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Director

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## MEMORANDUM

**DATE:** October 6, 2017

**TO:** Councilor Rice, Chairman  
Members of the Programs and Services Committee

Councilor Ciccone, Chairman  
Members of the Public Safety & Transportation Committee

Members of the Licensing Board

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Rachel Blatt, Long Range Planner

**RE:** **#140-14 (2) Amend ordinances to add licensing requirements and criteria for lodging houses**  
ZONING & PLANNING COMMITTEE requesting to amend Chapter 17, City of Newton Ordinances, to establish licensing requirements and criteria for lodging houses.

**MEETING DATE:** October 18, 2017

**CC:** Donnalyn Khan, City Solicitor  
John Lojek, ISD Commissioner  
Deborah Youngblood, Health Commissioner  
David MacDonald, Chief of Police  
Bruce Proia, Fire Chief  
Planning and Development Board

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A lodging house is a traditional housing form that caters to single individuals living in a quasi-group setting. This housing arrangement was once very common. In the 1880s it was estimated that 50% of Americans had either lived in a lodging house or been a host of one.<sup>1</sup> Lodging houses have persisted,

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<sup>1</sup> During, Alan (2012). "Rooming Houses: History's Affordable Quarters." Accessed 3/7/17 at <http://www.sightline.org/2012/11/14/rooming-houses-historys-affordable-quarters/>. Data quoted from Groth, Paul (1994), *Downtown Living Downtown: The History of Residential Hotels in the United States*. University of California Press.

though in smaller numbers, and interest in living in lodging houses is growing again. Newton has had lodging houses since before it had zoning. A few of these historic ones continue to serve as affordable housing in Newton.

New lodging houses can also be established today. Lodging houses are an allowed use by Special Permit in all multifamily districts of the city. Lodging houses are defined, but no standards for the structure or operational requirements are included in the City's zoning or other ordinances.

For both the historic and any new lodging houses, Newton also currently requires a \$50 annual license fee to operate a lodging house. No license requirements exist to specify how a lodging house operator should be running their facility, and no ordinance specifies what reviews should be conducted prior to issuing a person a license to operate a lodging house.

Since spring 2017, the Planning Department, Law Department, and the Zoning and Planning Committee of the City Council have been discussing lodging houses and developing a proposed set of standards by which to regulate not only the formation of a lodging house but also the continued operation of a lodging house. Since regulating lodging houses involves numerous city departments, this proposal has been crafted with input from all four departments who have a role in ensuring the health, safety, and welfare of lodging houses: Inspectional Services, Health and Human Services, Police, and Fire. At this time a full draft is now available for consideration of the Council Committees and the Licensing Board, who by state statute, would be charged with bringing these regulations into effect.

The proposals are modeled after the Lodging House Regulations developed by Brookline, widely recognized as the most robust in the region. While this was the model, the proposals for Newton are tailored more closely to the traditional lodging house form, and do not cover other forms of accommodation like hotels or dorms, as Brookline's ordinance does.

## **TWO ORDINANCE SECTIONS – MULTIPLE COMMITTEE DISCUSSIONS**

Before diving into the proposals, please note that the lodging house regulations proposed are **embedded in two separate sections of the City Ordinances and refer to each other**. Public comments regarding the proposed amendments to Chapter 30 – the Zoning Ordinance are being taken in a public hearing at the **Zoning and Planning Committee on Wednesday October 11, 2017**. Proposed amendments to Chapter 17 – Licensing and Permits Generally, will be discussed at a joint meeting of the **Programs and Services Committee and the Public Safety and Transportation Committee on Wednesday October 18, 2017**. License fees and fines are to be discussed at the **Finance Committee, date to be determined**.

By state statute, licensing of lodging houses can only be done by the Licensing Board. At the time this memo was written, the **Licensing Board** has not yet had the opportunity to discuss the licensing proposal. This draft is presented to both the Licensing Board and the joint City Council committees tasked with reviewing the proposed language for their mid-October meetings. **The Licensing Board has a regular meeting on October 17<sup>th</sup>**. Staff encourages members from the Licensing Board to attend the Council discussion and vice versa so that there is exchange of information between the Legislature and the implementing body.

This memo focuses strictly on the proposed licensing amendments to Chapter 17. A separate memo summarizing the proposed Chapter 30 zoning amendments is attached here for reference, understanding that it is principally addressed to the Zoning and Planning Committee public hearing on October 11<sup>th</sup> (see Attachment C). At the end of the memo is background information on lodging houses and why the two sets of ordinance amendments are proposed.

Additionally, please note that prior to taking up either set of proposed amendments at the full Council, the City Council must first vote on whether to **accept Massachusetts General Law c. 140 §22A**. This section would allow for Efficiency-Single Room Occupancy facilities within lodging houses, further described below.

### **BACKGROUND ON LODGING HOUSES & FAQs**

- **Is a lodging house the same thing as a rooming house? How about a boarding house?**
  - These phrases all mean the same thing – a place designed for four or more independent residents sharing common cooking and bath facilities. Historically a boarding house offered meals where rooming houses did not. Lodging house has come to be the preferred modern term and is the term used in the state statutes.
- **What is the difference between a lodging house and a group of roommates/association of persons sharing a house?**
  - In a lodging house, the lodger rents a rooming unit – typically a bedroom, perhaps including a seating area. The tenant has access to, but not responsibility for, shared cooking and bath facilities with others in the house. They rent their rooming unit directly from the lodging house operator, who maintains the common areas including the kitchen and bath. The tenant has keyed access to both the house and the rooming unit. The rooming unit is their ‘home.’

In contrast, in an association of persons or a roommate situation, all are jointly tenants in the house. They are collectively responsible for common spaces and the landlord is not responsible for housekeeping. There is keyed access to the house only. The entire house inclusive of shared common areas is their ‘home.’
- **Why is regulating lodging houses a priority for the City of Newton?**
  - The Police, Fire, Health, and Inspectional Services Departments acknowledge that typically illegal lodging houses are discovered because of a 911 call. Often Boarding Houses are operated with violations to the state sanitary and fire codes and there are life safety concerns about how these facilities are run. The concern is not just for whether these facilities are safely constructed with proper egress stairs, sprinklers, etc., but also how they are operated - are managers ensuring that doors are not blocked, that hotplates are not being used in bedrooms, that trash is properly disposed of, and the like. Fires have occurred in a few illegal boarding houses in recent years, leading to a concern for the safety of Newtonians living in these arrangements.

• **Why are lodging houses regulated through both the Zoning Ordinance and the Licensing Ordinance?**

- Most of the problems in lodging houses arise from poor operations – e.g. blocked egress routes, electrical systems used beyond capacity, noise complaints, etc. Licensing follows the operators while zoning follows the property.

The proposed Zoning amendments maintain the requirement that Lodging Houses receive a Special Permit from the Council first, and then a license for the operator after that.

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| <ul style="list-style-type: none"> <li>○ The Zoning Ordinance covers the development of a new lodging house – where a new lodging house can be established, and what standards are required from the building and property.</li> </ul> | <ul style="list-style-type: none"> <li>○ The Licensing Ordinance covers issues of operation – who is allowed to operate a lodging house, what training they are required to have, and what responsibilities they are expected to take on.</li> </ul> |
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Approval through the zoning process establishes that a lodging house is an approved use of a piece of property

Approval through the licensing process gives a person or organization the authority to operate a lodging house

Zoning approval by Special Permit stays with the property in perpetuity

License approval follows an operator and lasts just one year

• **What departments have been involved? What will their roles be going forward?**

- The Planning and Community Development Department, Law Department, Inspectional Services, Police, Fire, and Health and Human Services have all been involved in developing this proposal.

○ Future Roles:

Planning and Community Development

- Assist in developing licensee certification and application forms
- Zoning reviews & Special Permit process
- Possible CDBG support for rehab projects (applicability still being researched)
- Report to Licensing Board as applicable

Inspectional Services (ISD)

- Lead annual team inspection
- Lead annual licensee certification
- Report to Licensing Board on result of annual inspection
- Code and zoning enforcement

Health and Human Services (HHS)

- Participate in annual team inspection
- Participate in annual certification
- Support Licensing Board in administering the licensing process
- Perform reference checks on licensees and agents

Fire

- Participate in annual team inspection
- Participate in annual certification
- Code enforcement
- Evacuation plan and electrical use policy review
- Review quarterly fire drill reports

Police

Treasury

- Participate in annual certification
- On-call support for annual inspections
- Report to Licensing Board on responses in the past year that are of concern to the licensee application
- Report to Licensing Board whether or not taxes and charges are up to date

Resident supervising agents will be required to provide contact information to ISD, HHS, Fire, and Police and shall respond to calls from these departments in a timely manner.

## **PROPOSED LICENSING AMENDMENTS**

The Lodging House Licensing Amendments to Chapter 17 are attached for consideration and discussion. By state statute the Licenses for Lodging Houses in a City with a Licensing Board, must be granted by that body. From discussions with staff that support the Licensing Board, it is understood that the Board would like to see clear standards for them to implement. Staff anticipates that most of the work in reviewing the licensing will fall to the inspecting departments (ISD, HHS, and Fire) with the support of the Planning Department, Police Department, Treasury Department, and City Clerk's Office. As the property will first require a Special Permit before a License can be granted, any new lodging house, will have already been vetted in a public hearing before it goes before the Licensing Board.

- **Division 1: Generally**
  - Includes pertinent definitions and requirements for the facilities that are to be licensed
- **Division 2: Licenses**
  - This section covers requirements for the operator's license and is broken into four sections:
    - Requirements for operators looking to be licensed
    - Outline of the operator's responsibilities relative to residents
    - Outline of the operator's responsibilities relative to property maintenance
    - License application and renewal requirements
- **Fees** for the license and the inspections are listed in separate sections of Chapter 17
  - License fees max out at \$50 per state limits
  - Interdepartmental Inspection Fee is initially proposed at \$400. This is consistent with the fee charged in Brookline and covers an estimated 5 hours of inspection/reporting work for an average rate of \$80/hr. For comparison a police detail costs \$55/hr.
    - 2 hours of the ISD Periodic Inspector's time ( the lead inspecting staff person)
    - 1.5 hours of a HHS inspector's time (1 hr inspection, 0.5 for reporting)
    - 1.5 hours of a Fire inspector's time (1 hr inspection, 0.5 for reporting)

### **Lodging House Facility Requirements**

Generally, Lodging Houses do not offer fully private units, but instead offer private quarters with shared cooking and bathing facilities. The Lodging House Licensing Ordinance allows for two types of rooming facilities that someone could rent within a lodging house.

- The typical arrangement is for a **Rooming Unit**, with private sleeping and living space, and shared kitchen and bath facilities. In this arrangement the resident could expect to have a full kitchen in the house at their disposal and a bathroom on the same floor as their room. The Rooming unit would have a keyed lock, and inside would be at a minimum sleeping space and clothing storage space. The resident would not be allowed any cooking appliances but may be allowed a small fridge and non-cooking appliances like a coffee maker.
- The second option would be to rent an **Enhanced Single Room Occupancy Unit (E-SRO)**. This unit would have the same features as a standard rooming unit, but would additionally have its own mini-kitchen inside the room. Because of this added fire risk, E-SROs would be required to meet new construction standards for transient use (R-1 Occupancy) and would need to have 2 means of egress from the room. The resident would still have access to a shared kitchen and shared bath.

In a case where a Lodging House offered E-SROs with their own private bathrooms, these would be considered ‘full functioning units’ in the eyes of the City’s Inclusionary Zoning Ordinance and a percentage of them would need to be deed restricted as affordable housing units.

### **Requirements for Operators**

Unlike the Special Permit which is granted to the property, the License is granted to a particular operator. In all cases the property owner is considered the Licensee who will hold primary legal responsibility for the premises and its operation. It is expected that in many cases, the Licensee will designate an Agent to carry out their responsibilities. Both Licensees and Agents will need to get Licenses from the Licensing Board.

The Licensee or an Agent will need to act as the **Resident Supervisor**. The “Resident Agent” will be responsible for holding the master key to resident rooms, and ensuring day-to-day operations of the facility. We researched if the resident agents could be subject to background checks, understanding this to be desirable. However, the City is not currently set up to do background checks for licensees of any kind. Understanding that changing that is a project in its own right, the interdepartmental staff team working on this has amended the lodging house license application requirements to include a resume and professional references to better understand the character of applicants, in lieu of a background check.

The resident agent has a number of responsibilities, but one of the most important, is that they will be the **central point of contact for the City**. The resident agent will be required to give a mobile contact number to the Police, Fire, HHS, and ISD staff and to respond within one hour for emergencies and 24 hours with respect to all other issues.

Licensees and all agents (resident or otherwise) will be required to be certified as well. A **Certification Program** will be run by Police, Fire, HHS, and ISD once a year and for anyone starting more than 90 days from the next certification training, they will be required to complete a written preliminary certification at the beginning of their duties.

### **Operator’s Responsibilities relative to Residents**

Residents play an important role in keeping the lodging house safe, and it is the responsibility of the operator to ensure their residents know how to do this. The primary goals are to ensure that the

Lodging House is not overcrowded and that residents are maintaining safe and clean rooms and facilities.

To **prevent overcrowding**, licensees and agents are responsible for keeping track of their residents and residents' guests, with signed **resident agreements**, resident and guest **registries**, and a published **guest policy**.

To **ensure safety**, licensees are responsible for setting '**house rules**' that cover a number of topics as well as setting a Fire Department approved **Electrical Use Policy**. The licensees are responsible for ensuring that residents are made aware of these policies as well as how to get in touch with the resident agent in the case of maintenance issue or an emergency.

### **Operator's Responsibilities relative to Property Maintenance and Management**

One of the primary property maintenance issues is **ensuring that proper egress** is available to residents in case of a fire. Licensees and agents are responsible for ensuring egress routes are clear, well-marked, and well-advertised. They are responsible for holding quarterly **Evacuation Drills** and documenting the drills for the Fire Department to review.

Beyond this, the Licensees are responsible for ensuring that the property is generally in a good state of repair and maintenance.

### **License application and Renewal Requirements and Procedures**

The last section of the Licensing Ordinance covers the details of the minimal requirements for license applications and renewal procedures. This section lists the required annual interdepartmental inspections and staff reports to support the Licensing Board in making their decisions regarding applications.

In addition to the Special Permit public hearing for a newly established Lodging House, it is proposed that there will also be **public hearings for each new Licensee or Agent**. An important note is that the Board shall not deny a license based on "general grounds of adverse impact on the neighborhood." It is understood that the proper venue for such a discussion is at the City Council Special Permit hearing. This said, should there be "specific ground" of adverse impact resulting from poor management of the property by a licensee or agent, then such a license may be denied.

The draft Licensing Ordinance additionally outlines **penalties for egregious violations**. While the Licensing Board may deny or suspend a license for just cause in any circumstance, the ordinance outlines situations which are considered worthy of immediate fines and if multiple fines are warranted in quick succession, then the immediate denial of a license renewal.

### **ATTACHMENTS**

Attachment A: Proposed Chapter 17 Licensing Amendments – Redline Version

Attachment B: Proposed Chapter 17 Licensing Amendments – Clean Page Version

Attachment C: Memo to Zoning and Planning

# Chapter 17 – Licensing and Permits Generally

## Art. II. Fees for licenses and permits, 17-2—17-21

### **Sec. 17-3. Fees for certain licenses and permits.**

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be paid a fee on an annual basis or unless otherwise noted to the city clerk for each of the following applications, permits, licenses or charges, the sum set forth as follows:

...  
(8) Lodging house ~~and dormitory~~ licenses ..... \$50.00

(#) Dormitory license..... \$50.00

### **Sec. 17-10. Fees to be paid to the fire department.**

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be a fee paid on an annual basis or unless otherwise noted to the fire chief for each of the following applications, permits, licenses or charges, the sum set forth as follows:

...  
(b) Inspection fees:

...  
~~(10) Quarterly on-site inspection, lodging/rooming houses ..... \$ 50.00~~

### **Sec 17-16. Fees for interdepartmental inspections.**

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be a fee paid on an annual basis or unless otherwise noted to the Commissioner of Inspectional Services for each of the following interdepartmental inspections:

(1) Lodging House Inspection Fee.....\$400.00

## **Article VI. Lodging Houses, §§ 17-138 – 17-147**

Div. 1. Generally, §§17-138 – 17-142

Div. 2. Licenses, §§17-143 - 17-147

### **DIVISION 1. GENERALLY**

#### **Sec.17-138. Definitions.**

a) Lodger: A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit.



- b) Lodging House: Any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers. Includes rooming house, boarding house. It shall not include convalescent, nursing or rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels.  
State law reference – G.L. c. 140, §22
- c) Rooming Unit: The room or group of rooms rented to an individual or household for use as living and sleeping quarters.
- d) Enhanced Single Room Occupancy Units (E-SROs): Any Rooming Unit in a Lodging House that provides cooking facilities within the rooming unit.

#### **Sec. 17-139. Requirements for all Lodging Houses.**

- a) Common facilities. At minimum the following common facilities are required:
  - i. Kitchen for use by all residents that includes food storage and cooking facilities in compliance with the State Sanitary Code.
  - ii. Bathrooms shall be provided in compliance of all applicable codes. Bathrooms shall be provided on the same floor as the associated rooming unit.
- b) Facilities in Rooming Units.
  - i. Rooming Units, unless considered E-SROs, shall not include cooking facilities (convection microwaves, stoves, ranges, toasters, etc.) but may include food storage and non-cooking appliances (e.g. mini-fridge, coffee maker, blender, non-convection microwave) in compliance with the licensee's approved electrical policy (see Sec. 17-144).
  - ii. Rooming units shall have individual keyed locks. Resident agent shall keep the master key (Resident Agent defined in Sec. 17-144).
  - iii. Rooming Units may include private bathrooms.
- c) Number of Residents. The maximum number of residents in any rooming unit shall be determined by the State Sanitary Code. The maximum number of adult residents at any Lodging House shall be in accordance with requirements in the Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.

#### **Sec. 17-140. Requirements for Enhanced Single Room Occupancy Units (E-SROs).**

Licensed lodging houses may provide E-SROs under the following requirements and in accordance with the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the city.

- a) Life Safety. Inclusion of one or more E-SRO unit in a lodging house shall trigger compliance with minimum life safety requirements applicable to new construction for R-1 occupancies as required in the State Building Code. All E-SRO units shall have two independent means of egress from the unit.
- b) Cooking facilities. Cooking facilities in E-SRO units shall consist of a mini-kitchen providing a sink with hot and cold water, food storage area, refrigerator, and electric cook top with a maximum of 2 burners. Ovens and ranges shall not be permitted. Microwaves with or without convection and other accessory appliances shall be permitted in compliance with the licensee's approved electrical use policy.
- c) Dimensional requirements. Each E-SRO shall have a minimum of 175 square feet.

- d) Max. number of E-SROs. In accordance with MGL c. 140 §22A , only a lodging house letting to more than 5 but less than 20 persons may furnish individual cooking facilities.
- e) Inclusionary Units. E-SRO units that include full living, cooking, and washing facilities, shall be subject to the Inclusionary Housing Section of the Zoning Ordinance (Chapter 30, Section 5.11).

**Sec. 17-141. Compliance with City Ordinances and State and Local Codes.**

- a) All lodging houses shall comply with the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.
- b) All lodging houses shall comply with all applicable ordinances and local, state, and federal codes applying generally to residential properties in the city.

**Sec. 17-142. Reserved.**

**DIVISION 2: LICENSES**

**Sec. 17-143. License Required.**

No person shall operate or cause to be operated a Lodging House unless licensed by the Licensing Board of the City of Newton.

**17-144. Requirements for Licensees and Agents.**

- a) Licensee, defined. That person(s) or entity listed on the lodging house license and the owners of the land and building where the lodging house is operated.
- b) Agent, defined. That person designated by the licensee to carry out all or part of the licensee responsibilities.
- c) Responsibility of Licensee. The licensee shall be responsible for the proper supervision, operation, and maintenance of the lodging house in accordance with the requirements of these ordinances and all other pertinent laws, regulations, and codes. The appointment of an agent shall in no way relieve the licensee from responsibility for full compliance with the law.
- d) On-site supervision of the premises. Licensed premises must have supervision from a resident who shall be available on a 24-hour basis. In the event that the licensee does not reside on the premises, the licensee shall designate a resident agent. The Licensing Board shall approve such agent(s).

Contact information for the resident agent, including cell phone or similar mobile communication device, as applicable, shall be posted in a conspicuous place inside the lodging house and provided to the Police Department, Health and Human Services Department, Fire Department, and Inspectional Services Department.

Resident supervisor, whether licensee or agent, must respond to calls from City officials within a reasonable time: within one hour for emergencies and within 24 hours with respect to all other issues.

- e) Mandatory Certification for Licensees and Agents.

- i. All Licensees and their Agent(s) shall complete a one-time certificate program conducted by the Newton Inspectional Services Department along with representatives from the Health and Human Services Department, and Fire Department.
  - ii. The certificate training program shall be offered once per year and will be an instructional program that will educate the licensee and the agent(s) with regard to the requirements of these regulations and other laws or related topics that the City may deem necessary for the safe and proper operation of lodging houses.
  - iii. Licensees and agents must complete either the certification training program or the preliminary certification within 30 days of receiving their license. Preliminary certification requirements shall be set by the Commissioner of Inspectional Services, with input from the Health and Human Services Department, Police Department, and Fire Department.
  - iv. Failure to complete the certification program within 1 year of assuming the duties of licensee or agent may result in a fine of the licensee not to exceed \$500.00 or the suspension or revocation of the lodging house license, as the Licensing Board, after notice and hearing, may determine.
- f) Timeliness Requirements when there is a change of Licensee or Agent. If at any time there is a change in the Licensee or Agent, the newly designated person(s) shall be required to notify the Licensing Board at least 48 hours prior to assuming responsibilities, receive their license within 60 days, and complete either the certification program or preliminary certification within 90 days.

#### **17-144. Responsibilities of Licensees and Agents regarding Residents.**

- a) Agreements with Residents. Licensees shall have written agreements with lodgers and supply the Licensing Board a copy of agreements with lodgers and any related documents. Licensees may not enter into agreements with residents that are inconsistent with the terms of these regulations, including, but not limited to, the regulations requiring licenses to inspect occupied and unoccupied rooming units and requiring licensees to institute certain House Rules.
- b) Minors. No room shall be let to any unemancipated person who is younger than eighteen (18) years of age.
- c) Occupancy. No licensee shall vary the occupancy of the licensed premises as certified by the Inspectional Services Department.
- d) Resident and Guest Registries. The licensee of every lodging house shall keep or cause to be kept, in permanent form, a registry of residents. Such register shall contain the true name or name in ordinary use and the last residence of every person engaging or occupying a private room together with a true and accurate record of the room assigned to such person and of the day and hour of move-in and move-out. The entry of names of the residents shall be made by the residents themselves. Copies of these records shall always be maintained and be available for inspection by any City official.

Guests shall be registered in a separate guest registry with day and time of entry and exit listed.

- e) House Rules. Licensees and their agent(s) shall institute house rules as necessary to prevent the lodging house from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighborhood.
- i. House rules should make residents aware of the City's ordinances and the licensee's policies, which shall be in writing. At a minimum, house rules shall adequately address the following:
1. Noise control, including use of audio equipment that may disturb the peace;
  2. Adherence to laws regarding disorderly behavior;
  3. Proper garbage disposal and sanitary storage of food;
  4. Cleanliness of rooming units and common areas;
  5. Unobstructed egress paths.
  6. Compliance with Electrical Use Policy.
  7. Prohibition of use of fire escapes for general access to rooming units.
  8. Prohibition of tampering or removal of life safety devices.
  9. Guest policy.
  10. Pet policy.
  11. Any other provisions as may be required by the Licensing Board or City Officials.
  12. -Consequences for repeat violations of the House Rules or the requirements of these regulations, up to and including eviction.
- ii. Licensees or agents shall ensure all residents are aware of the rules by distributing them at move-in, posting them in a visible place in the common area, and distributing updated copies when changes are made.
- f) Electrical Use Policy. Licensees and their agent(s) shall institute an electrical use policy to prevent the lodging house from being a fire risk to the residents and neighborhood.
- i. Licensees and their agent(s) shall institute an electrical use policy to be approved by the Fire Department and Inspectional Services Departments. At a minimum, electrical use policies shall adequately address the following:
1. Prohibition of use of portable heaters.
  2. Prohibition of use of candles or other items that require burning (incense, odor oils, etc.).
  3. Prohibition of use of cooking appliances other than non-convection microwaves in rooming units, including prohibition of: toasters, toaster ovens, electric hot plates, gas plates, ovens, stoves (including stoves using sterno or other fuel), or grills. The licensee may, at his/her discretion, prohibit the use of non-convection microwaves in rooming units.
- ii. Licensees or agents shall ensure all residents are aware of the electric use policy by distributing it at move-in, posting it in a visible place in the common area, and distributing updated copies when changes are made.

**17-145. Responsibilities of Licensees and Agents regarding Property Maintenance & Management.**

- a) Egress from and Access to Building. Licensees and Agents shall be responsible for ensuring that adequate egress is provided. A minimum of two means of egress shall be provided from each occupied story of a lodging house. No private room shall be used as access to a required fire escape except that additional egress shall be provided to E-SROs in accordance with Sec. 17-140.

Licensees and Agents shall promptly remove any obstacle that may interfere with the means of egress or escape from any building or other premises, or access to any part of the building or premises by the fire department. Doors and windows designated as exits shall be kept clear at all times.

- b) Egress Route Information. Licensees and Agents shall be responsible for ensuring that egress routes are clearly marked and identified.

Licensees or Agents shall establish and post an Evacuation Plan in compliance with the NFPA Protocol for residential occupancies on all levels of the building and near all exits. The facility is required to conduct at least four Evacuation Drills a year held quarterly and submit documentation to Fire Prevention showing that they have been done.

Licensees or Agents shall ensure that exit signs and emergency lighting along the egress routes are in good working order at all times.

- c) Maintenance. The building and all parts thereof shall be kept in good general repair and properly maintained.

#### **17-146. License Application and Renewal Requirements.**

- a) Application Requirements. The Licensing Board shall establish application forms and procedures for application filing that at minimum adequately address the following:

- i. Incomplete applications shall not be accepted.
- ii. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling, or revoking a license already granted.
- iii. No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license.
- iv. At minimum the application for a Licensee must contain the following documents:
  - i. Personal information for the licensee and any agent(s) at the time of application
  - ii. Contact information for resident supervisor whether licensee or agent
  - iii. Resume
  - iv. Professional References
  - v. Copy of House Rules
  - vi. Copy of Electrical Use Policy
  - vii. Copy of Evacuation Plan
  - viii. Application filing fee
- v. At a minimum, the application for an Agent shall include:
  - i. Personal information
  - ii. Contact information
  - iii. Resume
  - iv. Professional References
  - v. Description of responsibilities

- b) Fees. Application and License fees shall be in an amount established by the City Council.

- i. Application filing fees are non-returnable once an application has been accepted by the Inspectional Services Department.
- ii. Annual license fees shall be payable immediately upon approval of the license by the Board.

c) City Inspections and Reports. All licensed premises shall be inspected by the City of Newton prior to initial license, and annually thereafter. Annual Inspections shall be conducted by the Inspectional Services Department, Health and Human Services Department, and Fire Department coordinated as a one-time inspection. The above departments may conduct additional inspections as may be required to ensure safety. All inspecting departments shall keep records of annual inspections and visits to the property made to the property throughout each year.

The following City departments shall provide a report to the Licensing Board prior to license renewal, Inspectional Services, Fire, Health and Human Services, Treasurer/collector, and Planning Department as appropriate.

d) Licensing Board Process Requirements. The Licensing Board shall establish procedures for assessing Lodging House License applications and conduct the meetings in accordance with established rules. The Licensing Board shall approve/deny applications for both licensees and their agent(s).

The Licensing Board shall hold a public hearing on each application for a new licensee or agent.

In determining whether or not to grant a request for a new license, the Board shall consider matters bearing on health, life safety, and compliance with city ordinances, including the adequacy of the facilities, the applicant's record in running lodging houses, and the qualifications and character of the applicant and their agent(s). The Board shall not deny a license based on general grounds of adverse impact on the neighborhood.

e) Denial of Licenses or Renewal Applications. The Licensing Board may deny an application for a license or renewal or may suspend a license where there is just cause for doing so. A public hearing must be held prior to denial of an application.

f) Penalties for Violations. In addition to the penalties for code and ordinance violations established by the Commonwealth of Massachusetts and City of Newton, the Licensing Board shall have the authority to issue the following penalties for violations of these regulations after notice of hearing and opportunity to be heard.

i. More than three (3) code violations not addressed within 30 days of Inspection...\$300 Fine

ii. More vehicles stored on the premises than allowed on the premises by zoning on (3) or more occasions...\$300 Fine

iii. More residents on the premises than allowed on two (2) or more occasions ...\$300 Fine

iv. If two (2) or more of the above fines are warranted in any 12 month period or if three (3) or more of the above fines are warranted in a 36 month period...Denial of License Renewal.

g) Transfer/Sales of Licenses. No licensee may transfer to another person or entity a license issued pursuant to these regulations except upon application to and approval of the transfer by the Licensing Board. Any such transfer shall be subject to the terms and conditions of the original license, unless otherwise ordered by the Board.

h) Display of Licenses. All licenses issued by the City pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.

i) Taxes and Charges. All taxes and charges owed to the City must be paid on a current basis. The City may deny a license or license renewal if taxes are not current.

Sec. 17-147. Reserved.

# Chapter 17 – Licensing and Permits Generally

## Art. II. Fees for licenses and permits, 17-2—17-21

### **Sec. 17-3. Fees for certain licenses and permits.**

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be paid a fee on an annual basis or unless otherwise noted to the city clerk for each of the following applications, permits, licenses or charges, the sum set forth as follows:

- ...
- (8) Lodging house licenses ..... \$50.00
- (#) Dormitory license..... \$50.00

### **Sec. 17-10. Fees to be paid to the fire department.**

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be a fee paid on an annual basis or unless otherwise noted to the fire chief for each of the following applications, permits, licenses or charges, the sum set forth as follows:

- ...
- (b) Inspection fees:

### **Sec 17-16. Fees for interdepartmental inspections.**

Notwithstanding any contrary provision in any other section of these Revised Ordinances, there shall be a fee paid on an annual basis or unless otherwise noted to the Commissioner of Inspectional Services for each of the following interdepartmental inspections:

- (1) Lodging House Inspection Fee.....\$400.00

## **Article VI. Lodging Houses, §§ 17-138 – 17-147**

Div. 1. Generally, §§17-138 – 17-142

Div. 2. Licenses, §§17-143 - 17-147

### **DIVISION 1. GENERALLY**

#### **Sec.17-138. Definitions.**

- a) Lodger: A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit.
- b) Lodging House: Any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers. Includes rooming house, boarding house. It shall not include convalescent, nursing or



rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels.

**State law reference** – G.L. c. 140, §22

- c) Rooming Unit: The room or group of rooms rented to an individual or household for use as living and sleeping quarters.
- d) Enhanced Single Room Occupancy Units (E-SROs): Any Rooming Unit in a Lodging House that provides cooking facilities within the rooming unit.

#### **Sec. 17-139. Requirements for all Lodging Houses.**

- a) Common facilities. At minimum the following common facilities are required:
  - i. Kitchen for use by all residents that includes food storage and cooking facilities in compliance with the State Sanitary Code.
  - ii. Bathrooms shall be provided in compliance of all applicable codes. Bathrooms shall be provided on the same floor as the associated rooming unit.
- b) Facilities in Rooming Units.
  - i. Rooming Units, unless considered E-SROs, shall not include cooking facilities (convection microwaves, stoves, ranges, toasters, etc.) but may include food storage and non-cooking appliances (e.g. mini-fridge, coffee maker, blender, non-convection microwave) in compliance with the licensee's approved electrical policy (see Sec. 17-144).
  - ii. Rooming units shall have individual keyed locks. Resident agent shall keep the master key (Resident Agent defined in Sec. 17-144).
  - iii. Rooming Units may include private bathrooms.
- c) Number of Residents. The maximum number of residents in any rooming unit shall be determined by the State Sanitary Code. The maximum number of adult residents at any Lodging House shall be in accordance with requirements in the Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.

#### **Sec. 17-140. Requirements for Enhanced Single Room Occupancy Units (E-SROs).**

Licensed lodging houses may provide E-SROs under the following requirements and in accordance with the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the city.

- a) Life Safety. Inclusion of one or more E-SRO unit in a lodging house shall trigger compliance with minimum life safety requirements applicable to new construction for R-1 occupancies as required in the State Building Code. All E-SRO units shall have two independent means of egress from the unit.
- b) Cooking facilities. Cooking facilities in E-SRO units shall consist of a mini-kitchen providing a sink with hot and cold water, food storage area, refrigerator, and electric cook top with a maximum of 2 burners. Ovens and ranges shall not be permitted. Microwaves with or without convection and other accessory appliances shall be permitted in compliance with the licensee's approved electrical use policy.
- c) Dimensional requirements. Each E-SRO shall have a minimum of 175 square feet.
- d) Max. number of E-SROs. In accordance with MGL c. 140 §22A , only a lodging house letting to more than 5 but less than 20 persons may furnish individual cooking facilities.

- e) Inclusionary Units. E-SRO units that include full living, cooking, and washing facilities, shall be subject to the Inclusionary Housing Section of the Zoning Ordinance (Chapter 30, Section 5.11).

**Sec. 17-141. Compliance with City Ordinances and State and Local Codes.**

- a) All lodging houses shall comply with the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.
- b) All lodging houses shall comply with all applicable ordinances and local, state, and federal codes applying generally to residential properties in the city.

**Sec. 17-142. Reserved.**

**DIVISION 2: LICENSES**

**Sec. 17-143. License Required.**

No person shall operate or cause to be operated a Lodging House unless licensed by the Licensing Board of the City of Newton.

**17-144. Requirements for Licensees and Agents.**

- a) Licensee, defined. That person(s) or entity listed on the lodging house license and the owners of the land and building where the lodging house is operated.
- b) Agent, defined. That person designated by the licensee to carry out all or part of the licensee responsibilities.
- c) Responsibility of Licensee. The licensee shall be responsible for the proper supervision, operation, and maintenance of the lodging house in accordance with the requirements of these ordinances and all other pertinent laws, regulations, and codes. The appointment of an agent shall in no way relieve the licensee from responsibility for full compliance with the law.
- d) On-site supervision of the premises. Licensed premises must have supervision from a resident who shall be available on a 24-hour basis. In the event that the licensee does not reside on the premises, the licensee shall designate a resident agent. The Licensing Board shall approve such agent(s).

Contact information for the resident agent, including cell phone or similar mobile communication device, as applicable, shall be posted in a conspicuous place inside the lodging house and provided to the Police Department, Health and Human Services Department, Fire Department, and Inspectional Services Department.

Resident supervisor, whether licensee or agent, must respond to calls from City officials within a reasonable time: within one hour for emergencies and within 24 hours with respect to all other issues.

- e) Mandatory Certification for Licensees and Agents.
  - i. All Licensees and their Agent(s) shall complete a one-time certificate program conducted by the Newton Inspectional Services Department along with

representatives from the Health and Human Services Department, and Fire Department.

- ii. The certificate training program shall be offered once per year and will be an instructional program that will educate the licensee and the agent(s) with regard to the requirements of these regulations and other laws or related topics that the City may deem necessary for the safe and proper operation of lodging houses.
  - iii. Licensees and agents must complete either the certification training program or the preliminary certification within 30 days of receiving their license. Preliminary certification requirements shall be set by the Commissioner of Inspectional Services, with input from the Health and Human Services Department, Police Department, and Fire Department.
  - iv. Failure to complete the certification program within 1 year of assuming the duties of licensee or agent may result in a fine of the licensee not to exceed \$500.00 or the suspension or revocation of the lodging house license, as the Licensing Board, after notice and hearing, may determine.
- f) Timeliness Requirements when there is a change of Licensee or Agent. If at any time there is a change in the Licensee or Agent, the newly designated person(s) shall be required to notify the Licensing Board at least 48 hours prior to assuming responsibilities, receive their license within 60 days, and complete either the certification program or preliminary certification within 90 days.

#### **17-144. Responsibilities of Licensees and Agents regarding Residents.**

- a) Agreements with Residents. Licensees shall have written agreements with lodgers and supply the Licensing Board a copy of agreements with lodgers and any related documents. Licensees may not enter into agreements with residents that are inconsistent with the terms of these regulations, including, but not limited to, the regulations requiring licenses to inspect occupied and unoccupied rooming units and requiring licensees to institute certain House Rules.
- b) Minors. No room shall be let to any unemancipated person who is younger than eighteen (18) years of age.
- c) Occupancy. No licensee shall vary the occupancy of the licensed premises as certified by the Inspectional Services Department.
- d) Resident and Guest Registries. The licensee of every lodging house shall keep or cause to be kept, in permanent form, a registry of residents. Such register shall contain the true name or name in ordinary use and the last residence of every person engaging or occupying a private room together with a true and accurate record of the room assigned to such person and of the day and hour of move-in and move-out. The entry of names of the residents shall be made by the residents themselves. Copies of these records shall always be maintained and be available for inspection by any City official.

Guests shall be registered in a separate guest registry with day and time of entry and exit listed.

- e) House Rules. Licensees and their agent(s) shall institute house rules as necessary to prevent the lodging house from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighborhood.

- i. House rules should make residents aware of the City's ordinances and the licensee's policies, which shall be in writing. At a minimum, house rules shall adequately address the following:
    1. Noise control, including use of audio equipment that may disturb the peace;
    2. Adherence to laws regarding disorderly behavior;
    3. Proper garbage disposal and sanitary storage of food;
    4. Cleanliness of rooming units and common areas;
    5. Unobstructed egress paths.
    6. Compliance with Electrical Use Policy.
    7. Prohibition of use of fire escapes for general access to rooming units.
    8. Prohibition of tampering or removal of life safety devices.
    9. Guest policy.
    10. Pet policy.
    11. Any other provisions as may be required by the Licensing Board or City Officials.
    12. Consequences for repeat violations of the House Rules or the requirements of these regulations, up to and including eviction.
  - ii. Licensees or agents shall ensure all residents are aware of the rules by distributing them at move-in, posting them in a visible place in the common area, and distributing updated copies when changes are made.
- f) Electrical Use Policy. Licensees and their agent(s) shall institute an electrical use policy to prevent the lodging house from being a fire risk to the residents and neighborhood.
- i. Licensees and their agent(s) shall institute an electrical use policy to be approved by the Fire Department and Inspectional Services Departments. At a minimum, electrical use policies shall adequately address the following:
    1. Prohibition of use of portable heaters.
    2. Prohibition of use of candles or other items that require burning (incense, odor oils, etc.).
    3. Prohibition of use of cooking appliances other than non-convection microwaves in rooming units, including prohibition of: toasters, toaster ovens, electric hot plates, gas plates, ovens, stoves (including stoves using sterno or other fuel), or grills. The licensee may, at his/her discretion, prohibit the use of non-convection microwaves in rooming units.
  - ii. Licensees or agents shall ensure all residents are aware of the electric use policy by distributing it at move-in, posting it in a visible place in the common area, and distributing updated copies when changes are made.

#### **17-145. Responsibilities of Licensees and Agents regarding Property Maintenance & Management.**

- a) Egress from and Access to Building. Licensees and Agents shall be responsible for ensuring that adequate egress is provided. A minimum of two means of egress shall be provided from each occupied story of a lodging house. No private room shall be used as access to a required fire escape except that additional egress shall be provided to E-SROs in accordance with Sec. 17-140.

Licensees and Agents shall promptly remove any obstacle that may interfere with the means of egress or escape from any building or other premises, or access to any part of the building or premises by the fire department. Doors and windows designated as exits shall be kept clear at all times.

- b) Egress Route Information. Licensees and Agents shall be responsible for ensuring that egress routes are clearly marked and identified.

Licensees or Agents shall establish and post an Evacuation Plan in compliance with the NFPA Protocol for residential occupancies on all levels of the building and near all exits. The facility is required to conduct at least four Evacuation Drills a year held quarterly and submit documentation to Fire Prevention showing that they have been done.

Licensees or Agents shall ensure that exit signs and emergency lighting along the egress routes are in good working order at all times.

- c) Maintenance. The building and all parts thereof shall be kept in good general repair and properly maintained.

#### **17-146. License Application and Renewal Requirements.**

- a) Application Requirements. The Licensing Board shall establish application forms and procedures for application filing that at minimum adequately address the following:
- i. Incomplete applications shall not be accepted.
  - ii. Submission of an application containing false information shall be cause for refusing the application or for suspending, canceling, or revoking a license already granted.
  - iii. No person or entity shall obtain or renew a license unless the applicant can demonstrate proof of a legal right to the licensed premises for the term of the license.
  - iv. At minimum the application for a Licensee must contain the following documents:
    - i. Personal information for the licensee and any agent(s) at the time of application
    - ii. Contact information for resident supervisor whether licensee or agent
    - iii. Resume
    - iv. Professional References
    - v. Copy of House Rules
    - vi. Copy of Electrical Use Policy
    - vii. Copy of Evacuation Plan
    - viii. Application filing fee
  - v. At a minimum, the application for an Agent shall include:
    - i. Personal information
    - ii. Contact information
    - iii. Resume
    - iv. Professional References
    - v. Description of responsibilities
- b) Fees. Application and License fees shall be in an amount established by the City Council.
- i. Application filing fees are non-returnable once an application has been accepted by the Inspectional Services Department.
  - ii. Annual license fees shall be payable immediately upon approval of the license by the Board.
- c) City Inspections and Reports. All licensed premises shall be inspected by the City of Newton prior to initial license, and annually thereafter. Annual Inspections shall be conducted by the Inspectional Services Department, Health and Human Services Department, and Fire Department coordinated as a one-time inspection. The above departments may conduct additional inspections as may be required to ensure safety. All inspecting departments shall

keep records of annual inspections and visits to the property made to the property throughout each year.

The following City departments shall provide a report to the Licensing Board prior to license renewal, Inspectional Services, Fire, Health and Human Services, Treasurer/collector, and Planning Department as appropriate.

- d) Licensing Board Process Requirements. The Licensing Board shall establish procedures for assessing Lodging House License applications and conduct the meetings in accordance with established rules. The Licensing Board shall approve/deny applications for both licensees and their agent(s).

The Licensing Board shall hold a public hearing on each application for a new licensee or agent.

In determining whether or not to grant a request for a new license, the Board shall consider matters bearing on health, life safety, and compliance with city ordinances, including the adequacy of the facilities, the applicant's record in running lodging houses, and the qualifications and character of the applicant and their agent(s). The Board shall not deny a license based on general grounds of adverse impact on the neighborhood.

- e) Denial of Licenses or Renewal Applications. The Licensing Board may deny an application for a license or renewal or may suspend a license where there is just cause for doing so. A public hearing must be held prior to denial of an application.
- f) Penalties for Violations. In addition to the penalties for code and ordinance violations established by the Commonwealth of Massachusetts and City of Newton, the Licensing Board shall have the authority to issue the following penalties for violations of these regulations after notice of hearing and opportunity to be heard.
- i. More than three (3) code violations not addressed within 30 days of inspection...\$300 Fine
  - ii. More vehicles stored on the premises than allowed on the premises by zoning on (3) or more occasions...\$300 Fine
  - iii. More residents on the premises than allowed on two (2) or more occasions ...\$300 Fine
  - iv. If two (2) or more of the above fines are warranted in any 12 month period or if three (3) or more of the above fines are warranted in a 36 month period...Denial of License Renewal.
- g) Transfer/Sales of Licenses. No licensee may transfer to another person or entity a license issued pursuant to these regulations except upon application to and approval of the transfer by the Licensing Board. Any such transfer shall be subject to the terms and conditions of the original license, unless otherwise ordered by the Board.
- h) Display of Licenses. All licenses issued by the City pursuant to these regulations shall be displayed on the premises in a conspicuous place where they can be easily read.
- i) Taxes and Charges. All taxes and charges owed to the City must be paid on a current basis. The City may deny a license or license renewal if taxes are not current.

**Sec. 17-147. Reserved.**



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

**#140-14(2)** Attachment C  
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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** October 6, 2017

**TO:** Councilor Ted Hess-Mahan, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Rachel Blatt, Long Range Planner

**RE:** **#140-14 Zoning amendment for lodging house ordinance**  
ALD. CROSSLEY AND HESS-MAHAN requesting to amend Chapter 30, City of Newton Zoning Ordinances, to include a "lodging house" ordinance to promulgate rules requiring annual fire, safety and health inspections and licensing of buildings providing single room occupancy and/or congregate living arrangements.

**MEETING DATE:** October 11, 2017

**CC:** Donnalyn Khan, City Solicitor  
John Lojek, ISD Commissioner  
Deborah Youngblood, Health Commissioner  
David MacDonald, Chief of Police  
Bruce Proia, Fire Chief  
Planning and Development Board

---

A lodging house is a traditional housing form that caters to single individuals living in a quasi-group setting. This housing arrangement was once very common. In the 1880s it was estimated that 50% of Americans had either lived in a lodging house or been a host of one.<sup>1</sup> Lodging houses have persisted, though in smaller numbers, and interest in living in lodging houses is growing again. Newton has had lodging houses since before it had zoning. A few of these historic ones continue to serve as affordable housing in Newton.

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<sup>1</sup> During, Alan (2012). "Rooming Houses: History's Affordable Quarters." Accessed 3/7/17 at <http://www.sightline.org/2012/11/14/rooming-houses-historys-affordable-quarters/>. Data quoted from Groth, Paul (1994), *Downtown Living Downtown: The History of Residential Hotels in the United States*. University of California Press.

New lodging houses can also be established today. Lodging houses are an allowed use by Special Permit in all multifamily districts of the city. Lodging houses are defined, but no standards for the structure or operational requirements are included in the City's zoning or other ordinances.

For both the historic and any new lodging houses, Newton also currently requires a \$50 annual license fee to operate a lodging house. No license requirements exist to specify how a lodging house operator should be running their facility, and no ordinance specifies what reviews should be conducted prior to issuing a person a license to operate a lodging house.

Since spring 2017, the Planning Department, Law Department, and the Zoning and Planning Committee of the City Council have been discussing lodging houses and developing a proposed set of standards by which to regulate not only the formation of a lodging house but also the continued operation of a lodging house. Since regulating lodging houses involves numerous city departments, this proposal has been crafted with input from all four departments who have a role in ensuring the health, safety, and welfare of lodging houses: Inspectional Services, Health and Human Services, Police, and Fire.

The proposals are modeled after the Lodging House Regulations developed by Brookline, widely recognized as the most robust in the region. While this was the model, the proposals for Newton are tailored more closely to the traditional lodging house form, and do not cover other forms of accommodation like hotels or dorms, as Brookline's ordinance does.

## **TWO ORDINANCE SECTIONS – MULTIPLE COMMITTEE DISCUSSIONS**

Before diving into the proposals, please note that the lodging house regulations proposed are **embedded in two separate sections of the City Ordinances and refer to each other**. Public comments regarding the proposed amendments to Chapter 30 – the Zoning Ordinance are being taken in a public hearing at the **Zoning and Planning Committee on Wednesday October 11, 2017**. Proposed amendments to Chapter 17 – Licensing and Permits Generally, will be discussed at a joint meeting of the **Programs and Services Committee and the Public Safety and Transportation Committee on Wednesday October 18, 2017**. License fees and fines are to be discussed at the **Finance Committee, date to be determined**.

By state statute, licensing of lodging houses can only be done by the Licensing Board. At the time this memo was written, the **Licensing Board** has not yet had the opportunity to discuss the licensing proposal. This draft is presented to both the Licensing Board and the joint City Council committees tasked with reviewing the proposed language for their mid-October meetings. **The Licensing Board has a regular meeting on October 17<sup>th</sup>**. Staff encourages members from the Licensing Board to attend the Council discussion and vice versa so that there is exchange of information between the Legislature and the implementing body.

This memo focuses strictly on the zoning amendments to Chapter 30. A separate memo summarizing the proposed Chapter 17 amendments is attached here for reference, understanding that it is principally addressed to the committees meeting on October 18<sup>th</sup> and the Licensing Board who has their next regular meeting on October 17<sup>th</sup> (see Attachment C).



Additionally, please note that prior to taking up either set of proposed amendments at the full Council, the City Council must first vote on whether to **accept Massachusetts General Law c. 140 §22A**. This section would allow for Efficiency-Single Room Occupancy facilities within lodging houses, further described below.

## **BACKGROUND ON LODGING HOUSES & FAQs**

- **Is a lodging house the same thing as a rooming house? How about a boarding house?**
  - These phrases all mean the same thing – a place designed for four or more independent residents sharing common cooking and bath facilities. Historically a boarding house offered meals where rooming houses did not. Lodging house has come to be the preferred modern term and is the term used by the state
  
- **What is the difference between a lodging house and a group of roommates/association of persons sharing a house?**
  - In a lodging house, the lodger rents a rooming unit – typically a bedroom, perhaps including a seating area. The tenant has access to, but not responsibility for, shared cooking and bath facilities with others in the house. They rent their rooming unit directly from the lodging house operator, who maintains the common areas including the kitchen and bath. The lodger has keyed access to both the house and the rooming unit. The rooming unit is their ‘home.’

In contrast, in an association of persons or a roommate situation, all are jointly tenants in the house. They are collectively responsible for common spaces and the landlord is not responsible for housekeeping. There is keyed access to the house only. The entire house inclusive of shared common areas is their ‘home.’
  
- **Why is regulating lodging houses a priority for the City of Newton?**
  - The Police, Fire, Health, and Inspectional Services Departments acknowledge that typically illegal lodging houses are discovered because of a 911 call. Often Boarding Houses are operated with violations to the state sanitary and fire codes and there are life safety concerns about how these facilities are run. The concern is not just for whether these facilities are safely constructed with proper egress stairs, sprinklers, etc., but also how they are operated - are managers ensuring that doors are not blocked, that hotplates are not being used in bedrooms, that trash is properly disposed of, and the like. Fires have occurred in a few illegal boarding houses in recent years, leading to a concern for the safety of Newtonians living in these arrangements.
  
- **Why are lodging houses regulated through both the Zoning Ordinance and the Licensing Ordinance?**
  - Most of the problems in lodging houses arise from poor operations – e.g. blocked egress routes, electrical systems used beyond capacity, noise complaints, etc. Licensing follows the operators while zoning follows the property.

The proposed Zoning amendments maintain the requirement that Lodging Houses receive a Special Permit from the Council first, and then a license for the operator after that.

- The Zoning Ordinance covers the development of a new lodging house – where a new lodging house can be established, and what standards are required from the building and property.
- The Licensing Ordinance covers issues of operation – who is allowed to operate a lodging house, what training they are required to have, and what responsibilities they are expected to take on.

Approval through the zoning process establishes that a lodging house is an approved use of a piece of property

Approval through the licensing process gives a person or organization the authority to operate a lodging house

Zoning approval by Special Permit follows the property in perpetuity

License approval follows an operator and lasts just one year

• **What departments have been involved? What will their roles be going forward?**

- The Planning and Community Development Department, Law Department, Inspectional Services, Police, Fire, and Health and Human Services have all been involved in developing this proposal.

○ Future Roles:

Planning and Community Development

- Assist in developing licensee certification and application forms
- Zoning reviews & Special Permit process
- Possible CDBG support for rehab projects (applicability still being researched)
- Report to Licensing Board as applicable

Inspectional Services (ISD)

- Lead annual team inspection
- Lead annual licensee certification
- Report to Licensing Board on result of annual inspection
- Code and zoning enforcement

Health and Human Services (HHS)

- Participate in annual team inspection
- Participate in annual certification
- Support Licensing Board in administering the licensing process
- Perform reference checks on licensees and agents

Fire

- Participate in annual team inspection
- Participate in annual certification
- Code enforcement
- Evacuation plan and electrical use policy review
- Review quarterly fire drill reports

Police

- Participate in annual certification
- On-call support for annual inspections
- Report to Licensing Board on responses in the past year that are of concern to the licensee application

Treasury

- Report to Licensing Board whether or not taxes and charges are up to date

Resident supervising agents will be required to provide contact information to ISD, HHS, Fire, and Police and shall respond to calls from these departments in a timely manner.

## **PROPOSED ZONING AMENDMENTS**

**Now, and in the proposed, lodging houses require a Special Permit in all zones where they are allowed.** The proposed Zoning amendments do four things:

1. Update the definitions
2. Set standards for the property, particularly around parking
3. Allow Lodging Houses as a use above the ground floor in business and mixed use districts
4. Incorporates “Single-room Occupancy Dwelling, Single-person occupancy dwelling” into the Lodging House category

**1. Definition Updates:** The definition updates mirror the same definitions as in the Lodging House Licensing Ordinance and relate the City’s definition more closely with the definition of a lodging house in the state statute. Facilities that are regulated by the State Health Department are treated separately from lodging houses even if they have similar characteristics – e.g. group homes, convalescent homes, etc. The proposed definition of Lodging House makes this clear. In addition to updating the Lodging House definition, the proposal adds definitions for the subcomponents of a lodging house – Rooming Units (spaces to be leased) and Efficiency Single Room Occupancy Units, E-SROs, which are rooming units that include highly regulated mini-kitchens.

**2. Standards:** Section 6.2.7 is proposed to be expanded to include an intent statement and development standards requiring licensing, limiting signage, requiring consistency with the character of the neighborhood, and parking standards.

The minimum parking requirement is proposed at 1 stall per 3 rooming units, with a maximum of 6 stalls. The maximum is recommended to ensure that the parking lots are consistent in scale with other residential parking areas. Lodging houses in close proximity to transit may seek a reduction as low as 0 spaces per rooming unit. The intention here is to incentivize the locating of any new lodging houses near transit facilities. The target population for lodging houses is low income individuals for whom rent in a traditional apartment is burdensome. The US Housing and Urban Development Department guidelines say that housing cost burdened households are those spending more than 30% of their income on housing or more than 45% of their income on housing and transportation combined. Providing access to transit rather than personal vehicles is highly encouraged to help residents in lodging houses reduce their need for the expense of a personal vehicle.

**3. Allow by Special Permit in business and mixed use zones:** The Zoning Ordinance allows residential uses above the ground floor in BU1, BU2, BU3, BU4, MU1, MU2, MU3, and MU4 districts. The proposed amendment specifically allows lodging houses above ground floors in these same zones by Special Permit in each case.

4. Incorporate “SRO” use into the Lodging House Use: The Lodging House License is set up to allow for rooming units to be Efficiency Single Room Occupancy units with their own cooking facilities, with rigorous standards for construction and operation. The current Single Room Occupancy (SRO) use is allowed by Special Permit only in the MU3 district. There is no definition associated with this allowed use or any standards. As such it is the Planning Department’s recommendation that this use listed in Sections 4.4.1 and 6.2.14 be removed and subsumed by the Lodging House Ordinance.

Facilities offering E-SROs, are required by the proposed license to meet code requirements for new construction of a facility for transient residence – even if the project is in an existing structure (including requirement for a sprinkler system). Each E-SRO must have more than one means of egress directly from the unit, and may include only a limited set of cooking facilities. This approach is consistent with the regulations of the state and the regulations in Brookline.

#### **ATTACHMENTS**

Attachment A: Proposed Chapter 30 Zoning Amendments – Redline Version

Attachment B: Proposed Chapter 30 Zoning Amendments – Clean Page Version

Attachment C: Memo to Programs & Services, Public Safety & Transportation, and the Licensing Board