

CITY OF SALEM
MARCH 24, 2022
REGULAR MEETING

A Regular Meeting of the City Council was held remotely via zoom on Thursday, March 24, 2022, at 7:00 P.M. for the purpose of transacting any and all business. Notice of this meeting was posted on March 22, 2022, at 1:12 P.M. This meeting is being recorded and is live on S.A.T.V.

All Councillors Present.

Council President Morsillo presided.

Councillor Prosniewski moved to dispense with the reading of the record of the previous meeting. It was so voted.

President Morsillo requested that everyone please rise to recite the Pledge of Allegiance.

PUBLIC TESTIMONY

1. Alan Hanscom, 82 Washington Sq., Salem – Vendors on the Salem Common
2. Flora Tonthat, 30 Northey St., Salem – Gonyea Park
3. Darleen Melis, 115 Federal St., Salem – Gonyea Park and Salem Five Donation for trees

(#169) – APPOINTMENT OF MANDA SPITTLE TO THE COMMISSION ON DISABILITIES

Held from the last meeting the Mayor's appointment of Manda Spittle of 8 Woodbury Court to the Commission on Disabilities with a term to expire March 10, 2025 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

Councillor Watson-Felt requested and received suspension of the rules to allow Manda Spittle to address the Council.

(#171) – APPOINTMENT OF KATHY WINN TO THE SALEM HARBOR AUTHORITY

Held from the last meeting the Mayor's appointment of Kathy Winn, 133 Fort Avenue to the Salem Harbor Authority with a term to expire January 12, 2023 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

Councillor McCarthy requested and received suspension of the rules to allow Manda Spittle to address the Council.

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#202 – APPOINTMENT OF THOMAS PHILBIN TO THE CONSERVATION COMMISSION

The Mayor's appointment of Thomas Philbin of 6 Planters St. to the Conservation Commission with a term to expire March 24, 2025 was held under the rules.

#203 – APPOINTMENT OF ELVIS GUSTAVO TO S.E.R.C.

The Mayor's appointment of Elvis Gustavo of 7 Champlain Rd to the Sustainability, Energy, and Resiliency Committee, with a term to expire March 24, 2025 was held under the rules.

#204 – APPOINTMENT OF JEREMY BAKER TO THE BEAUTIFICATION COMMITTEE

The Mayor's appointment of Jeremy Baker of 90 Washington Sq. to the Beatification Committee, with a term to expire March 24, 2025 was held under the rules.

#205 – REAPPOINTMENT OF MILO MARTINEZ TO THE HISTORICAL COMMISSION

The Mayor's re-appointment of Milo Martinez of 78 Washington Sq to the Historical Commission with a term to expire on April 11, 2025 was confirmed by a unanimous roll call vote of 11 yea, 0 nays and 0 absent.

#206 – REAPPOINTMENT OF DAVID GUARINO TO THE REDEVELOPMENT AUTHORITY

The Mayor's re-appointment of David Guarino of 4 Carpenter to the Redevelopment Authority with a term to expire on April 13, 2027 was confirmed by a unanimous roll call vote of 11 yea, 0 nays and 0 absent.

#207 – REAPPOINTMENT OF DEAN RUBIN TO THE REDEVELOPMENT AUTHORITY

The Mayor's re-appointment of Dean Rubin of 17 Central St to the Redevelopment Authority with a term to expire on April 13, 2027 was confirmed by a unanimous roll call vote of 11 yea, 0 nays and 0 absent.

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#208 – REAPPOINTMENT OF FILIPE ZAMBORLINI TO THE AFFORDABLE HOUSING TRUST FUND BOARD

The Mayor's re-appointment of Filipe Zamborlini of 62 Perkins St. to the Affordable Housing Trust Fund Board with a term to expire on March 25, 2023 was confirmed by a unanimous roll call vote of 11 yea, 0 nays and 0 absent.

#209 – REAPPOINTMENT OF AMY STEWARD TO THE SCHOLARSHIP AND EDUCATION COMMITTEE

The Mayor's re-appointment of Amy Stewart of 3A Willow Ave to the Scholarship and Education Committee with a term to expire on April 11, 2025 was confirmed by a unanimous roll call vote of 11 yea, 0 nays and 0 absent.

#210 – CONSTABLE

The Mayor's re-appointment of Christine Derby of 73 Tremont St., as a Constable with a term to expire February 1, 2025 was received and filed.

#211 – APPROPRIATION OF \$273,202.00 FOR POLICE DEPARTMENT – FOUR CRUSIERS

The following order submitted by the Mayor was adopted under suspension of the rules by a roll call vote of 10 yeas, 0 nays and 1 absent. Councillor Prosniewski recused himself and was recorded as absent.

ORDERED: That the sum of Two Hundred Seventy-Three Thousand Two Hundred and Two Dollars (\$273,202.00) is hereby transferred from the Police Department's "FT Salaries" account (12101-5111) to the Police Department's "Radio & Vehicle Maintenance" account as provided below to cover payment associated with the purchase and up-fitting of four (4) front-line cruisers in accordance with the recommendation of Her Honor the Mayor.

Description	Fund	Amount
Radio & Vehicle Maintenance	12102-5253	\$ 273,202.00
		\$ 273,202.00

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Councillor McCarthy requested and received suspension of the rules to allow Chief Lucas Miller to address the Council if needed.

The Chief thanked the Council for considering this. It is unfortunate we are down 10 officers, and we should get back up shortly, but having this money in the full time salary account allows a quick fix to the vehicle situation.

#212 – APPROPRIATION OF \$200,436.29 FOR RETIREMENT BUYBACK FOR FIRE AND SCHOOL EMPLOYEES

The following order submitted by the Mayor was adopted under suspension of the rules by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent. Councillor Dominguez requested city seals and letters of thanks to be sent to these retirees.

ORDERED: That the sum of Two Hundred Thousand, Four Hundred Thirty-Six Dollars and Twenty-Nine Cents (\$200,436.29) be approved within the “Retirement Stabilization Fund-Vacation/Sick Leave Buyback” account (83113-5146) to be expended for the contractual buyback(s) listed below in accordance with the recommendation of Her Honor the Mayor.

Name	Department	Amount
Paul Gallant	Salem Fire Department	\$43,175.05
Michael O'Donnell	Salem Fire Department	\$63,392.79
Patricia Marfongelli	Salem Fire Department	\$47,677.30
Jeffrey Brown	Salem Fire Department	\$23,974.90
Patricia Robertie	Salem School Department	\$22,216.25
		\$200,436.29

#213 – APPROPRIATION OF \$80,000.00 FOR A LSP FOR GONYEA PARK

The following order submitted by the Mayor was adopted under suspension of the rules by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

ORDERED: That the sum of Eighty Thousand Dollars (\$80,000.00) is hereby appropriated and transferred from the “Capital Outlay Fund 2000” to ST CIP Public Services (20002223-5846DM) for costs associated with Licensed Site Professional Services (LSP) related to

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Gonyea Park in accordance with the recommendation of Her Honor the Mayor.

Councillor McClean voiced his frustration that the ball was dropped on this. The residents deserve to use this park. I hope this sparks some investigation on other open parks and prompt action to be taken so everyone can enjoy green spaces.

Councillor Watson-Felt echoed her frustration. She thanked everyone involved and it will make a big difference to the neighbors.

#214 – APPROPRIATION OF \$30,000.00 FOR CITY COUNCIL ADVERTISING

The following order submitted by the Mayor was adopted under suspension of the rules by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

ORDERED: That the sum of Thirty Thousand Dollars (\$30,000.00) is hereby appropriated from the “Fund Balance Reserved for Appropriation – Free Cash” account (1-3245) to the account listed below to fund advertising costs for ordinances and other matters requiring notice by the City Clerk’s Office in accordance with the recommendation of Her Honor the Mayor.

Advertising (City Council)	11112-5306	\$30,000.00
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#215 – APPROPRIATION OF \$11,006.66 FOR REPAIR TO SPRINKLER PIPE FREEZE AT POLICE STATION

The following order submitted by the Mayor was adopted under suspension of the rules by a roll call vote of 10 yeas, 0 nays and 1 absent. Councillor Prosniewski recused himself and was recorded as absent.

ORDERED: That the sum of Eleven Thousand Six Dollars and Sixty-Six Cents (\$11,006.66) is hereby appropriated from the “Fund Balance Reserved for Appropriation – Free Cash” account (1-3245) to the account listed below to fund costs associated with clean-up and repairs due to a sprinkler pipe freeze at the Salem Police Station in accordance with the recommendation of Her Honor the Mayor.

Building Maintenance	12102-5300	\$11,006.66
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Councillor McClean asked the Chief if there was a greater issue going on?

Chief Miller stated that he has requested for FY2023 CIP money to address the cooling issues. But this particular freezing of the pipe occurred because the blowers on the roof failed, and it was the sprinkler closest to the roof that burst. We do need some replacement of that equipment.

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#216 – DONATION OF \$5,000.00 FOR TREES AT THE SALEM COMMON

The following order submitted by the Mayor was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

ORDERED: To accept the donation from the Salem Five Charitable Foundation in the amount of Five Thousand Dollars (\$5,000.00) for tree planting projects at the Salem Common. These funds will be deposited into the Tree Donation Account #26C01-4830 in accordance with the recommendation of Her Honor the Mayor.

**#217 – DECLARE SURPLUS PORTION OF CITY OWNED RIGHT OF WAY
LOCATED AT 252 BRIDGE STREET (STAIRS TO CRESENT SHAPED LOT)**

The following order submitted by the Mayor was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

ORDERED: A 300 sq. ft. portion of the City-owned right of way that encompasses the Stairs from Bridge Street to the Crescent Shape Lot at 252 Bridge Street as shown on the Plan of Land titled “252 Bridge Street”, prepared by Hancock Associates, 185 Centre Street, Danvers, MA 01923, and dated 3/4-2022, is hereby declared surplus property as it is not needed for any municipal use.

Councillor Riccardi requested and received suspension of the rules to allow Tom Daniel to address the Council.

Tom Daniel stated this is an interdepartment conveyance only, from the City to the Salem Redevelopment Authority. All thought staircase was part of the crescent shaped lot that was already conveyed to the SRA. So this a housekeeping matter.

Councillor Hapworth asked if there would still be public access.

Tom Daniel replied that the walkways, staircase, ramp all those areas are public access and will remain public access with the new development. This is all part of Chapter 91 application.

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#218 – LETTER FROM THE MAYOR TO ADDRESS THE COUNCIL AT THEIR NEXT IN-PERSON MEETING

The following letter submitted by the Mayor was received and filed and that the Mayor will be invited to the first in-person Council meeting or Committee of the Whole meeting.

Honorable Salem City Council
Salem City Hall
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

As the City Council begins to plan for a return to in-person meetings, I would be grateful for the opportunity to address you at your first in-person meeting in order to provide an update on the state of the City and the issues that we face together.

Whether the Council would prefer the update to be part of your regular agenda or at a Committee of the Whole meeting immediately prior to the in-person regular meeting, I am amenable to either approach.

Sincerely,
Kimberley Driscoll
Mayor
City of Salem

#219 – DISCUSS SALEM OWNING ITS OWN ELECTRIC AND GAS COMPANY

The following Order introduced by Councillor Cohen was adopted.

ORDERED: That the City Council Committee on Government Services, co-posted with the Committee of the Whole, meet to discuss the potential for Salem to own its own electric & gas company and distribution and that a recommendation be reported to the City Council no later than the last meeting in October.

#220 – USE OF ROAD SALT DURING WINTER MONTHS

The following Order introduced by Councillor Riccardi was adopted.

ORDERED: That the Public Health, Safety and Environment Committee, co-posted with Committee of the Whole, meet to discuss the usage of road salt during the winter months, its effects on the environment, and possible alternatives, and invite the Director of the Department of Public Services, the Tree Commissioner, as well as a designee from the Conservation Commission.

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**#221 – MEET WITH TAXI CAB AND LIMO COMPANIES TO DISCUSS INCREASE IN
FARES AND OTHER ISSUES**

The following Order introduced by Councillor Riccardi was adopted.

Ordered: that the Committee on Ordinances, Licenses, and Legal Affairs meet with representatives of Salem's taxi/livery companies and representatives of the Salem Police Department to discuss possible changes to Chapter 44 Vehicles for Hire Section 38: Fares Established and other concerns related to taxi/livery companies in Salem.

**#222 –TRAFFIC ORDINANCE AMENDING CH. 42, SEC. 75A – TEMPORARY
RESIDENT STICKER PARKING**

The following ordinance introduced by Councillor Riccardi was adopted for first passage by a unanimous roll call vote of 11 yeas, 0 nays, and 0 absent.

In the year Two Thousand and Twenty-Two

An Ordinance Relative to Traffic

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Section 75A – Parking prohibitions towing zone (October resident parking) of Article V-A is hereby amended by deleting the following streets from Section A - Temporary October Resident Permit Parking:

Becket Avenue, Bridge Street from Howard Street to Webb Street, Cabot Street from Cedar Street to Gardner Street, Cross Street from Saunders Street to Lemon Street, Derby Street from Palfrey Court to Fort Avenue, Essex Street from Flint Street to Monroe Street, Hawthorne Boulevard on the westerly side of the two-way section, Leavitt Street from Lafayette Street to Congress Street, Palmer Street from Lafayette Street to Congress Street

And inserting the following streets:

Barton Place, Beacon Street, Bridge Street from Howard Street to Beacon Street, Broad Street from Dalton Parkway to Jackson Street, Cabot Street from Cedar Street to Hancock Street, Conant Street, Cross Street, Cross Street Court, Dalton Parkway even side only (14-18 Dalton Pkwy), Derby Street from Webb Street to Fort Avenue, Essex Street from Boston Street to Monroe Street, Fowler Street, Gardner Street, Hancock Street from Cabot Street to Lafayette Street, Harrington Court, Leavitt Street from Lafayette Street to Perkins Street, North Pine Street, Palmer Street, Pearl Street, Perkins Street, Pingree Street, Prince Street Place, Saunders Street, South Pine Street, Warner Street

Section 2. This ordinance shall take effect as provided by City Charter.

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#223 – TEMPORARY RESIDENT PARKING IN OCTOBER FOR DEARBORN STREET

The following order introduced by Councillor Riccardi was adopted by a unanimous roll call vote of 11 yeas, 0 nays, and 0 absent.

ORDERED: That residents of the following streets shall be granted eligibility for temporary resident permit parking, and certain streets shall be designated as temporary resident permit parking streets, from October 1 to November 1, 2022. Eligible residents will have a temporary resident parking permit sent to them in the mail and must display the permit following the written instructions included with said permit. One temporary guest pass shall be issued if requested in accordance with Article V-A Section 75A Subsection C. Temporary resident permit parking signage will be installed on said streets. Temporary October Resident Permit Parking shall be in effect from 5:00 P.M. to 7:00 A.M., Monday through Friday, and 12:00 P.M. to 7:00 A.M. Saturday through Sunday, October 1 to November 1, 2021. Temporary October Resident Parking shall occur on the street in existing parking areas and shall not supersede other parking restrictions, including but not limited to, handicap/accessible parking spaces, parking within four (4) feet of a driveway, parking within twenty (20) feet of an intersection, or parking restricted on a certain side of the street.

Temporary signage shall be installed before October 1 indicating streets designated as Temporary October Resident Permit Parking streets and all parking shall be prohibited during the hours indicated except by motor vehicles displaying a Temporary October Resident Parking permit.

1. Dearborn Street from North Street to Lee Street

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**#224 – TEMPORARY PARKING RATES FOR OCTOBER ON MARGIN,
CANAL AND NORTH STREETS**

The following order introduced by Councillor Riccardi was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

Ordered: The parking rate for the locations identified below shall be \$1.00 per hour:

Canal Street – Temporary Parking Meter Zone Established – both sides, from the intersection with Lyme Street to a point approximately two hundred fifty (250) feet south of the intersection with Washington Street / Mill Street. October 1 to October 31, 2022. Saturday through Sunday, 12:00pm to 6:00pm. Residents may park for free during these times but must register with the Passport Parking App.

Margin Street – Temporary Parking Meter Zone Established – east side only, from the intersection with Endicott Street to a point just north of the Salem Police Department's driveway (95 Margin St). October 1 to October 31, 2022. Saturday through Sunday, 12:00pm to 6:00pm. Residents may park for free during these times but must register with the Passport Parking App.

And be it further Ordered:

The parking rate for the location identified below shall be \$2.00 per hour:

North Street – Temporary Parking Meter Zone Established – 22 perpendicular spaces located adjacent to the North Street Bridge and 4 Franklin Street. October 1 to October 31, 2022. Saturday through Sunday, 12:00pm to 6:00pm. Residents may park for free during these times but must register with the Passport Parking App.

Councillor Dominguez asked how Salem residents who do not have the means to download the app will be able to park there for free.

Councillor Riccardi stated that a ticket could be disputed with the collector. We should also have the technology to read the plate to see if the vehicle is registered in Salem and you shouldn't get a ticket.

Councillor Merkl asked if we can wait since this is only March to refer it to committee to get these questions answered on what the process will be if you get a ticket.

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Councillor Merkle made a motion to refer this matter to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Dominguez seconded the motion. The matter passed by a show of hands of 9 in favor and 2 opposed. Councillors Varela and McClean were recorded as opposed.

#225 – TRAFFIC ORDINANCE AMENDMENT – REPEAL HANDICAP PARKING BOARDMAN STREET

The following ordinance introduced by Councillor Watson-Felt was adopted for first passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The following 3 traffic ordinances amending Handicap Parking to repeal from certain streets:

In the year Two Thousand and Twenty-two

An Ordinance to amend an Ordinance relative to Traffic – Handicap Parking

Be it Ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 42, Section 50B – “Handicap Parking – Time Limited” is hereby amended as follows:

REPEAL – Boardman Street – in front of #27 Boardman Street for a distance of twenty (20) feet

Section 2. This Ordinance shall take effect as provided by City Charter.

#226 – TRAFFIC ORDINANCE AMENDMENT – REPEAL HANDICAP PARKING LAFAYETTE STREET

The following ordinance introduced by Councillor Watson-Felt was adopted for first passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty-two

An Ordinance to amend an Ordinance relative to Traffic – Handicap Parking

Be it Ordained by the City Council of the City of Salem, as follows:

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Section 1. Chapter 42, Section 50B – “Handicap Parking – Time Limited” is hereby amended as follows:

REPEAL – Lafayette Street – in front of #292 Lafayette Street for a distance of twenty (20) feet

Section 2. This Ordinance shall take effect as provided by City Charter.

**#227 - TRAFFIC ORDINANCE AMENDMENT – REPEAL HANDICAP PARKING
LYNDE STREET**

The following ordinance introduced by Councillor Watson-Felt was adopted for first passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty-two

An Ordinance to amend an Ordinance relative to Traffic – Handicap Parking

Be it Ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 42, Section 50B – “Handicap Parking – Time Limited” is hereby amended as follows:

REPEAL – Lynde Street – in front of #10 Lynde Street for a distance of twenty (20) feet

Section 2. This Ordinance shall take effect as provided by City Charter.

**#228 – ORDINANCE AMENDING CH. 2, ARTICLE IV, DIVISION 12 – TRAFFIC
AND PARKING COMMISSION – POWERS AND DUTIES**

The following ordinance introduced by Councillor Watson-Felt was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and twenty-two

An Ordinance to amend an ordinance relative to the traffic and parking commission.

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 2, Article IV, Division 12 Traffic and Parking Commission is hereby amended by:

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- 1) deleting the phrase “and recommend traffic ordinance amendments and commission regulations to the mayor and city council for their approval” and replacing it with the phrase “as well as develop and adopt commission regulations relative to traffic and parking” within the first sentence of *Section 2-986 Created: composition; compensation of members;*
- 2) deleting the phrase “make recommendations to the mayor and the city council to adopt or amend city ordinances and commission regulations” and replacing it with the phrase “develop regulations” within the second paragraph of *Section 2-988 Powers, duties and responsibilities generally;*
- 3) deleting the phrase “effective upon approval by the city council” and replacing it with the phrase “pertaining to traffic and parking” within the first sentence of *Section 2-989 Effective date of regulations; limitations;*
- 4) deleting *Section 2-989 Effective date of regulations; limitations* in its entirety and replacing it with the following:

“2-989 Effective date of regulations; limitations. The commission may adopt regulations pertaining to traffic and parking. Any approved regulations shall authorize the commission to administer the specific parking and traffic regulations contained therein and may authorize the commission to act without further council approval on certain public street or parking designations.

No commission regulation shall be effective until:

1. The commission provides notice, in writing, of a new or amended regulation to the city council. Delivery of such notice shall be to the city clerk.
2. The city council shall be provided ten (10) days from the date of such notification to request a joint public meeting of the commission and city council so that the commission may reconsider any identified new or amended regulation. Said meeting must be scheduled within ten (10) days from the date the request is sent to the commission. Such date may be extended by agreement of the council president and commission chair.
3. If no request for a joint public meeting is received from the city council within the ten (10) day period set forth above, the new or amended regulation shall be in effect on the eleventh (11) day following its original adoption.

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4. At any scheduled joint public meeting, the commission shall revisit the identified regulation, reconsider such, accept public comment, and vote to reaffirm, reject, or modify the regulation.

Nothing in this division shall be construed as giving the traffic and parking commission power to supersede the police department in the regulation and enforcement of traffic and parking on the city streets.”

Section 2. This Ordinance shall take effect as provided by City Charter.

Councillor Prosniewski stated this is taking responsibilities away from the Council. The public feels it is the Councillors responsibility not a board or commission. As a Ward Councillor you know your ward better and it is a quality of life issue. This was originally put together as an advisory board to make recommendations. This is the second time this has come before us. There could be ramifications when taking ordinances and making them regulations.

Councillor Hapworth stated this issue has been brought in to us before; he’s brought it in before. Parking and Traffic in our city is not working. Knows this is controversial. Right now we deal with issues as they come up not long term. We have an advisory commission that is not being advised with. We have these experts who are ready to solve problems but no authority. Other cities have these commissions that have these powers. This is not to say the Council doesn’t have a back stop in this. The issues in our city are systematic. More passes issued then spaces in the city. Hope a compromise can be worked on.

Councillor Dominguez agrees with Councillor Prosniewski. WE have to be careful how we address this. We need to do our job and not give away our authority as an elected official. Also agree with last comment mad by Councillor Hapworth that something needs to be done; we need to find a common ground but not take away authority.

#229 – ORDINANCE AMENDING TRAFFIC TO DELETE CH. 42 IN ITS ENTIRETY

The following ordinance introduced by Councillor Watson-Felt was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year Two Thousand and Twenty-two

An Ordinance

Be it ordained by the City Council of the City of Salem, as follows:

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Section 1. Delete in their entirety the following sections of Chapter 42, Salem Traffic Ordinance, and incorporate within the Traffic and Parking Regulations:

Article I, Sec. 10. One-way streets.

Article I, Sec. 10A. One-way streets, Certain times.

Article I, Sec. 11. Bus Stops.

Article I, Sec. 12. Taxicab stands.

Article I, Sec. 13. Service Zones.

Article I, Sec. 13A. Parking in service zone limited – Live parking.

Article I, Sec. 13B. Fire lanes.

Article I, Sec. 14. Corner distances.

Article I, Sec. 17. Penalties

Article I, Sec. 17A. Schedule of fines re: Penalties.

Article II, Sec. 20A. Experimental regulations for the purpose of trial.

Article III, Sec. 28. Location of bus stops and taxicab stations.

Article III, Sec. 29A. Signs, traffic signals, devices, school zones, meters and markings.

Article IV, Sec. 43. No driving on sidewalks.

Article IV, Sec. 43A. Operation of electronic personal assistance mobility devices.

Article IV, Sec. 49. Obedience to isolated stop signs.

Article V, Sec. 50. Prohibited in certain specified places.

Article V, Sec. 50A. Handicapped zones.

Article V, Sec. 50B. Handicapped zones, limited time.

Article V, Sec. 50C. Handicapped zone, bus stop.

Article V, Sec. 51. Parking prohibited on certain streets.

Article V, Sec. 51A. Night parking.

Article V, Sec. 51B. Parking prohibited at certain times on certain streets.

Article V, Sec. 52. Bus Stops.

Article V, Sec. 53. Taxicab stands.

Article V, Sec. 54. Reserved parking, horse drawn carriages.

Article V, Sec. 54A. Reserved parking, Holyoke Square.

Article V, Sec. 55. Parking vehicles for sale prohibited.

Article V, Sec. 55A. Parking time limited.

Article V, Sec. 55B. Prohibited from parking – Residential districts or in front of residential housing or apartments or entrance corridor overlay districts – Commercial vehicles.

Article V, Sec. 56. Zones Established.

Article V, Sec. 57. Parking time limited; hours of operation.

Article V, Sec. 57A. Parking time limited; unmetered zones.

Article V, Sec. 57B. Parking time limited; off-street parking areas.

Article V, Sec. 57C. Parking time limited; monthly zones.

Article V, Sec. 58. Acquisition and installation; space between meters.

Article V, Sec. 59. Meter signals indicating legal/illegal parking; overtime parking.

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Article V, Sec. 60. Establishment and marking of spaces.
Article V, Sec. 61. Bus stops, taxicab stands, service zones, etc.
Article V, Sec. 62. Deposit of coins required to use parking spaces; unused time.
Article V, Sec. 63. Fees.
Article V, Sec. 64. Deposit of coins to extend parking beyond legal time.
Article V, Sec. 65. Vehicles to be parked wholly within designated spaces.
Article V, Sec. 66. Tampering with, depositing slugs, etc.
Article V, Sec. 67. Commercial vehicles loading or unloading.
Article V, Sec. 68. Collection and deposit of money: City of Salem Parking Meter Account.
Article V, Sec. 69. Use of fees received.
Article V, Sec. 70. Enforcement of division.

Article V-A, Section 74. General prohibition towing zones.
Article V-A, Section 75. Parking prohibitions towing zone (resident sticker).

Section 11. Amend Chapter 42, Salem Traffic Ordinance, by replacing the deleted sections, with the following:

Article I, Sec. 10. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 10A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 11. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 12. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 13. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 13A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 13B. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 14. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 17. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article I, Sec. 17A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

Article II, Sec. 20A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

Article III, Sec. 28. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article III, Sec. 29A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article IV, Sec. 43. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article IV, Sec. 43A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article IV, Sec. 49. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

Article V, Sec. 50. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 50A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 50B. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 50C. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 51. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 51A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 51B. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 52. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

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Article V, Sec. 53. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 54. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 54.A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 55. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 55A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 55B. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 56. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 57. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 57A. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 57B. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 57C. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 58. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 59. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 60. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 61. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 62. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 63. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 64. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 65. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 66. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 67. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 68. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 69. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.
Article V, Sec. 70. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

Article V-A, Section 74. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

Article V-A, Section 75. Repealed. See Traffic and Parking Regulations, Traffic and Parking Commission.

#230 – MEET WITH SUPT. OF SCHOOLS FOR A PRESENTATION

Councillor McCarthy assumes the chair.

The following order introduced by Councillor Morsillo was adopted.

Ordered: That the Committee of the Whole meet with the Supt. of Schools for a presentation to update the Council on the Salem Public Schools

Councillor Morsillo assumed the chair.

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#231 – MEET WITH DESTINATION SALEM FOR A PRESENTATION

The following order introduced by Councillor Merkl was adopted.

ORDERED: That Destination Salem meet with the Committee of the Whole for a presentation (Late File)

#232 – (#102) – COMPENSATION OF THE MAYOR

Councillor McCarthy offered the following report for the Committee on Administration and Finance co-posted with the Committee of the Whole. It was voted to accept the report.

The Committee on Administration and Finance co-posted with the Committee of the Whole to whom was referred the matter of Compensation of the Mayor Sec. 2-142., has considered said matter and would recommend an increase of 2.5%.

Councillor McCarthy explained this increase would not affect the City Councillors salary until 2024.

Councillor Cohen stated that the Mayor's Salary sits in a good place and does not need an increase.

Councillor Dominguez stated our Mayor deserves more than that. She showed that she is a tremendous leader, but still makes more than the average so we must be careful. At this point do not feel an increase is appropriate.

Councillor Riccardi agrees with sentiment of smaller increases, but Mayor position is different is an elected position. They know what their salary is when running for office. A cost of living adjustment is not appropriate. Rather see the 2.5 % go to city staff. Mayor does a great job and earns her salary but not at this time.

Councillor McClain Cost of living increase is an odd metric for a CEO. Thinks compensation is fair now; however the ordinance needs work. We are lucky to have her in that office.

Councillor Prosniewski stated our Mayor is slightly above the other cities and towns. Deserves to make more but what she does comes with the job and knows the cost. Tough when Councillors salary tied to Mayor's salary even if it won't be for next election season.

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Councillor Morsillo stated the Mayor does an excellent job, but we need to address the city employees' salaries because they are leaving – rather have the money go to them.

233 – (#19 & #108) – ORDINANCE CREATING FOODWARE AND PACKAGING

Councillor Prosniewski offered the following report for the Committee on Public Health, Safety and Environment co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Public Health, Safety and Environment co-posted with the Committee of the Whole to whom was referred the matter of an Ordinance to establish foodware & packaging, has considered said matter and would recommend that the matter remain in committee.

#234 – (#279, #351 & #602 of 2021) - COUNCIL RULES AND ORDERS RELATIVE TO SEC. 28C – PUBLIC TESTIMONY

Councillor Hapworth offered the following report for the Committee on Government Services co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation by a roll call vote of 11 yeas, 0 nays and 0 absent.

The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of Council Rules and Orders Sec. 28C (discussion of remote participation during hybrid meetings), has considered said matter and would recommend adopting the remote policy and strike #1D, amend Section 10 of the City Council Rules and Orders by suspending “shall rise” until further notice, and in-person hybrid meetings for City Council regular meetings and the two standard meetings (A&F and OLLA) that take place prior to the regular meeting start April 14, 2022.

#235 – (#33 & #111) – SALEM UNITED REQUEST FOR A COUNCIL LIAISON

Councillor Hapworth offered the following report for the Committee on Government Services co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation by a roll call vote of 10 yeas, 1 nay and 0 absent. Councillors Cohen, Hapworth, McCarthy, McClain, Merkl, Prosniewski, Riccardi, Varella, Watson-Felt, and Morsillo were recorded in the affirmative. Councillor Dominguez was recorded in the negative.

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The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of Request from Salem United to have a City Council Liaison, has Considered said matter and would recommend not to assign a liaison.

Councillor McClain stated he was the one who requested we research the information, which was done, and that Ms. Wade did not produced any MOU and was invited to the meeting.

236 - PLANNING BOARD RECOMMENDATION FOR MARIJUANA BUFFER ZONES

The following communication from the Planning Board relative to the Marijuana Buffer Zones was received and filed.

Report of the Planning Board to City Council Re: Marijuana Buffer Zones

March 18, 2022

At its meeting on March 17, 2022, the Planning Board discussed a proposed amendment to the Zoning Ordinance to amend Section 6.10.6 to eliminate the buffer zones that prohibit the siting of marijuana establishments within 500 feet of houses of worship and funeral homes or within 1000 feet from institutions of higher education, colleges or universities, which was referred from the March 7, 2022, joint public hearing with the City Council.

The Planning Board voted six (6) in favor (Bill Griset, Tom Furey, Helen Sides, Sarah Tarbet, Todd Waller, Carole Hamilton) and zero (0) opposed to recommend that the City Council adopt the proposed amendment to the Zoning Ordinance.

If you have questions regarding this matter, please contact Tom Daniel, AICP, Director of Planning & Community Development, at 978-619-5685.

Sincerely,
William Griset, Chair

CC: Ilene Simons, City Clerk

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(#17) - ZONING ORDINANCE AMENDING BUFFER ZONES FOR MARIJUANA ESTABLISHMENTS

The following zoning ordinance was adopted for first passage by a roll call vote of 10 yeas, 1 nay and 0 absent. Councillors Cohen, Hapworth, McCarthy, McClain, Merkl, Prosnowski, Riccardi, Varella, Watson-Felt, and Morsillo were recorded in the affirmative. Councillor Dominguez was recorded in the negative.

In the year two thousand and twenty-two

An Ordinance to amend the zoning ordinance regarding buffer zones relative to marijuana establishments.

Section 1. Section 6.10.6 of the Code of Zoning Ordinances is amended by replacing (5) in its entirety with the following:

“5. Pursuant to M.G.L.A. c. 94G, § 5(b)(3), a marijuana establishment shall not be located within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.”

Section 2. This Ordinance shall take effect as provided by City Charter.

Councillor Dominguez made a motion to amend the ordinance to have places of worship and funeral homes included in the five hundred (500) feet buffer zone. No one seconded the motion.

237 - PLANNING BOARD RECOMMENDATION RELATIVE TO GREEN INFRASTRUCTURE

The following communication from the Planning Board relative to Green Infrastructure was received and filed.

Report of the Planning Board to City Council Re: Green Infrastructure Amendment

March 18, 2022

At its meeting on March 17, 2022, the Planning Board discussed a proposed amendment to the Zoning Ordinance to address Green Infrastructure, including electric vehicle chargers, bicycle parking, and solar energy generation. This amendment was referred to the Planning Board at the March 7, 2022, joint public hearing with the City Council.

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The Planning Board voted six (6) in favor (Bill Griset, Tom Furey, Helen Sides, Sarah Tarbet, Todd Waller, Carole Hamilton) and zero (0) opposed to recommend that the City Council adopt the proposed amendment to the Zoning Ordinance, with the following comments:

- In Section 5.5.2, striking the language “and the remaining 75% of parking spaces shall be Electric Vehicle-Ready for future installation.”
- The Planning Board would like further clarity on what it means to be EV charging ready.

If you have questions regarding this matter, please contact Tom Daniel, AICP, Director of Planning & Community Development, at 978-619-5685.

Sincerely,
 William Griset, Chair

(#18) - ZONING ORDINANCE AMENDMENT RELATIVE TO MUNICIPAL GREEN INFRASTRUCTURE

The following ordinance was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

An Ordinance to amend an ordinance relative to zoning.

Section 1. Amend Section 3.1 Table of Principal and Accessory Use Regulations by inserting the following uses within C. Commercial Uses and E. Accessory Uses:

<i>C. Commercial Uses</i>	RC	R1	R2	R3	B1	B2	B4	B5	BPD	NRCC	I
Medium-Scale Ground Mounted Solar Energy System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Large-Scale Ground Mounted Solar Energy System	PB	PB	N	Y	Y	Y	Y	Y	Y	Y	Y
<i>E. Accessory Uses</i>											
Roof-Mounted Solar Energy System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Small-Scale Ground Mounted Energy System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Medium-Scale Ground Mounted Solar Energy System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Section 2. Amend Section 4.1.2 Notes to Table of Dimensional Requirements by inserting the phrase “roof-mounted solar energy systems” immediately following the word “ventilators”

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as it appears in paragraph 7 and further amend this Section by inserting the following new paragraphs:

“8. Small- and medium-scale ground mounted solar energy systems accessory to principal use may be located no closer than ten (10) feet from the front, side, or rear lot line.

9. Lot Coverage-Ground mounted solar energy systems shall not count towards building coverage as defined in Section 10.0 definitions.”

Section 3. Amend Section 5 General Regulations by adding the following new sections:

“5.4. BICYCLE PARKING

5.4.1 Purposes. Bicycling infrastructure in Salem is a basic necessity to residents, visitors, and employers and can provide a key “last mile” connection to destinations throughout the city. The purpose of this section is to provide specific guidelines to project proponents to determine the type, location, and amount of bicycle parking required for each development project. The intended result is to require development projects to include bicycle parking that enhances the project’s value and helps to make Salem a more desirable place to live, work, and visit.

5.4.2. Requirements.

The required minimum quantity of bicycle parking spaces is as outlined below. Additional bicycle spaces are encouraged but are not required beyond the minimum stated.

Single-family and two-family residential: none

Residential with three or more units: 1 long-term bicycle space per unit, 1 short-term space per 4 units

Commercial/Industrial/Exempt or Institutional: 1 long-term space per 4 employees.

Number of short-term spaces to be determined by the Planning Board, but shall not be less than 2.

5.4.3 Additional Notes. Fractions of spaces shall be rounded up to a whole number. Minimum bicycle storage consists of one double-sided rack. Total employees for this purpose is the maximum number of employees present on premises at one time.

Section 5.5 ELECTRIC VEHICLE CHARGING STATIONS

5.5.1 Purposes. In line with the Massachusetts Decarbonization Roadmap to reduce carbon emissions by at least 85% by 2050 and the City of Salem’s Resilient Together Mobility Goals, the City will encourage use of electric vehicles by further enabling electric vehicle charging. As of 2017, the transportation sector accounted for 42% of greenhouse gas emissions in the Commonwealth and 43% of greenhouse gas emissions in the City of Salem. Electric Vehicles offer the most promising option for replacing internal combustion engine vehicles.

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5.5.2 Requirements. New developments of 5,000-square-feet or larger shall have 25% of parking spaces be installed with Electric Vehicle Supply Equipment; and the remaining 75% of parking spaces shall be Electric Vehicle-Ready for future installation.”

Section 4. Amend Section 6 Special Regulations by adding the following new section:

“Section 6.12-Solar Energy Facilities

6.12.1 Purpose. The purpose of this section is to accommodate solar energy facilities in appropriate locations, while minimizing any adverse visual, safety, and environmental impacts of the facilities.

6.12.2 Applicability. This section applies to all uses identified as requiring a site plan review per Section 9.5.2 or a special permit for ground mounted solar energy facilities per Section 3.1, Table of Uses.

6.12.3 Siting Preferences. Where a solar facility is sited, as well as placement on the site once selected, is an important consideration. The City strongly discourages locations that result in significant loss of land and natural resources, including farm and forest land, and encourages rooftop siting, as well as locations in industrial and commercial districts, or on vacant, disturbed land. Significant tree cutting is problematic because of the important water management, cooling, and climate benefits trees provide.

6.12.4 Dimensional Regulations

1. Height- For primary uses see Section 4, Table 4.1.1. For accessory uses see Section 4.1.2.7
2. Setbacks- For primary uses see Section 4, Table 4.1.1. For small- and medium-scale ground mounted solar energy systems accessory to principal use may be located no closer than ten (10) feet from the front, side, or rear lot line. All ground-mounted solar energy systems in residential districts shall be installed either in the side yard or rear yard to the extent practicable.
3. Lot Coverage-Ground mounted solar energy systems shall not count towards building coverage as defined in Section 10.0 definitions.

6.12.5 Special Permit.

1. The Planning Board is hereby designated the Special Permit Granting Authority (SPGA) for solar energy systems. The SPGA shall adopt rules relative to the application for special permits for ground mounted solar plan approval and file a copy with the City Clerk. After notice and public hearing and after due consideration of the reports and recommendations of other city boards, commissions and or departments, the SPGA may grant such a permit. The SPGA shall also impose, in addition to any applicable conditions specified in this section, such applicable

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conditions as the SPGA finds reasonably appropriate to improve the site design to serve the purposes of this section.

2. The Planning Board shall include as part of its special permit review and proceedings all the provisions and requirements of the Site Plan Review standards applicable to large-scale ground-mounted solar energy systems. See Section 9.4 for additional Special Permit Requirements.

6.12.6 Large and Medium Scale Ground Mounted Solar Energy System Site Plan Review

1. Site Plan Documentation Required. In addition to the requirements of Section 9.5, the following items shall be included:

- (a) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;
- (b) Documentation of the major system components to be used, including the panels, mounting system, and inverter(s);
- (c) Additional requirements for large scale ground mounted solar energy systems
 - (i) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electric Code (527 CMR 12.00) compliant disconnects and overcurrent devices;
 - (ii) Documentation of actual or prospective access and control of the project site (see also Solar Design Guideline Document);
 - (iii) An operation and maintenance plan (see Solar Design Guideline Document);
 - (iv) Proof of liability insurance; and

6.12.7 Large and Medium Scale Ground Mounted Solar Energy System Maintenance, Removal, and Abandonment

1. Monitoring and Maintenance.

- (a) Solar Energy System Installation Conditions - The ground-mounted solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Building Commissioner. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.
- (b) Modifications - All material modifications to a ground-mounted solar energy system made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

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2. Abandonment or Decommissioning

(a) Removal Requirements-Any ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with Subsection (b), below of this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

- (i) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
- (ii) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (iii) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(b) Abandonment-Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

6.12.8 Site Plan Review-Roof-mounted and Small-scale Ground-Mounted Solar Energy Systems

1. Applicability-Where these solar energy systems may be accessory to a use allowed through Site Plan Review, the Site Plan Review shall include review of their adequacy, location, arrangement, size, design, and general site compatibility.

6.12.9 Pre-Existing Non-Conforming Uses and Structures

Improvements that do not change the use or the basic exterior characteristics of the building or structure are allowed. Such improvements include but are not limited to the installation or replacement of solar energy systems.”

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Section 5. Amend Section 8.4.15 *Site Plan Review* of Section 8.4 *North River Canal Corridor Neighborhood Mixed Use District* by inserting the following additional site plan requirement as the fourth requirement and renumbering the requirements to a total of five:

“4. Adequate net-zero-energy plan;”

Section 6. Amend Section 9.4.2 *Criteria* of Section 9.4 *Special Permits* within Section 9 *Administration and Procedures* by deleting the following:

“5.Impacts on the natural environment including view; and”

and replacing it with the following:

“5.Impacts on the natural environment including greenhouse gas emissions and view; and”

Section 7. Amend Section 9.5.2 *Applicability* of Section 9.5 *Site Plan Review* within Section 9 *Administration and Procedures* by adding the following at the end of paragraph number 2:

“; or

3. Large scale ground mounted solar energy system in the R3, B2, B4, B5, BPD, NRCC, or I district; or
4. Medium scale ground mounted solar energy system in the RC, R1, R2, or R3 district.”

Section 8. Amend Section 9.5.3 *Application* of Section 9.5 *Site Plan Review* within Section 9 *Administration and Procedures* by deleting the phrases “fifteen (15) copies of” and “include fifteen (15) copies of” as they appear in the first paragraph and further amend this Section by adding the following to the end of this Section:

“11. Plans depicting the property lines and physical features, including roads, for the project site;

12. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

13. Locations of active farmland, wetlands, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the DEP.

14. Locations of floodplains or inundation areas for moderate or high hazard dams; and

15. Locations of local or National Historic Districts.

16. Location, arrangement, size, and design of roof mounted and small-scale ground mounted solar energy systems.”

Section 9. Amend Section 9.5.4 *Narrative* of Section 9.5 *Site Plan Review* within Section 9 *Administration and Procedures* by inserting the Phrase “, including parking with electric vehicle charging stations and parking for bicycles;” at the end of paragraph number 2 and further

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amending this Section by inserting the following after paragraph number 8 and renumbering the requirements to a total of 10:

- “9. Sustainability and resiliency, including energy planning and alignment with local climate mitigation goals;”

Section 10. Amend Section 9.5.5 *Distribution* of Section 9.5 *Site Plan Review* within Section 9 *Administration and Procedures* by replacing the words “his” with “their” as they appear in the first paragraph and further amending the first paragraph of this Section by inserting the phrase “Head of the Sustainability Department or their designee,” immediately preceding the phrases “Board of Health”.

Section 11. Amend Section 9.5.6 *Review Criteria* of Section 9.5 *Site Plan Review* within Section 9 *Administration and Procedures* by adding the following to the end of this Section:

- “14. Adequacy of bicycle parking facilities and number of bicycle parking spaces proposed for each development;
15. Adequacy of electric vehicle charging station;
16. Adequacy and general site compatibility of roof mounted and small-scale ground mounted solar energy systems; and
17. Adequacy of a net-zero-energy plan to outline site energy uptake, creation, and consumption.”

Section 12. Amend Section 10 *Definitions* by adding the following new definitions:

“Electric Vehicle (EV): Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets and that operates exclusively on electrical energy from an off-board source that is stored in the vehicle’s batteries, producing zero tailpipe emissions or pollution when stationary or operating.

Electric Vehicle Supply Equipment (EVSE): Equipment for the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle.

Electric-Vehicle-Ready: Electric-Vehicle-Ready shall mean providing raceway to every parking space, adequate space in the electrical panel and space for additional transformer capacity to accommodate the future installation of the transformer, if necessary.

Long-term Bicycle Parking: Long-term Bicycle Parking must be located in an enclosed, limited-access area designed to protect bicycles from precipitation and from theft, such as bicycle lockers, covered bicycle sheds, or bicycle rooms within a building.

Net-zero energy site: a site that is optimally efficient, and over the course of a year, generates energy onsite, using clean renewable resources, in a quantity equal to or greater than the total amount of energy consumed onsite.

Net-zero-energy plan: A document outlining a development’s energy sources, locations (on or off-site), and consumption. The Plan outlines how the development can become a net-zero

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energy site, as defined above; or, why achieving net-zero energy site is not possible through renewable resources on-site, given site or other constraints.

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Short-term Bicycle Parking: Short-term bicycle parking must be located in a publicly accessible space within 50 feet of pedestrian entrances. Short-term bicycle parking is intended primarily to serve visitors, such as retail patrons making trips of up to a few hours; however, it may serve other bicycle users as needed.

Solar Access: The access of a solar energy system to direct sunlight.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large-Scale: An Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Medium-Scale: An Active Solar Energy System that occupies

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more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).

Solar Energy System, Off-Grid: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale: An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

Solar Thermal System: An Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling."

Section 13. This Ordinance shall take effect as provided by City Charter.

#238 – REQUEST FOR PUBLIC ARTS COMMISSION COUNCIL LIAISON

A request from the Public Arts Commission for a City Council Liaison to be appointed was adopted. Councillor Morsillo asked if any Councillor was interested to please email her.

#239 – COMMUNICATION FROM ALAN HANSCOM REGARDING VENDORS ON THE SALEM COMMON

A communication from Alan Hanscom requesting the City Council to consider a temporary measure to not have vendors, carnival rides and food trucks on Salem Common for the Summer and fall of 2022, in order to allow time for recovery and repair of the damages that were a result of overuse of the Common in 2021 was referred to the Committee on Government Services.

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#240 – COMMUNICATION FROM ROSEMARY O’CONNOR REGARDING NATIONAL GRID

A communication from Rosemary O’Connor to meet with the City Council regarding National Grid shutting of electricity to parts of North Salem on March 29, 2022 from 10 PM to 6 AM on March 30, 2022 was received and placed on file.

Councillor Riccardi stated she has been in contact with Ms. O’Connor and the North Salem Residents. A notice was sent on Friday by National Grid that they need to shut off the power on the dates and times above to do an emergency repair and there are no alternatives. The Council has no authority to approve or deny this emergency work. But she is working on making sure the residents will be okay during this time. Ms. O’Connor stated that she did not need to meet with the Council. The work is next week. Understands the work needs to be done. If any resident needs assistance to please reach out to her or the Mayor’s office. Ms. O’Connor is all set.

#241 - #243 – LICENSE APPLICATIONS

The Following License Applications were granted.

PUBLIC GUIDES:

Ellis Jones 27 Creighton St., Jamaica Plain
 Daniel Berger Jones 7 School St., Pl. Roxbury
 Jessica November 14 Cambridge St., Salem
 Daniel Minkle Fury 126 Federal St., Salem
 David Molinet 30 Franklin St., Malden
 Hanna Burnett 47 Fremont St., Somerville
 Charles Galvin 5 Warren St., Salem
 Katherine Travers 394 Essex St., Salem
 Jeffrey Horton 10 Summer St., Salem
 Zachary Chechile 6 Knapp St., Somerville
 Vijay Joyce 107 Preston Pl., Beverly

TAXI CAB/ LIMOS:

Witch City Taxi 92 Jackson St., (3 Taxi Cabs)
 Salem Taxi 30 Federal St., Salem (7 Limos)
 Witch City Taxi 92 Jackson St., Salem (3 Limos)
 Americab 92 Jackson St., Salem (8 Limos)

TAXI OPERATORS:

Johnny Fabian Corniel 52 Ward St., Salem
 Jose Lopez 16 Mason St., Salem
 Pedro Taveras 129 Washington St., Peabody
 Felipe Garcia 30 Ridgeway St., Lynn
 Franklin Pimentel 300 Washington St., Salem
 Roberto Gutierrez 8 Chase St., Salem
 Cesar Santana 47 Collins St., Lynn

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Domingo Moronta Abreu 5 Albion St., Salem
Ramon Rodriguez 9 Prince St. Pl., Salem
Cesar Maldonado Cruz 7 Prince St. Pl., Salem
Elis Saul Gomez Encanacion 7 Pickman Rd., Salem

#244 – TAXI OPERATOR LICENSE APPLICATION

The Following Taxi Operator License was denied.

TAXI OPERATOR: Josue Sanchez 1000 Loring Ave., A34, Salem

#245 - CONTRACT OPERATOR/DRAINLAYER LICENSE APPLICATION

The Following Contract Operator/Drainlayer License application was granted.

Nardone Incorporated 45 Outlook Rd., Wakefield

#246 - #251 – CLAIMS

The Following Claims were referred to the Committee on Ordinances, Licenses & Legal Affairs.

Newton & Melissa Murphy 36 Balcomb St., Salem
Paul & Valerie Koloskus 2 Cross Ave., Salem
Margaret O'Brien 36 Juniper Ave., Salem
Lynn Feazel 33 Conant St., Danvers
Mary Hagen 39 Osgood St., Salem
Edmond Morneau 118 Columbus Ave., Salem

(#53) – ORDINANCE AMENDING CH. 50 – WETLANDS PROTECTION AND CONSERVATION

The Second Passage of an ordinance to amend an ordinance relative to Chapter 50 – Wetlands Protection and Conservation was taken up and adopted for second and final passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty-Two

An Ordinance to Replace The Existing Ordinance, Chapter 50 Wetlands Protection And Conservation to increase protections for wetlands in the City of Salem.

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Be it ordained by the City Council of Salem, as follows:

SECTION 1. Sections 50-1 through 50-12 of Part III of the City of Salem Code, Ordinances, Chapter 50, Wetlands Protection and Conservation is hereby amending by deleting Sections 50-1 through 50-12 in their entirety and replacing it with the following new Sections 50-1 through 50-18:

“Chapter 50 WETLANDS PROTECTION AND CONSERVATION*

Sec. 50-1. Introduction.

This Ordinance is intended to utilize the City of Salem’s Home Rule authority to protect additional resource areas, identify additional values, and create additional standards and procedures stricter than those of the Wetlands Protection Act (M.G.L.A. c. 131, § 40; “the WPA”) and Regulations thereunder (310 CMR 10.00).

Sec. 50-2. Purpose.

The purpose of this Wetlands Protection Ordinance is to protect the wetlands, water resources, and adjoining land areas in Salem by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon the following resource area values. Those identified with an asterisk* are in addition to the interests protected by the WPA.

- ☐ public or private water supply
- ☐ ground water supply
- ☐ flood control
- ☐ storm damage prevention
- ☐ prevention of pollution
- ☐ protection of land containing shellfish
- ☐ protection of fisheries
- ☐ protection of wildlife habitat
- ☐ *climate change adaptation and mitigation,

Collectively, the "resource area values protected by this Ordinance"

Sec. 50-3. Jurisdiction.

Except as permitted by the Conservation Commission, no person shall remove, fill, dredge, discharge into, build upon, degrade, or otherwise alter in or over any of the following resource areas: any freshwater wetland (e.g. wet meadows, bogs, swamps); any coastal wetland (e.g.

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coastal/barrier beaches, coastal dunes, coastal banks, rocky intertidal shores, land under the ocean, salt marsh, land under salt ponds, land containing shellfish, fish runs, land subject to tidal action); vernal pool; river, stream, pond, reservoir, or lake, or any bank to said waters, or any land under said waters; riverfront area; designated port areas or any land subject to inland and/or coastal flooding or inundation.

Additionally, except as permitted by the Conservation Commission, no person shall remove, fill, dredge, discharge into, build upon, degrade, or otherwise alter in or over land within 100-feet of the above resource areas, hereinafter the “buffer zone”. Notwithstanding the foregoing, and in accordance with the WPA, the following resource areas do not have an associated buffer zone: riverfront area, land under waters, land containing shellfish, fish runs, land subject to tidal action, and designated port areas.

Sec. 50-4. Exceptions.

The above prohibitions shall not apply to emergency projects recognized by the WPA so long as the Conservation Commission or its designee certifies the emergency in accordance with the standards under the WPA and implementing regulations at 310 CMR 10.00.

Additionally, the requirements of this Ordinance and its implementing regulations shall not apply to the minor activities and other exemptions recognized by the WPA and its implementing regulations at 310 CMR 10.00 so long as the Conservation Commission is notified of proposed work via certified mail a minimum of 30 days prior to commencement of activities located in areas protected by this Ordinance.

Maintenance (but no further alteration, expansion, or change in character or use) of pre-existing lawfully located uses and structures that were in place on or before the promulgation of the Ordinance are permitted without application for a permit to the Conservation Commission, provided that notice of such activities is sent via certified mail a minimum of 30 days prior to commencement of work.

Sec. 50-5. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where further definition/clarification is provided through regulation. Terms follow the definitions found in the WPA and its implementing regulations at 310 CMR 10.00. To the extent not defined herein, words used in these regulations shall have the definitions contained in the WPA.

Ancillary Structure shall mean any structure on the same lot or lots in common ownership as the principal use, and whose purpose is customarily incidental to the main or principal building or use of the land.

Alter includes, without limitation, the following actions when undertaken in areas subject to this chapter: (1) Removal, placement, excavation or dredging of soil, sand, gravel, or aggregate material of any kind. (2) Changing drainage characteristics, flushing characteristics, salinity

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distribution, sedimentation patterns, flow patterns and flood retention characteristics. (3) Drainage or other disturbance of the water level or water table. (4) Dumping, discharging or filling with any material. (5) Driving of piles, erection of buildings or structures of any kind. (6) Placing of obstructions, whether or not they interfere with the flow of water. (7) Destruction of plant life, including cutting of trees, but excluding maintenance of landscape areas (provided that no unauthorized expansion of landscaping occurs) that were in place as of the original Ordinance adoption (DATE). (8) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.

Banks means that part of land adjoining any body of water which confines the water. Bank is associated with all intermittent streams shown on the USGS Map and display riverine characteristics, even those upgradient of other wetland resource areas in cases where a defined channel with evidence of flow is observed.

Climate Change Adaptation and Mitigation are measures designed or intended to protect resource areas from the impacts of climate change and to protect the ability of resource areas to mitigate the impacts of climate change with consideration of the resource area values protected by the Ordinance.

Climate Change Impacts include without limitation: extreme heat; the timing, frequency, intensity, and amount of precipitation, storm surges, and rising water levels; increased intensity or frequency of storm events or extreme weather events; and frequency, intensity, and duration of droughts.

Coastal Wetland means any bank, marsh, swamp, meadow, flat or other lowland subject to tidal action or coastal storm flowage.

Freshwater Wetland is an area where soils are saturated and/or inundated such that they support wetland indicator plants. The ground water and surface water hydrological regime, soils, and the vegetational community which occur in a freshwater wetland, are defined under this Ordinance based on the definition of "Bordering Vegetated Wetland" at 310 CMR 10.00. The term freshwater wetland shall include isolated vegetated wetlands which are at least 750 square feet in size as defined herein.

Green infrastructure/Nature-based solutions means projects and practices incorporating the natural environment, supplement natural processes, or work in concert with natural systems to provide flood, fire, or drought risk reduction, or clean water or air benefits. Green infrastructure practices protect, restore, augment, or mimic ecological processes.

Isolated Vegetated Wetland (IVW) shall include wetlands which meet the MassDEP manual entitled "Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act" (1995 and as may be amended from time to time) with respect to the delineation standards for soils, hydrology, and vegetation, are at least 750 square feet in size or greater, but that do not require connectivity to surface waters. The Conservation Commission may, through written determination, exclude areas from being considered IVW if compelling evidence is presented that the IVW exists as a result of stormwater infrastructure or other human-induced

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disturbance/activity. Additionally, the Conservation Commission may find that areas that would otherwise qualify as IVW, but that are dominated by a prevalence of invasive and/or non-native plant species, are non-jurisdictional.

Passive Passage means any pedestrian activity which does not involve the disturbance of the substrate or existing vegetative conditions.

Person includes any individual, groups of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth, or political subdivisions thereof to the extent subject to city ordinances, administrative agencies, public or quasi-public corporations or bodies, the city, and any other legal entity, its legal representatives, agents or assigns.

Previously Disturbed or Degraded means areas which previously or currently lawfully contain(ed) impervious areas such as buildings, roadways, parking lots, or that were graded or altered by direct human activities not associated with natural resource or land management activities such that their present character is notably different than it would be had it not been altered. Previously Disturbed or Degraded areas may be partially vegetated provided there is a notable absence of topsoil (e.g., O or A Soil Horizon) or other compelling anthropogenic factor which documents the historic land use therein. An Applicant carries the burden of proof to demonstrate that land is Previously Disturbed or Degraded. Previously Disturbed or Degraded areas must have been the result of a lawful use/activity in order to be considered as such.

Stream means a body of running water that moves in a definite channel in the ground due to a hydraulic gradient. Such a waterway is a stream regardless of its relationship to other resource areas. Streams do not include manmade channels unless such channels represent channelization or redirection of historically naturally occurring streams, or were created for the purpose of functioning as a stream (such as may be done for ecological projects, or replication/mitigation).

Structures include, but are not limited to, commercial and industrial buildings, single family houses, multifamily dwellings, porches, decks, additions, sheds, outbuildings, pools, docks, pile supported features, septic systems and any of their components, underground storage tanks, roadways, fencing which functions as a barrier to wildlife habitat (excluding perimeter sediment controls and snow fencing), driveways, and retaining walls supporting more than a 4-foot height of fill. Stormwater management infrastructure and other utilities shall be excluded from the definition of structure.

Vernal Pool shall mean an area that provides breeding habitat for species that depend on ephemeral bodies of water for breeding and other life stages. To be considered vernal pools such areas must meet certification criteria as defined by the MA Natural Heritage and Endangered Species Program (NHESP). Certain areas that have been extensively altered by human activities as of the effective date of this Ordinance amendment and maintained as such continuously are not regulated as vernal pools. Such disturbed areas may include, for example, the built and utilized footprints of: paved and graveled areas, golf courses, cemeteries, playgrounds, landfills, fairgrounds, quarries, gravel pits, buildings, lawns, gardens, roadways (including median strips, areas enclosed within highway interchanges, shoulders, and embankments), railroad tracks

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(including ballast and embankments), and similar areas. Areas mapped by NHESP as potential vernal pools are considered vernal pools under this Ordinance unless the project proponent demonstrates to the Conservation Commission that said area is not certifiable per NHESP criteria. In evaluating the information presented to demonstrate that an area is not a vernal pool, the Commission shall consider appropriate factors, including the extent of the investigations conducted and drought/rainfall conditions, for example.

Wildlife Habitat means important food, shelter, migratory or overwintering areas, or breeding areas for wildlife. Certain areas that have been extensively altered by human activities as of the effective date of this Ordinance amendment and maintained as such continuously are not important wildlife habitat. Such disturbed areas may include, for example, the built and utilized footprints of: paved and graveled areas, golf courses, cemeteries, playgrounds, landfills, fairgrounds, quarries, gravel pits, buildings, lawns, gardens, roadways (including median strips, areas enclosed within highway interchanges, shoulders, and embankments), railroad tracks (including ballast and embankments), and similar areas. The Commission may, on a case-by-case basis, include some areas of human disturbance to be considered wildlife habitat if the subject area is demonstrated to be such by a competent source.

The Conservation Commission may, through its implementing regulations, expand upon or add additional definitions in order to protect the resource area values established by this Ordinance.

Sec. 50-6. Conservation Commission Filing.

No person shall remove, fill, dredge, alter or build upon, over, or within areas subject to the Conservation Commission's jurisdiction without filing a written application for a permit including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this chapter. Such

application must be identical in form to a Notice of Intent or Request for Determination of Applicability as described in M.G.L.A. c. 131, § 40 and the implementing regulations at 310 CMR 10.00. The Conservation Commission may establish a filing fee schedule for such applications.

Notwithstanding the above, activities located solely within the 100-foot Buffer Zone to inland or coastal land subject to flooding or inundation may be reviewed by the Conservation Agent to determine whether a filing is required. In such cases, the Conservation Agent's administrative determination as to whether or not to require a filing shall be based upon a review of whether the project location is so topographically separated from the flood zone that the Ordinance values do not apply and that the proposed work qualifies as a minor activity as enumerated in 310 CMR 10.02(2)(b)2.

Sec. 50-7. Hearing on Permit Application; Access to Property. Notice of the time and place of the hearing shall be provided by the Applicant, using a legal notice document to be provided by the Conservation Office, not less than five days prior to the hearing, by publication in a newspaper of general circulation in the City. The Conservation Office may establish submission requirements, including required notifications to other City Departments, for example. The

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applicant shall provide notice to all abutters in the same form as detailed in M.G.L.A. c. 131, § 40 and the implementing regulations at 310 CMR 10.00. Notwithstanding the foregoing, abutter notification is not required for Request for Determination of Applicability filings.

For the purposes of reviewing an application for permit, the Conservation Commission, its agents, officers, and employees may enter upon privately owned land for the purpose of performing their duties under this chapter.

Sec. 50-8. Buffer Zone and Setbacks

In reviewing activities within the buffer zone, the Conservation Commission shall presume the buffer zone is important to the protection of its subject resource area because activities undertaken in close proximity have been shown to have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities.

Adverse impacts to wetland resource areas from construction and use within their related buffer zone can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, loss of trees and other vegetation, and degradation of wildlife habitat. Therefore, this Ordinance gives the Commission broad discretion to permit, condition, and prohibit work within the buffer zone as the specific situation warrants.

This Ordinance further establishes the following areas within the 100-foot buffer zone, which are subject to specific requirements and greater scrutiny:

□ **25-foot No Disturbance Zone** – the first 25-feet within the buffer zone extending from an applicable resource area in which virtually no activities or work, other than passive passage, stormwater outfall components, and utilities, are permitted. No vegetation may be disturbed, leaf litter and woody debris remains in place, etc. The No Disturbance Zone shall remain unchanged from its pre-development project state when considering both the construction period and the long-term use of the project site. The land use restrictions within the No Disturbance Zone are to be further tabulated in the implementing regulations.

□ **50-foot Mitigation Zone** – the first 50-feet within the buffer zone extending from an applicable resource area in which disturbance is prohibited without adequate mitigation as determined by the Conservation Commission. The Mitigation Zone overlaps the No Disturbance Zone detailed above and wetland resource areas defined herein.

Beyond the above-described zones, the Conservation Commission shall consider proposals for work in the buffer zone in terms of broad forms of disturbance areas. This approach is intended to allow flexibility for property use while maintaining adequate levels of wetland resource area protection. Additional buffer zone disturbance setbacks may be enumerated through implementing regulations.

In considering the types of work and activities allowable within the overall 100-foot buffer zone, and conditions to apply, the Conservation Commission shall consider the following,

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1. **Values and Functions of the Resource Area.** The quantity and quality of resource values and functions should be considered explicitly in placing conditions on buffer zone work.
2. **Pre-Project Characteristics of the Site.** Ground slope, soil conditions, vegetation, and prior disturbance are some of the site-specific characteristics that shall be considered in setting conditions for work in the buffer zone.
3. **The nature of the activities proposed and their potential likelihood of impacting the Ordinance values.**
4. **The Project's implementation of climate change adaptation measures.**

As appropriate to protect the Ordinance values, the Conservation Commission may expand the minimum setbacks indicated herein or in implementing regulations.

The Applicant shall carry the burden of proof for demonstrating to the Commission's satisfaction that the proposed work or activities in the buffer zone are necessary, and that reasonable alternatives do not exist. Said demonstration may take the form of a written narrative or report with accompanying exhibits as appropriate.

Applicants wishing to rebut the presumptions set forth above shall provide the Commission with a written waiver request in accordance with Section 50-10 herein.

Notwithstanding the above, the Conservation Commission may, without requiring a formal waiver request, reduce the setbacks for:

1. Redevelopment of sites that contain previously disturbed or degraded areas regardless of whether such areas are within the relevant setback, so long as work results in an overall improvement to the applicable setback in terms of the ability of the associated resource area to protect the values of this Ordinance.
2. Projects involving work necessary to access buildable upland (including access roads, driveways, and utilities) as long as there is no other means of accessing said buildable upland, and said work meets all the other requirements of the WPA and this Ordinance.
3. If in its judgment such a reduction is necessary to accommodate a project that will have an overall benefit to the public and to the environment (such as a project addressing sewer inflow and infiltration, or an environmental enhancement project).
4. If in its judgment such a reduction is necessary to accommodate reasonable recreational access and connectivity by path, including paved or other surface type multiuse paths or other least intrusive means of access, to other portions of a property or the shoreline, as long as there is no other alternative means of accessing the other portions of the property, and that such alteration does not exceed the minimum path necessary to be compliant with state and federal accessibility requirements. Such paths are to include elevated boardwalks as appropriate to minimize impacts. Such alterations may require wetlands replication.

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5. Ancillary Structures associated with single-family dwellings constructed prior to the adoption of this Ordinance.

The setback requirements shall not apply to:

1. Projects requiring Chapter 91 Licenses pursuant to the water-dependent use provisions, repairs of existing Chapter 91 Licensed structures, or other coastal engineering structures deemed by the Conservation Commission to be necessary to protect the interests of the WPA and this Ordinance.
2. Projects involving the maintenance and repair, but not expansion of or change in character or use of, existing and lawfully located buildings and structures, including roads, culverts, utilities, septic systems, or storm water drainage structures.
3. Remediation activities performed under the Massachusetts Contingency Plan, provided that the activities comply with all other applicable state and local regulations.

Sec. 50-9. Climate Change Resiliency.

Climate change is an overriding public interest. Consideration of the effects of climate change on the City's wetlands resource areas is necessary to maintain the values of the Ordinance into the future. Additionally, appropriate protection of wetlands resource areas and their values will facilitate the City's climate change preparedness and resilience.

The Applicant shall, to the maximum extent practicable, integrate considerations of adaptation planning into their project to promote climate change resilience so as to protect and promote resource area values into the future. The Applicant shall consider the resource area's ability to be resilient to the effects of climate change and protect the values of the Ordinance. These considerations are especially important in Land Subject to Flooding and Coastal Storm Flowage (100-year floodplain), coastal wetlands, and other resource areas which protect the interest of Flood Control and Storm Damage Prevention, including the associated buffer zones. Resource areas may be directly impacted by extreme weather events expected to be more prevalent or more intense due to climate change, in surface runoff of pollutants, and in wildlife habitat due to changes in temperature.

In reviewing project climate change resiliency information, the Conservation Commission shall give consideration as to the size and scale of the project and the extent to which resource area impacts are avoided, minimized, and mitigated. Green infrastructure/nature-based solutions are preferred to demonstrate compliance with the climate change adaptation and mitigation resource area value.

The Conservation Commission may, through implementing regulations, adopt additional provisions and mapping related to resource area values respective of climate change in accordance with best available science. Mapping adopted by the Conservation Commission may include, without limitation, projections of Sea Level Rise and future storm events/flood zones for

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project proponents to consider in applications for work submitted to the Conservation Commission.

Sea Level Rise Considerations

The City of Salem recognizes the relative rise in elevation of the sea surface over time. Those portions of coastal floodplains which are immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes or coastal banks require special protection as they are likely to be in a state of transition as the entire complex of coastal wetland resources gradually moves landward due to rising relative sea levels.

Development activities carried out within the transitional areas of coastal floodplains will be subject to increased storm damage and may interfere with the natural landward migration of the adjacent coastal resource areas. Therefore, the Salem Conservation Commission may adopt, through implementing regulations, performance standards for coastal resource areas with respect to Sea Level Rise.

Sec. 50-10. Waiver Criteria.

An Applicant may seek relief from the standards of the Ordinance and any implementing regulation by requesting a waiver to the applicable standards. The Commission may, at its discretion, grant a waiver to the standards of the Ordinance and regulations based on the Applicant's clear and convincing demonstration of the following:

1. The proposed land-use activity(ies) conforms with the goals and statutory interests of the Ordinance and regulations adopted thereunder, and the activity(ies), including proposed mitigation measures, will have an insignificant impact on the values protected by this Ordinance;
2. The relief requested by the project proponent is the minimum waiver necessary to achieve the project goals and to allow for reasonable use of the property;
3. The requested waiver is not the result of any prior action of the project proponent or any predecessor in title (i.e., the Applicant must document that the waiver is not the result of a self-created or self-imposed hardship);
4. The granting of the waiver will not hinder the ability of wetland resource areas or buffer zones to provide climate mitigation or protect the adjacent landscape from storm surge as anticipated based on best available information;
5. Where applicable, work within required setbacks noted herein shall not result in adverse impacts to the resource area values. Project proponents shall provide clear documentation to the Conservation Commission as to the means and methods for avoiding construction-phase impacts and impacts from the future existence of the project within setbacks; and
6. The Applicant shall demonstrate that all other feasible project alternatives to avoid or minimize impacts have been exhausted, including seeking relief from municipal zoning provisions as applicable.

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Relief in the form of a waiver to a provision of the Ordinance does not remove the Applicant's responsibility for compliance with all other requirements of the Ordinance.

Sec. 50-11. Severability.

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

Sec. 50-12. Relationship to State Statute.

The Conservation Commission shall not impose additional or more stringent conditions pursuant to M.G.L.A. c. 131, § 40 than it imposes pursuant to this chapter, nor shall it require an applicant filing a notice of intention pursuant to M.G.L.A. c. 131, § 40 to provide materials or data in addition to those required pursuant to this chapter.

Restoration of land in violation. Consistent with M.G.L.A. c. 131, § 40, any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of this chapter or in violation of any permit issued pursuant to this chapter shall forthwith comply with any such order or restore such land to its conditions prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

Sec. 50-13. Promulgation of Regulations.

After due notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this chapter. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.

Sec. 50-14. Burden of Proof.

The Applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application for the permit required by this chapter will not harm the interests protected by this chapter. Failure to provide adequate evidence to the Conservation Commission supporting a determination that the proposed work will not harm the values protected by this chapter shall be sufficient cause for the Conservation Commission to deny a permit or to grant a permit with conditions or, in the Conservation Commission's discretion, to continue the hearing to another date to enable the Applicant or others to present additional evidence.

Sec. 50-15. Security.

The Conservation Commission may require, as a permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

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1. A bond or deposit of money or negotiable securities in an amount determined by the Conservation Commission to be sufficient and payable to the Conservation Commission upon default.
2. A conservation restriction, easement or other covenant running with the land, executed and properly recorded or registered, in the case of registered land, with the Essex South District of Registry of Deeds.

Sec. 50-16. Appeal.

A decision of the Conservation Commission shall be reviewable in the Superior Court in accordance with M.G.L.A. c. 249, § 4.

Sec. 50-17. Enforcement.

Any person who violates any section of this chapter or any condition of a permit issued pursuant to this chapter shall be punished by fines as provided in Section 1-10 (c) – Noncriminal disposition of ordinance violations. 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. Upon request of the Conservation Commission or of the City Council, the Mayor, and City Solicitor shall take such legal action as may be necessary to enforce this chapter and permits issued pursuant to this chapter.

Sec. 50-18. Effective Date.

This Ordinance Amendment becomes effective upon final passage and signature of the Mayor and shall apply to all Notices of Intent filed on or after that date and any subsequent procedures related to such filings made on or after that date. This Ordinance Amendment shall not apply to projects for which a Notice of Intent was filed (and for which an Order of Conditions remains valid) prior to the effective date.”

Section 2. This Ordinance shall take effect as provided by the City Charter.

(#54) – NON-CRIMINAL DISPOSITION OF ORDINANCE VIOLATIONS RELATIVE TO WETLANDS

The Second Passage of the following ordinance to amend an ordinance relative to Ch. 1 Sec. 10(c) – Non-criminal disposition of violations for wetlands was adopted for second and final passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty-Two

An Ordinance to amend Section 1-10 (c). – noncriminal disposition of ordinance violations.

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Be it ordained by the City Council of Salem, as follows:

SECTION 1. Section 1-10. of Part III of the City of Salem Code, Ordinances, Chapter 1, Noncriminal Disposition of Ordinance Violations is hereby amending by adding the following language to the end of the Section 1-10 (c):

“Chapter 50, Wetlands Protection and Conservation Ordinance

Penalty for violations of Wetlands Protection and Conservation Ordinance.

Penalty:

First offense\$100.00

Second offense\$200.00

Third offense\$300.00

Enforcing persons: Conservation Agent; police department personnel.”

SECTION 2. This Ordinance shall take effect as provided by the City Charter.

On the motion of Councillor McCarthy the meeting adjourned at 9:40 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK