

~~its participants, and investigating possible avenues of providing better medical care and treatment outside of the traditional model at a lower cost, including wellness, prevention and early detection regimens.~~

#### ~~Sec. 12-67. Reports and recommendations~~

~~The committee shall issue reports to the mayor and the president of the city council on its findings. The first such report shall be issued by a date certain as set by the mayor and the president of the city council. Thereafter, the committee shall issue such reports upon request of the mayor and/or the city council. (Ord. No. A 7, 10-15-12)~~

#### ~~Sec. 12-68 Composition~~

~~(a) The committee shall be comprised of ten (10) members, five (5) of whom shall be appointed by the mayor subject to the approval of the city council and five (5) of whom shall be appointed by the city council.~~

~~(b) Persons receiving health benefits from the City of Newton shall not be eligible for membership, nor shall any current City of Newton employees, including elected officials. The appointing authorities shall endeavor to select members based solely on their expertise in the fields of health care, finance, insurance and related disciplines and their willingness to serve. In particular, the Committee should include at least one actuary and at least one medical professional.~~

#### ~~Sec. 12-69. Term~~

~~Duly approved members shall be appointed for a term of three (3) years, with terms staggered, so that no more than four members' terms expire in any given year.~~

~~Terms for initial appointments to the committee shall be staggered as follows so that no more than four members' terms expire in any given year: three (3) for a term of one year; three (3) for a term of two years; and four (4) for a term of three years. Thereafter, members of the committee shall be appointed for a term of three years. (Ord. No. Z-97, 11-07-11)~~

### ARTICLE VIII. PERMITS FOR CAFÉ FURNITURE IN THE PUBLIC WAY

#### ~~Sec. 12-70. Permits for cafe furniture in the public way. .~~

~~(a) The commissioner of health and human services (the “commissioner”), or their designee, may grant revocable 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) Permits may only be granted to the proprietor of the business premises which immediately abuts the sidewalk area affected by the permit. All cafe furniture and trash receptacles must be removed at any time upon the request of the commissioner or their designee when they determine that the public convenience and welfare require such removal.~~
- ~~(2) Permits may allow for the placement of tables, chairs, 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. All such tables, chairs, 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, including fire, police, public works, inspectional services and planning departments, and in conformity with any applicable ordinances or general laws.
  - (4) Permits may only be granted in those circumstances where the commissioner, or their designee, 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 any event, a permit shall only be granted in circumstances where the placement of such cafe furniture would result in an unobstructed pedestrian passageway upon the public sidewalk of a minimum of four feet (4') in width.
- (b) Notwithstanding anything to the contrary in Chapter 19 of the City of Newton Ordinances, the commissioner, or their designee, may grant revocable permits for the placement of certain café furniture upon designated municipal parking spaces in the public way, excluding municipal off-street parking areas. 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) Permits may only be granted to the proprietor of the business premises which immediately abuts the parking spaces in the public way affected by the permit. All café furniture, trash receptacles, barriers, and any other items in the area affected by the permit must be removed at any time upon the request of the commissioner or their designee upon their determination that the public convenience and welfare require such removal.
  - (2) The commissioner, or their designee, may consider parking and other needs of abutting businesses prior to granting or denying a permit.
  - (3) Permits may allow for the placement of tables, chairs, benches, shade umbrellas, and other appurtenances as may be approved or otherwise required by the commissioner or other department, in consultation with the commissioner. All such tables, chairs, benches, shade umbrellas and other appurtenances shall be temporarily placed upon the surface and shall not be affixed thereto. Any shade umbrellas shall be fastened, weighted and otherwise secured while in use. Permits shall require the placement of protective barriers.
  - (4) 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, including fire, police, public works, inspectional services and planning departments, and in conformity with any applicable ordinances or general laws.
  - (5) Permits may only be granted in those circumstances where the commissioner, or their designee, has determined that the placement of such cafe furniture would not interfere with pedestrian and/or traffic safety.
  - (6) Permits shall only allow placement of items from April 1<sup>st</sup> to January 1<sup>st</sup>.

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

(d) The term of each permit for sidewalk café seating shall be one year and shall expire on December 31<sup>st</sup> unless renewed. The fee for each such annual permit for parking space café seating shall be \$250.00 per parking space.” The fee for each such annual permit shall be one hundred dollars (\$100.00) for the initial issuance of the permit, and fifty dollars (\$50.00) for renewals thereafter. Permits under this section are transferrable to a successor in interest upon the submission and approval of an application for transfer to the commissioner.

(e) Upon receipt of each permit application the commissioner, or their designee, shall consult with the fire, police, public works, inspectional services, and planning departments for their determinations that the placement of cafe furniture and barriers, as described in the application, would not violate existing zoning, safety and public health requirements. Approval of the fire, police, public works, inspectional services, and planning departments are all required prior to the issuance of any permit by the commissioner, or his designee, under this section.

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

(g) Applicants shall be required to notify all owners of any property within three hundred feet of the proposed permitted area of the pending application, as well as the ward city councilors for the proposed permitted location. 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. Questions and comments regarding the pending application shall be directed to the commissioner of health and human services.

(h) All permits granted pursuant hereto must include the following provisions:

- (1) That the permitted party shall place exterior trash receptacles in the area affected by the permit and, at its expense, properly dispose of the trash deposited therein.
- (2) That the permitted party shall be responsible for the clean-up of trash and debris from the area affected by the permit and the neighboring area within a radius of twenty-five feet (25') of the sidewalk area affected by the permit.

(i) *Notice of violation:* The commissioner, or his designee, shall review all complaints concerning purported violations of the terms and conditions of any permit issued under this section. Prior to the imposition of any penalty, 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.

(j) *Penalties:* The commissioner shall have discretion to impose any penalty described herein, and as permitted by the General Laws or the ordinances of the city. 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 or the provisions of this section. Violations hereunder shall be subject to a fine of one hundred dollars (\$100.00) for each violation. Each day that a violation occurs shall constitute a separate offense. Where the non-criminal disposition of specified sections of this ordinance has been provided for in sections 17-22 and 17-23 of these ordinances, as amended, pursuant to the authority granted by M.G.L. c. 40 § 21D, said violation may be enforced

in the manner provided in such statute. The civil penalty for each such violation is set forth in sections 17-23(b-d). **Cross reference** – general fines, §17-21; civil fines, §17-23.”

(k) All permit holders shall comply with the requirements of the noise ordinance at § 20-13 as amended. The commissioner may impose limitations on the hours of operation for permit holders and conditions on the use of outdoor seating 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.

(l) The placement of any tables, chairs, shade umbrellas, barriers or other appurtenances upon the sidewalk or within the public way without prior approval hereunder shall be a violation of this ordinance and subject to penalty.

(m) *Regulatory Authority:* The commissioner has the authority to promulgate rules and regulations necessary to implement and facilitate enforcement and administration of this section.

(n) *Enforcement:* The health and human services department, department of public works, inspectional services department, and police department shall have the authority to enforce the provisions of this section and permits granted hereunder.

(o) *Severability:* If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect. (Ord. No. A-18, 04-01-13; Ord. No. C-1, 02-16-22)

## ~~ARTICLE IX. PLASTIC BAG REDUCTION~~

### ~~Sec. 12-71. Plastic Bag Reduction Ordinance.~~

#### ~~(a) Declaration of findings and policy-Scope.~~

~~The City Council hereby finds that the reduction in the use of plastic bags by commercial entities in the city is a public purpose that protects the marine environment, advances solid waste reduction and protects waterways. This ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by retail stores located in the city. Further, this ordinance seeks to increase the use of reusable bags.~~

#### ~~(b) Definitions~~

~~The following words shall, unless the context clearly requires otherwise, have the following meanings:~~

~~"Department" means the city's department of health and human services.~~

~~"Commissioner", means the Commissioner of Health & Human Services or his/her designee.~~

~~"Checkout bag", means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include:~~

- ~~(1) bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of a retail establishment;~~