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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** February 9, 2018

**TO:** Councilor Albright, 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:** **#29-18 Acceptance of MGL regarding cooking facilities in lodging houses**  
COUNCILORS CROSSLEY, ALBRIGHT, NORTON, DANBERG, LEARY, KALIS AND BAKER requesting acceptance of MGL Chapter 140, Section 22A to allow lodging houses to include limited cooking facilities in rooming units.

**#30-18 Zoning ordinance amendment regarding lodging houses**  
COUNCILORS CROSSLEY, ALBRIGHT, NORTON, DANBERG, LEARY, KALIS AND BAKER requesting to amend Chapter 30, City of Newton Ordinances, to include a "lodging house" ordinance to promulgate standards for new buildings and developments that would provide congregate living arrangements and/or single room occupancy.

**MEETING DATE:** February 12, 2018

**CC:** John Lojek, ISD Commissioner  
Deborah Youngblood, Health Commissioner  
David MacDonald, Chief of Police  
Bruce Proia, Fire Chief

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A lodging house is a traditional housing form that caters to single individuals living in a quasi-group setting that already exists and is currently permissible in Newton.

The current regulatory landscape for lodging houses in Newton is as follows:

- It's understood that there are a few historic lodging houses that pre-date when the City began regulating the use.

- Illegal lodging houses have been found in neighborhoods across the City – typically they are found when there is a life safety emergency.
- Lodging houses are a permissible use by Special Permit in several zoning districts.
- Lodging house licenses exist in Newton’s Ordinances, cost \$50, and have no related regulations.

The goal of this effort is to update how the City of Newton regulates lodging houses – from the zoning ordinance requirements for forming a new lodging house in the city to the licensing regulations regarding ongoing operations of a lodging house.

Ensuring the ongoing health, safety, and welfare of lodging house residents is the responsibility of multiple City departments: Inspectional Services, Health and Human Services, Police, and Fire as well as the Licensing Board, which by statute is the authorizing body for lodging house licenses in a Massachusetts City like Newton.

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

There are two sections of the City Ordinances that regulate lodging houses and each section refers to each other.

- Zoning & Planning is reviewing the proposed amendments to Chapter 30 – Zoning
- Programs & Services is reviewing the proposed amendments to Chapter 17 - Licensing
- Finance is reviewing the fee schedule in Chapter 17 – Licensing

Both sections refer to Enhanced Single Room Occupancy Units within lodging houses (rooms with mini-kitchens). In order to allow that type of rooming facility the Council would first need to vote to **accept Massachusetts General Law c. 140 §22A**. This section is explained further below.

## PROPOSED ZONING AMENDMENTS

Now, and in the proposed, lodging houses require a Special Permit in all zones where they are allowed.

**NEW since 2017 discussions:** The Licensing Board asked for the process section to include that copies of all granted Special Permits be distributed to the Board and their administrative staff to ensure all approved facilities are tracked into the licensing process.

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 definitions in the Lodging House Licensing Ordinance and relate the City’s definition more closely with the definition in state statute.

The proposed definition includes that facilities 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. (noted in state statute but not current City definition).

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 defined in state statute.

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 parking requirement is proposed at 1 stall per 3 rooming units with a maximum of 6 stalls. Through the Special Permit process an applicant could seek to reduce the minimum down as far as 0 per rooming unit within proximity of transit (1/2 mile to rail transit, 1/4 mile to MBTA bus). A map of these areas is attached.

The intention 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 vehicle storage 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 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 or any standards. As such it is the Planning Department’s recommendation that this listed use be subsumed by the Lodging House Ordinance.

## **PROPOSED LICENSING AMENDMENTS**

Like a restaurant, a lodging house has multiple layers of review: zoning approval of the use, license approval to operate, inspections to ensure operations are in keeping with regulations. For lodging houses, just like restaurants, there are many departments involved in ensuring safe and healthy operations. The following departments will be involved in Lodging House Licensing:

- The three principal inspecting departments are ISD, Fire, and HHS
- They are and will be supported by Planning, Police, Treasury, and the City Clerk's Office

Below is an outline of the proposed Licensing Amendments:

- **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
    - Operator's responsibilities relative to residents
    - Operator's responsibilities relative to property maintenance
    - License application and renewal requirements
- **Fees** are listed in a separated section of Chapter 17

***NEW since 2017 discussions:*** Since the last Council discussions, staff has met with the Licensing Board and adjusted the proposed Lodging House Licensing Ordinance based on their feedback and a better understanding of how lodging house licenses relate to the other license processes. The following areas were revised:

- The Certification Program was revised to establish a 2-step program. The first step to be completed before initial license is given so that the Licensing Board can confirm that the applicant has completed training before issuing a license.
- Clarified the language separating Licensing from the land use decision in the Special Permit process
- Clarified that renewal schedules will be set by the Board so that it can be timed to coordinate with other activities
- Revised the public hearing notice requirement so that it mirrors the Special Permit notice requirement

### **Lodging House License - Facility Requirements**

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.

- **Rooming Unit** - private sleeping and living space, with shared kitchen and bath facilities. In this arrangement the resident could expect to have a full kitchen in the house 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.

- **Enhanced Single Room Occupancy Unit (E-SRO)** – this rooming unit additionally has 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 rooming unit. The resident would still have access to a shared full-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 (owners and agents)**

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 Supervising Agent**. The resident supervising agent’s primary role is to be the on-the-ground operator, available at all hours to handle emergencies and ensure proper maintenance, and as such they must reside on site.

Resident supervising agents will be the central point of contact for the City and must be reachable by Police, Fire, HHS, and ISD staff to respond within 1-hour for emergencies and 24-hours with respect to other issues.

Licensees and resident supervising agents will be required to complete a 2-step certification program.

- Step 1: A reading assignment and written test on key topics of health & safety in lodging houses
- Step 2: An in-person training lead by the three inspecting departments

Step 1 must be completed before submitting a license application. Step 2 must be completed within 1 year of assuming the role.

### **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**

Resident Supervising Agents will be responsible for **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 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 this section, the Licensing Board is working on their own regulations that will further detail what is needed when filing a Licensing application with the Board.

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**. The notice requirements are proposed to be the same as the Special Permit requirement – noticing to all property owners within 300 ft.

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.

## **LICENSING FEES**

Intent is for the fees to reflect true costs to the City while also not being so high as to discourage operators from maintaining their licenses. Standard special permit filing fees will also apply.

- License Application Fees – total \$550
  - \$50 – License Fee (max. allowed by state limit)
  - \$300 – Interdepartmental Inspection Fee
  - \$200 – Licensing Board filing fee (*set by Licensing Board*)
- License Renewals not requiring Licensing Board Hearing – total \$350
  - \$50 – License Fee
  - \$300 – Interdepartmental Inspection Fee

- Interdepartmental Inspection Fee was initially proposed at \$400, consistent with the fee charged in Brookline. After further reviewing the costs to the City of Newton and the full set of fees involved, the proposed interdepartmental inspection fee was reduced to \$300.
  - \$33/hr - 3 hours of the ISD Periodic Inspector’s time (the lead inspecting staff person)
  - \$27/hr - 2 hours of a HHS inspector’s time (1.5 hr inspection, 0.5 for reporting)
  - \$38/hr - 2 hours of a Fire inspector’s time (1.5 hr inspection, 0.5 for reporting)
  - \$20/hr – 2 hours of ISD Administration time (arranging inspections, filing, etc.)

## **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 lodging 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 lodging 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.

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

Zoning approval by Special Permit stays with the property in perpetuity.

- The Licensing Ordinance covers issues of operation – who is allowed to operate a lodging house, what training they need, and what responsibilities they are expected to take on.

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

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

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

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

Inspectional Services (ISD)

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

Fire

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

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.

**ATTACHMENTS**

Attachment A: Proposed Chapter 30 Zoning Amendments – Redline Version

Attachment B: Proposed Chapter 17 Licensing Amendments – Redline & Clean Versions

# Newton **in** motion

A Transportation Strategy for Newton

**MBTA Service**

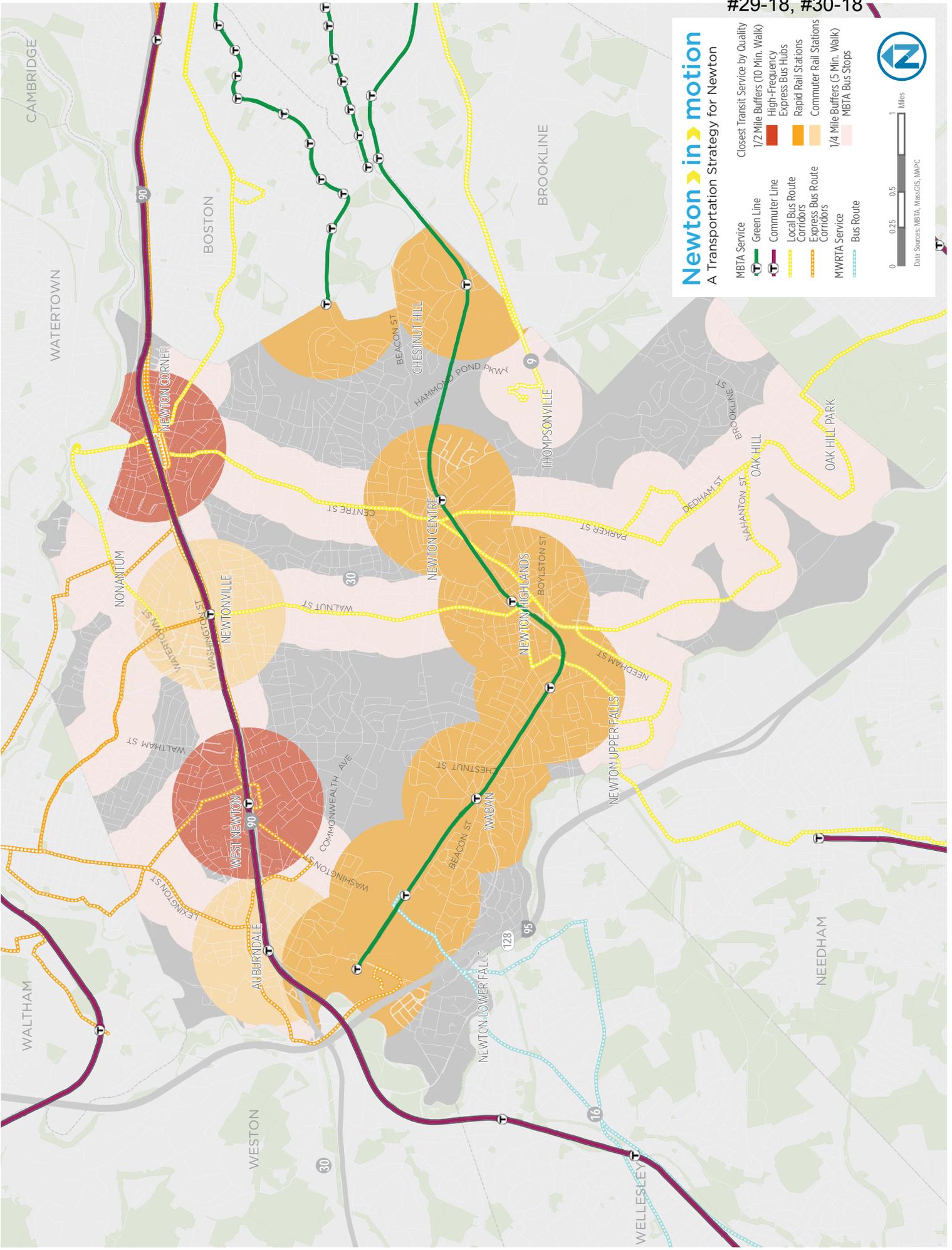
- Green Line
- Commuter Line
- Local Bus Route
- Express Bus Route
- MWRTA Service
- Bus Route

**Closest Transit Service by Quality**

- 1/2 Mile Buffers (10 Min. Walk)
- High-Frequency Express Bus Hubs
- Rapid Rail Stations
- Commuter Rail Stations
- 1/4 Mile Buffers (5 Min. Walk)
- MBTA Bus Stops

0 0.25 0.5 1 Miles

Date Sources: MBTA, MassGIS, WMPC



## Sec. 3.4. Allowed Uses

### 3.4.1. Residential Districts Allowed Uses

Residential Districts	Definition/ Listed Standards							
	SR1	SR2	SR3	MR1	MR2	MR3	MR4	
<b>Residential Uses</b>								
Single-family, detached	P	P	P	P	P	P	P	<a href="#">Sec. 6.2.1</a>
Two-family, detached	--	--	--	P	P	P	P	<a href="#">Sec. 6.2.2</a>
Single-family, attached	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.2.3</a>
Multi-family dwelling	--	--	--	--	SP	SP	SP	<a href="#">Sec. 6.2.4</a>
Association of persons in a common dwelling	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.2.6</a>
Lodging Boarding house	--	--	--	SP	SP	SP	SP	<a href="#">Sec. 6.2.7</a>
Congregate living facility	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.2.8</a>
Dormitory (5-20 persons)	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.2.9</a>
Dormitory (20+ persons)	L	L	L	L	L	L	L	<a href="#">Sec. 6.2.9</a>
Cluster development for open space preservation	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.2.12</a>
Residential care facility	--	--	--	--	--	SP	SP	<a href="#">Sec. 6.2.13</a>
<b>Civic/Institutional Uses</b>								
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.3.1</a>
Club, clubhouse	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.3.2</a>
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.4</a>
Hospital	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.3.7</a>
Library, museum or similar institution	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.3.8</a>
Nonprofit institution	--	--	--	SP	SP	SP	SP	<a href="#">Sec. 6.3.9</a>
Public use	L	L	L	L	L	L	L	<a href="#">Sec. 6.2.10</a>
Religious institution	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.12</a>
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.3.13</a>
School or other educational purposes, non-profit	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.14</a>
School or other educational purposes, for-profit	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.3.14</a>
Scientific research and development activities, accessory	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.7.4</a>
<b>Commercial Uses</b>								
Funeral home	--	--	--	--	SP	SP	--	<a href="#">Sec. 6.4.15</a>
Radio or television transmission station or structure	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.4.27</a>
<b>Industrial Uses</b>								
Wireless communication equipment	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	<a href="#">Sec. 6.9</a>
<b>Open Space Uses</b>								
Agriculture on a parcel of 5 or more acres	P	P	P	P	P	P	P	<a href="#">Sec. 6.6.1</a>
Agriculture on a parcel under 5 acres	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.6.1</a>
Resource extraction	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.6.4</a>
Riding school, stock farm	SP	SP	SP	SP	SP	SP	SP	<a href="#">Sec. 6.6.5</a>

P = Allowed by Right    L = Allowed Subject to Listed Standards    SP = Special Permit by Board of Aldermen Required    -- Not Allowed

## Sec. 4.4. Allowed Uses

### 4.4.1. Business, Mixed Use & Manufacturing Districts

<b>Business, Mixed Use &amp; Manufacturing Districts</b>	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
<b>Residential Uses</b>												
Single-Family, detached	L	L	L	L	--	--	--	--	--	--	--	<a href="#">Sec. 6.2.1</a>
Two-Family, detached	L	L	L	L	--	--	--	--	--	--	--	<a href="#">Sec. 6.2.2</a>
Residential use, above ground floor	L	L	L	L	--	SP	L/SP	P	P	--	--	<a href="#">Sec. 6.2.4</a>
Residential use, ground floor	SP	SP	SP	SP	--	SP	SP	P	SP	--	--	<a href="#">Sec. 6.2.4</a>
Assisted living, nursing home	--	--	--	--	--	--	--	SP	SP	--	--	<a href="#">Sec. 6.2.5</a>
Elderly housing with services	SP	SP	SP	SP	--	--	--	--	--	--	--	<a href="#">Sec. 6.2.10</a>
Live/work space	P	P	P	P	P	P	P	P	P	--	--	<a href="#">Sec. 6.2.11</a>
<del>Lodging House, above ground floor</del>	<del>SP</del>	<del>SP</del>	<del>SP</del>	<del>SP</del>	<del>--</del>	<del>SP</del>	<del>SP</del>	<del>SP</del>	<del>SP</del>	<del>--</del>	<del>--</del>	<del><a href="#">Sec. 6.2.7</a></del>
<del>Single-room occupancy dwelling, single-person occupancy dwelling</del>	<del>--</del>	<del>SP</del>	<del>--</del>	<del>--</del>	<del>--</del>	<del><a href="#">Sec. 6.2.14</a></del>						
<b>Civic/Institutional Uses</b>												
Cemetery, private	SP	<a href="#">Sec. 6.3.1</a>										
Club, clubhouse	P	P	P	P	--	--	P	--	SP	--	P	<a href="#">Sec. 6.3.2</a>
Community use space	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Sec. 6.3.3</a>
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.4</a>
Government offices or services	--	--	--	--	--	--	--	P	P	--	--	<a href="#">Sec. 6.3.5</a>
Heliport	--	--	--	--	SP	--	--	--	--	SP	SP	<a href="#">Sec. 6.3.6</a>
Hospital	SP	SP	SP	SP	SP	--	--	--	--	--	--	<a href="#">Sec. 6.3.7</a>
Library, museum or similar institution	P	P	P	P	SP	--	P	P	P	--	P	<a href="#">Sec. 6.3.8</a>
Public use	L	L	L	L	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.10</a>
Rail/bus station	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Sec. 6.3.11</a>
Religious institution	L	L	L	L	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.12</a>
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	SP	--	SP	--	--	--	--	<a href="#">Sec. 6.3.13</a>
School or other educational purposes, non-profit	L	L	L	L	L	L	L	L	L	L	L	<a href="#">Sec. 6.3.14</a>
School or other educational purposes, for-profit	SP	<a href="#">Sec. 6.3.14</a>										
Theatre, hall	P	P	P	P	--	--	P	SP	SP	--	P	<a href="#">Sec. 6.3.15</a>
<b>Commercial Uses</b>												
Animal service, excluding overnight boarding	--	--	--	--	--	SP	SP	--	SP	--	--	<a href="#">Sec. 6.4.1</a>

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Board of Aldermen Required -- Not Allowed

### 5.1.4. Number of Parking Stalls

A. The minimum number of parking stalls to be supplied for each type of building or land use shall be in accordance with the following requirements. Where the computation results in a fractional number, the fraction shall be counted as one stall.

Use	Parking Stalls Required	Allowed by Special Permit
<b>Residential</b>		
Single-family dwelling, Two-family dwelling	2 per unit	
Accessory apartment	1 per unit	
Association of persons	1 per adult occupant in unit	
Single-family attached dwelling, Multi-family dwelling	2 per unit	1.25 per unit, except multi-family housing for low-income or elderly persons built under state or federal housing programs: 1 per 2 units in a low income unit plus 1 per 4 elderly units
<del>Lodging House Boarding house, rooming house, lodging house, tourist house, congregate living facility</del>	<del>1 per 3 Rooming Units; max. of 6 + per sleeping room plus + per 3 employees</del>	<del>Reducing to 0 per Rooming Unit for Lodging Houses within 1/2 mile of rail transit (Green Line or Commuter Rail) or within 1/4 mile of MBTA Bus Service. Exceeding the maximum. See Section 6.2.7</del>
Convalescent or rest home or other institution devoted to the board, care or treatment of humans	1 per every 4 beds plus 1 per every 3 employees	
Elderly housing with services facility, residential care facility, elderly congregate living facility	1 per every 2 dwelling units 1 per every 4 nursing beds plus 1 per 3 employees	.25 per dwelling unit where adequate transportation services are available
<b>Civic/Institutional</b>		
Dormitory	1 per 5 occupants	
Religious Institutions	1 per 3 seats, permanent or otherwise; 1 per 3 employees; plus 1 per 45 sf used for meeting function purposes when such space is customarily used concurrently with the seating space	
School serving children under 14 years of age	1 per employee not residing on premises	
<b>Commercial</b>		
Bank	1 per 300 sf plus 1 per every 3 employees	
Family child care home, large family child care home, day care center	1 per employee not residing on premises plus 1 per every 5 children	
Funeral home	1 per 40 sf; 30 spaces min.	
Health club, similar establishment	1 per 150 sf plus 1 per every 3 employees	
Hospital, sanitarium	1 per every 3 beds plus 1 per every 3 employees	
Hotel, motel	1 per sleeping room plus 1 per every 3 employees	

### 6.2.4. Multi-Family

#### A. Defined.

- 1. **Multi-Family.** See Sec. 1.5.1
- 2. **Residential Use, Above Ground Floor [reserved]**
- 3. **Residential Use, Ground Floor [reserved]**

#### B. Standards.

- 1. **In the Business 1 through Business 4, Mixed Use 2, and Mixed Use 4 Districts.** Multi-family residential is an allowed use in upper stories of a building containing allowed commercial uses on the ground floor.
- 2. **In the Multi-Residence 4 District.** A special permit is required, subject to the following conditions:
  - a. **Business Services.** Where deemed necessary by the Board of Aldermen because of the number of residents to be accommodated on the lot or tract, business facilities for the individual convenience of the residents, such as barbershops, beauty parlors, tailors, shoe repair shops and similar personal services, newsstands, drugstores, food shops, dining rooms and similar retail uses, medical and related professional services, gasoline selling and service stations and parking lots and similar services may be conducted within a multi-family dwelling except that dining rooms with related facilities may be conducted within a building attached to and made an integral part of a multi-family dwelling but shall not exceed 2 percent of the gross floor area of all buildings containing dwelling units; provided, that there shall be no entrance to such a place of business except from the inside of the building, except for gasoline selling and service stations and parking lots; there shall be no signs or advertising matter pertaining to such business services outside of any building and no illuminated signs in the windows of the business facilities, and the gross floor area of the business services including dining rooms and related facilities shall not exceed 5 percent of the gross floor area of all buildings containing dwelling units;

- b. No building shall be closer to any other building on the lot or tract than a distance equal to the sum of their heights nor in any case closer than 50 feet. The Board of Aldermen may permit buildings to be erected closer to each other in cases where by reason of the location or size of the buildings on such lot or tract and the relationship of one building to another, there is assurance of adequate light, air and privacy, and the approval of the site plans by the Board of Aldermen shall constitute the granting of such permission.

(Ord. No. S-260, 08/03/87)

### 6.2.5. Assisted Living, Nursing Home

#### A. Defined. [reserved]

### 6.2.6. Association of Persons in a Common Dwelling

- A. **Defined.** A group of 5 or more persons 18 years of age or older, who are unrelated by blood, marriage or adoption living together in a common dwelling.

(Ord. No. T-57, 11/20/89)

### 6.2.7. ~~Boarding House, Rooming House, Lodging House~~

- A. ~~Intent. Lodging House is an allowed residential use for independent living with shared facilities. The lodging house use is intended to:~~
  - 1. ~~Diversify housing choices in Newton while respecting the residential character and scale of existing neighborhoods;~~
  - 2. ~~Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;~~
  - 3. ~~Lodging houses are encouraged to locate near transit to further provide lodgers access to transportation services.~~
- B. **Defined.** ~~A Lodging House is~~ Any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers ~~(defined as 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).~~ Includes

rooming house, boarding lodging house. It shall not include convalescent, nursing, or rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels.

**C. Standards.**

1. All lodging houses shall be licensed at all times of operation.
2. Signage for lodging houses shall be consistent with Section 5.2.7. Signs in Residence Districts or Section 5.2.8. Signs in Commercial Districts as appropriate; exceptions to the maximum size shall not be granted by Special Permit.
3. In residential districts, all lodging houses shall be consistent with the character of the neighborhood.
4. **Parking.**
  - a. The number of parking stalls shall be consistent with Section 5.1.4.
  - b. No lodging house may provide more than 6 parking spaces on a lot. The maximum may be waived by Special Permit.
  - c. The City Council may by Special Permit, allow lodging houses located within 1/2 mile of rail transit (Green Line or Commuter Rail), or within 1/4 mile of an MBTA Bus stop, to reduce the number of parking spaces to 0.
  - d. All parking areas shall be screened from any adjacent residences and from the public way.
5. The minimum occupancy or rental term shall be 30 days.

**D. Process.**

1. All lodging houses created by a change of use shall require design review by the Urban Design Commission. Report of the Urban Design Commission shall be submitted to the City Council.
2. Upon approval of a Special Permit, copy of the approved plans and City Council Order shall be forwarded to the Licensing Board.

(Ord. No. S-260 08/03/87)

## 6.2.8. Congregate Living Facility

- A. Defined.** An association of persons living together in a shared living environment which integrates shelter and service needs of elderly, functionally impaired or functionally isolated persons who are otherwise in good health and can maintain a semi-independent lifestyle and who do not require constant supervision or intensive health care as provided by an institution. Each resident may have a separate bedroom, living room, kitchen, dining area or bathroom, or may share living, dining, and bathroom facilities with other persons. Such facility shall be deemed an association of persons living together in a single dwelling and not a lodging house.

(Ord. No. S-260 08/03/87)

## 6.2.9. Dormitory

- A. Defined.** A building owned or controlled directly or indirectly by a religious or educational non-profit institution (excepting a nonprofit hospital) providing sleeping quarters for 5 or more unrelated persons.
- B. Standards.** In all residence districts, the construction, alteration, enlargement, extension or reconstruction of a building or structure as, and the use of a building, structure or land for, a dormitory providing sleeping quarters for 20 or more persons must meet the following conditions:
1. **Building location.** A dormitory shall not be closer to any other building on the same lot than 50 feet.
  2. **Courts.**
    - a. An inner court shall have a minimum dimension at least equal to twice the average height of the surrounding walls and shall have an opening at ground level with a minimum height of 18 feet and a minimum width of 18 feet to permit access to service and emergency vehicles.
    - b. An outer court shall be open to the full extent of its width at least equal to 1.5 times the average height of the surrounding walls and a depth no greater than its width.
    - c. The area of any court which exceeds 15 percent of the "Minimum Open Area" required shall not be included in the calculation of that minimum open area.

**C. Site Plan Review.** Dormitories are subject to the Site Plan Review procedures in Sec. 7.4.

(Rev. Ords. 1973 §24-18; Ord. No. S-260, 08/03/87; Ord. No. S-322, 07/11/88)

**6.2.10. Elderly Housing with Services**

- A. Defined.** Elderly housing with services, including residential care facilities, assisted living facilities and congregate care facilities.
- B. Standards.** In the business districts, the Board of Aldermen may grant a special permit for elderly housing with services with a lot area of no less than 400 square feet per dwelling unit.

(Ord. No. T-183, 11/04/91)

**6.2.11. Live/Work Space**

- A. Defined.** [reserved]

**6.2.12. Cluster Development for Open Space Preservation**

- A. Defined.** [reserved]
- B. Standards.** See Sec. 3.3.1

**6.2.13. Residential Care Facility**

- A. Defined.** A residential care facility shall consist in part of independent dwelling units, and shall contain a combination of central cooking and dining facilities, recreation facilities and shall provide to all its residents, specified medical services, which medical services shall include, but are not limited to, nursing and dietary assistance, together with the availability on the premises of full-time nursing care in a licensed care facility, provided that at least 1 occupant of each dwelling unit shall be at least 65 years of age or older.

**B. Standards.**

- 1. In the Multi-Residence 3 District.** A special permit is required, subject to the following conditions:
  - a.** The ratio of gross floor area devoted to residential purposes to lot area shall not exceed 0.67. Such gross residential floor area shall include hallways, stairwells, utility rooms and other similar areas which are directly accessory to independent dwelling

units. Such gross residential floor area shall not include garage, library, activity, office, medical care, eating, assembly or other special supportive areas;

- b.** The Board of Aldermen may establish a limitation upon the maximum number of persons to be permitted per dwelling unit; and the Board of Aldermen may establish a minimum staff requirement for the residential care facility, provided, however, that the Board of Aldermen may, if circumstances warrant, grant a special permit, for construction of a residential care facility with a lesser lot area per dwelling unit, a lesser number of parking spaces per dwelling unit, a greater gross floor area or a greater gross residential floor area ratio, but in no case:
  - i.** With less than 850 square feet of lot area per dwelling unit;
  - ii.** With a gross floor area ratio of more than 2.0;
  - iii.** With a gross residential floor area ratio of more than 1.34;
  - iv.** With less than 0.25 parking spaces per dwelling unit.

(Ord. No. 31, 12/02/74; Ord. No. R-14, 07/09/79; Ord. No. V-307, 06/19/00)

~~**6.2.14. Single-Room Occupancy Dwelling, Single-Person Occupancy Dwelling**~~

- ~~**A. Defined.** [reserved]~~

## Sec. 8.3. Defined Terms

### A

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**Accessory Apartment:** See [Sec. 3.4.3](#)

**Accessory Purpose:** As applied to buildings or structures, a use in conjunction with an existing building on the same or an adjoining lot.

**Accessory Sign:** See Sign, accessory.

**Adult Entertainment Uses:** See [Sec. 6.10.1](#)

**Agriculture:** See [Sec. 6.6.1](#)

**Animal Service:** See [Sec. 6.4.1](#)

**Apartment House:** See Dwelling, multifamily

**Assembly or Fabrication of Materials Manufactured Off Premise:** See [Sec. 6.5.1](#)

**Assisted Living:** See [Sec. 6.2.5](#)

**Association of Persons:** A group of 5 or more persons 18 years of age or older, who are unrelated by blood, marriage or adoption; provided that an association of persons as defined in this [Sec. 8.3.](#) shall not be deemed to constitute a “family” within the meaning of this Chapter.

**Attached Dwelling:** See Dwelling, single-family attached.

**Attached, Single-Family:** See Dwelling, single-family attached.

**Attic:** The space in a building between the ceiling joists of the top full story and the roof rafters.

### B

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**Bakery, Retail:** See [Sec. 6.4.3](#)

**Bakery, Wholesale:** See [Sec. 6.5.2](#)

**Bank:** See [Sec. 6.4.4](#)

**Basement:** See [Sec. 1.5.4](#)

**Bike Rental:** See [Sec. 6.4.8](#)

**Boarder:** See Lodger.

**Boarding House:** See [Sec. 6.2.7](#)

**Bottling Works:** See [Sec. 6.5.4](#)

**Bowling Alley:** See [Sec. 6.4.5](#)

**Build Factor:** A mathematical formula which limits the irregularity of the lot shape. See [Sec. 1.5.6](#)

**Building:** A structure, including alterations, enlargements, and extensions, built, erected, or framed of any combination of materials having a roof, whether portable or fixed, designed or intended for the shelter of persons, animals, or the storage of property.

**Building Materials Sales Yard:** See [Sec. 6.5.5](#)

**Building, Nonconforming:** A building which does not conform in whole or in part to the use or construction regulations of the district in which the building is located.

**Business Establishment:** Each separate place of business whether or not consisting of one or more buildings or a part of a building or vacant land.

**Business Services:** See [Sec. 6.4.7](#)

### C

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**Car Sharing Service:** See [Sec. 6.4.8](#)

**Car Rental:** See [Sec. 6.4.8](#)

**Car Wash:** See [Sec. 6.4.9](#)

**Carport:** A one-story roofed structure permanently open on at least three sides and designed for or used for occupancy by a motor vehicle. For the purposes of this Chapter, a one-story port-cochere meets the definition of a carport.

**Cemetery:** See [Sec. 6.3.1](#)

**Club, Clubhouse:** See [Sec. 6.3.2](#)

**Cluster Development for Open Space Preservation:** See [Sec. 6.2.12](#)

**Commercial Vehicle Parking:** See [Sec. 6.7.2](#)

**Community Use Space:** See [Sec. 6.3.3](#)

**Congregate Living Facility:** See [Sec. 6.2.8](#)

**Convalescent:** See [Sec. 6.3.7](#)

**Corner Lot:** See [Sec. 1.5.2](#)

**Country Club Facilities:** See [Sec. 6.4.10](#)

## D

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**Day Care Center:** See [Sec. 6.3.4](#)

**Detached, Single-Family:** See [Sec. 6.2.1](#)

**Detached, Two-Family:** See [Sec. 6.2.2](#)

**Development Parcel:** The real property on which a planned multi-use business development or a mixed-use development (including any appurtenant easement areas benefiting a mixed-use development) is located in connection with a special permit under [Sec. 4.1.4](#) or [Sec. 4.2.4](#).

**Dormer:** See [Sec. 1.5.4](#)

**Dormitory:** See [Sec. 6.2.9](#)

**Drive-in Business:** See [Sec. 6.4.11](#)

**Driveway:** An area on a lot which is designed or used to provide for the passage of motor vehicles to and from a street or way.

**Dry Cleaning or Laundry, Retail:** See [Sec. 6.4.12](#)

**Dwelling:** A building or structure used for human habitation.

**Dwelling, Single-Family Attached:** See [Sec. 1.5.1](#)

**Dwelling, Multifamily:** See [Sec. 1.5.1](#)

**Dwelling, Two-Family:** See [Sec. 1.5.1](#)

**Dwelling Unit:** See [Sec. 1.5.1](#)

## E

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**Enhanced Single Room Occupancy (E-SRO): Any Rooming Unit in a Lodging House that provides cooking facilities within the rooming unit. See Chapter 17 of the City Ordinances - Sec.17-138.**

**Elderly Housing with Services:** See [Sec. 6.2.10](#).

**Electric Car Charging Station:** See [Sec. 6.4.8](#).

## F

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**Family Child Care Home:** See [Sec. 6.3.4](#).

**Family Child Care Home, Large:** See [Sec. 6.3.4](#)

**Fast Food Establishment:** See [Sec. 6.4.13](#)

**Feed and Seed Store:** See [Sec. 6.5.7](#)

**Flat Roof:** See [Roof, Flat](#).

**Floor Area Ratio:** See [Sec. 1.5.5](#)

**Floor Area, Gross:** See [Sec. 1.5.5](#)

**Floor Area, Ground:** See [Sec. 1.5.5](#)

**Food Processing, Wholesale:** See [Sec. 6.5.8](#)

**Funeral Home:** See [Sec. 6.4.15](#)

## G

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**Garage, Greenhouse, Maintenance or Storage Facility:** See [Sec. 6.7.3](#)

**Government Offices or Services:** See [Sec. 6.3.5](#)

**Grade Plane, Average:** See [Sec. 1.5.4](#)

**Gross floor Area:** See [Sec. 1.5.5](#)

**Ground Floor Area:** See [Sec. 1.5.5](#)

## H

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**Habitable space:** See [Space, habitable](#).

**Hall:** See [Sec. 6.3.15](#)

**Health club:** See [Sec. 6.4.16](#)

**Height:** See [Sec. 1.5.4](#)

**Height, contextual:** See [Sec. 1.5.4](#)

**Heliport:** See [Sec. 6.7.3](#)

**Home business:** See [Sec. 6.7.3](#)

**Hospital:** See [Sec. 6.3.7](#)

**Hotel:** See [Sec. 6.4.17](#)

## I

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**Indoor Recreation Facility:** See [Sec. 6.6.2](#)

**Institution, Single-Use:** A religious or nonprofit educational use having no more than one principal building and less than 50,000 square feet of lot area.

**Institution, Multi-Use:** A religious or nonprofit educational use having one or more buildings and at least 50,000 square feet of lot area.

**Interior Lot:** See Lot, interior.

## J

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[reserved]

## K

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**Keno:** See [Sec. 6.10.2](#)

## L

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**Laboratory and Research Facility, No Recombinant DNA:** See [Sec. 6.5.9](#)

**Landing:** A level area at the top of a staircase or between one flight of stairs and another.

**Laundry, Cleaning and Dyeing Establishment:** See [Sec. 6.5.10](#)

**Library:** See [Sec. 6.3.8](#)

**Listed Standards:** Rules and regulations for land uses otherwise allowed by right.

**Live/Work Space:** See [Sec. 6.2.11](#)

**Lodger:** A person who occupies space for living and sleeping purposes without separate cooking facilities, [or who occupies an Enhanced Single Room Occupancy unit](#), paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit.

[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. See Chapter 17 of the City Ordinances - Sec. 17-138.](#)

**Lot, Corner:** See Corner Lot.

**Lodging Establishment:** See [Sec. 6.4.17](#)

**Lot Coverage:** See [Sec. 1.5.2](#)

**Lot, Interior:** Any lot or part of a lot other than a corner lot.

**Lot Line:** See [Sec. 1.5.2](#)

## M

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**Maneuvering Aisle:** A maneuvering space which serves a row or rows of parking stalls.

**Manufacturing:** See [Sec. 6.5.11](#)

**Mass Below First Story:** See [Sec. 1.5.5](#)

**Mixed-Use Residential Building:** A building occupied by both residential and nonresidential uses.

**Molding, Shaping or Assembly from Prepared Materials (Including Repairs):** See [Sec. 6.5.12](#)

**Multi-Family Dwelling:** See [Sec. 6.2.4](#)

**Museum:** See [Sec. 6.3.8](#)

## N

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**Nonconforming Building:** See Building, nonconforming.

**Nonconforming Use:** See Use, nonconforming.

**Nonprofit Institution:** See [Sec. 6.3.8](#)

**Nursing Home:** See [Sec. 6.2.5](#)

## O

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**Occupy/Occupancy:** When used in connection with accessory apartments, this term shall mean physical presence and residency on the subject premises except for short periods of temporary absence.

**Office:** See [Sec. 6.4.20](#)

**Office of a Contractor, Builder, Electrician or Plumber or Similar Enterprises:** See [Sec. 6.4.21](#)

**Open-Air Business:** See [Sec. 6.4.22](#)

**Open Space, Beneficial:** Areas not covered by buildings or structures that are available for active or passive recreation, which shall include, but are not limited to: landscaped areas, including space located on top of a structure, gardens, playgrounds, walkways, plazas, patios, terraces and other hardscaped areas, and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, (ii) surface parking facilities or associated pedestrian circulation, (iii) areas that are accessory to a single housing unit, or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public.

**Open Space, Usable:** All the lot area not covered by buildings and/or structures, roadways, drives, surface parking area or paved surfaces other than walks. The area devoted to lawns, landscaping, exterior tennis courts, patios, in-ground swimming pools and non-structural recreational amenities shall be included as usable open space. The area covered by roof overhangs of up to 2 feet shall be included in the calculation of open space.

**Outdoor Recreational Activities:** See [Sec. 6.6.3](#)

## P

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**Paint Store:** See [Sec. 6.5.12](#)

**Parking Facility:** A building, structure, lot or part of a lot where off-street parking is provided or permitted. See [Sec. 6.4.24](#)

**Parking Lot:** A parking facility where off-street parking of vehicles is permitted other than as an accessory use.

**Parking Stall:** An area, exclusive of inventory storage space, display space, maneuvering aisles or other maneuvering space, adequate for parking a motor vehicle.

**Personal Service:** See [Sec. 6.4.25](#)

**Place of Amusement:** See [Sec. 6.4.26](#)

**Porch:** A roofed structure with sides not more than 60 percent enclosed by impermeable walls, attached to and accessible from the primary structure, and not heated or air conditioned. A porch may share no more than two exterior walls with the residential structure. Railings or solid walls on the projecting facades of the porch may be no higher than 36 inches as measured from the finished porch floor; the remainder of these facades may be open to the elements or enclosed by mesh, glass, or similar material.

**Porch, Enclosed:** A porch enclosed for any portion of the year by any non-permeable material such as glass or a similar material.

**Porch, Unenclosed:** A porch that at all times is either enclosed by permeable materials such as mesh or similar material or is unenclosed by any material.

**Printing, Publishing and Reproduction Establishments:** See [Sec. 6.5.13](#)

**Public Use:** See [Sec. 6.3.10](#)

## Q

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[reserved]

## R

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**Radio, Television or Telephone Transmission Station:** See [Sec. 6.4.27](#)

**Rear Setback Line:** A line equidistant from the rear lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected. In the case of a corner lot, the rear lot line shall be the lot line opposite the street on which the main entrance is located.

**Recreational Trailer or Vehicle:** A vehicular, portable unit which exceeds 18 feet in length, 7 feet in height or 7 feet in width and which is designed and principally used for travel, camping or recreational use, including, but not limited to, a travel trailer, pick-up camper, motorized camper, tent trailer, boat or boat trailer.

**Registered Marijuana Dispensaries:** See [Sec. 6.10.3](#)

**Residential Care Facility:** See [Sec. 6.2.13](#)

**Resource Extraction:** See [Sec. 6.6.4](#)

**Rest Home:** See [Sec. 6.3.7](#)

**Restaurant:** See [Sec. 6.4.29](#)

**Retail Sales:** See [Sec. 6.4.30](#)

**Retaining Wall:** See [Sec. 5.4.2](#)

**Riding School:** See [Sec. 6.6.5](#)

**Roof, Flat:** A roof with a pitch of less than 1:12.

**Roof, Sloped:** A roof with a pitch of 1:12 or greater, typically having gables at both ends.

**Roomer:** The same as “Lodger”.

**Rooming House:** The same as “Lodging house”.

**Rooming Unit:** The room or group of rooms rented to an individual or household for use as living and sleeping quarters. See Chapter 17 of the City Ordinances - Sec.17-138.

## S

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**Sanitarium:** See [Sec. 6.3.7](#)

**School or Other Educational Purposes:** See [Sec. 6.3.14](#)

**Scientific Research and Development Activities:** See [Sec. 6.7.4](#)

**Service Establishment:** See [Sec. 6.4.31](#)

**Setback Line:** See [Sec. 1.5.3](#)

**Shipbuilding, Small Boat Building, Yards for Storage and Repair:** See [Sec. 6.5.3](#)

**Side Setback Line:** A line equidistant from the side lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected.

**Sign:** See [Sec. 5.2](#)

**Sign Painting Shop:** See [Sec. 6.5.14](#)

**Single Person Occupancy Dwelling:** See [Sec. 6.2.14](#)

**Single Room Occupancy Dwelling:** See [Sec. 6.2.14](#)

**Single-Family Attached:** See [Sec. 1.5.1](#)

**Single-Family Detached:** See [Sec. 1.5.1](#)

**Sloped Roof:** See Roof, Sloped.

**Space, habitable:** Gross floor area in a building structure used for living, sleeping, eating or cooking purposes, including closets and hallways.

**Sports Stadium:** A building or structure containing tiered seating facilities for more than 200 spectators at sporting events.

**Stable:** See [Sec. 6.4.32](#)

**Stairs:** A set of steps leading from one floor of a building to another, typically inside the building.

**Steps:** A flat surface, especially one in a series, on which to place one's foot when moving from one level to another.

**Stock Farm:** See [Sec. 6.6.5](#)

**Storage Building:** See [Sec. 6.5.5](#)

**Storage, Outdoor:** See [Sec. 6.4.23](#)

**Story:** See [Sec. 1.5.4](#)

**Street:** A public way or a way opened and dedicated to the public use which has not become a public way, or a toll road open to public travel, including its approaches and toll houses or booths.

**Street Level:** The level of a building the floor of which is nearest to the grade of the adjacent sidewalk.

**Structure:** Any construction, erection, assemblage or other combination of materials at a fixed location upon the land, such as, but not limited to, a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, platform, retaining wall or systems of walls whose above-grade height exceeds 4 feet, tennis court or swimming pool.

## T

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**Telecommunications and Data Storage Facility:** See [Sec. 6.5.15](#)

**Theatre:** See [Sec. 6.3.15](#)

**Trash or Yard Waste, Collection, Storage, Transfer-Haul or Composting:** See [Sec. 6.5.16](#)

**Two-Family Detached:** See [Sec. 6.2.2](#)

**Two-Family Dwelling:** See Dwelling, two-family.

## U

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**Use:** Any purpose for which land, buildings or structures are arranged or designed, or for which said land, building or structure is occupied or maintained.

**Use, Nonconforming:** A use which does not conform to the use regulations of the district in which such use exists or might be introduced.

## V

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**Vehicle Repair Shop:** See [Sec. 6.4.34](#)

**Vehicle Sales and Service Facility:** See [Sec. 6.4.35](#)

**Vehicle Storage:** See [Sec. 6.5.17](#)

**Veterinary Hospital:** See [Sec. 6.4.36](#)

## W

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**Watchman or Caretaker:** See [Sec. 6.7.5](#)

**Wireless Communication Equipment:** See [Sec. 6.9](#)

**Wholesale Distribution Plant:** See [Sec. 6.5.19](#)

## X

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[reserved]

## Y

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**Yard of a Contractor or Builder for Office and Storage of Vehicles and Materials:** See [6.5.6](#)

## Z

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[reserved]

(Rev. Ords. 1973 § 24-1; Ord. No. 202, 03/21/77; Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-57, 11-20-89; Ord. No. T-114, 11/19/90; Ord. No. T-273, 06/07/93; Ord. No. V-91, 09/16/96; Ord. No. V-92, 10/21/96; Ord. No. V-122, 07/14/97; Ord. No. V-233, 04/05/99; Ord. No. W-20, 11/06/00; Ord. No. Z-16, 12/17/07; Ord. No. Z-45, 03/16/09; Ord. No. Z-77, 02/22/11; Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-32, 10/21/13)

# 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.....\$300.00

## **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; fraternity houses; or hotels.  
State law reference – M.G.L. c. 140, §22, minus fraternity houses and dormitories of educational institutions
- 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.  
State law reference - M.G.L. c.140, §22A – cooking facilities

**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 supervising agent shall keep the master key (Resident Supervising 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) Resident Supervising Agent, defined. That person designated by the licensee to carry out day to day 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 supervising agent. The Licensing Board shall approve such agent(s).

Contact information for the resident supervisor, 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 resident supervising 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 resident supervising agent(s) shall complete a two-step certification program to acquaint them with important aspects of their roles with regard to ensuring resident safety and compliance with City ordinances. Certification program materials will be developed by the Newton Inspectional Services Department along with representatives from the Health and Human Services Department, and Fire Department.
  - ii. All applicants for new licenses shall review guidance materials and complete a written certification test. Their completed test shall be submitted along with their application for review by the certifying departments and the Licensing Board.
  - iii. All applicants shall be required to complete an in-person certificate training program within the first year of their licensure. Such in person training shall be offered at least 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.
  - iv. The Licensing Board may at its discretion allow an extension to allow a licensee or agent to complete the in-person certification training in the 2<sup>nd</sup> year of licensure. Failure to complete the in-person training 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 Resident Supervising 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, and receive their license within 60 days.

**17-144. Responsibilities of Licensees and Resident Supervising 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 and be reviewed by the Inspectional Services and Planning Departments. 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.
  - iii. Any change to the house rules shall be submitted to the Inspectional Services and Planning Departments for review.
- 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 Prevention Bureau 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.
  - iii. Any change to the electrical use policy shall be submitted to the Inspectional Services Department and Fire Prevention Bureau for review.

**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 resident supervising 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 a Resident Supervising Agent shall include:
  - i. Personal information
  - ii. Contact information
  - iii. Resume

iv. Professional References

v. Application filing fee

b) Fees. Inspection and License fees shall be in an amount established by the City Council. Licensing Board Filing fees shall be in an amount established by the Licensing Board.

i. Inspection fees are non-returnable once an application has been accepted by the Inspectional Services Department.

ii. Annual license fees shall be paid upon application for License or License Renewal.

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 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 resident supervising agent(s).

The Licensing Board shall hold a public hearing on each application for a new licensee or agent. Public hearing notice requirements shall mirror those for special permits.

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 on the basis of land use, as this is a matter for zoning decision.

Renewal schedule to be set by the Licensing Board.

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. Public hearing notice requirements shall mirror those for special permits.

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 unless a correction plan is approved by the Inspectional Services Department or Fire Prevention Bureau as appropriate...\$300 Fine

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

iii. More residents on the premises than allowed on two (2) or more occasions as recorded by the Inspectional Services Department...\$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 by the Licensee must be paid on a current basis. The City may deny a license or license renewal if property 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.....\$300.00

## 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; fraternity houses; or hotels.

*State law reference* – M.G.L. c. 140, §22, minus fraternity houses and dormitories of educational institutions

- 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.  
*State law reference* - M.G.L. c.140, §22A – cooking facilities

#### **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 supervising agent shall keep the master key (Resident Supervising 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) Resident Supervising Agent, defined. That person designated by the licensee to carry out day to day 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 supervising agent. The Licensing Board shall approve such agent(s).

Contact information for the resident supervisor, 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 resident supervising 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 resident supervising agent(s) shall complete a two-step certification program to acquaint them with important aspects of their roles with regard to ensuring resident safety and compliance with City ordinances. Certification program materials will be developed by the Newton Inspectional Services Department along with representatives from the Health and Human Services Department, and Fire Department.
  - ii. All applicants for new licenses shall review guidance materials and complete a written certification test. Their completed test shall be submitted along with their application for review by the certifying departments and the Licensing Board.
  - iii. All applicants shall be required to complete an in-person certificate training program within the first year of their licensure. Such in person training shall be offered at least 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.
  - iv. The Licensing Board may at its discretion allow an extension to allow a licensee or agent to complete the in-person certification training in the 2<sup>nd</sup> year of licensure. Failure to complete the in-person training 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 Resident Supervising 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, and receive their license within 60 days.

**17-144. Responsibilities of Licensees and Resident Supervising 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 and be reviewed by the Inspectional Services and Planning Departments. 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.
  - iii. Any change to the house rules shall be submitted to the Inspectional Services and Planning Departments for review.
- 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 Prevention Bureau 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.
  - iii. Any change to the electrical use policy shall be submitted to the Inspectional Services Department and Fire Prevention Bureau for review.

**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 resident supervising 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 a Resident Supervising Agent shall include:
    - i. Personal information
    - ii. Contact information
    - iii. Resume

- iv. Professional References
- v. Application filing fee
- b) Fees. Inspection and License fees shall be in an amount established by the City Council. Licensing Board Filing fees shall be in an amount established by the Licensing Board.
  - i. Inspection fees are non-returnable once an application has been accepted by the Inspectional Services Department.
  - ii. Annual license fees shall be paid upon application for License or License Renewal.

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 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 resident supervising agent(s).

The Licensing Board shall hold a public hearing on each application for a new licensee or agent. Public hearing notice requirements shall mirror those for special permits.

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 on the basis of land use, as this is a matter for zoning decision.

Renewal schedule to be set by the Licensing Board.

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. Public hearing notice requirements shall mirror those for special permits.

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 unless a correction plan is approved by the Inspectional Services Department or Fire Prevention Bureau as appropriate...\$300 Fine
- ii. More vehicles stored on the premises than allowed on the premises by zoning on (3) or more occasions as recorded by the Inspectional Services Department...\$300 Fine

- iii. More residents on the premises than allowed on two (2) or more occasions as recorded by the Inspectional Services Department...\$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 by the Licensee must be paid on a current basis. The City may deny a license or license renewal if property taxes are not current.

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