

CITY OF SALEM
MAY 12, 2022
REGULAR MEETING

A Regular Meeting of the City Council was held in-person and remotely via zoom on Thursday, May 12, 2022, at 7:00 P.M. for the purpose of transacting any and all business. Notice of this meeting was posted on May 10, 2022, at 9:51 A.M. This meeting is being recorded and is live on S.A.T.V.

All Councillors present.

Council President Morsillo presided.

Councillor Watson-Felt 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.

#333 – APPOINTMENT OF ELIUD ALCALA TO THE COUNCIL ON AGING

The Mayor's Appointment of Eliud Alcala 11 South St. #3, to the Council on Aging Board with a term to expire March 1, 2023 was held under the rules.

#334 – REAPPOINTMENT OF JOHN BORIS TO THE SALEM HOUSING AUTHORITY

The Mayor's re-appointment John Boris to the Salem Housing Authority with a term to expire on May 24, 2027 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

#335 – REAPPOINTMENT OF LYNDA COFFILL TO THE COUNCIL ON AGING

The Mayor's re-appointment Lynda Coffill to the Council on Aging with a term to expire on May 23, 2025 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

#336 – REAPPOINTMENT OF DARLEEN MELIS TO THE TREE COMMISSION

The Mayor's re-appointment Darleen Melis to the Tree Commission with a term to expire on May 23, 2025 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

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#337 – REAPPOINTMENT OF NAOMI COTTRELL TO THE TREE COMMISSION

The Mayor's re-appointment of Naomi Cottrell to the Tree Commission with a term to expire on May 23, 2025 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

#338 – APPROPRIATION OF \$18,000.00 TO BUILDING – ELECTRICITY

The following Order submitted by the Mayor was adopted under suspension of the rules.

ORDERED: That the sum of Eighteen Thousand Dollars (\$18,000.00) is hereby transferred from the Building Department's "FT Salaries" account (12411-5111) to the Building Department's "Electricity" account as provided below to cover payment associated with electric bills for April, May, and June 2022 for City Hall, City Hall Annex, and the Council on Aging, in accordance with the recommendation of Her Honor the Mayor.

Description	Fund	Amount
Electricity	11962-5211	\$ 18,000
		\$ 18,000

#339 – APPROPRIATION OF \$8,000.00 TO DPS BURIAL

The following Order submitted by the Mayor was adopted under suspension of the rules.

ORDERED: That the sum of Eight Thousand Dollars (\$8,000.00) is hereby transferred and appropriated from the Receipts Reserved funds listed below to the Department of Public Services Burial Account (14112-5383) in accordance with the recommendation of Her Honor the Mayor.

From	To	Amount
2430-4800 R/Res Sale of Lots	14112-5383 DPS Burial	\$ 4,000.00
2431-4800 R/Res Sale of Vaults	14112-5383 DPS Burial	4,000.00
Total		\$ 8,000.00

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#340 – APPROPRIATION OF \$3,000.00 TO ELECTIONS – VOTING MACHINE SERVICES

The following Order submitted by the Mayor was adopted under suspension of the rules.

ORDERED: That the sum of Three Thousand Dollars (\$3,000.00) is hereby transferred from the Elections and Registrations Department's "Seasonal Election Workers" account (11621-5118) to the Elections and Registrations Department's "Voting Machine Services" account as provided below to cover payment associated with replacing a damaged ballot drop box in accordance with the recommendation of Her Honor the Mayor.

Description	Fund	Amount
Voting Machine Services	11622-5386	\$ 3,000.00
		\$ 3,000.00

#341 – APPROPRIATION OF \$2,250.00 TO BUILDING – TELEPHONE

The following Order submitted by the Mayor was adopted under suspension of the rules.

ORDERED: That the sum of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) is hereby transferred from the Building Department's "FT Salaries" account (12411-5111) to the Building Department's "Telephone" account as provided below to for payment of invoices for seven municipal phone lines in accordance with the recommendation of Her Honor the Mayor.

Description	Fund	Amount
Telephone	11962-5341	\$ 2,250.00
		\$ 2,250.00

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#342 – ACCEPTING SEC. 3D OF MGL CH. 64G (a) – ALLOWING THE CITY TO IMPOSE A COMMUNITY IMPACT FEE ON A PROFESSIONAL MANAGED SHORT-TERM RENTAL

The following Order submitted by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Hapworth recused himself on this matter.

Ordered: That the City of Salem hereby accepts Section 3D of Massachusetts General Laws, Chapter 64G, subsection (a) which will allow the City to impose a community impact fee of not more than 3 per cent of the total amount of rent upon each transfer of occupancy of a professionally managed unit located within the City, with 35 per cent of such fees collected dedicated to affordable housing or local infrastructure projects. A professionally managed unit is 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence.

#343 – ACCEPTING SEC. 3D OF MGL 64G (b) – ALLOWING THE CITY TO IMPOSE A COMMUNITY IMPACT FEE FOR SHORT-TERM RENTALS ON TWO OR THREE FAMILY DWELLINGS

The following Order submitted by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Hapworth recused himself from this matter.

Ordered: That the City of Salem hereby accepts Section 3D of Massachusetts General Laws, Chapter 64G, subsection (b), which will allow the City to impose a community impact fee of not more than 3 per cent of the total amount of rent upon each transfer of occupancy of a short-term rental unit located within a two-family or three-family dwelling that includes the operator's primary residence, with 35 per cent of such fees collected dedicated to affordable housing or local infrastructure projects.

#344 – ACCEPT MGL 64G (a) & (b), SECTION 3D PERMITTING A COMMUNITY IMPACT FEE ON SHORT-TERM RENTALS

The following Order submitted by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Hapworth recused himself from this matter.

Ordered: That Pursuant to Massachusetts General Law Chapter 64G, Section 3D which permits the imposition of a local community impact fee upon (a) each transfer of occupancy of a professionally managed unit located; and (b) upon each transfer of

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occupancy of a short-term rental unit within a two-family or three-family dwelling that includes the operator's primary residence, the City shall assess an impact fee of 3%, with 35 per cent of such fees collected dedicated to affordable housing or local infrastructure projects.

#345 – AN ORDINANCE AMENDING SHORT-TERM RENTALS

The following Ordinance submitted by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Hapworth recused himself from this matter.

An Ordinance to allow short-term rentals in the City of Salem.

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

AN ORDINANCE AMENDING THE SHORT-TERM RESIDENTIAL RENTAL ORDINANCE

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

SECTION 1. An amendment to **City of Salem Code, Ordinances, PART III, Chapter 15, SHORT-TERM RESIDENTIAL RENTALS**, as follows:

Delete the definition of “primary residence” in Section 15-2, Definitions, and replace with the following:

“Primary residence. The residential unit in which the operator resides for at least six months out of a 12-month period. Primary residence is demonstrated by showing that as of the date of registration of the residential unit, the operator has resided in the residential unit for six of the past 12 months, as demonstrated by at least two of the following: utility bill, voter registration, motor vehicle registration, deed, lease, driver's license, other state-issued identification, or proof of residential exemption.”

Delete subsection (4) in Section 15-4, Ineligible Residential Units, and replace with the following:

“(4) Residential units located within a property subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, unpaid taxes, water/sewer or tax liens, or other existing judgments or penalties imposed by the city so long as the matter remains unresolved. If a violation or other order is issued after the residential unit has been registered, the residential unit's registration shall be suspended until the violation has been cured or otherwise resolved.”

Delete subsection (9) in Section 15-6, Requirements for Residential Units, and replace with the following:

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“(9) *Retention of records.* The operator shall retain and make available to ISD and/or the Health, Police and Fire Departments, upon written request, records to demonstrate compliance with this section, including but not limited to: records demonstrating number of months that operator has resided or will reside in the residential unit and records showing that operator is the owner or valid leaseholder of the residential unit offered as a short-term rental. The operator shall retain such records for a period of three years from the date the residential unit is last registered for a certificate of fitness inspection.”

Delete subsection (10) d. in Section 15-6, Requirements for Residential Units, and replace with the following:

“d. Any listing made by the operator with any booking agent or on any website shall prominently display proof of current registration and receipt of a certificate of fitness within the prior 12 months.”

Delete the first paragraph of Section 15-8, Complaint Process; Violations, and replace with the following:

“Complaints shall be made to the police, fire, health and/or inspectional services department and investigation shall commence within 30 days. Violations may, at the enforcement official’s discretion, result in a warning or an ordinance ticket and the maximum appropriate fine. Three or more such tickets within a six month period will result in the unit no longer being eligible to that operator for use as a short-term rental for a period of six months following the most recent violation.”

Delete Section 15-9, Enforcement, and replace with the following:

“(a) *Enforcement by city.* The provisions of this section may be enforced in accordance with the noncriminal disposition process of M.G.L.A. ch. 40, § 21D, and, if applicable, by seeking to restrain a violation by injunction. A violation of this section shall be sufficient cause for revocation of the right to operate the short-term rental and/or a penalty by a non-criminal disposition, as provided in M.G.L.A. ch. 40, § 21D, in an amount set forth in section 1-10 of this Code. Any person aggrieved by the revocation of the right to operate a short-term rental, or the imposition of a penalty may file an appeal as provided by the general laws.

(b) *Enforcement by booking agent.* The city shall enter into agreements with booking agents for assistance in enforcing the provisions of this section, including but not limited to an agreement, whereby the booking agent agrees to remove a listing from its platform that is deemed ineligible for use as a short-term rental under the provisions of this ordinance and whereby the booking agent agrees to prohibit a host from listing any short-term rental without proof of registration. Where the City is unable to enter into such agreements, the City shall inform the booking agent of the ineligibility of a listing and if applicable, seek injunctive relief.”

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

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#346 – AN ORDINANCE AMENDING ENFORCEMENT AND PENALTIES FOR SHORT-TERM RENTALS

The following Ordinance submitted by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Hapworth recused himself from this matter.

An Ordinance to amend the enforcement of and penalties for violations of the short-term residential rental ordinance in the City of Salem.

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

AN ORDINANCE AMENDING CHAPTER 1, GENERAL PROVISIONS, SEC. 1-10. NONCRIMINAL DISPOSITION OF ORDINANCE VIOLATIONS.

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

SECTION 1. An amendment to **City of Salem Code, Ordinances, Sec. 1-10. Noncriminal Disposition of Ordinance Violations**, as follows:

Add the following language to the Ordinance in subsection (c):

“Chapter 15, Short-Term Residential Rentals

Penalty:

First offense \$100.00

Second offense 200.00

Third offense 300.00

Enforcing persons: Inspectional services personnel, health department personnel, police department personnel, fire prevention personnel.”

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

#347 – AN ORDINANCE AMENDING CERTIFICATE OF FITNESS REQUIREMENTS

The following Ordinance submitted by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. Councillor Hapworth recused himself from this matter.

An Ordinance to amend the certificate of fitness requirements in the City of Salem.

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

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AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, DIVISION 3, SECTION 2-705, CERTIFICATE OF FITNESS OF RENTED DWELLING UNIT, APARTMENT OR TENEMENT

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

SECTION 1. An amendment to City of Salem Code, Ordinances, Chapter 2, Article IV, Division 3, Section 2-705 as follows:

Delete Section (a) (3), and replace with the following:

“(a)(3) *Short-term rentals.* A certificate of fitness shall also be required for any owner of residential property who rents or leases a dwelling or any portion of a dwelling on a short-term basis pursuant to Chapter 15 of the Ordinance. "Short-term" shall be defined as a rental or rentals of fewer than 30 days in one calendar year. Owners who intend to offer such short-term rentals to tourists must notify the board of health to register the property as such and schedule an inspection to receive a certificate of fitness. This registration and certificate must be renewed every year or upon a change in ownership, but not upon any change in the short-term tenancy.”

Delete Section (e), and replace with the following:

“(e) *Posting of certificate.* Upon issuance of such certificate, it shall be posted in a conspicuous place in which the unit is located or a copy of it shall be given to any person occupying the unit. For short-term rentals, proof of a current certificate shall be included in any listing of the property.”

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

#348 – APPROPRIATION OF \$623,146.00 FROM FREE CASH TO CORRECT INFRASTRUCTURE IN THE MUSEUM PLACE GARAGE

Councillor McCarthy Moved Suspension of the rules to allow the matter to come before Council due to the late file (Rule Sec. 28A). There were no objections.

The following Order submitted by the Mayor, after the deadline of Tuesday noon, was referred to the Committee on Administration and Finance co-posted with the Committee of the Whole (due to the late file).

ORDERED: That the sum of Six Hundred Twenty-Three Thousand, One Hundred Forty-Six Dollars (\$623,146.00) is hereby appropriated and transferred from General Fund Balance Reserved for Free Cash (1-3245) to the following account to fund needed corrective infrastructure measures at Museum Place Garage in accordance with the recommendation of Her Honor the Mayor.

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Description	Fund/Account	Amount
CIP – Museum Place Garage	20002218- 5846DN	\$ 623,146.00
		\$ 623,146.00

#349 – MONTHLY FINANCIAL REPORT DATED MARCH 2022

The following Order introduced by Councillor McCarthy was adopted

ORDERED: That the monthly financial report for FY2022 dated March 2022 be received and filed.

#350 – RAISE THE AAPI FLAGS IN RILEY PLAZA

The following Order introduced by Councillor Merkl was adopted.

ORDERED: That the Veteran's Agent raise the flags of the Asian and Pacific Island nations in Riley Plaza on Monday, May 23, 2022 through Sunday, May 29, 2022, in celebration of Asian American and Pacific Islander Heritage Month.

#351 – RESOLUTION – SALEM WITCH MUSEUM 50TH ANNIVERSARY

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

Resolution: Congratulating the Salem Witch Museum on their 50th Anniversary

WHEREAS: The Salem Witch Museum celebrates its 50th anniversary this May, having first opened its doors in 1972.

WHEREAS: During those 50 years, the Salem Witch Museum has employed hundreds of Salem residents, from high school students to senior citizens.

WHEREAS: The Salem Witch Museum has been a loving steward of their own historic building, the iconic East Church, having invested generously in the maintenance of both the structure, its surrounding landscape and sidewalk.

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WHEREAS: Staff and leadership of the Salem Witch Museum have supported and been actively engaged in this community for 50 years

WHEREAS: The Salem Witch Museum Education team continues to offer virtual lectures to students from around the world who are learning about the Salem Witch Trials.

WHEREAS: The Salem Witch Museum has played an active role in the academic understanding of the phrase “witch hunt” collecting data from guests since 2013 and sharing it with researchers from the University of Texas.

NOW THEREFORE BE IT RESOLVED: That the Salem City Council do hereby express our congratulations, thanks and appreciation to the staff and leadership of the Salem Witch Museum on the occasion of their 50th anniversary.

AND BE IT FURTHER RESOLVED: That the City Council make this Resolution a matter of record of these proceedings, and that a suitable copy of this Resolution be sent to the Salem Witch Museum, along with a copy of the City Seal, as a token of our very best wishes for continued success.

#352 – (#18) – ZONING ORDINANCE RELATIVE TO GREEN INFRASTRUCTURE

Councillor Riccardi offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. It was voted to accept the report. The recommendation was adopted for first passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole to whom was referred the matter of Zoning Ordinance relative to Green Infrastructure has considered said matter and would recommend the matter be adopted for First Passage as amended by roll call vote.

Councillor Riccardi made a motion to adopt the amendments as follows: amending Section 3.1 Table of Principal and Accessory Use Regulation within Commercial uses for Large-Scale Ground Mounted Solar Energy System in RC, R1 and R3 to “N”, adding Canopy Mounted Solar Energy system to the table of Accessory Uses, deleting section 5.4 Bicycle Parking and 5.5 Electric Vehicle Charging Station in its entirety, amending language in section 6.12.5 relative to Special Permit Granting Authority, Section 6.12.6 1 (a) and adding (d), 6.12.7 (2) (iii) changing or to and; adding subsection (c); Section 11 delete #14 & #15 and renumber; Section 12 – delete definitions 1-4, 9, add definition Solar Energy System, Canopy-Mounted, amend Solar Energy System, Large Scale from 40,000 to 20,001; amend Solar Energy System, Medium Scale more that 1,750 to 1,751 but less than 40,000 to 20,000.

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Councillor McCarthy seconded the motion. The amendments were adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The motion to adopt for first passage as amended was voted on by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

#353 – (#103) – ZONING ORDINANCE AMENDING VISIBILITY AT INTERSECTIONS

Councillor Riccardi offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole to whom was referred the matter of Zoning Ordinance relative to Visibility at Intersections has considered said matter and would recommend that the matter remain in committee.

#354 – (#178) – ZONING ORDINANCE RELATIVE TO BRIDGE STREET NECK OVERLAY DISTRICT

Councillor Riccardi offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole to whom was referred the matter of Zoning Ordinance relative to the Bridge Street Neck Overlay District has considered said matter and would recommend that the matter be adopted for First Passage as amended by roll call vote.

Councillor Riccardi went through the amendments that were voted on in committee: Section 8.7.8 (1) (D) to add language to open space requirements; Section 4 – Parking Standards – change the word shrubbery to hedging; 8.7.14 (1) change a positive DRB to advisory and that the Planning Board remain authority; and 8.7.17 delete the word positive.

Councillor McClain made a motion to delete 8.7.4 in its entirety. The Administrative Plan review stay with the Planning Board for a public process and add review of facades. Seconded by Councillor Dominguez.

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Councillor McCarthy asked the Chair why this was not adopted in Committee.

Councillor Riccardi stated the burden will be placed on more home owners. Councillor asked and received suspension of the rules to allow Amanda Chiancola to speak.

Amanda Chiancola stated it was to streamline the process for small business or homeowners. For example if add a dormer or portico it is allowed by right. Special Permit review would require more details and information.

The motion failed by a roll call vote of 2 yeas, 9 nays and 0 absent. Councillor Dominguez and Councillor McClain voted in the affirmative. Councillors Cohen, Hapworth, McCarthy, Merkl, Prosniewski, Riccardi, Varela, Watson-Felt and Riccardi were all recorded in the negative.

Councillor McClain made a motion to under building standards lower the threshold of all size lots to 15,000 of square feet for lot area. Seconded by Councillor Cohen. We need creation of housing and density is a part of that; have to be aggressive.

Councillor Cohen stated that 1700 is arbitrary and will not adversely affect the Bridge Street Neck. We have to do something about affordability.

Councillor Hapworth agreed with Ward 4 and Ward 5 Councillors in theory but this was a long public process and feel uncomfortable with changing it after long public input. We need housing, but in this situation it would be a disservice after all the public input with the people who reside there stating this is what they want.

Councillor Watson-Felt is not in support of this. It's a small space in this area. This underwent a huge process. It will affect very specific parcels.

Councillor Riccardi – We throw around words such as 1700, 1500 density . I do feel that a good it will be the most dense zoning area in the City. It has been discussed a lot already and feel comfortable with this. If it needs to be adjusted again then we will adjust again. If too small then more enticing to come in and buy homes that have been in families forever and change the character of the neighborhood.

Councillor Prosniewski understand Councillor McClain and Councillor Cohen, but if the Ward 2 Councillor is not in support of this. We should support that Ward Councillor.

Councillor McClain stated it was the neighbors who said we can do better then this. I wasn't pulling a 180 on this or pull the rug out from under them. I wouldn't have offered this if people didn't want this.

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The motion was defeated by a roll call vote of 3 yeas, 8 nays and 0 absent. Councillors Cohen Dominguez and McClain were recorded in the affirmative. Councillors Hapworth, McCarthy, Merkl, Prosniowski, Riccardi, Varela, Watson-Felt and Riccardi were all recorded in the negative.

The amendments made by Councillor Riccardi were adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The motion to adopt for first passage as amended was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

#355 – (#314) – TRAFFIC VIOLENCE AND PEDESTRIAN SAFETY

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.

The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of Traffic Violence and Pedestrian Safety has considered said matter and would recommend that the matter remain in committee

#356 – (#315) – SAFETY ISSUES CAUSED BY ILLEGAL DIRT BIKES

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.

The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of Safety Issues caused by illegal dirt bikes has considered said matter and would recommend that the matter remain Committee.

#357 – NATIONAL GRID TO INSTALL CONDUITS ON ESSEX STREET

A hearing was ordered for May 26, 2022 on the petition from National Grid to install Conduits on Essex Street.

#358 – SALEM MAIN STREETS TO CLOSE FRONT STREET FOR SALEM ARTS FESTIVAL

The Petition from Salem Main Streets to close Front Street to traffic for the Salem Arts Festival on Saturday June 4th and Sunday June 5, 2022 was granted.

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#359 - #362- LICENSE APPLICATIONS

The Following License Applications were granted.

PUBLIC GUIDES:	Melanie Novick 130 Gore St. Cambridge Joan Crane 16 Highcrest Park Webster Donald Warnock 1 Fortune Way Salem
TAXI CABS:	Salem Taxi 30 Federal St., Salem (1 Taxicab)
TAXI OPERATORS:	Robinson Gutierrez 19 Ward St., Salem Johnny Ynoa 12 First St., Salem Felix Nunez Arias 50 Childs St., Lynn Antonio Fernandez 230 Jefferson Ave., Salem Reidy Rosario 12 Mason St., Salem Luz Sanchez 117 Congress St., Salem Richard Martinez de Leon 9 Saratoga St., Lawrence Ray Ayber Pena 38 Ward St., Salem
VEHICLE FOR HIRE OPERATORS ONLY:	Ramon Guzman 45 Walsh Ave., Peabody Elizabeth Kauler 28 Goodhue St., Salem Miguel Santana 59 Harbor St., Salem

#363 - #364 – LICENSE APPLICATIONS

The Following License Applications were referred to the Committee on Ordinances, Licenses and Legal Affairs.

TAG DAY:	Salem Veterans Council, May 27, 28, 29 & 30, 2022 July, 1, 2, 3 & 4, 2022 Nov. 4, 5 & 6, 2022
	SHS Marching Band, December 3, 2022

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#365 - #367 – CLAIMS

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

Joyce Chandler 0 Defreancesico Ave., Salem
 Justin Messino 61 Wharf St., Salem
 Gil Torion 30 Clark St., Salem

(#20) – ZONING ORDINANCE AMENDING URBAN AGRICULTURE

The Second Passage of Ordinance to amend Zoning relative to Urban Agriculture was then taken up. Councillor Varela recused himself from this matter. The following Ordinance was adopted for second and final passage by a roll call vote of 10 yeas, 0 nays and 1 absent. Councillor Varela was recorded as absent.

In the year Two Thousand Twenty-two

An Ordinance to amend an ordinance relative to zoning and urban agriculture.

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

Section I. Section 10 of the Zoning Ordinance is hereby amended by deleting the definitions for *Agricultural use, nonexempt; Coop; Customary agricultural, horticultural and floricultural operations; Farm stand, nonexempt; and Urban agriculture* in their entirety and inserting the following new definitions:

“Agriculture, Urban (Urban Agriculture): An umbrella term that describes a range of accessory food and plant growing practices, either for personal use or for sale as an accessory use, that may include composting, the keeping of domestic fowl and honeybees, but does not include other livestock.

Arbor: An accessory Structure consisting of an open frame, freestanding or attached to another structure, with horizontal and/or vertical latticework often used as a support for climbing food or ornamental crops.

Coldframe: A Temporary Structure that is an accessory unheated outdoor Structure built close to the ground, no higher than thirty-six inches (36”) typically consisting of, but not limited to, a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from cold weather.

Composting: A process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can safely be used as fertilizer.

Coop: An enclosed shelter that houses domestic fowl.

Domestic fowl: A breed of bird specialized for meat production and/or egg laying and specifically excluding roosters.

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Commercial Farm, Exempt (noun): Protected by G.L. c. 40A, § 3- meaning the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities shall be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For the purposes of this definition, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof; provided, however, that the terms agriculture, aquaculture, floriculture and horticulture shall not include the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the acts of 2012, marijuana as defined in section 1 of chapter 94C or marijuana or marijuana as defined in section 1 of chapter 94G.

Roof Farm: Urban agriculture, on a roof of a principal or accessory structure with the intent to make personal use of or to sell whole, unprocessed produce, honey and/or eggs as an accessory use or, in the case of a commercial use, to be used in products sold on-site. All sales are subject to compliance with local, state and federal regulations.

Yard Farm: Urban agriculture on a residential Lot with intent to make personal use of or to sell whole, unprocessed produce, honey and/or eggs as an accessory use. All sales are subject to compliance with local, state and federal regulations including Board of Health soil testing requirements.

Farm Stand (Accessory): A Temporary Structure such as a table, stall or tent, operated by a sole vendor for the purpose of selling clean, whole, eggs, or honey, unprocessed produce and plants, all of which must be grown or produced on site.

Farm Structures: Includes, but are not limited to, sheds, compost bins, shade pavilions, trellises or other vertical supports for growing crops, and structures used to extend the growing season such as Greenhouses, Hoop houses, Coops, Coldframes and similar structures.

Garden, home/yard: An accessory use on a residential lot to grow plants and produce for beautification, recreation, and personal consumption. The garden may be outdoors, in an accessory structure or on the roof of a structure. Sales are prohibited.

Greenhouse: A Structure primarily constructed of a frame and transparent plastic material, in which temperature and humidity can be controlled for the cultivation or protection of plants or

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other agricultural products. All greenhouse structures are subject to setback and building code requirements.

Honeybee: A common domestic bee, *Apis mellifera* species.

Hoop house: An accessory Temporary Structure typically made of, but not limited to flexible PVC piping or other material covered with translucent plastic, constructed in a “half-round” or “hoop” shape, for the purposes of growing food or ornamental crops.

Raised Bed: method of cultivation in which soil is placed over a geotextile barrier, raised and ordinarily formed into three (3) to four (4) foot wide mounds. The soil may be enclosed by a frame generally made of untreated wood. Raised beds are not considered a Structure.

TABLE OF PRINCIPAL AND ACCESSORY USE REGULATIONS											
PRINCIPAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
B. EXEMPT AND INSTITUTIONAL USES											
Commercial Farm, Exempt ¹ :	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Urban Agriculture (Subject to Section 3.2.7):	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Garden, home/yard	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

¹ A Commercial Farm, Exempt operated on a City-owned Lot or by the City on a Lot that is not owned by the City is exempt from the requirement that such use be conducted on parcels of 5 acres or more or parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, so long as the products produced thereon are to be used for the benefit of the community and any revenue from any sales of those products are used for the sole purpose of sustaining the community farm.

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Section III. Section 3.2 - Accessory Uses of the Zoning Ordinance is hereby amended by deleting Section 3.2.7 *Urban Agriculture* and Section 3.2.1 *Customary Agricultural, Horticultural and Floricultural Operations* in their entirety and replacing it with the following:

“3.2.7 Urban Agriculture

Urban Agriculture is allowed as an Accessory Use in all zoning districts, provided that no Urban Agriculture activity shall be conducted, nor Farm Structure erected, except in

compliance herewith and with any other applicable laws, rules regulations including without limitation the building code and any requirements of the Salem Board of Health.

1. Sale of Products

The on-site sale of agricultural products, including whole, unprocessed produce, honey or eggs, is allowed subject to the following provisions:

- a. Retail sale display areas shall not exceed fifty square feet.
- b. One Farm Stand is allowed per lot.
- c. No sales display, sign or Structure, including a Farm Stand, shall be located on a public sidewalk or street or block vehicle and/or pedestrian flow.
- d. Signage shall be limited to one (1) sign and not exceed six (6) square feet; signs shall not be illuminated or require electricity. No off-premises signs are allowed.
- e. All products sold on the Lot must be produced on-site. For purposes of this Ordinance, the term “produced on-site means” grown on the Lot or, in the case of domestic fowl produced on the Lot by the animals kept thereon and in the case of honey, hives must be either be located on the Lot or extracted on the Lot.
- f. Sales of products shall be permitted between the hours of 7:00 am and 6:00 pm., May 1 to October 31st with the exception of Honey, which may be year-round. Sales shall not be permitted more than three days per week and no more than 25 total days per year.

2. Domestic Fowl

- a. Domestic fowl must be owned by a resident or commercial tenant of the location who shall be responsible for the care and control of the fowl.
- b. No roosters shall be kept under an Urban Agricultural use or any other use on lots in Salem.
- c. Dimensional Regulations
 - i. Maximum Height.
 1. Coop. Enclosed Coop space shall not exceed eight (8) feet in height.
 2. Run. Runs shall not exceed eight (8) feet in height.
 - ii. Size
 1. Coop structures shall meet all building code requirements. Structures exceeding one hundred twenty (120) sq feet or eight (8) feet in height will require building permits and structures with electrical or plumbing shall require appropriate permits. Changes in the building code shall pre-empt this section.

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2. Coop and Runs: Adequate housing and runs must be provided for domestic fowl to protect them from wind, weather and predators. Housing shall provide plenty of ventilation, ample space to allow fowl to move freely and an area out of direct sunlight to lay eggs

d. Setback Requirements

- i. No fixed coop or run shall be located nearer than five (5) feet to any principal building, including the principal building on an abutting lot, and no coop or run shall be located nearer than five (5) feet to any side or rear lot line. Side lots in this instance refer to a projected line starting from the front lot line, terminating at the rear lot line parallel five (5) feet from the side lot line.
 - ii. Coops and/or runs are not permitted within 20 feet of a front lot line.
 - iii. Moveable coops (i.e. coops on wheels) and runs are not subject to setback requirements.
 - iv. Any lawfully existing domestic fowl-keeping use or structure in existence prior to the adoption of this Section shall be allowed to continue, as per the zoning code enforcement standards for other pre-existing nonconforming uses and structures. Any future alterations to applicable pre-existing uses or structures shall comply with this section or seek necessary approvals.
 - v. Coop structures shall not interfere with any existing public easements.
- e. Any domestic fowl-keeping use or structure in existence prior to the adoption of this Ordinance shall be allowed to continue, as per the zoning code enforcement standards of other pre-existing nonconforming uses and structures. Any future alterations to applicable pre-existing uses or structures shall seek necessary approvals.

3. Honeybees

- a. Honeybees must be owned, rented, or hosted by a resident, commercial tenant, or owner of the location who shall be responsible for the care and control of the Honeybees.
- b. A maximum of four (4) hives may be kept on a Lot with additional hives pending approval from the Salem Board of Health. Additional Board of Health regulations may further limit the number and/or manner of keeping of honeybees on lot. If an emergency split or rescue of a swarm results in more than four hives on a lot, the Board of Health must be notified within two business days.
- c. Dimensional Regulations
 - i. No Hive shall exceed five (6) feet in height and twenty (25) cubic feet in size on any Lot or roof.
- d. Setback Requirements
 - i. Where there is a solid wall, fence or similar barrier between the subject property and abutting property, no setback from the property line is required. Where there is no wall, fence or similar barrier between subject property and abutting property, Hives shall be set back five (5) feet from the property line.

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- ii. No Hive shall be located closer than ten (10) feet from the lot line dividing the Lot from a sidewalk or street.
- e. Hive Placement and Flyways.
 - i. For any ground level Hive that is within twenty (20) feet of the doors and/or windows of the principal building on an abutting Lot, either of the following conditions must exist:
 - 1. The Hive opening must face away from doors and/or windows of the principal building on an abutting Lot; or
 - 2. A flyway of at least six (6) feet in height comprising of a solid fence, dense hedge or similar barrier must be established in front of the opening of the Hive such that the honeybees fly upward and away from neighboring properties. The flyway shall be located within three (3) feet of the entrance to the Hive and shall extend at least two (2) feet in width on either side of the Hive opening.
- f. Specific Rooftop Beekeeping Requirements.
 - i. Dimensional Regulations.
 - 1. No Hive shall exceed five (6) feet in height and twenty (25) cubic feet in size on any Lot or roof.
 - ii. Setback Requirements
 - 1. Hives shall be set back six (6) feet from the edge of the roof.
 - iii. Hive Placement.
 - 1. For any roof level Hive that is within twenty (20) feet of the doors and/or windows of the principal building on an abutting Lot or a shared access space, the Hive opening must face away from doors and/or windows

4. Yard Farms

- a. Yard farms may be kept on residential properties only.
- b. Ownership, care and control of the farm shall be the responsibility of a resident of the dwelling on the lot.
- c. Land devoted to the Yard Farm shall be well-maintained and free from debris, noxious odor and excessively tall weeds and grass.
- d. Yard farms may include Raised Beds, Arbors, Greenhouses, Hoop Houses and Cold Frames as accessory structures subject to applicable setbacks and dimensional regulations.
- e. All accessory structures shall also be well-maintained in a safe condition.

5. Roof Farms

- a. Ownership, care and control of the roof farm shall be the responsibility of the owner or tenant of Lot.

6. Farm Structures

- a. Farm structures such as arbors, greenhouses, hoop houses and cold frames, shall be allowed as accessory structures subject to the following provisions:
 - i. Green houses are allowed within any rear or side yard up to but not closer than five (5) feet from the Lot line.

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- ii. Arbors, hoop houses and cold frames are allowed within any rear or side yard up to but not closer than one (1) foot from the Lot line.
- iii. Farm Structures shall not exceed a maximum height of 15 feet and cannot be taller than the principal structure on the Lot; the covers shall be removed and stored when plants are not being cultivated or structure is not being used for an urban agricultural use
- iv. Farm structures, when combined with other buildings on the property, shall not exceed the maximum lot coverage by all buildings listed in the Table of Dimensional Requirements.
- v. Farm Structures shall not interfere with any existing public easements.

7. Composting

- a. Composting must be contained within an enclosed bin that does not have direct contact with flammable materials.
- b. Setback Requirements
 - i. Compost bins, structures and windrows shall be set back five (5) feet from all Lot lines.
 - ii. Compost bins, structures and windrows shall not be located in any portion of a yard area that abuts a Street.
- c. Accessory composting shall be used primarily to support onsite operations and shall comprise no more than five (5%) percent of the Lot area.”

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

(#177) – ZONING ORDINANCE AMENDING ENTRANCE CORRIDOR OVERLAY DISTRICT

The Second Passage of a Zoning Ordinance Amendment Relative To Section 8.2 – Entrance Corridor Overlay District Of Section 8.0 Special District Regulations was then taken up. The zoning ordinance 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 an ordinance relative to zoning

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

Section 1. Section 8.2 – Entrance Corridor Overlay District of Section 8.0 Special District Regulations is hereby amended as follows:

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A) Add to the first paragraph Section 8.2.5 – Parking Area - “Trees are a crucial component of the entry corridor, available in a broad range of species and sizes. Shade trees are preferred for their medium to large canopy width and height for a full range of community benefits identified in the tree ordinance, including cooling and stormwater uptake.” Before the sentence “The requirements for such landscaping are as follows:”

B) Delete paragraphs 1 through 3 within Section 8.2.5 Parking Areas in their entirety and replace them with:

“1. Landscaping shall include one (1) medium to large shade tree of three and one-half-inch to four-inch caliper diameter at breast height (DBH) for each three (3) parking spaces unless otherwise waived pursuant to Section 8.2.9 of this section. Trees shall be planted in plant beds bounded by six-inch granite curbing.

2. No plant bed shall be less than fifteen (15) square feet, and no dimension of such plant bed shall be less than forty-two (42) inches, measured from inside face of curb to inside face of curb or wall.

3. A planting strip of no less than forty-two (42) inches wide shall separate vehicles parked face to face in a parking area. Such planting strip shall include one (1) three and one-half-inch to four-inch caliper tree every twenty-seven (27) feet.”

C) Insert a new section

“8.2.9 Design Waivers.

1. Upon the request of the Applicant, the Planning Board may grant a Special Permit pursuant to Section 9.4 to waive the following requirements in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the Entrance Corridor Overlay District. Applicants shall annotate plans to identify this distinction prior to approval.

A. In lieu of the standard three and one-half-inch to four-inch caliper DHB shade trees required per Section 8.2.5(1), the Planning Board may grant a waiver to allow up to 20% of the trees located within an ECOD to be smaller two-inch to three-inch caliper DBH ornamental trees and or container grown multi-stem and hedge species with a corresponding applicant payment to the Tree Replacement fund per Salem Code of Ordinances Ch. 43 Sec. 61, amount to be determined by the Tree Warden.”

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

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(#319A) – ORDINANCE AMENDING VEHICLE FOR HIRE, CH. 44, SEC. 38 – FARES ESTABLISHED

Second Passage of an ordinance to amend an ordinance relative to Ch. 44, Sec. 38 – Vehicle for Hire, Fares Established. The ordinance 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 an Ordinance relative to vehicles for hire

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

Section I. Chapter 44, Sec. 44-38 Fares Established is hereby amended by replacing the one mile or fraction thereof fare of "\$5.50" with "\$7.00" as it appears in the table within this section.

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

On the motion of Councillor McCarthy the meeting adjourned at 8:50 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK