



# City of Beverly

In the year two thousand and Fourteen

## An Ordinance

Amending an ordinance entitled Community Preservation Act

**Be it ordained by the city council of the city of Beverly as follows:**

That Section 7.49

**Be it ordained by the City Council of the City of Beverly as follows:**

By amending Section 7.49 entitled **Community Preservation Commission** of the revised Ordinances of the City of Beverly by adding the following language:

(g) Exemptions- Applications for exemption from the Community Preservation Act Surcharge must be filed with Board of Assessors three (3) months after actual (not preliminary) tax bills are mailed for the fiscal year in the year in which the exemption is sought.

and by amending the following language:

In Section 7.49 (b) (i) (6) by replacing the word "Commission" with the word "Committee".

In Section 7.49 (b) (ii) by replacing the words "any of the five (5) boards and commissions listed in sections (b)(i) 1 through (b)(i) 5 inclusive" with the words, "any of the six (6) boards, commissions, and committee listed in sections (b)(i)(1) through (b)(i)(6) inclusive."



City of Beverly  
IN CITY COUNCIL

May 27, 2014

The Committee on **Legal Affairs / Committee of the Whole**

To whom was referred the matter of  
Amendment to Community Preservation Act Ordinance

have considered said matter and beg leave to report as follows, to wit:

- Submit the accompanying amended ordinance and recommend its adoption
- Submit the accompanying order and recommend its adoption
- Receive and Place on File
- No Further Action
- Refer to City Solicitor
- Recommend the Council approve the permit
- Recommend the Petition be Granted
- Recommend the Council approve the Licenses
- Recommend the Council approve the reappointment /appointment

*Jason Silva*  
*David Hays*  
*John P. Frates Jr.*

#126

Relating to

Amendments to City's

Community Preservation Act

Ordinance

IN CITY COUNCIL

May 19, 2014

Referred to the Standing Committee  
on

LEGAL AFFAIRS

CITY OF BEVERLY

Presented to the Mayor for Approval

JUNE 18, 2014

*Kathleen O'Connell* City Clerk

Approved *James J. O'Connell* 2014

*James J. O'Connell* Mayor

*Kathleen O'Connell*, City Clerk

Clerk

Entered Page 59 Vol. 120

In the Year two thousand and thirteen.

An Ordinance relative to Article VII of the Beverly City Ordinances entitled *Multiple Member Bodies be it ordained by the City Council of the City of Beverly, as follows:*

by adding a new Section 7.49 entitled "Community Preservation Committee", as follows:

Section 7.49 Community Preservation Committee

(a) Establishment

There is hereby established a Community Preservation Committee, in accordance with Chapter 267 of the Acts of 2000, Massachusetts Community Preservation Act, M.G.L. c. 44B, § 1 et seq., as amended, which shall consist of nine members.

(b) Membership, Appointing Authority and Terms

- (i) The composition of the Committee, the appointment authority and term of office for the Committee members shall be as follows:
  - 1) One member of the Historic District Commission, acting as the Historic Commission, as designated by the Commission for an initial term of three (3) years, and thereafter for a term of three (3) years.
  - 2) One member of the Conservation Commission as designated by the Commission for an initial term of two (2) years, and thereafter for a term of three (3) years.
  - 3) One member of the Planning Board as designated by the Board for an initial term of one (1) year, and thereafter for a term of three (3) years.
  - 4) One member of the Parks & Recreation Commission as designated by the Commission for an initial term of three (3) years, and thereafter for a term of three (3) years.
  - 5) One member of the Housing Authority as designated by the Authority for an initial term of two (2) years, and thereafter for a term of three (3) years.
  - 6) One member of the Open Space and Recreation Commission as designated by the Commission for an initial term of (1) year, and thereafter for term of three (3) years
  - 7) Three (3) at-large members being residents of the City not currently holding elected office, as appointed by the City Council:
    - A. One (1) member to be appointed for an initial term of three (3) years, and thereafter for a term of three (3) years.
    - B. One (1) member to be appointed for an initial term of two (2) years, and thereafter for a term of three (3) years.
    - C. One (1) member to be appointed for initial terms of one (1) year, and thereafter for terms of three (3) years.
- (ii) The at-large seats shall be open to any resident, and members may include citizens who have expertise or demonstrated interest in open space, recreation, historic preservation, affordable housing, municipal finance or fiscal accounting practices. Preference will be given to applicants who are not currently members of any of the five (5) boards and commissions listed in sections (b)(i) 1 through (b)(i) 5 inclusive.
- (iii) If possible, Committee membership as a whole should be drawn from all Wards.
- (iv) The commission, board or committee that has appointment authority under this Chapter shall appoint such representative(s) within forty-five (45) days of the effective date of this Ordinance. The City Council shall also appoint its representatives within forty-five (45) days of the effective date of this Ordinance.

- (v) Any vacancy on the Community Preservation Committee shall be filled by the commission, board or committee that designated the member who creates the vacancy by designating another member in accordance with the above for the unexpired term, and within forty-five (45) days of the date of vacancy.
- (vi) The City Council shall also fill any vacancy in its appointments by designating another member in accordance with the above for the unexpired term, and within forty-five (45) days of the date of vacancy.
- (vii) Should the City Council fail to make an appointment authorized by section (b)(iv) or (b)(vi) above, the Mayor shall fill the position within an additional forty-five (45) days.
- (viii) Should any of the commissions, boards or committees that have appointment authority under this Chapter no longer be in existence for what ever reason, the appointment authority for that commission, board or committee shall become the responsibility of the City Council.
- (ix) All Committee members shall serve on the Committee without compensation.
- (x) Vacancies shall be publicly posted.

(c) Duties

- (i) The Community Preservation Committee shall study the needs, possibilities, and resources of the City regarding community preservation, including the consideration of regional projects for community preservation, and shall develop and publish community preservation guidelines within six (6) months of the Committee's first meeting. Development of the guidelines shall include a public hearing.

The Committee shall consult with the public in addition to existing municipal boards, including the City Council, the Conservation Commission, the Historic District Commission, the Planning Board, the Open Space and Recreation Committee, the Parks and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies.

The Committee shall annually hold at least one (1) public informational hearing (and may hold more than one such meeting in a given year) on the needs, possibilities and resources of the City regarding community preservation, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the City and posted electronically on the City's website. The Committee may, after proper appropriation, incur expenses as permitted by State law using funds from the Community Preservation Fund to pay such expenses.

- (ii) The Community Preservation Committee shall make recommendations to the City Council for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created with Community Preservation Funds. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.
- (iii) The Community Preservation Committee may include in its recommendation(s) to the City Council a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then

available in the Community Preservation Fund, or to set aside for later spending funds for general purposes that are consistent with community preservation.

The Community Preservation Committee may recommend the issuance of general obligation bonds or notes, in accordance with the provisions of M.G.L. Chapter 44B, section 11, in anticipation of revenues to be raised pursuant to M.G.L. Chapter 44B, section 3, the proceeds of which shall be deposited in the community preservation fund.

In every fiscal year, the committee shall recommend that the City Council either spend, or set aside for later spending, not less than ten percent (10%) of the annual revenues in the community preservation fund for each of the following: Open space (not including land for recreational use); historic resources; and community housing.

(d) Quorum requirements and cost estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum and shall keep a written record of its proceedings. A majority of the members of the Community Preservation Committee shall constitute a quorum.

When making recommendation(s) to the City Council, the Community Preservation Committee shall provide the Council with estimates of cost for each recommendation.

(e) Rules and Regulations

- (i) The Committee shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations and establish any subcommittee(s) as it deems appropriate.
- (ii) A Committee member may serve as chairperson for two consecutive years, after which she or he shall not be eligible to be nominated for the same position for a third year. However, the Committee may waive this provision by a two-thirds vote.
- (iii) The Committee shall clearly define and make public its application requirements and evaluation procedures.
- (iv) By majority vote of the members of the Committee, the Committee may adopt and promulgate rules and regulations for the conduct of its business on any matter within the Committee's jurisdiction under the Massachusetts Constitution, Massachusetts General or Special Laws, the Code of Massachusetts Regulations (CMR), ordinance, or other legal right or authority granted to or conferred upon the Committee.
- (v) The proposed rule or regulation shall be submitted to all Committee members at least forty-eight (48) hours prior to any vote to adopt the same; provided, however, the Committee may make such amendments to the proposed rules or regulations as it deems appropriate at the said meeting.
- (vi) Upon approval of any rule or regulation by the Committee, a copy of the same shall be filed with the city clerk and publicly posted and become effective as of the date of filing thereof unless the specific vote of the Committee establishes a later effective date.
- (vii) To enhance communication, minutes of each meeting shall be sent to the city clerk for distribution to the city council and shall be publicly posted.

(f) Amendments to the Community Preservation Committee Ordinance

The Community Preservation Committee shall from time to time review the administration of this Ordinance and make recommendations as needed for changes to the Ordinance and in administrative

practice to improve the operations of the Community Preservation Committee. This ordinance may be amended from time to time by the City Council provided that the amendments do not conflict with M.G.L. Chapter 44B.

First Reading: April 1, 2013  
Public Hearing: May 20, 2013  
Second Reading: May 29, 2013  
Advertise for final passage June 17, 2013

ATTEST: Kathleen P. Connolly, CMC  
City Clerk  
As per order of the City Council