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Report of the 2020 Special Committee for Review of Ordinances

Summary of Recommendations

The Special Committee for Review of Ordinances (“the Committee”) submits this Report of its 2020 review of the ordinances of the City of Northampton in accordance with Northampton Code of Ordinances, § 1-15.1. That section was adopted pursuant to the Northampton Special Act Charter (“the Charter”), § 10-6. Section 1-15.1 requires review of ordinances every five years in years ending in a 5 or in a 0. While the ordinance requires a report to be filed by December 31st of such years, the Northampton City Council voted on December 3, 2020 to extend that date to March 31, 2021 on account of the Committee’s delayed formation due to the novel coronavirus pandemic of 2020. The Committee was appointed on September 3, 2020, and it was comprised of three members of the City Council appointed by the Council President and two voters of the City appointed by the Mayor. The Committee met under the supervision of the City Solicitor. It held 15 virtual meetings by Zoom on September 30, 2020, October 19, 2020, November 2, 2020, November 17, 2020, November 30, 2020, December 7, 2020, December 15, 2020, January 4, 2021, January 11, 2021, February 1, 2021, February 22, 2021, March 1, 2021, March 15, 2021, March 23, 2021, and March 29, 2021.

An “ordinance,” as that term is used in the Charter and in Section 1-15.1, has a very specific meaning. It is a legislative act that has the force of law and binds the City and all persons within the jurisdictional limits of the City. The authority of the City Council to pass an ordinance is found either in State law or in the Charter. Ordinances must be distinguished from a Resolution of the Council which is a current statement of the Council’s position on a certain issue that has no force of law.

On September 3, 2020, the City Council adopted **20.107 A Resolution in Support of Actions to Combat the Public Health Crisis of Systemic Racism**, which stated in part:

We have an obligation to advance racial equity by undoing the inequities found in the law, and to proactively pass ordinances and make budget decisions that address inequity. During the Periodic Review of Ordinances which occurs every 5 years as per the City Charter Section 10-5, and at other times when it comes to the attention of the Council, we will act to update ordinances that have been shown to have a disproportionate impact on communities of color and adversely affect marginalized populations. We will also consider these impacts during our annual budget process and as financial orders are brought to the Council.

The Committee accepted this Resolution as the guiding principle of its focus on the City’s ordinances. Marginalized populations of Northampton, in our deliberations and reporting, include but are not limited to residents who are people of color, low-income, housing-insecure, and/or disabled who experience systemic inequities of residential segregation, intergenerational wealth inequality, and access to public services.

Consequently, the Committee prioritized select categories of ordinances referenced in reports produced by the National League of Cities, The National Low-Income Housing Coalition, National Housing Law Project, and others:

- zoning;
- rental housing;
- parking;
- nuisance laws; and
- land ownership.

The Committee solicited input on existing ordinances and any proposed new ordinances from all City departments, the City Councilors, and from the public. There was an opportunity for public comment at all meetings. The approved minutes of all meetings as well as all documents that were considered by the Committee are available in the city clerk's office and on the city's website.

The Committee received testimony and documents from the Office of Planning and Sustainability, the Northampton Housing Partnership, and from members of the public regarding existing and proposed ordinances that would promote the interests of historically marginalized communities, some of which the Committee voted to recommend that the City adopt and some that the Committee did not recommend. Those proposed ordinances and amendments and the Committee's recommendations are attached as Exhibit A.

The Committee also solicited from all City departments and from the public more minor recommendations of a "housekeeping" nature. Those recommendations are attached as Exhibit B.

In addition to the proposed ordinance revisions and additions submitted with this Report, the Committee voted to urge the City to study and develop amendments to zoning and other ordinances as set forth in Exhibit C. The Committee also encourages the City to address barriers to fair housing¹ in the City and to explore ways to incentivize the creation of both affordable market-rate and subsidized affordable housing.

At the same time, as explained by the City Solicitor and as further delineated in the Exhibits that follow, the subject matter of certain proposed ordinances that impact disadvantaged communities were deemed outside the legislative authority of the City Council based either on state law or on the Charter. To the extent that such matters as hiring and employment and purchasing and contracting are within the exclusive jurisdiction of the executive branch of government and not within the Committee's charge, the Committee calls upon the current Mayor and future Mayors to study and implement departmental policies in full partnership with their advisory boards and committees. Furthermore, the Committee calls upon the executive and legislative branches to examine the disparate impacts on people of color and other adversely affected marginalized communities in all their practices and procedures.

Finally, the ordinance review process contemplated in the Charter and in Section 1-15.1 is, by its terms, limited in time and its scope. Reversing the ongoing marginalization of certain

¹ By "fair housing," the Committee is referring both to the interests protected under the Fair Housing Act, which include protection from discrimination when renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities and fairness in the more colloquial sense, including enacting ordinances relative to housing set forth in Exhibit A.

communities is a task that exceeds the bounds of this process. The Committee calls upon the City Council to study these issues through its committee process and to alleviate the inequities that are so entrenched in our society with ordinances that fall within its jurisdiction.

The Committee looks forward to addressing its work and the recommendations contained in this Report before the City Council at such time as the Council may designate.

Respectfully submitted,

Special Committee for Review of Ordinances

By _____
City Councilor John Thorpe, Chair

Dated: March 31, 2021