

CITY OF NEWTON
IN BOARD OF ALDERMEN
PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, SEPTEMBER 3, 2014

7:45 PM
Room 222

ITEMS SCHEDULED FOR DISCUSSION:

Appointment by His Honor the Mayor

- #324-14 FRANCESCA PIPER KOSS, Lowell Avenue, Newton, appointed as a member of the URBAN TREE COMMISSION for a term to expire May 31, 2017 (60 days 11/1/14) [08/07/14 @ 4:06PM]
- #308-14 THE HUMAN RIGHTS COMMISSION requesting to amend Chapter 12, Article V of the City of Newton Ordinances to include the words “gender identity or expression” as appropriate throughout, and amend language relative to non-discrimination in housing practices to reflect current state and federal law. [08/04/14 @ 4:31PM]
- #334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]
- #254-12(2) THE PROGRAMS & SERVICES COMMITTEE recommending an ordinance to ban single-use plastic bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact John Lojek, at least two days in advance of the meeting: jlojek@newtonma.gov, or 617-796-1064. For Telecommunications Relay Service dial 711.

ITEMS NOT SCHEDULED FOR DISCUSSION:**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#333-14 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of four hundred seventy-six thousand seven hundred eighty dollars (\$476,780) to the Parks and Recreation Department to preserve, restore, and rehabilitate historic Farlow Park, as described in the proposal and supplemental materials submitted to the Community Preservation Committee from November 2013 to April 2014. [08/06/14 @ 4:16 PM]

#34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#216-14 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, NORTON AND SANGIOLO proposing the following amendments to Chapter 12 Health and Human Services of the Revised Ordinances to:

- require owners of dwellings requiring a Certificate of Habitability under Section 12-1 and real estate agents/brokers who receive compensation in connection with the particular real estate transaction to notify the Commissioner of Health and Human Services whenever an apartment, tenement, or room in a lodging house is vacated by the occupant or when an area in an existing building is converted to a condominium prior to being reoccupied by a new tenant, lodger or occupant;
- require educational institutions to disclose addresses of undergraduates living off-campus in Newton;
- require a fee for certification; and
- impose a fine for violation of these provisions. [05/14/14 @ 11:51 AM]

REFERRED TO PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES

#119-14 ALD. ALBRIGHT AND CROSSLEY requesting discussion with the Inspectional Services Department to explain the development of short and long term plans to identify and correct buildings, sidewalks, playgrounds, etc., that do not conform to American Disability Act (ADA) standards. The discussion should include information on how improvements will be incorporated into the Capital Improvement Plan or if less than \$75,000 into a comprehensive budget plan to correct ADA deficiencies. [03/12/14 @ 4:18 PM]

#59-14 ALD. HESS-MAHAN AND BLAZAR requesting discussion with the Executive Department and the Health Care Advisory Committee concerning plans to implement recommendations contained in the First Report of the Health Care Advisory Committee to control the cost of health insurance while improving or maintaining the quality of care. [02/18/14 @ 6:39 PM]

REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE

- #402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]
- #399-13 ALD. LINSKY, HESS-MAHAN, ALBRIGHT, CROSSLEY, DANBERG, BLAZAR, LAREDO & SCHWARTZ requesting to re-charge a task force to devise recommendations as to best practices and/or potential regulatory approaches to achieve improvements regarding the use of leaf blowers in the City of Newton. [10/28/13 @ 7:01 PM]
- #398-13 ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]
- #199-13 ALD. JOHNSON AND SANGIOLO requesting an update from the School Committee and School Department regarding the request from the Board of Aldermen to reduce the family cap on activity fees. [05/20/13 @ 11:05 PM]
- #95-13(2) THE PROGRAMS & SERVICES COMMITTEE requesting an update from the Health Care Advisory Committee. [09/12/13 @ 9:49AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

REFERRED TO PROG & SERV, PUB. FAC., ZAP, AND FINANCE COMMITTEES

- #256-12 ALD. HESS-MAHAN, SANGIOLO & SWISTON proposing an ordinance promoting economic development and the mobile food truck industry in the City of Newton. [08/06/12 @4:46 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #254-12(3) PROGRAMS & SERVICES COMMITTEE proposing an ordinance to require a fee, charged to consumers, for the use of paper bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 pm]

#229-12 RECODIFICATION COMMITTEE recommending a review and possible amendment to the *Board of Aldermen Rules & Orders 2012-2013* relative to review of draft ordinances by the Law Department.

#145-12 ALD JOHNSON requesting a review by the Solicitor's office as to what constitutes "reorganization" per our City Charter. [05/16/12 @ 10:24PM]

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

#36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.

A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;

B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.

[01/24/12 @ 8:07 AM]

REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES

#312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @ 11:07 AM]

Respectfully Submitted,

Amy Mah Sangiolo



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#324-14
Telephone
(617) 796-1100
Facsimile
(617) 796-1113
TDD/TTY
(617) 796-1089

RECEIVED
Newton City Clerk
2014 MAY 16 AM 9:12
David A. Olson, SMC
Newton, MA 02459
E-mail: swarren@newtonma.gov

August 7, 2014

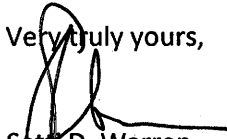
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to appoint Francesca Piper Koss of Lowell Avenue, Newton as a member of the Urban Tree Commission. Her term of office shall expire May 31, 2017 and her appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,


Seth D. Warren
Mayor

RECEIVED
Newton City Clerk
2014 AUG -7 PM 4:06
David A. Olson, SMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

P.O. Box 600396
 Newtonville, Massachusetts 02460
 +1-857-222-3157
 ciaofpk@gmail.com
www.linkedin.com/pub/francesca-piper-koss/6/a7a/56a/
<http://www.pinterest.com/assembledvision/>
<https://twitter.com/ciaofpk>
Francesca Piper Koss

Earned a B.F.A. Rhode Island School of Design, Providence, RI. June 1990 and spent the 1988 Wintersession at the Institute San Miguel de Allende, Mexico. Creative strengths include conceptual thinking, visual design, mixed media, installation, painted surfaces and graphic design. Professional volunteerism has fine tuned an aptitude in event planning and management as well as developed exceptional interpersonal skills.

Employment

Assembled Vision, Self-Employed Artist. (From 1990 - CURRENT)

Work done on commission. Carnivale Mask design and construction, installation, sculpture, beaded jewelry, collage/assemblage, painting, graphic design.

Childs Gallery, Boston, MA. (From Fall 2010 - CURRENT)

Window Designer: research, create & install window displays to compliment featured work or theme.

The School of Museum of Fine Arts, Boston, MA
Board of Governors (From Spring 2006 - CURRENT)

Beautiful Newtonville, Newton, MA
Volunteer / Planning Team (Spring 2013 - CURRENT)

The Chestnut Hill School / Horace Mann Elementary School
Library Assistant (From Spring 2011 - CURRENT)

NewtonSERVES, Newton, MA
Volunteer (From Spring 2010 - CURRENT)

Land's Sake Farm, Weston, MA
Assistant Farmer: Flower Field, Event planning (From Spring 2011 - Fall 2013)

The Chestnut Hill School, Newton, MA
Co-Chair Annual Fundraiser (Summer 2011 - Summer 2012)

The School of the Museum of Fine Arts, Boston, MA
Chairman, Medici Group (Summer 2007 - Spring 2010)

The School of the Museum of Fine Arts, Boston, MA
Museum School Art Sale Committee (2003 - 2012)

Save Venice Inc., Boston Chapter, Boston, MA
Events Committee Chairman, Nominating Committee (June 2009 - January 2011)

Experience

The School of the Museum of Fine Arts, Boston, MA
Search Committee for the new President of the School (October 2008 – May 2010)

Save Venice Inc., Boston, MA
Co-Chair Boston Gala Weekend (Spring 2008 - Fall 2009)

The School of the Museum of Fine Arts, Boston, MA
Co-Chair 13th Annual Medal Awards Dinner Honoring Julian Schnabel
(Winter 2007 through Spring 2008)

Save Venice, Inc., Boston Chapter. Boston, MA
Executive Board (Fall 2003 – Spring 2011)

The Museum of Fine Arts, Boston, MA
Summer Art Party Jury (2003, 2006 and 2007)

Save Venice, Inc., Boston Chapter. Boston, MA
Carnival Committee (2003 through 2006)

The Museum of Fine Arts, Boston, MA
Chairman, The Museum Council Fellows (Spring 2001 to Summer 2003)

The Society of Art and Crafts; Boston, MA
Trustee (2000 through 2003)

Skinner, Inc., Boston, MA. (Fall 1997 to Fall 2002)

Auction Assistant: Phone bidding, setting up displays for preview.

Receiving, storing, transfer & shipping of antiquities'.

Kanegis Gallery; Boston, MA. (Spring 1993 to Summer 1999)

Director: Documentation and sale of estate properties, general administrative duties, organizing private exhibition of collections.

Armani, Boston, MA. (1995 through 1996)

Freelance Visual Merchandizing.

The Society of Art and Crafts; Boston, MA. (Fall 1992 to Winter 1997)

Gallery Associate: Visual displays and merchandising, receiving and shipping of artwork, exhibition set-up and break down, retail sales, artist jury member.

Ounce of Prevention (O.O.P.); Providence & Watch Hill, RI. (Spring/Summer 1992)

Window Designer: Conceptualize, design and installation for either non-profit organization or current issue of the month.

Passy/Copper Inc., Stamford, CT. (Winter 1990 to Fall 1991)

Assistant Art Director: Design & concept development, computer layout, production.

Pier 1 Imports; Stamford, CT. (Fall 1984 to Spring 1987)

Boutique and Night Manager: Running clothing boutique, store merchandising, supervision of night staff and closing of store.

References available on request.

**ARTICLE V.
HUMAN RIGHTS COMMISSION AND ADVISORY COUNCIL**

Sec. 12-50. Policy of the city.

(a) It is the policy of the city to see that each person regardless of race, color, religious creed, national origin, sex, age, disability, ancestry, or sexual orientation, or gender identity or expression, shall have equal opportunity in or access to employment, housing, education, and public accommodations; to assure that each person shall have equal access to and benefit from all public services and licensing; to protect each person in the enjoyment of his/her civil rights; and to encourage and bring about mutual understanding and respect among all persons in the city by the elimination of unlawful discrimination.

(b) *Policy of the city regarding housing practices:*

It is the policy of the city to follow all of the provisions set forth in M.G.L. Chapter 151B (the Massachusetts Anti-Discrimination Law) and 42 U.S.C. § 3601, *et. seq.* (the Federal Fair Housing Act, as amended) regarding non-discrimination in housing practices.

Sec. 12-51. Establishment of commission; membership, term, officers.

(a) There is hereby established a municipal board to be known as the human rights commission of the city (hereinafter referred to as the commission). The commission shall consist of nine (9) members appointed by the mayor with the approval of the board of aldermen for a term of three (3) years. The members of the commission shall be citizens of the city and shall, so far as practicable, be so selected as to provide representation from the fields of religion, education, and behavioral sciences, industry, law, commerce and labor.

(b) The mayor, with the approval of the board of aldermen, shall appoint each successor to former members of the community relations commission to a term of three (3) years. Appointments to unexpired terms shall not be counted as a term for the person appointed. The members of the commission shall serve without compensation. The commission shall annually elect one of its members as chairperson, and may elect other officers as it may deem necessary, with the approval of the mayor. The commission shall meet at least eleven (11) times a year at regular intervals. The commissioner of the department of health and human services shall be given notice of said meetings and he/she or his/her designee have the right to be present. Five members of the commission shall constitute a quorum and a majority of those present shall be sufficient for any action taken by the commission. (Rev. Ords. 1973, § 2-283; Rev. Ords. 2001, § 14-34; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05).

Cross reference—Regulations governing appointment to and service on commissions and committees, § 2-8

Editor's note—As amended in 1975, this section provided for members of the then community relations commission to continue as members of the new human rights commission for the remainder of their terms.

Sec. 12-52. Executive officer.

There shall be an executive director of the commission. The commissioner of health and human services appointed under section 12-19 or his/her designee shall serve as the executive director, and shall coordinate and perform the administrative duties as determined by the commission. (Rev. Ords. 1973, § 2-284; Rev. Ords. 2001, § 14-35; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. X-175, 05-26-05).

Sec. 12-53. Function, powers, duties.

The function of the commission shall be to implement the policy of this article by the exercise of the following powers and duties:

(a) To enlist the cooperation of the various racial, religious and ethnic groups, civic and community organizations, labor organizations, fraternal and benevolent organizations, and other groups in eliminating unlawful discrimination and showing the need for mutual self-respect and the achievement of harmonious intergroup relationships in the city.

(b)(1) To initiate investigations into the existence of unlawful discrimination in the city which may deny or tend to deny equal access to or opportunity in housing, employment, education, and public accommodations, services and facilities to a person or group because of his/her race, color, sex, age, handicap, religious creed, national origin or ancestry or sexual orientation, gender identity or expression and in connection therewith to hold hearings.

(2) To subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before the commission. The powers enumerated in this subparagraph (b)(2) may be exercised by a vote of two-thirds (2/3) of the members of the commission only, and in accordance with G.L. Chapter 233, Sections 8 through 11.

(c) To attempt by mediation to resolve any matter over which it has jurisdiction and after investigation of any matter, not resolved by mediation, to make written report of its findings and recommendations to the mayor on any matter within his/her jurisdiction for his/her review and for the implementation by him/her of such of the recommendations of the commission as the mayor deems justified; or, similarly, to the school committee on any matter within its jurisdiction, or to the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction; or to any court or other governmental agency having jurisdiction over the matter in question, and in all cases, urging, and using its best efforts to bring about, compliance with its recommendations.

(d) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in housing, employment, education, and public accommodations, services, and facilities to a person or group because of his/her race, color, religious creed, national origin, sex, age, handicap, ancestry or sexual orientation, gender identity or expression.

(e) To adopt, promulgate, amend and rescind rules and regulations to carry out the provisions of this article, and the policies and practice of the commission in connection therewith.

(f) To render to the mayor and board of aldermen a full written report of its activities and of its recommendations, not less than once a year.

(g) To obtain upon request and utilize the services of all municipal departments and agencies, unless prohibited by law.

(h) The commission may expend, with the approval of the mayor, such funds as are appropriated for the aforementioned purposes. The commission shall annually prepare an operating budget in a timely manner to permit formulation of an overall department of health and human services budget. (Rev. Ords. 1973, § 2-285; Rev. Ords. 2001, § 14-37; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. 248, 12-5-77; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05)

Sec. 12-54. Advisory council.

(a) *Establishment, appointment, term, meetings.* There is hereby established an unpaid advisory council to the commission consisting of twenty (20) members who shall be appointed by the mayor for terms of two (2) years. Six (6) of the above said members shall be representative of:

- (1) Law enforcement;
- (2) School department;
- (3) Clergy;
- (4) Fair housing or other appropriate civil rights organization;
- (5) Labor union;
- (6) Real estate.

Appointments to unexpired terms shall not be counted as a term for the person appointed. The advisory council shall meet at least four (4) times a year and shall be given notice of all commission meetings. The commissioner of health and human services shall be given notice of advisory council meetings and he/she or his/her designee shall have the right to be present.

(b) *Functions and duties.* It shall be the function of the council to assist and advise the commission in the carrying out of its powers and duties, to serve on such subcommittees as may be created from time to time by the commission, and to aid the commission in obtaining the support of the citizens of Newton in effectuating the policy of this article. The advisory council shall annually elect one of its members as chairperson and may elect other officers as it deems necessary, with the approval of the mayor. (Rev. Ords. 1973, § 2-286; Rev. Ords. 2001, § 14-38; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. V-290, 3-20-00; Ord. No. X-175, 05-26-05)

Editor's note—As amended in 1975, this section provided for members of the then community relations advisory board to continue as members of the new human rights commission advisory council for the remainder of their terms.

Sec. 12-55. Construction of article.

The provisions of this article shall be construed liberally for the accomplishment of the purposes thereof, and any ordinance inconsistent with any provision hereof shall not apply, but nothing contained in this article shall be interpreted to contravene the General Laws of the Commonwealth. (Rev. Ords. 1973, § 2-287; Rev. Ords. 2001, § 14-39; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. X-175, 05-26-05)

Secs. 12-56—12-59. Reserved.

Existing Ordinance with Proposed Changes in Redline

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(b) *Policy of the city regarding housing practices:*

- (1) It is the policy of the city to ~~see that each person regardless of race, color, religious creed, national origin, sex, age, genetic information, disability, ancestry, marital status, family status, veteran status or membership in the armed forces of the United States, sexual orientation, or status as a person who is a recipient of federal, state, or local public assistance or who is a tenant receiving federal, state, or local housing subsidies including rental assistance or rental supplements, shall have equal opportunity in or access to housing or housing accommodations offered for sale, lease or rental, including publicly assisted housing accommodations, multiple dwellings, contiguously located housing and other covered housing accommodations within the meaning of~~ follow all of the provisions set forth in M.G.L. Chapter 151B (the Massachusetts Anti-Discrimination Law) and 42 U.S.C. § 3601, *et. seq.* (the Federal Fair Housing Act, as amended) regarding non-discrimination in housing practices.
- (2) ~~It shall be an unlawful practice for any person to engage in any act of discrimination with respect to the sale, lease or rental of housing or housing accommodations in violation of the foregoing policy. For purposes of this paragraph (b), the term "unlawful practice" with respect to the sale, lease or rental of housing or housing accommodations shall have the same meaning as set forth in M.G.L. Chapter 151B and 42 U.S.C. § 3601, et. seq. (Rev. Ords. 1973, § 2-282; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. 248, 12-5-77; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05; Ord. No. X-201, 04-03-06)~~

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least eleven (11) times a year at regular intervals. The commissioner of the department of health and human services shall be given notice of said meetings and he/she or his/her designee have the right to be present. Five members of the commission shall constitute a quorum and a majority of those present shall be sufficient for any action taken by the commission. (Rev. Ords. 1973, § 2-283; Rev. Ords. 2001, § 14-34; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05)

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- (b)(1) To initiate investigations into the existence of unlawful discrimination in the city which may deny or tend to deny equal access to or opportunity in housing, employment, education, and public accommodations, services and facilities to a person or group because of his/her race, color, sex, age, handicap, religious creed, national origin or ancestry or sexual preference-orientation, gender identity or expression and in connection therewith to hold hearings.
- (2) To subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before the commission. The powers enumerated in this subparagraph (b)(2) may be exercised by a vote of two-thirds (2/3) of the members of the commission only, and in accordance with G.L. Chapter 233, Sections 8 through 11.
- (c) To attempt by mediation to resolve any matter over which it has jurisdiction and after investigation of any matter, not resolved by mediation, to make written report of its findings and recommendations to the mayor on any matter within his/her jurisdiction for his/her review and for the implementation by him/her of such of the recommendations of the commission as the mayor deems justified; or, similarly, to the school committee on any matter within its jurisdiction, or to the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction; or to any court or other governmental agency having jurisdiction over the matter in question, and in all cases, urging, and using its best efforts to bring about, compliance with its recommendations.
- (d) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in housing, employment, education, and public accommodations, services, and facilities to a person or group because of his/her race, color, religious creed, national origin, sex, age, handicap, ancestry or sexual preference-orientation, gender identity or

expression.

(e) To adopt, promulgate, amend and rescind rules and regulations to carry out the provisions of this article, and the policies and practice of the commission in connection therewith.

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(g) To obtain upon request and utilize the services of all municipal departments and agencies, unless prohibited by law.

(h) The commission may expend, with the approval of the mayor, such funds as are appropriated for the aforementioned purposes. The commission shall annually prepare an operating budget in a timely manner to permit formulation of an overall department of health and human services budget. (Rev. Ords. 1973, § 2-285; Rev. Ords. 2001, § 14-37; Ord. No. 55, 2-18-75; Ord. No. 79, 7-28-75; Ord. No. 248, 12-5-77; Ord. No. S-140, 12-16-85; Ord. No. X-175, 05-26-05)

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- (1) Law enforcement;
- (2) School department;
- (3) Clergy;
- (4) Fair housing or other appropriate civil rights organization;
- (5) Labor union;
- (6) Real estate.

Appointments to unexpired terms shall not be counted as a term for the person appointed. The advisory council shall meet at least four (4) times a year and shall be given notice of all commission meetings. The commissioner of health and human services shall be given notice of advisory council meetings and he/she or his/her designee shall have the right to be present.

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Editor's note—As amended in 1975, this section provided for members of the then community relations advisory board to continue as members of the new human rights commission advisory council for the remainder of their terms.

Sec. 12-55. Construction of article.

The provisions of this article shall be construed liberally for the accomplishment of the purposes thereof, and any ordinance inconsistent with any provision hereof shall not apply, but nothing contained in this article shall be interpreted to contravene the General Laws of the Commonwealth. (Rev. Ords. 1973, § 2-287; Rev. Ords. 2001, § 14-39; Ord. No. 55, 2-18-75; Ord. No. 70, 7-28-75; Ord. No. X-175, 05-26-05)

Secs. 12-56—12-59. Reserved.

PROGRAMS & SERVICES REPORT
APRIL 3, 2013

334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

ACTION: **HELD 6-0 (Ald. Baker not voting)**

NOTE: Ald. Swiston addressed the Committee. She explained that she received a couple of complaints from organizations such as the PTO or the Tennis Club that their experience of applying for permits had changed over the past year or so. They were facing requirements that they had never had to deal with before and they were confused. This has caused some problems with events. For example, a citizen who had been running the same events for ten years or so was suddenly given new requirements for the event permits. It was Ald. Swiston's understanding, however, that none of the licensing and permitting requirements had actually changed. Some clarification was needed on these issues. These were smaller events of 70-100 people or so for schools and they typically raise between \$500-\$2000 and provide an opportunity for community building. The wine, entertainment and gambling licenses were at issue. The fees for these events are between \$300-\$350 and that is a big portion of the possible profits. Raising ticket costs could draw fewer people to the events and puts the event at risk. A streamlined and "small event" process would be helpful.

Dori Zaleznik, Commissioner of Health and Human Services said that the Licensing Board is currently reviewing their rules and regulations which have not been reviewed since about 2004. In particular, the entertainment permitting process is being reviewed. The statutes from which this all has been drawn is actually rather confusing. Mass law is riddled with leftover Blue Law vestiges with contradictory language and the Law Dept has been researching to determine what is under local control and what is not. Licensing is attempting to streamline the process. There are a number of non-profits of all sizes and varieties in the City including everything from PTOs to Boston College. The non-profits are the only groups that can serve all types of alcohol. The for-profit groups can only serve wine and beer and that is state law. Even though alcohol is not "sold" or people aren't consuming that much alcohol at an event, state law proscribes that if alcohol is delivered to an event then it is considered a sale of alcohol at the event. The only way an event is allowed to have alcohol at an event is if it is delivered. Organizers cannot buy it at a liquor store and bring it in themselves. That is against statute. Events have the option to not serve alcohol but many want to have alcohol and that is fine and understandable, but the law says if alcohol is being served, a permit is necessary. Some of the confusion that has arisen over the past year is that it seems in years past, there was a good deal of one set of rules applying to one group, while another set of rules applied to others. This has been rectified and the rules and fees have been looked at and are being applied equally to all parties consistently. Subsequently, the revenues to the City have gone up considerably since then. The review of the rules and regulations should make things clearer.

On the Licensing website there is an instruction sheet which identifies who does and does not need to get a one-day permit. There is also a checklist which lists all the required documentation, and a simple application form. This is a newer, clearer approach than what was previously used. There was a comment that the documentation checklist was incomplete.

Ms. Zaleznik noted that one thing that bothers people the most is the need for liability insurance. The reason for that is the locations can get in trouble if someone gets drunk and drives away and there is an accident. A Committee member commented that it's a huge liability for a school or community center to have alcohol on the premises, especially with volunteer boards and workers. Another way to handle this is to hold an event at a venue that has a liquor license. In that case, a one-day permit is not necessary. There is a balance of paying for a venue but not a one-day permit, and avoiding a venue fee by holding the event in a school, for instance, and paying for the one-day permit. There was a comment that the insurance company told an organizer something different than what the City told her was necessary for liability insurance, which was confusing.

Sentiment from the Committee was that these sort of smaller non-profit events are what community is all about and a balance needs to be found. Barriers to having such events should be mitigated as much as possible. Commissioner Zaleznik said she welcomes anyone to come to the Licensing Board meetings, the third Tuesday of every month, and agendas are posted. They would appreciate and consider all input from citizens and Aldermen to help in this process. Some Committee members felt there should be some consideration in the process for smaller non-profits and/or the size of the event. The smaller the event, the stronger the community building and the more valuable it is to the City. There was also a suggestion that one comprehensive permit would be simpler than having different applications for different licenses/permits. Commissioner Zaleznik said they are working on that and also with putting more things online. The Committee was pleased to hear that measures were being taken to demystify the process. Citizen comment was that it is now much easier to speak to someone in the Licensing office and receive assistance than it has been in the past.

Follow Up

Ald. Linsky would like to hold the item and hear back from the Licensing Board when they have finished their update of the rules and regulations, before they get enacted. Commissioner Zaleznik hopes to have this done by the fall. The Entertainment license was discussed at the last Licensing Board meeting. The Committee asked for minutes or a recording of that meeting to be put online. Commissioner Zaleznik said a draft of proposed revisions will be put out and before it gets voted on, there will be a review meeting.

Ald. Linksy moved to hold this item and the Committee voted in favor.

PREAMBLE

The Newton Board of License Commissioners (the "Board") is a regulatory entity created by the Massachusetts Liquor Control Act of the General Laws of the Commonwealth. The Act permits the Board to issue licenses under chapters 138 and 140 of the General Laws of the Commonwealth. In order to serve the public good and promote the general welfare of the City of Newton, the Board seeks to ensure that all licensed establishments be of high credit to the immediate community and substantially contribute to the quality of life within the City of Newton as a whole. The Board promulgates these Regulations for the proper administration of chapters 138 and 140 of the General Laws of the Commonwealth and the Regulations of the Alcoholic Beverages Control Commission (the "ABCC").

The Board strongly believes, and State Law mandates, that the rights of residents, neighbors, and abutters must be taken into account in considering the issuance of any license under these Regulations.

The Board is comprised of three uncompensated members appointed by the Mayor with the approval of the Board of Aldermen. The Board has an administrative office ("Office of the Board") in Newton City Hall, 1000 Commonwealth Avenue, Newton Centre, MA.

All ranking officers of the Newton Police Department, the Board's Enforcement Officer, and the Administrative Director of the Board are all appointed agents of the Board. At any time, the Board's agents and the Board members themselves may inspect any licensed premises to ensure that the conduct of the business or the event conforms to all laws, ordinances, codes, rules and regulations pertinent to the licenses issued by the Board.

With a view to serve the public need and to protect the common good, the Board regularly receives and shares information with the City's Health Department, Inspectional Services Department, Fire Department and Police Department. Thus, these regulations are to be considered **in addition to, and not instead of**, all obligations imposed under State law, local law, City of Newton Ordinances, the Liquor Control Act, State Sanitary & Health Code, State Building Code, Fire Prevention Code, and the Regulations of the ABCC with which the licensee must comply.

As a regulatory entity charged with the proper administration of licenses under chapters 138 and 140 of the General Laws of the Commonwealth, the Board is empowered to conduct full evidentiary and public hearings in accordance with State Law. In connection with the administration of these Regulations and the General Laws of the Commonwealth, the Board may impose sanctions where appropriate and in accord with all protections of due process, including any attendant appellate rights.

The Board's Regulations are promulgated under the authority of the Massachusetts Liquor Control Act and may be amended and modified from time to time upon proper notice and after public hearing.

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SECTION I

DEFINITIONS

As used throughout these regulations, the terms contained within M.G.L. c. 138 and M.G.L. c. 140 will have the meaning as defined by statute. In addition, and to the extent not inconsistent with chapter 138 and chapter 140 of the General Laws of the Commonwealth, the following terms will have the following meanings:

“Abutters” – persons or entities listed on the City of Newton Assessor's most recent valuation list who are owners of record of real property which physically touches the real estate of the proposed licensed premises excluding record owners of real property located across a public way;

“Automatic amusement machine” – any mechanism whereby, upon deposit therein of a coin or token, any apparatus is released or set in motion or put in position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines and video games;

“Board” – the City of Newton Board of License Commissioners;

“Club” - an entity licensed under M.G.L. c. 138 § 12, that has been granted written permission by the Board and the ABCC to restrict admission to the licensed premises to its members and to guests introduced by members, and to no other persons;

“ABCC” – the Alcoholic Beverages Control Commission of the Commonwealth of Massachusetts;

“Common Victualler” - the keeper of a restaurant or public eating house where the food sold is cooked or prepared on the premises and is intended to be eaten on the premises;

“Educational Institutional licenses” – a special license for the dispensing of wines and malt beverages only in dining halls maintained by incorporated educational institutions authorized to grant degrees;

“Food service” - the preparing, sale, service, dispensing, distribution, and/or delivery of food for consumption on the premises which includes meals, hot hors d'oeuvres, sandwiches, soups, hot prepared food, and salads, but excludes chips, nuts, pretzels, popcorn, candy, and other snack-like foods. Snack foods alone do not satisfy the requirement of food service;

“Innholder” – an innkeeper or person who holds him/herself out to the public as ready to entertain travelers, strangers, and transient guests;

“Keg” – any container for malt beverages having a capacity by volume of more than two gallons of liquid;

“Licensed premises” – the area designated by the Board upon which a licensee may conduct business as licensed under these Regulations;

“Licensee” – any person or entity granted a license by the licensing authority;

“Licensing Authority” – either the Board or the ABCC, as appropriate;

“Manager” - a responsible person designated by the licensee vested with full authority and control of the licensed premises and of the conduct of all business therein who directs and controls the day to day operation of the business of the licensed premises;

“Office of the Board” - the administrative office of the City of Newton Board of License Commissioners;

“Private residence” – the land together with a dwelling house, abode, or place where a person resides that is not open to the public. A private club that is open to members only is not a private residence;

“Responsible individual” – a person who is responsible for the orderly and safe conduct of an event and responsible for the proper sale, service, delivery, dispensing, and consumption of alcoholic beverages under a one-day temporary alcohol license issued under M.G.L. c. 138 §14;

“Restaurant” – space with seating, in a suitable building, provided with adequate and sanitary kitchen and dining room equipment and the capacity for preparing, cooking and serving suitable food for patrons and customers on the premises;

“Retail Package Store” – an establishment that offers alcoholic beverages for retail sale, not to be consumed on the premises;

“Seasonal Club” – a club which conducts business for only a portion of the year.

SECTION II

GENERAL RULES AND REGULATIONS FOR ALL LICENSEES

1. REGULATORY AUTHORITY

The Board's Regulations contained herein are promulgated under the authority of the Massachusetts Liquor Control Act pursuant to M.G.L. c. 138 § 23 and under M.G.L. c. 140 §§ 2, 177A, 183A, and may be amended and modified from time to time upon proper notice and after public hearing.

2. LICENSING AUTHORITY

These Regulations are adopted, and may be amended from time to time, by the local licensing authority, the City of Newton Board of License Commissioners ("the Board"), pursuant to the provisions of Massachusetts General Laws, Chapter 138 and Chapter 140. Any and all alcoholic beverages, common victualler, and entertainment licenses issued by the Board will be governed by these regulations, M.G.L. Chapter 138 and Chapter 140, the regulations of the Alcoholic Beverages Control Commission ("ABCC") of the Commonwealth of Massachusetts promulgated under 204 CMR 1.00 *et. seq.*, as amended, and any guidelines or advisory opinions issued by the ABCC.

3. SEVERABILITY

The Board's Regulations are severable, and if any section, paragraph, sentence, clause, phrase, or provision or the application thereof is held by a court of competent jurisdiction to be invalid, or rendered invalid by an amendment to the General Laws of the Commonwealth, such invalidity will not affect any other Regulations of the Board which will remain in full force and effect.

4. REMOTE PARTICIPATION OF BOARD MEMBERS

The Board will permit its members to participate remotely in accordance with City of Newton Executive Order dated September 14, 2012. In order for a Board member to participate in a public meeting from a remote location, the Chair, or designee, must make findings on the record that the remote member is unavailable to attend the public meeting. The remote member must have access to any written materials provided to the Board. Remote members may vote. A quorum of the Board must be physically present at the meeting.

5. DISCRIMINATION PROHIBITED

No licensee, employee, or manager may make any rule or policy that makes any distinction, discrimination or restriction on account of race, color, creed, sex, sexual orientation, gender identification or ancestry relative to the admission or treatment of any person.

6. **CORPORATE AND TRADE NAMES**

Licensees are prohibited from assuming any obligation for a licensed premises under any corporate or trade name other than that under which the licensee is licensed. Any change in corporate name or any change in trade name ("DBA") requires the prior written approval of both the Board and the ABCC.

7. **BANKRUPTCY AND COURT PROCEEDINGS**

(a) Licensees are required to notify the Office of the Board, in writing, of any and all court proceedings brought by or against the licensee, including those brought under the bankruptcy laws, as soon as the licensee becomes aware of such proceedings.

(b) Licensees are prohibited from pledging the license as an asset to any creditor without the prior written approval of both the Board and the ABCC.

(c) The Board will not approve of any pledged license acquired by sale in bankruptcy.

8. **CORPORATE TRANSACTIONS**

(a) Prior written approval of the Board and the ABCC is required for the following corporate transactions:

- (1) change of manager;
- (2) change of corporate officers;
- (3) sale or transfer of corporate stock (with the exception of persons who own less than 10% stock in a publicly traded corporation);
- (4) pledge of corporate stock or alcohol license as security; or
- (5) acceptance of a loan or credit from another licensee, unless during the usual course of business.

(b) Prior written approval of the Board and the ABCC is required for any person, firm, corporation, partnership, association, entity, or combination of persons to obtain any interest in a license.

(c) The Board will not approve of any pledged license acquired by sale in bankruptcy, foreclosure, or sale/transfer of corporate stock.

9. **FORECLOSURE ON LOANS**

(a) Licensees are required to notify the Office of the Board, in writing, immediately when an assignee forecloses under an assignment of stock in incorporated licensed premises made as the result of foreclosure.

(b) The Board will not approve of any pledged license acquired through foreclosure.

10. EMPLOYEE LIST TO BE MAINTAINED

A current and accurate written list of all employees (including name, address, date of birth, date of hire, and position held) will be maintained upon or within the licensed premises and must be made readily available for inspection by authorized agents of the Board, Newton Police officers, the Board's Enforcement Officer, and members of the Board at all times. Licensees may be required to forward an employee list to the Office of the Board upon request.

11. DISPLAY OF LICENSES

All licenses issued by the Board will be prominently displayed within the licensed premises at all times in a conspicuous location, readily visible to the public.

In addition, any holder of a license to sell alcohol will post within the licensed premises additional signage relative to penalties for drunk driving, penalties for open alcohol beverage containers, prices for alcohol beverages, and any other signage as required by the ABCC where applicable.

12. APPROVALS OF OTHER DEPARTMENTS

(a) The Board will not grant final approval to issue any license until it receives the approval of all applicable City departments, in writing. The applicant or licensee will provide the Board with copies of approvals of all other applicable City departments. Approval of plans and/or the issuing of permits by the City's Inspectional Services Department, the Health Department, the Fire Prevention Bureau, the Police Department and/or grant of a Special Permit by the Board of Aldermen, does not constitute approval by the Board.

(b) Under certain circumstances, and only with prior approval of the Board, a license may be granted based upon the issuance of a temporary occupancy permit by the Inspectional Services Department.

13. ACCEPTABLE FORMS OF IDENTIFICATION

A licensee, manager, server, bartender, employee, or responsible individual may reasonably rely on the following types of identification, if valid and current, for proof of a person's identity and age:

- (a) Massachusetts Driver's License;
- (b) Massachusetts Registry of Motor Vehicles Liquor Identification Card;
- (c) Passport issued by the United States or a country recognized by the United States; or
- (d) Military Identification Card.

The Board may consider the reasonableness of the reliance on any of these four (4) forms of identification in any disciplinary matter before it.

14. SERVICE PROHIBITED TO CERTAIN INDIVIDUALS

(a) The sale, service or delivery of alcohol to any person who is under twenty-one (21) years of age is prohibited.

(b) The sale, service, or delivery of alcohol to an intoxicated person is prohibited.

15. VIOLATIONS AND PENALTIES

All licenses are subject to suspension, revocation, cancellation, forfeiture, modification, and/or refusal to renew for any violation of any regulation, the provisions of chapters 138 and 140 of the General Laws of the Commonwealth, or Regulation of the Board, the ABCC, or the City of Newton relating to the license, or for any breach of a condition of the license.

(a) Notice and public hearing required:

Prior to taking any action under this section, the Board will give reasonable notice to a licensee of any alleged violations, as set forth above. Reasonable notice will mean at least fourteen (14) calendar days and the notice will be made by first class mail to the licensee at the address on file with the Office of the Board.

The licensee will be granted an opportunity to be heard in a public hearing on the matter. The licensee will be permitted to present evidentiary, witness, and written testimony at the public hearing.

(b) Findings and determinations required:

After the close of the public hearing on the matter and a vote by the Board, within a reasonable time not to exceed thirty days, the Board will make written findings of fact and determinations of law as they pertain to the alleged violations. In making these findings and determinations, the Board may consider and examine any and all criteria the Board deems relevant, including but not limited to the following: past history of violations against the licensee or lack thereof; the severity of the offense alleged; whether service, sale, or delivery of alcoholic beverages occurred to a minor or to an intoxicated person; the extent to which violence or the threat of violence transpired; risk to the public safety; the public need and public good.

(c) Penalties:

If the Board concludes that there has been a violation or violations of any condition of the license, of any state and/or local law pertaining to the license including the ABCC's regulations at 204 CMR 1.00 *et. seq.*, or of any of the Board's Regulations, the Board may modify, suspend, revoke, cancel, declare forfeited, and/or refuse to renew the license. Without limitation of any of the foregoing, modification may include the reduction of hours of operation of the licensee.

Upon the Board's modification, suspension, revocation, cancellation, declaration of forfeiture or refusal to renew a license, the licensee will surrender the license to the Board by

physically delivering the license to the Office of the Board at a date and time determined by the Board.

Where the Board finds a violation of the sale or service of alcoholic beverages to a minor, or to an intoxicated person, the Board may, in the exercise of its discretion in appropriate instances, require as a condition precedent to any modification, reinstatement, or renewal of a license, that the licensee provide a certificate of insurance for liquor liability over and above the amount otherwise required by statute.

16. POSTING OF NOTICE OF VIOLATION

Whenever the Board, after proper notice and public hearing as appropriate, suspends, revokes, cancels, modifies, refuses to renew, or declares forfeited any license, the Board will provide to the licensee one or more signs each measuring eight and one-half inches by eleven inches, indicating the actions taken by the Board. The licensee is required to post the signs in a conspicuous place, clearly visible to the public for the duration of the sanction. During the entire period of any such license suspension, the Board, in its discretion, may require the licensee to segregate and obscure from public view all alcohol on the licensed premises.

17. CESSATION OF OPERATIONS

(a) Any licensee intending to permanently close a place of business, or who ceases business operations must immediately surrender its license to the Office of the Board.

(b) In the event that such closure is on a temporary basis, the licensee must notify the Office of the Board in writing prior to such temporary closing stating the reasons and estimated length of such temporary closing.

(c) Licensees who have ceased to conduct business may be subject to cancellation of the license, pursuant to the following procedures:

- (1) the Board must hold a public hearing prior to cancellation of the license;
- (2) the Board must give proper notice and an opportunity to be heard to any licensee who is subject to a hearing under this section; and
- (3) a licensee must be given at least six (6) months from the date of the public hearing to resume operation of the business to the satisfaction of the Board, before cancellation may take place.

(d) Failure to respond to notice from the Board and failure to attend the public hearing on the matter will result in cancellation of the license.

18. APPEALS

Any applicant for an alcohol license, applicant for an alcohol license transfer, and any alcohol licensee may appeal a decision of the Board to the ABCC. Any alcohol licensee whose license has been suspended, revoked, modified, cancelled, or declared forfeited by the Board may appeal a decision of the Board to the ABCC. The appeal must be made in writing within 5 days following receipt of written notice of the action of the Board. Pending a decision on any appeal to the ABCC, the action of the Board will have the same force and effect as if the appeal had not been taken. Licensees may petition the ABCC to stay proceedings pending outcome of the appeal.

Decisions of the Board concerning One-Day Temporary Licenses are final and may not be appealed to the ABCC.

19. LICENSE REQUIRED FOR ALCOHOL CONSUMPTION

(a) A license is required for the consumption, sale, service or delivery of alcohol that takes place outside of a private residence, excepting any appropriate exclusions under the General Laws of the Commonwealth or pursuant to federal law.

(b) This section is not intended to abridge any right or obligation under the General Laws of the Commonwealth.

20. APPLICATION PROCEDURE - GENERAL REQUIREMENTS

All applications and required forms for all licenses issued by the Board must be complete, legible, accurate, and submitted in a timely manner to ensure proper processing by the Office of the Board. It will be the sole responsibility of the applicant to fully and accurately complete all applications and forms as required. Failure to complete applications according to this section may result in sanctions up to and including denial, modification, revocation or cancellation of the license.

(a) Filing Fees: all required filing fees charged by the Board and by the ABCC pertaining to all licenses issued by the Board must be paid in full at the time the application is filed with the Office of the Board. An application will not be considered unless all fees are submitted with the application. All filing fees are non-refundable and will not be pro-rated for any reason.

(b) License Fees - for New, Transfer, and Annual Renewal Licenses: all license fees for any license issued under these Regulations must be paid in full prior to the issuance of the license. An application will not be considered unless all license fees are submitted with the application. All license fees are non-refundable and will not be pro-rated for any reason.

(c) Licensees are required to pay in full all taxes and charges owed to any Department of the City of Newton prior to the Board's issuance, renewal or transfer of the license.

(d) All applicants for alcohol licenses must legibly complete and submit an application, and any other forms or documents required by the Board or the ABCC, to the Office of the Board at least fourteen (14) days prior to public hearing.

(e) No application by the same applicant for the same type of license to be exercised on the same premises may be filed within one year of the date of the last application. The Board cannot receive more than two applications for the same premises in the same license year. This subsection does not apply to One Day Temporary Alcohol Licenses.

(f) Any misrepresentations made on an application may subject the licensee to modification, revocation or cancellation proceedings under M.G.L. c. 138 § 64 and these Regulations.

21. LEGAL NOTICE AND PUBLICATION

(a) All applicants for a new alcohol license, for an alcohol license transfer, for new stockholders, and/or for a change in the description of an alcohol licensed premises must provide proper and timely legal notice and publication which is required to occur at least ten (10) days prior to the public hearing conducted before the Board.

(b) Legal notice will include the following:

- (1) the applicant's full name;
- (2) the kind of license applied for;
- (3) a complete description of the purpose of the application;
- (4) and the full address where the license is to be used.

(c) Publication will be made in a print newspaper with a general circulation within the City of Newton.

(d) The applicant will send an accurate copy of its published legal notice by certified mail return receipt requested (green card), within 3 days of its newspaper publication, to the following:

- (1) all abutters;
- (2) all public or private elementary, middle, or secondary schools, churches, synagogues, religious institutions of worship, or hospitals within 500 feet from the proposed licensed premises.

(e) Once the applicant has provided proper and timely legal notice and publication, the applicant will file the return receipts (green cards) and an original of the notice with the Office of the Board.

(f) Applications will be considered incomplete without proof of proper and timely legal notice, and may not be acted upon by the Board.

22. PRECISE PLANS REQUIRED

(a) Precise plans are required to be submitted to the Board for approval for the following transactions:

- (1) new license;
- (2) transfer of an existing license;
- (3) alteration of the structure of the licensed premises;
- (4) extension of the licensed premises; and/or
- (5) increase in seating capacity.

(b) Plans submitted to the Board for approval will specify square footage, location and number of all tables and seating of any kind, all means of egress, maximum and actual capacity, bathrooms, kitchen facilities, closets, waiting areas, dance floors, and any entertainment equipment.

(c) Plans submitted to the Board for approval must specify the number and location of any seats, chairs, stools, or bar stools upon or within the licensed premises.

(d) Upon the completion of any alteration to the structure of the licensed premises, the applicant or licensee is required to certify in writing that the work has been completed in substantial compliance with the plans approved by the Board.

(e) If, upon the completion of any alteration to the structure of the licensed premises, the work has not been completed in substantial compliance with the plans approved by the Board, the licensee will submit an additional set of as-built plans for approval.

(f) Failure to seek prior approval of plans for any alteration of the structure of the licensed premises or change in seating capacity may result in sanctions, or reconfiguration or alteration of the plan. Failure to submit as-built plans under section (d) for approval by the Board may also result in sanctions.

(g) Changes to plans may require a hearing before the Board.

23. PROPOSED PLANS REQUIRED FOR CONDITIONAL APPROVAL

(a) For premises for which construction has not yet commenced, or is in progress or not yet completed, proposed plans may be submitted for conditional approval for the grant of a license.

(b) The approval of a license based upon proposed plans is conditional only, and does not become final until precise, as-built plans are submitted to the Board for ultimate approval.

SECTION III

RESTAURANT ALCOHOL LICENSE – FOR CONSUMPTION ON THE PREMISES

24. FOOD SERVICE REQUIRED

The Board will not issue any tavern license, and food service is required for all licensees under this Section III of the Regulations at all times when alcohol is served.

25. EMPLOYEE CONSUMPTION PROHIBITED

No licensee, manager, server, bartender, employee, or responsible individual may consume any alcoholic beverages while on duty, nor after the official closing hour of the licensed premises, on the licensed premises.

26. EMPLOYEES ON PREMISES AFTER CLOSING HOURS

Employees may not remain on the licensed premises for more than one hour after closing time. In its discretion, the Board will allow for the following exceptions:

- (a) to clean the premises;
- (b) to make emergency repairs;
- (c) to provide security to the premises; or
- (d) with prior approval of the Board.

27. POSTING OF CAPACITY, EMERGENCY EXIT LOCATIONS, AND FIRE SUPPRESSION EQUIPMENT

All licensed premises which have a maximum occupancy capacity of over 50 (fifty) persons are required at all times to prominently post on, or in close proximity to, the licensed premises' front door and any other additional doors by which patrons and employees enter the licensed premises, one sign per entrance door. Each sign will measure at least eleven inches by seventeen inches and will contain in large bold print the following:

- (a) the maximum occupancy capacity of the licensed premises;
- (b) the location of each and every emergency exit of the licensed premises; and
- (c) whether or not the entire licensed premises is equipped with fire suppression equipment consisting of overhead automatic watered sprinklers.

Said sign(s) must be attached by the licensee on the inside glass window of all entrance doors, or on an inside glass window in close proximity to all entrance doors, or in some other conspicuous location as the Board may determine. Said sign(s) must be clearly visible from the outside of the licensed premises as patrons and employees enter the licensed premises.

28. ACCESS AND INSPECTION OF LICENSED PREMISES BY BOARD, POLICE AND AGENTS

All members of the Newton Police Department, the Board's Enforcement Officer and the Administrative Director of the Board are appointed agents of the Board for purposes of enforcement. The licensed premises must at all times be subject to inspection by appointed agents of the Board, Newton Police officers, the Board's Enforcement Officer, and members of the Board.

The Board, and all appointed agents of the Board, are to be granted free, immediate and unhampered entrance upon and into the licensed premises at any time employees are on the premises, or at any time the licensed premises is open for business, for purposes of inspection related to a license granted under these Regulations. Any hindrance, delay, or denial in providing such free, immediate, and unhampered access will be cause for sanctions against the licensee by the Board.

Any evidence, including but not limited to observations, information, documents, writings, reports, statements, recordings, photographs, and videos obtained as a result of inspection of the licensed premises may be used by the Board for any lawful purpose, including but not limited to suspension, revocation, cancellation, forfeiture, refusal to renew, and/or modification of the license after proper notice and public hearing.

29. INSURANCE REQUIREMENTS

All licenses issued by the Board are subject to any and all insurance requirements the Board may impose and those arising under state law including but not limited to general liability coverage, workers compensation coverage, and alcohol liability coverage. Applications will be considered incomplete and will not be considered unless proof of insurance is provided. At all times the licensee must maintain said insurance coverages current and in accordance with state law, or at a level determined by this Board where permitted.

30. CLEAR VIEW OF INTERIOR OF THE PREMISES

Any advertising matter, sign, screen, shade, curtain, display, glass tint, reflective glass, or other visual obstruction, which completely prevents a clear view of the interior of the licensed premises from the outside, is prohibited on any window or door of any licensed premises, except as permitted in writing by the Board or the ABCC. This regulation does not apply to a club license issued under M.G.L. c. 138 § 12.

31. MAXIMUM OCCUPANCY CAPACITY & MAXIMUM SEATING CAPACITY

Maximum occupancy capacity and maximum seating capacity of the licensed premises will be adhered to at all times by the licensee, manager, or responsible individual and will be enforced by the Board. The licensee, manager, or responsible individual must ensure that procedures are in place so that maximum occupancy capacity and maximum seating capacity is not exceeded.

32. **INTERIOR ILLUMINATION, CLEAR EXITS AND LIGHTED EXIT SIGNS,
CLEAR AND UNOBSTRUCTED INTERIOR**

At all times when persons are present within or upon the licensed premises, the interior of the licensed premises will be safely and sufficiently illuminated and all exits will at all times remain clear and unobstructed and be in proper working order providing for immediate emergency egress. All exits will be properly designated by lighted exit signs in proper working order and in proper location(s) at all times. All aisles, interior and exterior stairways, fire escapes, means of egress, hallways, corridors, and vestibules must remain clear and unobstructed at all times.

33. **WRITTEN POLICIES FOR ALCOHOL SERVICE REQUIRED**

In its discretion, the Board may require a licensee to create and maintain clear written policies concerning the service of alcohol, to be distributed to all managers and all employees. If the Board requires such written policies, copies must be maintained on the premises and be available for review and inspection at all times. Licensees may be required to forward any policies created under this section to the Office of the Board upon request.

34. **APPOINTMENT OF MANAGER**

All alcohol licensees will appoint and maintain a responsible person as Manager of the licensed premises, and the manager will be subject to the following conditions, obligations and requirements:

- (a) appointment of the manager must be approved in writing by both the Board and the ABCC;
- (b) the name of the manager will appear on the face of the license;
- (c) must be at least 21 years of age and a US citizen;
- (d) must be vested with full authority and control of the licensed premises and of the conduct of all business, and be of high moral character acceptable to the Board;
- (e) will be subject to a criminal background check by the ABCC, in conformance with all protections of the law;
- (f) must be present at the licensed premises at least fifty (50) percent of the time the licensed premises is open for business; and
- (g) will be responsible for the proper operation of the licensed premises, for the safe and orderly conduct of the licensed business, for any area(s) under the direction and control of the licensee relating to the conduct of the licensee's business.

35. **LICENSEES AND MANAGERS - RESPONSIBILITIES**

The licensee and/or the manager are responsible for any and all violations or infractions incurred by any officer, agent, or employee of the licensee, whether the licensee or manager is present or not at the time of the violation.

The licensee and/or the manager must maintain order in and upon the licensed premises, The licensee and/or the manager are required to cooperate in all manner and at all times with state and city officials in ensuring safe and orderly facilities, and in the proper and safe sale, service, delivery, dispensing, distribution, and consumption of alcoholic beverages.

36. HOURS OF OPERATION AND LAST CALL

(a) Licensees may operate only during hours approved by the Board during a public hearing. The hours of operation will appear on the face of the license.

(b) Members of the public are not permitted on the licensed premises outside of the hours of operation.

(c) Last call must be made one half hour before closing time. No alcohol may be consumed on the licensed premises by anyone outside of the hours of operation.

37. CONSUMPTION ON PREMISES

(a) All alcoholic beverages must be served in open containers.

(b) Patrons may not remove any alcoholic beverage from the licensed premises. Licensees, managers, and other employees may not knowingly permit the removal of alcohol from the premises.

(c) Patrons may not possess more than two (2) glasses of an alcoholic beverage at any one time. Licensees, managers, and other employees may not knowingly permit the possession over the maximum permissible number of alcoholic beverages for any one patron.

38. SERVING CONTAINERS

Pitchers of beer may only be served to two (2) or more people at a time.

39. CHARGE FOR ALCOHOLIC BEVERAGES

(a) The price charged to the public for alcoholic beverages may not be lower than the actual cost to the licensee.

(b) A cover charge may not be credited towards the purchase price of any alcoholic beverage.

(c) Special drink pricing for happy hour is prohibited.

(d) A licensee may not impose a minimum charge for the purchase of alcoholic beverages or minimum alcoholic beverage drinking requirement.

40. TRAINING AND CERTIFICATION

(a) All servers of the licensed establishment including but not limited to bartenders, managers, waitresses, waiters and also persons under a retail package store license will complete an appropriate Massachusetts alcoholic beverage server training program of a type approved by the Board prior to any service, sale, and/or delivery of alcoholic beverages. Training will be renewed every three years.

(b) Proof of training must be submitted to the Board upon completion, and a copy will be kept on the licensed premises for inspection.

(c) In its discretion, the Board may impose additional training and certification requirements upon a licensee.

41. ANNUAL FINANCIAL REPORTS

Upon request, and in the discretion of the Board, holders of restaurant licenses under Chapter 138 § 12, may be required to deliver to the Office of the Board an annual written report indicating the percentage of gross sales of food and gross sales for alcoholic beverages for the preceding calendar year.

42. LICENSING OF THE EXTERIOR OF PRIVATELY OWNED PREMISES

A licensee may serve alcohol on the exterior of the premises only when certain conditions are met, and in the discretion of the Board, as follows:

(a) The licensee must apply to the Board for an extension of the licensed premises to include the area of proposed outdoor alcohol service. The licensee must follow the application and publication procedures in these Regulations, and the matter will be determined after a public hearing.

(b) The service and consumption of alcohol is limited to those areas approved by the Board during a public hearing.

(c) The exterior portion of the licensed premises must be enclosed by a barrier acceptable to the Board.

(d) The exterior portion of the licensed premises must directly abut the licensed premises.

(e) The entirety of the exterior portion of the licensed premises must be readily visible from the interior of the licensed premises.

(f) The Board may impose reasonable hours of operation for the exterior portion of the licensed premises to comport with these regulations and any other ordinances of the City or General Laws of the Commonwealth.

(g) Golf Courses will be subject to the guidelines issued by the ABCC, and may not be subject to subsections (c), (d), or (e) of this Regulation.

43. LICENSING OF A PUBLIC SIDEWALK CAFE

The service and consumption of alcohol on a public sidewalk café adjacent to the licensed premises requires prior approval of the Board, as well as submission and approval of the appropriate application for a sidewalk café license to the Department of Health and Human Services. Service of alcohol on a public sidewalk café without all required approvals and permits may result in sanctions by the Board against the licensee, including suspension, revocation, and modification of the license. Notification of the extension of the licensed premises made under this section must be made to the Department of Health and Human Services.

44. SUNDAY BRUNCH

Licensees may request permission of the Board to begin the service of alcohol on Sundays at 10:00 A.M. Approval is subject to a public hearing with proper notice and an opportunity to be heard.

SECTION IV

CLUB LICENSES

45. LIST OF OFFICERS

Club licensees are required to make the annual record of information concerning the officers of the Club available for inspection to authorized agents of the Board, Newton Police officers, the Board's Enforcement Officer, and members of the Board at all times. Club licensees may be required to forward this list to the Office of the Board upon request.

46. ONLY CLUB MEMBERS AND GUESTS TO BE SERVED

The service, sale, delivery, distribution, dispensing, and consumption of alcoholic beverages within or upon the Club's licensed premises must be limited to Club members and guests of Club members only, and to no other persons. Club door(s) must be kept closed and secured in a manner which will restrict access to members only, but must be in proper working order at all times to provide for immediate emergency egress. Entrance(s) to the Club's licensed premises must be by key, card or ringing of bell by Club member.

The Club licensee must keep an accurate and current written list of its members, including name, address, dates of membership, and position held, within or upon the licensed premises which list must be readily available for inspection by authorized agents of the Board, Newton Police officers, the Board's Enforcement Officer, and members of the Board at all times. A current and accurate copy of same must be forwarded by the licensee to the Office of the Board upon request.

SECTION V

RETAIL PACKAGE STORE LICENSES

47. HOURS AND DAYS OF OPERATION

(a) Monday through Saturday – Retail package store licensees may operate Monday through Saturday between the hours of 8:00 A.M. and 11:00 P.M., or until 11:30 P.M. on a day before a legal holiday, unless otherwise restricted by the Board.

(b) Sunday – On Sundays, retail package store licensees may operate between the hours of noon and 11:00 P.M., unless otherwise restricted by the Board.

(c) Retail package stores licensees are prohibited from operating on Memorial Day, Thanksgiving Day, and Christmas Day.

48. CONSUMPTION ON PREMISES PROHIBITED EXCEPT SAMPLE TASTINGS

(a) Consumption of alcoholic beverages in a retail package store is prohibited except for sample tastings as described below.

(b) Retail package store licensees may provide customers, free of charge, sample tastings. Food service is required, and samples are limited to those beverages for sale on the premises, and only in the following quantities:

- (1) wine: 1 ounce maximum single serving restricted to 9 liters per 30 day period; malt beverages: 2 ounce maximum single serving restricted to 18 liters per 30 day period;
- (2) liqueurs and cordials: 1/4 ounce maximum single serving restricted to 1 liter per 30 day period; and
- (3) all other kinds of alcoholic beverages: 1/4 ounce maximum single serving restricted to 1 liter per 30 day period.

49. DONATIONS PROHIBITED

Donations of alcoholic beverages by a retail package store licensee to be used as prizes in a game of chance are strictly prohibited.

50. SEATING, CHAIRS, STOOLS, AND TABLES PROHIBITED

No seating, chairs, stools, or tables for use by customers or patrons will be placed or permitted by a retail package store licensee upon or within the licensed premises, or upon any area under the direction and control of the licensee.

SECTION VI

ONE DAY TEMPORARY ALCOHOL LICENSE

51. ONE DAY TEMPORARY LICENSE TO SERVE ALCOHOL

(a) A One Day Temporary License to serve alcohol is required for the sale, delivery, and/or consumption of alcohol.

(b) A One Day Temporary License may not be issued for a location that is already otherwise licensed to serve alcohol under these Regulations.

(c) A One Day Temporary License may only be granted to a natural person.

(d) Under this section, the Board may only grant to each natural person, per street address, a total of thirty (30) licenses in the aggregate for each calendar year.

(e) The notice and publication provisions at Regulation # 21 do not apply to One Day Temporary Licenses.

(f) Applicants for a One Day License must provide the Board with a sketch of the proposed licensed premises. The sketch must be of a reasonably precise nature acceptable to the Board which clearly delineates the location and manner that the alcoholic beverages will be served. The sketch must clearly and accurately designate the actual physical area within the proposed licensed premises where alcoholic beverages will be served.

(g) An event that takes place in a private residence where there is no charge, direct or indirect, for alcohol, is exempt from the application of this Regulation.

(h) Sample tastings are not permitted for holders of One Day Temporary Licenses.

(i) An applicant under this section must certify to the Board that he or she will provide for the orderly and safe conduct of the event. The applicant will be responsible for the proper sale, service, delivery, dispensing, and consumption of alcoholic beverages and will be required to be physically present during the duration of the entire event.

(j) The Board may grant an All-Alcohol One Day Temporary License to non-profit entities only.

(k) The Board may grant only a Beer and Wine One Day Temporary License to for-profit entities.

(l) The service of food is required for all licenses granted under this section. A menu for the food to be served at the event must be submitted to the Board with the application.

(m) Licensees under this section may also be subject to the requirements for an Entertainment License pursuant to Regulation # 53.

(n) Any and all alcohol served under this Regulation must be purchased from a wholesaler.

52. POLICE DETAIL MAY BE REQUIRED

(a) The Board may require a licensee to hire a police safety detail.

(b) The number of police personnel to be hired will be determined by the Chief of Police, or designee, in his or her discretion.

(c) The licensee is obligated to contact the Newton Police Department to arrange for the hiring of the police detail and confirmation of the hiring of an adequate police detail is required before the license will issue.

(d) The number and rank of police officers will otherwise be determined by the Chief of Police, or designee.

SECTION VII

ENTERTAINMENT, AUTOMATIC AMUSEMENT MACHINES, BILLARDS

53. ENTERTAINMENT AND NOISE¹

(a) All entertainment, including but not limited to amplified music, recorded or live music, special effects, live performance, or dancing, conducted by a licensee under these Regulations will require that a licensee obtain an entertainment license. All entertainment licensees will comply with the Noise Control Ordinance of the City of Newton, as amended.

(b) The Board may require any licensee applying for an entertainment license to appear before it in a public hearing, and may require the applicant to adhere to the notice requirements outlined herein at Regulation # 21.

(c) In its discretion, the Board may place such conditions on the license as to ensure compliance with the General Laws, the Regulations of the Board, and any applicable City Ordinance. Any such conditions are automatically renewed with the license, unless modified or otherwise altered by the Board after a public hearing on the matter.

(d) Licenses under this section may be modified, suspended, or revoked after giving the licensee reasonable notice, a public hearing, and an opportunity for the licensee to be heard.

(e) Licenses under this section may be exercised seven days per week, subject to any reasonable restrictions in hours of operation. The licenses are annual, renewable, non-transferrable, and otherwise expire on December 31st of each year.

(f) Licensees who have been granted a One Day Temporary Alcohol License under Regulation # 52 are required to obtain a Special One Day Entertainment License, if applicable. A Special One Day Entertainment License for use on a Sunday may be subject to additional fees by the Commonwealth.

54. COIN-OPERATED AUTOMATIC AMUSEMENT

The existence of, type, and location of any automatic amusement machine within or upon the licensed premises must be first approved in writing by the Board. Any change in location or change in type of automatic amusement machine must likewise be approved in writing by the Board. The licensee, and not the distributor, is obligated to make application to the Office of the Board under M.G.L. c. 140 § 177A.

¹ All applicants are directed to contact the Health and Human Services Department for further information concerning the issuance of an Entertainment License at 617-796-1420.

SECTION VIII

COMMON VICTUALLER LICENSE

55. COMMON VICTUALLER LICENSE

(a) Food Service to the Public:

Common Victuallers will require a license issued by the Board pursuant to chapter 140 § 2. Common Victualler licensees must have adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving food on the licensed premises.

(b) Food Service in Private Organizations:

No club, society, association or other organization, may dispense food or beverages to its members and their guests to be consumed on its premises without a license issued by the Board as provided under M.G.L. c. 140 § 21E. This paragraph does not apply to tax-exempt literary, benevolent, charitable, scientific, or religious organizations, nor to clubs holding an alcohol license issued under M.G.L. c. 138 § 12, nor to any recognized veteran or fraternal organization.

Plastic Bag Facts and FAQs

What's wrong with plastic bags?

Plastic bags are cheap, easy to use, and take up very little space, and their use and disposal has an enormous negative effect on the environment. Millions of animals are killed or mutilated by ingesting or entanglement in plastic bags every year. Even when properly disposed of, they're so aerodynamic that they frequently still blow away and become litter. Plastic bags do not biodegrade; instead they slowly fragment into smaller and smaller bits that can then contaminate soil, waterways, and our oceans. These small bits, known as microplastics, displace food supplies and threaten the survival of a broad range of sea life. Microplastics are inert, and once in the oceans, stay there forever.

Bag Facts

- The U.S. uses 100 billion plastic shopping bags each year,¹ which are made from an estimated *equivalent* of 12 million barrels of oil and cost retailers an estimated \$4 billion.
- Plastic bags are not biodegradable, and although they do degrade through mechanical action and photodegradation in the presence of light, these processes are slow taking an estimated 300 to 1000 years to occur.
- The United Nations Environment Programme (UNEP) estimates that there are 46,000 pieces of plastic litter floating in every square mile of ocean.²
- Every year, tens of thousands of whales, birds, seals, and turtles die from contact with ocean-borne plastic bags.³
- Due to the low value of plastic bags, the recycling rate is abysmally low.⁴
- Recycling one ton of plastic bags costs \$4,000. The recycled product can be sold for \$32.⁵
- Production of 1 pound of plastic for shopping bags produces approximately 6 pounds of global warming CO₂⁶

How will this proposed law reduce solid waste?

The reason for introducing this proposed law is not to reduce the volume of municipal solid waste, but to highlight the effect of this type of waste when landfilled or littered. In this case, primarily to address the hazard of polyethylene (HDPE or LDPE) bags to the marine environment.

Is paper worse?

All single-use throwaway items negatively impact the environment. One ordinance cannot solve all waste problems, but simply help alleviate one aspect. When plastic bag bans are enacted, more individuals will utilize reusable bags. Others may skip bags entirely, and some may use a paper bag. In order to avoid having paper take the place of plastic, some municipalities have banned plastic bags and mandated a fee for paper bags.

Paper doesn't pervade in the environment. Requiring that paper bags be made of 80% recycled material helps minimize the impact that increased reliance on paper could cause. Paper bags are very frequently recycled, where plastic bags are not. However, use of paper does mean cutting trees and the use of chemicals required in the fabrication process.

Plastic bags have detrimental impacts at every step in their life cycle, such as the extraction of the natural gas (or petroleum) used in their production, the energy consumed and pollution generated in the manufacturing process, and the fact that most of them end landfilled, incinerated or littered.

Will this negatively impact sales?

The Mayor's plastic bag working group canvassed local businesses and retailers to gauge the impact that a plastic bag ban would have on local businesses. The determination is that it would have little to no impact economic impact. Municipalities throughout the United States and around the world have enacted plastic bag bans without any impact on sales. An estimated 20 million people in the US are already covered by bag bans and/or fees.

Can't we just make recycling bins more available?

These bags are rarely recycled due to their low value. The City of Newton does not recycle them and they are prohibited from recycling bins. Some stores have collection bins for recycling. At most only about 5% of our plastic bags are recycled.

Is education the answer?

Even if we doubled or tripled our 5% recycling rate (the most that could be expected with public education), we would still have an unacceptably low recycling rate. Education would not affect the litter rate.

What the ideal bag thickness?

Most ordinances place the threshold at 3.0 mils (a mil is a one-thousandth of an inch); bags thinner than 3.0 mls are generally meant for single use, while thicker bags tend to be reusable, more durable and less flyaway.

Are all plastic bags (compostable or not, thicker or thinner, marine degradable or not), currently able to be returned for recycling at (some) grocery stores?

No, only polyethylene bags can be returned at grocery stores. Polyethylene bags are not ASTM-D6400 compostable or ASTM-D7081 marine biodegradable.

What are some typical wholesale bag costs?

The wholesale cost of bags today is lowest for polyethylene plastic bags, followed by paper, and lastly ASTM-D7081 biodegradable bags (when available). However, the total costs of polyethylene bags are paper within close range of each other. If people switch to reusable bags, then stores could even save money.

Standard single use plastic bags (like those given at supermarkets) (Alibaba) 1¢ to 5¢

Standard paper grocery bags 12 x 7 x 17" without handles (PaperMart) 3.5 to 8¢

heavy duty with handles (Pack Secure) 16¢

Reusable non-woven polypropylene bags (Alibaba) 44¢ to 1.90

Can retailers charge for paper bags and/or reusable bags?

Yes.

Should a municipality exempt small stores?

It depends on the specific situation. While many municipalities do not exempt small stores, Newton's ordinance does exempt stores less than 3,500 sq ft. A canvass of select Village Centers by members of the Plastic Bag Working Group found that most small retailers and independent businesses do not use the targeted bags. For comparison the Town of Brookline's exemption is 2,500 sq ft.

Should restaurants and/or food vendors considered retail for the purpose of this proposal?

A sit-down restaurant is a service not retail. A caterer would not be considered retail as well. However, a restaurant that has a point of sale such as a take-out counter or a separate prepared foods area would qualify. "Doggy bags" would not be covered by this since that is a by-product of the

service not a standalone purchased retail item. These details would normally be determined by the municipal department that is assigned with the responsibility of implementing the law.

Would thin bags without handles such as those used for vegetables at grocery stores be prohibited?

No, produce bags are not point-of-sale bags (provided at the check-out station).

Are there unintended negative environmental effects of this proposed law?

Some municipal proposals allow paper without restrictions. Paper has its own environmental consequences, although these can be minimized by requiring that paper bags be made of 80% recycled material, which is widely available. We also note that while plastic bags are recycled only 5% of the time, paper bags are recycled more than 50% of the time (on average), and this ratio is much higher in many communities.

The remaining 20% of the fiber content of paper bags will come from trees – and whether or not the trees are sustainably harvested or from private forests, cutting trees is something that should be avoided. Some municipalities are pursuing a wait-and-see policy: if there's a significant shift to paper, the next step would be exploring a fee. Other municipalities are seeking a fee for paper as part of their ordinance.

Compostable plastic bags are an option, but also have environmental consequences

If a plastic absolutely must be used, there are alternatives that are biodegradable, compostable, and meet the environmental testing standards ATM D6400 and ASTM D7081. Allowing these bioplastics in limited circumstances will allow shoppers to use checkout bags that have the convenience of polyethylene bags. However, bioplastics can divert needed food supplies and are often made of GMO corn. They don't compost in home composting bins, requiring municipal composting facilities. ASTM 6494, or so-called *oxodegradable* bags should not be permitted. They are made from fossil fuels, and have many of the worst aspects of standard HDPE carryout bags. Reusable bags of any material are allowed under all municipal ordinances.

Shouldn't we seek a comprehensive solution for all our litter problems?

Absolutely! But complex problems, such as litter and waste, have complex solutions. Around the world, despite efforts by thousands of waste and litter-control professionals, no "comprehensive solution" has been devised. The best system is to segment the problem into smaller ones that have proven solutions. Banning plastic bags is a proven solution.

Can one municipality really make a difference?

What's very clear is that if we do nothing, our waterways and oceans will become increasingly choked with plastic bags. By taking action the City of Newton demonstrates a commitment to sustainable practices, and it will encourage other municipalities to take similar action – and that will make a real difference. Four Massachusetts communities have already taken action, including the Town of Brookline, who estimate that they are removing one million bags a month from their waste stream.

¹ Worldwatch Institute, New Bans on Plastic Bags May Help Protect Marine Life, 2013

² "Press Releases June 2006 - Action Urged to Avoid Deep Trouble in the Deep Seas - United Nations Environment Programme (UNEP)." United Nations Environment Programme (UNEP). N.p., June 2006. Web. 12 May 2014.

³ "New Bans on Plastic Bags May Help Protect Marine Life." Worldwatch Institute. N.p., n.d. Web. 12 May 2014.

⁴ US Environmental Protection Agency (EPA), Wastes, Non-Hazardous Waste, Municipal Solid Waste. November, 2008

⁵ Waste and Recycling Facts, Clean Air Council. N.p., n.d. Web. 10 May 2014

⁶ CO2 List, Information on Daily Sources of CO2retrieved 5-14-2014 CO2List.org

Plastic Bag Working Group Update

Members include, Dori Zaleznick, Rob Garrity, Nancy Hyde. Chris Steele. Marie Lawlor and Alison Leary

The Plastic Bag Working Group was formed in the early spring to discuss the details of the proposed plastic bag reduction ordinance, and how it might impact Newton's small businesses and retailers. The months of March, April and May were spent canvassing select Village Centers in teams of 2 and 3 to talk directly to members of the business community and to learn what kinds of bags were being used.

The following locations were covered:

Village of Newtonville-South of Pike-Chris Steel & Alison Leary -March 25

Village of Newton Centre –Nancy Hyde and Alison Leary- April 9

Village of West Newton-Chris Steele & Alison Leary-April 18

Village of Newton Highlands & Waban- Chris Steele, Rob Garrity & Alison Leary-May 6th

Village of Nonantum-Alison Leary- May 13

The result of our canvassing showed that a plastic bag ban at point of sale would have little to no impact on the vast majority of small businesses in Newton. Many don't use the targeted bags; they use paper, thicker plastic bags with logos and/or already have many customers bringing their own bags. Many small businesses are also well under the 3,500 sq ft threshold. Many businesses were supportive of the effort to reduce plastic bag use. This included, Newtonville Books and Rosenfeld's Bakery in Newton Centre, Natural Sense in Newtonville and Harris Cyclery, and the Coney Island Café in W. Newton. The Newton Needham Chamber of Commerce is also a supporter.

A few businesses were opposed. They included. Center Ski & Bike in W. Newton, Bread & Chocolate and Green Planet Kids in Newton Highlands. Reasons given included; "wrong approach", "it was Unfriendly" or just an unnecessary overreach.

Note that Newton's plastic bag ordinance has an exemption for bags thicker than 3 ml, and for retail space under 3,500 sq ft (for comparison Brookline's exemption is 2,500 sq ft.) It also includes a 6 month phase in period that would allow businesses to use up inventory. The targeted bags include the very thin, lightweight bags given out at point of sale at most supermarkets, pharmacies and convenience stores. It does not impact thicker, heavier bags such as those used by many specialty retailers that make up most of Newton's small businesses. It also does not impact dry cleaning businesses and take out restaurants. It will also not impact produce and deli bags that protect food.

The committee discussed a voluntary program, however evidence from other communities shows that voluntary programs don't work well and don't result in significant declines in plastic bag use.

The Committee agreed that an educational and outreach plan should also be in place to help consumers and businesses transition away from the targeted bags. Discussions are ongoing about a re-usable bag campaign with a city logo such as "Sustainable Newton" that could be distributed at City events such as the fall Harvest Fair, Green Decade events, Farmer's Markets, as well as by local retailers.

Discussions are ongoing with other communities in Massachusetts who are also considering action on plastic bags. This includes; Watertown, Wellesley, Newburyport, Medford, Cambridge and Somerville. Communities that have already have passed bans include; Brookline, Great Barrington, Manchester, and Nantucket.

Respectfully submitted,

Alison Leary
Ward Alderman
Ward 1

CITY OF NEWTON
IN BOARD OF ALDERMEN

ORDINANCE NO. ____

March ____, 2014

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton Massachusetts, 2012, as amended, be and hereby are further amended as follows:

Add a new **ARTICLE IX.** to Chapter 12 as follows:

Section 12-71 Plastic Bag Reduction Ordinance.

(a) **Short Title.** This Section may be cited as the "Plastic Bag Reduction Ordinance" of the City of Newton.

(b) **Declaration of findings and policy—Scope.**

(1) The Board of Aldermen hereby finds that the reduction in the use of plastic bags by commercial entities in the City of Newton (the "City") is a public purpose that protects the marine environment, advances solid waste reduction and protects waterways. This Ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by retail stores located in the City. Further, this Ordinance seeks to reduce the use of paper bags, due to their greater use of natural resources and higher cost impacts on retailers. This Ordinance also seeks to ensure that customers using reusable checkout bags are made aware of the need to keep those bags sanitized between uses in order to protect against the transmission of food-borne illnesses.

Comment [m1]: See comment 5 below

(c) **Definitions.**

(1) The following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Department" means the City's Department of Health and Human Services.

(b) "Commissioner" means the City's Commissioner of Health and Human Services.

(c) "Checkout Bag" means a carryout bag provided or sold by a Retail Establishment to a customer at the point of sale. A Checkout Bag shall not include

(i) bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Retail Establishment;

(ii) laundry or dry-cleaner bags; or

(iii) newspaper bags.

(d) "Recyclable Paper Bag" means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "Recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

(e) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 millimeters in thickness.

(f) "Retail Establishment" means (1) any commercial enterprise, with retail space of 3500 square feet or larger, defined as the following, whether for or not-for profit, including, but not limited to retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, farmers' markets, jewelry stores, household goods stores; or (2) any commercial enterprise, whether for or not for profit, operating or participating in farmers' markets, street fairs or festivals, or bazaars or street fairs.

Comment [m2]: Do we still want to regulate these?

(d) **Requirements.**

(1) If a Retail Establishment provides or sells Checkout Bags to customers, such bags shall be either a Recyclable Paper Bag or a Reusable Bag. Public information advising customers to sanitize Reusable Bags to prevent food-borne illness must be prominently displayed or communicated at the point of provision or upon sale.

Comment [m3]: Public service information? Consider having Commissioner provide uniform acceptable language for signs.

Comment [m4]: Communicated how? By the salesperson talking to each customer? Not really feasible or enforceable. Standard signage is better

(2) The Commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this Section.

Comment [m5]: Might consider leaving this out altogether since it was kind of a distracting bone of contention when this was discussed in committee

(3) Each Retail Establishment as defined herein shall comply with this Section.

(e) **Effective Date.**

This Section shall take effect one hundred and eighty (180) days from the date of enactment.

(f) **Exemption.**

(1) The Commissioner may exempt a Retail Establishment from the requirements of this Section for a period of up to six (6) months, upon a finding by the Commissioner that the requirements of this Section would cause undue hardship to a Retail Establishment. An "undue hardship" shall only be found in circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags or paper bags which do not meet the definition of recyclable paper bag. Any Retail Establishment receiving an exemption shall file with the Commissioner monthly reports on inventory reduction and remaining stocks.

(2) Any Retail Establishment shall apply for an exemption to the Commissioner using forms provided by the Department, and shall allow the Commissioner or his or her designee, access to all information supporting its application.

(3) The Commissioner may approve the exemption request, in whole or in part, with or without conditions

(4) The Commissioner, by regulation, may establish a fee for exemption requests.

(g) **Enforcement.**

(1) **Fine.** Any Retail Establishment which shall violate any provision of this Section or any regulation established by the Commissioner shall be liable for a fine of ~~not more than~~ \$300 and each day's a violation occurs shall constitute a separate offense.

(2) Whoever violates any provision of this Section may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the Commissioner of the Health and Human Services, or his or her designee, shall be enforcing persons.

(h) **Severability.**

Each separate provision of this Section shall be deemed independent of all other provisions herein, and if any provision of this Section be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Section shall remain valid and enforceable.

Comment [m6]: Is this the intent? Or is each time a plastic bag provided or sold to a customer a separate offense, no matter how many occur in a day? Brookline, for example, provides that no more than 1 penalty shall be imposed within a 7 calendar day period. (They also have a warning plus a graduated penalty).

-And-

In Sec. 20-21. Enforcing persons and revised ordinances subject to civil fine.

Amend paragraph (b), HEALTH AND HUMAN SERVICES DEPARTMENT, by adding after CITY ORDINANCES, Any offense, the following:

.....PENALTY

Section 12-71. Plastic Bag Reduction Ordinance

() Any offense\$300.00

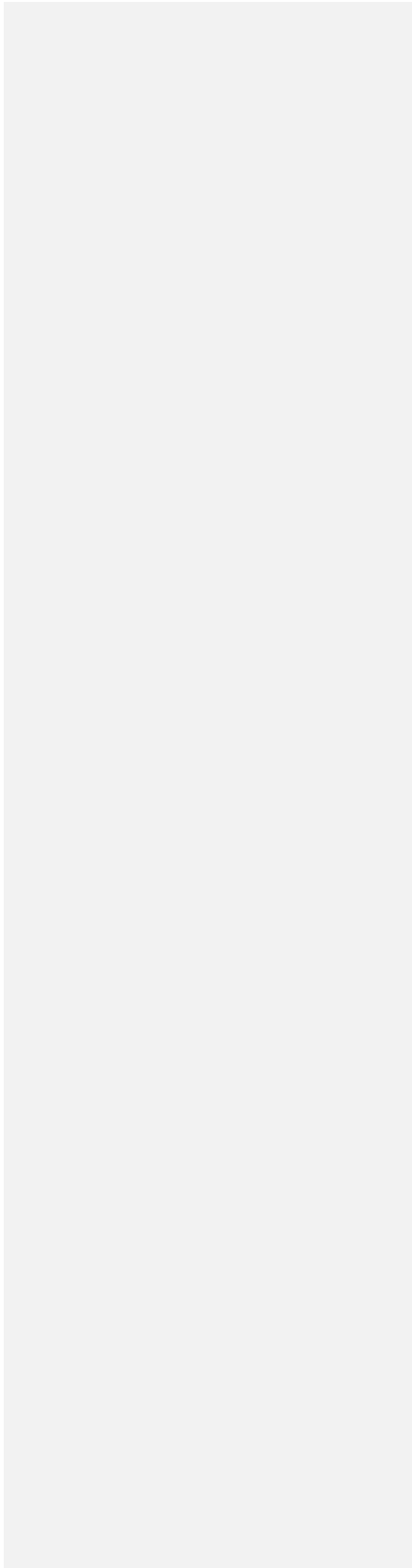
Approved as to legal form and character:

(SGD)
City Solicitor

Under suspension of Rules
Readings Waived and Adopted
___ yeas and ___ nays

(SGD)
City Clerk

(SGD)
Mayor



CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO. ____

March ____, 2014

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(2) The Commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this Section.

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Approved as to legal form and character:

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City Solicitor

Under suspension of Rules
Readings Waived and Adopted
___ yeas and ___ nays

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City Clerk

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