

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC SAFETY & TRANSPORTATION COMMITTEE REPORT

WEDNESDAY, MAY 23, 2012

Present: Ald. Ciccone (Chair), Johnson, Swiston, Harney, Yates, Fuller and Kalis

Absent: Ald. Schwartz

Also Present: Ald. Salvucci

City Staff: Clint Schuckel, Director of Transportation; David Koses, Transportation Planner and Captain Howard Mintz, Newton Police Department

#86-12      ALD. CICCONE, requesting possible changes to City Ordinance 19-30(a), Procedures for Traffic Council, to require all Traffic Council meetings be held in the evening. [03/16/12 @ 1:44 PM]

**HELD 6-0 on 04/11/12**

**ACTION: HELD 5-0, Ald. Harney and Swiston not voting**

**NOTE:** Chair Ciccone stated that the Executive Department requests this item be held, as it is their intention to write a policy.

Without discussion, Ald. Yates made the motion to hold this item pending a written policy from the Executive Department. Committee members agreed 5-0, Ald. Harney and Swiston not voting.

#87-12      ALD. SALVUCCI, requesting the establishment of a permit parking program for the Melrose Avenue Municipal Parking Lot in Auburndale to assist abutting businesses with parking for their employees. [03/23/12 @ 12:52 PM]

**HELD 6-0 on 04/11/12**

**ACTION: HELD 6-0, Ald. Harney not voting**

**NOTE:** Ald. Salvucci, Clint Schuckel, Director of Transportation and David Koses, Transportation Planner joined the Committee for discussion on this item.

Ald. Salvucci said that he docketed this item requesting the removal or bagging of 10 parking meters to allow free parking for business employees as a "Parking by Permit Only" program because he feels the Melrose Avenue lot is not fully utilized. He said that the City collects approximately \$13,000 per year in revenue at this location. The MBTA is now charging a fee to park in the Auburn Street municipal parking lot. It appears commuters are now parking in the business district occupying employee parking. Mr. Schuckel said that when the Commercial Parking Permit Program was in place, permits were not purchased at this location.

Ald. Fuller asked Mr. Schuckel for his opinion on this item and asked that he provide the pros, cons, how the program could be managed and if he thought it would set a precedent for other

villages. Mr. Schuckel stated that Newton North High School issues 40 student parking permits out of the available 150 parking spaces at the Austin Street lot because the lot is not fully utilized. He did not know the fee charged to the students for the parking permits because the school makes their determination based on their administrative costs. He then said that he is concerned that this item would set a precedent and all villages would desire this program.

Mr. Koses said that the Transportation Advisory Committee (TAC) recommends the City base their parking prices on demand. TAC suggests the City charge lower fees at low demand locations and higher fees at high demand locations. Ald. Salvucci then said that he would not be opposed to a \$25.00 permit fee and asked if meters could be adjusted to be longer than the 6-hour limit. Mr. Schuckel said that the Melrose Avenue municipal lot is the only City parking lot that has 6-hour meters.

Ald. Johnson said that she is opposed to a free parking program and is concerned that additional villages may desire the same program. She requested additional information on lot utilization. Ald. Swiston said that the past parking permit program was a burden to the City when several departments were involved to operate the program. She feels a solution is necessary to help businesses without placing additional burden on the City. Ald. Yates said by creating this program it opens parking spaces for patrons. He asked if the burden could be placed on the employers to collect fees for the permit.

Ald. Kalis made the motion to hold this item pending additional information from Mr. Schuckel regarding the pros, cons, Melrose Avenue lot utilization and City revenue. Committee members agreed 6-0, Ald. Harney not voting.

#146-12      DIRECTOR OF PLANNING & DEVELOPMENT, requesting possible amendment to Chapter 19 to allow the Commissioner of Department of Public Works to restrict parking up to 10 feet away from crosswalks. [05/14/12 @ 4:06 PM]

**ACTION:**      **HELD 7-0**

**NOTE:**      Clint Schuckel, Director of Transportation; David Koses, Transportation Planner and Captain Howard Mintz, Newton Police Department joined the Committee for discussion on this item.

Mr. Koses said that this item was docketed to allow the Commissioner of the Department of Public Works the opportunity to restrict parking and make necessary changes without an item being docketed for Traffic Council's consideration. He then said that some people do not feel 10' away from a crosswalk is enough space for safety concerns.

Chair Ciccone asked Captain Mintz if there is a state law requiring a certain distance from a crosswalk. Captain Mintz and Mr. Schuckel said that they are not aware of one. Captain Mintz said that City Ordinance does not state a minimum distance of parking restrictions from crosswalks.

Ald. Fuller said that she is in favor of this docket item and asked Mr. Schuckel and Mr. Koses to review the docket language and provide suggestions to allow the Commissioner flexibility to determine necessary distances from crosswalks. Mr. Schuckel said that at certain locations, he would prefer a 50' distance from crosswalks (approximately two car lengths). Ald. Johnson agreed that 50' would benefit village centers that have high traffic and high pedestrian counts.

Chair Ciccone requested Mr. Koses amend the docket language allowing the Commissioner of the Department of Public Works the flexibility to determine necessary distances from a crosswalk and return to this Committee.

Ald. Fuller made the motion to hold this item pending this request from Mr. Koses. Committee members agreed 7-0.

**REFERRED TO PUBLIC SAFETY & TRANS AND FINANCE COMMITTEES**

#78-12 HIS HONOR THE MAYOR proposing amendments to Sections 19-9 and 19-199 of the City of Newton Revised Ordinances, 2007 to increase the penalties for handicap parking violations in Section 19-9 and to clarify that handicap parking violation penalties apply not only to spaces on public ways but also to handicap spaces on private property open to public access in accordance with Section 19-199; to update language in Section 19-199 regulating minimum width of handicap spaces; to add language pertaining to cross-hatch areas as required by state law; and to reference governing Architectural Access Board regulations. [03/12/12 @ 4:09 PM]

**APPROVED AS AMENDED 6-0 (Ciccone not voting) on 04/18/12  
05/07/12 Board Meeting Vice-Chair polled Committee to change vote to  
HELD 7-0 (Ciccone not voting)**

**ACTION: APPROVED 7-0, Both Public and Private Handicap Spaces \$200 First  
Offense and Recommend \$300 Second Offense**

**NOTE:** Clint Schuckel, Director of Transportation; David Koses, Transportation Planner and Captain Howard Mintz, Newton Police Department joined the Committee for discussion on this item.

Chair Ciccone said that this item was referred back to Committee, as it is the Executive Department's intention to deter people from parking in handicap parking spaces. Chair Ciccone said that he does not feel the fine of \$100 is adequate. He suggested a penalty of \$200 on the first offense and a penalty of \$300 for subsequent offenses. He stated that the Law and Police Departments have requested that fines implemented be uniform for both private and public handicap spaces.

Chair Ciccone asked Captain Mintz how subsequent offenses could be traced. Captain Mintz answered that a program would have to be created allowing the Parking Control Officers the capability to determine if this is a subsequent offense. Parking Control Officers issue 98% of handicap parking space violations but do not have access to laptops to query a vehicle's registration. Captain Mintz then said the Parking Control Officers hand-held devices have the capability of entering tow and holds. He would ask the vendor if the hand-held devices could be

programmed to trace subsequent offenses. Mr. Schuckel asked the Committee if there was a timeframe to implement a subsequent offense. Captain Mintz answered that the timeframe would have to be stated in the City Ordinance.

Ald. Johnson asked what the maximum violation allowance is. Chair Ciccone stated that according to Massachusetts General Laws the fine is capped at \$300.

Ald. Yates said that during a previous discussion he understood that tickets on private property were only issued when a company authorized the Police Department to ticket or tow and that the Police Department does not have permission from all private companies in the City to perform this. He then said that he asked Marie Lawlor, Assistant City Solicitor who clarified that it was a misunderstanding and the Committee was misinformed. The Police Department has always been authorized to issue tickets on private property. Captain Mintz agreed it was a misunderstanding.

Rob Caruso and Jason Rosenberg spoke in favor of this item. They expressed their concerns regarding the serious nature of those who illegally park in handicap parking spaces. They support the fines of \$200 for first offense and if possible \$300 for second offenses. They feel that a fine of \$100 is low and may not deter drivers from parking in handicap spaces.

Ald. Johnson asked Mr. Koses to review the date and the amount of each fine in the City Ordinance prior to her docketing an item requesting to increase City fines.

Committee members agree on implementing a \$200 fine for the first offense and recommend a \$300 second offense fine because they feel that they are fair and reasonable fines.

Ald. Fuller made the motion to approve in both public and private handicap spaces a \$200 fine for the first offense and recommend a \$300 second offense fine if feasible, hoping that the hand-held devices can be programmed to trace subsequent offenses. Committee members agreed 7-0.

#78-12(2) ALD. YATES, FULLER, HARNEY & KALIS, offering a *RESOLUTION* to His Honor the Mayor requesting to offer owners of private properties in the City the services of the Newton Police Department in enforcing the proper use of the handicap parking spaces that they are obliged to provide under Federal and State law. [04/19/12 @ 12:12 PM]

**ACTION:** NO ACTION NECESSARY 7-0

**NOTE:** Ald. Yates made the motion for no action necessary because the Police Department is authorized to issue tickets on private property. Committee members agreed 7-0.

At approximately 9:20 pm, the Committee adjourned.

Respectfully submitted,

Allan Ciccone, Jr. Chairman

- i. as directed by the board of aldermen via site plan approval, special permit condition, or other board order or resolution;
- ii. where a Community Development Block Grant or other source of public funding has been formally allocated to fully or partially fund a site-specific traffic calming project.

(Ord. No. Z-81, 2-22-11)

**Sec. 19-30. Procedures for Traffic Council; effective date.**

(a) In order to promote citizen participation, the traffic council shall endeavor to hold its meetings during evening hours when the board of aldermen or its committees do not have regularly scheduled meetings.

(b) A majority of the members of the traffic council shall constitute a quorum. A vote to adopt, amend or repeal a regulation or to establish or discontinue a field trial shall require agreement among no fewer than three of the members, but while a quorum is present, any other motion may be adopted by a simple majority vote.

(c) The traffic council shall make every effort to complete its review of each item within three (3) months from the date the matter first appears on its agenda.

(d) Whenever the traffic council receives a petition concerning a matter which was the subject of a traffic council decision within the prior twelve month period, the traffic council shall immediately deny the petition on the ground that no action is deemed necessary, unless the traffic council determines that there has been a material and compelling change of conditions which merits further analysis.

(e) In rendering a final decision on a petition, the traffic council may approve, deny, or amend the petition, provided the petition as amended is effective within the same or a reduced geographic area.

(f) Subject to the provisions of section 19-33(c), regulations adopted, amended or repealed by the traffic council pursuant to section 19-26(a) shall become effective at the expiration of twenty days or at any later date specified by the traffic council.

(g) By September 30 of each year, the traffic council shall submit to the board of aldermen an annual report on the work of the council, which shall include a statistical summary of the items on the council's agenda, and the disposition or status of each item. The report shall include the date of the filing of each petition and the date of its disposition. (Ord. No. Z-12, 12-03-07)

**Sec. 19-31. Public notice of traffic council meetings.**

(a) The clerk shall send or deliver written notice of the traffic council meeting to those persons who have signed petitions which are to be heard at such meeting and to each ward alderman for the affected ward(s).

(b) In addition to such notice by the clerk, the traffic council may request the clerk to give the same notice to other parties who, in its judgment, may be substantially affected by such petition. The traffic council may also utilize other means to enhance public notice of an upcoming meeting, including but not limited to publication and/or placement of free-standing "sandwich board" signs at or near the location which is the subject of the petition. (Ord. No. V-154, 12-1-97)

(c) The traffic council may adopt such other notification procedures as it may deem appropriate. (Ord. No. Z-12, 12-03-07)

**DRAFT FOR DISCUSSION**

**Deleted language struck through:**

**Sec. 19-30. Procedures for Traffic Council; effective date.**

(a) In order to promote citizen participation, the traffic council shall ~~endeavor to~~ hold its meetings during evening hours when the board of aldermen or its committees do not have regularly scheduled meetings.

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Newton City Clerk  
2012 MAR 26 PM 3:22  
David A. Olson, CMC  
Newton, MA 02459

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DRAFT FOR DISCUSSION PURPOSES:

CITY OF NEWTON  
IN BOARD OF ALDERMEN

ORDINANCE NO.

March , 2012

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

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to **Section 19-30 Procedures for traffic Council, effective date** as follows:

Delete, in the second clause of paragraph (a) of Sec. 19-30, after the word "shall" and before the word "hold", the words: "endeavor to"

Approved as to legal form and character:

DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

EXECUTIVE DEPARTMENT  
Approved: June 21, 2006

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

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2012 MAR 26 PM 3: 22  
David A. Olson, CMC  
Newton, MA 02459



Setti D. Warren  
Mayor

**CITY OF NEWTON, MASSACHUSETTS**  
Department of Planning and Development

**#86-12**

Telephone  
(617)-796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089

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MEMORANDUM

TO: Public Safety and Transportation Committee of the Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
David Koses, Transportation Planning Coordinator

RE: #86-12 ALD. CICCONE, requesting possible changes to City Ordinance 19-30(a), procedures for Traffic Council, to require all Traffic Council meetings be held in the evening.

DATE: May 9, 2012

CC: Robert Rooney, Chief Operating Officer

On April 22, 2012, the Public Safety and Transportation Committee considered docket #86-12 regarding when Traffic Council meetings may be scheduled during the day. The Committee requested that the Executive Office draft a policy addressing this issue. Suggested changes to the current ordinance are shown in bold italics below:

*Sec. 19-30. Procedures for Traffic Council; effective date.*

*(a) In order to promote citizen participation, the traffic council shall endeavor to hold its meetings during evening hours when the board of aldermen or its committees do not have regularly scheduled meetings.*

***Daytime meetings may be scheduled to discuss and vote on items for which it is the consensus of the traffic council, that the items do not require citizen participation, or for which daytime meetings will facilitate citizen participation.***





Setti D. Warren  
Mayor

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

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Candace Havens  
Director

MEMORANDUM

**APPROVED**

DATE: May 7, 2012  
TO: Public Safety and Transportation Committee of the Board of Aldermen  
FROM: Candace Havens, Director of Planning and Development  
David Koses, Transportation Planning Coordinator  
SUBJECT: Restricting On-Street Parking Near Crosswalks to Improve Safety  
CC: Mayor Setti D. Warren

On behalf of the Transportation Advisory Group, the Planning and Development Department requests an ordinance change which would allow the Commissioner of the Department of Public Works to restrict parking up to 10 feet away from crosswalks. Members of the Newton Police Department have recently temporarily restricted parking adjacent to crosswalks in two locations along Walnut Street: near Madison Street and near 100 Walnut Street, where a high daily volume of pedestrians has been observed.

In cases when a vehicle is parked directly next to where a crosswalk meets the sidewalk, pedestrian safety can be compromised. Cars in this position can interfere with sight lines, such that drivers may not be able to see the pedestrian entering the crosswalk, and pedestrians may not be able to see whether it is safe to cross. Restricting parking adjacent to crosswalks would also encourage pedestrians to use crosswalks, as this would maintain good sight lines even in an area with high demand for parking. A higher ratio of pedestrian crossings in the crosswalk produces a more predictable and safe street environment for all users. Encouraging pedestrian use of crosswalks was also one of the recommendations of the Transportation Advisory Group's Pedestrian Sub-Committee.

RECEIVED  
Newton City Clerk  
2012 MAY 14 PM 4:06  
David A. Olson, CMC  
Newton, MA 02459

**Danielle Delaney**

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To: **ddelaney@newtonma.gov**  
 Subject: **(Fwd) PS&T: Tonight's agenda**  
 Date sent: **Wed, 23 May 2012 14:22:26**

----- Forwarded message follows -----

From: **"alicia bowman" <**  
 To: **<acicconejr@newtonma.gov>**,  
**<mjohnson@newtonma.gov>**,  
**<gtanswiston@newtonma.gov>**,  
**<jharney@newtonma.gov>**,  
**<byates@newtonma.gov>**,  
**<gschwartz@newtonma.gov>**,  
**<rfuller@newtonma.gov>**,  
**<dkalis@newtonma.gov>**,  
**<ddelaney@newtonma.gov>**  
 Subject: **PS&T: Tonight's agenda**  
 Date sent: **Wed, 23 May 2012 14:14:02 -0400**

Dear Alderman Ciccone, members of the Public Safety and Traffic Subcommittee:

I am writing concerning an item on tonight's meeting agenda, "Restricting on-street parking near crosswalks". I am very glad this has been brought up for discussion. In my role as Newton's Pedestrian Coordinator, I see this policy change as an important step to improving safety across the city. As an active pedestrian, I understand the increased risk I face when I am forced to cross the street between parked cars. I am left to stand alongside a busy road while I wait for cars to see me and then decide to stop. ***I would much prefer to enter a crosswalk knowing that the approaching cars have seen me and are prepared to stop.***

However, the suggested policy as it currently stands -- with a setback distance of "up to 10 feet" **does not give enough flexibility to the traffic professionals.** I am not a traffic engineer, but a quick review of professional journals and textbooks suggests a minimum of a 20 foot parking setback is required for good sight lines when vehicles are traveling at 25 mph. Increase a vehicle's speed or its weight or factor in a less than average driver response time (newer driver, older driver, driver on a cell phone...) and the need for a greater setback is required. The best policy would be to give the city's professional staff the authority **to determine** the proper setback, to ensure drivers have an unobstructed sight line of a crosswalk.

Recent accidents in crosswalks in Newtonville and near misses outside the Ed Center have shown what can happen if drivers are unable to see pedestrians crossing until they are in the road. Establishing crosswalks where the pedestrian is more visible also benefits drivers as they are better prepared to stop for pedestrians, minimizing the risk of an accident.

I appreciate your consideration of this important policy.

Alicia Bowman  
Newton Pedestrian Coordinator

----- End of forwarded message -----

Danielle Delaney  
Committee Clerk  
Board of Aldermen  
617-796-1211  
ddelaney@newtonma.gov

DIVISION 3. SPECIAL PARKING REGULATIONS

Sec. 19-199. Regulations and enforcement of disabled veterans and handicapped person parking spaces on private property.

(a) Any person or body that has lawful control of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by section two of chapter ninety of the General Laws (HP/V plate) according to the following formula:

<i>Total Number of Stall</i>	<i>Handicapped Stalls</i>
16-25	1 space
26-40	5% but not less than 2 spaces
41-100	4% but not less than 3 spaces
101-200	3% but not less than 4 spaces
201-500	2% but not less than 6 spaces
501-1000	1.5% but not less than 10 spaces
1001-2000	1% but not less than 15 spaces
2001-5000	3/4 of 1% but not less than 20 spaces
5001 +	1/2 of 1% but not less than 30 spaces

(b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense;" shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ~~ramps~~ cuts or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be at least eight ~~twelve~~ feet wide, not including the cross hatch access aisle as defined by the architectural access board established in section 13A of chapter 22 of the General Laws, and shall conform to rules and regulations promulgated by that board. or two eight foot wide areas with four (4) feet of cross hatch between them.

(c) It is hereby prohibited for any person to leave any unauthorized vehicle (lacking an HP/V plate) within a parking space, including the cross hatch area, designated for use by disabled veterans or handicapped persons, as authorized by clause (23) of section 21 of chapter 40 of the General Laws, or to leave such unauthorized vehicle in such a manner as to obstruct a curb ~~ramp-cut~~ designed for use by disabled veterans or by handicapped persons as a means of egress to a street or public way.

(d) The penalty for parking in violation of any provision of this ordinance shall be as provided in section 19-9(1). ~~follows: for the first offense, fifteen dollars (\$15.00); for the second offense, twenty-five dollars~~

| ~~(\$25.00); and for each subsequent offense, €~~The vehicle may be removed according to the provisions of section 120D of chapter 266 of the General Laws. (Ord. No. R-252, 7-12-82)

**Cross reference**—Police department, Ch. 24

**Cross reference**—Veterans' services, Ch. 28

Updated November 28, 2011

#78-12

DRAFT FOR DISCUSSION – 5/14/2012

Sec. 19-9. Penalty for parking violations.\*

Pursuant to General Laws, chapter 90, section 20A, ~~and~~ chapter 40, section 22A, and chapter 40, section 21, clause 24, the following schedule of fines for parking offenses is established subject to such section and to the provisions of this chapter:

(1) ~~The following offenses shall be punished by a fine of [ xxx ] hundred dollars ( \$X00.00): Illegally parking in a space reserved for the handicapped (section 19-178; section 19-199) or for blocking a curb cut designated for handicapped access (section 19-199).~~

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(2) The following offenses shall be punished by a fine of one hundred dollars (\$100.00): ~~Illegally parking in a space reserved for the handicapped (section 19-178) or for blocking a curb cut designated for handicapped access (section 19-199), or for~~ illegally parking in a bus stop (section 19-170).

(3) The following offenses shall be punished by a fine of twenty five dollars (\$25.00): parking within ten (10) feet of a fire hydrant (section 19-166(g)) or parking in front of a private road or a driveway (section 19-166(h)) or upon a crosswalk (section 19-166(c)); parking in a school drop off zone in excess of time permitted; parking in a designated community parking space without a permit (section 19-205).

(4) The following offenses shall be punished by a fine of twenty-dollars (\$20.00): parking on any way in such a manner as to impede the removal or plowing of snow or ice (section 19-166(n)), or parking in a restricted area in violation of the applicable restrictions (except overtime) (section 19-176).

(5) The following offenses shall be punished by a fine of fifteen dollars (\$15.00), parking within an intersection (section 19-166(a)), or so as to obstruct a traffic passing lane (section 19-166(f)), or within twenty (20) feet of either end of a safety zone (section 19-167), or a taxicab stand (section 19-171), or within twenty (20) feet of an intersecting way (section 19-166(i)), or parking upon any sidewalk (section 19-166(b)), or parking on a bridge and the approach thereto (section 19-166(m)), or within fifteen (15) feet of a wall of or directly across the street from a fire station (section 19-166(j)), or parking over twelve (12) inches from the curb or parking in the wrong direction (section 19-166(e)), or within a loading zone in excess of the time permitted (section 19-172), or within a residential area without appropriate sticker (section 19-201), or otherwise than at the required angle in an angle parking zone (section 19-175), parking in or obstructing access to a designated fire lane (section 19-166(o)); parking in a school drop off zone in excess of time permitted (section 19-179); or stopping in violation of the applicable restrictions (section 19-180), or parking at a parking meter in violation of the provisions applicable thereto (sections 19-188 to 19-190, 19-194 and 19-195, or in any other area where parking is permitted for a limited period of time in excess of the time allowed (section 19-166).

(6) The following offenses shall be punished by a fine of five dollars (\$5.00): Parking a vehicle other than a commercial vehicle at night in violation of the provisions applicable thereto (section 19-174(b) and (c)) at night in violation of the provisions applicable thereto (section 19-174).

(7) Should the fines established herein not be paid within twenty-one (21) days of the offense, the following surcharges shall be due and payable to the parking clerk of the city in addition to the fine originally assessed:

For a \$5.00 fine – initial surcharge shall be an additional \$10.00.

NEWTON CODE ONLINE - MOTOR VEHICLES AND TRAFFIC

§ 19-9

For a \$15.00 fine – initial surcharge shall be an additional \$10.00.

For a \$20.00 fine – initial surcharge shall be an additional \$10.00.

For a \$25.00 fine – initial surcharge shall be an additional \$10.00.

(78) If any part of the fine and/or initial surcharge remains unpaid at any time subsequent to the parking clerk reporting the matter to the Registrar of Motor Vehicles of the Commonwealth of Massachusetts, pursuant to M.G.L. chapter 90, section 20A, an additional surcharge of \$5.00 shall be due and payable to the parking clerk of the city.

(89) Notwithstanding the fines established for the offenses identified in subsections (3) and (4), such offenses shall be punished by a fine of twenty-five dollars (\$25.00) if the offense occurs within the geographic area designed as subject to the Tiger Parking program established by section 19-204 while such program is in effect. (Rev. Ords. 1973, § 13-12; Ord. No. S-8, 8-8-83; Ord. No. S-43, 2-21-84; Ord. No. S-156, 2-18-86; Ord. No. 209, 7-21-86; Ord. No. S-344, 12-5-88; Ord. No. T-164, 8-8-91; Rev. Ord. No. T-142, 4-1-91; Ord. X-30, 10-7-02; X-34, 11-18-02; Ord. No. X-86, 5-17-04; Ord. No. X-96, 6-21-04; Ord. No. X-143, 3-21-05; Ord. No. X-162, 4-4-05; Ord. No. X-180, 12-19-05; Ord. Y-6, 3-19-07; Ord. No. Y-31, 8-13-07; Ord. No. Z-14, 11-5-07; Ord. No. Z-40, 01-20-09; Ord. No. Z-47, 03-16-09)

\*Editor's notes—

~~See subsection (d) of Section 19-199 regarding penalties for unauthorized parking in handicapped spaces on private property.~~  
See subsections (h), (i) and (j) of section 19-204 regarding penalties pursuant to certain violations of the temporary permit parking program known as Tiger Permit parking.

NEWTON CODE ONLINE - MOTOR VEHICLES AND TRAFFIC

§ 19-9

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**CONFIDENTIAL**  
**LAW DEPARTMENT MEMORANDUM**

**To:** Members of the Public Safety & Transportation Committee and  
Members of the Finance Committee

**From:** Marie M. Lawlor, Assistant City Solicitor

**Date:** May 4, 2012

**Re:** Item # 78-12 Handicap Parking

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Background

It has come to my attention that questions arose during recent Public Safety & Transportation Committee discussions on Item # 78-12 with regard to police authority to ticket handicap parking violations occurring on privately owned public access parking areas that are subject to §19-199.

Questions Presented

1. Do Newton police have the authority to cite handicap parking violations occurring on privately owned off-street parking areas that are subject to Newton Revised Ordinances §19-199?
2. Do Newton police need the property owner's permission in order to cite handicap parking violations occurring on privately owned off-street parking areas that are subject to §19-199?

Short Answers

1. Yes. That authority stems from two chapters of the general laws. The first is G.L. c. 40, §21, clauses (23) and (24), which enable municipalities to enact ordinances or by-laws regulating handicap spaces on public access private off-street parking areas. The second is G.L. c. 90 §20A, which authorizes police to cite violations of municipal parking ordinances or regulations
2. No. Neither statute requires police to obtain permission of the property owner in order to cite such handicap parking violations.

Discussion

G.L. c. 40, clause (23) enables municipalities to enact ordinances or by-laws requiring persons who own or control "public and private off-street parking areas" to provide handicap spaces. Paragraph (a) of that clause defines such private off-street parking areas as "... improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees..." . Clause (23) also provides a formula for calculating the number of

handicap spaces required,<sup>1</sup> prohibits blocking curb cuts, and contains other requirements pertaining to placement, width and cross-hatching of such spaces.

G.L. c. 40, clause (24) specifically enables municipalities to prohibit or regulate parking in handicap spaces designated "... as authorized by clause (23) ..." and further provides that the penalty for unauthorized parking in such spaces "... shall be ... not less than \$100.00 nor more than \$300.00." Thus, clauses (23) and (24) together provide authority for municipalities, by ordinance or by-law, to both require that handicap spaces be provided on privately owned public access off-street parking areas and to penalize unauthorized vehicles parking in those handicap spaces.

Authorization for police to ticket violations of duly enacted municipal parking ordinances or by-laws is found in G.L. c. 90 §20A, which provides that "... it shall be the duty of any police officer ... who takes cognizance of a violation of any provision of any rule, regulation, order, ordinance or by-law regulating the parking of motor vehicles established by any city or town, forthwith to give to the offender a notice to appear ..."

Nothing in G.L. c. 40 §21 clauses (23) and (24) or G.L. c. 90 §20A requires police to obtain permission of the property owner in order to cite violations of handicap parking ordinances enacted by a municipality for private off-street parking areas.

As authorized by G.L. c. 40, Newton regulates handicap spaces by ordinance. Handicap spaces on public ways are regulated by §19-178,<sup>2</sup> while such spaces on privately owned public access parking areas are regulated by §19-199. The latter section mirrors the requirements of Clauses (23) and (24), including establishment of a penalty for unauthorized parking in a handicap space on privately owned public access parking areas.<sup>3</sup>

A separate section of the Chapter 19 provides the overall schedule of fines for all parking violations. That section is §19-9. Currently, the §19-9 fine of \$100 for illegally parking in a handicap space refers to violations occurring on public ways (§19-178), but does not refer to such violations occurring on private public access lots (§19-199). The only reference to §19-199 is limited to illegally blocking curb cuts designated for handicap access. In order to make clear that the penalty also applies to illegally parking in a handicap space on private public access parking areas, the specific language and reference to §19-199 should be added to §19-9 as proposed by this item.

Cc: Maureen Lemieux, Chief Financial Officer  
Matthew Cummings, Chief of Police  
Candace Havens, Director of Planning and Development

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<sup>1</sup> Handicap spaces are not required in lots containing fewer than fifteen spaces in total.

<sup>2</sup> G.L. c. 40 §22A authorizes municipalities to regulate handicap spaces in public ways.

<sup>3</sup> Item #78-12 also proposes to increase the penalty amount to at least the \$100 minimum and to update other language pertaining to width and cross hatching in order to be consistent with the updated requirements of G.L. c. 40 clauses (23 and (24) as amended.

## Department of Planning and Development

1

PUBLIC SAFETY AND TRANSPORTATION COMMITTEE  
APRIL 18, 2012

### HANDICAP FINES

#78-12 HIS HONOR THE MAYOR proposing amendments to Sections 19-9 and 19-199 of the City of Newton Revised Ordinances, 2007 to increase the penalties for handicap parking violations in Section 19-9 and to clarify that handicap parking violation penalties apply not only to spaces on public ways but also to handicap spaces on private property open to public access in accordance with Section 19-199; to update language in Section 19-199 regulating minimum width of handicap spaces; to add language pertaining to cross-hatch areas as required by state law; and to reference governing Architectural Access Board regulations.

2

### Handicap Fines

- Current Fines
- Current Concerns
- Other cities' fines
- Waltham model
- Options

### Current Concerns

- Abuse of HC laws
  - Parking in HC spaces w/o placard
  - Using placard when ineligible
  - Parking in front of HC ramps
- Penalties too low
  - Current fine on private property is \$15
  - State minimum of \$100
  - \$100 fine may be too low
- Code fails to meet AAB requirements
  - Minimum parking width
  - Cross hatching
  - Applicability on private property

3

### Handicap Fines

- Current Fines
- Current Concerns
- Other cities' fines
- Waltham model
- Options

### Other cities' fines

City/Town	1st. Fine	2nd. Fine	other
• Ashland	\$100		
• Bedford	\$200		
• Belmont	\$100		
• Boston	\$120		
• Brookline	\$100		
• Cambridge	\$100		
• Dedham	\$100		
• Framingham	\$200		
• Leasington	\$100		
• Marlborough	\$100		
• Natick	\$100		
• Needham	\$100		
• Newton	\$15/\$100		
• Norwood	\$100		
• Quincy	\$100		
• Scituate	\$100		
• Sherborn	\$100	\$300.00	wait for tow
• Stoneham	\$100		
• Sudbury	\$100		
• Waltham	\$100		
• Watertown	\$150		
• Wellesley	\$150		
• Weston	\$100		
• Worcester	\$200		

4

### Handicap Fines

- Current Fines
- Current Concerns
- Other cities' fines
- Waltham model
- Options

### Waltham Model

- Has same number of parking spaces
- Can fine on private property
- Pays for HC enforcement from funds
- Could support part-time accessibility coordinator
  - Update accessibility plans as required by law
  - Train other staff in accessibility issues
  - Respond to requests for assistance
  - Satisfy other legal requirements

5

**Handicap Fines**

- Current Fines
- Current Concerns
- Other cities' fines
- Waltham model
- Recommendations**

**Recommendations**

- **Revise 19-9**
  - Clarify penalty applies to public & private spaces
  - Increase penalties on public & private properties
    - × **Minimum \$100**
    - × **Maximum \$300**
- **Revise 19-199 to meet AAB standards**
  - Minimum parking width
  - Cross-hatching
  - AAB reference