire operation of the public library, including management of the buildings and grounds; preserving, maintaining and enlarging the books, periodicals, manuscripts, recordings, film, videotape and other materials which constitute the collection; supervising and directing all employees of the public library and being involved in every other phase of the care and management of the public library on behalf of the Board of Trustees and the public.

§ 58-28 Municipal Finance Director.

- A. Establishment. There shall be a Director of Municipal Finance, as provided in Section 5-4 of the Charter, who shall be the head of the Department of Municipal Finance (as provided in Section 5-4 of the Charter), which shall be responsible for the management of the fiscal and financial affairs of the City and for the supervision and coordination of all activities of all City agencies in relation to any fiscal or financial matter.
- B. Appointment; term of office. ~~There shall be a~~ Director of Municipal Finance shall be appointed by the Mayor, subject to the review of the Council as provided in Section 2-10 of the Charter, to serve for a term not to exceed three years.

- C. Qualifications. The Director of Municipal Finance shall be a person especially fitted by education, training, and experience to perform the duties of the office. At the time of appointment, the Director of Municipal Finance shall hold at least a bachelor's degree in a field appropriately related to finance, including, but not limited to, business administration or public administration, and shall have had at least five years of progressively responsible experience in public or governmental finance.
- D. Powers and duties. The Director of Municipal Finance shall have the following specific powers and duties:
- (1) The Director of Municipal Finance shall be responsible for the performance of all the fiscal and financial activities of the City, as provided in Section 5-4 of the Charter.
 - (2) The Director of Municipal Finance shall assure that a full and complete inventory of all City property is kept, including all such property under the jurisdiction of the School Committee.
 - (3) The Director of Municipal Finance shall be responsible for the development, in draft form, of an annual operating budget and an annual capital improvement plan to assist the Mayor in meeting the financial responsibilities assigned to the Mayor by Article 6 of the Charter, and for the oversight throughout each fiscal year of the expenditure of all City funds pursuant to such budgets as are adopted by the City.
 - (4) The Director of Municipal Finance shall receive all requests made for the expenditure of City funds from every City office and agency. The Director of Municipal Finance shall assemble all such requests into a form deemed to be best suited to show a complete financial plan for all City funds and activities for the ensuing fiscal year. In making such arrangement, the Director of Municipal Finance may, with the approval of the Mayor, alter in any manner the requests made for appropriations by any City office or agency, except the School Committee.
 - (5) The proposed City operating budget for the ensuing fiscal year shall be prepared by the Director of Municipal Finance within fiscal and policy guidelines established by the Mayor. The proposed operating budget prepared by the Director of Municipal Finance shall utilize modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial controls, and shall show in detail all estimated income from the proposed property tax levy and from every other source, by category. The proposed City operating budget as prepared by the Director of Municipal Finance shall show in separate columns the amount appropriated in the prior fiscal year, the amount requested by the spending agency, and the amount recommended by the Mayor. The proposed budget submitted to the City Council by the Mayor shall be based upon the material prepared by the Director of Municipal Finance.
 - (6) The Director of Municipal Finance shall adopt and promulgate rules and regulations governing any subject within the jurisdiction of the Department of Municipal Finance as are necessary to implement the provisions of this section.

§ 58-29 Municipal Inspections Director.

- A. Establishment. There shall be a Director of Municipal Inspections, as provided in Section 5-8 of the Charter, who shall be the head of the Department of Municipal Inspections (as provided in Section 5-8 of the Charter), which shall be responsible for the coordination and management of the inspection-related activities of the City, and for the supervision and coordination of all activities of all City agencies in relation to any inspection service as provided in MGL c. 143, § 3, and 780 CMR (Code of Massachusetts Regulations).
- B. Appointment; term of office. Subject to the review of the City Council as provided in Section 2-10 of the Charter, the Director of Municipal Inspections shall be appointed by the Mayor and shall hold office for a term not to exceed three years and in conformity with the provisions of Section 5-8 of the Charter. The Director of Municipal Inspections shall have at least the qualifications as are provided in MGL c.

143, § 3.

C. The Director of Municipal Inspections shall be a person especially fitted by education, training, and at least five years' experience in code enforcement services to perform the duties of the office. At the time of appointment, the Director of Municipal Inspections shall be qualified, and state certified, to serve as the head of at least one of the divisions within the department.

D. Powers and duties.

(1) The Director of Municipal Inspections shall be responsible to the Mayor for the effective operation of the Department of Municipal Inspections and all of the inspection-related activities of the Department. The Director of Municipal Inspections shall, with the approval of the Mayor, and in accordance with Sections 3-4 and 8-15 of the Charter, appoint and discharge employees permanently assigned within the offices of municipal inspections, except for those designated as City officers, who shall be appointed by the Mayor, subject to the review of the Council. The Director of Municipal Inspections shall supervise all activities of the Department of Municipal Inspections and shall direct and assign all personnel serving in said Department and shall direct and assign other municipal personnel in the performance of inspection services.

(2) The Director of Municipal Inspections may serve, notwithstanding any provision of this section which may appear to the contrary, as the head of any other offices within the Department or may appoint the head of one office within the Department to serve in addition as the head of another office within the Department, provided such person so appointed or so serving possesses all of the qualifications for the position which may be prescribed by law, by rule, or otherwise.

(3) The Director of Municipal Inspections shall have such other specific powers and duties as set forth by ordinance.

E. Authority and responsibilities.

(1) The Director of Municipal Inspections shall make inspections, issue such permits and enforce such regulations and ordinances as may be required by the City or as may be required by the provisions of Chapter 143 of the General Laws or under the so-called State Building Code and may for such purposes, at all reasonable times, enter upon premises to carry out such lawful procedures.

(2) The Director of Municipal Inspections shall serve as the Zoning Enforcement Officer as provided in MGL c. 40A, § 7.

§ 58-30 Parking Clerk.

A. Establishment. There shall be a Parking Clerk as provided in MGL c. 90, § 20A.

B. Appointment; term of office. The Director of Municipal Finance shall, subject to the consent of the Mayor, appoint a Parking Clerk for a term not to exceed three years.

C. Authority and responsibilities. The Parking Clerk shall report to the Director of Municipal Finance and shall supervise and coordinate the processing of parking notices in the City as provided in MGL c. 90, §§ 20A through 20E.

**§ 58-31 Parks, Recreation and Community Services, Director of.
[Amended 3-17-2014 by Ord. No. 89]**

A. Appointment; term of office. There shall be a Director of Parks, Recreation and Community Services, who shall be the head of the Department of Community Services and the head of the Department of Parks and Recreation. The Director of Parks, Recreation and Community Services shall be appointed by

the Mayor, subject to the review of the Council as provided in Section 2-10 of the Charter, to serve for a term not to exceed three years.

- B. Qualifications. At the time of appointment, the Director of Parks, Recreation and Community Services shall hold at least a bachelor's degree in a field appropriately related to business administration or public administration and shall have had at least five years of progressively responsible experience in public or governmental administration.
- C. Powers and duties. The Director of Parks, Recreation and Community Services shall be responsible to the Mayor for the effective operations of the Department of Community Services and all of the community services activities of the Department. The Director of Parks, Recreation and Community Services shall also be responsible for the effective operations of the Parks and Recreation Department. The Director of Parks, Recreation and Community Services shall supervise all activities of the Department of Community Services and the Parks and Recreation Office and shall direct and assign all personnel serving in said departments and shall direct and assign other municipal personnel in the performance of community services related services or functions. The duties of the Director of Parks, Recreation and Community Services shall include, but not be limited to:
- (1) Provide coordination and direction to the agencies within the department to ensure consistent administration and the efficient delivery of services to ~~residents~~ ~~citizens~~ and taxpayers.
 - (2) Meet regularly with the Mayor to develop goals and objectives for each of the agencies within the department and to measure and evaluate the performance of functions by the agencies.
 - (3) Meet with all City agencies to explain the goals and objectives set by the Mayor for each such agency.
 - (4) Examine the level of services provided in other communities to ensure the City of Beverly provides nothing less than an equivalent service for its ~~residents~~ ~~citizens~~.
 - (5) Assist all City agencies in the development of annual operating budgets and capital outlay requests.
 - (6) Provide assistance to all City agencies in personnel-related matters, including appointment, discharge, evaluation and supervision.
 - (7) Serve as liaison among all City agencies, the City Council and the Mayor.
 - (8) Be responsible for the coordination and supervision of the data processing and management information systems for the City and any of its governmental offices and agencies.
 - (9) Provide, conduct and supervise activities at public playgrounds, playfields, indoor recreation centers and recreation areas and facilities, except Hurd Stadium, and such other places as may from time to time be available to the City for the conduct of such programs. The Director of Parks, Recreation and Community Services, subject to policies adopted by the Parks and Recreation Commission, may conduct such activities on property under the control of the Parks and Recreation Commission, on other public properties with the consent of the agency having authority over such property, and on private properties with the consent of the owners. The Director of Parks, Recreation and Community Services shall have the power to conduct any form of recreation or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner.

§ 58-32 Planning and Development Director.

- A. Establishment. There shall be a Director of Planning and Development, as provided in Section 5-5 of the Charter, who shall be the head of the Department of Planning and Development (as provided in Section 5-5 of the Charter), which shall be responsible for the coordination of all of the planning and development-related activities of the City and for the supervision and coordination of all activities of all

City agencies in relation to any planning and development-related activities conducted by any such agency of the City.

- B. Appointment; term of office. The Director of Planning and Development shall be appointed by the Mayor, subject to the review of the Council as provided in Section 2-10 of the Charter, for a term not to exceed three years.
- C. Qualifications. The Director of Planning and Development shall be a person especially fitted by education, training and experience to perform the duties of the office. Qualifications for appointment as Director of Planning and Development shall include, but are not limited to, a degree in a field appropriately related to municipal planning and development, including, but not limited to, business administration or public administration, and at least five years of progressively responsible experience in public or governmental planning and development.
- D. Powers and duties. The Director of Planning and Development shall be responsible to the Mayor for the effective operation of the Department of Planning and Development and all of the planning and development activities of the City. The Director of Planning and Development shall supervise all activities of the Department of Planning and Development and shall direct and assign all personnel serving in the Department, and shall direct and assign other municipal personnel in the performance of planning and development-related services or functions.
- E. Authority and responsibilities. The Director of Planning and Development shall be responsible to the Mayor for the effective operation of the Department of Planning and Development and all of the planning and development activities of the City. The Director of Planning and Development shall, with the approval of the Mayor, appoint and discharge employees within the Department of Planning and Development. The Director of Planning and Development shall supervise all activities of the Department of Planning and Development and shall direct and assign all personnel serving in the Department, and shall direct and assign other municipal personnel in the performance of planning and development-related services or functions.
- F. The Director of Planning and Development shall have the following specific powers and duties:
 - (1) Be responsible for the coordination of all planning and development-related activities of the City.
 - (2) Be responsible for the administration of the City agencies and functions assigned to this department.
 - (3) Be responsible for the coordination of all land acquisitions and disposals, land management proposals, and all economic planning.
 - (4) Be responsible for the preparation of a comprehensive or master plan which shall set forth, in graphic and textual forms, policies to govern the future development of the City.
 - (5) Be responsible for the maintenance of a central records library for all data, reports, records, statistics and planning and development-related materials as may be related to the City, whether written, printed or otherwise reproduced and whether on magnetic tape for audio or visual retrieval or stored in computer-related form.
 - (6) Be responsible for oversight of the community development block grants office to ensure applications made by the agency for funds are consistent with and conformable to the comprehensive or master plan and to monitor the administration of any grants received for compliance with the City's plan and the grantor's requirements and conditions.
 - (7) Adopt and promulgate rules and regulations governing any subject within the jurisdiction of the Department of Planning and Development as are necessary to implement the provisions of this section.

- (8) Plan, organize and direct the activities of professional, technical, administrative and clerical personnel of the Department of Planning and Development engaged in the compilation, analysis and interpretation of data pertaining to municipal planning.
- (9) Initiate and conduct studies of the resources, possibilities and needs of the City and its metropolitan area.
- (10) Prepare plans and recommendations for submission to the Mayor and City Council:
 - (a) For the use of land for residential, commercial, industrial, recreational and other purposes.
 - (b) For controlling shifts of population.
 - (c) For situating public and private ways, bridges, parks, recreation facilities, public buildings, public utility services, public housing projects, slum clearance and urban development projects, public garages and off-street parking facilities.
 - (d) For affording further facilities for the housing, transportation, employment, health, safety and general welfare of the population;
- (11) Act as technical adviser to the Mayor and City Council, Planning Board, and other City agencies or officials on municipal planning matters.
- (12) Publish and distribute such copies of plans or reports as the City Council may authorize in connection with planning and development problems and policies.
- (13) Prepare and submit annually a long-range capital improvement program for the City, including data as to the cost of each project recommended, relative priorities of projects from an urgency and desirability standpoint, and the amounts that might be available from borrowed funds, federal or state grants-in-aid or from the annual tax levy, together with the estimated amounts returnable to the City by betterment assessments.
- (14) Prepare and administer the departmental budget.
- (15) Participate in the administration of the zoning, subdivision and other related ordinances.
- (16) Confer with civic groups; prepare public relations programs; participate in planning conferences; and speak to public gatherings.
- (17) The Planning Director shall have full charge of the work of thehis department and full supervision of the work of thehis planning and office staff.
- (18) The Planning Director shall participate and cooperate with the Planning Board of the City in the fulfillment of the Board's responsibilities under Chapter 41 of the General Laws, and shall perform any and all functions of that Board as it lawfully delegates to the Planning Directorhim.

§ 58-33 Police Chief.

- A. Establishment. There shall be a Police Chief, as provided in MGL c. 41, §§ 96 through 99A, who shall be the head of the Police Department, which shall be responsible for the coordination of all the police-related activities of the City and for the supervision and coordination of all activities of all City agencies in relation to any police safety matter.
- B. Appointment. The Police Chief shall be appointed by the Mayor, subject to review of the Council as provided in Section 2-10 of the Charter, and shall serve for a term of not less than three years nor more than five years.

- C. The Chief of Police shall be a City officer and public safety official.
- D. Powers and duties.
- (1) The Police Chief shall be responsible to the Mayor and shall have the following duties:
- (a) Administer the affairs of the Police Department.
 - (b) Have general authority and control over all departmental staff and oversee the proper fulfillment of all tasks and duties assigned to the Department.
 - (c) Prescribe such rules and regulations as he deems necessary or expedient for the proper operation of the Police Department and to that end keep informed of the latest administrative practices.
 - (d) Subject to the civil service law and rules and any collective bargaining agreements as may be applicable, take all personnel actions, including hiring, assigning and reassigning employees, including supervisory personnel, within the Police Department, and shall supervise the performance of all personnel assigned to the Department.
 - (e) The Chief of Police shall be in immediate control of all City property used by the Department, and of the police officers, whom ~~the Chief he~~ shall assign to their respective duties and who shall obey ~~the Chief's his~~ orders.
 - (f) ~~The Police Chief and other police officers of the City shall have all the powers and duties of constables, except serving and executing civil process. They shall suppress and prevent all disturbances and disorder. They may carry within the commonwealth such weapons as the Chief of Police shall determine. They may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more persons; and may enter any building to suppress a riot or breach of peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled who do not disperse when ordered, and persons making, aiding and abetting in a riot or disturbance may be arrested by the police, and may thereafter be safely kept by imprisonment or otherwise unless released in the manner provided by law, and taken before a district court to be examined and prosecuted.~~
- (2) Responsibilities as to Department. The Chief of Police shall be responsible for the discipline and efficiency of ~~thehis~~ department and, subject to the approval of the Mayor, shall have the entire control and management thereof, including all reserve and special officers and animal control officers when engaged in the service of the City. ~~The ChiefHe~~ shall make such rules and regulations for the proper government of the Police Department and animal control officers as he may from time to time deem expedient, subject to the approval of the Mayor and the City Council, and not repugnant to the laws of the commonwealth or any ordinance of the City. [Amended 10-19-1987 by Ord. No. 428A]
- (3) Jurisdiction over traffic signals. The Chief of Police shall have complete jurisdiction over all traffic signals in the City.
- E. Vacancies. In case of a vacancy in the Office of Chief of Police, or in the absence from duty of the Chief, the ranking officer of the Police Department shall have all the power and perform all the duties of the Chief of Police.
- F. Control and authority over Senior Captain's duties. The duties of the Senior Captain of the Police Department shall be prescribed by the Chief of Police, and the Senior Captain shall perform such duties under the direction and control of the Chief of Police. The duties of the Senior Captain may include but not be limited to the following:

- (1) Oversee the supervision of patrol functions by the watch commanders on all shifts.
 - (2) Assign working days and overtime for all Patrol Division officers of rank.
 - (3) Direct the investigation of complaints from and against personnel in the Patrol Division.
 - (4) Instruct and advise subordinate officers on police patrol procedures.
 - (5) Supervise the carrying out of orders from the Chief.
 - (6) Organize and conduct staff meetings for watch commanders and patrol supervisors.
 - (7) Actively seeks to resolve problems existing within the Patrol Division.
 - (8) Recommend means of improving Department operations to the Chief.
 - (9) Recommend awarding commendations to deserving members.
 - (10) Have charge of public relations and information for the Department.
- G. Reports. On the first day of each month, and at all times when especially required, the Chief of Police shall make a written report to the Mayor of the doings of the Police Department, and shall annually in the month of January make a written report to the City Council of the condition of the Department and its doings for the preceding year, with such recommendations as he may deem desirable.

§ 58-34 Procurement Officer, Chief.

- A. Establishment. The Mayor shall be the Chief Procurement Officer for the City as provided in the third paragraph of Section 3-2 of the Charter. The Mayor may delegate all or any portion of the powers of Chief Procurement Officer to a subordinate; provided, however, no such delegation shall in any way absolve the Mayor from the ultimate responsibility for all procurement activities.
- B. Deputies. The Mayor may appoint Deputy Procurement Officers for such terms and under such conditions as the Mayor shall deem to be in the best interests of the City.
- C. Authority and responsibilities. The Chief Procurement Officer shall be responsible for the procurement of all supplies and services for the City and for the disposal of all surplus supplies and other property, both real and personal, belonging to the City as provided in MGL Chapter 30B.

§ 58-35 Public Health Director.

- A. Establishment. There shall be a Director of Public Health.
- B. Appointment; term of office. The Mayor shall, subject to the review of the City Council as provided in Section 2-10 of the Charter, appoint a Director of Public Health for a term not to exceed three years.
- C. Powers and duties. The Director of Public Health is responsible for planning, implementing and enforcing public health laws, codes, regulations, board policies, rules and preventive health and environmental programs. The Director exercises administrative and technical supervision over all employees of the Health Department, directs all activities of the Department in accordance with policies of the Board of Health and public health laws and is responsible for the conduct of programs designed to preserve and protect the public health within the City.

§ 58-36 Purchasing Director.

- A. Establishment. There shall be a Purchasing Director appointed by the Mayor who may exercise such powers of the Mayor as Chief Procurement Officer for the City as the Mayor may deem necessary, desirable or expedient and who shall be the head of the Purchasing Department.

- B. Qualifications. The Director of Purchasing shall be a person especially fitted by education, training, and experience to perform the duties of the office. At the time of appointment, the Director of Purchasing shall hold at least a degree in a field appropriately related to business administration or public administration and shall have had at least five years of progressively responsible experience in public or governmental purchasing administration.
- C. Powers and duties. The duties of the Director of Purchasing shall include, but are not to be deemed to be limited to, the following:
 - (1) Be responsible to the Mayor for the effective operation of the Purchasing Department, and all of the procurements and contract administration related functions and activities of the City. The Director of Purchasing shall supervise all activities of the Purchasing Department and shall direct and assign all personnel serving in said Department.
 - (2) Authorize and devise methods and procedures for all purchasing procedures, including those not covered by ordinance or by statute; procure all construction work and miscellaneous services; make technical decisions using independent judgment and purchasing knowledge.
 - (3) Request and review price quotations on all materials, supplies and equipment to be purchased by the City; award contracts to successful bidders; and direct the issuance of purchase orders.
 - (4) Conduct the bidding process, including writing or assisting City agencies in preparing detailed specifications for items to be purchased; direct the formal advertising of bid invitations; preside at bid openings; analyze bids; award contracts in conformity with ordinances and statutes; establish the amount for bid bonds, bid deposits, performance bonds, and liability insurance for all contracts.
 - (5) Maintain records of all transactions, purchases, contracts, equipment transfers or sales.
 - (6) Develop and maintain working relationships with sources of supply; interview sales representatives and maintain files for sources of supply for goods, price trends, and other new developments in the field of purchasing and procurement.
 - (7) Dispose of surplus goods and materials by sale or otherwise.
 - (8) Assist all City agencies in the preparation of all materials required in the solicitation of bids, for construction or other services, including interface with the Department of Labor and Industries of the Commonwealth, publication in the Central Register, insurance, bid deposit and advertising requirements, preparation of all bid documents, contracts and other legal documents and by answering all questions as may be posed by City agencies with respect to these subjects.

Article IV

Additional Appointments and Employees

[Adopted as Art. VIII, Secs. 8.03, 8.05, 8.07, 8.22, and 8.44-8.47, of the Code of Ordinances]

§ 58-37 Animal Control Officer.

- A. Establishment. There shall be an Animal Inspector as provided in MGL c. 129, §§ 15 to 25.
- B. Appointment; term of office. The Mayor shall appoint one or more Animal Control Officers. Such nominees shall not be appointed until approved by the Director of Animal Health of the Commonwealth as required by MGL c. 129, § 15.
- C. Authority and responsibilities.
 - (1) Each Animal Inspector shall comply with and enforce all orders and regulations directed to such

~~inspector~~ by the Director of Animal Health of the Commonwealth (MGL c. 129, § 18) and shall also serve as Animal Control Officer as provided in MGL c. 140, § 151 et seq.

- (2) The Animal Inspector shall make regular and thorough inspections of all domestic animals and shall be responsible for the enforcement of all laws relating to the care, custody and control of dogs in the City (MGL c. 140, §§ 136A through 174). The Animal Inspector shall attend to all complaints or other matters pertaining to dogs in the City found within the City limits. Such inspections shall be made at such times and in such manner as the Animal Control Officer shall from time to time order. The Animal Control Officer shall also from time to time make inspections of all other domestic animals within the limits of the City if ~~the Inspector~~he/she knows, or has reason to suspect, that such animals are affected with or have been exposed to any contagious disease, and shall immediately inspect all domestic animals and any place where any such animals are kept whenever directed so to do by the Director of Animal Health of the Commonwealth (MGL c. 129, § 19).

§ 58-38 Chief of Staff to the Mayor.

- A. Establishment. There shall be a Chief of Staff to the Mayor.
- B. Appointment; term of office. The Chief of Staff shall be appointed by and responsible only to the Mayor. The Chief of Staff shall serve at the pleasure of the Mayor.
- C. Authority and responsibilities. The Chief of Staff shall have the following duties:
 - (1) Represent the Mayor as liaison with the City Council.
 - (2) Represent the Mayor, acting only on ~~the Mayor's his~~ direction, at meetings of regional agencies, state and federal agencies, community groups, business interests and local trade and fraternal organizations, for purposes of gathering information and/or articulating the Mayor's point of view.
 - (3) Organize and summarize information and prepare it for the Mayor's review and action.
 - (4) Meet with department heads regarding day-to-day business, expediting administrative interaction between the Mayor's office and City departments.
 - (5) Serve as a liaison officer between the City and its residents.
 - (6) Be familiar with all aspects of the City government, and become familiar with the functions of the activities of the various offices and employees of the City.
 - (7) Be familiar with the various services rendered by the City to its residents, so that he can inform ~~residents~~ ~~citizens~~ of the extent of these services and of the schedule for their performance.
 - (8) Complete specified research assignments with close contact to the Massachusetts Municipal Association and the National League of Cities and Towns, comparing the City's problems with problems and solutions of other communities in the state and nation.
 - (9) Meet with the Mayor, boards and commissions in normal business meetings to explain proposals or identify means to expedite action.
 - (10) Work with the Clerk of Committees preparing orders and backup material for executive department initiatives and with committees to expedite support for committee deliberations.
 - (11) Perform other services so as to support the Mayor's role as chief executive of the City.

§ 58-39 City Arborist.

- A. Powers and duties. The City Arborist, subject to the direction and supervision of the Director of Public

Engineering, Commissioner of Public Services, Public Works, shall have the following general powers and duties:

- (1) To direct, manage, supervise, and control the City's forestry program, including the planting, removal, trimming, maintenance, and protection of all trees and shrubs in or upon all public areas of the City; to supervise Department of Parks and Recreation personnel and private contractors in the planting, removal, trimming, maintenance, and protection of said trees and shrubs.
 - (2) To cause the provisions of this section to be enforced.
 - (3) To guard all trees and shrubs within the City against the spread of plant diseases, insects or pests; to eliminate conditions which may endanger the life, health, or safety of persons or property.
 - (4) To use all available means of communication to inform the public concerning the forestry program and tree and shrub care. The City Arborist shall, upon request by the owner or occupant of private property, examine and recommend the proper care or treatment of trees or shrubs, to be effected by the owner at the owner's-his expense. There shall be no charge to the owner for the examination.
 - (5) Such other powers and duties as are provided by Massachusetts General Law Chapter 87 and by ordinances of the City of Beverly.
 - (6) Authority to preserve and remove public trees and shrubs. The City Arborist shall have the authority to plant, remove, maintain, and protect all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, and to protect life and property.
- B. Interference prohibited. No person shall interfere with the City Arborist or theirhis/her authorized representative while engaged in the execution or enforcement of this section.

§ 58-40 Fence Viewers.

- A. Establishment. There shall be two or more Fence Viewers, as provided in MGL c. 49, §§ 1 through 21.
- B. Appointment; term of office. The Director of Municipal Inspections shall, subject to the consent of the Mayor, annually appoint two or more Fence Viewers, to hold office for terms not to exceed three years.
- C. Authority and responsibilities. The Fence Viewers shall be responsible for the enforcement of MGL c. 49, §§ 1 through 21, and may determine when a partition fence is required. They shall have all of the other powers and duties given to fence viewers by general laws of the commonwealth.

§ 58-41 Shade Tree Management and Pest Control Superintendent.

- A. Establishment. There shall be a Superintendent of Shade Tree Management and Pest Control as provided in MGL c. 132, § 13.
- B. Appointment; term of office. The Director of Engineering, Commissioner of Public Services, Public Works shall, with the consent of the Mayor, appoint a Superintendent of Shade Tree Management and Pest Control for a term not to exceed three years (MGL c. 132, § 13).
- C. Authority and responsibilities. The Superintendent of Shade Tree Management and Pest Control shall be responsible for the suppression of the public nuisances named in MGL c. 132, § 11, including gypsy and brown tailed moths, tent caterpillars, cankerworms, oriental hag moths, fall webworm, Japanese beetle, and other insects which destroy forest and shade tree foliage (MGL c. 132, § 13; see c. 132, generally).

§ 58-41.1 Veterans' Graves Officer.
[Added 1-3-2017 by Ord. No. 280]

The Mayor shall appoint a resident of Beverly, who shall be a veteran as defined in MGL c. 4, § 7, Clause 43, as a Veterans' Graves Officer, for a term to be determined by the Mayor but which shall not exceed five years. It shall be the duty of such Veterans' Graves Officer to cause every veteran's grave within Beverly to be suitably kept and cared for. Such care shall include the clearing of weeds and other unseemly growth from said graves; the repairing, replacement and general upkeep of fences around said graves; the raising and repairing of sunken grave stones and markers; and other similar services that may be necessary to restore and maintain such graves and their surroundings in an orderly condition. If the cost of such care and maintenance is not paid by private persons, or by the trustees of the cemeteries where any such grave is situated, it shall be paid by the City.

§ 58-42 Veteran's Services Director.

- A. Establishment. The Mayor shall, subject to the review of the City Council as provided in Section 2-10 of the Charter, appoint a Veteran's Services Director as provided in MGL c. 115, § 10, to serve for a term not to exceed three years.
- B. Authority and responsibilities. The Veteran's Services Director shall furnish information, advice and assistance to veterans relative to employment, education, medical care, pensions, and other benefits to which they are or may be entitled (MGL c. 115, §§ 10 through 14).
- C. The Veteran's Services Director shall also serve as the burial agent to cause the body of any veteran to be properly interred or adult or child dependent of a veteran to be properly interred as provided in MGL c. 115, § 7, and as veteran's graves officer be responsible to see that every veteran's grave is suitably kept and cared for as provided in MGL c. 115, § 9.

§ 58-43 Weights and Measures Sealer.

- A. Establishment. There shall be a Sealer of Weights and Measures as provided in MGL c. 98, §§ 34 through 56D.
- B. Appointment; term of office. The Director of Municipal Inspections shall, subject to the consent of the Mayor, appoint a Sealer of Weights and Measures for a term not to exceed three years.
- C. Authority and responsibilities. The Sealer of Weights and Measures shall test, adjust and seal all devices used for the weighing or measuring of commodities and be responsible for the enforcement of all laws relating to weights and measures.

§ 58-44 Wood and Bark Measurers.

- A. Establishment. There shall be one or more Measurers of Wood and Bark as provided in MGL c. 94, §§ 296 to 303.
- B. Appointment; term of office. The Mayor shall appoint one or more Measurers of Wood and Bark for terms not to exceed three years.
- C. Authority and responsibilities. The Measurers of Wood and Bark shall be responsible for the enforcement of the laws relating to the sale of wood and bark within the City as provided in MGL c. 94, §§ 296 to 303, inclusive.

Chapter 69 Personnel

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Boards, commissions, councils, committees and authorities — See Ch. 15.
Elective offices — See Ch. 58.

Officers and employees — See Ch. 26.

Article I
Personnel Policies

[Adopted as Art. XXVI of the Code of Ordinances]

§ 69-1 Failure to qualify after notice of election or appointment.
[Amended 2-16-2016 by Ord. No. 013]

The failure of any officer of the City to qualify within 30 days from the service of the notice of ~~his~~-election or appointment shall be deemed to be a refusal to accept the office; and thereupon the vacancy shall be filled without delay in accordance with the City Charter.

§ 69-2 Preemployment physical examination.

Any person seeking full-time employment from the City must take a preemployment physical examination. Such examination shall be under the direction of a physician designated by the City's Director of Human Resources.

§ 69-3 Reinstatement of employees upon discharge from armed service.

All City employees who enter the armed service of the United States shall be returned to the same or a similar position to that which they held at the time of their enlistment or induction, upon and after honorable discharge from the armed service. Continuity of service shall not be broken by service in the armed forces.

§ 69-4 Vacations.

A. All full-time City employees, not otherwise covered by bargaining unit or individual employment contract, will have the following vacation scheduled: [Amended 12-29-2005 by Ord. No. 289; 2-16-2016 by Ord. No. 013]

- (1) For more than 30 weeks of service but less than five years, the employee shall receive 10 days of vacation.
- (2) For five years or more of service but less than 10 years, the employee shall receive 15 days of vacation.
- (3) For 10 years or more of service but less than 20 years, the employee shall receive 20 days of vacation.
- (4) After 20 years of service, the employee shall receive 25 days of vacation.
- (5) For employees defined as City officers in Chapter 1, § 1-1B, of the City Code, service time shall be cumulative but not consecutive.

B. On a seniority basis, employees shall receive two weeks of vacation by choice; beyond this, vacations shall be by mutual consent of the parties.

C. Should a holiday fall within an employee's vacation, he shall receive an additional day of vacation.

D. Upon termination of employment, the employee shall receive payment equal to the amount of vacation pay ~~the employee he~~-would have received had the termination not occurred. If the termination is caused

by death, such payment shall be made to the employee's spouse or next of kin. [Amended 12-29-2005 by Ord. No. 289; 2-16-2016 by Ord. No. 013]

- E. No employee shall be called back to work while on vacation.
- F. Employees shall be allowed to carry over up to 10 vacation days from one year to the next; provided, however, that they may only carry these days forward for one year, and they must be used in the year following that from which they are carried over.
- G. In order to address vacation leave issues arising from the COVID-19 pandemic, notwithstanding Subsection F, 1) the December 31, 2020, deadline for carry-over shall be extended to April 30, 2021, and 2) employees shall be allowed to carry over up to 12 vacation days through the remaining months of calendar 2021. This provision is applicable only to vacation carry-over from calendar year 2020. [Added 11-23-2020 by Ord. No. 236]

§ 69-5 Mileage reimbursement.

[Amended 6-15-1987 by Ord. No. 273; 2-16-2016 by Ord. No. 013; 3-7-2016 by Ord. No. 032]

A municipal employee may be reimbursed for the use of ~~the employee's -his/her~~ personal vehicle on City business at the rate ~~of \$0.20 per mile, and this rate shall be adjusted annually on or about July 1 each year to equal the rate that for~~ state employees' ~~are reimbursed for~~ use of their private vehicles. The ~~rate shall be reviewed and adjusted annually by the Finance Director or City Auditor~~ ~~Documentation necessary to receive the reimbursement will be determined by the Finance Director or City -Auditor.~~

§ 69-6 Payment of fees, charges or commissions.

[Amended 6-20-1988 by Ord. No. 50]

Pursuant to MGL c. 41, § 108, all fees, charges or commissions allowed by law to any officer of the City shall be paid into the City treasury and belong to the City, and the City shall pay any such officer such compensation as the City Council shall determine.

Article II Classification and Pay Plan

[Adopted as Art. XXVII of the Code of Ordinances]

§ 69-7 Effect of adoption of article.

The adoption of this article shall neither reduce the salary or wage of any officer or employee of the City, nor shall anything relating to City officials or employees be construed in such manner as to be in conflict with the civil service rules or collective bargaining agreements. Any officer or employee who would have otherwise been entitled to higher pay by subsequent step increments under a prior pay ordinance than he is entitled to under this article shall receive the greater pay.

§ 69-8 Definitions.

As used in this article, the following terms shall have the meanings indicated:

SICK LEAVE

That period of time for which a permanent full-time employee, other than an employee of the School Department, is entitled to receive compensation while unable to perform ~~his~~ duties ~~due to because of~~ sickness or injury ~~not related to and occurring outside of the employee's work for the City. or arising out of and in the course of his employment by the City.~~

§ 69-9 Sick leave.

- A. Compensation for sickness or other disability shall be limited to two days for each month of service in the preceding 12 months, but not more than 20 days in any twelve-month period. Holidays and any other days not included in the normal workweek shall not be included in the computation of days allowed hereunder.
- B. Sick leave credit will begin the first day of the month in which the employee is employed, but thereafter benefits hereunder shall be based upon continuous service since the date of original employment. If such service has not been continuous, such benefits shall be based upon continuous service since the last hiring date after the expiration of such 12 months of service or employment.
- C. Any sick leave allowed under this section may be accumulated, but such accumulation shall not exceed 200 days at any time.
- D. Upon retirement, employees will be paid 50% of the accrued sick days accrued as severance pay. If termination is by demise, 50% of the accrued sick leave shall be paid to the spouse, next of kin, to the employee's estate, or to the employee's legally designated beneficiary.
- E. Each employee's sick leave credits shall be posted annually by January 15 of each calendar year.
- F. For purposes of this section, a day's pay shall be computed as 1/5 of an employee's base pay per week, in grade.
- G. If a conflict exists between any current collective bargaining agreement and this section, the provisions of the collective bargaining agreement will apply.
- H. Notwithstanding Subsection D, any department head of the City who is initially appointed or hired or after January 1, 1989, shall not be eligible to receive or be paid accrued sick days as provided under Subsection D, nor will their spouse, next of kin, estate, or legally designated beneficiary be eligible for such severance pay. [Amended 12-19-1988 by Ord. No. 659]

~~I. Conditions under which sick leave days shall not be granted. No person shall be entitled to any compensation or benefits under this article for any period of disability resulting in whole or in part from:~~

~~(1) The voluntary use of intoxicating liquor, drugs or narcotics.~~

~~(2) Self-inflicted injuries, other than accidental.~~

~~(3) Injuries sustained while engaged in, resulting from or arising out of the commission by the individual him of a felony, or of a misdemeanor involving moral turpitude.~~

~~(4) Injuries sustained while engaged in, resulting from or arising out of the violation of any lawful rule or regulation of the department in which employed, or of the City or of the commonwealth.~~

~~(5) Injuries sustained as a result of reckless, improper or vicious conduct or illegal or immoral practices.~~

~~(6) Injuries or sickness arising while dually employed by the City and some other person or concern, unless ordered to or authorized by the head of the department.~~

§ 69-10 Notice of illness; fraudulent leave.

- A. Every employee, to be entitled to leave without loss of pay, shall notify his department head of his absence and the cause thereof before the expiration of the first hour of absence, or as soon thereafter as practicable.
- B. When physician's certificate or written statement may be required; availability for examination. For

periods of absence for five consecutive working days or more, the appointing authority or someone designated by ~~the appointing authority~~ may require evidence for the necessity of such absence in the form of a physician's certificate or, if the cause of the absence is such as not to require the services of a physician, a written statement, signed by the employee, setting forth the reason for the absence. Where such certificate or statement is requested, the employee shall not be entitled to pay for his absence until such certificate or statement is filed. All City employees on sick leave shall be available at all times for examination by a physician designated by the City and at the request of the department head or the Mayor. Any employee not complying with the aforesaid shall be deemed ineligible for any further benefits. [Amended 2-16-2016 by Ord. No. 013]

- C. Fraudulently taking sick leave. Any person who feigns sickness, injury or disability or who makes a false statement relative thereto shall be subject to ~~discipline up to and including termination -immediate suspension~~ and, in any event, shall not be entitled to the benefits of this article for a period of one year after such finding.

§ 69-11 Confidential employees.
[Amended 5-20-1996 by Ord. No. 186]

All employees with a confidential employee status, who due to that status are excluded from all labor unions pursuant to MGL c. 150E, § 3, shall receive the same cost-of-living raises negotiated by the union of which they would be entitled to be a member if not for their confidential employee status. Nothing in this section shall preclude said confidential employees from receiving merit raises as may be recommended by their supervisor and the Mayor and appropriated by the City Council from time to time. Said confidential employees shall be entitled to the same employee benefits enjoyed by all other employees under their union contracts, including but not limited to vacation pay, sick leave benefits, personal and funeral leave, longevity, health and welfare benefits, on-the-job injury and educational benefits.

§ 69-12 Unclassified salaries.
[Added 12-5-2016 by Ord. No. 197A]

The compensation of the officer(s) mentioned in this section shall be at the following rates per annum, except as otherwise provided, payable in equal weekly payments:

A. Mayor:

- (1) January 1, 2018: \$105,000.
- (2) January 1, 2019: \$110,000.
- (3) January 1, 2020: \$115,000.
- (4) January 1, 2021: \$120,000.
- (5) January 1, 2024: \$145,000

B. School Committee:

- (1) School Committee members: \$8,000.
- (2) School Committee President: \$9,000.

- C. On or before October 31 of the first year of a two-year term, the City Council shall meet for the purpose

of reviewing the salaries of the Mayor and members of the School Committee.

Chapter 72

School Committee

[HISTORY: Adopted by the City Council of the City of Beverly as Art. IV of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Agencies — See Ch. 7.

Boards, commissions, councils, committees and authorities — See Ch. 15.

Elective offices — See Ch. 26.

Officers and employees — See Ch. 58.

§ 72-1 Composition and term.

There shall be a School Committee which shall consist of seven members. Six of these members, to be known as "ward School Committee members," shall be nominated and elected by and from the voters of each ward, one such ward School Committee member to be elected from each of the six wards into which the City is divided, in accordance with Charter Section 7-5. The Mayor shall serve as the seventh member of the School Committee. The term of office for all School Committee members shall be for two years each, beginning on the first Monday of January in the year following their election, and until their successors have been qualified.

§ 72-2 Powers and duties.

- A. The School Committee shall have all powers which are conferred on school committees by general laws and such additional powers and duties as may be provided by the Charter, by ordinance, or otherwise and not inconsistent with said grant of powers conferred by general laws. The powers and duties of the School Committee shall include the following:
- (1) To elect a Superintendent of the Schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the School Committee.
 - (2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the School Committee as may be deemed necessary or desirable.
 - (3) To adopt and administer an annual operating budget for the School Department, subject to appropriation by the City Council.
- B. The School Committee shall have general charge and superintendence of all school buildings and grounds, shall furnish all school buildings with proper fixtures, furniture and equipment and shall provide ordinary maintenance of all school buildings and grounds; provided, however, the City Council may, by ordinance, provide for the establishment of a central municipal maintenance department which may include maintenance of school buildings and grounds. Whenever the School Committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least one member of the School Committee, or designee of the School Committee, shall serve on the agency, board or committee to which the planning or construction of such new, remodeled or renovated school building is delegated. The School Committee shall have general charge and superintendence of the public schools for the purpose of educating children in the City. The powers of the School

Committee include: to appoint a Superintendent of Schools, to adopt an annual operating budget (subject to appropriation by the City Council) and to make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the City. The School Committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the Charter, by ordinance or other City Council vote.

§ 72-3 Cooperation with other boards and bodies.

- A. City Council. The School Committee and the City Council shall meet at least once during each calendar year to cooperatively discuss financial and educational policy matters of the City. The School Committee Chair and City Council President shall preside over each joint meeting.
- B. Other boards. The School Committee shall interact with any multiple-member board within the City as necessary so as to ensure furtherance of the Committee's responsibility to educate the children of the City.
- C. Building and Other Facilities Planning and Construction Committee. The School Committee shall, annually, designate one of its members, or some other person, to serve as a member of the Building and Other Facilities Planning and Construction Committee established by Section 5-6 of the Charter.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

PART II: GENERAL LEGISLATION

Chapter 105 Airport

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 270.

Article I Parking Restrictions

[Adopted as amended 12-15-2003 by Ord. No. 329 (Art. IX of the Code of Ordinances)]

§ 105-1 Time limit.

Parking after 8:00 p.m. at Beverly Airport is by authorization only as permitted the Police Department or the Airport Commission.

§ 105-2 Authorized parking defined.

"Authorized parking" shall mean parking within the marked spaces solely for the purpose of access to and egress from motor vehicles by persons utilizing the facilities of the lessees of Beverly Regional Airport, John Mountain Field.

§ 105-3 Violations and penalties.

Offenders of this article shall be subject to a fine not to exceed \$50.

Chapter 109 Alarm Systems

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXIII of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 159.

§ 109-1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

ALARM SYSTEM

An assembly of equipment and devices or a single device such as a solid-state unit which plugs directly into a one-hundred-ten volt, sixty-cycle arranged to signal the presence of a hazard requiring urgent

attention and to which police or fire persons are expected to respond. The City municipal fire alarm system is specifically excluded from the provisions of this chapter (A.C. line).

ALARM USER or USER

Any person on whose premises an alarm system is maintained within the City, except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this chapter are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system," as that term is used in this section, and shall be subject to this chapter.

AUTOMATIC DIALING DEVICE

An alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

CENTRAL STATION

An office to which remote alarm and supervisory signaling devices are connected where operators supervise circuits or where guards are maintained continuously to investigate signals.

COMMUNICATIONS CONSOLE

The instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

DIRECT CONNECT

An alarm system which has the capability of transmitting system signals to and receiving them at the Police Department communication center and Fire Department communication center.

FALSE ALARM

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents.
- B. Any signal or oral communication transmitted to the Police or Fire Department requesting, or requiring, or resulting in a response on the part of the Police or Fire Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary or fire at a premises.
- C. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

FIRE CHIEF

The Chief of the Fire Department of the City or the Chief's ~~his~~ designated representative.

INTERCONNECT

To connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

POLICE CHIEF

The Chief of Police of the City or the Chief's ~~his~~ designated representative.

POLICE or POLICE DEPARTMENT; FIRE or FIRE DEPARTMENT

The City Police Department or City Fire Department or any authorized agent thereof.

PUBLIC NUISANCE

Anything which annoys, injures or endangers the comfort, repose, health or safety of any considerable number of persons or of any community or neighborhood.

§ 109-2 Violations and penalties.

[Amended 6-20-1994 by Ord. No. 35]

- A. The following acts and omissions shall constitute violations of this chapter punishable by fines of up to \$50:
 - (1) Failure to obey an order of the Police Chief or Fire Chief to discontinue use of an alarm system, after exhaustion of the right of appeal.
 - (2) Failure to disconnect an automatic dialing device from any telephone numbers at the Police Department or Fire Department within six months after the effective date of the ordinance from which this chapter was derived.
 - (3) Interconnection of an automatic dialing device to any telephone numbers at the Police Department or Fire Department after the effective date of the ordinance from which this chapter was derived.
 - (4) Failure to pay two or more consecutive fines assessed under this chapter within 60 days from the date of the assessment.
 - (5) Failure to comply with the requirements of § 109-7.
- B. Separate offenses. Each day during which the aforesaid violations continue shall constitute a separate offense.

§ 109-3 Administrative rules.

The Police Chief or Fire Chief may promulgate such rules as may be necessary for the implementation of this chapter in their respective departments.

~~§ 109-4 Automatic dialing devices.~~

~~A. Interconnection specifications. Automatic dialing devices may be interconnected only to telex phone numbers at the Police Department or Fire Department specifically designated to receive such calls by the Police or Fire Department.~~

~~B. Interconnection time requirement. By December 31, 1982, all dialers shall be reprogrammed to interconnect as indicated in Subsection A above.~~

§ 109-5 Direct transmissions.

Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

- A. A central station;
- B. An answering service; or
- C. Any privately owned or privately operated facility or terminal.

§ 109-6 Direct connections to Police Department.

- A. Connection to communications console; existing systems. Alarm systems may be connected to the communications console in the Police Department. The existing alarm company is to remain until terminated by the Chief of Police.
- B. Bids. In accordance with the normal bidding practices in effect in the City, the City Council shall have the authority to request bids from alarm companies in order to furnish, at no cost to the City, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the Police Department. Each of the bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console. Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this Subsection **B** relate solely to the aforementioned communications console, connections to the console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance, and for servicing of the alarm system to be installed on his premises.
- C. Responsibilities of alarm user or alarm business contracting for servicing alarm system. The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm receiving equipment at the Police Department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.
- D. False alarm regulations applicable to users having direct connection systems; exceptions. The provisions of § 109-9 concerning false alarms shall apply to all alarm users or persons having direct-connection systems, except municipal, county or state agencies and religious organizations.

§ 109-7 Control and curtailment of signals.

- A. Submission of names of persons authorized to respond to alarm. Every alarm user shall submit to the Police Chief or Fire Chief the names and telephone numbers of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.
- B. Test device. All alarm systems directly connected to the Police Department may be equipped with a test device which will give a ten-second delay or longer prior to alarm system activation in order to warn the alarm user of an open alarm circuit.
- C. Automatic shut-off devices. All alarm systems installed after July 1, 1981, which use an audible horn or bell or siren-sounding alarm shall be equipped with a device that will shut off such audible sound within 20 minutes or less after activation of the alarm system.
- D. Continuous signals constitute a nuisance. Any alarm system emitting a continuous and uninterrupted signal for more than 30 minutes between 7:00 p.m. and 6:00 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection **A** of this section and which disturbs the peace, comfort, or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance.
 - (1) Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user, or those persons designated by the alarm user under Subsection **A** of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

- (2) In the event that the Police Chief is unable to contact the alarm user or those persons designated by the alarm user under Subsection A of this section, or if the aforesaid persons cannot or will not curtail the audible signal emitted by the alarm system, and if the Police Chief is otherwise unable to abate the nuisance, ~~the Chief he~~ may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance. If the entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property shall:
- (a) Not conduct, engage in or undertake any search, seizure, inspection or investigation while he is upon the property.
 - (b) Not cause any unnecessary damage to the alarm system or to any part of the home or building.
 - (c) Leave the property immediately after the audible signal has ceased.
- E. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this chapter may be assessed to the alarm user, such assessment not to exceed \$50.

§ 109-8 Testing of equipment.

No alarm system designed to transmit emergency messages directly to the Police or Fire Department shall be worked on, tested or demonstrated without obtaining permission from the Police Chief or Fire Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department or Fire Department. An unauthorized test constitutes a false alarm.

§ 109-9 False alarms.

- A. Actions of Police or Fire Chief generally. When emergency messages are received by the Police or Fire Department that evidence false alarms, the Police Chief or Fire Chief shall take action as may be appropriate under Subsections B, C, D and E of this section and, when so required by the terms of such subsections, order that use of an alarm system be discontinued.
- B. Report. After the Police or Fire Department has recorded three separate false alarms within the calendar year from an alarm system, the Police Chief or Fire Chief shall notify the alarm user, in writing, in person or by mail, of such fact and require the alarm user to submit, within 15 days after receipt of such notice, a report describing efforts to discover and eliminate the cause of the false alarms. If the user, on the basis of absence from the City, or on any other reasonable basis, requests an extension of time for filing the report, the Police Chief or Fire Chief may extend the fifteen-day period for a reasonable time. If the user fails to submit such a report within the times specified, the Police Chief or Fire Chief shall order that use of the alarm system be discontinued. Any such discontinuances shall be effectuated within 15 days from the date of receipt of the Police Chief's or Fire Chief's order.
- C. Discontinuance of system for unsatisfactory report. In the event that the Police Chief or Fire Chief determines that a report submitted in accordance with Subsection B of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the Police Chief or Fire Chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within 15 days from the date of the Police Chief's or Fire Chief's order.
- D. Discontinuance of system for certain number of false alarms within a year. If the Police or Fire Department records five false alarms within the calendar year from an alarm system, the Police Chief or Fire Chief may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six months from the date the alarm system was disconnected. In the event that the Police Department or Fire Department records eight false alarms within the calendar year

from an alarm system, the Police Chief or Fire Chief shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six months from the date the alarm was disconnected.

- E. Fines. Any user of an alarm system which transmits false alarms shall be assessed a fine of \$25 for each false alarm in excess of three occurring within the calendar year. All fines assessed, however, shall be paid to the City Treasurer-Collector for deposit in the general fund. Upon failure of the user of an alarm system to pay two consecutive fines assessed hereunder within 30 days of assessment, the Police Chief or Fire Chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within 15 days from the date of receipt of the Police Chief's or Fire Chief's order.

§ 109-10 Conflict with other provisions.

The provisions of this chapter do not regulate fire alarms regulated by Chapter 159, Fire Prevention, Article III, §§ 159-16 through 159-22, of the City Code.

Chapter 113

Alcoholic Beverages

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXII, §§ 22.10 and 22.28, of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Parks, recreation areas and public property — See Ch. 210.

§ 113-1 Possession or consumption in public buildings.

[Amended 4-6-2011 by Ord. No. 43; 6-21-2011 by Ord. No. 96]

- A. The possession or consumption of alcoholic beverages is prohibited in all public buildings except:
- (1) In any City building under the supervision of the Beverly Golf and Tennis Commission with the permission of the Beverly Golf and Tennis Commission.
 - (2) In any City building under the supervision of the Council on Aging with the permission of the Council on Aging.
 - (3) In the Carriage House at Lynch Park with the permission of the Parks and Recreation Commission.
 - (4) In any school building under the supervision of the School Committee with the permission of the Superintendent of Schools.
 - (5) In the Beverly Public Library or the Beverly Farms Library with the permission of the Library Director.
[Added 10-16-2017 by Ord. No. 495]
- B. Any violation of this section shall result in a fine of \$100.

§ 113-2 Possession or consumption on public ways, in public places or on private property.

- A. No person shall drink any alcoholic beverages, as defined in MGL c. 138, § 1, or carry or be in possession of any opened bottle or can containing an alcoholic beverage, as defined in MGL c. 138, § 1, while in or upon any public way, or any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land, building, structure or place without the consent of the owner or person in control thereof. All alcoholic

beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

- B. This section shall not apply to any place duly licensed to serve alcoholic beverages as defined in MGL c. 138, § 1.
- C. Notwithstanding Subsection A, Beverly restaurants may be allowed to operate and serve alcohol on City sidewalks, in parklets (parking spaces), public ways, or other public space, but only upon approval by the Health Department, Municipal Inspections Department, Planning Department, and Public Safety in accordance with standards established by the Planning Department. Any such use is further subject to review and approval by the Licensing Board, including conditions imposed by such Board. This Subsection C shall sunset and be of no further force and effect as of April 1, 2023. [Added 6-18-2020 by Ord. No. 128; amended 11-23-2020 by Ord. No. 247; 8-2-2021 by Ord. No. 136; 6-6-2022 by Ord. No. 141]

D. Any violation of this section shall result in a fine of \$100.

Chapter 117

Animals

[HISTORY: Adopted by the City Council of the City of Beverly as Art. X of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Parks, recreation areas and public property — See Ch. 210.

Article I

Keeping of Bees

§ 117-1 Keeping of bees~~Number and location of hives.~~

~~Upon complaint by any resident of the City with respect to the keeping of bees by a person in the neighborhood in which such complainant lives and following a public hearing on which notice shall have been given to all abutters and abutting abutters, as shown on the records in the Assessor's office, seven days in advance by publication in a local newspaper and by notification by United States mail with postage prepaid, at the complainant's expense, the Animal Inspector shall be empowered to make an order regulating the number and location of hives kept by the person about whom the complaint shall have been made. Violation of such order shall be punishable by a fine of \$25 and each day of a continuing violation to be considered a separate offense.~~

It shall be unlawful for any person to establish or maintain any hive, stand, or box where bees are kept, or keep any bees in or upon any premises within the City, unless the bees are kept in accordance with the following provisions:

A. Bees shall not be kept within 5 feet of any exterior boundary of the property. If bees are kept within 15 feet of any exterior boundary of the property on which the hive, stand, or box is located, a barrier that will prevent bees from flying through it, no less than 6 feet high and no less than 4 feet in front of the hive, stand, or box, shall be installed and maintained along said exterior boundary. Said barrier may be either a plant, fence, wall, or some combination thereof or of similar composition.

B. The bees and any hive, stand, or box where bees are kept shall be kept in accordance with the provisions

of state statutes.

C. Whoever violates the provisions of this section shall be subject to a fine of \$25 per day. Each day that a violation continues shall be deemed a separate offense. Enforcement of this section may be by written warning and/or non-criminal disposition as provided by M.G.L. c. 40, § 21D.

Article II Stables

§ 117-2 License required.

No person shall hereafter erect, occupy or use for a stable, coop, or pen any building, any building for the maintenance of any domestic animal in the City without first obtaining a license therefor from the Board of Health.

§ 117-3 Construction and maintenance standards.

The Board of Health may make such regulations or orders respecting the drainage, ventilation, number of animals and the storage and handling of manure in any stable, coop, or pen s as in its judgment the public health requires.

Article III Dogs, Cats and Ferrets

§ 117-4 Dog licenses required.

[Amended 12-18-1996 by Ord. No. 148]

- A. Whoever owns or keeps a dog in the City which is over the age of six months shall ~~annually~~ obtain a license therefor from the City Clerk prior to April 1 of each year. Licenses issued pursuant to this section shall expire on March 31 next after issuance. The fee for spayed or neutered dogs is \$20; the fee for intact dogs is \$25. No fee shall be charged for a license issued for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder. [Amended 2-16-2016 by Ord. No. 013]
- B. The City Clerk shall not grant such license for any dog unless the owner thereof provides the Clerk with either a veterinarian's certification that such dog has been vaccinated in accordance with M.G.L. c. 140, § 145B~~this section~~, certification that such dog is exempt from the vaccination requirements of M.G.L. c. 140, § 145B, or a notarized letter from a veterinarian that either of these certifications was issued. [Amended 2-16-2016 by Ord. No. 013]
- C. The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag in a form prescribed by the City Clerk, and upon which shall appear the license number for the current year.
- D. Whoever violates the provisions of this section shall be subject to a fine of ~~\$5025. Any person failing to pay the above fines within the 21 days provided will be subject to a surcharge of \$5 in addition to the fine due.~~ The owner or keeper of any dog not licensed for any previous year(s) shall be required to pay the previous year(s) fee(s) and fine(s) in order to be issued a license for the current year.

§ 117-5 Disposal of animal waste.

[Amended 12-18-1996 by Ord. No. 148; 10-5-2006 by Ord. No. 154]

- A. Duty to dispose. It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by the person's ~~his/her~~ dog on any sidewalk, street, park, public area or any private property of another. A copy of this section shall be given to every dog owner when licensing at the time the dog is licensed.

- B. Duty to possess means of removal. No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park, public area or private property of another without the means of removal of any feces left by such dog.
- C. Method of removal and disposal. For the purpose of this regulation, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces, unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to the property of the owner or the dog or to some other place suitable and regularly reserved for the disposal of human feces or specifically reserved for the disposal of canine feces, and so disposing of said feces.
- D. Fines for violation. Fines for violation of this section shall be \$100 for the first offense in a calendar year and \$50 for subsequent offenses in the same calendar year. **[Amended 2-16-2016 by Ord. No. 036]**
- E. Exemption for guide dogs. This section shall not apply to a guide dog accompanying any handicapped person.

**§ 117-6 Dog kennel licensing and fees.
[Added 10-19-2015 by Ord. No. 406]**

- A. The City Clerk is the licensing authority for any dog kennel or day care sheltering more than three dogs at any given time and for any duration. Any person operating such a kennel shall apply to the City Clerk for a license and shall be subject to the following fee schedule for new licenses and for renewals:
 - (1) Four dogs: \$30.
 - (2) Five dogs to 10 dogs: \$50.
 - (3) Ten dogs or more: \$100.
- B. The City Clerk shall issue a license under this section only after the kennel has been inspected by the Animal Control Officer in both the case of a new license and a renewal.
- C. Kennel licenses must be renewed every June. Kennels subject to this section must be in compliance with all state laws in their handling of licensed and unlicensed dogs and in their operation in order to maintain a kennel license.

**§ 117-7 Security and guard dogs.
[Amended 12-18-1996 by Ord. No. 148]**

- A. Any dog used primarily for the purpose of securing and protecting real or personal property which is open to public access at any time shall comply with all the following:
 - (1) Such dog shall be registered with the City Clerk in accordance with MGL c. 140, §§ 137 and 137A.
 - (2) Such dog shall be kept within a suitable and closed-in area which at all times shall not be accessible to the public when such property is open to public access or during business hours. Such closed-in area will consist of a fence at least six feet high with a fence covering and a locked gate and/or within a locked room if in a business establishment.
 - (3) All areas secured or protected by a security or guard dog or dogs shall be posted in such thorough manner as to give adequate notice to the public ("Beware of Guard Dog," etc.).
- B. No person/business shall harbor a security dog or guard dog unless he has obtained a security dog permit as follows.

- (1) Such permit will be issued by the City Clerk at no fee upon written certification by the Animal Inspector that such business or person has complied with all the guidelines of this section. Such permit may be revoked by the Police Chief upon evidence of violation of the provisions of this section.
 - (2) The City Clerk shall provide the Fire Chief and Police Chief with a copy of the security dog kennel permit.
 - (3) The security dog permit shall specify the location at which the dog is licensed to be located, and no transfer or relocation of the duly licensed guard/security dog shall be permitted without the approval of the Animal Control Officer.
 - (4) Such permit shall be valid for an indefinite period of time.
 - (5) Any business or private resident harboring a security dog shall, upon the request of the Animal Control Officer or any police officer, allow him to enter and inspect the area where such dog is licensed to be harbored. **[Amended 2-16-2016 by Ord. No. 013]**
- C. Failure to comply with any subsection of this section will result in a fine of \$50 for each day of such violation.

§ 117-8 Vaccination against rabies.

[Amended 12-18-1996 by Ord. No. 148; 2-16-2016 by Ord. No. 013]

- A. Whoever is the owner or keeper of a dog, cat or ferret six months of age or older shall cause such dog, cat or ferret to be vaccinated against rabies in accordance with MGL c. 140, § 145B.
- B. Unvaccinated dogs, cats or ferrets acquired or brought into the City shall be vaccinated within 30 days after acquisition or entry into the City or upon reaching the age of six months, whichever comes later.
- C. Whosoever violates the provisions of this section shall be subject to a fine of \$50. Any person failing to pay the above fines within the 21 days provided will be subject to a surcharge of \$5 in addition to the fine due.

§ 117-9 Prohibited conduct; impounding, release and disposition of dogs.

A. The owner or keeper of a dog, or both, may be prosecuted in a court of law for the following violations of this section and the dog may be impounded: **[Amended 2-16-2016 by Ord. No. 013; 2-16-2016 by Ord. No. 036]**

- (1) If found without a license when a license is required by law.
- (2) If found at large elsewhere than in unleashed designated areas as described by written policy of the Beverly Parks and Recreation Commission.
- (3) For having bitten, injured or physically molested any person. Penalty: \$50.
- (4) For having bitten or injured any domestic animal. Penalty: \$50.
- (5) For chasing any vehicle on a public way or on any way open to public traffic in the City. Penalty: \$25.
- (6) For repeatedly causing a nuisance, such as, but not limited to, barking or littering. Penalty: first offense, \$25; second offense, \$50.
- (7) If found, not muzzled, off the property of its owner or keeper while a muzzling order with respect to it is in effect under § 117-14 below. Penalty: first offense, \$100; second offense, MGL c. 140, § 157, fine schedule.

- (8) For leaving defecation (a) On private property other than that of its owner; (b) On a public sidewalk; (c) or On trees or lawns. Penalty: \$25.
- (9) If any person owning, harboring, keeping or in charge of any dog, except a guide dog accompanying any handicapped person, shall cause, suffer or allow such dog to soil, defile, defecate or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk, or on any public property whatsoever, or on any private property without the permission of the owner of said property.

B. The owner or keeper may obtain the release of an impounded dog as follows:

- (1) In the case of a violation of Subsection A(1) hereinabove, upon obtaining a license as required by law and by payment of a late filing fee.
- (2) In the case of a violation of Subsection A(2) through (8), inclusive, upon the agreement of the owner or keeper to undertake such restriction or control of the dog as the Animal Control Officer shall require. **[Amended 2-16-2016 by Ord. No. 013]**
- (3) In addition to compliance with Subsection B(1) and (2), all pound fees and fines, if any, must be paid before the dog is released.
- (4) No later than two days after the impoundment of any dog, the owner or keeper shall be notified; or if the owner or keeper of the dog is unknown or, after reasonable efforts, is not contacted, written notice shall then be posted for 10 consecutive days on a K-9 bulletin board in the office of the City Clerk describing the dog and the place and time of taking.
- (5) Dogs impounded and unclaimed by the owner or keeper after such a ten-day period shall be disposed of in accordance with the provisions of MGL c. 140, § 151A.

§ 117-10 Dogs on beaches and in parks.

[Amended 7-7-1987 by Ord. No. 30; 10-15-1990 by Ord. No. 543; 12-7-1992 by Ord. No. 153; 12-18-1995 by Ord. No. 148; 5-7-2003 by Ord. No. 40; 6-4-2003 by Ord. No. 173; 5-16-2007 by Ord. No. 112; 2-16-2016 by Ord. No. 036]

Dogs shall be permitted on beaches and in parks of the City of Beverly only as follows:

- A. From and including Memorial Day to and including Labor Day of each year, leashed dogs will be permitted in Lynch Park (excluding gardens, playing fields, and playground equipment areas) only between the hours of 6:00 a.m. and 7:30 a.m.
- B. From and including Memorial Day to and including Labor Day of each year, leashed dogs will be permitted in any other City park (excluding gardens, playing fields, and playground equipment areas) only between the hours of 7:30 p.m. and 7:30 a.m.
- C. Leashed dogs will be permitted in other special areas designated by written policy of the Beverly Parks and Recreation Commission during the hours designated in said policy.
- D. Unleashed dogs will be permitted in special areas designated by written policy of the Beverly Parks and Recreation Commission during the hours designated in said policy.
- E. The Beverly Parks and Recreation Commission and the Beverly Police Department shall develop and coordinate an enforcement plan for this section to ensure its effective enforcement.
- F. Annually, the Beverly Parks and Recreation Commission shall report to the City Council recommending

continuance, discontinuance or changes to this section.

- G. The Beverly Parks and Recreation Commission shall create a website in which this section and all written policies of the Commission relative to leashed/unleashed dogs are available to the public. Such site will provide for public comment relative to this section and the written policies of the Beverly Parks and Recreation Commission pertaining to leashed/unleashed dogs.

§ 117-11 Disposal of impounded cats.

Cats impounded and unclaimed by the owner or keeper after a two-day period may be disposed of in accordance with the provisions of MGL c. 140, § 151A.

~~§ 117-12 Dog license term.~~

~~[Amended 12-7-1992 by Ord. No. 153; Ord. No. 1-10-1994; 6-4-2003 by Ord. No. 173]~~

~~Dog licenses expire on March 31 of each year.~~

§ 117-13 Dog control.

[Amended 12-7-1992 by Ord. No. 153; 12-1995 by Ord. No. 148; 6-4-2003 by Ord. No. 173; 5-16-2007 by Ord. No. 112; 2-16-2016 by Ord. No. 013; 2-16-2016 by Ord. No. 036]

- A. No person owning, harboring or having custody and control of a dog shall permit such dog to be unleashed in the City of Beverly at any time, elsewhere than in unleashed areas as designated by policy of the Beverly Parks and Recreation Commission or on the premises of the owner, except if such dog be on the premises of another person with the knowledge and assent of such person. Further, any person owning, harboring or having custody and control of a dog in the City of Beverly, when such dog is not on the premises of the owner or upon the premises of another person with the knowledge and assent of such person, shall control and restrain such dog by a leash not to exceed 6 feet in of appropriate length.
- B. The Animal Control Officer or Assistant Animal Control Officer may take into custody any licensed dog found unleashed within the City of Beverly in violation of Subsection A of this section. The Animal Control Officer or Assistant Animal Control Officer may then impound said dog at any licensed kennel and notify the owner of the location where the dog may be claimed. The owner shall pay any boarding fee which may have accrued before the kennel shall be obligated to release the dog. If the owner does not claim the dog within three days of receipt of notice, the Animal Control Officer shall cause a second notice to be sent to the owner by registered mail. If the owner does not claim the dog within three days of receipt of the second notice, the Animal Control Officer may proceed against the owner for willful abandonment pursuant to MGL c. 272, § 84.
- C. ~~Dogs in cemeteries.~~ Dogs are ~~hereby~~ prohibited in all City cemeteries at all times.
- D. Whoever violates any provision of this section shall be subject to a fine of \$50 for a first offense, \$75 for a second offense and \$100 for a third or any subsequent offense relating to the same dog. ~~Any dog which has been the subject of four or more violations of this section within one calendar year shall be deemed a nuisance to which the provisions and procedures of MGL c. 140, § 157, shall apply, and shall be reported as such by the Animal Control Officer to the Chief of Police for appropriate action under that law.~~ Any person failing to pay the above fines within the 21 days provided will be subject to a surcharge of \$15 in addition to the fine due.

§ 117-14 Muzzling of dogs.

[Amended 12-7-1992 by Ord. No. 153; 2-16-2016 by Ord. No. 036]

- A. The Animal Control Officer may order the owner or keeper of a dog to muzzle such dog for either of the

following causes:

- (1) For having bitten, injured or physically molested any person.
 - (2) For having done substantial injury to any domestic animal;
- B. The Animal Control Officer may remove an order to muzzle a dog if the owner or keeper thereof satisfies him that the dog is unlikely to repeat its offense.

§ 117-15 Violations and penalties.

[Amended 2-16-2016 by Ord. No. 013; 2-16-2016 by Ord. No. 036]

Unless another penalty is provided, violations of this chapter shall cause the owner or keeper of such dog to be penalized by a fine of \$50 for the first such violation, \$75 for the second violation, and \$100 for the third and subsequent violations.

Chapter 124

Boating and Waterways

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXII, §§ 22.22, 22.23, 22.26, 22.27, 22.40 and 22.41, of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 201.

Parks, recreation areas and public property — See Ch. 210.

§ 124-1 Motorboat noise control.

[Amended 12-15-2005 by Ord. No. 244]

- A. Every motorboat operated upon the waters of the City of Beverly shall at all times be equipped with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise, as more particularly described in this section.
- B. For the purposes of this section, "muffler" means a sound-suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

EXCESSIVE OR UNUSUAL NOISE

Includes but necessarily limited to the following:

- (1) For an engine manufactured before January 1, 1993, as demonstrated by documents provided the operator thereof, a noise level of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005.
- (2) For any engine not demonstrated to have been manufactured prior to January 1, 1993, a noise level of 88 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005.
- (3) Total noise of operation for a motorboat underway exceeding 75 dB(A) when subjected to a stationary

sound level test from the shoreline or edge of any area through which passage by motorboat is permitted.

SAE J2005

The publication of the Society of Automotive Engineers so designated.

- D. No motorboat shall be operated on the waters of the City of Beverly if such vessel is equipped with an altered muffler or a muffler cutout bypass or other device designed or installed in such a manner that it can be used, either intermittently or continually, to bypass or otherwise reduce or eliminate the effectiveness of any muffler or muffler system installed in such vessel; provided, however, that any use of a cutout permitted under MGL c. 90B, § 6, shall also be permitted under this section.
- E. Any officer empowered to enforce the provisions of Chapter 90B of the General Laws who has been certified in motorboat noise testing by the Department of Fisheries, Wildlife and Environmental Law Enforcement of the Executive Office of Environmental Affairs shall also be authorized to enforce the provisions this section.
- F. Any authorized officer who has reason to believe that a vessel is being operated or has recently been operated in violation of this section may direct the operator of such vessel to submit the vessel to an immediate on-site test to measure noise levels, with the authorized officer on board if such officer chooses, and the operator shall comply with such request for a test. If the authorized officer determines that the vessel is in violation of this section, the officer may, in addition to or instead of citing the operator for such violation, direct the operator to take immediate and reasonable measures to correct the such violation, including returning the vessel to its mooring place and keeping the vessel at such mooring place until the condition causing the violation is corrected or ceases.
- G. Any person who violates Subsection A or who refuses to comply with the direction of an authorized officer under Subsection F shall be fined not less than \$50 for a first offense, \$100 for a second offense, and \$300 for any subsequent offense.

§ 124-2 Swimming or bathing.

No person shall swim or bathe in the waters within or surrounding the City unless properly clothed.

§ 124-3 Water pollution prohibited.

No person shall, without permission from the Board of Health, throw into or deposit in tidewater or in any pond, brook or reservoir, within the limits of the City, any dead animal, garbage, or any refuse matter whatsoever.

§ 124-4 Vessels passing wharves.

No vessel shall, in the harbor of the City, pass within 100 yards of any wharf at a greater speed than at the rate of five miles an hour.

§ 124-5 Waterway regulations.

[Amended 7-5-2012 by Ord. No. 121]

The Harbormaster, Deputy Harbormaster and Assistant Harbormaster shall, in their capacity as special officers of the City, subject to the direction and control of the Chief of Police, insofar as they are acting as special officers, enforce the following waterway ordinances, in addition to any laws of the commonwealth and United States federal government pertaining to waterways of the City:

- A. The speed limit for boats traveling in the area between Foster's Point and the Number 8 NUN shall be five miles per hour, and shall be posted as such with a sign indicating "No Wake Area." The fine for violating this subsection shall be \$50 for each offense.

- B. All boats in Beverly waters shall properly display current registration numbers or have current documentation on board. The fine for violating this subsection shall be \$50 for each offense.
- C. Boats docked at the ferry way public landing in excess of the posted time limits shall be subject to a fine of \$50.
- D. Willful abandonment of any boat in City waterways or placing a boat on an unauthorized mooring shall be prohibited. The fine for violating this subsection shall be \$50 per day.
- E. Each mooring in City waters shall clearly display the mooring number assigned by the Harbormaster and shall comply with the rules and regulations of the Office of the Harbormaster. Copies of such rules and regulations shall be provided annually to individuals receiving or renewing their mooring permits. The fine for violating this subsection shall be \$50.
- F. The number of boats tied to a mooring or the rafting of boats on a mooring shall not exceed the number of boats assigned to each mooring by the Harbormaster. The fine for violating this subsection shall be \$25.
- G. Sailboarding shall not be permitted west of the Number 10 NUN to the Veteran's Memorial Bridge. The fine for violating this subsection shall be \$50 per incident.
- H. Boats shall maintain a distance of 300 feet from public beaches and shall not be operated in a manner that would endanger themselves or others. The fine for violating this subsection is \$50.

§ 124-6 Glover Wharf regulations.

[Amended 7-5-2012 by Ord. No. 121; 10-17-2012 by Ord. No. 185]

- A. The Police Department, as well as the Harbormaster, Deputy Harbormaster and Assistant Harbormasters in their capacity as special officers of the City, subject to the direction and control of the Chief of Police, shall be the enforcement persons of this section.
- B. The fine for violating any of the Glover Wharf regulations shall be \$25 for each offense, except for exceeding the time limit for remaining at the transient dock. Boats docked at the transient dock in excess of the posted time limits shall be subject to a fine of \$25 for the first offense, \$50 for the second offense, and \$100 for each subsequent offense.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

APRON

The concrete platform and the fence along the length of the concrete platform.

J AREA

The area from the recreational boat gate to the end of the transient dock.

PIER

The public pier.

RECREATIONAL BOAT SLIPS

Those floating docks at the Glover Wharf Marina on the water side of the fence along the concrete platform and east of the recreational boat gate.

- D. The following restrictions shall apply to the J area:
 - (1) No casting at any time.

- (2) No access from 10:00 p.m. to 6:00 a.m. except persons currently leasing a recreational boat slip and their guests, dinghy rack holders and transient docked boaters.
 - (3) Trash in/trash out policy applies.
 - (4) Fishing will be allowed in those areas designated by the Harbor Management Authority and in a manner not to impede navigation.
 - (5) Boats may tie up temporarily at the transient dock tie-up for a period of time not to exceed the posted time limit.
- E. The following restrictions shall apply to the apron:
- (1) No casting at any time.
 - (2) No access from 10:00 p.m. to 6:00 a.m.
 - (3) Trash in/trash out policy applies.
 - (4) Fishing will be allowed in those areas designated by the Harbor Management Authority and in a manner not to impede navigation.
- F. The following restrictions shall apply to the pier:
- (1) No casting at any time.
 - (2) No access from 10:00 p.m. to 6:00 a.m.
 - (3) Trash in/trash out policy applies.
 - (4) Fishing will only be allowed in those areas designated by the Harbor Management Authority and in a manner not to impede navigation.
- G. Only persons currently ~~leasing~~ licensing a recreational boat slip and their guests are allowed access to the recreational boat slips.

Chapter 130

Building Construction

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XI of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 159.
 Historic buildings and districts — See Ch. 168.

Article I

Building Code

[The State Building Code and the applicable Code of Massachusetts Regulations govern the construction, alteration, repair, maintenance, removal and demolition of buildings and structures in the City.]

Article II
Storage Containers

[Amended 11-17-1986 by Ord. No. 389; 3-5-1993 by Ord. No. 90; 4-5-1993 by Ord. No. 188; 11-15-1993 by Ord. No. 511; 1-23-1999 by Ord. No. 42; 11-22-2000 by Ord. No. 362; 6-10-2004 by Ord. No. 193]

§ 130-1 Permit required; time limits.

No storage container or bulk transportation device shall be stored or parked on a premises without a permit from the Director of Municipal Inspections, who may issue permits for the storage of a maximum of two such containers/devices on a premises for a period not to exceed 30 calendar days. Permits for the siting of storage containers or bulk transportation devices for longer than 30 calendar days but no more than 90 calendar days may be issued by the Beverly City Council. Each such device shall require a permit, and no more than two permits of any duration may be issued to any premises annually.

Article III
Numbering of Structures

§ 130-2 Numbering required.

- A. All houses, businesses, and other buildings within the City shall be conspicuously numbered so as to indicate the number of that house, business, or other building upon the street upon which it fronts.
- B. It shall be the duty of every owner and/or occupant of each house, building, and/or structure within the City to place thereon the number of the house, building, or structure.

§ 130-3 Size, color and location of numbers.

The size, color, location, and visibility of the numbers shall be as follows:

- A. The minimum height of such number shall be 3 1/2 inches in height.
- B. In order to be visible from the road, street, or way, the number shall be of a contrasting color.
- C. The numbers shall be affixed to the front door or as close to the front door as possible.
- D. Where there are multiple houses, buildings, or structures located off the road on private ways, private roads, or private lanes, the numbers shall be placed at the following locations:
 - (1) The numbers shall be affixed to a post at the entrance to said private way, private road, or private lane.
 - (2) If the house, building, or structure is so far off the private way so as to cause the numbers to be unidentifiable from the private way, then a post with the numbers affixed thereto shall be placed at the entrance of the driveway leading to the house, building or structure.

§ 130-4 Violations and penalties.

The penalty for violation of this article shall be as follows:

- A. The issuance of a notice, citation, or complaint may be done by any police officer, code enforcement officer or the Board of Health.
- B. Any person found guilty of an infraction of this article shall be fined up to \$50 a day.
- C. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Chapter 136

Child Safety Zones

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXIV of the Code of Ordinances; amended in its entirety 4-3-2017 by Ord. No. 334. Subsequent amendments noted where applicable.]

§ 136-1 Definitions.

For the purpose of this chapter, the following terms, phrases, words and derivations shall have the meanings given herein. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

CHILD SAFETY ZONE

A park, playground, recreation center, library, school, day-care center, private youth center, video arcade, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility, including the parking area and land adjacent to any of the aforementioned facilities, camp bus stops when children under the age of 18 are present, and school bus stops during scheduled school transportation hours on school days, which is:

- A. Under the jurisdiction of any department, agency, or authority of the City of Beverly, including but not limited to the School Department of the City of Beverly; or
- B. Leased or licensed by the City of Beverly to another person for the purpose of operating a park, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility.

CHILD SEX OFFENDER

- A. Any person required to register as a sex offender pursuant to MGL c. 6, §§ 178C to 178P, inclusive, and given a Level 2 or Level 3 designation by the Sex Offender Registry Board and whose victim was (or was believed by the offender to be) a child under the age of 18. For the purposes Chapter 136, the term "victim" includes a child under the age of 18 whose image or likeness is used in any crime listed in Subsection 2 of the definition of "Child Sex Offender."
- B. Any person who has not yet been classified and who resides, has secondary addresses, works or attends an institution of higher learning in the commonwealth and who has been convicted of or who has been adjudicated as a youthful offender or as a delinquent juvenile, or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication of the following offenses: indecent assault and battery on a child under 14 under MGL c. 265, § 13B; rape of a child under 16 with force under MGL c. 265, § 22A; rape and abuse of a child under MGL c. 265, § 23; assault of a child with intent to commit rape under MGL c. 265, § 24B; kidnapping of a child under the age of 16 under MGL c. 265, § 26; enticing a child under the age of 16 for the purposes of committing a crime under MGL c. 265, § 26C; indecent assault and battery on a mentally retarded person under MGL c. 265, § 13F; assault with intent to commit rape under MGL c. 265, § 24; inducing a minor into prostitution under MGL c. 272, § 4A; living off or sharing earnings of a minor prostitute under MGL c. 272, § 4B; disseminating to a minor matter harmful to a minor under MGL c. 272, § 28; posing or exhibiting a child in a state of nudity under MGL c. 272, § 29A; dissemination of visual material of a child in a state of nudity or sexual conduct under MGL c. 272, § 29B; unnatural and lascivious acts with a child under 16 under MGL c. 272, § 35A; drugging persons for sexual intercourse under MGL c. 272, § 3; aggravated rape under MGL c. 277, § 39; knowing purchase or possession of visual material of child depicted in sexual conduct under MGL c. 272, § 29C;

indecent assault and battery on a child under the age of 14 during commission of certain offenses or by mandated reporters under MGL. c. 265, § 13B 1/2; indecent assault and battery on a child under the age of 14 by certain previously convicted offenders under MGL c. 265, § 13B 3/4; indecent assault and battery on person 14 or older (where the victim was between 14 and 18 years of age) under MGL c. 265, § 13H; rape of a child during commission of certain offenses or by use of force under MGL c. 265, § 22B; rape of a child through use of force by certain previously convicted offenders under MGL c. 265, § 22C; rape and abuse of child aggravated by age difference between defendant and victim or when committed by mandated reporters under MGL c. 265, § 23A; rape and abuse of child by certain previously convicted offenders under MGL c. 265, § 23B; enticement of child under age 18 to engage in prostitution, human trafficking or commercial sexual activity under MGL c. 265, § 26D; trafficking of persons for sexual servitude; trafficking of persons under 18 years for sexual servitude under MGL c. 265, § 50; and any attempt to commit a violation of any of the aforementioned sections pursuant to MGL c. 274, § 6, or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, and whose victim was a child under the age of 16.

- C. A person who has been adjudicated a sexually dangerous person under MGL c. 123A, § 14, as in force at the time of adjudication, or a person released from civil commitment pursuant to MGL. c. 123A, § 9, and whose victim was (or was believed by the offender to be) a child under the age of 18.
- D. A person who resides in the Commonwealth of Massachusetts, has a secondary address, works at or attends an institution of higher learning in the commonwealth and has been convicted in any other state, in a federal or military court or in any foreign jurisdiction of any crime the essential elements of which are substantially the same as any of the crimes specified above in Subsection **B** of the definition of "child sex offender", and which requires registration as a sexual offender in such other state or in the federal or military system, and who resides or works in this commonwealth and whose victim was (or was believed by the offender to be) a child under the age of 18.

§ 136-2 Prohibitions and exceptions.

- A. Prohibition. It shall be unlawful for a child sex offender to be present in any child safety zone.
- B. Exceptions. The provisions of this chapter shall not apply to:
 - (1) Any person whose name has been removed from the Massachusetts Sex Offender Registry or from the registry of any other state or in the federal or military system by act of a court or by expiration of the term such person is required to remain on such registry or reclassified as a Level 1 in Massachusetts or lowest offender category in another jurisdiction.
 - (2) Facilities in a child safety zone that also support a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:
 - (a) The child sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/serviceservice as posted to the public; and
 - (b) The child sex offender shall not participate in any religious education programs that include individuals under the age of 18.
 - (3) Property that also supports a use lawfully attended by a child sex offender's natural or adopted child(ren), which child's use reasonably requires the attendance of the child sex offender as the child's parent upon the property, subject to the following condition:
 - (a) The child sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.
 - (4) Property that also supports a polling location in a local, state or federal election, subject to all of the

following conditions:

- (a) The child sex offender is eligible to vote;
- (b) The property is the designated polling place for the child sex offender; and
- (c) The child sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is available to any member of the electorate, and vacates the property immediately after voting.
- (5) Property that also supports a school lawfully attended by a child sex offender as a student, under which circumstances the child sex offender may enter upon the property supporting the school at which the child sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.
- (6) Property that also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
 - (a) The child sex offender is on the property only to transact business at the government office or place of business, excluding a library, or attend an official meeting of a governmental body; and
 - (b) The child sex offender leaves the property immediately upon completion of the business or meeting.

§ 136-3 Notice.

The Chief of Police or ~~the Chief's his~~ designee shall make reasonable efforts to provide prompt, actual written notice of the enactment of this chapter (which notice shall contain a copy of this chapter) to all persons who are listed on the sex offender registry as of the effective date of this chapter and who were given a Level 2 or Level 3 designation, as well as those persons who are added to the sex offender registry at such levels thereafter, which persons' addresses (as shown on the sex offender registry) are within the City of Beverly. Such notice requirement may be satisfied by the mailing of such notice by registered or certified mail, return receipt requested, to the last known address of such person as listed on the sex offender registry or as otherwise known to the Chief of Police. The failure of any person to receive such actual written notice shall not be a defense to a violation of this chapter.

§ 136-4 Enforcement procedures; map of safety zones.

- A. Upon reasonable belief of a police officer that a child sex offender is present in a child safety zone in violation of this chapter, the officer shall obtain from the suspected child sex offender his/her name, address, and telephone number. Should the police officer thereafter establish that the individual is a child sex offender as defined in this chapter, then the officer shall issue a written citation that such individual is in violation of this chapter and also require that the individual leave the child safety zone. An individual who refuses to leave or is later found to be in the same child safety zone shall be subject to the penalties set forth in § 136-5.
- B. A map depicting and a written list describing the child safety zones shall be created by the Planning and Engineering Departments of the City and maintained by the Police Department, which map shall be reviewed annually for changes. Said map and list, as well as a copy of this chapter, shall be available to the public at the offices of the Beverly Police Department and Beverly City Clerk and at all public buildings and will also be posted on the City of Beverly's official website. In the event that the list, map or the words of this chapter shall conflict, then the words of this chapter shall control.

§ 136-5 Violations and penalties.

- A. Any violation of this chapter may be subject to criminal penalties and prosecuted in a court of competent jurisdiction and shall result in a criminal fine of up to \$150 for a first violation. Refusal to leave a child safety zone or being later found in the same child safety zone shall result in a criminal fine

of up to \$300. A second or any subsequent violation of this chapter shall be subject to a criminal fine of up to \$300. A child sex offender commits a separate offense for each and every violation of this chapter. Except for persons who are not yet 18 years of age when they commit any such offense, violation of this chapter may further constitute a violation of MGL c. 272, § 59, for which the violator is also subject to immediate arrest without warrant. The issuance of a citation shall not preclude the City from seeking or obtaining any or all other legal and equitable remedies to prevent or address a violation of this chapter, to include written notification to the parole and/or probation officer and the Commonwealth's Sex Offender Registry Board that the child sex offender has violated a municipal ordinance.

- B. As an alternative, any violation shall result in a noncriminal fine of \$150 for a first violation. Refusal to leave a child safety zone or being later found in the same child safety zone shall result in a noncriminal fine of \$300. A second or subsequent violation of this chapter shall be subject to a noncriminal fine of \$300. A child sex offender commits a separate offense for each and every violation of this chapter. Except for persons who are not yet 18 years of age when they commit any such offense, any violation of this chapter may further constitute a violation of MGL c. 272, § 59, for which the violator is also subject to immediate arrest without warrant. The issuance of a citation shall not preclude the City from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this chapter, to include written notification to the parole and/or probation officer and the Commonwealth's Sex Offender Registry Board that the child sex offender has violated a municipal ordinance.
- C. Injunction. If a child sex offender is present upon or within a safety zone in violation of this chapter, the City Solicitor may bring an action in the name of the City to enjoin future violations of this chapter by such violator.

Chapter 143

Cross-Connection Control

[HISTORY: Adopted by the City Council of the City of Beverly 5-15-1989 by Ord. No. 186 (Art. XXXI of the Code of Ordinances). Amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 227.
Water — See Ch. 282.

§ 143-1 Purpose.

The purpose of this chapter is:

- A. To protect the public potable water supply served by the Department of Public Services (DPS) from the possibility of contamination or pollution by isolating such contaminants or pollutants which could backflow or backsiphon into the public water system.
- B. To promote the elimination or control of existing cross-connections, actual or potential, between its customers' in-plant potable water system and nonpotable systems.
- C. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

§ 143-2 Authority.

[Amended 8-23-1995 by Ord. No. 334]

- A. As provided in the Federal Safe Drinking Water Act of 1974 (Public Law 93-523), and the Commonwealth of Massachusetts Drinking Water Regulations, 310 CMR 22.22, the water purveyor has the primary responsibility for preventing water from unapproved sources or any other substances from entering the public potable water system.
- B. The City of Beverly's cross-connection control program shall be implemented as provided in this chapter in compliance with the applicable requirements of the Code of Massachusetts Regulations (CMR). In the event of a conflict between the provisions of this chapter and the requirements of the CMR, the CMR shall control.

§ 143-3 Surveys; responsibility to install devices.

The DPS shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants. If, as a result of a survey of the premises, the DPS determines that an approved backflow prevention device is required at the City's water service connection or as in-plant protection on any customer's premises, the DPS, or its delegate agent, shall issue a cross-connection violation form to the customer to install approved backflow prevention devices. The customer shall, within a time frame determined by the DPS, install such approved device or devices at his own expense, and failure or refusal or inability on the part of the customer to install the device or devices within the specified time frame shall constitute grounds for discontinuing water service to the premises until such device or devices have been properly installed.

§ 143-4 Definitions.

[Amended 8-23-1995 by Ord. No. 334]

As used in this chapter, the following terms shall have the meanings indicated:

AIR GAP SEPARATION

The method of preventing backflow through the use of an unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and flood level rim of the receptacle.

APPROVED

Accepted by the reviewing authority as meeting an applicable specification stated or cited in this regulation or as suitable for the proposed use.

APPROVED BACKFLOW PREVENTION DEVICE OR DEVICES

A method to prevent backflow approved by the DEP for use in Massachusetts.

ATMOSPHERIC VACUUM BREAKER

An approved backflow device used to prevent backsiphonage which is not designed for use under static line pressure.

AUXILIARY WATER SUPPLY

Any water supply of unknown or questionable quality on or available to the premises other than the supplier's approved public potable water supply.

BACKFLOW PREVENTER WITH INTERMEDIATE ATMOSPHERIC VENT

A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere, in which the check valves are force loaded to a normally closed position and the venting means is force loaded to a normally open position.

BACKPRESSURE

Pressure created by mechanical means or other means which causes water or other liquids or substances

to flow or move in a direction opposite to that which is intended.

BACKSIPHONAGE

A form of backflow due to reduced or subatmospheric pressure within a water system.

BACKFLOW

The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than the intended source.

BAROMETRIC LOOP

A loop of pipe rising at least 35 feet, at its topmost point, above the highest fixture it supplies.

CONTAMINANT

Any physical, chemical, biological or radiological substance or matter in water.

CROSS-CONNECTION

Any actual or potential connection between a distribution pipe of potable water from a public water system and any waste pipe, soil pipe, sewer, drain or other unapproved source.

CROSS-CONNECTION VIOLATION FORM

A violation form designated by the DEP, which is sent to the owner by the water supplier with copies sent to the DEP, Gas/Plumbing Inspector and Board of Health delineating cross-connection violations found on the owner's premises and a procedure for corrective action.

DEP

The Massachusetts Department of Environmental Protection.

DOUBLE CHECK VALVE ASSEMBLY

A backflow prevention device which incorporates an assembly of check valves, with shut-off valves at each end and appurtenances for testing.

DPS

The City Department of Public Services or its designee if and as permitted by applicable provisions in the Code of Massachusetts Regulations.

IN-PLANT PROTECTION

The location of approved backflow prevention devices in a manner which provides simultaneous protection of the public water system and the potable water system within the premises.

OWNER

Any person maintaining a cross-connection installation or owning or occupying premises on which cross-connections can or do exist.

PERMIT

A document issued by the DEP which allows a cross-connection installation.

PERSON

Any individual, corporation, company, association, trust, partnership, the commonwealth, a municipality, district, or other subdivision or instrumentality of the United States, except that nothing herein shall be construed to refer to or to include any American Indian tribe or the United States Secretary of the Interior in his capacity as Trustee of Indian lands.

PRESSURE VACUUM BREAKER

An approved backflow prevention device designed to prevent only backsiphonage and which is designed for use under static line pressure and which has necessary appurtenances for testing.

REDUCED PRESSURE BACKFLOW PREVENTER

An approved backflow prevention device incorporating:

- A. Two more check valves;
- B. An automatically operating differential relief valve located between the two checks;
- C. Two shut-off valves; and
- D. Necessary appurtenances for testing.

RESIDENTIAL DUAL CHECK

An assembly of two spring-loaded, independently operating check valves without tightly closing shut-off valves and test cocks; generally employed immediately downstream of the water meter to act as a containment device.

REVIEWING AUTHORITY

The Massachusetts Department of Environmental Protection.

§ 143-5 Administration.

- A. The DPS will operate an active cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the state DEP's cross-connection regulations and is approved by the DEP.
- B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the DPS' program and the DEP regulations.

§ 143-6 Requirements.

[Amended 8-23-1995 by Ord. No. 334]

- A. DPS.
 - (1) On new installations, the DEP or its designee will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, and notify the owner of plan approval requirements by the appropriate reviewing authority.
 - (2) For premises existing prior to the start of this program, the DPS will perform surveys of the premises and reviews of as-built plans and issue a cross-connection violation form to the owner detailing any corrective action required, the method of achieving the correction, and the time allowed for the correction to be made. The time period allowed shall depend upon the degree of hazard involved.
 - (3) The DPS will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to ensure satisfactory operation. The DPS may require the installation of a temporary device if the DEP is late issuing a permit.
 - (4) If the DPS determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
 - (5) The DPS shall have on its staff, or shall have a delegated representative, a person who is a backflow

prevention device tester certified by the commonwealth.

- (6) The DPS will begin initial premises inspections to determine the nature of existing or potential hazard, following the approval of this program by the DEP, during calendar year 1989. Initial focus will be on high-hazard industries and commercial premises.

B. Owner.

- (1) The owner shall be responsible for the elimination or protection of all cross-connections on his premises.
- (2) The owner shall be responsible for applying for and obtaining all necessary approvals and permits for the maintenance of cross-connections and installation of backflow prevention devices, and applying annually for the renewal of each permit.
- (3) The owner shall have any device that fails on inspection or tests repaired by a licensed plumber.
- (4) The owner shall inform the DPS of any proposed or modified cross-connection and also any existing cross-connections of which the owner is aware but have not been found by the DPS.
- (5) The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
- (6) The owner shall install backflow preventers in a manner approved by the DEP and by the DPS.
- (7) The owner shall install only reduced pressure backflow preventers and double check valve assemblies approved by the State DEP.
- (8) Any owner of industrial, commercial or institutional premises having a private well or other private water source must have a permit if the well or source is cross-connected to the DPS' system. Permission to cross-connect may be denied by the DPS. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the DPS' system.
- (9) The owner of any residential premises having a private well or other private water source will not be allowed a physical cross-connection with the public water supply system.
- (10) The owner shall be responsible for the payment of all fees for surveys, permits, device testings, retestings in the case the device fails to operate correctly, and second reinspections for noncompliance with DPS or DEP requirements.

§ 143-7 Prevention of contamination.

The DPS recognizes the threat to the public water system arising from cross-connections. As such, the DPS, whereas it is responsible for the quality of the public water supply, may require a containment device on the water service entrance to any customer who, as a result of unprotected cross-connections, could contaminate the public water supply system.

§ 143-8 Cross-connections prohibited; violations and penalties.

The DPS shall not allow a cross-connection to exist with the public water supply system unless it is considered necessary and all appropriate approvals and permits have been issued. A fine of \$500 per occurrence shall be assessed for a violation of this section.

§ 143-9 Existing in-use backflow prevention devices.
[Amended 8-23-1995 by Ord. No. 334]

- A. Any existing backflow preventer shall be allowed by the DPS to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure backflow preventer, or a reduced pressure backflow preventer must be installed in the event that no backflow device was present.
- B. Periodic testing.
 - (1) Reduced pressure backflow preventers and double check valve assemblies shall be tested and inspected at least semiannually by a certified device tester hired by the DPS. All tests shall be witnessed by the DPS' licensed staff tester.
 - (2) The testing shall be conducted during regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the DPS.
 - (3) Reduced pressure backflow preventers and double check valve assemblies must be tested annually by the owner, independent of the semiannual test by the DPS' representative, and such test must be conducted by a certified tester.
 - (4) Any backflow preventer which fails during a periodic test must be repaired or replaced by a licensed plumber. When repairs are necessary, upon completion of the repair, the device will be retested at the owner's expense to ensure proper operation. High-hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 14 days after the test date will be established. The owner is responsible for spare parts, repair tools or a replacement device. Parallel installation of two devices is an effective means of the owner ensuring that uninterrupted water service remains during testing or repair of devices and is strongly recommended when the owner desires such continuity.
 - (5) Backflow prevention devices will be tested more frequently than specified above in Subsection **B(1)** in cases where there is a history of test failures and the DPS feels that, due to the degree of hazard involved, additional tests will be borne by the owner.

§ 143-10 Records and reports.
[Amended 8-23-1995 by Ord. No. 334]

- A. Records. The DPS will initiate and maintain:
 - (1) Master files on customer cross-connection tests and/or inspections.
 - (2) Master files on approved cross-connection installations.
 - (3) Copies of lists and summaries supplied to the DEP.
- B. Reports. The DPS will submit the following to the DEP:
 - (1) Initial listing of high-hazard cross-connections and potential cross-connections.
 - (2) Initial listing of low-hazard cross-connections and potential cross-connections.
 - (3) Annual update lists of Subsection **A**.

- (4) Annual summary of cross-connection inspections and surveys.

Chapter 155

Firearms and Weapons

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXII, §§ 22.13 and 22.14, of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Parks, recreation areas and public property — See Ch. 210.
Peace and good order — See Ch. 215.

§ 155-1 Firearms.

[Amended 11-17-1992 by Ord. No. 152]

- A. No person shall hunt with a firearm, fire or discharge a rifle, shotgun, or handgun within the limits of the City; but to the extent not otherwise prohibited by law, the provisions of this section shall not apply to the discharge of firearms, rifles, or shotguns:
- (1) In the lawful defense of the person; or
 - (2) By any duly authorized law enforcement officer acting in the proper performance of his or her duty; or
 - (3) By any duly authorized military personnel participating in military exercises;
 - (4) By any person using blank cartridges in theatrical performances, sporting events, or dog training; or
 - (5) By a person lawfully on a target, trap, or skeet range established for such purposes; or
 - (6) By a person legally licensed under MGL Chapter 131 to hunt on his or her own land or the land of another, with the written permission of the owner, tenant or person having control of said property; said written permission shall be carried with person hunting at all times; or
 - (7) By a person hunting migratory game over the tidal waters within the City; or
 - (8) By a person legally licensed under MGL Chapter 131 hunting on public land owned or maintained by the City or any subdivision thereof, so long as written permission of the City, or of its subdivision, is granted; said written permission shall be carried with the person hunting at all times.
- B. A rifle or handgun of any caliber as defined by MGL c. 140, § 121, shall not be discharged or fired at any time for the purpose of hunting within the City.
- C. Any police officer authorized to serve criminal process may arrest, without a warrant, any person found in violation of this section or any person whom said officer has probable cause to believe is in violation.
- D. The penalty for violation of this section shall be a fine of not less than \$50, nor more than \$100, or imprisonment for not more than 30 days, or both.
- E. If the written permission identified under Subsection A(8) above is granted, the form evidencing the same shall be obtained from the City Clerk's office.

§ 155-2 Carrying certain weapons or weapon-like objects prohibited.
[Amended 6-23-2004 by Ord. No. 182]

- A. No person, except as provided by law, shall carry on his person, or carry on his person or under his control in a vehicle, ~~any weapon or instrument identified in MGL c. 269, § 10, Paragraph (b), and MGL c. 269, § 12, any weapon or object commonly called "nun chucks" or any substance or material; a shotgun having a barrel less than 18 inches in length;~~ any saber, sword, or weapon of like or similar nature; any knife having any type of blade in excess of 2 1/2 inches (except when actually engaged in hunting or fishing or in going directly to and/or returning directly from such activities, or any employment which requires the use of any such type of knife); ~~ice picks, dirks~~ or similar weapons that are likely to penetrate through police officer's ballistic vests; or any other object or tool so redesigned, fashioned, prepared or treated that the same may be used to inflict bodily harm or injury to another.
- B. Violation of any provisions of this section shall be subject to arrest and a fine of not more than \$300 for each offense. Violation of any provisions of this section within a park, playground or on school property shall be subject to arrest and a fine of not more than \$300.

Chapter 159 Fire Prevention

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XIII of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. 109.

Article I General Provisions

§ 159-1 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

CAPTAIN

The Captain of the Fire Department in charge of the Fire Prevention Bureau within the Fire Department.

HEAD OF THE FIRE DEPARTMENT

The chief executive officer of the Fire Department. Any authority conferred upon the head of the Fire Department under this chapter may be delegated to such members of the Fire Department as the head of the Fire Department shall designate.

LICENSE

Permission granted by the licensing authority to keep, store, use, manufacture or sell at specified locations materials which produce conditions hazardous to life or property.

LICENSING AUTHORITY

The City Council.

§ 159-2 False alarms prohibited.

No person shall intentionally raise or sound a false alarm of fire.

§ 159-3 Interference with or defacing signal boxes or fire alarm telegraph.

No person shall open any of the signal boxes connected with the fire alarm telegraph, except in case of fire, or interfere in any way with such boxes by breaking, cutting, injuring or defacing same, or tampering or meddling with such boxes or any part thereof; nor shall any person interfere with the poles by which wires of the fire alarm telegraph are supported, by breaking, cutting, injuring or defacing the same, or by posting placards or bills upon them, or in any other manner.

§ 159-4 Demolition of buildings.

Whenever it shall be determined at any fire, by the Fire Chief, Deputy Chief or other officer of the Fire Department in command, to be necessary to pull down or demolish any buildings in order to prevent the spreading of fire, the same may be done by ~~their~~ his-order in accordance with statutes in such case made and provided.

§ 159-5 Drawing water from hydrants or reservoir.

No person except the Director of Engineering, Commissioner of Public Services, Public Works or the Chief of the Fire Department, or their designees, shall draw water from the reservoir or hydrants, except in case of fire.

§ 159-6 Driving over fire hose.

No person shall drive any vehicle upon or over any hose placed in any street by order of any officer of the Fire Department without the consent of some officer of the Department.

§ 159-7 Gasoline stations.

[Amended 3-19-1990 by Ord. No. 173; 11-5-1992 by Ord. No. 510]

A. Islands.

- (1) Self-service gasoline stations with an area of at least 15,000 square feet of land, with a minimum frontage of 150 feet, shall maintain not more than four islands, each island to be not more than 17 feet in length, with a total of not more than eight dual pumps.
- (2) Self-service gasoline stations with an area of at least 10,000 square feet of land, with a minimum frontage of at least 100 feet, shall maintain not more than three islands, each island to be not more than 17 feet in length, with a total of not more than six dual pumps.
- (3) Self-service gasoline stations with an area of at least 9,500 square feet of land, with a minimum frontage of at least 85 feet, shall maintain not more than two islands, each island to be not more than 17 feet in length, with a total of not more than four dual pumps.
- (4) No station shall have more than eight dual gasoline dispensing pumps, as approved by the Fire Chief.
- (5) No island shall maintain more than two dual pumps.
- (6) No island shall be more than 17 feet in length.

B. Only the tanks of motor vehicles and approved containers shall be filled with gasoline.

C. No one without a driver's license shall fill a vehicle.

D. There shall be one employee per eight nozzles in operation.

E. The operator of the console must be 18 years of age or over.

F. All retail operations shall be subject to all City and state license and inspection requirements.

- G. "No smoking" signs shall be posted.
- H. Trucks, trailers and campers shall be filled in one specific location, and signs shall be posted showing this location.
- I. The zones of fire protection, in addition to being shown on the installation drawings, shall be outlined on the station filling area, by the owners or building contractor, by paint or other acceptable visual means, so that the station operator will know when a vehicle is within the protected zone.
- J. The station operator (attendant) shall not allow gasoline to be pumped if a vehicle is not within the protected zone.
- K. In addition to automatic operation, systems must be equipped with a manual release, either mechanical or electrical, or both. If more than one release is employed, they must be clearly marked to indicate which system they control.
- L. Pumps shall be interconnected with the fire protection system so that they automatically shut down in the event of system discharge.
- M. The owner shall post suitable instruction, and he shall ensure that all operators understand them.
- N. A test of the system shall be conducted by the installing contractor and witnessed by a representative of the local Fire Department. This test shall demonstrate that the system is in complete working order and installed in accordance with the approved plans.
- O. Operation of the fire protection system shall cause an audible and/or visible alarm to activate.
- P. Hours of operation for both full-service and self-service gas stations will be subject to approval by the City Council, which approval will not be unreasonably withheld.
- Q. Full-service gasoline stations duly licensed by the City and operating as of May 1, 1985, may convert to self-service gasoline stations upon the approval of the Fire Chief, the Director of Municipal Inspections and the Director of Public Health and upon the final approval of the City Council, subject to any terms or conditions that the City Council may require. Upon approval as provided above, an entry shall be made upon such gasoline station's license indicating its allowance as a self-service gasoline station, together with any conditions mandated by the City Council.

§ 159-8 Petroleum storage licenses.

- A. An application for a petroleum storage license shall contain the following information:
 - (1) Plot plan showing the location, size, material, and age of all petroleum storage tanks situated on the premises which have been or will be filed with the Fire Department.
 - (2) Notification of the Fire Department of all changes.
 - (3) Total amount of storage:
 - (a) Aboveground: _____ gallons.
 - (b) Underground: _____ gallons.
 - (4) Names and addresses of all suppliers of petroleum products making deliveries to the licensee.
 - (5) Whether or not all petroleum storage tanks are in continuous use.

- (6) Whether or not the Fire Department has been notified of the nonuse of petroleum storage tanks.
- B. All underground petroleum storage tanks which have been in service for 20 years shall be tested by a Kenmore test or a semi-par test approved by the Fire Chief. The tanks shall also be tested every five years thereafter. Failure to pass the test shall be cause for the Fire Chief to order the tanks replaced.
- C. Whenever a petroleum storage license has not been exercised for more than six days, the licensee shall notify the Fire Department per 527 CMR 16.2.3.
- D. If a petroleum storage license has not been exercised during the previous year, the Fire Chief shall order the petroleum storage tank removed. A removal permit shall be obtained from the fire department before a petroleum storage tank may be removed.
- E. Upon receipt of a completed application, the Fire Department shall inspect the premises and storage tanks and make recommendation to the City Council which shall approve or disapprove of the license.
- F. Renewal of a petroleum storage license which has not been exercised during the previous year shall be at the discretion of the City Council.

Article II Fire Department

§ 159-9 Clerical assistants.

There shall be one clerical assistant assigned to the Fire Department who may be classified as Clerk-Typist, Senior Clerk-Typist, or Principal Clerk, as the case may be, whose duties shall consist of clerical work only.

§ 159-10 Appointment of members.

- A. Appointment of Chief and Deputy Chiefs; terms. The appointment of the Chief and the Deputy Chiefs shall be made by the Mayor, and confirmed by the City Council, subject to the civil service laws of the state.
- B. Appointment of other members. All other members of the Fire Department shall be recommended by the Chief, and shall be appointed by the Mayor and confirmed by the City Council, subject to the laws relating to civil service.

~~§ 159-11 Fire Department mechanic. {Amended 3-20-1989 by Ord. No. 39B}~~

~~The Mayor, subject to the confirmation of the City Council, shall appoint one Fire Department mechanic, whose duties shall consist of automotive equipment repairs and maintenance of the Fire Department equipment. The mechanic shall work under the control and direction of the Fire Chief. The Fire Department mechanic shall be entitled to all of the benefits afforded to the City Hall employees, including, but not limited to, the following benefits: medical insurance, life insurance, pension plan, vacation time, personal days, holidays and sick days. This position shall not be subject to Chapter 31 of the Massachusetts General Laws.~~

§ 159-12 Command structure at fires.

The Chief of the Fire Department shall have sole and absolute control and command of all the other members of the Department and all other persons present at fires. The officer in command of the company which first arrives at a fire shall be the officer in command until the Chief or a Deputy Chief arrives.

§ 159-13 Deputy to act in absence of Chief.

In the absence of the Chief of the Fire Department, or in case of his inability to act, ~~his~~the Chief's duties and powers as herein provided shall be vested in one of the Deputy Chiefs selected by the Chief.

§ 159-14 **Fire Chief.**

- A. Establishment. There shall be a Fire Chief as provided in MGL c. 48, §§ 42 to 44, who shall be the head of the Fire Department, which shall be responsible for the coordination of all the fire protection services of the City and for the supervision and coordination of all activities of all City agencies in relation to any firesafety programs, fire suppression and extinguishing fires and emergency management and medical services.
- B. Duties regarding Department and fire apparatus. The Chief shall file, on a monthly basis, a detailed and written report to the Committee on Public Services regarding the following:
- (1) A log of time spent by the mechanic on fire apparatus. Detail must be provided specifying the nature of work and to which vehicle the time was applied. Time is to be differentiated between regular and overtime hours.
 - (2) Any work not performed by the mechanic, but by an outside contractor. Specific detail is to be provided as to the nature and cost.
 - (3) A listing of materials, parts, etc., purchased to effect the work in Subsection **B(1)** above.
 - (4) The Chief shall file, annually, on or about June 30 of each year, a detailed and written report to the Committee on Public Services outlining the present condition and repairs necessary, if any, for all fire vehicle apparatus. **[Amended 2-21-1989 by Ord. No. 39A]**
- C. Chief in charge of buildings; purchases. The Chief of the Fire Department shall have the superintendence and control of the engines and hose house and other buildings used for the Department, of the furniture therein and of the engines and apparatus and other property pertaining to the Department, and shall have charge of the ordinary repairs thereof. All materials and supplies required for the Department shall be purchased through the Purchasing Department as required by law, and shall first be referred to and approved by the standing Committee on Public Services (and by the Planning and Construction Committee per Charter Section 5-6).
- D. Chief to make rules and regulations. The Chief of the Fire Department shall make such rules and regulations for the proper government of the Department as ~~the Chief~~ may from time to time deem expedient, ~~and which are subject to the approval of the Mayor and the City Council and~~ not repugnant to the laws of the commonwealth or any ordinance of the City.

§ 159-15 **Use of apparatus outside City.**

No Fire Department apparatus shall be taken from the City without special permission of the Chief of the Fire Department or ranking officer in charge of the Department, and in all cases such apparatus shall be returned to the City as soon as practicable.

Article III
Fire Alarm Systems

[Added 12-16-1991 by Ord. No. 248]

§ 159-16 **Definitions.**

When used in this article, unless a contrary intention clearly appears, the following words shall have the following meanings:

CENTRAL STATION OPERATING COMPANY (CSOC)

A company equipped to receive a fire alarm signal from each of its customers and which then notifies the Beverly Fire Department (BFD) by telephone of the location and nature of any such alarm the CSOC receives.

FIRE ALARM SYSTEM

Any heat-activated, smoke-activated, flame-activated, sprinkler-activated or other such automatic device capable of transmitting a fire alarm signal to either a CSOC or directly to the BFD by way of a master box, or sounds only on the premises being protected.

FIRE ALARM SYSTEM MALFUNCTION

The transmittal of a fire alarm signal to a CSOC directly to the BFD by way of a master box or by way of a telephone call from the occupant; which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or some other reasons that cause the fire alarm system to sound even though there is no actual fire emergency or situation that reasonably could evolve into a fire.

FIRE ALARM SYSTEM OWNER

An individual or entity who or which owns the title to and/or has on ~~their~~ ~~his~~ ~~or~~ ~~its~~ business or residential premises a fire alarm system equipped to send a fire alarm signal to a CSOC or directly to the Beverly Fire Department by way of a master box.

FIRE CHIEF

The Chief of the Beverly Fire Department.

LOCAL ALARM SYSTEM

An alarm system that is activated by smoke, heat or other device and which sounds an alarm only on the property being protected. The alarm must be transmitted to the Beverly Fire Department via telephone.

MASTER BOX

A connection to the municipal fire alarm system used to transmit an alarm of fire to the Beverly Fire Department communications center.

MASTER BOX OWNER

An individual or entity who or which has on his or its business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the BFD by way of a master box.

SPRINKLER SYSTEM

A sprinkler system designed for fire protection purposes as an integrated system of piping equipped with sprinkler heads which are activated by heat from a fire and dispense water over the protected area.

TELEPHONE DIALER

A tape dialer or similar automatic telephone device which will transmit an alarm message to a designated telephone line of the BFD.

§ 159-17 Information required prior to installation.

Before any fire alarm system is connected to the BFD, the master box owner shall provide the Fire Chief with the following information:

- A. The name, address, and home and work telephone numbers of the master box owner;
- B. The street address where the master box is located;
- C. The names, addresses and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box;
- D. The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to

an alarm signal and who have access to the premises in which the master box is located; and

E. Such other information as the Fire Chief may require.

§ 159-18 Updating information.

Every master box owner shall be responsible for updating the information herein required to be provided to the Chief. If the information provided changes, the master box owner shall provide the Fire Chief with the updated information.

§ 159-19 System malfunctions and false alarms; fines.

- A. If there is a fire alarm system malfunction or malicious false alarm, as herein defined, the Fire Chief may assess a fine against a fire alarm system owner for each malfunction or false alarm per calendar year according to the following schedule. For the purpose of this section, "malicious false alarm" is defined as "the intentional activation of a fire alarm system not resulting from an actual fire or emergency."
- (1) Malicious false alarm, first time and every time thereafter: \$150.
- B. Private fire alarm systems connected to the Beverly Fire Department by telephone dialer or through retransmission from a central station operating company shall be subject to the above conditions.
- C. Any false fire alarm which is the result of the failure of the property owner, occupant or his/her agent to notify the Beverly Fire Department of repair, maintenance or testing of the internal fire alarm system within the protected premises shall cause a penalty to be assessed in accordance with Subsection A above.
- D. Fire alarm malfunctions.
- (1) For the purposes of this article, a fire alarm malfunction shall be defined as follows:
- (a) The operation of a faulty smoke or heat detection device.
- (b) Faulty control panel or associated equipment.
- (c) A water pressure surge in automatic sprinkler equipment.
- (d) Accidental operation of an automatic sprinkler system.
- (e) An action by an employee of the owner or occupant of the protected premises or a contractor employed by the owner or the occupant which causes accidental activation of the internal fire alarm system.
- (2) Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Beverly Fire Department for deposit in the general fund.
- (3) If the bill is not paid within 30 days, a second notice will be sent; if the bill is not paid after another thirty-day period, a final notice will be sent informing the ~~owner and occupant~~ that court proceedings ~~may ensue~~ will commence.

§ 159-20 Appeal procedure.

Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this article may, within 10 days of the receipt of the bill or notice of fine, file an appeal, in writing, to the City Council, City of Beverly. After notice, the City Council shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modifies the action taken by the Fire Chief, giving its reasons therefor in writing. The City Council shall send its decision to the owner by first class mail within 10 days after the hearing. The decision of the ~~City Council-Board~~ shall be a final administrative decision. ~~The owner shall have 30 days from the~~

~~date of the written decision to seek judicial review in the Essex County Superior Court.~~

§ 159-21 Regulations and enforcement.

The Fire Chief may promulgate such regulations as may be necessary to implement this article. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this article.

§ 159-22 Disposition of fines.

All fines assessed herein shall be payable to the Beverly Fire Department for deposit in the general fund.

Chapter 168

Historic Buildings and Districts

[**HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.**]

GENERAL REFERENCES

Zoning — See Ch. 300.

Article I

Historic Districts

[**Adopted 1-8-2003 by Ord. No. 33 (Art. XV of the Code of Ordinances)**]

§ 168-1 Title; authority.

This chapter shall be known and may be cited as the "Historic Districts Ordinance" promulgated under authority of MGL Chapter 40C.

§ 168-2 Purpose.

The purpose of this article is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics or architecture of buildings and places significant in the history of the commonwealth and the City, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

§ 168-3 District established.

A. There is hereby established under the provisions of MGL Chapter 40C, as amended, an historic district to be known as "Fish Flake Hill I Historic District," shown on a plan entitled, "Plan showing Fish Flake Hill I Historic District, located off Cabot Street between Stone, Bartlett and Water Streets, Beverly, Mass., dated November, 1971 and signed by Edgar G. Mitchell, Acting Commissioner of Public Works," which plan is on file in the offices of the City Clerk and is recorded in the Essex South District Registry of Deeds, and described as follows:

Beginning at the most northwesterly corner of Front Street, being the intersection of the easterly line of Cabot Street and the northerly line of Front Street, thence running easterly along the northerly line of Front Street, a distance of about 100.0 feet to the southwesterly corner of Lot #2 on said plan, thence turning and running in a general northerly direction on three courses by Lot #2, a distance of about 111.5 feet to the southeasterly line of Cabot Street, thence turning and running in a northeasterly direction along the southeasterly line of Cabot Street, a distance of about 32.5 feet to the northeastern corner of Lot #3 on said plan, thence turning and running in a general northeasterly direction several courses, by the rear lot lines of Lots #3, #4, #5 and #6, a distance of about 394.9 feet to the northerly line of Lot #6 on said plan, thence

turning and running along the northerly line of Lot #6, a distance of about 35.8 feet to the westerly line of Davis Street, thence turning and running in a northerly direction along the westerly line of Davis Street, a distance of about 119.1 feet to Cabot Street, thence turning and running in an easterly direction by the end of Davis Street, a distance of about 53.0 feet to the easterly line of Davis Street, thence turning and running in a southeasterly direction along the southerly line of Stone Street, a distance of about 95.0 feet to the easterly line of Lot #4 on said plan, thence turning and running in a southerly direction along the rear lot line of Lot #41, a distance of about 60.0 feet to the northerly side line of Lot #42, thence turning and running in an easterly direction along the northerly side line of Lot #42, a distance of about 20.0 feet to the rear lot line of Lot #42, thence turning and running in a southerly direction along the rear lot lines of Lots #42, #43, #44 and #45, a distance of about 160.0 feet to the northerly line of Lot #34, thence turning and running in an easterly direction along the rear lot lines of Lots #34 and #35, a distance of about 92.7 feet to the westerly line of South Street, thence turning and running in a southerly direction along the westerly line of South Street, a distance of about 50.0 feet, thence turning and running in an easterly direction across South Street and along the rear lot line of Lot #46, a distance of about 128.5 feet to the westerly line of Lot #47 on said plan,

thence turning and running in a northern direction along the western line of Lot #47, a distance of about 38.0 feet to the southerly line of Cottage Lane, thence turning and running in an easterly direction along the southern line of Cottage Lane, a distance of about 85.0 feet to the easterly line of Lot #47 on said plan, thence turning and running in a southern direction along the easterly line of Lot #47, a distance of about 40.00 feet to the rear lot line of Lot #48, thence turning and running in an eastern direction along the rear lot lines of Lots #48, #49 and #50, a distance of about 179.0 feet to the western line of Lot #51 on said plan, thence turning and running in a northerly direction along the westerly line of Lot #51, a distance of about 40.0 feet to the southerly line of Cottage Lane, thence turning and running in an eastern direction along the southerly line of Cottage Lane, a distance of about 55.0 feet to Bartlett Street, thence turning and running along the western line of Bartlett Street in a southern direction, a distance of about 80.0 feet to Front Street, thence turning and running in a southeasterly direction along the eastern end of Front Street, a distance of about 70.0 feet to the southern line of Front Street, thence turning and running in a general southeastern direction along the southwesterly line of Bartlett Street on several courses, a distance of about 406.8 feet to Lothrop Street, thence turning and running in a southerly direction along the westerly line of Lothrop Street and across Water Street, a distance of about 60.0 feet to the southerly line of Water Street, thence turning and running in a general westerly direction along the southerly line of Water Street, a distance of about 1,314.6 feet to a point about 200.0 feet west of the eastern line of Lot #83 as shown upon said plan, thence turning and running in a northwestern direction across Water Street, by Lot #1-82 and across Front Street, a distance of about 120.0 feet to the point of beginning.

- B. The establishment of the historic district under this section shall not take effect until all the Commissioners are appointed by the Mayor and confirmed by the City Council.

Article II Demolition of Historic Buildings

[Adopted 12-16-1991 by Ord. No. 279 (Art. XVI of the Code of Ordinances)]

§ 168-4 Intent and purpose.
[Amended 2-19-2004 by Ord. No. 24]

- A. This article is adopted to protect and preserve buildings and structures within the City which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the City and to encourage the preservation and restoration rather than demolition of such buildings and structures; and, by furthering these purposes, to promote the public welfare and to make the City a more attractive and desirable place in which to live and work.
- B. To achieve this purpose, the Beverly Historic Districts Commission (hereinafter "the Commission") is

empowered to advise the Director of Municipal Inspections with respect to the issuance of permits for demolition of historically significant buildings. Further, the Commission is mandated to offer its advice and expertise to owners of preferably preserved buildings and structures.

C. The issuance of demolition permits is regulated as described hereafter in this article.

§ 168-5 Definitions.

[Amended 2-19-2004 by Ord. No. 24]

The following words and phrases, when used, whether or not capitalized in this article, shall have the meanings set forth below, unless the context otherwise requires:

APPLICANT

Any person or entity who or which files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate with the application his/her assent to the filing of the application.

BUSINESS DAY

A day which is not a legal municipal holiday, Saturday or Sunday.

DEMOLITION

The intentional act of pulling down, destroying, removing, dismantling or razing a building or structure or commencing the work of total or substantial destruction with the intent of completing the same.

HISTORIC DISTRICT

Fish Flake Hill Historic District or any other historic district which may be established in the City under Chapter 40C of the General Laws of Massachusetts; or the regulations of the National Register of Historic Places.

HISTORICAL COMMISSION or COMMISSION

The Beverly Historic Districts Commission, which has the powers and duties and acts as the Beverly Historical Commission. The Commission may designate one or more of its members to act in its behalf between the Commission's regular monthly meetings.

HISTORICALLY SIGNIFICANT BUILDING OR STRUCTURE

Any building or structure within the City which is determined by the Commission to be historically significant because such building or structure is:

- A. Associated with one or more historic persons or events, or with the architectural, cultural, economic, political or social history of the City; or
- B. Historically or architecturally important (in terms of period, style, method of building construction or association with a famous architect or builder) either by itself or in the context of a group of buildings or structure.

PREFERABLY PRESERVED HISTORIC BUILDING OR STRUCTURE

Any historically significant building or structure which is determined by the Commission, because of the important contribution made by such building or structure to the historical and/or cultural resources of the City, to be in the public interest to preserve.

§ 168-6 Regulated buildings and structures.

The provisions of this article shall apply only to any building or structure which, in whole or in part, was built 50 or more years prior to the date of the application for the demolition permit, and is:

- A. A building or structure listed or eligible to be listed on the National Register of Historic Places, or on the State Register of Historic Places (The criteria used to determine eligibility for listing on the National and/or State Register of Historic Places is on file in the Planning Department in City Hall and available for public review.); or
- B. A building or structure importantly associated with one or more historical persons or events, or with the broad architectural, cultural, economic, political or social history of the City; or
- C. A building or structure which is historically or architecturally significant in terms of period style, method of building construction or association with a significant architect or builder either by itself or as part of a group of buildings; or
- D. A building or structure located within 150 feet of a federal, state or local historic district boundary.

§ 168-7 Procedures.

[Amended 2-19-2004 by Ord. No. 24]

- A. No permit for the demolition of any building or structure shall be issued other than in conformity with the provisions of this article, as well in conformity with the provisions of the other laws and ordinances applicable to the demolition of buildings and structures and the issuance of permits generally.
- B. Upon receipt of an application for a demolition permit, the Director of Municipal Inspections shall forward a copy to the Commission and to the Planning Director of the City.
- C. Within 10 business days from receipt by the Commission or a designee of the Commission of an application for a demolition permit, the Commission or a designee of the Commission shall make determination of whether or not the building or structure is a regulated building or structure, and if the Commission or a designee of the Commission determines that the building or structure is regulated by this article, the Commission or a designee of the Commission shall also determine within the same 10 business days whether or not the building or structure may be an historically significant building or structure.
- D. If the Director of Municipal Inspections does not receive the opinion of the Commission or a designee of the Commission in regard to these determinations within 10 business days of the date of the receipt of the application by the Commission or a designee of the Commission, then, subject to the provisions of the Historic Districts Act as provided in this article, the Director of Municipal Inspections may grant the permit applied for.
- E. If the Commission or a designee of the Commission determines that the building or structure is not regulated by this article, or is not historically significant, the demolition permit application shall be signed as approved by the Commission or a designee of the Commission and returned to the Director of Municipal Inspections. Upon receipt of such, the Director of Municipal Inspections may, subject to the requirements of the building code and any other applicable laws, issue the demolition permit.
- F. If the Commission or a designee of the Commission determines that the building or structure may be an historically significant building or structure, the Commission or a designee of the Commission shall review the application for demolition at a public hearing to be held within 20 business days of determination that the subject building or structure may be an historically significant building or structure. The Commission or a designee of the Commission shall cause to be published in a newspaper of local circulation notice of the date and place of such public hearing. Such notice shall specify the address of the subject building, and shall be published in said newspaper at the expense of the applicant once during each of the two weeks preceding the date of such public hearing.
- G. No less than five business days before the public hearing, the applicant for the demolition permit shall

submit to the Commission three copies of a demolition plan which shall include the following:

- (1) A map showing the location of the building or structure to be demolished on its property and with reference to the neighboring properties.
 - (2) Photographs of all street facade elevations.
 - (3) A description of the building or structure, or part thereof, to be demolished.
 - (4) The reasons for the proposed demolition and data supporting said reason or a brief description of the proposed reuse of the property on which the building or structure to be demolished is located.
- H. After said public hearing, the Commission shall, within 10 business days, determine whether or not the subject building or structure is (1) historically significant; and (2) a preferably preserved building or structure, and notify, in writing, the applicant and the Director of Municipal Inspections of its determination, stating the reasons for such decision.
- I. If the determination is that the subject building or structure is both historically significant and preferably preserved, the Director of Municipal Inspections shall not issue a demolition permit for a period of 12 months from the date of such determination, unless the Commission informs the Director of Municipal Inspections, in writing, prior to the expiration of the twelve-month period, that:
- (1) The Commission is satisfied that the applicant has made a bona fide, reasonable, and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or
 - (2) The applicant has agreed to accept a demolition permit according to certain conditions approved by the Commission.
- J. No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Director of Municipal Inspections and have been found to comply with all laws pertaining to the issuance of a building permit. All approvals necessary for the issuance of such building permit, including, without limitation, any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

§ 168-8 Notice.

[Amended 2-19-2004 by Ord. No. 24]

Notice of a hearing or determination provided for in this article shall be sent by the Commission to the owner of record, the applicant for the demolition permit (if different from the owner of record), the immediate abutters to the subject property, the Director of Municipal Inspections, and to such other persons and organizations in such manner as the Commission may determine appropriate. The Commission may require that the applicant maintain on the building which is subject of a demolition permit application notice, in a form designated by the Commission, visible from the nearest public way, of any hearing on the subject matter or such application; and applicant shall comply with such requirement.

§ 168-9 Emergency demolition.

[Amended 2-19-2004 by Ord. No. 24]

Nothing in this article shall be construed to derogate in any way from the authority of the Director of Municipal Inspections derived from Chapter 143 of the General Laws. However, before acting pursuant to this article, the Director of Municipal Inspections shall make every reasonable effort to inform the Chairperson of the Historic Districts Commission of his intentions to issue a demolition permit before it is

issued.

§ 168-10 Historic Districts Act.

Nothing in this article shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws Chapter 40C, with respect to requirements of notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship prior to demolition of any building in an historic district. Any temporary building erected or maintained in an historic district pursuant to a certificate issued by the Commission may be demolished in a manner consistent with the terms of such certificate.

§ 168-11 Enforcement; violations and penalties.

[Amended 1-8-2003 by Ord. No. 33; 2-19-2004 by Ord. No. 24]

- A. The Director of Municipal Inspections is specifically authorized to institute any actions, in law or in equity, as he or she deems necessary to obtain compliance with the requirements of this article or to prevent a threatened violation thereof.
- B. Any owner of a building determined by the Commission to be a preferably preserved historic building or structure who caused the building to be demolished without first obtaining a demolition permit in accordance with the provisions of this article shall be subject to a fine of not more than \$300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is complete or unless otherwise agreed to by the Commission.
- C. No building permit shall be issued with respect to any premises upon which a building or structure subject to this article has been voluntarily demolished in violation of this article for a period of two years after the date of the completion of such demolition, to be determined by the Director of Municipal Inspections. As used herein, "premises" includes the parcel of land upon which the demolished significant building was located.
- D. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on the application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this article better serves the intent and purpose of this article, it may, prior to the expiration of said period of two years, consent to the issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the process of this article, and may so notify the Director of Municipal Inspections.
- E. Upon the determination by the Commission that a building is a preferably preserved building, the owner shall be responsible for properly securing the building if vacant, to the satisfaction of the Director of Municipal Inspections. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered demolition for the purpose of this article.

Chapter 192

Licenses and Business Regulations

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XVII of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Shellfish — See Ch. 232.

Streets and sidewalks — See Ch. 253.

Vehicles for hire — See Ch. 274.

Zoning — See Ch. 300.

Part 1 Licenses and Business Regulations

Article I General Provisions

§ 192-1 Authority to grant licenses and permits; term; revocation.

- A. The City Council shall grant such licenses or permits as are required by this chapter in accordance with the provisions of law applying to the same.
- B. All licenses or permits provided by this chapter shall be issued by the City Clerk and shall expire on the 30th day of April annually unless otherwise provided by law, and may be revoked or annulled at any time, for cause, by the City Council.
- C. Revocation due to unpaid fees. If any tax payable to the City remains unpaid 50 days after its due date, and the delinquent taxpayer holds a license or permit issued by the City Council or any office, officer or board, the City Treasurer-Collector may request the City Council or such office, officer or board to revoke or suspend such license or permit in accordance with law.

§ 192-2 Fees generally.

Fees set forth for licenses or permits shall be paid to the City Clerk at the time of the application therefor and such fees shall be returned if the licenses or permits are refused.

Article II Denial, Revocation or Suspension for Failure to Pay Taxes

[Amended 10-19-1992 by Ord. No. 429]

§ 192-3 List of delinquent taxpayers.

The City Finance Director shall annually furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any persons, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any ~~other~~ local taxes, fees, assessments, betterments, or other municipal charges, ~~who have not paid said local taxes, fees, assessments, betterments, or other municipal charges~~ for over a twelve-month period. This article shall not apply to any party who has filed in good faith a pending application for an abatement of such tax or has a pending petition before the Appellate Tax Board.

§ 192-4 Authority to deny, revoke or suspend.

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the ~~City Tax~~ Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the ~~City Tax~~ Collector; provided, however, that written notice is given to the party and the ~~City Tax~~ Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The ~~Tax-City~~ Collector shall have the right to intervene in any hearing conducted with respect to

such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the ~~City Tax~~ Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

§ 192-5 Exceptions.

This article shall not apply to the following licenses and permits:

Open burning	MGL c. 48, § 13
Sales of articles for charitable purposes	MGL c. 101, § 33
Children work permits	MGL c. 149, § 69
Clubs, associations dispensing food or beverage licenses	MGL c. 140, § 21E
Dog licenses	MGL c. 140, § 137
Fishing, hunting, trapping licenses	MGL c. 131, § 12
Marriage licenses	MGL c. 207, § 28
Theatrical events, public exhibition permits	MGL c. 140, § 181

§ 192-6 Payment agreements.

Any party ~~may shall~~ be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder is given notice and a hearing as required by applicable provisions of law.

§ 192-7 Waiver.

The City Council may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

Part 2 Licensed Businesses

Article III Automatic Amusement Devices

§ 192-8 Purpose and applicability.

The provisions of this article establish and regulate the use of automatic amusement devices in the City, excluding coin-operated music machines.

§ 192-9 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them

in this section, except where the context clearly indicates a different meaning:

AUTOMATIC AMUSEMENT DEVICE

Any mechanism whereby, upon the deposit therein of a coin or token, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as "pinball machines" or "electronic video machines," excluding coin-operated music machines, including any other similar machine or device, as defined in MGL c. 140, § 177A.

SCHOOL

Any educational institution, public, private, secular, or parochial, which offers instruction of high school grade or below and which is accredited by the State Department of Education.

§ 192-10 Licenses.

[Amended 10-19-1992 by Ord. No. 446]

- A. A license shall be required before any premises may operate an automatic amusement device in the City.
- B. All applications shall be filed with the City Clerk on such form as the City Council may from time to time prescribe, with the fee set forth to be paid to the City Clerk at the time of the application, and such fee shall be returned if the license is refused.
- C. The City Clerk shall issue such license upon a majority vote of the City Council.
- D. Licenses shall be renewable on the last day of December of each year. Renewals must be issued by the City Clerk, with submission to the City Council.
- E. The applicant shall be the owner or manager of the establishment requesting the license.
- F. All applications must list the vendor or owner of the automatic amusement device to be placed upon the premises.
- G. There shall be no more than two machines allowed per any premises, except in compliance with Subsection ~~H-I~~ of this section.
- H. All applications for automatic amusement devices for three or more such machines at any one location not licensed to dispense alcoholic beverages must have a public hearing before the Committee on Legal Affairs of the City Council. Such public hearing must be advertised, by legal notice, by the applicant, at least 10 days prior to any public hearing in one newspaper of general circulation. The applicant must forward a copy of the legal notice to the abutters of the premises where the automatic amusement devices are to be located. Such notification is to be by registered or certified mail.
- I. Any existing licensee with two or more automatic amusement devices legally upon his premises must comply with all provisions of this section if an application for additional automatic amusement devices is filed with the City Clerk.
- J. In acting on each application for an automatic amusement device license, the City Council shall consider whether the granting of such license would be consistent with the general good, order and welfare of the City. The Board shall consider, among other things:
 - (1) Whether maintenance of automatic amusement devices could affect traffic and pedestrian congestion.
 - (2) Whether maintenance of automatic amusement devices is consistent with the best economic and social interests of the area.

- (3) Whether maintenance of automatic amusement devices would unreasonably increase the level of noise in the area.
- (4) Whether maintenance of automatic amusement devices would unreasonably increase the incidence of illegal or disruptive conduct in the area.
- (5) Whether maintenance of automatic amusement devices would otherwise significantly harm the general good, order and welfare of the immediate area in which the premises are located.

§ 192-11 Operating conditions.

- A. Automatic amusement devices licensed under this article shall be so installed on the premises as to be in open view at all times while in operation and shall at all times be available for inspection. All machines shall have the owner's or vendor's name, address and telephone number attached in clear view.
- B. No person keeping or offering for operation or allowing to be kept or offered for operation any automatic amusement device shall permit the same to be used for the purpose of gambling.
- C. No machine shall be operated by persons 16 years of age or younger while City public schools are in session from the hours of 7:00 a.m. to 32:00 p.m., weekdays only.
- D. No person under the age of 21 years may operate an automatic amusement device which is located on premises licensed to dispense alcoholic beverages. The preceding shall not apply in circumstances where the individual under the age of 21 years is accompanied by his parent or guardian, provided that such parent or guardian consents to the operation of such device by such individual.
- E. Any machine which is in violation of this section may be confiscated from the premises by the Chief of Police.
- F. No provision of this article shall authorize or permit or be construed as authorizing or permitting the keeping, maintaining, possessing, using or operating in the City of any contrivance or device otherwise prohibited by law.
- G. Any such automatic amusement device lawfully in existence and properly licensed by the City Clerk and operating prior to the effective date of this article shall not be denied renewal of such existing license without just cause.

§ 192-12 Violations and penalties.

Any violation of the provisions of this article shall result in the revocation of all licenses to operate automatic amusement devices at such premises for a period of one year from the date of violation. Any violation of this article shall result in a fine of up to \$200. Any licensee found to be in violation of any provision of this article shall be granted a public hearing before the Legal Affairs Committee of the City Council upon written request.

Article IV Fortune Tellers

§ 192-13 License required.

No person shall engage in the business of palmistry, fortunetelling, phrenology, card reading, astrology and like enterprises unless he first obtains a license therefor.

§ 192-14 Issuance of license; fee.

All licenses required by this article shall be granted by the City Council, which shall require the licensees to pay a fee therefor.

Article V
Junk and Secondhand Dealers

§ 192-15 License required; revocation.
[Amended 6-21-2011 by Ord. No. 98]

No person who makes a business of purchasing or purchasing and selling, or who keeps a place of business in the City for purchasing or purchasing and selling, either gold or silver, collectible domestic or foreign coins, collectible domestic or foreign currency, stamps, other precious metals, art objects, paintings, jewelry, rugs or other secondhand items such as antiques and/or furniture, junk, electronics, tools or old metals, shall engage in such business or open such place of business for such purposes unless licensed by the City Council. The City Council may revoke such licenses at pleasure. For the purposes of this Article V, "collectible coins and/or collectible currency" shall mean any coin or currency for which the shopkeeper pays more or less than face value (domestic coin or currency) or pays more or less than the value at the rate of exchange on the date of the transaction (foreign coin or currency).

§ 192-16 Record of purchases.
[Amended 6-21-2011 by Ord. No. 98]

- A. Every keeper of a shop in the City for the purchase, sale or bartering of the goods described in § 192-15 shall keep a permanent record in the English language detailing the date of transaction, name of customer, telephone number of customer, name of shop, description of items, including make, model number, serial number, color, size, markings/engravings, and the amount paid to the customer.
- B. In addition thereto, such shopkeeper shall:
 - (1) Require the person selling such articles to provide one form of photo identification issued by a government agency. A copy of such photo identification shall be made and maintained with said book as part of his records.
 - (2) Make and maintain a photograph of all items purchased and keep said photograph with said book as part of his records.
- C. Said book and the photocopies and photographs required hereby shall at all times be open to the inspection of the Mayor, the City Council or any individual City Councilor, police officers of the City of Beverly or State Police or to any other person authorized by the Mayor or City Council to make such inspection.

§ 192-17 Dealing with minors.

No dealer in junk, old metals or secondhand items shall directly or indirectly purchase or receive by way of barter or exchange such goods, or allow such goods to be deposited upon or within his premises, shop or vehicle, by any minor, knowing or having reason to believe him to be such.

§ 192-18 Merchandise retention period.
[Amended 2-13-2006 by Ord. No. 12; 6-21-2011 by Ord. No. 98]

No such item purchased or received by any dealer or keeper of a shop shall be removed from the City or sold or otherwise disposed of nor its identity changed until at least 30 days from its date of purchase have elapsed unless permission in writing has been obtained from the Chief of Police or his designee, who may request to observe or photo such item. All items shall be held in the condition received for the duration of the retention period.

§ 192-19 Identification sign required.

Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand items in the City

shall put in a suitable and conspicuous place in his shop a sign having his name and occupation legibly inscribed thereon.

§ 192-20 Examination of shop and items.

The shop and all items of merchandise referred to in this article, and any place, vehicle or receptacle used for the collection or keeping of such items, may be examined at all times by the Mayor and City Council, or by any police officer of the City, or by any person authorized by the Mayor or City Council to make such examination.

§ 192-21 Hours of operation.

[Amended 2-13-2006 by Ord. No. 12; 5-2-2016 by Ord. No. 081]

The shops referred to in this article shall be closed from 10:00 p.m. to 6:00 a.m. of the following morning, and no keeper of such shop shall purchase or sell any of the items mentioned in this article during such hours.

§ 192-22 Business location.

No dealer in junk, old metals or secondhand items shall carry on his business in any other place than that designated in his license, unless a consent to his removal is granted by the City Council.

§ 192-23 Vehicles to be licensed and numbered.

No vehicle shall be used for the collection of junk, old metals, rags or secondhand items unless licensed by the City Council. Every such vehicle shall bear conspicuously the owner's name and the number of the license on the outside, and on each side.

§ 192-24 Identification of new material.

[Amended 10-17-2016 by Ord. No. 212]

Any person engaged in a business under such license that also offers for sale or rent new goods shall label, place, or designate goods so that new goods are clearly distinguishable from used or secondhand goods.

§ 192-25 Storage of inflammables.

Every person licensed under this article shall store all rags, paper or other inflammable material in a building constructed of fireproof material.

§ 192-26 City Clerk to keep list of dealers.

It shall be the duty of the City Clerk to keep a list of the dealers in the items mentioned in this article, and of the places wherein the business is carried on.

§ 192-27 Required reporting to Police Department.

[Amended 6-21-2011 by Ord. No. 98]

- A. Simultaneously with the entry of information required by § 192-15 into a permanent record in a form prescribed by the Police Department, the keeper of a shop for the purchase and sale of gold or silver, collectible coins, collectible currency, stamps, other precious metals, art objects, paintings, jewelry, antiques, electronics, or tools shall forward electronically, not later than Friday of every week, to the Chief of Police of the City or his designee a copy of such entry. If delivery cannot be made electronically for whatever reason, the copy of the above transaction shall be hand delivered to the Chief of Police or his designee not later than Friday of every week.
- B. In addition thereto such shopkeeper shall:
 - (1) Forward digital photographs of all purchased or pawned items of a quality acceptable to the Police Department electronically to the Police Department on a daily basis. Photos shall be accompanied by a

form prescribed by the Police Department describing items in said photos and shall also contain an image of the government-issued identification used in the transaction. Acceptable quality photos must be in focus, the item must be identifiable, photo size shall be no smaller than six inches by 4.5 inches (432 pixels by 324 pixels; file size 32 kilobytes) and no larger than 11 feet by seven inches (792 pixels by 527 pixels; file size 130 kilobytes); a scale must be included in the photograph.

- (2) Submit to the Police Department on a weekly basis a spreadsheet prescribed by and available from the Police Department. The spreadsheet shall include the date of transaction, name of customer, telephone number of customer, name of shop, description of items, including make, model number, serial number, color, size, markings/engravings, and amount paid/loaned to customer.

§ 192-28 Violations and penalties.

[Amended 2-13-2006 by Ord. No. 12; 6-21-2011 by Ord. No. 98]

- A. Failure to comply with any requirement of this article shall result in a fine of \$100 for the first offense and a fine of \$300 for any second or subsequent offense. Each item purchased by the shopkeeper and which transaction fails to fully comply with the requirements of this Article V shall constitute a separate offense.
- B. Nothing in this section shall abrogate the right of the City Council to revoke any license issued under this Article V at its pleasure in accordance with § 192-15 herein or MGL c. 140, § 54.

**Article VI
Lodging Houses**

§ 192-29 License required; term.

A license shall be required for any premises to operate as a lodginghouse, as defined by MGL c. 140, § 22, as amended. Such license shall expire on the 31st day of December in each year, but it may be granted during December to take effect during the following year, as provided in § 192-30.

§ 192-30 Applications.

Renewal applications for licenses required under the provisions of this article shall be sent to all record holders of lodginghouse licenses on September 15 of each year by the City Clerk. An application shall be provided to new applicants by the City Clerk, upon request. Completed renewal applications, together with the fee required, shall be returned to the City Clerk by October 15 following the receipt of such application. The completed new application, together with the fee, shall be returned to the City Clerk within 30 days of receipt.

§ 192-31 Inspection period.

The City Clerk shall send copies of renewal applications for licenses issued under the provisions of this article to the Director of Municipal Inspections, the Director of the Board of Health, the Fire Chief and the Inspector of Wires/Electrical Inspector when he sends them to the renewal applicant on September 15. The Fire Chief, the Director of Municipal Inspections, the Director of the Board of Health and the Inspector of Wires/Electrical Inspector shall schedule simultaneous inspections of renewal applicants for the period between October 15 and November 15. Inspection of a new applicant's premises shall occur within 60 days after the receipt of the completed application by the City Clerk.

§ 192-32 Reports of inspections; renewal licenses.

Upon completion of their inspections of the lodginghouses, but in any event by November 15 in the case of renewals, the Director of Municipal Inspections, Fire Chief, Director of Public Health and Inspector of Wires/Electrical Inspector shall each forward a written report to the City Clerk, recommending renewal or nonrenewal of the licenses, or granting or not granting of a new license. The City Clerk shall present the completed applications, evidence of payment of the fee and reports by December 7 to the City Council.

Renewal licenses shall be granted only upon a majority vote of the City Council after review of the reports and full payment of the fee.

§ 192-33 Issuance of license.

The City Clerk shall issue the license applied for under this article after the City Council grants such license, but in any event by December 31 in the case of renewal licenses and within 30 days of granting in the case of new licenses.

§ 192-34 Revocation of license.

Licensed lodgingshouses that are not in compliance with all relevant code requirements shall be brought to the immediate attention of the City Council for its review and action. The Board, in its discretion, may immediately revoke the license, upon majority vote, if in its opinion there is a public health or public safety emergency. In the case of less serious violations, it may schedule a public hearing upon publication and notice to the licensee and at such public hearing vote to revoke the license.

Article VII Pawnbrokers

§ 192-35 License required; number; revocation; term.

[Amended 3-28-1997 by Ord. No. 91]

The City Council may license suitable persons to carry on the business of pawnbrokers in the City, subject to the laws of the commonwealth, and may revoke such licenses at pleasure. The City Council shall not issue more than one license for every 50,000 inhabitants. All licenses shall continue in force until the first day of May following the granting of such license. Whenever such a license is revoked, the City Clerk shall note the revocation upon the face of the record thereof and shall give written notice to the licensee in person or leave it at the place of business designated in the license.

§ 192-36 Duties of City Clerk; contents of license; location of business.

Every license required under the provisions of this article shall be signed by the City Clerk and shall be recorded by him in a book kept for that purpose before being delivered to the licensee. Such license shall set forth the name of the person licensed, the nature of the business, and the building or place in which it is to be carried on. The licensee shall not conduct the pawnbroker business in a building or place other than that designated in the license, unless consent is granted by the City Council.

§ 192-37 Bond required.

[Amended 2-19-1991 by Ord. No. 70A]

The licensee shall, at the time of receiving such license, file with the authorities who issue the license a bond in the sum of \$300 with two sureties approved by such authorities and conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed.

§ 192-38 Recordkeeping.

[Amended 4-10-2003 by Ord. No. 79]

- A. Every person licensed to carry on the business of pawnbroker shall keep a book at his place of business in which he shall, at the time of making a loan, enter in the English language a detailed description of every article purchased or taken in pawn at the time of receiving it, particularly describing any prominent or descriptive marks, and the name, age, and residence (by street and number) of the person from whom, and the day and hour when, he purchased it, and the amount paid therefor or loaned thereon, including the monthly interest rate for such loan, and the number of the pawn ticket.
- B. Every pawnbroker shall photograph any person pawning or pledging articles and shall keep such

photographs with said books as part of his records.

- C. Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by him on the premises in accordance with MGL c. 140, § 71.

§ 192-39 Dealing with minors prohibited; time of sale; daily report to Chief of Police.

No pawnbroker shall, directly or indirectly, receive any article in pawn of any minor, knowing or having reasonable cause to believe him to be such; and no article received in pawn shall be sold until the expiration of the time and in the manner provided by statute. Every pawnbroker shall make out and deliver at the office of the Chief of Police each day before the hour of 12:00 noon a legible and true copy of all entries made during the 24 hours ending at 8:00 a.m. of the same day in the record book required to be kept by § 192-38.

§ 192-40 Right of entry.

The Chief of Police or the City Council, or any police officer authorized by either of them, may at any time enter upon any premises used by a licensed pawnbroker for the purposes of his business, ascertain how he conducts his business and examine all articles taken in pawn or kept or stored in or upon such premises, and all books and inventories relating thereto. Any person who willfully hinders, obstructs or prevents such officers from entering such premises or making such examination shall be punished as provided by statute.

§ 192-41 Maximum rates of interest; extra charges prohibited.

[Amended 4-10-2003 by Ord. No. 79; 10-22-2003 by Ord. No. 293]

- A. Licensed pawnbrokers may not charge more than:
 - (1) For loans up to and including \$25: 5% per month (and each fraction thereof at the same rate).
 - (2) For loans over \$25: 3% per month (and each fraction thereof at the same rate).
- B. No such pawnbrokers shall charge or receive any greater rate of interest, and interest shall be determined on the precise sum advanced.
- C. No pawnbroker shall make or receive any extra charge or fee for storage, care or safekeeping of any goods, articles or thing pawned with him.

§ 192-42 Firearms.

[Amended 4-10-2003 by Ord. No. 79]

- A. No pawnbroker shall loan money secured by deposit or pledge of a firearm, rifle, shotgun or machine gun.
- B. No pawnbroker shall hold a license to sell, rent, or lease a firearm, rifles, shotguns, or machine guns.

§ 192-43 Stolen property.

[Amended 4-10-2003 by Ord. No. 79]

If any goods or articles pawned or pledged and in the possession of a pawnbroker are subsequently determined to be stolen property by a member of the Beverly or State Police Department, or if the rightful owner identifies property in the possession of a pawnbroker and the property so identified is confirmed to be stolen goods by a member of the Beverly or State Police Department, upon direction by the Beverly or State Police Department, said property shall be forthwith returned to the rightful owner or delivered to such member of the Beverly or State Police Department at no cost to such owner.

Article VIII

Peddlers and Hawkers; Canvassers and Solicitors

[Amended 1-7-1991 by Ord. No. 42; 12-10-1992 by Ord. No. 81; 12-29-2005 by Ord. No. 243; 10-19-2015 by Ord. No. 449]

§ 192-44 Definitions.

The following words shall, for the purpose of this article, have the following meanings:

HAWKER AND PEDDLER

Any person, either principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for **sale** or barter or exposing therefor, any goods, wares or merchandise, either on foot or on or from any animal or vehicle.

RESIDENTIAL PROPERTY

Includes without limitation each individual dwelling unit.

SOLICITATION OR CANVASSING

Traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:

- A. Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or
- B. Seeking or requesting donations of money, goods, or services for any for-profit or nonprofit entity.

TRANSIENT VENDOR

Any person, either principal or agent, who engages in any exhibition and sale of goods, wares or merchandise temporarily in any tent, booth, building or structure and who does not intend to become and does not become a permanent merchant in such place. For the purposes of this article, "transient vendor" shall not include persons who conduct what are commonly known as "yard sales."

§ 192-45 Sale of certain articles without license; registration of solicitors and canvassers.

- A. Any transient vendor, hawker or peddler who seeks to sell articles referenced in this section shall obtain an identification card from the Chief of Police. Hawkers and peddlers may sell without a license newspapers, religious publications, ice, flowering plants, and such flowers, fruits, nuts and berries as are wild or uncultivated; provided, however, that such hawkers and peddlers shall record their names and residences with the Chief of Police and receive a license number and identification card from the Chief of Police; and provided further that such hawkers and peddlers shall comply with the other provisions of this article.
- B. Solicitation or canvassing.
 - (1) No person shall engage in solicitation or canvassing in or upon any private residential property in the City of Beverly, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the City Clerk and obtaining from the Chief of Police a certificate of good moral character.
 - (2) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

§ 192-46 Procedure for obtaining license or registration.

- A. Transient vendors, hawkers or peddlers. [Amended 12-5-2016 by Ord. No. 250]

- (1) Any transient vendor, hawker or peddler who seeks to sell articles other than those referenced as permitted to be sold without a license as provided in § 192-45 for a period of 21 consecutive days or more shall obtain a license from the City Council. Applicants for hawker's and peddler's and transient vendor's licenses shall apply to the City Clerk. The City Clerk shall forward the application to the Chief of Police for his review and recommendation and, upon receiving the Chief of Police's recommendation, shall forward said application to the City Council, which shall be the awarding authority for said licenses.
- (2) A fee of \$100 is required upon application.
- (3) A licensee under this section may apply to add up to four additional persons to be licensed as part of his/her license for no additional fee. Each additional person applied for under this license shall be required to receive the Chief of Police's recommendation. but shall not need to be reviewed by the City Council. If a licensee seeks to add more than four additional persons to his license, an additional fee of \$100 is required upon application and such request shall go before the City Council. The licensee shall be held responsible for all actions of any additional persons licensed.

B. Solicitors or canvassers.

- (1) Any solicitor/canvasser who seeks to engage in solicitation or canvassing in or upon any private residential property in the City of Beverly shall register with the City Clerk. The City Clerk shall forward the application to the Chief of Police for his or her review and recommendation.
- (2) Each person soliciting or canvassing in the City of Beverly must provide a copy of any materials that he/she will be distributing.
- (3) A fee of \$25 is required upon registration.

§ 192-47 Temporary licenses.

Any transient vendor, hawker or peddler who seeks to sell articles other than those referenced as permitted to be sold with a license as provided in § 192-45 for a period of 20 days or less shall obtain a temporary license from the City Clerk. Applicants seeking a temporary license (one for a period of less than 21 days) shall file an application with the City Clerk, together with the application fee. The City Clerk shall forward the application to the Chief of Police for his review and recommendation. If the Chief of Police recommends a license be issued to the applicant, then the City Clerk shall issue same. If the Chief does not so recommend, no license shall issue. Any one applicant may not receive more than one temporary license for any one calendar year.

§ 192-48 Location restrictions.

- A. Transient vendors, hawkers and peddlers seeking to locate on public streets, sidewalks, parks or any other public areas shall not impede public vehicular and foot traffic and shall not adversely impact public safety.
- B. Any transient vendor, hawker or peddler, who, in the opinion of the Chief of Police or his designee, adversely impacts the safety of the public may have his/her police identification card and license suspended forthwith and without further notice. Such license will remain suspended pending a hearing before the City Council pursuant to the following subsection.
- C. Any transient vendor, hawker or peddler whose activities impede public vehicular and foot traffic or adversely impact public safety may have his/her license revoked by the City Council upon notice to the licensee and a public hearing.

§ 192-49 Records to be kept by City Clerk.

It shall be the duty of the City Clerk to keep a record of the name and residence of every person registered by

the City under this article and the particular business for ~~which they are~~ ~~he or she is~~ registered.

§ 192-50 Identification numbers; weighing and measuring devices.

Every hawker and peddler and transient vendor licensed by the City Council shall be assigned a number. No person shall be assigned a number until ~~they he~~ presents a certificate from the Sealer of Weights and Measures stating that all weighing and measuring devices intended to be used by such persons have been duly inspected and sealed as required by law.

§ 192-51 Name and number on vehicles.

Every vehicle or other receptacle used by a licensee under the provisions of this article shall have plainly printed on each side thereof the name of the licensee and the number of his license.

§ 192-52 Disturbing peace; cleanliness of vehicles.

No person hawking, peddling or carrying or exposing any articles for sale shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the City nor otherwise than in vehicles and receptacles which are neat and clean and do not leak.

§ 192-53 Hours of sale or solicitation.

- A. Transient vendors, hawkers, peddlers, or solicitor of donations. No transient vendor, hawker, peddler, or solicitor of donations shall sell or offer for sale, any goods, wares, or merchandise, solicit donations or circulate petitions in the City between the hours of 6:00 p.m. and 8:00 a.m., except that a duly licensed ice cream vehicle vendor may sell or offer for sale any ice cream products from ~~their his~~ vehicle in the City between the hours of 8:00 a.m. and 9:00 p.m., provided ~~they he~~ shall not use any sounding devices between the hours of 8:00 p.m. and 9:00 p.m.
- B. Solicitors and canvassers. No solicitor or canvasser shall solicit or canvass in the City between the hours of 6:00 p.m. and 8:00 a.m.

§ 192-54 Standing time.

No person shall stand or stop any vehicle upon any public way in the City for a period of more than five minutes for the purpose of selling or offering for sale any food, beverages or goods, wares or merchandise therein or therefrom. The aforementioned notwithstanding, final jurisdiction of standing time, where appropriate, shall be determined by the Chief of Police.

§ 192-55 Health requirements.

Any hawker, peddler, or transient vendor who offers for sale food or drink as defined by Chapter 10 of the Massachusetts Sanitary Code shall obtain a permit from the Board of Health, and said permit shall identify any food restrictions on items to be sold as set by the Board of Health.

Article IX Shellfish and Sea Worms

§ 192-56 Permit required; location restrictions.

~~Subject to any conditions imposed by the Commonwealth, T~~the City Council is hereby authorized to issue permits for the taking of sea worms or shellfish from the flats and shores of the City; provided, however, that no permit shall be granted to any person for the taking of shellfish or sea worms from the flats on the westerly side of the Bass River channel and the northerly side of the Danvers River channel, from Hall-Whitaker Bridge to Kernwood Bridge, known as the "Salters Point" area.

§ 192-57 Residency requirement.

No permit for the taking of sea worms or shellfish shall be issued to any person who is not a resident of the City. ~~citizen of the City or a resident.~~

§ 192-58 Applicability.

Persons engaged in the business of selling sea worms to be used for fishing shall be included in this section.

§ 192-59 Exception for sea worms for fishing.

Digging may take at any time sufficient sea worms for a day's fishing without any permit, provided such taking does not exceed one quart of worms per person.

§ 192-60 Use of electrical or mechanical device for digging prohibited.

No person shall be permitted to take or dig sea worms by means of any electrical appliance or other mechanical device.

**Article X
Signs**

[Amended 6-20-2007 by Ord. No. 57]

§ 192-61 Sandwich board signs.

- A. Sandwich board signs as defined by Chapter 300, Zoning, must be authorized by the City Council prior to the issuance of a sign permit by the Director of Municipal Inspections. The City Council may issue a permit to a business establishment for one such sign, provided such sign meets the requirements outlined in Chapter 300, Zoning, for such signs and the provisions of this section. The term of the permit issued by the Council shall be for one year and shall be subject to the application and/or renewal fees determined by the Director of Municipal Inspections, and its revocation shall be subject to Subsection B. The City Council may vote at any time to revoke any permit for a sandwich board sign whenever, in its opinion, the sign becomes an eyesore, a nuisance, a public safety concern, or is neglected, or when the number of violations of the zoning and City ordinance warrant such action in the interest of public safety and ensuring the integrity of the City's ordinances.
- B. In cases where the City Council revokes a permit for a sandwich board sign that is placed on City property, the City of Beverly has the authority to immediately remove such sign from a public way.
- C. No permit for a sandwich board sign shall be issued by the City Council unless and until the following requirements have been met:
 - (1) An application packet in a form acceptable to the City Council has been filed with the City Clerk's office;
 - (2) Proof of adequate liability insurance for the duration of the permit period is provided in a form acceptable to the City Council; and
 - (3) All applicable approvals from City boards (including but not limited to the Design Review Board) have been obtained.
- D. An application for renewal of an existing permit for a sandwich board sign shall not require review by the Design Review Board, so long as there are no changes being proposed to the previously approved sign design and so long as there are no changes to any condition(s) upon which the existing permit was issued.
- E. Notwithstanding Subsections A through D, sandwich board signs may be displayed without a permit issued by the City Council, but only upon approval by the Municipal Inspections and Planning Departments in accordance with standards established by the Planning Department. This Subsection E shall sunset and be of no further force and effect as of April 1, 2023. **[Added 6-18-2020 by Ord. No. 129; amended 11-23-2020 by Ord. No. 248; 8-2-2021 by Ord. No. 137; 6-6-2022 by Ord. No. 141]**

§ 192-62 Violations and penalties; enforcement.

Violations of the provisions of this article shall be a warning for the first offense and a fine of \$100 for the second and subsequent offenses, with each day of violation constituting a separate offense. This provision shall be enforced by the City of Beverly Director of Municipal Inspections or designee.

**Article XI
Timber and Lumber**

§ 192-63 License for cutting or splitting required.

- A. In order to prevent the creation of conditions which would constitute a fire hazard and for the prevention of fires and for the preservation of life, no person shall cut or split timber or lumber in the City for the purpose of sale without securing a license to do so from the City Council.
- B. The provisions of this section shall not apply to the cutting of timber or sale of lumber from forest lands classified under the provisions of Chapter 61 of the General Laws as added by Acts of 1981, Chapter 768, § 1, approved January 2, 1982.

§ 192-64 Public hearing.

No license required by this article shall be granted by the City Council until a public hearing shall have been held thereon, notice of the time and place of which hearing shall have been given, at the expense of the applicant, by the City Clerk, not less than seven days prior thereto, in a daily newspaper published in the City. The notice shall specify the land on which such license is to be exercised, including street address and number, if any. The City Clerk shall also cause notice of the hearing to be mailed to all property owners within 300 feet of any location for which a license application is made, not less than seven days prior to the date of the hearing.

§ 192-65 Approval of Fire Chief.

All applications for licenses made under the provisions of this article shall be referred by the City Council, prior to the date of the hearing, to the Chief of the Fire Department for his approval or disapproval.

§ 192-66 Applicability to landowners.

Any person who cuts lumber or timber on his own land for his own private use and allows the accumulation of slash, sawdust or other combustible materials shall be subject to the penalties provided in this article.

§ 192-67 Terms and conditions of license.

- A. The applicant for a license required by the provisions of this article shall conform with all the statutes of the commonwealth relating to the storage of inflammable and combustible materials.
- B. The accumulation of slash, sawdust or other combustible materials shall not be allowed on the premises.
- C. The applicant shall remove any accumulation of slash and other material immediately upon being notified by the Chief of the Fire Department.
- D. The applicant shall file a performance surety company bond guaranteeing that he will perform the terms and conditions set forth in his license.
- E. The applicant shall construct and maintain a twelve-foot road in such a manner that fire apparatus can reasonably obtain access to the site of operations. The road shall be approved by the Chief of the Fire Department and the Director of Engineering, Commissioner of Public Services, Public Works.

§ 192-68 Violations and penalties; inspections.

Failure of any person to procure a license and any violation of any of the provisions of this article by any person shall be punishable as provided in Article I for each and every offense. The Chief of the Fire Department is authorized and directed to make such inspections as he deems necessary and to investigate the

existence of any conditions likely to cause fire or to endanger public safety. He shall notify the licensee of any violation of the regulatory provisions of this article or of existing conditions likely to cause fire and shall order him, in writing, forthwith to cease such violation or remedy such dangerous conditions as may exist. Such written order shall be delivered personally to the licensee of the premises or by registered letter addressed to him at his business address. Any licensee who fails or refuses to comply with the order within 48 hours shall be prosecuted by the Chief of the Fire Department. If failure or refusal of the licensee to comply with the written order continues for seven days after notice has been given, it shall be the duty of the Chief of the Fire Department to report such violation or noncompliance to the City Council, in writing, with recommendation for revocation of the license.

§ 192-69 Notice to City Arborist.

Any person not being exempt from MGL c. 132, §§ 42 and 43, under the provisions of MGL c. 132, § 44, shall, before a permit is granted, produce sufficient evidence that he has given notice of his intentions to cut to the City Arborist and has received an approved plan of operations from the Director as provided for in MGL c. 132, § 42.

**Article XII
Used Car Dealers**

§ 192-70 Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

COUNCIL

The City Council.

LICENSE

A Class 2 license as provided under MGL c. 140, § 58.

LICENSEE

A person licensed under the provisions of a Class 2 license to buy and sell secondhand motor vehicles.

§ 192-71 Number of vehicles for sale.

[Amended 5-19-1987 by Ord. No. 319]

No person shall be licensed to buy and sell secondhand motor vehicles unless he has filed with his application a statement with the Board certifying that such business will be his principal business. If the sale of secondhand motor vehicles is to be an auxiliary business, then the number of secondhand motor vehicles shall be restricted to six.

§ 192-72 Plot plan required.

Any person filing an application for a license shall file with the Board a plot plan of the premises upon which the license will be exercised. The plot plan shall show all abutters and any buildings presently on the premises or to be erected.

§ 192-73 Location specifications.

Every licensee shall provide a suitable place to conduct the business, which shall include the following:

- A. Graded premises surfaced with hot-topping.
- B. A building to provide service and storage for not less than one motor vehicle, constructed to conform with all state laws and regulations and ordinances pertaining to the purpose for which the building is to be used. The service and storage area of the building shall be exclusive of any office space.

C. A fence shall be erected along the abutting lot lines and shall not be less than four feet high.

§ 192-74 Approval of advertising signs.

All signs erected for the purpose of advertising the business licensed under the provisions of this article shall be approved by the Director of Municipal Inspections.

§ 192-75 Advertising material on cars.

No licensee shall place upon any vehicle on display or offered for sale any signs, placards or advertising matter, except a placard not larger than 12 inches by nine inches may be placed upon a windshield to indicate the sale price of the vehicle.

§ 192-76 Proximity of vehicles to lot line.

No licensee shall park or display any motor vehicle within five feet of any lot line.

§ 192-77 Suspension or revocation of license.

Failure of a licensee to conform with the provisions of this article shall be deemed cause to suspend or revoke such license.

§ 192-78 Existing licenses.

This article shall have no effect upon any licensee who was licensed on April 6, 1962, for the term of his present license or any renewals thereof for the same premises.

**Article XIII
Yard and Garage Sales**

§ 192-79 License required; notification of police.

It shall be unlawful for any person, transient merchant, hawker or peddler to vend, sell, dispose of, or offer to sell, display or dispose of, any goods, wares or merchandise on any public walk, street, alley or anywhere within the City on public or private property without first obtaining a license from the City Clerk for that purpose, and having paid a license fee therefor. Prior to any sale, the police shall be notified of such impending sale.

§ 192-80 License restrictions.

The license required by this article, or its application, shall contain the name of partners, if a copartnership, and shall include the location or place where such a yard or garage sale will be held. No license shall be granted to the same person at the same premises more than twice in any given twelve-month period. The license shall be valid for a period of two consecutive days.

§ 192-81 Violations and penalties.

[Amended 4-16-1991 by Ord. No. 166]

Violations of this article shall be punishable by a fine as follows:

- A. First offense: \$25.
- B. Second offense: \$50.
- C. Third and subsequent offenses: \$75, plus a cease-and-desist order enforced forthwith by the Police Department.

§ 192-82 Signs.

[Amended 6-20-2007 by Ord. No. 57]

Yard and garage sale permittees shall be allowed to erect temporary signs for the purpose of advertising the event, provided such signs are not erected more than 48 hours before the beginning of the yard or garage sale, and provided they are taken down within 24 hours of the end of the yard or garage sale. Permittees that fail to adhere to the restrictions of this section shall be subject to the penalties in Chapter 1, Article II, of the City Code.

Article XIV Christmas Trees

[Amended 11-19-1990 by Ord. No. 582]

§ 192-83 License required.

No person shall engage in the sale of Christmas trees without first obtaining a license from the City Council and paying a license fee therefor.

b(s) that was damaged or destroyed as a result of a violation of this chapter.

Chapter 201

Noise

[**HISTORY: Adopted by the City Council of the City of Beverly 6-17-2009 by Ord. No. 44 (Art. XXII, §§ 22.35 to 22.39, of the Code of Ordinances). Amendments noted where applicable.**]

GENERAL REFERENCES

Animals — See Ch. 117.

Peace and good order — See Ch. 215.

§ 201-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SOUND-PRODUCING EQUIPMENT

Any musical instrument, radio, music player, boom box, tape cassette, disc player, television, audio system or any other similar type of device for the creation or reproduction of sound.

§ 201-2 Vehicle repairs, testing, and operation.

- A. No person shall operate, repair, or test any motor vehicle or motorcycle in such a manner as to cause a noise disturbance, i.e., in a manner in violation of MGL c. 272, § 53.
- B. Any person violating the provisions of this section shall be subject for a first offense to a fine of \$100 and for any subsequent offense to a fine of \$150.

§ 201-3 Sound-producing equipment restrictions.

- A. No person shall operate any sound-producing equipment upon any public or private property in the City in a manner or at a volume so as to disturb the quiet, comfort, or repose of other persons, i.e., in a manner in violation of MGL c. 272, § 53. This section shall apply to all establishments operating with an entertainment license. This section shall not apply to organized events that have received a valid permit from the City for such event.
- B. Any person violating the provisions of this section shall be subject for a first offense to a fine of \$100 and for any subsequent offense to a fine of \$150.

§ 201-4 Sound-producing equipment in motor vehicles or upon motorcycles.

- A. No person shall operate any sound-producing equipment in a motor vehicle or upon a motorcycle or similar vehicle at such volume as to disturb the quiet, comfort, or repose of other persons, i.e., in a manner in violation of MGL c. 272, § 53.
- B. Any person violating the provisions of this section shall be subject for a first offense to a

fine of \$100 and for any subsequent offense to a fine of \$150.

§ 201-5 Loud parties or music on residential premises.

- A. No person shall play any sound-producing equipment upon residential premises in a manner or at a volume so as to disturb the quiet, comfort or repose of neighboring residents, i.e., in a manner in violation of MGL c. 272, § 53.
- B. The landlord or owner of the premises, if not among the offenders, shall receive notice of the offense.
- C. Any person violating the provisions of this section shall be subject for a first offense to a fine of \$100, for a second offense to a fine of up to \$150, and for any subsequent offense to a mandatory fine of \$200.

Chapter 206 Nuisances

[HISTORY: Adopted by the City Council of the City of Beverly 12-26-2001 by Ord. No. 246 (Art. VIII, Sec. 8.38(g), of the Code of Ordinances). Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 201.

Peace and good order — See Ch. 215.

§ 206-1 Notice to property owner or manager.

The Chief of Police or his designee shall notify the owner of record and, if different and if known, the manager of rental property within this City of any complaints pertaining to the property or the use thereof for the purposes of prostitution, assignation, lewdness, illegal gaming, illegal keeping or sale of alcoholic beverages, or illegal keeping, sale or manufacture of controlled substances. Such notification shall be directed to said owner and/or manager for the purpose of notice to such owners/managers pursuant to the provisions of MGL c. 139, § 20.

Chapter 210 Parks, Recreation Areas and Public Property

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Boating and waterways — See Ch. 124.

Noise — See Ch. 201.

Peace and good order — See Ch. 215.

Article I
Parks and Recreation Areas

[Adopted as Art. XXV of the Code of Ordinances]

§ 210-1 City Hall park.

- A. No person shall ~~loiter or~~ congregate in City Hall park (the area located to the right of the City Hall, Cabot Street, Beverly) between the hours of 10:00 p.m. and 7:00 a.m.
- B. No person shall enter into or upon the City Hall park and take away, mutilate, or destroy a tree, shrub, flower, or other vegetation therein.
- C. Any person who violates any provision of this section shall be punished by a fine of \$25 for the first offense and \$100 for each additional offense.

§ 210-2 Federal Street grounds.

The plot of land now known as the "Federal Street grounds" is hereby accepted by the City for all playground activities and is to be the official Ward 3 grounds.

§ 210-3 Park regulations.

[Amended 4-16-1991 by Ord. No. 173; 5-7-2003 by Ord. No. 40; 6-4-2003 by Ord. No. 173]

- A. The Beverly Parks and Recreation Commission is the agency responsible for the operation of all public parks in the City. As such, the Commission offers everyone free use of all grounds within its jurisdiction with the exception of Lynch Park and Obear Park, which are for the free use of Beverly residents and their guests. Exceptions to this shall be defined in the accepted rate schedule as approved by the Commission. Admittance of vehicles to Lynch Park and Obear Park require the display of a proper sticker indicating Beverly residency or payment of the current parking fee.
- B. Any violation of above shall constitute trespassing. Parks will be open from 8:00 a.m. to 8:00 p.m., October 1 to March 31, and from 8:00 a.m. to 10:00 p.m., April 1 to September 30. **[Amended 2-16-2016 by Ord. No. 013]**
- C. Violation of these rules constitutes a noncriminal violation punishable by a fine of \$100 (see Chapter 1, Article II, § 1-6, of the City Code). **[Amended 2-16-2016 by Ord. No. 013]**
- D. The rules are as follows:
 - (1) Speed limit for any vehicle is 10 miles per hour.

- (2) Use or possession of alcohol is prohibited.
 - (3) Operation of any vehicle on other than paved surfaces is punishable by a fine of \$100 plus damages.
 - (4) Defacing, destroying or removing seats, shrubbery, flowers or any other piece of park equipment will be subject to prosecution.
 - (5) Any ceremony inside the park must be licensed by the Commission or its agent.
 - (6) Soliciting, vending or advertising is prohibited except with Commission permission.
 - (7) Dumping of waste materials or litter on the grounds is prohibited.
 - (8) Throwing or batting of balls and acceptable missiles is banned except in properly designated areas. No golf is allowed.
 - (9) Proper behavior and speech is expected of all persons using these premises.
 - (10) Building or use of any edifice, structure or tent on City property is forbidden.
 - (11) No external speakers shall be used without the permission of the Commission. Acceptable levels must be maintained.
 - (12) Any physical additions, plantings or changes to any park or playground must be with the permission of the Commission.
- E. Anyone violating any of the above rules and regulations shall be subject to immediate expulsion from the park.

Article II

Camping, Storage and Open Fires on Public Property

[Adopted 12-1-2014 by Ord. No. 233 (Art. XXII, § 22.42, of the Code of Ordinances)]

§ 210-4 Restrictions on camping and open fires.

The following activities shall be prohibited on any public property without express written permission from the City of Beverly:

- A. Camping, except in a campground duly licensed by the Board of Health and in conformity with the regulations of such campground.
- B. Campfires, bonfires, or other such open fires.

§ 210-5 Storage restrictions.

- A. It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas, except as otherwise provided by ordinance or by written permission of the City of Beverly:

- (1) Any park.
 - (2) Any street.
 - (3) Any public property, improved or unimproved.
- B. For the purpose of this article, "store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

§ 210-6 Violations and penalties.

Any person violating this article may be arrested without a warrant by any officer authorized to serve criminal process and may be punished by a fine not to exceed \$50 for each offense.

**Article III
Use of Parks and Public Spaces**

[Adopted 4-17-2018 by Ord. No. 048]

§ 210-7 Purpose; permitting process.

- A. Purpose. Maintaining the appearance of City parks and protecting City public spaces from damage and ensuring public access and safety is of paramount importance, and any activity implicating these interests shall require a permit. The purpose of permitting events and other uses of public property under the control of the Parks and Recreation Commission is, among other things, to maintain the physical appearance and integrity of the City's parks and to ensure that public spaces remain available and open for use and enjoyment by all Beverly residents and the general public.
- B. Permits.
- (1) The Parks and Recreation Department shall maintain a uniform permitting process for all uses of public property and spaces within its jurisdiction and in its care. Events or activities that in any manner use City parks or spaces to the exclusion of or precluding other members of the public from engaging in routine and usual recreational park activities must obtain a permit from the Director of Parks and Recreation or his/her designee.
 - (2) Unpermitted activities that either intentionally or inadvertently transgress or interfere with any of the interests protected by this article shall be deemed a trespass. The Director of Parks and Recreation shall either issue a permit or take appropriate steps to terminate the activity in order to preserve the integrity of the park and to ensure the public's safety.
 - (3) Permit applications shall be made available through the appropriate City department. Permit applications shall be completed and filed with the Director of Parks and Recreation or his/her designee. Said application shall also require the approval of the Chief of Police pursuant to § 270-3 of the City Ordinances if there is a likelihood of traffic or streets being impacted by the permitted event.

§ 210-8 Permits required for certain events and activities; costs.

- A. Any demonstration, rally, event, activity, or other gathering either expected to or that may

result in drawing a crowd that will in any manner or for any period of time preclude use of park property by other members of the public shall require a permit issued by the Director of Parks and Recreation.

- B. The Director of Parks and Recreation shall not unreasonably withhold such a permit. In reviewing the permit application, the Director shall consider the impact of the proposed demonstration, rally, event, activity, or other gathering upon the physical condition and integrity of the public space, the number of people expected to participate, the duration of the proposed activity, the need for police details, traffic and parking concerns, any contemporaneous events planned for the same property and the nature of the activity in order to impose reasonable conditions on the issuance of the permit.
- C. The Parks and Recreation Department may charge for the actual costs of a demonstration, rally, event, activity, or other gathering, including but not limited to the costs of processing permits, cleanup costs, and/or traffic control, and also may impose narrow insurance requirements. Permit holders shall also be responsible for any wear and tear that is anticipated based on the permitted use, excessive wear and tear that may or may not be anticipated, and/or any damage to property, including but not limited to the cost of restoration, replacement and/or repair.

§ 210-9 Events or activities requiring license agreements.

Events including weddings, concerts, movie sets or other commercial activity engaged in upon public parks or other public spaces shall require a permit from the Director of Parks and Recreation or his/her designee. In addition, such events may require a license agreement in the discretion of the Director of Parks and Recreation in coordination with the Purchasing Department and in accordance with Parks and Recreation regulations or other City policy or practice.

Chapter 215 Peace and Good Order

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXII, §§ 22.02, 22.03, 22.07-22.11, 22.15-22.19, 22.24, 22.25, 22.29 and 22.30, of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 113.

Noise — See Ch. 201.

Skateboards and scooters — See Ch. 236.

Streets and sidewalks — See Ch. 253.

§ 215-1 Advertisements and notices.

- A. No person shall post up or affix in any manner, paint, print or write, or cause to be painted, printed or written, a notice, advertisement or bill upon a post, pole, fence, wall or building without the consent of the person having possession of such post, pole, fence, wall or building.
- B. No person shall injure, destroy, deface or remove any sign or notice of the City put up, fixed or posted in any place by any officer or employee of the City.

§ 215-2 Playing in streets.

No person shall shoot with or use a bow and arrow, sling or air gun, ~~play at ball~~, throw a stone, ~~snowball~~ or other missile, ~~or roller skate~~ in any street. No person shall play at ball or roller skate in any street in such a manner that impedes vehicular or pedestrian traffic. For the purpose of this section, the term "roller skate" shall include skateboards, scooters or any device so designed as to utilize roller-skate parts or wheels in its construction.

§ 215-3 Auctions.

- A. Every auction in the City shall be conducted in accordance with the provisions of MGL Chapter 100, and amendments thereto, and the provisions of this section.
- B. No person shall sell, dispose of or offer for sale at public auction between the hours of 12:00 midnight and 8:00 a.m. any gold, silver, plated ware, precious stones, watches, clocks, jewelry, bric-a-brac, crockery, glassware, art goods or leather goods, or articles or goods represented as such.

~~**§ 215-4 Defacing public property.**~~

~~No person shall deface, disfigure, defile or deform any property of the City.~~

§ 215-5 Drinking fountains.

No person shall place in any drinking fountain or basin of water established in any public place any dirt, stone, ashes, rubbish, filth or foreign matter of any kind.

§ 215-6 Barriers required during excavations.

- A. An owner of land which has been excavated shall erect barriers or take other suitable measures within five days after such owner has been notified in writing by the Mayor and the City Council that, in their opinion, such excavation constitutes a hazard to public safety.
- B. Any person who violates this section shall be punished by fine of not more than \$200 as provided under MGL c. 40, § 21(19).

§ 215-7 Gambling.

- A. Prohibited in streets. No person shall expose in any public street or place any table or device of any kind fitted for any game of chance or hazard, and no person shall play at any such table or device or at any unlawful game in any street or way.
- B. Prohibited in City buildings. No gambling shall be allowed in any building belonging to the City.

§ 215-8 Trespass in gardens.

No person shall enter into or upon any plot of ground in the City which is under cultivation as a garden, unless such person is the owner of the vegetables and plants of such garden or has permission from such owner; provided, however, that if the garden belongs to any person whose only interest in the plot of ground is that of a mere licensee, the owner or lessee of the ground whose consent to plant the garden was necessary shall have the right of access to and from the property at any time.

§ 215-9 Open-air fires.

No person shall kindle or maintain any open-air bonfire, rubbish fire or any outdoor fire, or authorize any such fire to be kindled or maintained on any property housing four or more families.

~~§ 215-10 Peeping or spying.~~

~~A.— No person shall enter upon premises of another for purposes of committing any wanton or malicious act for the purpose or with intention of invading the privacy of another by peeping into the windows of a house or spying on any person residing therein.~~

~~B.— Nothing contained in this section shall be construed to abridge nor in any way limit the right of a police officer to enter upon private property nor to perform any act necessary in the performance of his official duties.~~

~~§ 215-11 Profanity.~~

~~No person shall use indecent, profane or insulting language in any street or public place or building or near any dwelling house or other building to the annoyance or disturbance of any person.~~

**§ 215-12 Snow and ice removal; placing or depositing snow or ice into streets or sidewalks.
[Amended 6-20-1994 by Ord. No. 35; 6-7-2021 by Ord. No. 097]**

- A. No person shall place or deposit any ice or snow on any street or sidewalk or in such a way as to obstruct the access to or the operation of any fire hydrant.
- B. Snow and ice removal.
 - (1) The owner of any building, structure or lot of land abutting upon any sidewalk, including any curb ramp/cut, unless otherwise granted an exemption, shall, after the ceasing of snowfall, if in the daytime within six hours, and if in the nighttime before 1:00 p.m. the following day, cause the snow to be removed therefrom. The preceding provision shall apply to snow which falls from buildings as well as to that which falls from the clouds.
 - (2) The owner of any building, structure, or lot of land abutting on any sidewalk, including any curb ramp/cut, any portion of which is encumbered by ice, within six hours after the sidewalk becomes encumbered with ice, shall, unless otherwise granted an exemption, cause such sidewalk to be made safe and convenient by removing the ice therefrom or by keeping the same covered with sand or some other suitable substance.

- (3) Violation of this section shall be subject to a fine of \$25. If the violation continues, each subsequent twenty-four-hour period shall constitute a separate offense and be subject to a fine in the amount of \$25.
 - (4) The Department of Municipal Inspections shall be the enforcement agent, with the assistance of the Beverly Police Department.
 - (5) The Commissioner of Public Works shall have the authority to extend the time frames set forth in Subsection B(1) and (2) in the event that severe weather conditions warrant such. Any such extension shall not exceed six hours without the approval of the Mayor.
- C. Exemptions. Individuals may be granted an exemption from the requirements of this section upon the submission of a form to the City attesting that 1) they are unable to perform snow and ice removal as required herein because they a) are over the age of 65 or b) physical health reasons prevent them from doing so, and 2) due to financial hardship they are unable to hire someone to do so. Any such exemption must be renewed annually.

§ 215-13 Vehicles on sidewalks.

No person shall drive, wheel, propel or draw along any sidewalk or footpath any vehicle, except children's carriages or sleds drawn by hand; provided, however, that a driver of a vehicle may drive upon any sidewalk at a permanent or temporary driveway.

~~§ 215-14 Loitering.~~

~~[Amended 7-2-1990 by Ord. No. 377]~~

- ~~A. No person shall loiter or habitually congregate in any street, lane, alley or public place in the City or in any schoolyard, park, playground, beach or the public pier between the hours of 10:00 p.m. and 8:00 a.m. unless the premises have been designated as a place of assembly by the persons in charge of such premises. Any person found loitering or habitually congregating in such an area after the prescribed time may be arrested, without warrant, by any officer authorized to serve criminal process.~~
- ~~B. Any person found in the act of violating Subsection A may be arrested without a warrant by any officer authorized to serve criminal process.~~
- ~~C. Any person found in the act of violating Subsection A shall be punished by a fine of not less than \$5 nor more than \$25.~~

§ 215-15 Access to Beverly Golf and Tennis Club property restricted.

[Amended 2-16-2016 by Ord. No. 013]

Access to the Beverly Golf Course shall be restricted to players, guests, and authorized persons only. Offenders of this section shall be subject to penalties provided under Chapter 1, Article II, Fees and Fines, of the City Code and MGL Chapter 266.

§ 215-16 Nighttime limitation on retail sale of food.
[Amended 5-6-1991 by Ord. No. 159; 12-15-2005 by Ord. No. 255]

- A. Purpose. The purpose of this section is to protect the nighttime tranquility of the City of Beverly residents from disturbances due to the late-night operation of retail food stores.
- B. Restrictions. No store, place of business or person whose building housing said place of business is within 65 feet of a structure used for residential dwelling purposes shall sell any food at retail between the hours of 12:00 midnight and 5:00 a.m.
- C. Definitions. The term "food" as used in this section shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide.
- D. Exceptions. This section shall not apply to the sale of food or alcoholic beverages to be consumed on the premises at which they are sold or to be consumed off the premises on which they are sold when such sale is by a licensed pharmacy or by a licensed common victualer primarily engaged in the sale of food to be consumed on such premises.
- E. Penalty. Persons found guilty of violating this section shall pay a fine of \$100. For purposes of this section, each separate sale shall be deemed a separate offense. In the event of sale of several items or articles at one time to one customer, only one sale shall be deemed to have taken place.

§ 215-17 Retail marijuana establishments; limits.
[Added 1-7-2019 by Ord. No. 211B]

The number of marijuana retailers, as defined in Chapter 300, § 300-5, within the City shall be limited to no more than 20% of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under Section 15 of Chapter 138 of the General Laws. Marijuana retailers lawfully operating shall not be barred by this section from continuing to do so in the event that there is a reduction in the number of aforementioned licenses after such marijuana retailer receives all necessary state and local approvals.

Chapter 227

Sewers

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXXIV of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 130.
Cross-connection control — See Ch. 143.

Stormwater management — See Ch. 249.

Water — See Ch. 282.

Subdivision of land — See Ch. 375.

Board of Health regulations — See Ch. 400.

Article I General Provisions

§ 227-1 Laying and maintenance.

The Mayor and City Council may lay, make and maintain all such main drains or common sewers as they adjudge to be necessary for the public convenience or the public health through any of the streets or ways of the City, and through the lands of any person, and may repair the same whenever it is necessary. Main drains and common sewers so laid shall be the property of the City, and all drains and common sewers in a street or highway shall be substantially made or repaired with brick, stone or with such other materials and in such manner as the ~~Mayor and City Council~~ Director of Engineering, Commissioner of Public Services, Public Works may direct.

§ 227-2 Responsibility for connections, service and repairs; determination of need.

- A. Responsibilities of property owner. Commencing at the sewer line, all sewer connections, sewers, sewer services and sewer maintenance shall be the responsibility of the property owner.
- B. Responsibilities of building owner; work to be performed by person licensed by the Commonwealth of Massachusetts and by the City of Beverly Engineering Department. All sewer repairs or sewer replacements between the street line and property building will be the responsibility of the owner of the building.
- C. Responsibility of City Department of Public Services. All sewer repairs or sewer replacements between the main sewer line and street line will be the responsibility of the Department of Public Services.
- D. Need. The need of such work will be determined by the Director of Engineering, Commissioner of Public Services, Public Works ~~Director of Public Services~~.

§ 227-3 Sewer connection license.

The City Council shall grant sewer connection licenses as required by this chapter as recommended by the Director of Engineering, Commissioner of Public Services, Public Works and also approved by the Mayor. All work performed by the contractors will be inspected and approved or disapproved by representatives of the Department of Public Services.

§ 227-4 Preparation of plans.

The Director of Engineering, Commissioner of Public Services, Public Works shall, whenever

any main drain or common sewer is ordered to be built, ascertain its depth, dimensions and mode of construction, distance from street lines and general direction, and insert the same on plans of sewerage on file in ~~his~~their office. ~~They~~ He shall from time to time ascertain and insert on the plans the particular location of all private drains entering into such main drain or sewer.

§ 227-5 Duties of Director; appropriations.

All main drains and sewers owned or constructed by the City, and all property connected therewith, shall be under the care of the Director of Engineering, Commissioner of Public Services, Public Works, and all appropriations for sewer connections shall be expended under the direction of such Commissioner.

§ 227-6 Drains entering main drains or common sewer; fee.

- A. Permit required. No person shall enter ~~their~~his particular drain into any main or common sewer without a permit in writing from the Director of Engineering, Commissioner of Public Services, Public Works, which permit, the application therefor, and the granting thereof shall be in such form and under such regulations as the Commissioner may prescribe, and any person to whom such permit shall be granted shall pay therefor the sum of \$100, payable to the Director of Engineering, Commissioner of Public Services, Public Works.
- B. Construction. Any particular drains entering any main drain or common sewer shall, so far as the same shall be constructed within the limits of any street or way, be built of such materials, of such size and in such a manner as the Director of Engineering, Commissioner of Public Services, Public Works may direct.

§ 227-7 Gasoline and explosives.

No gasoline or other explosive or inflammable substance shall be caused or allowed to enter directly or indirectly any common sewer or other public drain.

§ 227-8 Brine and injurious substances.

No brine or other injurious substance shall be caused or allowed to be emptied directly or indirectly into any public catch basin.

§ 227-9 Assessments.

- A. Generally. When a main drain or common sewer is laid in any street or way of the City, the City Council shall assess upon owners of estates abutting on such street or way the cost thereof, based upon the estimated average cost of the sewers in the sewerage system adopted by the City by the following fixed uniform rate: \$1.50 per foot of frontage which such estates have upon any street or way where a sewer is constructed, and \$0.015 per square foot of area which such estates contain within 100 feet from such street or way; provided, however, that no assessment in respect to any such estate, which by reason of its grade, level or any other cause cannot be drained into such sewer, shall be made, certified or notified by the Director of Engineering until such incapacity is removed. Such assessment shall be ascertained, assessed and certified by the City Council to the Board of Assessors for assessment, and notice thereof shall be given to the party to be charged, or his tenant or lessee.

- B. Exception. Any drain or sewer laid in any land or way, public or private, which is opened or proposed to be opened for public travel and accommodation, shall be a main drain or common sewer, and if such drain or sewer is laid in a public or private way or land at the expense of the owner thereof, his land shall not be assessed for such drain or sewer, except for the cost of connecting it with common drains or sewers already established.
- C. Estates abutting on more than one street. When estates abut upon more than one street or way, assessment for sewers based upon frontage shall be assessed upon the frontage of one such street or way and upon so much of such other street as is not exempted by the City Council; and the City Council may exempt from assessment so much of the frontage on such other street as it may deem just and equitable.
- D. Assessments to constitute lien. Assessments so made hereunder shall, for two years after they have been committed to the Treasurer-Collector for collection, constitute a lien on the real estate assessed, and may, together with incidental costs and expenses, be levied by sale of such real estate if the assessment is not paid within three months after a written demand for payment made either upon the person assessed or upon any person occupying the estate, such sale to be conducted in like manner as sales for the payment of taxes; provided, however, that if any owner of real estate within 30 days after notice of a sewer assessment thereon, or of any charges made for entering or using any public sewer, notifies in writing the Board of Assessors to apportion the same, such Board shall apportion the same into such number of equal parts, not exceeding 10, as the owner shall in the notice state. The Assessors shall add one of such parts with interest to the annual tax of such real estate each year next ensuing, until all such parts have been so added. Such assessments or charges or apportionments thereof shall constitute a lien upon the real estate, and may be collected according to the provisions of law made for the collection of taxes upon real estate. All liens for the collection of such assessments or charges shall continue until the expiration of two years from the time when the last installment is committed to the Treasurer-Collector, and interest shall be added to all such assessments or charges until they are paid, provided that nothing herein contained shall be constructed to prevent the payment at any time in one payment of any balance of such assessment or charges then remaining unpaid, notwithstanding a prior apportionment.
- E. Extension of time payment. The City Council may extend the time of payment of assessments upon estates not built upon, when requested by the owner, until built upon or for a fixed time, provided that interest at a rate of 4% per annum shall be charged or paid annually upon the assessment from the time it was made, and in such case the assessment shall be paid within three months after such estate is built upon or after the expiration of such fixed time.

Article II Sewer Use

§ 227-10 Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this article shall be as follows:

BOD (denoting BIOCHEMICAL OXYGEN DEMAND)

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN

That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins five feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER

The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER

A sewer receiving both surface runoff and sewage.

DIRECTOR

The Director of Engineering, Commissioner of Public Services, Public Works of the City, or his authorized deputy, agent, or representative.

DISTRICT

The South Essex Sewerage District.

DISTRICT SEWER

Sewer lines, appurtenances, and other works owned and operated by the South Essex Sewerage District.

GARBAGE

Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

INDUSTRIAL WASTES

The liquid wastes from industrial manufacturing processes, trades, or businesses, as distinct from sanitary sewage.

NATURAL OUTLET

Any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

pH

The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PLUMBING INSPECTOR

The Plumbing Inspector of the Department of Municipal Inspections of the City.

PROPERLY SHREDDED GARBAGE

The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PUBLIC SEWER

A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority, or a sewer laid in any land or way, public or private, open or proposed to be opened for public travel.

SANITARY SEWER

A sewer which carries sewage and to which stormwater, surface water and groundwaters are not intentionally admitted.

SEWAGE

A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water, and stormwaters as may be present.

SEWAGE TREATMENT PLANT

Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS

All facilities for collecting, pumping, treating, and disposing of sewage.

SEWER

A pipe or conduit for carrying sewage.

SLUG

Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour concentration or flows during normal operation.

STORM DRAIN (sometimes termed "STORM SEWER")

A sewer which carries stormwater and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUSPENDED SOLIDS

Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering.

WATERCOURSE

A channel in which a flow of water occurs, either continuously or intermittently.

§ 227-11 Unlawful tampering with sewage works.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

§ 227-12 Power and authority of inspectors.

- A. The Director and Plumbing Inspector, and other duly authorized employees of the City bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these regulations. The Director and Plumbing Inspector, or his representative, shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- B. The Director and Plumbing Inspector, and other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 227-13 Violations and penalties.

- A. Any person found to be violating any provision of this article, except § 227-11, Unlawful tampering with sewage works, shall be served by the Director or Plumbing Inspector with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of such time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subsection A or § 227-11, Unlawful tampering with sewage works, without the necessity of written notice, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of \$50 for each violation. Every day during which any such violation shall continue shall be deemed a separate offense; such offense may be prosecuted by indictment or complaint before a District Court. Such a fine shall be in no way any defense to the proceedings by the Director or Plumbing Inspector for enforcement of any such order or regulations, by injunction or otherwise, or any complaint or prosecution under MGL Chapter 266 for malicious mischief or malicious damage to property.
- C. Any person violating any of the provisions of this article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

§ 227-14 Building sewers and connections.

- A. Permit required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director of Engineering, Commissioner of Public

Services, Public Works, or his authorized deputy, agent, or representative.

- B. Authority of Director. No person shall lay or connect a sewer in any land or way, private or public, open or proposed to be opened for the public travel, or connect any such sewer to an existing sewer, except by authority of the Director.
- C. Permit application; form; fee. The owner or his agent shall make application on a special permit form furnished by the City Plumbing Inspector, if work is being performed in the building to within 10 feet of the building, or the Engineering Department, if work is being performed outside of the building to the sewer main. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgment of the Commissioner and Plumbing Inspector, for services to commercial buildings and establishments producing industrial wastes.
- D. Costs and expenses of connections. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer and maintenance thereof.
- E. Separate sewers. A separate and independent building sewer shall be provided for every building.
- F. Old building sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and review by the Director of Engineering, Commissioner of Public Services, Public Works and Plumbing Inspector to meet all requirements of this article.
- G. Construction methods; compliance with technical codes; connection of drains, downspouts.
 - (1) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the City. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM (American Society for Testing and Materials) and the WPCF (Water Pollution Control Federation) Manual of Practice No. 9, shall apply.
 - (2) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. The owner shall hold the City free from any claim for damage from the backflow of sewage due to malfunction or stoppage within or due to such building drain.
 - (3) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

- (4) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM (American Society for Testing and Materials) and the WPCF (Water Pollution Control Federation) Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director of Engineering, Commissioner of Public Services, Public Works and Plumbing Inspector before installation.
- H. Inspection upon connection to public sewer. The applicant for the building sewer permit shall notify the Director of Engineering, Commissioner of Public Services, Public Works when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director and the Plumbing Inspector, or their duly appointed representatives.
- I. Barricades; restoration of disturbed public property. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

§ 227-15 Use of public sewers.

- A. Prohibited discharges. No person shall discharge or cause or allow to be discharged into any sewers under the control of the City or any sewer tributary thereto within the South Essex Sewerage District the following described substances, materials, waters or wastes if it appears likely, in the opinion of the City, that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving waters, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the City and the South Essex Sewerage Board will give consideration to such factors as the quantities of wastes in relation to the flows and velocities in the sewers, nature of the sewage treatment plant, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, materials of construction of the sewers, and other pertinent factors. The substances prohibited are:
 - (1) Any liquid or vapor having a temperature higher than 150° F.
 - (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F.
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarters horsepower or greater shall be subject to the review and approval of the Commissioner and Plumbing Inspector.
 - (4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the South Essex Sewerage Board for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the South Essex Sewerage Board as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the South Essex Sewerage Board in compliance with applicable state or federal regulations.
- (8) Any waters or wastes having a pH in excess of 9.5.
- (9) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (d) Unusual volume of flow or concentration of wastes constituting a "slug" as defined in this article.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;
- (11) Any sewage, drainage, substances, or wastes containing caustic lime, calculated as CaCO_3 (calcium carbonate), in excess of 75 mg/l.
- (12) No person shall discharge or cause or allow to be discharged, directly or indirectly, into any sewer under the control of the City or any other sewer tributary thereto within the South Essex Sewerage District, any of the following described waters or wastes:
 - (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient

quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

- (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, buffing dust, or waters or wastes containing suspended solids in excess of 500 mg/l.
- (e) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, uncontaminated cooling water, or unpolluted industrial process water which the State Division of Water Pollution Control determines is sufficiently free from contamination to permit its discharge into the nearest stream, drain or watercourse.

B. Options of City regarding admission into system of hazardous waste.

- (1) If any waters or wastes are discharged or proposed to be discharged into any sewers under the control of the City or any sewer tributary thereto within the South Essex Sewerage District, which waters contain the substances or possess the characteristics enumerated in prohibited discharges section of this article, and which in the judgment of the City and the South Essex Sewerage Board may have deleterious effects upon the sewerage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (a) Reject the wastes.
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (c) Require control over the quantities and rates of discharge.
- (d) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Subsection G of this section.

- (2) If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Commissioner and Plumbing Inspector, and subject to the requirements of all applicable codes, ordinances, and laws.

- C. Traps and separators. Garages and other establishments, where wastes containing grease in excessive amounts or any flammable waste, sand or other harmful ingredients can be discharged and are connected, directly or indirectly, with public sewers, shall be provided with a suitable trap or separator. All traps or separators shall be of a type and capacity

approved by the Director of the Division of Water Pollution Control or his authorized representative, and shall be located so as to be readily and easily accessible for cleaning and inspection.

- D. Maintenance of facilities. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- E. Required control manhole. When required by the Director and Plumbing Inspector, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director and Plumbing Inspector. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- F. Compliance with Standard Methods; sampling. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole has been provided, the control manhole shall be determined by the Commissioner. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works, and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate, or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)
- G. Agreements allowing acceptance of unusual-strength wastes. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern.

§ 227-16 Appeals.

- A. Any owner aggrieved by the refusal of the Director of Engineering, Commissioner of Public Services, Public Works to issue a sewer permit, or aggrieved by an order of the Director of Engineering, Commissioner of Public Services, Public Works issued in accordance with this article, shall have the right to review such refusal or decision of the Director with the Committee on Public Services, such review to be requested in writing within five days of the receipt by the owner of the decision or refusal; the Committee shall issue a final decision after review, and shall establish and direct that the decision of the Director shall stand, or revise the decision of the Director, or remand the decision of the Director for further investigation, or revoke the decision of the Director and render an appropriate

decision in writing in accordance with this article.

- B. An owner aggrieved by a decision of the Director of Public Health or Plumbing Inspector rendered in accordance with this article shall have the right to a review of such refusal or decision, so far as it pertains to the Board of Health, by notifying the Chairman of the Board of Health in writing within five days of the receipt of the decision of the Plumbing Inspector or the Director of Public Health, and the Board shall issue a decision after review and shall establish and direct that the decision of the Director shall stand, or review the decision of the Director, or remand the decision of the Director for further investigation, or revoke the decision of the Director and render an appropriate decision in writing in accordance with this article.

Chapter 232

Shellfish

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXXV of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Boating and waterways — See Ch. 124.

Seaworms and shellfish — See Ch. 192, Art. IX.

§ 232-1 Closed season.

- A. The Director of Public Health is hereby authorized and empowered to declare a closed season on any and all flats in the City for such period as ~~the Director~~ may deem advisable.
- B. No order, however, closing any part of the clam flats shall become effective until after three days' notice has been given by advertising, such advertisement giving the location closed. Such notice shall not be required if the Director of Public Health reasonably determines that it is in the interests of the public health to have such closure be effective immediately. When any flats which have been closed are about to be opened for public digging, no such digging in such flats shall be permitted until notice of such opening has been advertised for at least three days.

§ 232-2 Size of clams.

No person shall take or have in his possession clams less than two inches in longest diameter to the amount of more than 5% of any one batch, provided that it shall not be unlawful to take such clams or have the same in possession under the authority of a permit therefor which the Mayor and City Council may grant for replanting for seed purposes in waters of flats within the commonwealth.

§ 232-3 **Digging hours.**

All permits giving authority to dig clams shall be on the condition that no clams shall be dug from any flats in the City from one hour after sunset to one hour before sunrise of any day.

§ 232-4 **Enforcement.**

The Police Department shall prosecute any person who violates the law or the provisions of this chapter governing the taking of clams from the flats controlled by or under the authority of the City.

§ 232-5 **Clam permits.**

- A. Authorized. ~~Subject to the conditions imposed by the Commonwealth.~~ The Mayor and City Council are hereby authorized to grant clam permits. All applications for clam permits shall be submitted to the Legal Affairs Committee for its investigation before the same are acted upon by the Mayor and City Council.
- B. To whom granted. No clam permit shall be granted except to inhabitants of the Commonwealth. ~~a native-born or naturalized citizen of the United States. No such permit shall be granted to any person who was not an actual resident of the City on January 1 of the year in which the application is made. If, however, a person who has a legal settlement in the City may become a public charge unless such permit is granted, this rule may be suspended if in the judgment of the Mayor and City Council it is for the best interest of the City to do so.~~
- C. Term. All permits issued under the provisions of this chapter shall terminate on the first day of June in each year.
- D. Revocation. The Mayor and City Council are authorized and empowered to revoke any permit for the digging of shellfish for any violation of this chapter.

Chapter 236

Skateboards and Scooters

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXII, §§ 22.33 and 22.34, of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Parks, recreation areas and public property — See Ch. 210.
Use on streets — See Ch. 215, § 215-2.

Streets and sidewalks — See Ch. 253.

Vehicles and traffic — See Ch. 270.

§ 236-1 Motorized scooters, skateboards and similar vehicles.
[Amended 10-6-2003 by Ord. No. 161]

- A. No person shall operate a motorized scooter, motorized skateboard, or other similar motorized motor vehicle on any public way, sidewalk, playground, or on any property owned by the City of Beverly. The following vehicles shall be exempt from the provisions of this section:
- (1) Vehicles licensed by the Commonwealth of Massachusetts.
 - (2) Vehicles used by handicapped persons.
 - (3) Landscaping equipment.
- B. Any person violating the provisions of this section shall be subject for a first offense to a fine of \$25 and for any second or subsequent offense to a fine of \$50.

§ 236-2 Skateboarding.
[Amended 6-20-2007 by Ord. No. 123]

- A. No person shall drive, wheel, propel or ride upon a skateboard within any playground, within 100 feet of any public building or upon any property owned by the City of Beverly except public ways and except within facilities that are specifically designated by the City as skateboard parks.
- B. Any person violating the provisions of this section shall be subject for a first offense to a fine of \$25 and for any subsequent offense to a fine of \$50. Any skateboard used in violation of this section shall be subject to confiscation and destruction by the Police Department of the City of Beverly.

Chapter 244

Solid Waste

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 159.

Trees — See Ch. 261.

Board of Health regulations — See Ch. 400.

Article I Dumpsters

[Adopted as Art. XIV, §§ 14.01 and 14.02, of the Code of Ordinances]

§ 244-1 Dumpster regulations.

Dumpster regulations for the storage and transportation of garbage, rubbish or other substances are established as follows:

- A. Location generally. Each dumpster must be located at a minimum distance of 10 feet from the lot line so as not to interfere with the safety, convenience or health of abutters or residents.
- B. Obstruction of traffic flow. Each dumpster must be situated so as not to obstruct the flow of traffic.
- C. Enclosures and screening. When deemed necessary by the Board of Health, a dumpster site may be required to be enclosed or screened/shielded by the property owners or authorized agent.
- D. Hours of filling. A dumpster is not to be filled between the hours of 11:00 p.m. and 7:00 a.m. in residentially zoned areas nor after the close of the business day for all types of business properties. All lids are to be closed and made secure when the dumpster is not in use.
- E. Capacity and size; pickup schedule for apartment buildings. Each dumpster shall be of sufficient size and capacity to eliminate overflowing. Routine weekly scheduled pickups shall be mandatory for apartment buildings.
- F. The property owner, tenant, occupant or authorized agent of the premises utilizing the services must notify the contractor at least 24 hours in advance for an additional call-in for pickup which may be necessary to prevent overflowing.
- G. Whenever and for whatever reasons deemed necessary, including repeated violations, the Board of Health may order dumpster capacity size changed and/or additional pickups.
- H. The property owner, tenant, occupant or authorized agent utilizing a dumpster service must make known to the Board of Health the name and telephone number of the person responsible for maintaining the dumpster and dumpster area and notifying the contractor to empty contents when full. Any changes in the name of the person(s) shall be reported to the Board of Health forthwith.

§ 244-2 Construction or alteration projects.

[Amended 4-18-1989 by Ord. No. 156]

- A. Any person(s) maintaining a dumpster on private property for purposes other than for domestic rubbish (i.e., construction debris such as, but not limited to, brick, earth, plaster, lathing, roofing materials, siding, lumber, plumbing fixtures) shall keep such dumpster(s)

off all public ways, including City sidewalks.

- B. No dumpster used for construction/alteration projects in residential areas shall be in use for more than a thirty-day period without written approval of the Board of Health.
- C. Dumpster permit required; fee. The property owner, tenant, occupant or authorized agent responsible for maintaining the dumpster service is required to have a permit from the Board of Health for each dumpster. This permit requirement shall not apply to any homeowner using a dumpster under the provisions of Subsection **B** above. The responsible party shall apply for a permit by filing an application at the Board of Health office, and the information shall include the owner's address, telephone number, address of the property being serviced, the name and telephone number of the contact person in charge at the property site and any other information deemed necessary by the Board of Health. All permits shall expire December 31 of every year and may be renewed annually on application as provided.
- D. Permit required for dumpster service; fee. No contractor, firm or person shall supply a dumpster service in the City for the purpose of storage, removal or transporting of garbage, rubbish or other offensive substances, as well as rubbish, trash, debris and other material, including scrap, without first obtaining a permit from the Board of Health. All permits shall expire on December 31 of every year and may be renewed annually on application as provided. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws and the revised ordinances of the City, this permit requirement shall be binding upon all parties concerned.
- E. Maintenance; dumpster pads. It shall be the responsibility of the property owner, tenant, occupant or agent being serviced to maintain the dumpster and dumpster area free of all nuisances, including, but not limited to, insects, rodents, offensive odors, leaking conditions, scattered debris, and overflowing conditions.
 - (1) The dumpsters shall be free of any holes and dumpsters provided with drain plugs shall be properly fitted with a plug.
 - (2) Dumpster pads may be required to be installed if the Board of Health deems it necessary upon inspection of the dumpster site.
- F. Display of contractor name and telephone number. The contractor shall have its name and telephone number conspicuously displayed on the dumpster.
- G. Hours of removal of dumpster contents. No contractor shall remove dumpster contents prior to 7:00 a.m. nor later than 8:00 p.m.
- H. Deodorizing, washing and sanitizing. The dumpster contractor shall have the dumpster deodorized when emptied or, if necessary, washed, steamed, and/or sanitized as directed by order of the Board of Health.
- I. Spillage of garbage; cleanup required. The contractor shall not cause nor allow spillage during removal or transportation of any garbage, rubbish or other offensive substance and

shall be responsible for any cleanup required.

Article II

Residential Storage of Rubbish and Garbage

[Adopted 4-18-1989 by Ord. No. 156A (Art. XIV, § 14.03, of the Code of Ordinances)]

§ 244-3 Receptacles; placement for collection.

Garbage or mixed garbage and rubbish shall be stored in watertight receptacles with tight-fitting covers. The receptacles and covers shall be of metal or other durable, rodent proof material. Garbage and rubbish shall be put out for collection no earlier than 18 hours prior to collection and removed within 18 hours after collection.

§ 244-4 Use of plastic bags.

Plastic bags shall be used to store garbage or mixed rubbish and garbage only if as a liner in watertight receptacles with tight-fitting covers.

§ 244-5 Property maintenance.

The owner of any parcel of land, vacant or otherwise, shall be responsible for maintaining such parcel of land in a clean and sanitary condition and free from garbage, rubbish or other refuse. The owner of such parcel of land shall correct any condition caused by or on such parcel or appurtenance which affects the health or safety and well-being of the occupants of any dwelling or of the general public.

§ 244-6 Violations and penalties for Articles I and II.

Any person(s) who shall fail to comply with the provisions of §§ 244-1 through 244-5 of this chapter shall be fined \$15 for the first offense and \$25 for each succeeding offense. Each day's failure to comply with these sections shall constitute a separate violation.

Article III

Disposal Restrictions; Littering

[Adopted as Art. XXII, §§ 22.01, 22.04 and 22.05, of the Code of Ordinances]

§ 244-7 Abandoned refrigerators.

In order to protect the public health, safety and welfare, particularly that of children, nNo person shall place or cause to be placed on theirhis land or premises old or unused iceboxes, refrigerators, or other self-locking articles in a manner that could cause injury or death to a person, including but not limited to leaving such item outside without removing the cover or door of such item. ~~which when seen would inevitably and infallibly allure children to investigate and play in such articles, the natural and probable result of which would be either injury or death to the children.~~

§ 244-8 Ashes, rubbish and yard waste.

[Amended 8-1-1997 by Ord. No. 224]

A. Spilling contents of container. No person shall willfully tip over and spill the contents of

any box, barrel or vessel containing ashes or rubbish set upon a sidewalk.

- B. Setting upon public ways. No person shall set upon any public way any box, barrel or vessel used for the purpose of rubbish collection except during the period of time from 18 hours prior to collection and 18 hours after collection.
- C. Throwing into streets and sewers. No person shall throw or place, or cause to be thrown or placed, in or upon any street or public place, or into any catch basin of any sewer or drain in the City any dirt, glass, filth, garbage, shavings, rubbish, refuse or waste matter of any kind.
- D. No person shall throw, place or dump any rubbish, trash, trees, branches, grass clippings, or other yard materials, construction debris, or any other items on or upon any public ways or property within the City of Beverly. No items, as described above, or other materials may be left outside the closed gates at the ~~Standley~~ Standley Street Dump or other City facilities at any time.
- E. Any violation of this section shall be subject to a fine of not less than \$200.

§ 244-9 Litter.

[Amended 5-4-2005 by Ord. No. 104]

- A. Whenever any public area, paved or unpaved, landscaped or unlandscaped, adjoins private property on any street, avenue, road, lane, court, square, way, or other similar area, no matter how named, it shall be the duty of the lot occupier of such private property, or if such private property shall be unoccupied, the duty of its owner, to keep such public area free of all discarded cans and bottles, litter, debris, paper or other refuse.
- B. Failure by such occupier or owner to comply with this section shall in the first instance result in a written warning; in the second instance shall result in a fine of \$100; and for any subsequent offense shall result in a fine of \$250. Each day of noncompliance with this section shall be a separate offense.
- C. The Director of Municipal Inspections and all Health Department agents of the City, in addition to police officers, shall be enforcing persons for this section.

**Article IV
Recycling**

[Adopted as Art. XXVIII, § 28.01, of the Code of Ordinances; amended in its entirety 11-6-2002 by Ord. No. 332]

§ 244-10 Source separation required.

So long as the City collects or pays a contractor to collect rubbish in the City, no rubbish shall be collected by the City or by such a contractor from any residence, commercial establishment, municipal building, school or any other location unless such rubbish material is first sorted and placed for collection in separate containers according to such categories as the Director of Engineering, Commissioner of Public Services, Public Works shall determine is necessary to enable those rubbish materials which are recyclable under the then current state of technology, as

such technology may from time to time change, to be recycled for reclamation without further sorting and separation of such rubbish materials.

§ 244-11 Recycling of separated materials.

Rubbish materials so sorted and separated for recycling shall, following their collection, be recycled for reclamation.

§ 244-12 Definitions.

As used in this article, the following terms shall have the meanings indicated:

RUBBISH and RUBBISH MATERIALS

All nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes, such as but not limited to paper, newsprint, cardboard, glass, metal, wood and rags.

§ 244-13 Rules and regulations.

The Director of Engineering, Commissioner of Public Services, Public Works may from time to time make, amend and rescind such rules and regulations as are necessary to carry out the provisions of this article.

§ 244-14 Fees.

The Director of Engineering, Commissioner of Public Services, Public Works may, subject to the approval of the Mayor and the City Council, establish such fees as the Director deems necessary to implement the provisions of this article.

Article V

Trash Removal and Disposal Fees

[Adopted 7-1-2004 by Ord. No. 184 (Art. XXVIII, § 28.02, of the Code of Ordinances); amended in its entirety 6-19-2013 by Ord. No. 45]

§ 244-15 Residential.

A trash fee of \$100 per dwelling unit is hereby established, effective July 1, 2012, on all residential structures of six units or less. Residential structures of more than six units currently serviced by the City of Beverly will continue to be serviced at \$100 per unit.

§ 244-16 Commercial.

A minimum fee of \$300 is hereby established for all commercial entities currently being serviced by the City of Beverly. The final fee and conditions shall be subject to the determination of the Director of Engineering, Commissioner of Public Services, Public Works, who shall establish a written standard therefor.

§ 244-17 Discounts and waivers.

[Amended 11-16-2015 by Ord. No. 481]

(Based on Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area, Current FY Income

Limits Documentation, as amended from time to time.)

- A. Senior citizens. Any senior citizen (65 years or older) who owns and occupies a single dwelling unit with an income of \$33,050 or less for a single adult, or \$37,800 or less for two or more adults, will be eligible for a fifty-percent discount of this fee.
- B. Hardship cases. The fee for any ~~resident citizen~~ who owns and occupies a single-family home or condominium with an income of \$19,850 or less for a single adult, or \$22,650 or less for two or more adults, will be waived.
- C. Eligibility. Eligibility for a senior citizen discount or hardship waiver shall be determined by using the adjusted gross income (AGI) number found on the IRS 1040, 1040A, or 1040EZ Form, or, if no income tax return has been filed for tax years 2012 or 2013, equivalent documentation of income, to be provided to the Director of Engineering, Commissioner of Public Services, Public Works under the pains and penalties of perjury. Age shall be documented by a driver's license, birth certificate, or equivalent proof. Any resident with a "life estate" interest in a residential property will be treated as if he and/or she were the record owners of the property. In one-, two- or three-family housing types where the tenant and the homeowner both meet the eligibility requirements for the waiver or both meet the eligibility requirements for the discount, such waiver or discount shall be granted to the homeowner.
- D. Vacancies. Any property owner who owns an unoccupied unit shall be eligible to receive a credit for each full six-month period for which the unit is not occupied. Property owners must provide documentation to the Director of Engineering, Commissioner of Public Services, Public Works, signed under the pains and penalties of perjury, demonstrating that the unit was vacant during the entire six-month billing period for which such credit is requested. Eligibility shall be determined by the Director of Engineering, Commissioner of Public Services, Public Works using a water bill or, in cases where a unit's water meter is not separate from another unit, a letter or billing statement from the electric company.
- E. Violations and penalties. The Director of Engineering, Commissioner of Public Services, Public Works shall assess applicants a fine of not more than \$250 for submitting false documentation.

§ 244-18 Lien for unpaid fees.

Any fee not paid within 60 days of the demand shall become, upon application of the Treasurer-Collector of the City of Beverly, a lien upon the property.

§ 244-19 Billing.

The annual fee will be collected in quarterly statements billed on the same cycle as the subject property's water and sewer bill cycle.

§ 244-20 Increases.

This fee shall not be increased for any reason other than to offset an increase in the incineration cost per ton ("tipping fee") or an increase in the contractual trash removal cost; and in such cases, the trash fee may not be increased beyond an amount equal to the increases in these costs.

§ 244-21 **Exemptions.**

Any person who can demonstrate and document to the satisfaction of the Director of Engineering, Commissioner of Public Services, Public Works an alternative lawful disposal method may apply for an exemption from the fee.

Article VI
Bring Your Own Bag

[Adopted 6-18-2018 by Ord. No. 117B]

§ 244-22 **Definitions.**

As used in this article, the following terms shall have the meanings indicated:

BIODEGRADABLE PLASTIC BAG

A bag that is capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials; for the purposes of this article, "biodegradable bags" does not include paper bags.

CUSTOMER

Any person purchasing or carrying goods from a retail establishment.

DEGRADABLE PLASTIC BAG

Plastic bags that are made from polymers that are capable of being broken down quite readily by hydrolysis, the process by which chemical bonds are broken by the addition of water.

RECYCLABLE PAPER BAG

A paper bag that is one-hundred-percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "Recyclable" and "made from 40% post-consumer recyclable content" in a visible manner on the outside of the bag.

RETAIL ESTABLISHMENT

Any business or commercial enterprise or facility, whether for profit or not, that sells goods and/or services directly to the customer, including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores, pop-up retail stores, and vendors selling clothing, food, and personal items, and dry-cleaning services.

REUSABLE BAG

A bag that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is greater than 4.0 mils in thickness.

SINGLE-USE PLASTIC CHECKOUT BAG

A carryout bag or checkout bag made predominantly of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources,

which is provided to a customer at the point of sale and which is 4.0 mils (0.1016 mm) in thickness or less.

A. The term "single-use plastic checkout bag" shall not include:

- (1) Bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or checkout area of a retail establishment;
- (2) Laundry or dry-cleaner bags;
- (3) Newspaper bags;
- (4) Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture;
- (5) Reusable bags; or
- (6) Recyclable paper bags.

B. The term "single-use plastic checkout bag" shall include:

- (1) Degradable plastic bags; and
- (2) Biodegradable plastic bags that are not commercially compostable as well as commercially compostable plastic bags.

§ 244-23 Single-use plastic checkout bags prohibited; permitted bags.

- A. No retail establishment in the City of Beverly shall provide single-use plastic checkout bags to any customer for the purpose of enabling the customer to carry away goods from the point of sale.
- B. If a retail establishment provides or offers any checkout bags to customers, such bags shall be either a recyclable paper bag or a reusable bag.

§ 244-24 Enforcement; violations and penalties.

- A. This article shall be enforced by the Public Health Director or their/his/her designee. Any retail establishment that violates any provision of this article shall be subject to the following penalty:
 - (1) Upon the first documented violation of this article, the enforcement agent shall provide the violator with a written warning of such violation. The violator will then be entitled to a one-time thirty-day grace period after receipt of such notice to cure such violation.
 - (2) After the expiration of the one-time thirty-day grace period, the enforcement officer is authorized to levy a fine of \$50 for each and every consecutive or nonconsecutive day that the retail establishment is found to distribute single-use plastic checkout bags, each day constituting a separate subsequent violation.

- B. Whoever violates any provision of this article may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D.

Chapter 249

Stormwater Management

[**HISTORY: Adopted by the City Council of the City of Beverly 5-12-2008 by Ord. No. 86 (Art. XXXII of the Code of Ordinances). Amendments noted where applicable.**]

GENERAL REFERENCES

Sewers — See Ch. 227.

Wetlands protection — See Ch. 287 and Ch. 565.

Zoning — See Ch. 300.

Subdivision of land — See Ch. 375.

§ 249-1 Purpose.

- A. The purpose of this chapter is to protect the surface water bodies, natural resources, and public and private property within the City of Beverly from the negative impacts caused by polluted and unmanaged stormwater runoff and activities related to development, construction and land surface alteration and work not otherwise subject to regulation by the Planning Board and/or the Conservation Commission. In response to the mandates set forth under the amendments to the Federal Clean Water Act, this chapter partially fulfills the requirement of the Phase II National Pollution Discharge Elimination System (NPDES) permit in order to achieve compliance with the U.S. Environmental Protection Agency's stormwater regulations.
- B. Because stormwater discharges from a variety of sources, including storm sewers, construction, waste disposal, earth disturbance and resource extraction, are major causes of impairment to the water quality of natural coastal and inland water bodies and wetland resource areas, this chapter is designed to regulate a myriad of aspects relating to the development or redevelopment of land as well as to detect and eliminate illicit discharges into the City's storm drainage system.
- C. This chapter and the regulations promulgated hereunder serve to establish minimum standards, design criteria, implementation, guidance and enforcement to achieve the following objectives:
- (1) Establish, regulate and enforce stormwater management standards for development and redevelopment projects by adopting and enforcing the nine stormwater management standards set forth in the Massachusetts Stormwater Management Policy.

- (2) Detect and eliminate illegal discharges to the municipal storm drain system, including but not limited to sewage, process wastewater, wash water, indoor drains, floor drains, sinks from residential, commercial or industrial sources.
- (3) Guide, regulate and manage construction activities that render soil exposed and vulnerable to erosion by wind and water as well as contain and properly manage potential on-site pollutants, including but not limited to oils, gasoline, pesticides, paints, garbage and sanitary wastes.
- (4) Regulate the alteration of grades/elevations of the land surface by more than two feet to protect against damage to abutting properties and adjacent wetlands resource areas resulting from altered drainage patterns.
- (5) Establish a Stormwater Management Advisory Committee to work with the Engineering Department in establishing and evaluating rules and regulations to further clarify and implement this chapter.

§ 249-2 Applicability.

This chapter applies to all construction, development, and redevelopment activities that involve and/or impact stormwater discharge, soil disturbance, altering of grades or drainage patterns not expressly exempted from it.

§ 249-3 New development and redevelopment projects.

- A. Regulation of discharges to the municipal storm drainage system and the surface waters and wetlands is necessary for the protection of the City of Beverly's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface is a major cause of impairment of water quality and flow in the ocean, lakes, ponds, streams, rivers, wetlands and groundwater, contamination of drinking water supplies, erosion of stream channels, alteration or destruction of aquatic and wildlife habitat, and flooding.
- B. This chapter establishes stormwater management standards for development and redevelopment projects that disturb an acre or more of land to minimize adverse impacts off site and downstream which would be borne by abutters, residents and/or the general public by:
 - (1) Complying with all other state and federal statutes and regulations relating to stormwater discharges and adopting the following standards of the Massachusetts Stormwater Policy:
 - (a) Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
 - (b) Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from a site post-development should approximate the annual recharge from the preexisting or existing site conditions, based on soil types.

- (c) For new development, stormwater management systems must be designed to remove 80% total suspended solids (TSS).
- (d) Redevelopment of previously developed sites must meet the stormwater management standards to the maximum extent practicable.
- (e) All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.
- (2) Protecting groundwater and surface water from degradation.
- (3) Promoting groundwater recharge.
- (4) Preventing pollutants from entering Beverly's municipal storm drainage system and to minimizing discharge of pollutants from the system.
- (5) Ensuring adequate long-term operation and maintenance of structural stormwater best management practices so that they function as designed.
- (6) Ensuring public safety and protecting public and private property, surface drinking water supplies, groundwater resources, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters.
- (7) Requiring practices to control the flow of stormwater from new and redeveloped sites into the Beverly storm drainage system in order to prevent flooding and erosion.
- (8) Establishing Beverly's legal authority to ensure compliance with the provisions of this chapter through inspection, monitoring, and enforcement.

§ 249-4 Exemptions.

The following activities are exempt from the provisions of this chapter:

- A. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04.
- B. Maintenance of existing landscaping, gardens or lawn areas, provided such maintenance does not include the addition of soil material or alteration of existing grades.
- C. The construction of any walls and fencing that will not alter existing terrain or drainage patterns.
- D. Construction of utilities, other than drainage (gas, water, sanitary sewer, electric, telephone, etc.), which will not alter terrain, ground cover, or drainage patterns.
- E. Projects wholly within the jurisdiction of the Conservation Commission and requiring an order of conditions.

§ 249-5 **Illicit connections.**

- A. This chapter also provides for the health, safety, and general welfare of the residents ~~citizens~~ of Beverly by regulating stormwater discharge into the City's storm drain system and waterways in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- B. The City's storm drainage system includes stormwater pipes and drainage waterways and conveys surface water runoff to receiving waters. Generally, runoff enters the stormwater drainage system piping through catch basins on streets and on public and private property and from drainage swales and ditches. No sewage discharge is allowed into this system.
- C. The City also has a separate piped municipal sanitary sewerage system. In order to reduce and eliminate infiltration and inflow into this system, no storm drainage discharge is allowed into the municipal sanitary sewer system from any source, including, but not limited to, sump pumps and roof drainage. The sewerage system conveys wastewater from residences and commercial and industrial establishments to the South Essex Sewerage District wastewater treatment plant in Salem. The City's sewerage system is regulated by Chapter 227, Sewers, of the City Code.
- D. The objectives of this section are to:
 - (1) Minimize the contribution of pollutants to the municipal storm drainage system;
 - (2) Minimize the negative impact of illicit connections and discharges upon the City's natural resources;
 - (3) Prohibit illicit connections and discharges to the municipal storm drainage system; and
 - (4) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

§ 249-6 **Erosion/Sedimentation and materials management.**

- A. During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates extraordinary maintenance and repair of storm drains and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.
- B. Many potential pollutants other than sediment are associated with construction activities. These pollutants include pesticides, fertilizers used for vegetative stabilization; petrochemicals (oils, gasoline, and asphalt degreasers), construction chemicals such as concrete products, sealers, and paints; wash water associated with these products; paper; wood; garbage and sanitary wastes.
- C. As a result, the purpose of this section is to safeguard persons, protect property, and prevent damage to the environment in the City of Beverly. This section will also promote the public

welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of certain development or other activity that disturbs the topsoil or results in the movement of earth within the City of Beverly.

- D. No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of one acre or more (43,560 square feet) without the written approval of an erosion/sediment control and materials management plan by the Engineering Department. Such projects shall be required to submit an erosion/sediment control and materials management plan with the application when, in the opinion of the Director of Engineering, Commissioner of Public Services, Public Works or his designee, the submission of such a plan is needed to further the purpose and intent of this chapter and/or to safeguard surrounding property and public infrastructure systems.
- E. No person shall be granted a site development permit for land-disturbing activity that would require disturbing less than one acre but more than 1/4 acre without the approval of an abbreviated erosion/sediment control and materials management application by the Engineering Department.
- F. No person shall be granted a site development permit for land-disturbing activity that would require disturbing less than 1/4 acre without the approval of a minor project management application by the Engineering Department.
- G. Exemptions:
 - (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources;
 - (2) Repairs to any stormwater system deemed necessary by the City of Beverly Engineering Department or its designee; or
 - (3) Existing nursery and agricultural operations conducted as a permitted use.

§ 249-7 Drainage pattern alterations.

- A. Changing the grading of the land surface can have an impact on drainage characteristics of even relatively small watershed areas. Therefore, regulating proposed grading for all projects, including minor ones, is necessary for the protection of the City of Beverly's natural resources, and to safeguard public and private property from the potential negative impacts due to increased peak rate run off, increase in volume, and flooding.
- B. A permit required by this chapter will be issued by the City Engineer to the owner or the owner's duly authorized agent after the City Engineer has reviewed a plan to be submitted showing the nature of the grade change proposed, but only on such conditions, which shall be determined by the City Engineer, that will ensure that the proposed grade changes will not adversely affect existing drainage and groundwater conditions that could affect the public health, safety and welfare of any public way or adjoining real estate.
- C. It shall be unlawful for any person or other legal owner of real property in the City to disturb the existing grade of land by more than two feet without first obtaining the approval

of the City Engineer and, where applicable, the Conservation Commission (if the property is subject to the Wetlands Protection Act or Chapter 287, Wetlands Protection, or Chapter 565, Wetlands Protection Regulations, of the City Code) and the Planning Board (if the property is being altered pursuant to a plan subject to Chapter 375, Subdivision of Land, of the City Code).

- D. Exemption: emergency work as declared or determined by the Director of Engineering or his designee.

§ 249-8 Administration.

The Director of Engineering shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Director of Engineering by this chapter may be delegated in writing by the Director to persons or entities acting in the beneficial interest of or in the employ of the City.

§ 249-9 Enforcement; violations and penalties.

Any person violating any of the provisions of this chapter or of any order or permit issued hereunder shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this chapter, order or permit is committed or continued shall constitute a separate offense. The Department or its delegated agents may issue a stop-work order to the owner, the applicant, or the owner's or applicant's agent by certified mail, return receipt requested, and by posting the same in a conspicuous location on the work site. Upon conviction of any violation of this chapter, such person shall be punished by a fine of \$300 for each offense. In addition to any penalty authorized by this section, any person violating any of the provisions of this chapter shall be required to bear the expense of site restoration. Nothing in this section, including the failure of the Department or its delegated agents to issue a stop-work order, shall prevent the City from pursuing any other remedy provided for by law, including equitable relief, to restrain violations of this chapter.

§ 249-10 Rules and regulations.

The Director of Engineering, in collaboration with the City of Beverly Stormwater Management Advisory Committee and Stormwater Coordinator, shall be empowered to establish rules and regulations to govern the permitting process, including but not limited to fees, application procedures, definitions, use of consultants, security to assure performance, performance standards for work, and such other information the Department and Committee deem necessary to discharge their responsibilities. The Department and Committee may promulgate such rules and regulations to effectuate the purposes of this chapter by a majority vote of the duly appointed members of the Stormwater Management Advisory Committee. Failure by the Department and the Committee to promulgate such rules and regulations, or a legal declaration of their validity by a court of law, shall not act to suspend or invalidate the effect of this chapter.

Chapter 253

Streets and Sidewalks

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article

histories. Amendments noted where applicable.]

GENERAL REFERENCES

Historic buildings and districts — See Ch. 168.

Trees — See Ch. 261.

Zoning — See Ch. 300.

Subdivision of land — See Ch. 375.

Article I
Electrical Posts, Poles and Fixtures

[Adopted as Art. XII of the Code of Ordinances]

§ 253-1 Plans for locations to be filed with City Clerk.

Any person who petitions for location of electric or other wires, poles, ducts, conduits or manholes upon, over, through or under any public ways or over any building shall, when such petition is filed in the office of the City Clerk, also file a plan showing the street and number or, if there is no number, the exact proposed location of such electric or other wires, poles, ducts, conduits or manholes upon, over, through or under any public way or over any building in the City.

§ 253-2 Permit from City Council for erection.

No telegraph, telephone or electric light company or any other corporation or person shall erect any post or poles to support wires or lines for the transmission of electricity in any public way or grounds, except by order of the City Council, previously obtained, which shall set forth the exact location of such post or pole proposed to be erected.

§ 253-3 Acceptance of locations.

- A. Whenever permission shall be granted by the City Council to erect and maintain poles, or to construct conduits or other fixtures in the public ways, bridges or grounds, to support or carry lines, telephone wires or for the transmission of electricity, the person to whom such permission is granted shall, within 30 days from the date of the order granting such permission, file in the office of the City Clerk a written acceptance of the location of such poles, conduits or other fixtures, and the conditions upon which the permission has been granted, and in default thereof such grant shall be null and void.
- B. Such person may, however, at his election, file in the office of the City Clerk a general acceptance of the location of poles, conduits or other fixtures, and conditions upon which permission may be granted by the City Council from time to time to the person, and such acceptance shall constitute an acceptance of each of such orders, unless such person shall advise the City Clerk in writing, within 30 days from the date of the order, of his refusal to accept the locations and conditions of a specific order.

§ 253-4 Removal of conduits and wires when required by City.

Whenever the City shall construct, enlarge, relocate, repair or alter the streets, ways or bridges, or the sewers, water pipes or other public works, in such streets, ways and bridges where conduits and wires are laid, which conduits and wires, in the opinion of the City Council, should be removed or changed in respect to their location, such removal or change shall be made without delay at the expense of the person owning or operating the same.

§ 253-5 Permit for attaching wires to trees, buildings or fixtures.

No wire or line for the transmission of electricity for any purpose shall be attached to any tree, building, erection or fixture of any kind, in any public way or grounds by cross-arms or otherwise, except by permission, in writing, of the Inspector of Wires, previously obtained, in which such tree, building, erection or fixture shall be described.

§ 253-6 Hearing on petitions; notice.

Every petition presented to the City Council for permission to erect posts to support wires or lines, or to attach wires or lines to trees or other fixtures, for the transmission of electricity for any purpose, shall be accompanied by or contain a statement of the exact location of each post proposed to be located, and of each tree, fixture or building to which it is desired to attach such wires or lines. The City Council, or in its discretion a committee thereof, shall give a hearing on every petition to all parties interested, except as to the attachment of wires and lines to fixtures other than trees. Notice of such hearing shall be given by the City Clerk at the expense of the petitioners to all persons owning or occupying land along the line of the proposed location. Notice shall state briefly the streets or ways, and parts thereof, and the lands to which such petition relates, and shall be served by leaving an attested copy thereof at the last and usual place of abode or business of each person, or by sending the same through the mail postpaid and directed to each such person. Such further notice shall be given to any parties interested as the City Council may direct.

§ 253-7 Quality and height of posts and poles; identification.

None but sound, reasonably straight, well-formed posts, smooth and free from decay, of quality satisfactory to the Inspector of Wires, shall be erected and maintained in any public way, bridge or grounds. Wooden poles shall be of chestnut, cedar or hard pine, shall be not less than 25 feet above the ground and shall be set to a depth not less than five feet, and, on corners or dead ends where impracticable to guy, shall be set in concrete or keyed, and the name of the company, corporation or person owning the pole and the number thereof shall be distinctly attached thereto by means of a metal tag.

§ 253-8 Manner of setting posts; painting.

All posts erected and maintained in the public ways for the support of wires and other lines for transmission of electricity shall as nearly as practicable be set and maintained in a perpendicular position, of as uniform a height as practicable, and in line with the street or way, and shall be kept properly painted by the owners thereof, in such colors and manner as the Inspector of Wires may from time to time direct.

§ 253-9 Removal of abandoned poles and wires; transfer of ownership.

When poles have been abandoned by the owners thereof, they shall remove them, unless it is

positively known that they will again use them within 90 days. Wires owned by others on such poles shall be removed unless the owners of such wires assume the ownership of such poles, the same to be transferred to them by the original owner by grant of the City Council.

§ 253-10 Time for placing or removing poles.

Except by permission of the Inspector of Wires, new poles shall not be brought on any street more than two days in advance of the time they are to be set; and when old poles are taken down, they shall be removed from the street on the same day.

§ 253-11 Manner of replacing poles.

When renewing poles, the butt of the old pole shall be removed and the new pole set in the identical or adjacent location, and the surface of the ground around the pole shall be leveled off, filled in with material of the same kind as the ground around the pole and left clear of all material and rubbish. When removing or relocating poles that are set in the curblin so that a space is left open in or between the existing curb, such shall be refilled with cement or concrete, or with granite curbing if the Director of Engineering, Commissioner of Public Services, Public Works so requires.

§ 253-12 Height of wires.

Except by permission of the City Council, no wire or other line for the transmission of electricity, except service wires and loops to buildings, shall be attached to any post or tree or other fixture nor run along any public way or street at a height less than 20 feet from the ground; and except by written permission from the Inspector of Wires, no post more than 40 feet above the ground shall be erected for the support of such wires and lines. Except by written permission from the Inspector of Wires, all wires from poles to buildings, where crossing the street, shall be at a height of not less than 20 feet from the ground.

§ 253-13 Submission of plans for underground conduits to City Council.

Persons conducting a telegraph, telephone, electric light or power business may construct and maintain underground conduits for cables and wires, together with manholes and house connections, and erect and maintain distributing poles at the termini of conduits, at suitable distributing points, in such streets, in such manner, of such shape, size and material, and under such regulations as the City Council shall hereafter designate upon application. The application shall be accompanied by a plan showing the exact location of such conduits, manholes and poles. The City Council shall grant a hearing on the application in the manner provided in § 253-6.

§ 253-14 Permit for change of underground conduits.

Whenever underground conduits have once been laid in the streets and ways of the City, they shall not be removed, relocated or changed without permission from the City Council.

§ 253-15 Permission to tear up streets; restoration.

No street, way or bridge shall be torn up or disturbed for the purpose of laying lines, wires or conduits or erecting, altering or removing posts, poles or other fixtures used for carrying electric lines or wires without a permit first obtained from the City Council, indicating the time, manner and place of disturbance and the conditions under which such is permitted. No street, way or bridge shall be torn up or disturbed for the purpose of repairing, changing or removing lines,

wires or conduits without a permit in writing first obtained therefor from the Director of Engineering, Commissioner of Public Services, Public Works. Whenever any opening or any disturbance is made in any street, way or bridge, it shall be promptly restored by the person owning or operating the lines or wires to as good a condition as it was in before such disturbance or opening, in a manner satisfactory to the Director of Engineering, Commissioner of Public Services, Public Works. The portion of a street, way or bridge so opened or disturbed shall be kept in and maintained in such condition by such person for one year thereafter, and if not immediately so restored, kept and maintained, the same may be done by the City at the expense of such person without previous notice of the intention to do so.

§ 253-16 Space on poles for signaling systems; permits for brackets or side fixtures; curblines; distance from hydrants.

- A. One space on all poles in public streets or ways shall be reserved for fire alarm, police signal or other signaling systems belonging to the City, and used exclusively for municipal purposes.
- B. No line or wire shall be attached to any pole or post by means of brackets or other side fixtures except by written permission of the Inspector of Wires.
- C. On streets where curbstones are set, all poles shall be erected in the sidewalks as close as possible to the inside of the curblines, and where there are no curbstones erected, the curbline must be established before setting the poles.
- D. No pole shall be set within 10 feet of any hydrant.

§ 253-17 Reservation of space in underground conduits for City signal wires.

In any underground conduit system, such sufficient and necessary space as shall be determined by the City Council shall be reserved free of expense to the City for the use of fire, police and other telegraph and telephone signal wires belonging to the City, and used exclusively for municipal purposes. The City, by its Inspector of Wires and other proper servants, shall be allowed access to the conduits at all times. The City shall be allowed equal facilities and privileges with others using the same conduits in putting in, taking out and repairing wires.

§ 253-18 Bond of person constructing electrical lines.

Every person constructing, maintaining or operating a telegraph, telephone or other electrical line in the City shall execute a bond, with surety satisfactory to the Mayor, in a penal sum not less than \$10,000, conditioned to indemnify and save harmless the City against all damage, cost, expense and loss whatsoever to which it may be subjected in consequence of the negligence of such persons, their agents, officers and servants in any manner arising from or growing out of the use and transmission of electricity, the privileges permitted by the City, and the construction, maintenance, operation and the use of lines, wires, cables, conduits, posts, poles, structures, constructions, fixtures and apparatus. The bond shall also be conditioned to fulfill all agreements with the City, all the lawful orders, conditions and obligations imposed by the City Council, and all obligations and duties required by law. A new bond of like import and with new surety may at any time be required by the City, which new bond shall be a strengthening bond, unless the surety on former bonds is expressly released from further liability by vote of the City Council.

§ 253-19 Trees not to be damaged.

No electric light, telephone or telegraph company shall destroy, cut, trim or mutilate any of the trees located on any of the thoroughfares or public grounds of the City, except by written permission of the City Arborist, or allow the insulation to become dangerous or to injure trees on any of the thoroughfares or public grounds of the City.

§ 253-20 Interference with television, radio and other communication circuits.

No person shall knowingly or wantonly operate or cause to be operated any machine, device, apparatus or instrument of any kind whatsoever within the City between the hours of 8:00 a.m. and 12:00 midnight, the operation of which shall cause reasonably preventable electrical interference with television, radio and other communication circuits reception, within the municipal limits; provided, however, that X-ray pictures, examinations or treatments may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with television, radio and other communication circuits reception and are not negligently operated. This section shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus or device is licensed or authorized by or under the provisions of any act of the Congress of the United States. The Inspector of Wires and his duly authorized assistants shall have the right to enter upon any premises at all reasonable hours for the purpose of inspecting the installation and working of all apparatus coming within the terms of this section, and it shall be unlawful for any person to interfere with the Inspector of Wires or his duly authorized assistants in making such inspection or to refuse to permit him or them to enter the premises for such purposes.

§ 253-21 Permit required for outside antenna for radio or television.

No person shall set up, install or maintain any outside antenna system for the purpose of operating television, radio or any other similar communications equipment without first having obtained therefor a written permit from the Inspector of Wires.

Article II
Obstructions

[Adopted as Art. XXII, §§ 22.06, 22.12 and 22.20, of the Code of Ordinances]

§ 253-22 ~~Rude and indecent behavior; loitering; graffiti.~~

A. No person shall behave ~~himself~~ in a ~~rude or~~ disorderly manner; ~~or use any indecent, profane or insulting language~~ in any street, lane, alley or public place in the City, or near any dwelling house or other buildings therein; or in any licensed place of public amusement; ~~or be or remain upon any sidewalk, or upon any doorstep, portico or other projection from any building to the annoyance or disturbance of any person.~~

B. No person, with one or more other persons, shall stand in a group or near such a number of persons, on any sidewalk, in such a manner as to obstruct a free passage for foot passengers,

for a longer time than 10 minutes, nor in the same place, nor on the same sidewalk after a request to move on made by any police officer.

- C. No person shall make any **indecent** figures, nor write any **indecent or** obscene words upon any fence, building or other public place within the City.

§ 253-23 Fences.

- A. Determination of boundary before erection. No person shall erect or cause to be erected any fence or building on the line of any street without first ascertaining the bounds thereof from the Director of Engineering, Commissioner of Public Services, Public Works.
- B. Defacing or injury. No person shall deface, injure or destroy any fence in the City.

§ 253-24 Signs, awnings and displays.

- A. Projecting over sidewalks. No person shall place or maintain any awning or shade, or frame for the same, any sign, signboard, showboard, table, stand, booth or any goods, wares or other articles so as to project into or upon or overhang any street or sidewalk without written permission from the City Council, which may be revoked at any time, unless the same shall be so located and constructed as not to interfere with travelers, and so that the lowest part of any such awning, shade or frame shall in no case be less than seven feet above the sidewalk and the lowest part of any sign or signboard not less than nine feet above the sidewalk. No such permit shall be granted or issued unless and until the applicant has filed a bond in the sum of not less than \$200, with sureties to the satisfaction of the Mayor, conditioned to hold the City harmless from all damages occasioned by the existence of any such signs, signboards, showboards, tables, booths, stands, goods, wares or articles in the highways and public places of the City.
- B. Injuring or defacing. No person shall deface, injure or destroy any awning, building, guidepost or signboard in the City.

Article III

Repairs to Unaccepted Streets

[Adopted 4-21-1987 by Ord. No. 32 (Art. XXVIII, § 28.03, of the Code of Ordinances); amended 11-24-1998 by Ord. No. 360; 2-18-1999 by Ord. No. 69; by Ord. No. 5-2013]

§ 253-25 Authority to make repairs.

Pursuant to MGL c. 40, § 6N, the Department of Public Services is hereby authorized to make temporary repairs upon the following unaccepted streets within the City if such streets have been opened to public use for two or more years, provided that the Director of Engineering, Commissioner of Public Services, Public Works determines that such repairs are required by public necessity. The City shall bear no liability on account of damages caused by such repairs.

§ 253-26 List of unaccepted streets.

The unaccepted streets on which said temporary repairs may be made are as follows:

Name of Street	Location
Adeline Road	
Arbella Drive	
Arthur Street Court	
Bailey Avenue	
Bartlett Street	Cabot Street to Union Street
Bass Street	
Beatrice Road	
Beaver Street	
Belmont Street	Person Street to Echo Avenue
Berrywood Lane	#27 to dead end
Big Rock Lane	
Bisson Street	Butman Street to Lothrop Street
Bonad Road	
Boxwood Lane	
Boyles Street	Tall Tree Drive to Foster Street
Brackenbury Lane	
Bradford Road	
Brimbal Hill Drive	
Brookhead Avenue	
Brooks Circle	

Name of Street	Location
Budleigh Avenue	
Burley Street	
Butman Street	#16 to Bisson Street
Carleton Avenue	
Cedar Street	#25 to Middle Street
Central Court	
Chapman Terrace	
Chubbs Brook Lane	
Church Street	Park Area
Cobblers Lane	
Cole Street	Essex Street to #22
Colon Street	Brimbal Avenue to Essex Street
Common Lane	Thissell Street to #95 and #213 to Foster Street
Conway Street	
Coolidge Avenue	
Cottage Lane	
Cove Avenue	
Cox Court	School Street to dead end
Cross Lane	

Name of Street	Location
Cumnock Street	
Dane Street	Cabot Street to Essex Street
Davis Street	
DiPalma Court	
Douglas Avenue	
Driscoll Lane	
Dryer Road	
Elizabeth Avenue	
Ellingwood Court	
Federal Street	Park Street to River Street
Fieldstone Lane	
Fitzgerald Way	
Fossa Terrace	
Foster's Point	
Foster Street	
Front Street	
Gardner Street	Pearl Street to Liberty Street
Gary Court	
Gateway Lane	
Gray Road	

Name of Street	Location
Harwood Street	Ash Street to dead end
Haskell Street	High Street to Hart Street
Hathaway Avenue	Burley Street to Forest Street
Hayes Avenue	#27 to dead end
Hellard Road	
Hemlock Street	
Hersey Avenue	
Highland Terrace	
High Street	#29 to end
Hillcrest Road	
Hillside Avenue	Northern Avenue to #36
Hill Street	
Holding Street	#15 to Bates Park Avenue
Holmes Street	
Hoover Avenue	
Iverson Road	#12 to dead end
Jacobs Avenue	
James Street	Butman Street to Pratt Avenue
Jordan Street	Snell Road to Tudor Road
Juniper Street	

Name of Street	Location
Kathleen Drive	
Kennedy Drive	
Kennell Hill Drive	
Kernwood Avenue	Leech Street to Kernwood Bridge
Kinsman Street	
Lanthorn Lane	
Leather Lane	
Leech Street	Livingstone Avenue to Kernwood Avenue
Livingstone Avenue	Woodland Avenue to Leech Street
Longview Terrace	#8 to Sonning Road
Marshall Court	
Marsh Avenue	
Matthies Street	#34 to dead end
McPherson Drive	
Michael Road	
Middle Street	Victor Avenue to Cedar Street
Millbrook Road	
Milton Street	
Montserrat Road	
Morningside Drive	

Name of Street	Location
Morrison Avenue	
Moulton Court	
Nelson Avenue	#16 to Wirling Drive
Nursery Street	Dartmouth Street to Andover Road
Ober Lane	
Old Planters Road	
Oxford Terrace	
Palmer Road	
Paradise Road	
Park View Avenue	
Parramatta Road	Pearl Street extension to East Lothrop Street
Pasture Road	
Pickett Court	
Pillow Lace Road	
Pinehurst Avenue	
Pine Road	
Powers Street	
Prescott Street	Fillmore Street to Sargent Street
Prince Street	
Putnam Street	#45 to Albany Circle

Name of Street	Location
Quincy Park	
Red Rock Lane	#19 to end
Rezza Road	
Robb Road	
Robin Road	
Roderick Avenue	
Rubbly Road	To #2
Russell Street	Jordan Street to high school
Salem Road	Puritan Road to dead end
Salters Avenue	
Sargent Avenue	
Sargent Street	#24 to Prescott Street
Scenna Road	#12 to dead end
Shore Avenue	
Shortell Avenue	#70 to dead end
Smith Street	
Snell Road	
Sonning Road	
South Terrace	Eleanor Avenue to #15
Spring Street	

Name of Street	Location
Stewart Lane	
Sturtevant Street	From #56 to end as of February 1987
Summit Avenue	#20 to Cox Court
Sunnycrest Avenue	
Tall Tree Drive	
Thaxton Road	To #8
Thissell Street	
Thomas Road	
Trask Street	
Tremont Street	Ellsworth Avenue to Clifton Avenue
Tyler Road	#16 to East Corning Street
Upland Road	Livingstone Avenue to Ashton Street
Valley Street	Hart Street to Hemlock Street
Vestry Street	
Walcott Road	#16 to dead end and Guild Road to dead end
Waldemar Avenue	
Watch Hill Lane	
Wayland Road	
Wentzell Avenue	
West Dane Street	Park Street to dead end

Name of Street	Location
Westerly Road	Heather Street to dead end
Wirling Drive	#14 to Nelson Avenue

Article IV
Construction and Use Restrictions

[Adopted as Art. XXIX of the Code of Ordinances]

§ 253-27 Notice of proposed construction or repair work; moratorium on openings and street work.

- A. Whenever the City is about to construct a new street or to break up the surface of any street, the Director of Engineering, Commissioner of Public Services, Public Works shall, at least two weeks before beginning work thereon, notify the Salem City Council, National Grid Gas, National Grid Electric, the MBTA, Verizon and Comcast if the Salem City Council or any of the companies mentioned have been authorized to lay or place any pipes, conduits or tracks in such street. If the Salem City Council or any of the companies mentioned have any work to be done in the street designated in the notice, it shall consult and arrange with the Director of Engineering, Commissioner of Public Services, Public Works in order that such work may be done before the surface of such street is prepared anew for public travel. The Director shall also notify the abutters on such street and all other persons interested therein by publishing a notice of the work proposed in one of the City newspapers at least one week before beginning such work, and if any abutter or other person desires to open such street to do any work therein, application for a permit shall be made forthwith in order that the work may be done before the surface of the street is prepared as aforesaid. After such notice and opportunity have been given, no such council, company, abutter or person shall, for the space of five years, break up the surface of such street so prepared, except in case of obvious necessity, to be certified to and approved by the Mayor.
- B. No street or way shall be opened by drain layers or other persons between the first day of December and the first day of the following April, except in case of necessity, certified to and approved by the Mayor, but nothing in this section shall prevent connection being made with a common sewer or drain when ordered by the Board of Health.

§ 253-28 Notice of proposed excavations.

- A. Whenever there is to be any excavation in any street or sidewalk in the City, the Director of Engineering, Commissioner of Public Services, Public Works shall notify National Grid Gas, National Grid Electric, Verizon and Comcast at least 48 hours before commencing the work to determine whether or not any pipes or conduits might be endangered by such excavation. Such excavations include water, sewer, surface drainage, tree removals, installation of posts to a depth of over one foot, street repairs and construction, sidewalk repair and construction, etc.
- B. If it is determined by the aforesaid companies that their services might be endangered, then

such companies shall take appropriate measures to supervise and protect their respective services.

- C. In the event of any emergency, the provision requiring 48 hours' notice shall not apply but the Director of Engineering, Commissioner of Public Services, Public Works shall immediately notify the aforesaid companies.

§ 253-29 Notice to Fire Department.

Whenever any repairs, openings of trenches or any temporary occupation of any street, way or traveled place in the City is contemplated to be performed by any public service corporation or by a private contractor or corporation, at least 24 hours' notice of same shall be given by such corporation or contractor to the Chief of the Fire Department of the City. The notice shall set forth in general the extent and duration of the work contemplated.

§ 253-30 Reports of accidents.

Whenever any accident occurs upon the highways or other public places of the City, or when for any cause circumstances arise involving possible liability of the City to damages, it shall be the duty of the members of the police force, including regular, reserve and special officers, the foreman and employees of the Public Services Department and members of the Fire Department, having knowledge of such accident or circumstances, to report the same forthwith and without delay to the head officer of their respective departments; and such report shall contain a sufficient statement of the place, time and special facts under which such accident or circumstances arose, and such head of department shall thereupon forthwith transmit such report to the Chairman of the Legal Affairs Committee and to the City Solicitor.

**§ 253-31 Permits to make excavations and cause obstructions; fees.
[Amended 2-21-1989 by Ord. No. 108A; 5-15-1989 by Ord. No. 249]**

- A. No person shall break or dig up, or assist in breaking or digging up any part of any street, or remove any gravel or other similar thing therefrom for any purposes whatever except by permission of the Director of Engineering, Commissioner of Public Services, Public Works and under such restrictions and conditions as he may think proper.
- B. A permit in writing must first be obtained from the Director of Engineering, Commissioner of Public Services, Public Works. Any and all holders of permits as aforesaid shall provide suitable lights in and on all obstructions or excavations placed by them in such public streets or ways between sunset and sunrise, and shall provide a suitable boardwalk for public use around such obstructions and excavations. In the case of failure to so provide suitable lights, the Director shall provide the same at the expense of the holder of the permit.
- C. In addition, the applicant shall provide the City with a cash bond in the amount of \$1,000 or \$10 per linear foot of trench, whichever is greater, to be held by the City Treasurer.
- D. In the event that the work for which the permit under this section is obtained is not completed in a timely manner or maintained in a satisfactory condition as determined by the Director of Engineering, Commissioner of Public Services, Public Works, then the Director

shall give the applicant 48 hours' notice by registered or certified mail to complete the work or make the necessary repairs.

- E. If the repairs or completion ordered by the Director of Engineering, Commissioner of Public Services, Public Works is not completed within 48 hours of the applicant's receipt of notice, the Director shall notify the City Council's Committee on Public Services. The Committee on Public Services shall have the authority to release so much of the cash bond to the Public Services Department provided for in Subsection C above as the Commissioner determines is necessary to complete or repair the street so disturbed. Each and every break or digging up of any street shall require a separate permit, fee and cash bond.

§ 253-32 Permits for permanent excavations; leaving openings uncovered; grating projections.

No person shall place or maintain any grating, or make any permanent excavation under the surface of any street for the purpose of constructing a coal hole, or for light and air, or for an entrance, or for any other purpose without permission from the City Council. No person shall leave such coal hole or other aperture open or unfastened between sunset and sunrise in any case, nor in the daytime unless actually in use and properly guarded. No grating shall project more than two feet into the street.

§ 253-33 Maintenance of excavations under streets; indemnification of City.

Every owner of an estate hereafter maintaining any cellar, vault, coal hole or other excavation under the part of the street which is adjacent to, or part of, his estate and every person maintaining a post, pole or other structure in the street, or a wire, pipe, conduit or other structure under a street shall do so only on condition that such maintenance shall be considered as an agreement on his part with the City to keep the same and the covers thereof in good repair and condition at all times during his ownership and to indemnify and save harmless the City against any and all damages, costs, expenses and compensation which it may sustain or be required to pay by reason of any excavation or structure being under or in the street or being out of repair during his ownership, or by reason of any cover of the same being out of repair or unfastened during his ownership.

§ 253-34 Posts in streets.

No person shall place or maintain any posts in any street except by permission of the City Council, which permit may be revoked at any time.

§ 253-35 Public meetings in streets; temporary stands for selling goods.

No person shall hold or assist in holding gatherings or meetings in any public street within the City or occupy or use any portion of the same with temporary stands for the purpose of selling or attempting to sell any goods, wares or commodities of any description without first securing a permit from the Chief of Police, which permit shall state the day and hour or period for which such meeting, gathering or occupancy is to be held or made, nor without exhibiting such permit to any police officer when requested by him to do so.

§ 253-36 Spilling or leaking loads.

No person shall, without permission from the Board of Health, carry in or upon any vehicle through any street or way coal, sawdust, ashes or any other material or debris which is liable to

fall from such vehicle upon any street or way, whether or not the falling is caused by the elements, unless the same shall have been properly covered.

§ 253-37 Numbering and renumbering of streets.

The Engineering Department, subject to the control and direction of the City Council, shall have general charge of numbering or renumbering streets in the City, and the committee shall make all necessary rules and regulations for the carrying out of the aforesaid powers.

§ 253-38 Moving buildings; bond.

- A. No person shall move a building in a public street or way without permission from the City Council, which shall be granted upon such terms as in its opinion the public safety and convenience may require.
- B. All applications for such permission shall state the current location and that to which the building is to be moved, its length, width and height, and the principal material of which it is constructed, and shall definitely describe the route over which it is to be moved, the length of time required to move it, and whether any shade trees or branches thereof will have to be removed and, if any, the location thereof, and shall be accompanied by the certificate of the Director of Engineering, Commissioner of Public Services, Public Works approving the desired route. In all cases where a permit has been granted for the removing of a building as provided in this section, the moving of which will necessitate the cutting of electric light or power wires by any corporation authorized to maintain the same in the City, the holder of the permit shall, before any such building is moved from its location, notify such corporation of the granting of the permit, and thereupon such corporation shall give not less than 24 hours' notice through some daily newspaper published in the City, describing the wires which are to be cut and the time when the power or light, or both, are to be suspended.
- C. No person shall move any such building until he has given a bond to the City in the sum of \$300 with two or more sureties, one of whom shall be the owner of the building, to save harmless and indemnify the City from all damages which may occur by such moving. The bond shall be approved by the Director of Engineering, Commissioner of Public Services, Public Works and filed with the City Clerk before the permit is issued.

§ 253-39 Construction of sidewalks.

- A. Generally. Notwithstanding any other provisions of the City ordinances, the City Council, under the direction of the Director of Engineering, Commissioner of Public Services, Public Works, shall establish and cause to be constructed sidewalks in public ways of such materials as it may determine.
- B. Curbing. Any person constructing a building on an existing street shall construct a sidewalk and curbing of material which conforms with the general area.

**Article V
Trenches**

[Adopted 1-7-2009 by Ord. No. 259 (Art. XXXIII of the Code of Ordinances)]

§ 253-40 Permit granting authority.

The Director of Engineering, Commissioner of Public Services, Public Works, or his designee designated in writing, shall be the City officer to issue permits for the purpose of creating a trench as that term is defined in MGL c. 82A, § 4, and 520 CMR 14.00.

§ 253-41 Inspections.

Said permit granting officer may require the inspection of any proposed trench site before the issuance of any trench permit.

§ 253-42 Police details to make trench safe.

Should the permit granting officer determine that any trench site is not covered, barricaded, or backfilled and is unattended and the permit holder, if any, is unavailable or refuses to take corrective action, the permit granting officer may secure the services of a police detail officer to make the trench site safe. The permit holder, landowner, or contractor shall be assessed the costs of providing said police detail.

§ 253-43 Department of Public Services to make trench safe.

In addition to the securing of a police detail to make a trench site safe or, in the alternative, should the permit granting officer determine that any trench site is not covered, barricaded, or backfilled and is unattended and the permit holder, if any, is unavailable or refuses to take corrective action, the permit granting officer may have the Department of Public Services take action to cover, barricade, or backfill said trench, and the permit holder, landowner, or contractor shall be assessed the costs associated with any such action, including overtime for Department of Public Services employees.

§ 253-44 Blanket permits.

For projects involving multiple trenches, the permit granting officer may issue a single blanket permit for such work. When a blanket permit is issued, the permit holder shall notify the permit granting officer of the location of each new trench as the permit holder becomes aware that such project requires an additional trench.

§ 253-45 Fees.

- A. The cost of a trenching permit, for entities other than the City of Beverly, shall be \$100.
- B. In the case of a blanket permit, the cost for entities other than the City of Beverly shall be \$100 for each trench identified in or added to hereunder.
- C. The City of Beverly shall be issued trenching permits hereunder without cost.

§ 253-46 Violations and penalties.

- A. The creation of a trench without first having obtained a permit hereunder shall be punished by a fine of \$250. Said fine shall be in addition to and not in offset of any costs associated with corrective action taken under the foregoing sections.
- B. Failure to have properly covered, backfilled, or barricaded an unattended trench shall be punished by a fine of \$250. Said fine shall be in addition to and not in offset of any costs associated with corrective action taken under the foregoing sections.

Chapter 261

Trees

[**HISTORY: Adopted by the City Council of the City of Beverly 6-6-2002 by Ord. No. 161 (Art. XXXVI of the Code of Ordinances). Amendments noted where applicable.**]

GENERAL REFERENCES

Parks, recreation areas and public property — See Ch. 210.

Streets and sidewalks — See Ch. 253.

Zoning — See Ch. 300.

§ 261-1 Purpose and applicability.

A. Having determined that a well-managed urban forest provides many benefits to the City, its residents and visitors, it is hereby declared to be the policy of the City of Beverly to regulate, finance and control the planting, removal, maintenance, and protection of trees and shrubs upon or in all public areas of the City in order to:

- (1) Promote and enhance the aesthetics and general welfare of the City.
 - (2) Eliminate and guard against dangerous conditions, which may result in injury to persons using the public areas of the City.
 - (3) Prevent damage to any public sewer, water main, street, sidewalk, or other public property.
 - (4) Protect trees and shrubs in public areas from undesirable and unsafe planting, removal, maintenance and protection practices.
 - (5) Protect all trees and shrubs from the damaging effects of construction, alteration or repair of utility facilities and other improvements in any public area.
 - (6) Guard all trees and shrubs within the City against the spread of disease, insects, or pests.
- B. The provisions of this chapter shall apply to all trees and shrubs presently or hereafter planted in or upon any public area.

§ 261-2 Interdepartmental coordination.

Due to the complex nature and often conflicting interrelationships between living plants such as trees, shrubs, and turf, and public improvements such as streets, sidewalks and underground facilities, it is recognized that there is a need to manage both plants and improvements in a manner that will minimize conflict and maximize the benefits to be realized from each.

Therefore, it is hereby declared to be the intent of the City of Beverly that there shall exist at all times a policy of open communication and coordination between the various departments and divisions of City government regarding the management, installation and maintenance of the

plants or improvements for which they are responsible.

§ 261-3 Definitions.

In this chapter, unless the context clearly requires otherwise, the following words and phrases shall be defined as follows:

CITY ARBORIST

The person designated under Chapter 58, Officers and Employees, of the City Code or his/her duly authorized representative designated to perform inspection or otherwise enforce the provisions of this chapter.

CLEAR-VISION TRIANGLE

A triangle-shaped zone formed by the existing or proposed curblines of two or more intersecting streets, roads, or alleys and a third line connecting said curblines at a distance of 30 feet in each direction from the point of curblines intersection, in order to provide vehicular traffic an unobstructed view of cross traffic at intersections.

MAINTENANCE AND PROTECTION

Includes all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, cabling and cutting any tree or shrub above or below the ground.

PERSON

Any individual, firm, partnership, association, corporation or government entity.

PUBLIC TREES AND SHRUBS

Any tree or shrub, as herein defined, presently or hereafter planted in or upon any public area.

PUBLIC WAY

Includes all public ways, parks, and other lands owned, controlled, or leased by the City.

SHRUB

A woody plant, usually with multiple stems branched at or near the base, reaching a height of less than 12 feet.

STREET TREE

Any public tree presently or hereafter located in the public way between the curb and public sidewalk, or between the curbs of a median strip, or in the equivalent location with respect to future curb, sidewalk or median strips where such curbs or sidewalks are not yet installed.

TREE

A woody plant, usually with a single stem unbranched at the base, reaching a height of 12 feet or more.

TREE PROTECTION ZONE

A zone of protected space not less than four feet high and 10 feet square, or at a distance in feet from the tree trunk equal to the diameter of the trunk at breast height (DBH) in inches, whichever is greater.

§ 261-4 Standards and specifications.

The most recent versions of following documents, each in its entirety, are hereby adopted and made a part of this chapter upon passage:

- A. ANSI A300-1995, American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance - Standard Practices.
- B. ANSI Z60.1-1996, American Standard for Nursery Stock.

§ 261-5 Prohibited acts.

- A. Injury to public trees and shrubs prohibited. No person shall, without permission from the City Arborist, do or cause to be done any of the following:
 - (1) Secure, fasten, or run any rope, wire, signal, electrical installation or other device or material to, around or through any public tree or shrub except in an emergency such as a storm or accident.
 - (2) Break, injure, mutilate, deface, kill, or destroy any public tree or shrub.
 - (3) Top or make topping cuts on any public tree.
 - (4) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any public tree or shrub, except routine winter street maintenance by City departments.
 - (5) Excavate any ditch, tunnel, or trench, or lay any drive, sidewalk or other impermeable surface within the tree protection zone of any public tree or shrub, without permission from the City Arborist.
 - (6) Erect, alter, repair, raze, or excavate within the tree protection zone of any public tree or shrub without placing suitable guards approved by the City Arborist around such trees and shrubs that may be injured by such operations.
 - (7) Remove any guard, stake, or other device or material intended for the protection or support of any public tree or shrub.
 - (8) Place any earth fill, rock, trash, or other material within the tree protection zone of any public tree or shrub that may compact or prevent the entry of air and water to the root zone.
- B. Clear-vision triangle. No tree, shrub, hedge or other growth exceeding 30 inches in height above street grade shall be permitted in any clear-vision triangle within the City.
- C. Obstruction of signs, signals or travel. All trees and shrubs located upon any public way or upon any private premises adjacent to the public way shall be trimmed so that the lowest

projecting branches provide a clearance height of not less than 14 feet above the travel portion of a public street and not less than eight feet above the public sidewalk. The City Arborist may waive the provisions of this section for newly planted or naturally low-profile trees if he/she determines that they do not interfere with public travel, obstruct the light of any streetlight, obstruct the view of any traffic sign or signal, or endanger public safety.

§ 261-6 City Arborist approval required; appeals; list of approved trees and shrubs.

- A. No person shall plant, remove, maintain or protect any public tree or shrub, or cause such work to be done, without obtaining permission from the City Arborist.
- B. Any person desiring to plant, remove, maintain or protect any public tree or shrub shall request in writing to the City Arborist for approval to perform such work. Such request shall specify the location and description of the proposed work. If the City Arborist determines that the proposed work is necessary and in accord with the purposes of this chapter, taking into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways and streetlights, general character and aesthetic quality of the area in which the tree or shrub is located or proposed to be located, and the soil conditions and physiological needs of the tree or shrub, he/she shall approve the request.
- C. Any person aggrieved by the decision of the City Arborist to permit or deny a request to plant, remove, maintain or protect any public tree or shrub may request a review of that decision by the Committee on Public Services of the City Council.
- D. The City Arborist shall develop and maintain a list of desirable trees for planting along streets. Efforts shall be made to ensure a sufficient diversity of tree species.

§ 261-7 Arboricultural specifications and standards.

The following specifications and standards are hereby established for the planting, pruning, and removal of all public trees and shrubs within the City:

- A. Planting.
 - (1) No tree shall hereafter be planted which is less than 1 1/2 inches in diameter at six inches above the ground.
 - (2) No street tree shall be planted less than 10 feet from any driveway or fire hydrant, or within the designated clear-vision triangle or less than 30 feet from any street corner, whichever is greater.
 - (3) All street trees hereafter planted shall be spaced not less than 25 feet apart, except that a tree planted for the purpose of future replacement of an existing declining tree may be planted less than 25 feet from the declining tree. The actual spacing, location, and alignment of street trees shall be determined by the City Arborist based on the mature size of the species to be planted and the specific site limitations.
 - (4) The following shall not be planted in the public ways of the City: any conifer, any species of the genus *Populus*, any *Ailanthus*, *Catalpa*, mountain ash, box elder, silver maple,

willow, white bark birch, black locust, or such other species that shall be determined to be unsuitable for street planting.

B. Pruning.

- (1) All pruning of public trees and shrubs shall conform with the standards set forth in ANSI A300 or the most recent version thereof as adopted hereunder.
- (2) It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Arborist.

C. Removal.

- (1) The City Arborist may remove or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest.
- (2) Trees shall be completely removed from the growing site and disposed of in the proper manner. Any person or firm engaged in the removal of any public tree or shrub shall have the necessary limits of insurance and shall be held liable for any injury or damage to persons or property.
- (3) Stumps and roots that elevate sidewalks and/or boulevards shall be removed from the growing site by grinding or other means to a depth suitable for the future planting of trees, shrubs, or turf. The hole created by removal of a stump shall be filled to the level of surrounding grade with mineral topsoil, tamped to prevent settling and seeded with a mixture of grass species appropriate for the site.

- D. Spraying, injecting, fertilizing, bracing, cabling or other arboricultural operations or treatments shall be performed in a neat and professional manner according to accepted arboricultural standards and in compliance with all laws governing the use of pesticides.

§ 261-8 Cost of planting, maintenance and protection.

The entire cost of planting, removal, maintenance, and protection of trees and shrubs in all public areas of the City, when performed by department employees or their contractors at the direction of the City Arborist, shall be borne by the City out of the departments' budgets, or from funds donated or otherwise acquired for this purpose. When a private party other than the City plants, removes, maintains, or protects public trees or shrubs pursuant to § 261-2 of this chapter, said party shall incur all expenses connected therewith.

§ 261-9 Violations and penalties.

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty,

subject to a fine not to exceed \$1,000. In addition to a fine, the City may require restitution for the fair market value of the tree(s) and/or shrub(s) that was damaged or destroyed as a result of a violation of this chapter.

Chapter 274

Vehicles for Hire

[HISTORY: Adopted by the City Council of the City of Beverly as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Licenses and business regulations — See Ch. 192.

Vehicles and traffic — See Ch. 270.

Article I

Motor Buses and Hackney Carriages

[Adopted as Art. XVIII of the Code of Ordinances]

§ 274-1 License required.

No person shall operate any motor bus upon any public way or street in the City for the carriage of passengers for hire, in such manner as to afford a means of transportation similar to that afforded by a street railway company, by the indiscriminate receiving and discharging of passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business between fixed and regular termini, without first obtaining a license therefor from the City Council, subject to the approval of the Mayor in writing endorsed thereon.

§ 274-2 Application for license.

Every applicant for a license under this article shall file with the City Clerk a written application which shall set forth:

- A. Name and business address of owner.
- B. Description of each route in detail by highways.
- C. Termini of each route.
- D. A list of all bridges of 10 feet or more clear span over which buses are to be operated.
- E. Motor busses to be operated, with a description of each as follows:
 - (1) Number of buses.
 - (2) Make and type of buses.
 - (3) Weight of heaviest bus to be operated.

§ 274-3 Compliance with laws, rules and regulations.

The license required by this article shall not become operative until the licensee named therein shall have complied with all the provisions of the General Laws applicable thereto, and all rules, terms and conditions for the operation of motor vehicles for the carriage of passengers for hire adopted by the Department of Public Utilities and such amendments and additions thereto as may be made from time to time so far as the same are applicable.

§ 274-4 Operation on designated routes; amendments.

Persons making applications for the license to operate the vehicle hereunder shall designate the route over which they desire to operate, and the licensee shall operate such motor vehicle only over such route as shall be approved by the City Council. Such route may be changed only with the consent or approval of the City Council; except in the case of an emergency the route may be changed by the Chief of Police, who shall be the sole judge as to whether an emergency exists.

§ 274-5 Qualifications of operators.

No person shall operate any such motor vehicle licensed under this article within the City unless he shall be at least 21 years of age, and unless he shall hold, in effect at the time of such operation, a license from the proper authorities of the commonwealth.

§ 274-6 Solicitation of passengers.

No person operating any motor vehicle licensed under this article shall solicit passengers by outcry or make any noise for the purpose of soliciting passengers.

§ 274-7 Refusal to transport passengers.

No person operating any motor vehicle licensed under this article shall refuse to carry any person offering himself to be carried as a passenger therein unless the seats of the same are fully occupied and the number of passengers thereon is the number allowed the operator to be carried at one time, or unless such person is intoxicated or disorderly.

§ 274-8 Conduct of operators and passengers.

- A. No person operating any motor vehicle licensed under this article shall collect fare, make change or discharge passengers while such vehicle is in motion; nor shall he have a lighted cigarette, lighted cigar or lighted pipe in his possession while any passenger is being carried therein, nor drink any intoxicating beverage of any kind, or be under the influence thereof, while engaged in operating such vehicle. No person, while a passenger, shall talk to nor engage in conversation with the operator of any such motor vehicle while the same is in operation; nor shall any person be allowed to smoke a pipe, cigar or cigarette or spit upon the floor of the motor vehicle while a passenger therein.
- B. No passenger shall ride upon any fender, dash, top, step or running board of any motor vehicle licensed under this article.

§ 274-9 Stopping at railroad tracks.

Every motor vehicle licensed under this article shall come to a full stop 30 feet immediately before crossing the tracks of any railroad grade.

§ 274-10 Maintenance of vehicles.

Every motor vehicle licensed under this article shall be kept in a safe and proper condition for use in such operation, and to that end the Chief of Police, or any of his representatives or agents, shall have the right to examine any such motor vehicle at any time.

§ 274-11 Revocation of license.

Any license granted under this article may be revoked by the City Council after public notice and a hearing, for good and sufficient reasons to be stated in the order therefor, subject to the provisions of MGL c. 159A, § 4, or any other provision of the General Laws applicable thereto.

**Article II
Taxicabs and Liveries**

[Adopted 11-21-2011 by Ord. No. 186 (Art. XIX of the Code of Ordinances)]

§ 274-12 Definitions.

As used in this article, the following terms shall have the meanings indicated:

BEVERLY POLICE OFFICER

An individual appointed by the Police Chief to carry out the functions of the Beverly Police Department, including, but not limited to, the preservation of the public peace, the protection of life and property, the prevention of crime, the arrest and prosecution of violators of the law, the property enforcement of all laws and ordinances and the effective delivery of police services.

CHIEF OF POLICE OR ~~HIS~~ DESIGNEE

The Police Chief or a person or persons designated by him who holds the rank of Sergeant or above in the Beverly Police Department and is assigned by the Police Chief to oversee the regulation of taxis and liveries.

LICENSED DRIVER

A person, also referred to as a "driver," granted a license by the Chief of Police to operate a taxi or livery.

LIVERY

A passenger motor vehicle bearing a livery registration issued by the Registry of Motor Vehicles and that is hired for general passenger-carrying use. The services provided by this type of vehicle may be secured only by request made to a dispatcher no less than two hours before pickup of passengers within the City of Beverly or under a standing contract/agreement to provide transportation services from time to time.

MEDALLION or VEHICLE LICENSE

The license issued by the City Council permitting a single, identified vehicle to be used as a taxi or livery.

MEDALLION OWNER or LICENSED OWNER

An individual, also referred to as an "owner" or "vehicle owner," who has been deemed a suitable individual by the City Council to own a taxi medallion and who has been issued one or more medallions.

POLICE CHIEF

An individual appointed by the Mayor of the City of Beverly who commands the Beverly Police Department and has powers over licenses granted by such department.

TAXI

A private passenger motor vehicle bearing a taxi registration issued by the Registry of Motor Vehicles, and that is hired for general passenger-carrying use, and is equipped with a taximeter. The service provided by this type of vehicle may be secured by a call to a dispatcher without restriction as to time or may be "hailed" on any public way within the City

WAY or PUBLIC WAY

Any public way or private way laid out for public use, any way dedicated to public use, or any place to which the public has a right of access as invitees or licensees.

§ 274-13 Vehicle and operator licenses required.

A. Vehicle licenses.

- (1) Each vehicle operated as a taxi or livery in Beverly must be duly licensed by the City Council. The City Council may issue, grant upon condition, withhold or revoke any such license at its discretion.
- (2) Each vehicle license (medallion) shall expire on the first business day of January each year.

B. Operator's license.

- (1) Each operator/driver of a taxi or livery shall obtain an operator's license from the Chief of Police or his designee. The Chief of Police or his designee shall only issue operators' licenses to persons 18 years of age or older whom he, in his singular discretion, deems appropriate persons to operate such vehicle. Such licenses and their issuance shall be subject to the following:
 - (a) Possession of a valid Massachusetts driver's license required. Any person who wishes to obtain a temporary or permanent taxicab license must first possess a valid Massachusetts driver's license.
 - (b) Outstanding fines. No taxicab driver's license shall be issued to any applicant who owes outstanding fines for parking tickets, excise taxes, or any other fines that would cause that person's Massachusetts driver's license to be placed in a status of "nonrenewable," until all matters have been cleared by the Registry of Motor Vehicles.
 - (c) License. Persons who wish to be employed as taxicab drivers shall first obtain a license. A license may be issued after the Chief of Police or his designee has investigated the applicant

therefor and reviewed his record from the Board of Probation and conducted a personal interview. Such license may be granted to suitable persons by the Chief of Police or his designee.

- (d) Background investigation. All applicants for a hackney carriage, taxi, livery or limousine license shall first be subject to a background investigation to determine suitability for the position.
- (e) Record of service. All operators of vehicles licensed under this section shall maintain with the vehicle a record of calls for service indicating the date and time of pickup and drop-off, the starting point and destination of the passenger. The operator of the vehicle shall offer for inspection said record forthwith upon demand from any Beverly police officer. Such operator's records shall be maintained and preserved by the medallion owner for a period of 90 days and shall be subject to inspection by and made accessible to the Chief of Police or his designee at his request.
- (f) No driver under this section shall pick up or initiate a conveyance for hire unless he is issued a license to do so by the City of Beverly.
- (2) Revocation. Any driver found in violation of any of the provisions of this article, after a hearing by the Chief of Police or his designee on the alleged violation, shall be subject to a fine of \$50 and his license to operate shall be revoked at the discretion of the Chief of Police.
- (3) The Chief of Police may, but shall not be required to, establish additional guidelines for the issuance of operators' licenses.

§ 274-14 **Operating restrictions.**

All taxi licenses/medallions shall be subject to the following:

- A. One off-street parking space shall be required per license granted.
- B. Each parking space for each vehicle shall be a minimum of nine feet in width by 18 feet in length, or the length and width of the vehicle licensed, whichever is greater.
- C. The applicant's principal place of business for the licensed activity along with the telephone number and mailing address (other than post office box rental) shall be the same address.
- D. The applicant shall provide the City Council with a certificate of insurance in the amount of \$1,000,000, which must include a statement of the insurance company indicating that the policy shall not be ~~cancelledeaneelled~~ without a minimum of 14 days' notice to the City Council or City Clerk.
- E. All taxi vehicles must be safe and clean.
- F. All taxi vehicles shall be conspicuously marked as a taxi, and include the name of the medallion owner on each side in letters not less than two inches high and further must have an illuminated sign on the roof for use during hours of darkness indicating that such vehicle

is a taxi.

- G. The name of the owner and the name of the driver, his address, together with a picture of the driver as well as a schedule of rates as set by ordinance shall be posted conspicuously in every such vehicle.
- H. Each taxi shall be equipped with an operational taximeter capable of calculating separate fares for at least four passengers simultaneously.
- I. It shall be the duty of every medallion owner operating a taxi, and also the driver thereof, to keep the taximeter operating at all times within such standard of accuracy as may be prescribed from time to time by the Sealer of Weights and Measures of the City of Beverly. Any taxi operating without a taximeter, sealed and inspected by the Sealer of Weights and Measures, shall be in violation of this section.
- J. Every taximeter shall be inspected and tested for accuracy by the Sealer of Weights and Measures at least once every 12 months. Upon the completion of the inspection and of any adjustments necessary to cause the taximeter to operate within the standards of accuracy approved by the Sealer of Weights and Measures, the Sealer of Weights and Measures shall cause to be placed upon the meter a seal or other device with the date of inspection and any other information that he may require.
- K. In addition to Subsection J, every taximeter shall be subject to inspection at any time by the Sealer of Weights and Measures. Upon discovery of any inaccuracy of the taximeter, the operator shall remove or cause to be removed from service the vehicle equipped with the taximeter until the taximeter has been repaired and the accuracy attested to by the Sealer of Weights and Measures.

§ 274-15 Livery licenses.

- A. No person shall set up, use or drive any livery for the purpose of hire within the City without a license for such livery from the City Council.
- B. All licenses granted under this article shall expire on the first day of January in the year following the date of the license, and no license shall be sold, assigned or transferred without the approval of the City Council and the appropriate transfer fee. The City Council may issue, issue with conditions, or revoke all such licenses so granted at its sole discretion.
- C. The applicant shall provide the City Council with a certificate of insurance in the amount of \$1,000,000, which must include a statement of the insurance company indicating that the policy shall not be cancelled without a minimum of 14 days' notice to the City Council or City Clerk.
- D. All livery vehicles must be safe and clean.

§ 274-16 Taxi rates.

- A. The minimum and maximum rates of fares to be charged by taxis licensed under the provisions of this article shall be as follows:

- (1) For 6/10 of one mile or fraction thereof: \$5.50.
- (2) For each additional 1/5 mile: \$0.60. [Amended 11-7-2013 by Ord. No. 90]
- (3) For each additional passenger over two; \$0.50.
- B. Any person 59 years of age or older, with proper identification of same, shall receive a discount of 20% from the amount registered on the taximeter.
- C. The fixed rate for waiting time shall be \$20 per hour, \$5 for every 15 minutes or portion thereof. "Waiting time" shall mean the time consumed while the taxicab is not in motion at the direction of the passenger; provided, however, no charge shall be made for time lost through traffic interruptions or for delays caused by the inefficiency of the taxicab or its driver.

§ 274-17 Livery rates.

Fees for livery services must be fair and reasonable. The charging of unfair or unreasonable fees may result in revocation of a livery license.

§ 274-18 Operator conduct.

- A. Any operator licensed according to the provisions of this article shall at all times conduct himself/herself in a courteous manner. Use of indecent, profane or insulting language toward any person is prohibited. Every driver shall be suitably dressed, neat and clean in appearance.
- B. No operator of any taxi licenses under this article shall refuse to carry any person offering himself/herself to be carried as a passenger therein unless the seats of same are fully occupied, unless such person is intoxicated or disorderly, or the operator of the taxi has good cause to believe that such person is acting in an unlawful manner.
- C. Operators of taxis and liveries shall obey all laws, and ordinances, rules and regulations, and rules of the road pertaining to the operation of vehicles on public ways.
- D. Operators of taxis and liveries shall not use tobacco products or consume alcoholic beverages while operating said vehicles.
- E. No operator of a taxi shall park or permit such vehicles to stand for hire in any place other than the taxi stands designated by the City from time to time. No livery shall stand or park in any space designated a taxi stand.

§ 274-19 Inspections; appeals.

- A. All taxis and liveries may be inspected and are subject to inspection by the Chief of Police or his designee once each quarter or at any time upon reason to believe that such vehicle is not being operated and/or maintained in compliance with this Article II.
- B. Failure to submit to such inspection shall be cause for the immediate revocation by the Chief of Police or his designee of the vehicle license/medallion issued to such vehicle. Appeals of such action by the Chief of Police or ~~their~~ his-designee shall be made to the City

Council.

- C. Until such time as such appeal is heard by the City Council, such license shall remain revoked. Nothing in this section shall prohibit the Chief of Police or his designee from restoring a vehicle license/medallion before such appeal is heard by the City Council.

§ 274-20 License fees.

- A. A nonrefundable fee of \$10 shall be paid to the City of Beverly at the time of initial application and any subsequent reapplication for an operator's license to the Chief of Police.
- B. A fee of \$50 shall be paid to the City of Beverly at the time of issuance of any medallion, taxi license or livery license approved by the City Council.

§ 274-21 Violations and penalties.

Any violation of the provisions of this Article II shall subject the offender to a fine of \$300 and may result in the revocation of any operator's, taxi, or livery license previously issued by the Chief of Police or City Council.

Chapter 282

Water

[HISTORY: Adopted by the City Council of the City of Beverly as Art. XXX of the Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 130.

Cross-connection control — See Ch. 143.

Sewers — See Ch. 227.

Board of Health regulations — See Ch. 400.

§ 282-1 Duties of ~~City Senior Civil~~ Engineer.

The ~~City Senior Civi~~ Engineer, in addition to having charge of all engineering, shall, under the jurisdiction of the Director of Engineering, Commissioner of Public Services, Public Works, have the general charge and supervision of the water distributing plant and pipes and all the property of the City pertaining thereto, shall maintain the same in good condition, shall use and operate the same, and shall exercise a general supervision over all the water business of the City, and shall lay and maintain all pipes, conduits and other fixtures and appliances necessary for distributing water to the inhabitants of the City.

§ 282-2 Records of meters.

In all cases where meters are furnished and attached, the Director of Engineering, Commissioner

of Public Services, Public Works shall record, in a book kept for the purpose, the style, size and number of each meter, date when purchased, location, date when set, reading at such date, a detailed statement of test and percentage of error shown and the reading and date when reset, as well as a description of all defects and repairs of such meters.

§ 282-3 Repairs; notice requirements; records of height of water.

The Director of Engineering, Commissioner of Public Services, Public Works shall repair all leaks and breaks from any cause in the main pipes, hydrants, gates or services attached to the distributing plant; and when in the performance of these repairs, or for any other purpose, it becomes necessary to shut off the water from any pipe, the Director shall duly notify all takers thus to be deprived of water, except in cases of emergency; and shall sufficiently repair all injuries to any street, sidewalk, highway or other public property caused by the distributing plant. The Director shall keep a detailed record of the height of water in the reservoir and sources of supply of the City.

§ 282-4 Water and sewer rates; collection of bills.

The Director of Municipal Finance shall have the power to prescribe such water and sewer rates as may be approved by the City Council, subject to such changes as the City Council may from time to time adopt. The Director of Municipal Finance ~~He~~ shall commit all bills for water and sewer rates and the use of water to the Collector of Taxes for collection.

§ 282-5 Mandatory charges; metering of all premises.

All water used in the City shall be charged for, and all premises of every person or organization taking water shall be metered.

§ 282-6 Water used by private contractors.

All City water used by private contractors under City contract shall be charged for and the regular schedule of rates for the same collected in the manner provided in this chapter. The payment therefor by each contractor shall be provided for in the specifications of each contract.

§ 282-7 Restrictions on use of public water supply.

[Amended 4-4-2002 by Ord. No. 98]

- A. Authority. This section is adopted by the City of Beverly under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq., and implements the City of Beverly's authority to regulate water use pursuant to MGL c. 41, § 69B. This section also implements the City of Beverly's authority under MGL c. 40, § 41A.
- B. Purpose. The purpose of this section is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply conservation or state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the City of Beverly.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

PERSON

Any individual, corporation, trust, partnership or association, or other entity.

STATE OF WATER SUPPLY CONSERVATION

A state of water supply conservation declared by the City of Beverly pursuant to Subsection **D** of this section.

STATE OF WATER SUPPLY EMERGENCY

A state of water supply emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 through 17.

WATER USERS or WATER CONSUMERS

All public and private users of the City of Beverly's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

- D.** Declaration of a state of water supply conservation. The Mayor, acting through the Director of Engineering, Commissioner of Public Services, Public Works, may declare a state of water supply conservation upon a determination by said Director of Engineering, Commissioner of Public Services, Public Works that a shortage of water exists and that conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water supply conservation shall be given pursuant to Subsection **F** of this section before it may be enforced.
- E.** Restricted water uses. A declaration of a state of water supply conservation may include one or more of the following restrictions, conditions, or requirements limiting the use of water, as well as any other restriction, condition or requirement that the City of Beverly determines to be necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required hereunder.
- (1) Odd/Even day outdoor watering. Outdoor water use, whether by hose or automatic sprinklers, by water users with odd-numbered addresses is restricted to Monday, Wednesday and Friday. Outdoor watering by water users with even-numbered addresses is restricted to Tuesday, Thursday and Saturday. There shall be no outdoor watering on Sunday.
 - (2) Outdoor watering ban. All outdoor water use is prohibited.
 - (3) Outdoor watering hours. Outdoor water use, whether by hose or automatic sprinklers, is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
 - (4) Filling swimming pools. Filling of swimming pools is prohibited.
 - (5) Automatic sprinkler use. The use of automatic sprinkler systems is prohibited.
- F.** Public notification of a state of water supply conservation; notice to DEP. Notification of any provision, restriction, requirement or condition imposed by the City of Beverly as part of a state of water supply conservation shall be published in a newspaper of general circulation within the City of Beverly, or by such other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. Any restriction

imposed under Subsection E shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

- G. Termination of a state of water supply conservation; notice. The Mayor, acting through the Director of Engineering, Commissioner of Public Services, Public Works, may terminate a state of water supply conservation upon a determination by the Director of Engineering, Commissioner of Public Services, Public Works that the water supply shortage no longer exists. Public notification of the termination of a state of water supply conservation shall be given in the same manner required hereunder.
- H. State of water supply emergency; compliance with DEP orders. Upon notification to the public that a declaration of a state of water supply emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.
- I. Enforcement. The Commissioner of Public Services, the Director of Municipal Inspections, the Fire Chief and the Chief of Police, or their designees, shall be authorized to issue citations for violations of this section.
- J. Violations and penalties. Any person violating this section shall be liable to the City of Beverly in the amount of \$50 for the first violation and \$100 for each subsequent violation. Each day of violation shall constitute a separate offense.

§ 282-8 Examination of fixtures.

The Director of Engineering, Commissioner of Public Services, Public Works shall, as often as twice in each year, cause the premises of every person taking water to be visited, and the water meter therein to be examined by a properly qualified inspector, and shall exercise a constant supervision over the use of water.

§ 282-9 Separation between water pipes and sewer line.

The Director of Municipal Inspections shall cause the entrance of all water pipes hereafter laid to any building in the City to be at least 10 feet distant horizontally for its entire length from any house sewer line or a distance of at least 18 inches above such house sewer line.

§ 282-10 Laying of pipes in streets; assessment of abutting owners.

When a water pipe is laid in any public or private street or way of the City, the City Council shall assess upon owners of estates abutting on such street or way the cost thereof, based upon the estimated average cost of the water pipes in the water supply system adopted by the City by the following fixed uniform rate: \$1 per foot of frontage which such estates have upon any street or way where a water pipe is constructed and \$0.01 per square foot of area which such estates contain within 100 feet from such street or way. Such assessments shall be ascertained, assessed and certified by the City Council, to the Board of Assessors for assessment, and notice thereof shall be given to the party to be charged or his tenant or lessee.

§ 282-11 Assessments for estates abutting on more than one street.

When estates abut upon more than one street or way, assessment for water pipes based upon frontage shall be assessed upon the frontage of one such street or way, and upon so much of such other street or streets as is not exempted by the City Council. The City Council may exempt from assessment so much of the frontage on such other street or streets as it deems just and equitable.

§ 282-12 Water pipes laid by landowners.

If any water pipes are laid in a public or private way or land at the total expense of the owner thereof, his land shall not be assessed for such water pipes, except for the cost of connecting it with water pipes already established. The pipes thus laid become public and available for use by future residents.

§ 282-13 Large meter testing; demand charges.

[Amended 1-26-1993 by Ord. No. 67]

A. All meters two inches in size and larger shall be tested at the following frequencies:

Meter Size	Testing Frequency
(inches)	(years)
2 to 3	5
4 to 6	3
Above 6	1

B. The users of large meters shall pay for the actual cost of testing plus a fifteen-percent charge for overhead costs. Any meters found to be more than 3% in error shall be repaired or replaced. The actual cost of repairing or replacing the meter shall be paid for by the user of the meter. A fifteen-percent charge shall be added to this cost for overhead.

C. Demand charge. The Director of Engineering, Commissioner of Public Services, Public Works is hereby authorized to collect a one-time demand charge from all newly constructed and newly created residential, commercial, and industrial units, including new residential condominium, commercial and industrial units within existing buildings, according to the schedule of charges appearing below. The purpose of such demand charge is to fund a portion of the cost of supplying sufficient water at adequate pressure to meet the increasing demands for water by the cumulative effect of new residential, commercial, and industrial units being supplied with water. Such demand charge shall be separate and distinct from the application for water permit fee and shall be paid after approval of the application for water but prior to the initiation of water service and issuance of the building permit.

Water Demand Fee

Schedule of Charges [Added 6-6-2016 by Ord. No. 101]

Pipe Size at Building (inches)	Cubic Inches/Foot	Domestic Use	Fire Suppression
1	9.43	\$2,500	\$2,000
1 1/4	14.7	\$4,677	\$3,118
1 1/2	21.2	\$6,744	\$4,496
2	37.7	\$11,994	\$7,996
4	150.8	\$47,975	\$31,983
6 to 8	339.3 to 603.2	\$149,920	\$99,947
10 to 12	942.5 to 1,357.2	\$365,806	\$243,870.50

**§ 282-14 Water meter service fees.
[Amended 10-17-1988 by Ord. No. 412]**

Fees shall be collected by the Public Services Department for the following water meter services:

- A. Seasonal removal and resetting of water meters, for each removal or resetting.
- B. Repair of frozen meters due to the negligence of the owner or occupant of the property: price of meter, plus labor to remove and install.
- C. Meter tests if the meter is found to be working and measuring correctly, per test.

**§ 282-15 Water and sewer permit application fee.
[Amended 10-17-1988 by Ord. No. 412; 6-9-2004 by Ord. No. 193]**

The Public Services Department shall collect a fee for each application for water and sewer permits.

**§ 282-16 Fire flow testing fee.
[Amended 2-21-1989 by Ord. No. 108B]**

The Director of Engineering, Commissioner of Public Services, Public Works is hereby authorized to collect a fee for each fire flow test on hydrants within the City, to be charged to the person or entity so requesting such fire flow test.

Chapter 287

Wetlands Protection

[**HISTORY: Adopted by the City Council of the City of Beverly 12-6-2001 by Ord. No. 234 (Art. XXXVII of the Code of Ordinances). Amendments noted where applicable.**]

GENERAL REFERENCES

Boating and waterways — See Ch. 124.
Stormwater management — See Ch. 249.

Zoning — See Ch. 300.

Subdivision of land — See Ch. 375.

Wetlands protection regulations — See Ch. 565.

§ 287-1 Purpose.

The purpose of this chapter is to provide more protection to the wetland resource areas of the City of Beverly than is already granted by the Wetland Protection Act, MGL c. 131, § 40, and the regulations in 310 CMR 10.00. It is intended to be more protective than the existing regulations and therefore more beneficial to the specific needs and values of this community. It provides the Conservation Commission (Commission) more authority to regulate activities that might have a harmful effect on the following important interests: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution control, fisheries, shellfish, wildlife and rare species habitat, agriculture, aquaculture and recreation.

§ 287-2 Jurisdiction.

A. Except as permitted in writing by the Conservation Commission, or as provided in this chapter, no person shall engage in the following activities ("activities"): removal, filling, dredging, discharging into, building upon, or otherwise altering or degrading the City's wetland resource areas, consisting of:

- (1) Any isolated vegetated wetland.
- (2) Any vernal pool.
- (3) Any vegetated wetland bordering on any creek, river, stream, pond or lake.
- (4) Any bank, beach, freshwater or saltwater marsh, wet meadow, bog or swamp.
- (5) Any land under any creek, river stream, pond or lake.
- (6) Any one-hundred-foot buffer zone of wetland areas in Subsection A(1) through (5) listed

above.

- (7) Any land subject to storm flowage or flooding by groundwater or surface water.
 - (8) The two-hundred-foot riverfront area.
 - (9) Ocean.
- B. The wetland resource areas listed in Subsection A(1) through (9) above may also be protected under the Massachusetts Wetlands Protection Act, MGL c. 131, § 40 ("the Act"), and its accompanying regulations, 310 CMR 10.00.
- C. The Commission shall not grant such permission without receiving written notice of the intention to conduct such activity and without issuing written permission to do so, all in compliance with the provisions of this chapter.

§ 287-3 Exemptions.

- A. This chapter shall not apply to the following activities:
- (1) Emergency projects as defined in the Commission's regulations; or
 - (2) Maintenance, repair, or replacement, without substantial change or enlargement, of existing and lawfully located structures or facilities used in the service of the public and used to provide electric, gas, water distribution, telephone, or other telecommunication services to the public; or
 - (3) Normal maintenance of land in active agricultural use, as defined in the Commission's regulations; or
 - (4) Maintenance and repair of existing public ways.
- B. All appropriate measures should be undertaken to prevent damage to any resource areas that would have a detrimental effect on the interests of this chapter and the Act.

§ 287-4 Application to perform work; consultant services.

- A. All applications to perform activities in the City's resource areas shall be either in the form of a request for determination of applicability (RFD) or a notice of intent, or both. Such applications shall contain data and plans as specified in the Commission's regulations, and shall be submitted in complete written form to the Commission as required by this chapter, the regulations, and the application checklist (Appendix A of the regulations). The date which serves to commence the Commission's deliberation period is the date of receipt of the application at its offices, during regular office hours. The City's Conservation Administrator shall be authorized to make determinations of completeness for applications submitted to the Commission and shall reject, within two business days, those applications that do not meet the minimum submittal requirements of this chapter, the regulations, and the application checklist. In order to provide sufficient review time, the Commission may continue a public hearing or public meeting if new information is submitted by the applicant, or the applicant's agent, fewer than seven business days before the scheduled

public hearing or public meeting.

- B. The applicable forms may be obtained from the Commission and must be signed by the applicant or the applicant's agent where required. The Commission may require further information by regulations, guidelines, or as otherwise deemed necessary by the Commission. No such application shall be accepted as complete before all permits, variances, and approvals required by the ordinances of the City with respect to the proposed activity, at the time of such notice, have been applied for or obtained. Such application shall also include any information submitted in connection with such permits, variances, and approvals which is necessary to describe the effect of the proposed activity on the resource area(s).
- C. Upon receipt of a permit application or RFD for complex projects such as subdivisions, the Commission is authorized to require the applicant to pay, with a reasonable cost determined by the Commission (not to exceed 0.5% or \$5,000), for specific expert engineering and other consultant services deemed necessary by the Commission to finalize the decision on the application. Any unused portion will be returned to applicant.

§ 287-5 Hearings; review and investigation of application.

- A. Combination with state law hearing. The Commission, in its discretion, may hear any oral presentation under this chapter at the same public hearing required to be held under the provisions of MGL c. 131, § 40. Notice of the time and place of such hearing(s) shall be given as required below.
- B. Notice. Notice of the time and place of the hearing shall be given at the applicant's expense, not less than seven calendar days prior to the public hearing, by publication in a newspaper of general circulation in Beverly and by mailing a copy of such notice to all landowners within 300 feet of the land on which the work is proposed. All publications and notices shall contain the name of the applicant, a description of the area where the activity is proposed by street address, if any, or other adequate identification of the location of the area or premises which is the subject matter of the hearing, and the nature of the action or relief requested, if any. Public notice requirements for continued public hearings under this chapter shall be the same as the notification requirements set forth in 310 CMR 10.05(5)(b)3.
- C. Proof.
 - (1) The applicant shall have the burden of providing by a preponderance of credible evidence that the activity proposed in the notice of intent will not cause adverse impacts to any of the interests and values intended to be protected by this chapter. Failure to provide the Commission adequate evidence for it to determine that the proposed activity will not cause adverse impacts shall be sufficient cause for the Commission to deny permission or to grant such permission with such conditions as it deems reasonable, necessary, or desirable to carry out the purposes of this chapter; or to postpone or continue the hearing to another date certain to enable the applicant and others to present additional evidence, upon such terms and conditions as deemed by the Commission to be reasonable.
 - (2) Due consideration shall be given to the possible effects of the proposal on all interests and

values to be protected under this chapter and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

- D. Filing fees are nonrefundable. Review fees not totally expended by the Commission shall be refunded.
- E. Continuances.
 - (1) The Commission may continue a public hearing or public meeting in the following situations:
 - (a) With the consent of the applicant, to an agreed-upon date which shall be announced at the hearing; or
 - (b) Without the consent of the applicant, to a specific date for the reasons stated at the hearing, including but not limited to receipt of additional information from the applicant or others.
 - (2) Any application that expires requires refiling of the notice of intent.
- F. Investigations. The Commission, its agents, officers, and employees may enter upon privately owned land for the purpose of carrying out its duties under this chapter and may make or cause to be made such examination or survey as deemed necessary.

§ 287-6 Orders and decisions; security.

- A. All orders and decisions.
 - (1) If the Commission determines that the proposed activity does not require the imposition of conditions to preserve and protect the interests of this chapter, the applicant shall be so notified in writing.
 - (2) If, after the hearing, the Commission determines that the proposed activity is significant to one or more interests and values of this chapter, the Commission may vote to issue written orders of conditions within 21 days of the close of the public hearing. The Commission may impose such conditions, safeguards, and limitations on time and use upon such activity as it deems necessary to protect those interests and values.
 - (3) The Commission may prohibit such activity altogether, in the event that it finds that the interests and values of this chapter cannot be preserved and protected by the imposition of such conditions, safeguards, or limitations.
- B. Security to assure performance. The Commission may, as part of its order of conditions, require, in addition to any security required by any other City or state board, commission, agency, or officer, that the performance and observance of the conditions, safeguards, and limitations imposed under this chapter on the applicant and owner be secured by one, or both, of the following methods:
 - (1) Deposit: by the deposit of money, sufficient to complete the work as proposed, to secure performance of the conditions and observance of the safeguards of such order of conditions.

Such security, if filed or deposited, shall be approved as to form and manner of execution by City ~~Solicitor-Counsel~~ ~~and~~ the City Treasurer.

- (2) Land restriction(s): by a conservation restriction, easement, or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).
- C. Duration of orders. All orders of conditions shall expire three years after the date of issuance. An order of conditions may be extended for one year upon the request of the applicant. The request for an extension of an order of conditions shall be made to the Commission at least 30 days prior to the expiration of the order of conditions. The Commission may grant only two extensions for an individual order of conditions.
- D. No activity governed by an order of conditions shall be performed unless and until all permits, approvals, and variances required by the ordinances of the City shall have been obtained, such order of conditions or notification shall have been recorded or registered at the Essex South District Registry of Deeds, and all applicable appeal periods have expired. The Commission shall have the right to record or register its order of conditions with said Registry of Deeds. No work shall proceed until proof is provided that the order of conditions has been properly recorded at the Registry of Deeds. In the event that an order of conditions issued pursuant to this chapter is identical to a final order of conditions issued pursuant to the provisions of MGL c. 131, § 40, only one such order need be recorded or registered.
- E. Modifications, amendments and revocations. The Commission shall have the authority (on its own motion or upon the petition of the applicant, or any person interested) to modify, amend, or revoke an order of conditions. In revoking an order of conditions, the Commission shall officially notify the interested parties through certified mail and hold a public hearing within 21 days of the notification date. In the case of an amendment to an order of conditions, the Commission shall have the discretion to decide if a public hearing is warranted. This decision shall be based on the potential impact of the proposed work and its effect on the ability of the identified wetland resource areas to provide those interests as defined under the Act and this chapter. No public hearing is required for a modification to an order of conditions. Written notification to the applicant by certified mail is required in all cases where the Commission initiates a modification, amendment, or revocation of an order of conditions.

§ 287-7 Certificates of compliance.

The Commission shall, upon receiving a written request and weather permitting, inspect the resource areas where the activity governed by an order of conditions was carried out and issue a certificate of compliance (or partial certificate of compliance) to the owner of the property, applicant, or applicant's representative, in a form suitable for recording or registering, if it shall determine that all of the activity(ies), or portions thereof, limited thereby have been completed in accord with said order.

§ 287-8 Rules and regulations.

- A. The Commission shall be empowered to establish rules and regulations to govern its affairs, including but not limited to fees, definitions, use of consultants, security to assure

performance, performance standards for work in wetland resource areas, and such other information the Commission deems necessary to discharge its responsibilities. After due notice and public hearing, the Commission may promulgate such rules and regulations to effectuate the purposes of this chapter, by a majority vote of the duly appointed members.

- B. Failure by the Commission to promulgate such rules and regulations, or a legal declaration of their validity by a court of law, shall not act to suspend or invalidate the effect of this chapter.

§ 287-9 Enforcement and investigations; violations and penalties.

A. In accordance with the provisions of MGL c. 40, §§ 21D and 31, as well as every other authority and power that may have been or may hereafter be conferred upon it, the City may enforce the provisions of this chapter, restrain violations thereof, and seek injunctions and judgments to secure compliance with its orders of conditions. Without limiting the generality of the foregoing:

- (1) Any person who violates any provision of this chapter or of any condition of a permit issued pursuant to it may be punished by a fine pursuant to MGL c. 40, § 21. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This chapter may be enforced pursuant to MGL c. 40, § 21D, by a City police officer, other persons having police powers, Conservation Commissioners, or the Conservation Administrator.
- (2) In accordance with MGL c. 40, § 21D, violators shall, at the discretion of the enforcement authorities, be charged a penalty. The penalties for violations of this chapter or regulations promulgated hereunder may be assessed as follows:

Violation	Penalty (per violation, per day)
Alteration of any wetland resource area identified in § 287-2, Jurisdiction, of this chapter	\$100
Violation of any order of conditions	\$100
Depositing any refuse, debris, yard waste in a wetland or water body	\$100
Depositing any construction material in a wetland or water body	\$100
Alteration of any stream or water body	\$100

Penalty

Violation

(per violation, per day)

Violation of any section of this chapter that occurs in the Watershed Overlay District

\$100

- B. In the event of a violation of this chapter or of any order issued thereunder, the Commission or its agents may issue a stop-work order to the owner, the applicant, or the applicant's agent by certified mail, return receipt requested, or by posting the same in a conspicuous location on said site. Any person who shall violate the provisions of a stop-work order shall be deemed in violation of this chapter; but the failure of the Commission to issue a stop-work order for any reason shall not prevent the City from pursuing any other legal remedy at law or in equity to restrain violations of this chapter or promulgated regulations and to secure compliance with its orders.
- C. The City shall be the beneficiary of all fines imposed on account of the violation of this chapter or promulgated regulations in order to defray the expense of enforcing the same.
- D. Upon request of the Commission, the City Council and City Solicitor shall take such legal action as may be necessary to enforce this chapter or promulgated regulations and permits issued pursuant to it.
- E. Upon recommendation of the Commission, the City Council may employ Special Counsel to assist the Commission in carrying out the legal aspects, duties, and requirements of this chapter and promulgated regulations.

§ 287-10 Responsibility for compliance upon transfer of ownership.

After the recording of a notice of violation or order, any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this chapter or in violation of any order issued under this chapter shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless such action is commenced within three years following the recording of the deed or the date of death by which

May 20, 2024 City Council Vote

Order #046-Order Proposing Amendments to City Ordinances, Chapters 1,7, 15,26,33,58,69,105,113,124,136,155,192,210,215,227,232,249,253,274,282 striking or amending provisions to: modernize and clarify language; remove obsolete language; correct typos; recognize use of technology; ensure gender neutrality; achieve consistency with city charter provisions and state law or policy; and address constitutionality concerns

The motion to amend by rejecting the proposed amendments to 15-21(B)(2), 15-41(B)(2), 15-48(B)(2), 15-37, 232-5(A) and by leaving in “owner and/or occupant” in 159-19(D)(3) was made and seconded. A vote was taken, and the motion to amend carried (8-0).

The motion to approve as amended was made and seconded. A vote was taken, and the motion carried (8-0).