

**CITY OF WOBURN  
NOVEMBER 20, 2012 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE.

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**MAYOR'S COMMUNICATIONS:** None.

**PUBLIC HEARINGS:**

On the petition by Woburn Armory LLC to amend the Zoning Map of the City of Woburn by changing the zoning district for the entire parcel known as 286 Main Street a/k/a 320 Main Street, containing approximately 38,344 square feet of land as shown on a plan by Design Consultants, Inc., entitled "Plan of Land in Woburn, Massachusetts" dated June 23, 2005 from the R-2/B-D zoning districts to the B-D zoning district. PUBLIC HEARING OPENED. A communication dated November 14, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina, LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Woburn Armory LLC/Proposed Amendment to Zoning Map of the City of Woburn

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for November 20, 2012 be further continued to the City Council meeting on December 4, 2012. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

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On the petition by Woburn Armory LLC to amend the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. By revising Section 11.11 entitled "Affordable Housing Requirement" by adding a new Paragraph 8 to Section 11.11 as follows: "8. The City

Council by majority vote, may waive the requirements of this Section 11.11 if the development includes dwelling units in a building deemed "Significant" by the Woburn Historical Commission.", and 2. By revising Section 18.8.2 "Waivers" by adding the following language to the end of Paragraph 18.8.2 as follows: The "period" after "site" shall be deleted and the following language added: "or the renovation, rehabilitation or redevelopment of a building deemed "Significant" by the Woburn Historical Commission.". PUBLIC HEARING OPENED. A communication dated November 14, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina, LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Woburn Armory LLC/Proposed Amendment to the 1985 City of Woburn Zoning Ordinance, as amended

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for November 20, 2012 be further continued to the City Council meeting on December 4, 2012. If you need any further information, please contact me. Thank you. Very truly yours, s/Joseph R. Tarby III

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On the petition by Robert C. McSheffrey, 878 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.23, 5.1.29, 7.3 and 13 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing nonconforming use and structure to relocate the existing Mr. Charlie's from 891 Main Street to 880 Main Street, to allow for 47 parking spaces and for the alteration of the existing nonconforming pylon sign, all at 880 Main Street. PUBLIC HEARING OPENED. A communication dated November 14, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina, LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Robert C. McSheffrey, 880 Main Street, Woburn, Massachusetts (Fast Food Restaurant)

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for November 20, 2012 be further continued to the City Council meeting on December 4, 2012. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

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On the petition by Robert C. McSheffrey, 878 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.45 and 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the sale or rental of automobiles, trucks,

truck trailers and motorcycles and for Second Class Motor Vehicle Sales License, at 880 Main Street. PUBLIC HEARING OPENED. A communication dated November 14, 2012 was received from Attorney Joseph R. Tarby, Murtha Cullina, LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Robert C. McSheffrey, 880 Main Street, Woburn, Massachusetts (Sale of Motor Vehicles)

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for November 20, 2012 be further continued to the City Council meeting on December 4, 2012. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

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On the petition by National Grid for a grant of right in a way to install approximately 250 feet of 2 inch psig PL main from the existing 2 inch PL main in Massachusetts Avenue to serve two new buildings. PUBLIC HEARING OPENED. A communication dated October 26, 2012 was received from Superintendent of Public Works John Duran as follows: "I have no objections to the gas main and associated service being installed in Mass Avenue as shown."

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On the petition by Alderman Anderson concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 18-20 Campbell Street, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED.

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On the petition by Alderman Darlene Mercer-Bruen concerning the structure or structures located at 34 Orange Street a/k/a 29 Hawthorne Street, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED.

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On the petition by Salvatore Turco, 749 Boston Road, Billerica, Massachusetts 01866 for a special permit pursuant to Section 5. 5 of the 1985 Woburn Zoning Ordinances, as amended, to fill greater than 100 cubic yard limit to allow for the construction of a single-

family dwelling with associated driveway and utilities at property Off Silvermine Road identified on Woburn Assessors Map as Map 72, Block 2, Lot 59 and Map 72, Block 7, Lot. PUBLIC HEARING OPENED.

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On the petition by WJP Realty Trust, P.O. Box 2555, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.71 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a commercial parking lot at 210 New Boston Street. PUBLIC HEARING OPENED. A communication dated November 2, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: WJP Realty Trust – 210 New Boston St. – To allow for a commercial parking lot pursuant to Section 5.1.71

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 30, 2012, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of WJP Realty Trust to allow for a commercial parking lot pursuant to Section 5.1.71, regarding the property at 210 New Boston Street subject to the following conditions:

1. That 25 parking spaces shall be provided to meet the parking requirements of the Woburn Zoning Ordinance and to allow the storage of not more than 76 new cars on the lot in accordance with the “Plot Plan 210 New Boston Street, Woburn, Mass.” Prepared by Edward J. Farrell dated July 28, 2012, revised October 24, 2012 provided that the Regulations of the Americans with Disabilities Act and the Massachusetts Architectural Access Board for number and size of handicap parking spaces are met;
2. That the number of cars stored inside the building shall be limited to the number based on the fuel storage permit issued by the Woburn Fire Department;
3. That the storage area within the building for additional cars associated with the 76 new cars on the lot shall be dead storage and no employees or other automotive work shall be allowed in this area of the building;
4. That the separation between uses in the building shall be as required by the Building Commissioner; and
5. That the interior floor drains shall comply with the requirements of the Plumbing Inspector.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A copy of a communication dated October 29, 2012 to Edmund Tarallo, Planning Director was received from Brett F. Gonsalves, Senior Engineer as follows:

Subject: 210 New Boston Street – Commercial Parking Lot Special Permit – Revised Plot Plan Dated October 24, 2012 – Special Permit Application Dated August 9, 2012

The applicant submitted a special permit application to allow for a commercial parking lot at the above referenced location.

The accompanying plot plan shows the location of the existing building as well as the site parking and there does not appear to be site or utility work proposed.

Upon review of the subject materials, this office takes no exception to the special permit application as submitted.

If you or the board have any questions concerning this information, do not hesitate to contact this office.

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On the petition by Peterson Party Center Inc., 139 Swanton Street, Winchester, Massachusetts for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to modify special permits issued August 11, 2011 and January 26, 2012 by deleting the reference to the plan entitled “Proposed Parking Layout” Sheet PK-1 dated November 15, 2011 in Condition 2 and replacing same with the plan filed with this petition entitled “Proposed Parking Layout” Sheet PK-1 dated June 4, 2012 as the plan of record, at 36 Cabot Road. PUBLIC HEARING OPENED.

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On the petition by John W. Collier, 200 Monsignor O’Brien Highway, Cambridge, Massachusetts 02141 for a special permit pursuant to Sections 5.1.2a and 7.3 of the 1985 Woburn Zoning Ordinances, as amended to convert a pre-existing single family dwelling to a two family dwelling at 19 Center Street. PUBLIC HEARING OPENED. A communication dated October 17, 2012 was received from Edmund P. Tarallo, Planning Director as follows:

Re: John W. Collier – 19 Center Street – To allow for the conversion of a pre-existing nonconforming single family house to a two-family pursuant to Section 7.3

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on October 16, 2012, the Planning Board voted to send an unfavorable recommendation to the City Council on the Special Permit application of John W. Collier, regarding the property at 19 Center Street to allow for the conversion of a preexisting nonconforming single family house to a two-family house due to the fact that the lot size is insufficient for a two family house and that exterior stairs are required for the proposed entry to the second apartment.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:**

**FINANCE:**

On the Order to transfer the sum of \$5,751.45 from Inspection Salary Account to Inspections Temp Help Account, committee report was received "ought to pass".

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On the Order to transfer the sum of \$200,000.00 from BLS Receipts Account to Ambulance Salaries Account, committee report was received "ought to pass".

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On the Order for a supplemental appropriation in the sum of \$200,000.00 to Veteran's Cash Aid Account, committee report was received "ought to pass".

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**PUBLIC SAFETY AND LICENSES:**

On the petition by Woburn Foreign Motors, Inc. for renewal of First Class Motor Vehicles Sales License, committee report was received "ought to pass".

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On the petition for renewal of Second Class Motor Vehicles Sales Licenses by Enterprise Rent-a-Car Company of Boston, LLC; David Dellarocco dba Woburn Auto Sales; and David J. Socorelis dba Woburn Glass Co., committee report was received "ought to pass".

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On the petition by Hashem Obaid dba Logan Taxi for a new Livery License, committee report was received "ought not to pass."

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On the petition by 8 Jefferson Realty Trust for transfer of an Inflammable License at 26 Jefferson Avenue previously held by Francis McHugh, committee report was received "ought to pass".

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**NEW PETITIONS:**

Petition for renewal of First Class Motor Vehicle Sales Licenses by C.N. Wood Company, Inc., 200 Merrimac Street; Lannan Chevrolet, Inc., 40 Winn Street and Winn

Street; Lawless Chrysler Jeep, Inc., 196 Lexington Street; M&L Transit Systems, Inc., 60 Olympia Avenue; R.C. Olsen Cadillac, Inc., 199-201 Cambridge Road; and Woodco Machinery, Inc., 22 North Maple Street.

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Petition for renewal of Second Class Motor Vehicles Sales Licenses by ACT Leasing, Inc., 215 Salem Street; Anchor Auto Sales, Inc., 3 Breed Avenue; Capelo's Auto Service, Inc. dba J.C. Auto Sales, 84-86 Winn Street; Capelo's Garage, Inc., 22 Winn Street; EC Inc. dba Xpress Fuels, 505 Main Street; Jefferey Pollock dba Exclusive Automobiles, 7 Independence Drive; Francis Garbino dba Tom's Auto Body, 10R Green Street; George J. Hamilton dba George's Auto Body, 19 Jefferson Avenue; Robert Khouzami, 317 Montvale Avenue; Oliver M. McDermottroe dba McDermottroe Auto Sales, 229 Lexington Street; Larade's Collision Repair Center, Inc., 20 High Street; Robert McSheffrey dba Bob McSheffrey Auto Sales, 891 Main Street; McSheffrey Auto Sales, Inc., 878-880 Main Street; Kenneth L. O'Connor dba City Line Motors, 30 Rear Torrice Drive; Ollies Service Center, 310 Main Street; Nicolas Saba dba Montvale Service, 289 Salem Street; Southside Associates, Inc. dba Burke's Garage, 71 Main Street; Velozo Enterprises, Inc. dba Rogers Radiator, 936 Main Street; Woburn Gas & Service, Inc., 545 Main Street; and Wassim (Sam) Nicolas dba Woburn Square Mobil, 23 Pleasant Street.

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Petition by Woburn Truck and Auto, Inc. for renewal of Third Class Motor Vehicles Sales License.

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Petition by NStar Electric Company for a grant of right in a way to install a new stub pole and anchor guy on Roman Road southerly side approximately 694 feet southeast of Russell Street.

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Petition by NStar Electric Company for a grant of right in a way to install approximately 91 feet of conduit in Middlesex Canal Road northwesterly approximately 215 feet west of Main Street.

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Petition by National Grid for a grant of right in a way to extend gas main 240 feet on Naples Avenue to serve 15 Naples Avenue.

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Petition by John Baldasaro, Manager, IsabellaB LLC, 21G Olympia Avenue, Suite 20, Woburn, Massachusetts 01801 for a special permit pursuant to the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. Pursuant to Section 5.1.43 for outside storage of earthen materials and paving materials used, or recovered for recycling, in connection with Petitioner's commercial paving and site preparation business, and 2. Pursuant to Section 5.1.57b for accessory storage and parking of commercial contractor trucks, other vehicles and equipment in designated parking spaces on the premises, both at 210 New Boston Street.

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Petition by Woburn Auto Sales LLC, P.O. Box 158, North Billerica, Massachusetts 01862 for a special permit pursuant to Sections 5.1.45 and 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the sale or rental of automobiles, trucks, truck trailers and motorcycles and for a Second Class Motor Vehicles Sales License at 1095R Main Street.

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Petition by R.C. Olsen Cadillac, Inc., 201 Cambridge Road, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.71 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a commercial parking lot at 304 Cambridge Road.

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Petition by R.C. Olsen Cadillac, Inc., 201 Cambridge Road, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.7.71 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a commercial parking lot at 280 Salem Street.

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Petition by Ambius, Inc., 485 Half Day Road, Suite 450, Buffalo Grove, Illinois 60089-8809 for a special permit pursuant to Section 5.1.57b of the 1985 Woburn Zoning Ordinances, as amended, to allow for the overnight parking of petitioner's commercial vehicles at 27 Draper Street.

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**COMMUNICATIONS AND REPORTS:**

A communication dated October 19, 2012 was received from Charles L. O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending September 2012: number of parking violations issued 654, number of violations paid 294, number of violations outstanding 263, amount collected and submitted to the Office of the Collector \$25,560.80. There exists a backlog of 5,857 tickets for 1982 through 2011. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$3,850.00.

Respectfully submitted, s/Charles L. O'Connor, Parking Clerk City of Woburn

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A communication dated October 26, 2012 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging for the month of October.

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A communication dated November 13, 2012 was received from the Traffic Commission as follows:

Re: Traffic Safety Improvements at Intersection of Green Street and Nashua Street

The Woburn Traffic Commission has been reviewing a request for traffic safety improvements at the intersection of Green Street and Nashua Street.

At its meeting on October 18, 2012, the City Engineer, who is also a member of the Traffic Commission, indicated that a conceptual plan of the intersection was prepared several years ago and that improvements can be made without the necessity of land takings. The Traffic Commission voted at the meeting to refer the matter to the City Council with a request to fund the roadway improvements. The plan of the intersection can be obtained from the Office of the City Engineer. Not cost analysis was calculated or provided by the Traffic Commission.

Thank you for your attention to this matter.

s/William C. Campbell, City Clerk

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A communication dated October 26, 2012 was received from Margo Ranger, of Wakefield, Massachusetts requesting that the city consider erecting a directional sign indicating the location of the emergency veterinary hospital on Cabot Road.

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**UNFINISHED BUSINESS OF PRECEDING MEETING:**

Review of Order entered pursuant to M.G.L. Chapter 139, Section 1, et. seq. relative to the property located at 6-8 Robinlea Circle.

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**APPOINTMENTS AND ELECTIONS:** None.

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**MOTIONS, ORDERS AND RESOLUTIONS:**

From the Traffic Commission:

**ORDERED** VALLEY ROAD – no parking from the intersection with Pleasant Street on the westerly side a distance of 40 feet.

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From the Traffic Commission:

**ORDERED** VALLEY ROAD – no parking from the intersection with Harrison Avenue on the easterly side a distance of approximately 150 feet.

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From the Traffic Commission:

ORDERED CAMPBELL STREET – Regulation establishing a handicapped parking space at 46 Campbell Street effective February 23, 2011 is hereby repealed.

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ORDERED Whereas, M.G.L. Chapter 40A, Section 6 provides that “A zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more.”; and

Whereas, Section 7.4 of the Woburn Zoning Code regulates uses and structures abandoned or not used for a period of one year; and

Whereas, the Section 7.4 of the Woburn Zoning Code needs to be amended to be in compliance with the General Laws;

Now therefore, be it Ordained by the City Council of the City of Woburn that the following shall be adopted as Section 7.4 in place of the existing Section 7.4 of the 1985 Woburn Zoning Code, as amended:

#### 7.4 Abandonment/Non-use

No nonconforming use or structure shall be reinstated once it is abandoned or once it is not used for a period of two (2) years.

s/Alderman Anderson

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ORDERED Be it Ordained by the City Council of the City of Woburn that Section 2, Definitions, of the 1985 Woburn Zoning Ordinances as amended, be further amended by adding the definition “MEDICAL MARIJUANA TREATMENT CENTER” between the definition of “Massage Therapist” and “Menu Board/Order Board” as follows:

**MEDICAL MARIJUANA TREATMENT CENTER:** An establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies, for medical purposes;

and further, to amend Section 5.1 – Table of Use Regulations of the 1985 Woburn Zoning Ordinances, as amended, by inserting a new line “33c MEDICAL MARIJUANA TREATMENT CENTER” after “33b Muscular Therapy” as follows:

		R-1	R-2	R-3	R-4	B-N	B-H	B-D	B-1	I-P	IP-2	I-G	S-1	S-2	O-P	OP-93	O-S	Notes
33c	MEDICAL MARIJUANA TREATMENT CENTER	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	19b

and to further amend Section 5.1, Table of Use Regulations by adding Note 19b as follows:

19b. No MEDICAL MARIJUANA TREATMENT CENTER shall be allowed:

- A. Within one thousand feet of a residential zoning district, public or private school, or church or other structure used in whole or in part all the time or part of the time for religious or spiritual services;
- B. Within one thousand feet of any facility where large numbers of minors regularly congregate;
- C. Within two thousand feet of a public park, playground, nursery school or day care center.

s/Alderman Anderson, President Denaro  
and Alderman Haggerthy

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**ORDERED**

Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Municipal Code, as amended, be further amended by deleting Title 6, Animals, and inserting in its place the following new Title 6, Animal Control:

**I. REGULATION OF CONDUCT - DOGS**

**6-1 Authority and Purpose**

This Article is adopted pursuant to the authority of M.G.L. c.140, §§136A to 137A, inclusive, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this Article is to establish regulations for the keeping of dogs in the City of Woburn. The definitions of all words and terms used herein shall be as set forth in M.G.L. c.140, §§136A to 137A.

**6-2 Restraint of Dogs (leash law)**

The owner, keeper, or person otherwise in control of a dog shall not suffer or allow it to run at large in any of the streets or public places in the City, or upon the premises of any person other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be

on private property of another, unless specific permission has been granted. No dog shall be permitted in any public street or place within the City unless it is effectively restrained by a chain or leash not exceeding eight (8) feet in length.

### 6-3 Impoundment

Included within his/her authority to impound a dog, the Animal Control Officer has the authority to impound a dog found running at large in violation of Section 6-1. The Animal Control Officer, upon apprehending any dog, shall make a complete registry, entering the breed, color and sex of such dog, its license number, and the name and address of the owner, if known. If the owner of an impounded dog is known, such owner shall be given notice of the impounding. Such owner may reclaim the dog upon payment of a \$100 administrative fee, together with any unpaid license fees, late fees, and fines, as well as the reasonable costs incurred by the City for impounding and maintaining the dog.

### 6-4 Removal and Proper Disposal of Dog Feces

The owner, keeper or person otherwise in control of a dog shall immediately pick up and properly dispose of any feces left by such dog on any street, sidewalk, or other public area, or on any private property that is not owned or occupied by such person. Any person who takes a dog onto a street, sidewalk, or other public place shall carry a container, tool, implement or other device to be used for picking up and containing dog feces and the person shall dispose of said dog feces in a designated receptacle or otherwise properly. The provisions of this section shall not apply to a person who employs a "service dog" as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

### 6-5 Prohibited Behavior

The owner, keeper, or person otherwise in control of a dog shall not cause or permit a dog:

- a. To be unrestrained as required by Section 6-1;
- b. To be unlicensed when a license is required by law.
- c. To be without current license and rabies vaccination tags when off the owner's property.
- d. To bite, physically injure, assault or threaten any person, without legally-recognized justification or provocation.
- e. To bite or physically injure any domestic animal, without legally recognized justification or provocation.
- f. To chase any motorist, bicyclist, or pedestrian on any public way, street, or sidewalk or in any public place.
- g. To be off the property where the dog resides, if subject to a confinement order.
- h. To be off the property where the dog resides, unmuzzled, if subject to a muzzle order.
- i. To disturb the peace and quiet enjoyment of any residential neighborhood by continuous or repeated barking, yelping, howling, or whining, without legal justification.

- j. To be present on school or cemetery property.

#### 6-6 Confinement or Muzzling

The Chief of Police or his designee may order a dog confined to the premises where it resides or to other premises or to be muzzled when off said premises if he finds, after a hearing that the dog has:

- a. Bitten, physically injured or assaulted any person, without legally recognized justification or provocation.
- b. Bitten or physically injured any domestic animal, without legally recognized justification or provocation.
- c. Chased any motorist, bicyclist or pedestrian on any public way, street, or sidewalk or in any public place on at least two occasions.

Said order may be in addition to or in lieu of any fine authorized by Section 6-7.

Nothing in this section shall preclude the Chief of Police from utilizing the procedure contained in M.G.L. c. 140, §57, as amended by Chapter 193 of the Legislative Acts of 2012, to determine that a dog is a nuisance dog or a dangerous dog and from employing one or another of the remedies specified in that statute.

#### 6-7 Penalties and Enforcement

The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each violation of this title as follows:

1. For a violation of Section 6-5(d) or (e):
  - a. First offense: \$100
  - b. Second offense: \$200
  - c. Third and subsequent offense: \$300
2. For all other violations of Section 6-5:
  - a. First offense: \$ 50
  - b. Second offense: \$100
  - c. Third and subsequent offense: \$150

In the case of a continuing offense, each day shall constitute a separate violation.

#### 6-8 Unpaid Tickets – Municipal Charges Lien

The ACO shall maintain a record of all tickets issued which remain unpaid, and submit a quarterly report thereof to the Treasurer/Collector for inclusion in the list of municipal charges liens in accordance with Title 3, Article IV, Section 3-24 and Article VI of the Woburn Municipal Code.

#### 6-9 Non-Waiver of Statutory Remedies

The provisions of this title are intended to be in addition to and not in lieu of those contained in M.G.L. c.140, §§136A, et seq., as amended by Chapter 193 of Legislative Acts of 2012; nothing contained in this title shall deprive the City from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in §157 of c.140, as amended.

To the maximum extent possible, the provisions of this title shall be deemed to be consistent with and/or supplemental to those contained in M.G.L. c.140, as provided in §§173 and 173A, as amended.

6-10. License Period

Any person owning, harboring or having custody (keeper) or control of a dog shall license said dog annually for the period beginning January 1 of each year. Renewal of licenses must be obtained by March 15th of the following year. If a dog remains unlicensed after March 15, the owner shall be fined the sum of \$15.00 in addition to the original license fee.

6-11. License required; rabies vaccination.

The owner or keeper of a dog six months old or over shall cause it to be registered, numbered, described and licensed with the City Clerk. Proof of rabies vaccination shall be shown at the time of issuing the license.

6-12. License fees

Fees for licenses shall, except as otherwise provided, be as follows:

A. The fee for every dog license shall be:

Ten dollars (\$10.00) for every spayed or neutered dog.

Fifteen dollars (\$15.00) for every intact (unspayed or unneutered) dog.

There shall be no licensing fee for “service dogs” as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

Proof of spaying or neutering shall be shown at the time of licensing.

6-13. Charge for lost tags

The charge for replacing lost dog tags shall be \$3.

6-14. Kennel licenses; fees

The fee for each kennel license shall be as follows:

Forty dollars (\$40.00) for kennels with 4 dogs or less;

Eighty dollars (\$80.00) for kennels with 5 – 10 dogs;

One hundred fifty dollars (\$150.00) for kennels with 11 dogs or more, but not more than 25 dogs.

6-15. Kennel Inspections

Regular kennel inspections shall be conducted no less than twice each year by the Animal Control Officer.

6-16. Collection and Disposition of Fees

The City Clerk shall issue dog licenses and tags and collect the appropriate fees and turn all moneys over to the Treasurer/Collector on a weekly basis.

6-17. Adoption Requirements and Conditions

A dog which has been kept by the Animal Control Officer for seven (7) days and remains unclaimed shall become available for adoption. A dog adopted from a pound or shelter may be sold for not less than \$25.00. Monies so received shall be paid forthwith to the Treasurer/Collector. A condition of sale, before delivery of any dog so sold, shall require the purchaser to license the dog and certify in writing the intention to spay or neuter the animal within ninety (90) days.

6-18. Penalty and Enforcement

The Police Chief and his designee, including the Animal Control Officer, and any Woburn Police Officer shall have authority to enforce the provisions of this title. Any alleged violation of this ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

## II. MISCELLANEOUS ANIMAL REGULATIONS

6-19 Feeding or baiting of migratory waterfowl

- A. No person, except the Director of the Division of Fisheries and Wildlife, or his agent, designee, as authorized pursuant to Chapter 131 of the General Laws, shall feed or bait any WATERFOWL or of the family of Anatidae (including, but not restricted to ducks, geese and swans) at any place within the City of Woburn. As used in this paragraph, “feeding” and “baiting” shall mean placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled, shucked, or unshucked corn, wheat, or other grain, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed, or scattered.
- B. Nothing in this ordinance shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Marine Fisheries and Wildlife, by a farmer as defined in M.G.L. c.128, §1A on property owned or

leased by him, or the feeding of waterfowl or other birds by propagators licensed under M.G.L. c.131, §23 when such waterfowl or other birds are confined in such a manner as may be required pursuant to said §23 and any Rules and Regulations issued under authority thereof; or the feeding by any person or his agents, invitees or licenses of waterfowl lawfully kept as a pet by that person.

- C. Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife, or his agent, designee, may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the City Council thereof by first class mail.

6-20. Penalty and Enforcement

Any person who violates any provision of this ordinance shall be subject to a fine of Five Dollars (\$5.00) for each offense thereof. The Police Chief and his designee, including the Animal Control Officer, or any Woburn Police Officer shall have authority to enforce the provisions of this article. Any alleged violation of this ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

s/Alderman Anderson and President Denaro

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ORDERED

Be it ordained by the City Council of the City of Woburn that the 1989 Woburn Municipal Code, as amended, be further amended by deleting in their entirety Article V and Article VIII of Title 15, Buildings and Construction, and inserting in place thereof a new Article V, Demolition Delay – The Preservation of Historically Significant Buildings and Structures, as follows:

V. DEMOLITION DELAY – THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS AND STRUCTURES

15-15 Intent and Purpose

This Ordinance is enacted for the purpose of preserving and protecting Significant Buildings within the City which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the City and to limit the detrimental effect of demolition on the character of the City. Through this Ordinance, owners of Preferably Preserved Buildings or Structures are encouraged to seek out alternative options that will preserve, rehabilitate or

restore such Buildings or Structures, and residents of the City are alerted to impending demolitions of Significant Buildings. By preserving and protecting Significant Buildings, streetscapes and neighborhoods, this Ordinance promotes the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Commissioner with respect to Demolition Permit applications. The issuance of Demolition Permits is regulated as provided by this Ordinance.

#### 15-16 Definitions

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

APPLICATION: An application for the demolition of a Building.

BUILDING: A combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently in or on the ground forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER: The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

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

COMMISSION: The Woburn Historical Commission.

DEMOLITION: Any act of pulling down, destroying, removing, dismantling or razing a Building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION BY NEGLIGENCE - A process of ongoing damage to the fabric, viability and/or functionality of a Building or Structure leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the Building or Structure from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

DEMOLITION PERMIT: The Building permit issued by the Building Commissioner for a demolition of a Building or Structure, excluding a Building Permit issued solely for the demolition of the interior of a Building or Structure.

PREFERABLY PRESERVED: Any significant Building or Structure which the Commission determines, following a public hearing, is in the public interest to be preserved rather than demolished. A preferably preserved Building or Structure is subject to the twelve month demolition delay period of this Ordinance.

SIGNIFICANT BUILDING or STRUCTURE: Any Building or Structure within the City which is in whole or in part seventy-five (75) years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- is listed on, or is within an area listed on, the National Register of Historic Places; or
- has been found eligible for the National Register of Historic Places; or
- is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth; or
- is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of Buildings or Structures.

STRUCTURE: A fixed combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently in or on the ground for a purpose other than creating shelter for persons, animals or property.

#### 15-17 Procedure

No permit for the demolition of a Building or Structure which is in whole or in part more than seventy-five (75) years old shall be issued without following the provisions of this Ordinance. For the purposes of this Ordinance, if a Building or Structure is of unknown age, it shall be assumed to be older than seventy-five (75) years.

1. An Applicant proposing to demolish a Building or Structure subject to this Ordinance shall file with the Building Commissioner an application containing the following information:
  - The address of the Building or Structure to be demolished.
  - The owner's name, address and telephone number.
  - A description of the Building or Structure.
  - The reason for requesting a Demolition Permit.
  - A brief description of the proposed reuse, reconstruction or replacement.
  - A photograph or photograph(s) of the Building or Structure.

An application will be considered “complete” only when accompanied by all of the aforementioned materials/information, together with the filing fee.

2. The Building Commissioner shall forward a copy of the completed application to the Commission within seven (7) business days of his/her receipt thereof. The Commission shall within fifteen (15) business days after its receipt of the completed application, make a written determination of whether the Building or Structure is significant.
3. If the Commission determines that the Building or Structure is not significant, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Demolition Permit.
4. If the Commission determines that the Building or Structure is significant, the Commission shall so notify the Building Commissioner and the Applicant in writing. No Demolition Permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen (15) business days of its receipt of the completed application, the Building Commissioner may proceed to issue the Demolition Permit.
5. If the Commission finds that the Building or Structure is significant, it shall hold a public hearing within forty-five (45) days after the filing of the completed application with the Building Commissioner. The Commission shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper one time at least seven (7) business days before said hearing. A copy of said notice shall be mailed to the Applicant, to the owners of all abutting property as they appear on the most recent tax list, to the Building Commissioner, Planning Board and if applicable, the Conservation Commission.
6. The Applicant shall bear all costs for the publication of notice.
7. If, after such hearing, the Commission determines that the demolition of the Significant Building or Structure would not be detrimental to the historical or architectural heritage or resources of the City, or where less than a complete demolition is being proposed such that the work to be done will not materially diminish its historical significance, the Commission shall so notify the Applicant and the Building Commissioner within ten (10) business days of such determination. The Building Commissioner may then proceed to issue the Demolition Permit in accordance with applicable law.
8. If the Commission fails to hold a public hearing within forty-five (45) days of the day the completed Application was filed with the Building Commissioner or, if the Commission fails to make a decision within ten (10) business days following said hearing, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, rules and regulations, issue the Demolition Permit.

9. If agreed to in writing by the Applicant, the determination of the Commission may be postponed.
10. If the Commission determines that the Building or Structure should be Preferably Preserved, the Commission shall notify the Building Commissioner and Applicant in writing. No Demolition Permit may then be issued for a period of twelve (12) months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty one (21) days of the public hearing, the Building Commissioner may issue the Demolition Permit.
11. Notwithstanding the preceding sentence, the Building Commissioner may issue a Demolition Permit for a "Preferably Preserved Significant Building or Structure" at any time after receipt of written advice from the Commission to the effect that the Commission is satisfied that bona fide and reasonable efforts have been made to locate a purchaser willing to preserve, rehabilitate and restore the subject Building or Structure, and that such efforts have been unsuccessful or, if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this Ordinance is served even with the issuance of the Demolition Permit or the Building Permit.

#### 15-18 Alternatives to Demolition

- A. If the Commission imposes a demolition delay as set forth in Section 15-17 and/or if alternatives to demolition are developed in the public hearing which are acceptable to the Applicant and/or owner, then the Commission is hereby empowered, in its discretion, to enter into an agreement with such Applicant and/or owner providing for such alternatives and a time period for implementation of same.
- B. A copy of said agreement shall be filed with the Building Commissioner and any other applicable City agency, and thereafter no work shall be done on the Building or Structure except in accordance with the terms of said agreement unless and until a new Demolition Permit application is filed and processed hereunder.

#### 15-19 Minimum Maintenance of Significant Buildings/Demolition by Neglect

- A. Significant Building or Structure shall be maintained in a weather tight condition so as to prevent water intrusion into any portion of the Building or Structure and to prevent Demolition by Neglect, including but not limited to maintenance of the roofing, siding, windows, doors, trim and other architectural features. Maintenance shall also include the replacement or repair of any structural element or exterior architectural feature that if left unattended would result in further damage or degradation to any element thereof.

- B. If the Commission has reason to believe, through visual inspection or other means that a Significant Building or Structure may be undergoing Demolition by Neglect then the Commission shall notify the Building Commissioner and the owner. The Commission shall hold a public hearing to determine whether or not the Significant Building or Structure is undergoing Demolition by Neglect. In furtherance of determining its condition, the Commission may, at any time, request an inspection of the Building or Structure by the Building Commissioner. If the Commission determines that the Significant Building or Structure is undergoing Demolition by Neglect, the Commission shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the Significant Building or Structure and/or prevent further deterioration.
  
- C. In the event that the Commission is unable to negotiate such an agreement with the owner, or the owner has agreed to undertake but has failed satisfactorily to complete such repairs in a timely manner, the Commission shall state in writing the findings of fact in support of such determination of violation of this Section and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within a time to be specified in the written decision those features of the Building or Structure that do not comply with Section 15-19(A)
  
- D. The Commission's determination may be appealed to the Woburn Board of Appeals by, a written application filed by the aggrieved party with the City Clerk within ten (10) business days following receipt of the Commission's order. A hearing on the appeal shall be held within sixty (60) days of the written application.
  
- E. If, after the allotted time period has expired and after the hearing of an appeal, if any, the owner or person with an interest in property has failed to meet the requirements of Section 15-19(A), the City may enter the property, subject to applicable law, to correct the violations of this Ordinance. The City shall charge the expenses incurred in doing such work or having work done or improvements made to the owner of record of such property. If such work is done or improvement made at the expense of the City then such expenses shall be assessed as a lien on the real estate upon which such expense was incurred. Subject to applicable law, the City is authorized to enter upon private property at all reasonable hours for the purpose of completing the work necessary for correcting the violations of this section. The Commission may forbear from commencing an action in court for any reason.
  
- F. Upon completion of all repairs that have been agreed upon between the owner and the Commission, that have been ordered by the Commission, or that have been ordered by the court, and upon certification by the Building Commissioner that said repairs have been completed, the Commission shall certify that the Structure is no longer undergoing Demolition by Neglect.

- G. The Commission may grant a waiver from the requirements of this Section upon a showing of impossibility, or financial hardship, or the occurrence of events beyond the owner's control, or such other circumstances as the Commission may determine.
- H. Nothing in this Ordinance shall be construed to require a property to be renovated or restored to original conditions.

15-20 Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this Ordinance.

The Commission is authorized to adopt a schedule of reasonable fees to be borne by an Applicant to cover the costs associated with the administration of this Ordinance.

15-21 Emergency Demolition

Nothing in this Ordinance shall be construed to prevent the demolition of any Building or Structure or portion thereof which the Building Commissioner shall certify is required by public safety because of an unsafe or dangerous condition. However, the Building Commissioner shall endeavor to notify the Commission of his intention to cause or permit such demolition as early as possible.

15-22 Enforcement and Remedies

The provisions of this Section may be enforced by the Commission or the Building Commissioner, by noncriminal disposition pursuant to M.G.L. c.40, § 21D. Any owner of a Building subject to this Ordinance that demolishes the Building without first obtaining a demolition permit in accordance with the provisions of this Ordinance shall be subject to a fine of Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until the demolished Building is re-created, restored, rebuilt or otherwise agreed to by the Commission.

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all other actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this Ordinance or to prevent a threatened violation thereof.

If a Building subject to this Ordinance is demolished without first obtaining a demolition permit, no Building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control.

15-23 Historic District Act

Nothing in this Ordinance shall be deemed to conflict with the provisions of the Historic Districts Act, M.G.L. c.40C, with respect to requirements as to notice, a hearing and issuance by a Historic District Commission of a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship prior to demolition of any Building in an historic district, provided, however, that any temporary Building erected or maintained in an historic district pursuant to a certificate issued by the Historic District Commission may be demolished in a manner not inconsistent with the terms of said certificate.

15-24 Severability

In the event that any section, paragraph or part of this Ordinance is for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

s/Alderman Raymond

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ORDERED

Be it ordained by the City Council of the City of Woburn that the Woburn Municipal Code be amended by inserting into Title 15, Buildings and Construction, and a new Article VIII, Nuisance Control, as follows:

ARTICLE VIII - NUISANCE CONTROL

I. CONDITION OF PROPERTY

15-35 Purpose

Inadequately maintained residential or commercial/business buildings are at an increased risk for fire, unlawful entry, or other public health and safety hazards. This Ordinance is adopted to protect the health, safety, and welfare of the citizens of Woburn by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring the safety and sanitary maintenance of all buildings and structure by requiring all property owners, including lenders, trustees and service companies and the like, to properly maintain their respective properties in good repair and in a safe and sanitary condition, and to impose penalties on and collect from property owners and other responsible persons for the nuisances and harm caused by conduct that rises to the level of nuisance activity as provided herein. Nothing herein shall prevent the City from using the authority and procedures in any other provision of the charter, City Ordinance or Massachusetts General Laws.

15-36 Definitions

Blight: Any condition constituting a nuisance as described in Section 15-37 below that seriously impairs the value, condition, strength, durability or appearance of real property, including real property owned or occupied by an Interested Party as defined below.

Building: A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, of a combination of any materials, to form shelter for persons, animals, or property. See “structure” below.

Premises: Any residence or other private property, place, or location, including commercial or business property.

Dilapidated: A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to: Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors; Property having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection or other protective covering; Personal property that is broken, rusted, worn, partially or wholly dismantled or otherwise due to deterioration and is unsuitable for the purpose for which designed.

Hazard: A condition likely to expose persons to injury, or property to damage, loss or destruction.

Interested Parties: In connection with the notification requirements of this Ordinance, the Building Commissioner; owner(s) and/or occupants of property which is the subject of a hearing; any known agent of an owner, lessee, or tenant; any known person holding an unrecorded contract for deed, being a mortgagee or vendee in physical possession of the building; owners and/or occupants of property directly opposite the subject property on any public or private street or way, owners and/or occupants of property abutting the subject property, and owners and/or occupants of property abutting such abutting property within 300 feet. Other persons who own or occupy property and who demonstrate to the satisfaction of the Building Commissioner that they are affected by the condition of the property or building that is the subject of a hearing may be regarded as Interested Parties for purposes of this Ordinance.

Nuisance: See Section 15-37 below.

Nuisance Event or Condition: See Section 15-44 below.

Chronic Nuisance Property: Property on which a combination of three or more nuisance events or activities occur or exist during any period of time not to exceed six (6) months;

Occupant: A person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.

Owner: Every person entity, service company, or property manager, who alone or severally with others:

- a. has legal or equitable title to any building, structure or property or parcel of land vacant or otherwise;
- b. control of any such building, structure or property or parcel of land vacant or otherwise in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, guardian or conservator of the estate of the holder of legal title; or as life tenant;
- c. is a lessee under a written lease agreement;
- d. is a mortgagee in possession;
- e. is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property;
- f. is an officer or trustee of the association of unit owners of a condominium;
- g. the operator of a lodging house;
- h. is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

Structure: A combination of materials, whether wholly or partially level with, above or below, the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, (see above), framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.

Vacant Property: Any property that is unoccupied for a period greater than one hundred eighty (180) consecutive days by the person or persons with legal right to occupancy thereof, except for bona fide temporary absences.

Personal service: Service of any Notice required by this Ordinance shall be made:

- a. To an Individual: Service by personally handing a copy of the Notice to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion, or by leaving at the intended recipient's last and usual place of abode together with mailing to the same address via first class mail.
- b. Upon a domestic corporation (public or private), a foreign corporation subject to suit within the Commonwealth, or an unincorporated association subject to suit within the Commonwealth under a common name: by delivering a copy of Notice, to a managing or general agent, or to the person in charge of the business at the principal place of business thereof within the Commonwealth, if any; or by delivering such Notice to any other agent authorized by appointment or by law to receive service of process, provided that any further notice required by law be given.
- c. In the event that the Notice cannot be served as set forth in subparagraphs (b) or (c), Service may be made to an Owner by mailing, first class mail, postage prepaid, to the mailing address on record with the City Assessor's Office.

Last known address: the address shown on the records of the City Assessor's Office or a more recent address known to the police department. In the case of parties not listed in these records, the last known address shall be that address obtained by the police department after a reasonable search. If no address can be found, such address shall be that of the building in which the nuisance occurred, or was maintained or permitted.

#### 15-37 Nuisances Prohibited

It shall be a violation of this Ordinance to maintain, cause or create a nuisance which substantially interferes with the common interest of the general public in the maintenance of decent, safe, and sanitary buildings or structures that are not dilapidated, and neighborhoods, when such interference results from the hazardous or blighted condition of private property, land or buildings. The fact that a particular structure or use may be permitted under the zoning Ordinance does not create an exemption from the application of this Ordinance. The existence of a nuisance may be demonstrated by any of the following conditions:

- a. burned buildings or structures not otherwise lawfully habitable or usable;
- b. dilapidated real or personal property;
- c. dangerous or unsafe buildings or structures or personal property;
- d. overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values;
- e. dead, decayed, diseased or hazardous trees, shrubs or any vegetation that pose a hazard to the health and safety of any person in the vicinity of the property or which is otherwise detrimental to neighboring properties or property values;
- f. vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that may result in the destruction of vegetation or contamination of soil.
- g. accumulation of litter, rubbish, debris or trash;
- h. personal property which has been placed for collection as rubbish or refuse in violation of any rule or regulation of the Board of Health, or left in public view for more than three (3) days.
- i. the exterior storage or accumulation of junk, trash, litter, bottles, cans, rubbish, or refuse of any kind, except for domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed fifteen (15) days. The term "junk" shall include parts of machinery or motor vehicles, used stoves, refrigerators, or other cast off material of any kind whether or not the same could be put to any reasonable use.
- j. the storage of building materials upon residential property unless there is in force a valid building permit issued for construction upon said property and said materials are intended for use in connection with said construction. Building materials shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, nails, screws, steel, or any other materials commonly used in constructing any structure.

- k. gravel, rocks, and dirt piles stored by the owner for purposes of construction and/or landscaping and said item(s) remain stored for more than twelve months upon the owner's premises.

#### 15-38 Maintenance of Vacant Properties - Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

- a. maintain vacant properties in accordance with the relevant sanitary, building, and fire codes;
- b. secure vacant properties so as to prevent unauthorized entry and exposure to the elements;
- c. maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features;
- d. repair or replace broken windows or doors. The boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty (30) days; and
- e. for properties vacant for six months or more, the utilities must be shut off, removed or cut and capped to prevent accidents.

Compliance with this Section shall not relieve the owner of any applicable obligations set forth in any other code, regulation, covenant condition or restriction, and/or homeowner or condominium association rules and regulations.

#### 15-39 Enforcement

- a. The Building Commissioner shall be charged with the enforcement of this Ordinance. If the Building Commissioner shall be informed or have reason to believe that any provision of this Ordinance has been, is being, or is likely to be violated, he shall make or cause to be made an investigation of the facts, including an investigation of the property where the violation may exist. If he finds any violation he shall give immediate notice in writing to the Owner and to the occupant of the premises to immediately cease such violation.
- b. In conducting investigations, the Building Commissioner shall coordinate inspections by and among the Board of Health, the Police Chief and the Fire Chief, or their designees, as the Building Commissioner deems appropriate to ensure that this Ordinance is enforced.
- c. In making such inspection, the Building Commissioner, and/or the Board of Health, the Police Chief and the Fire Chief, shall have such right of access to premises that may be lawfully exercised by him under the laws and constitution of the Commonwealth or of the United States.
- d. If the Building Commissioner determines that the condition is subject to the jurisdiction of the Board of Health or is a violation of the State Sanitary Code or any health regulation, in addition to enforcing this Ordinance, he shall refer the matter to

the Board of Health of the City or any other appropriate state or City officials for action.

- e. If, after such notice and order, such violation continues, or if any Owner or Occupant fails to obey an order of the Building Commissioner with respect to any violation of this Ordinance, the Building Commissioner may make complaint to the Superior Court or any court of competent jurisdiction seeking an injunction or order restraining any further use of the premises and the continuation of the violation, and shall take such other action as is necessary to enforce the provisions of this Ordinance. In addition to the foregoing remedy, whoever violates any provision of this Ordinance or fails to obey any lawful order issued by the Building Commissioner in enforcing this Ordinance shall be liable to a fine of three hundred (\$300.00) for each violation. Each violation of this Ordinance shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense.
- f. The Building Commissioner may require disclosure to him/her of the identity of the person bringing a complaint of nuisance. The Building Commissioner may require that such complaint be made under oath or subject to the penalties of perjury. If the Building Commissioner determines that a reported condition may warrant immediate action, constitute a substantial violation of this Ordinance, or adversely affect protected interests of others than the complainant, the Building Commissioner may commence action under this Ordinance without requiring the disclosure of the identity of the complainant. During his investigation of the matter, the Building Commissioner may consult, but is not required to do so, with any Interested Party in an attempt to obtain voluntary compliance with this Ordinance without the need to issue a notice of violation.

#### 15-40 Notice to Complainant

In any matter in which a complaint has been made by a person other than the Building Commissioner, the Building Commissioner shall promptly notify the complainant in advance of all conferences or proceedings concerning resolution of the nuisance complaint or of any enforcement action and the complainant shall be allowed to be present and to be heard.

#### 15-41 Other Action

- a. The remedies provided herein are in addition to, and not in lieu of, any other remedies that may be available to the City including, but not limited to those remedies available to the City Council as provided in M.G.L. c.139. The City Council may pursue those remedies before, during, or after any enforcement action pursued by the Building Commissioner. The disposition by the City Council pursuant to M.G.L. c.139 shall not relieve the complainant of any action or fees otherwise imposed or assessed pursuant to this Ordinance.
- b. If the Building Commissioner determines the Property to be unsafe, he may act immediately in accordance with the State Building Code to protect public safety.
- c. Nothing in this Ordinance shall pre-empt or abrogate the powers and/or duties pursuant to any general statutory authority including, without limitation, M.G.L. c.139, §1 et seq., M.G.L. c.143, §6 et seq., M.G.L. c.148 and the Massachusetts Comprehensive Fire Safety Code as provided in 527 C.M.R.

#### 15-42 Reports by Building Commissioner

The Building Commissioner shall file quarterly with the City Council, (on or before January 15, April 15, July 15 and October 15) a report that shall include all complaints of nuisance made to him during the prior quarter; all proceedings begun by him under this Ordinance; all pending complaints and all investigations and enforcement actions taken by him or referred to the Board of Health. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the Responsible Party(ies), and the disposition or the status of the matter.

## II. NUISANCE ACTIVITY

#### 15-43 Nuisance Event or Condition

Nuisance Event or Condition means one or more of the following behavioral incidents occurring or committed within a building or upon premises:

- a. Maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;
- b. Actions which result in the arrest for a Crime Against the Person as provided in Massachusetts General Laws Chapter 265, Crimes Against Property as provided in Massachusetts General Laws Chapter 266 and Crimes Against Chastity, Morality, Decency and Good Order as provided in Massachusetts General Laws Chapter 272;
- c. Actions which result in arrest for Prostitution or prostitution-related activity committed within the building;
- d. Actions which result in arrest for gambling or gambling-related activity committed within the building.
- e. Actions which result in arrest for unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;
- f. Actions which result in arrest for unlicensed sales of alcoholic beverages committed within the building;
- g. Actions which result in arrest for unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building or unlawful consumption or possession within the building by persons under the age of 21 years in;
- h. Actions which result in arrest for unlawful use or possession of a firearm;
- i. Activity that creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood including, but not limited to, any one or a combination of the activity set forth in Paragraphs a-h, excessive noise and excessive pedestrian and vehicular traffic related thereto, obstruction of public ways or sidewalks by crowds, vehicles, trash or refuse, illegal parking, public urination, the service of alcohol to underage persons, public consumption of alcohol, fighting, disturbances of the peace, and littering.

#### 15-45 Violation

Any property within the city which is a chronic nuisance property is in violation of this section and subject to its remedies

#### 15-46 Notice of Nuisance Event or Condition

In the event the Chief of Police or his designee have determined that a Nuisance Event or Condition exists, has occurred, or is maintained or permitted in a building, or on a property, and that the property constitutes a chronic nuisance property, then he shall provide a written notice, by personal service as provided herein, to the owner and each interested party known to him or her. The written notice shall:

- a. State that a nuisance event or condition as defined in this ordinance has occurred, or is maintained or permitted in the building, and specify the kind or kinds of nuisance event or condition which has occurred, or is being maintained or permitted;
- b. Summarize the evidence that a nuisance event or condition has occurred, or is maintained or permitted in the building, including the date or dates on which nuisance event or condition related activities have occurred or were maintained or permitted, provided, however, that one or more police reports can be used to satisfy this requirement; and
- c. State the grounds for the determination that the property constitutes a chronic nuisance including the events or conditions or activities that constitute the three or more nuisance events or activities that occurred during any period of time not exceeding six (6) months;
- d. Inform the recipient of the notice that: (i) he or she has thirty (30) days to abate the conduct constituting the nuisance event or condition, and to take steps to make sure that actions constituting a nuisance event or condition will not re-occur; (ii) if, after thirty (30) days from the date of service of the notice, the nuisance event or condition re-occurs, or actions or conduct constituting a nuisance event or condition take place that the City may assess against the owner and interested parties that were served with the written notice a fine of three hundred (\$300.00) for each violation.

#### 15-47 Applicability

- a. The property owner shall not be held responsible for any violation and penalties if the property owner is actively pursuing eviction from the premises of a tenant who controlled, organized, sponsored or is/or was otherwise responsible for the nuisance event or condition.
- b. Nothing in this Ordinance shall be construed to require or prevent the arrest and/or citation of any person or persons for violations of federal, state or local laws or Ordinances.
- c. The provisions of this section are enforceable independent of any provisions of the Woburn Municipal Code.

#### 15-48 Penalty and Enforcement

Violations of this Ordinance shall be subject to a fine of three hundred (\$300.00) for each violation. Each violation of this Ordinance shall constitute a separate offense, and each day that any such violation continues shall constitute a separate offense. The Police Chief and his designee, and any Woburn Police Officer shall have authority to enforce

the provisions of this title. Any alleged violation of this Ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

15-49 Lien

The provisions of Title 3, Municipal Lien Charges, of the Woburn Municipal Code shall apply to unpaid fees assessed pursuant to this article.

s/Alderman Anderson, Alderman Raymond  
and Alderman Drapeau

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ORDERED That the Mayor be and is hereby authorized to accept in the name of the City of Woburn, a fifteen (15) foot wide easement over and upon the property located at 859 Main Street from the Roman Catholic Archbishop of Boston and/or Monarch Homes, Inc. for the purpose of widening Main Street as required by Condition no. 10 of the special permit granted by the City Council on December 21, 2010 pursuant to Section 22.E.d of the 1985 Woburn Zoning Ordinances, as amended, for the construction of a 33-unit, 35-bed Alzheimer’s Residence.

s/Alderman Raymond and Alderman Anderson

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ORDERED That pursuant to the 1989 Woburn Municipal Code, as amended, Title 3, Article I, Section 3-6 the Fire Chief is hereby authorized to liquidate (sell) the following vehicles: 1979 Mack Pumper VIN# CF611F1992, 1986 Maxim Pumper VIN# 01N3030-15, and 1990 Ford Van VIN# 1FTFE24H91HB04953 which the Fire Chief has determined are of no value to the department and which no other department has expressed an interest in obtaining.

s/Alderman \_\_\_\_\_

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RESOLVED That the Deputy Auditor be in attendance at the next meeting of the Committee on Finance for the purposed of providing the City Council with an update on the status of the budgets of the city departments.

s/Alderman Mercer-Bruen

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RESOLVED That City Auditor provide an update to the City Council relative to the Goodyear School Construction Project and MSBA reimbursement status.

s/Alderman Mercer-Bruen

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RESOLVED That the Department of Public Works repair the stone wall in front of 156  
Winn Street.

s/Alderman Gaffney

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Motion made and 2<sup>nd</sup> to ADJOURN.