

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, FEBRUARY 11, 2013

Present: Ald. Johnson (Chairman), Baker, Lennon, Danberg, Yates and Swiston

Absent: Ald. Sangiolo and Kalis

Also Present: Ald. Hess-Mahan, Crossley and Fischman

Others Present: James Freas (Chief Long Range Planner), Alice Ingerson (Community Preservation Planner), Reiko Hayashi (Housing Planner), Rob Muollo (Housing Planner), Maura O'Keefe (Assistant City Solicitor), Joel Feinberg and John Robertson (Community Preservation Committee), John Lojek (Commissioner, Inspectional Services), Karyn Dean (Committee Clerk)

Re-appointment by His Honor the Mayor

#332-12 DANIEL GREEN, 46 Glen Avenue, Newton Centre, re-appointed as a member of THE CONSERVATION COMMISSION for a term to expire October 25, 2015.
(60 days 01/04/13) [10/25/12 @ 10:51AM]

ACTION: **NO ACTION NECESSARY 5-0 (Ald. Yates not voting)**

NOTE: The 60 day action period ran out on this item. A new letter was submitted by the Mayor's Office, therefore, the Committee voted No Action Necessary on this item.

Re-appointment by His Honor the Mayor

#25-13 DANIEL GREEN, 46 Glen Avenue, Newton Centre, re-appointed as a member of the CONSERVATION COMMISSION for a term to expire January 2, 2016.
(60 days 03/23/13) [01/03/13 @ 1:59 PM]

ACTION: **HELD 5-0 (Ald. Yates not voting)**

NOTE: Ald. Johnson explained that Ald. Albright would like Mr. Green to come in for a discussion with the Committee regarding some challenges on the Conservation Commission. Ald. Danberg read a letter that Mr. Green sent to her detailing his interest in working for the Commission and his regret that he could not attend tonight's meeting. The Committee voted to hold this re-appointment and invite Mr. Green to attend on another evening. *Clerk's note:* Mr. Green will be able to attend the March 11th meeting.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#316-12(2) COMMUNITY PRESERVATION COMMITTEE recommending the
(#55-13) appropriation of four hundred seventy-five thousand dollars (\$475,000) to the Planning and Development Department to continue the Newton Homebuyer Assistance Program as described in the proposal amended in December 2012.
[01/25/13 @ 12:33 PM]

ACTION: **APPROVED 6-0**

NOTE: Joel Feinberg, Vice Chairman of the Newton Community Preservation Committee, and Reiko Hayashi, Housing Planner, presented this proposal to the Committee.

This program provides assistance with down payments and closing costs for first-time buyers who are seeking to purchase a home in Newton and whose annual income is at or below 80 percent of the regional median, in return for a deed restriction that keeps the home purchased affordable to future buyers at that same income level. Since the program was first created in 2001, it has assisted 36 first-time homebuyers. Since 2004, the program has used \$1,677,050 in CPA funding to help 16 households become Newton homeowners. The program is currently on hold because its \$66,000 in remaining grantable funds from past appropriations is less than the current maximum \$115,000 subsidy per household.

The proposal requests sufficient additional funding to assist at least 3 more households and proposes several changes in the program’s rules: increasing the maximum subsidy per household to \$150,000; basing the subsidy for each unit on the buyer’s household size and the corresponding size of home needed, as well as on the buyer’s income and the home’s selling price; and imposing a \$75,000 limit on the buyer’s assets.

Recommended Funding

On 24 January 2013 by a unanimous vote of 6-0 (members Nancy Grissom and Mike Clarke absent), the Community Preservation Committee recommended that the total requested funding of \$475,000 be appropriated to the Planning Department to continue this program, treating all funds as 100% for the creation of affordable housing under the CPA, and allowing all funds to be used for any eligible purpose included implicitly or explicitly in the following summary budget:

Newton Homebuyer Assistance Program	
Fourth Phase of CPA Funding	
Subsidies to first-time homebuyers	\$450,000
Program administration (staff time, advertising, etc.)	\$15,000
Rehabilitation fund (to bring previously subsidized units to current standards for resale)	\$10,000
Total CPA funds requested	\$475,000

Special Issues Considered by the CPC

Though housing prices nationally have fallen in recent years, Newton’s affordability gap is as wide or wider than ever. In Newton, median housing prices have remained fairly stable and recently began rising again, while rents have increased significantly. At the same time, regional median incomes have actually fallen. At the Committee’s 24 January 2013 public hearing, several past program beneficiaries and families on the preapproved list for future assistance spoke in strong support of this program, explaining that homeownership not only provides security against eviction and stability in school and neighborhood friendships for their children,

but actually decreases their monthly housing costs compared to renting. No opposition to the program was expressed at the hearing.

Now that the program has been running for well over a decade, some previously subsidized units are being resold, subject to the program's restrictions capping resale prices at affordable levels. The CPC applauded the proposed creation of a rehabilitation fund to provide up to \$2,000 per unit to bring these homes up to current federal housing condition standards, rather than require the low- or moderate-income sellers to cover these costs from the limited equity they have built in their homes. The Committee also supported the other program rule changes proposed.

When an applicant comes into the Program, the staff determines if the buyer is eligible and the buyer finds the property. The funding determination is based on the minimum subsidy required to get the purchase price (based on monthly housing costs) at or below 33% of the household's monthly income. The assistance also depends on the purchase price, income, savings and mortgage

Additional Recommendations

1. The Planning Department will continue publicizing as widely as possible both the program itself and previously subsidized units as they become available for resale, and will continue responding to periodic requests for updates from the Community Preservation Committee and the Board of Aldermen. Publicity for this program goes onto the City website, local newspapers including minority newspapers as well as many housing and affordable housing websites.
2. Any portion of the Community Preservation Fund grant not used for the purposes stated herein will be returned to the Newton Community Preservation Fund.

Key Outcomes

The Community Preservation Committee will evaluate this program based on these key outcomes:

1. Assisting at least 3 more qualified households to become Newton homeowners within the next 18 months, or by any extension of that deadline approved by the CPC.
2. Keeping the program's total administrative expenses within the combined total of remaining funds previously appropriated plus the \$15,000 of new funds requested for this specific purpose.

Ald. Baker wondered if any preference was made for City employees, people that work in the City, or currently live in the City. Mr. Feinberg said they are trying to cast a fairly wide net and there is not specifically a local preference.

Ald. Danberg felt there should be a maintenance requirement of the homebuyers to keep the homes in good condition. That is not currently a requirement because when the homes are sold they go through the normal buying and selling process which includes a home inspection. Any repairs would be uncovered at that point and are usually minor. The potential buyer can then require that the repairs be made, just like anyone buying a house. If there are larger repairs there are funds that could be made available to do that from CDBG or from the Rehabilitation Fund that is included in this proposal. These homes are not returned to the City, but are sold on the market under the affordable requirements of the program.

It was explained how the subsidy works with this example:

If a home with a fair market sale price of \$239,000 were chosen and the applicant was approved for \$122,500 for a mortgage from a bank, and they put a 5% down payment of \$11,950 on the home, they would then receive a subsidy from this program of \$110,000. This would bring their final purchase price down to \$129,000. When they sold this home in the future, they would have to resell it for the affordable price of about \$129,000 to a qualified buyer as determined by this program. This is the deed restriction part of the program that keeps this home affordable in perpetuity. No money goes back to the City, and there is no profit to be made from the sale of the home to the seller.

Ald. Lennon asked about some previous homebuyers that seemed to have fairly high down payments and wondered how those buyers may have qualified. Ms. Hayashi said this is one reason they have decided to change the rules as explained in the proposal to cap assets at \$75K. Previously, there was no cap on assets.

The Committee voted to approve this item. The full proposal can be found online, attached to the 2-11-13 Zoning and Planning Committee Agenda and also on the Planning Department page.

Public Hearing assigned for February 25, 2013:

#316-12(3) DEPARTMENT HEADS HAVENS, LOJEK AND ZALEZNIK requesting
(#53-13) amendments to the **City Zoning Ordinance**, Chapter 30, Sections 30-11, 30-13, 30-19 and 30-21 as needed to establish parameters regarding parking requirements and maximum number of seats consistent with the Sidewalk Café Ordinance. [01-30-13 @ 5:15 PM]

ACTION: **HELD 6-0**

NOTE: This item will be heard a public hearing on February 25th. **An updated version of the proposed ordinance was distributed at the meeting and is attached to this report.**

Ald. Baker was concerned that the inclusion of terms such as “trash receptacles” and “umbrellas” were distinctive from the term “furniture” and if there needs to be any accommodation for that. He was also concerned about the revocation of licenses. He wondered if, as a matter of policy, the permits should be subject to review periodically to be sure owners are operating properly. Revoking a permit puts the burden on the City departments and he would prefer if the renewal process were the responsibility of the business owner. This is something relatively new and entirely administrative. He would feel more comfortable if these permits were granted for a term and could be automatically renewed if there were no complaints, but would like to avoid a process of a hearing to revoke a license if there were problems.

Commissioner Lojek said he felt that was covered in Section 4, Paragraph c in the proposed ordinance “*the permit is allowed for one year to expire on December 31st unless renewed*”. He noted that all applications are subject to review and approval by several departments in the City and ultimately by the Commissioner of Health and Human Services. Ald. Baker said that seems to be the case for the initial application, but not for the renewal. He would like there to be a system by which any problems that might come up during the initial permitted timeframe be

taken into account before any permit is renewed. He would rather have a review than have to go through a hearing and a revocation process.

Commissioner Lojek referenced Section 4, Paragraph h which says “*the Commissioner shall review all complaints concerning violations of the terms and conditions of any permit issued under this section. The Commissioner may impose a fine upon the permit holder, or revoke or suspend any permit granted pursuant to this section for any violation of the terms of such permit.*” He went on to say any violation will be addressed and if not remedied, ultimately, the permit can be revoked. Ald. Baker noted that the section went on to say that the permit holder would have an opportunity to be heard during a public hearing. He would like to take that burden off the City and give them the authority to revoke the license if they felt it was necessary.

Commissioner Lojek said the job of Inspectional Services is enforcement and in his conversations with Commissioner Zaleznik, who would ultimately have the responsibility for this, she had no problems at all with this process and having hearings for violations as the hearing officer. Food and alcohol licenses all go before the Commissioner of Health and Human Services (HHS) and that’s why the decision was made to make HHS the point of contact in this area as well. This is the best way to enforce this because the Commissioner of HHS also has authority over their other licenses.

The Committee voted to hold this item pending continued work on the ordinance.

Discussion of Zoning Reform Phase 1 with the Planning Department and the Code Studio Zoning Reform consultant

James Freas explained that they would be focusing on the usability of the ordinance and how they could take actions of reorganization, clarification and illustration to make the zoning ordinance a clearer document for all users. Lee Einsweiler from Code Studio was introduced to the Committee. He has been contracted to work with the City on Phase 1 of the Zoning Reform effort.

Mr. Freas explained that Phase 1 has four tasks associated with it:

1. Existing ordinance assessment to determine what problems exist and what are the issues that Newton residents, others who work with the ordinance and the legislative body have with the current ordinance. Mr. Einsweiler will take this input back to his team and they will do a professional assessment, then present it to the Board and the Planning Dept.
2. Mr. Einsweiler and his team will then propose format changes to revise the look of the ordinance and that too will come back to this body.
3. Take all the identified points of clarification that have been discovered and bring them to the Board for discussions in probably up to four Zoning and Planning Committee meetings. In this step the points will be hashed out and decisions will be made.
4. Those decisions will then be sent back to Mr. Einsweiler for incorporation into a draft ordinance that will then move into an adoption process. There will be a public outreach component of that as well.

Mr. Einsweiler said an outline and page layout for the document will come first. If the outline is intuitive and the Board is in favor of it, the zoning ordinance document will then be put into that format. The whole document then comes back to Committee to go through the process as described above. The scope of Phase I is clarity, consistency, organization and format. Policy changes are Phase 2 issues.

Mr. Einsweiler said that Code Studio was selected to work on Phase 1 only of this project. The discussion this evening and over approximately the next 6 months is, therefore, focused on usability. He has spoken with the Planning staff and with a series of stakeholders that will hopefully be formally appointed to a committee that will work with the Planning Department and Code Studio to manage the initial draft of new regulations. He asked the Committee for any particular concerns that he would address as best he could this evening and shared the questions he asked of the staff and stakeholders:

- Is the Zoning Ordinance easy to use? If not, what makes it difficult? Organization and structure of the document; page layout and formatting; are there conflicts, inconsistencies, poor wording or other issues you've experienced?
- Are there specific sections that are unclear or overly complex?
- Are there examples of better code organization or format that you've encountered somewhere else?
- What are your overall expectations that you hope we might achieve in this phase of the work?

Ald. Danberg wondered if the public outreach part of the process would happen before or after the draft ordinance is formed. Mr. Einsweiler said they are taking the draft and explaining what it is and then receiving comment on the draft. It is much easier to present something for people to react to. They prepare the draft and he will come back to present it one time. Then it will be left with the City to discuss it further and get to the adoption phase.

Ald. Baker mentioned that there are other materials that are part of the fabric of the Land Use process including the Rules of the Board and that all those materials need to be made known and available to Mr. Einsweiler. Mr. Einsweiler asked if the public hearing process, especially the quasi-judicial nature of the special permit hearings is something that would need some work. Does the code language need to do a better job in the decision making process? Ald. Baker said much of that has been cleaned up in the past. Ald. Hess-Mahan as chairman of the Land Use Committee has done some very helpful work in trying to expedite the process of making decisions by having working sessions the same night as public hearings. Ald. Baker suggested that Mr. Einsweiler speak to Ald. Hess-Mahan.

Ald. Hess-Mahan said it has been an effort of his to make sure all materials submitted for Special Permits are posted on the City's website. In terms of formatting of the ordinances, he also thinks a list of uses is very important. It would be a great guide to what can and cannot be done. People buy a property and see opportunities but what they don't see is the zone. They don't have a clue that what is in their neighborhood may not necessarily match what the zone is. It would be helpful to be able to look up the zoning for a property and be able to determine what

can be done in that zone with that property. Right now, the Planning Department has 45 days to do a zoning memo to determine what sort of relief is necessary for a special permit applicant. Someone coming in should be able to know what they can and cannot do. He would also like to see more illustrations. He feels illustrations can make things so much more clear and the architects, builders and land use attorneys he's spoken with agree. Another major obstacle to building in the City is the parking requirements. They are extremely complex and difficult to navigate. This needs to be made simpler and clearer because even the various departments have different interpretations. Part of this is policy, but, the organization can be made better so that's it easier to know what is currently required. One more problem is that there is far too much cross-referencing in the ordinance. Things should be organized so that every requirement should be located in the same place. In a similar vein, Ald. Crossley noted that things like the tree ordinance, the noise ordinance, the light ordinance, and those sorts of references need to be linked to the Land Use ordinances.

Mr. Einsweiler said that what can come out of this is "clean-up" process is the ordinances are easier to manage and use, and the process may also illuminate the things that do not make sense. Then those particular issues become a question of changing policy and making some choices.

Ald. Baker explained that Massachusetts has some peculiarities in its framework for doing some things and therefore some of the content is a result of that framework and not of drafting. The City has two models which are by-right and the other is discretionary and any modification of that would be a Phase 2 issue. He feels a critical path analysis needs to be looked at and would add value. He would really like to see the changes bulletproof before any of them get out to the full Board.

Mr. Einsweiler said he has an obligation to prepare the full draft, work with staff to revise it and then hand it over. That is his contractual obligation, which is not his typical contractual obligation. He explained that Newton has a very foreshortened process and a limited amount of money this time around. Once he hands over the draft it is in the hands of whoever is going to do the amending work. There may still be a fair amount of work to be done in terms of decisions about whether something should become a policy issue, or just some wordsmithing. The project as it stands does not have Mr. Einsweiler working on that process with them. He will be working on the outline and the format and talk about those quite intensively. At the time the page layout and outline are delivered, the ordinance assessment will also be delivered. That will set the stage for his team's initial cut of what is Phase 1 and what is Phase 2. Then the Committee will have a series of meetings to try to clarify those and give him some guidance. At that point, he becomes the codifier, not a planner.

Ald. Baker said the bulk of the work should be done before they go to a public hearing. Mr. Einsweiler noted that Raleigh, NC has had their draft for a year or so. Before then, they put it out to the public which helped them catch some things they had missed. There are really two ways to go on that.

Ald. Yates had concerns about the merger of older substandard lots with houses on them with older vacant lots. Mr. Einsweiler said he was told of this concern by the Law Department and

he would have considered that this was a matter of clarification and subject to Phase 1 of this project. However, because it has become a matter of public policy and litigation, it has become a Phase 2 issue. Ald. Yates disagreed saying that when the language was originally adopted, everyone had a very clear understanding of what it meant. In the interim, interpretations have changed and he does not feel this is a change in policy. Mr. Einsweiler said the only question for his contract is to work on what the language of that piece of the code going to say. Will it say something different than it says today and reworked to better reflect and older interpretation? At this point, they will let this play out in the courts. In the course of his contract, once they have identified an outline for the new regulations and identified a page layout and format for the regulations, he will be back to talk more to the stakeholders and the aldermen before any drafting takes place. At that key stage, they should have identified some things they consider policy issues. There are at least 4 meetings allocated within the contract to try to resolve some of the easier issues. This may or may be not one of them.

James Freas said that in the course of clarifying the ordinance and dealing with inconsistencies with different sections, or addressing other issues, there is going to be a long list of things to consider. It is up to the Board to decide what will be tackled as clarification in Phase 1. They must recognize however, that Phase 1 cannot deal with policy issues. Ald. Johnson noted that the court decision will provide some guidance.

Ald. Yates was also concerned about changes made to grade change policy and some authority needs to be taken back. He asked Mr. Einsweiler if he had any experience with what other communities do. Mr. Einsweiler said that he would be glad to share his experience. Any new language would have to go through the Board first before he would be able to include it, however. Mr. Freas said that Mr. Einsweiler is being kind to offer his experience from other communities, but he pointed out that it is outside his contract for Phase 1.

Ald. Yates felt that the ordinance was too reliant on footnotes. There is not a comprehensive list of uses that he has seen in other ordinances. He would like to see a chart that lays things out much more clearly. He was also concerned about the problems that “grandfathering” can cause. Legitimate grandfathering should be protected but much has gone awry with that process. Mr. Einsweiler said that being a non-conforming structure is no longer the evil thing that it once was and that is the trend across the country. The original notion of grandfathering as used in non-conforming structures is no longer necessary.

Ald. Baker said as they worked on reorganization and structure for the recodification process, they recognized that any substantive changes had to be sent through the Board committees. They did not deal specifically with the Zoning Ordinance in that process. One thing that did come out of the Recodification Committee is that any change that is produced needs to be reviewed by the Law Department for legal form and character. As a Committee then changes can be looked upon with clarity and avoid division. It makes it more efficient when things are then brought to the full Board.

Ald. Swiston said the current ordinances are quite difficult to navigate. She believes there are some people who do know them very well and can navigate them quite well and might not want to see any changes.

The Committee wanted to understand who the “stakeholders” were that were being interviewed. Mr. Freas said they identified categories of people that are intensive users. This would include attorneys, architects and builders. It would also include interest groups such as conversation, environmental design and the business community. They would also include people in the community are homeowners, the average resident. The goal is that most people would be able to navigate and understand the ordinance. Mr. Einsweiler explained that the builders that served as stakeholders that day, both made it clear that they spend a lot of time with staff working on understanding what needs to happen. This is consumptive of resources and needs to be addressed. There were also conversations about staff interpretation and how that changed over time so this clarification is clearly long overdue for many reasons.

Ald. Fischman said there should be a simplified visual aid on the website to help, in particular, builders and property owners with a place to start to avoid major misunderstandings in the process. Mr. Einsweiler wondered if the code itself, once simplified and clarified, could serve that purpose. Ald. Fischman said he felt a simplified chart or other visual aid would be helpful. He would prefer that people don’t end up asking for forgiveness after the fact rather than permission before. And it’s often difficult to know whether the “oversight” was intentional or just a true misunderstanding. He has seen this happen in the Land Use Committee.

Ald. Danberg said she went through the Special Permit process about 10 years ago and found it difficult even with experienced attorneys. This is a document that has been put together in a patchwork over many, many years.

Ald. Yates would like all Recodification Items that are on the Zoning & Planning agenda to be listed as items to be considered in this process. Ald. Johnson said she has spoken to the Planning Department about this already.

Ald. Baker and Johnson commented that they would like to see any materials that are given the potential advisory group. Mr. Einsweiler bought an example of work they have done but he had only one copy. It was passed to the shareholders to take a look but that was it.

Ald. Baker noted that once Budget discussions begin the Board is extremely busy. There are also very few meetings in the summer and he is concerned about timeline on this project. Mr. Einsweiler said the contract negotiations were very tough. The contract said he has a drop dead date of 8 months and then he is done. If more time is needed, he said he would need support in the system to change his contract. The Planning Department was not able to provide that support. Ald. Baker said he feels that time table is too ambitious for what the Committee and Board will be able to accomplish in that time frame. Mr. Einsweiler said he agreed and he raised some very clear contractual issues and got nowhere on that front. Ald. Johnson said she would look into this.

The Committee thanked Mr. Einsweiler and asked Mr. Freas to get any materials to the Committee as soon as they were available.

Respectfully Submitted,

Marcia T. Johnson, Chairman

Sec. 26-30. Lienses-Permits for cafe furniture on sidewalks.

(a) The Ceommissioner of ~~public works~~Health and Human Services (the “Commissioner”), or his or her designee, may grant revocable lienses-permits for the placement of certain cafe furniture upon designated areas of the public sidewalk. The Commissioner shall consult with the Fire, Police, Public Works, Inspectional Services, and Planning Departments prior to granting or denying a permit under this section. Permits shall be issued -in accordance with the following standards:

(1) Lienses-Permits may only be granted to the proprietor of the business premises which immediately abuts the sidewalk area affected by the licensepermit. ~~Such cafe furniture may be placed upon the sidewalk only during the business hours of the licensed party.~~ All cafe furniture and trash receptacles ~~must be removed at the end of each business day and in addition,~~ must be removed at any time upon the request of the Ceommissioner or his designee when he determines, ~~in his sole discretion, that public works operations or~~that the public convenience and welfare require such removal.

(2) Lienses-Permits may ~~only~~ allow for the placement of tables, chairs, ~~and/or~~ benches, shade umbrellas, barriers and other appurtenances as may be approved or otherwise required by the Commissioner or other Department, in consultation with the Commissioner. ~~Shade umbrellas or tables which have shade umbrellas attached thereto shall not be allowed. The number and type of such tables, chairs and benches shall be subject to the approval of the commissioner.~~ All such tables, chairs, ~~and/or~~ benches, shade umbrellas and

other appurtenances shall be temporarily placed upon the sidewalk surface and shall not be affixed thereto. Any shade umbrellas shall be fastened, weighted and otherwise secured while in use.

(3) The number, type and placement of such tables, chairs, benches, shade umbrellas, barriers and other appurtenances shall be subject to the approval of the Commissioner, in consultation with other appropriate Departments of the City, and in conformity with any applicable zoning ordinances. Subject to the discretion of the Commissioner, after consultation with the Fire, Police, Public Works, Inspectional Services and Planning Departments, permits may be granted to allow for the placement of up to eight (8) chairs or a number of chairs that represents ten percent (10%) of the total seating capacity for the licensed premises, whichever is greater.

(4) Licenses-Permits may only be granted in those circumstances where the ~~e~~Commissioner, ~~or his or her designee, of public works, after consultation with the chief of police,~~ has determined that the placement of such cafe furniture would not interfere with adequate pedestrian passage upon the public sidewalk at the site, taking into account the flow and level of pedestrian traffic and the location of other fixtures upon the sidewalk including, but not limited to, utility poles, newspaper vending boxes ~~and the like. In making such determination, the Commissioner, or his or her designee, may consult with the Inspectional Services Department and the Commission on Disability.~~ In no event shall a license-permit be granted in circumstances where the placement of such cafe furniture would result in a pedestrian

passageway upon the public sidewalk of less than four feet (4') in width.

(b) As a pre-condition of the issuance of any such license-permit the eCommissioner shall require the licensed-permitted party to indemnify, hold harmless and defend the City of Newton from any claims arising out of the licensed-permitted activity; and the eCommissioner shall require the licensed-permitted party to provide proof of adequate liability insurance and/or bond, in such form, amount, and with an insurance carrier or surety satisfactory to the eCommissioner for the performance by the licensed-permitted party of the requirements of the license-permit and this section.

(c) The term of each license-permit shall be one year and shall expire on December 31st unless renewed. ~~and~~ The fee for each such annual license-permit shall be one hundred dollars (\$100.00) for the initial issuance of the permit, and fifty dollars (\$50.00) for renewals thereafter. ~~twenty-five dollars (\$25.00).~~ Permits under this section are transferrable to a successor in interest upon the submission and approval of an application for transfer to the Commissioner.

(d) Upon receipt of each license-permit application the eCommissioner, or his or her designee, shall consult with ~~the board of license commissioners, or its designee, and the Fire, Police, Public Works, commissioners of i~~ Inspectional Sservices, and Planning -Departments and health for their determinations that the placement of cafe furniture, as described in the application, would not violate existing licensing, zoning, safety and public health requirements, respectively. Approval of the Fire, Police, Public Works, Inspectional Services, and Planning Departments are all required prior to the issuance of a permit by the Commissioner, or his or her

designee, under this section.

(e) All applicants holding alcohol licenses pursuant to M.G.L. c. 138 who wish to serve alcohol to patrons at sidewalk café seating under this section shall comply with c. 138 and the Rules and Regulations of the Board of License Commissioners.

(f) Pending the approval of a permit application, all applicants shall post a placard on the licensed premises notifying the public of the pending application. Such placard, provided by the Department of Health and Human Services, shall be readily visible to the public.

(eg) All licenses-permits granted pursuant hereto must include the following provisions:

(1) That the licensed-permitted party shall place exterior trash receptacles in the sidewalk area and, at its expense, properly dispose of the trash deposited therein.

(2) That the licensed-permitted party shall be responsible for the clean-up of trash and debris from the sidewalk area and the neighboring area within a radius of twenty-five feet (25') of the sidewalk area affected by the licensepermit.

(fh) The eCommissioner-of-public-works, or his or her designee, shall review all complaints concerning violations of the terms and conditions of any permit issued under this section. The Commissioner may impose a fine upon the permit holder, or revoke or suspend any license-permit granted pursuant to this section for any violation of the terms of such license

permit or the provisions of this section. Prior to the imposition of a fine, revocation or suspension, the Commissioner shall provide reasonable notice to the permit holder of the violations of the terms of the permit, and provide the permit holder an opportunity to be heard during a public hearing on the matter. Violations hereunder shall be subject to a fine of (\$XX) for each violation. Each day that a violation occurs shall constitute a separate offense.

(i) All permit holders shall comply with the requirements of the Noise Ordinance at §§ 20-13 - 20-19. The Commissioner, in consultation with the Police Department may impose reasonable limitations on the hours of operation for permit holders under this section, except upon those permit holders also licensed to sell alcohol pursuant to c. 138 who are subject to the procedures of c. 138 and the Rules and Regulations of the Board of License Commissioners.

(j) The Health and Human Services Department, Inspectional Services Department, and Police Department shall have the authority to enforce this section.

(Ord. No. T-305, 11-1-93; Ord. No. X-175, 05-26-05)