



**MUNICIPAL COUNCIL AGENDA
TEMPORARY CITY HALL
141 OAK STREET, TAUNTON, MA 02780**

~
JANUARY 27, 2015 – 7:00 PM

**INVOCATION
ROLL CALL
RECORDS**

HEARING: NONE

COMMUNICATIONS FROM THE MAYOR

APPOINTMENTS

- Appointment of Steven F. Figueiredo to the Zoning Board of Appeals

COMMUNICATIONS FROM CITY OFFICERS

Pg. 1-18 Com. from City Solicitor – Procedures to follow in order to deny, revoke, or suspend local licenses and permits for failure to pay municipal financial obligations

COMMUNICATIONS FROM CITIZENS

Pg. 19 Com. from Brian Gillis, Field Engineer, Colombia Gas of Massachusetts, 995 Belmont St., Brockton – Columbia Gas of Massachusetts Roadway Moratorium Excavation Washington St. @ Avon St. Intersection

PETITIONS

Hours of Operation

1. Maxi Drug, Inc. –dba- Rite Aid located at 237 Broadway, Taunton

Claim

Claim submitted by Breyda Pereyra, 17A Pine Knoll Lane, Taunton seeking reimbursement for damages to her automobile from hitting potholes in front of 199 Williams Street near the sharp bend in the road.

COMMITTEE REPORTS

UNFINISHED BUSINESS

RECEIVED
CITY CLERK'S OFFICE
2015 JAN 23 1 A 10:16
TAUNTON, MA
CITY CLERK

ORDERS, ORDINANCES AND RESOLUTIONS

Ordinance for a first reading to be passed to a second reading

AN ORDINANCE

Chapter 12 Licenses and Miscellaneous Business Regulations

Article V. Hawkers and Peddlers

Section 12-78.1 Tag Day Permit Requirements

Be it ordained by the Municipal Council of the City of Taunton and by authority of the same as follows:

SECTION 1. Article V of Chapter 12 of the Revised Ordinances of the City of Taunton, as amended, is hereby further amended by inserting a new Section 12-78.1 as follows:

Sec. 12-78.1 Tag Day Permit Requirements

(a) Definitions

“Tag Day” for the purposes of this ordinance, shall mean a person stationed in front of a business engaging in the in-person solicitation of immediate monetary donations on behalf of an organization from passersby and/or patrons of the business.

“Person” for the purposes of this ordinance shall mean natural person or legal entity, to include non-profit corporations.

(b) Permit Required

It is unlawful for any person to organize, hold or participate in a Tag Day except as provided by Ordinance. No person may organize, hold or participate in a Tag Day without (1) a permit from the City of Taunton and (2) permission from the business in front of which a solicitor is to be stationed. The permit must be in the possession of a person in charge, who is readily available, during the period of solicitation. The permit must be produced for inspection upon request.

An application for a Tag Day permit shall be made to the Mayor’s Office upon forms provided by the City, and such application shall be filed with the Mayor’s Office at least 15 days prior to the date for which the permit is sought. The City may, for good cause shown, allow the filing of an application less than 15 days prior to the date for which the permit is sought.

(1) Each applicant must provide the name, phone number and address of the organization, and, name and telephone number of the responsible contact person applying for the

permit. If the organization is not based within the City proof of an organization's establishment as a local chapter based within the City must be provided;

(2) Each applicant must state the purpose for which such solicitation is to be made and the use or disposition to be made of any receipts;

(3) All organizations must be based and have a street address within the corporate limits of the City or alternatively be a local City-based chapter of a larger umbrella organization, which is not based within the corporate limits of the City.

(4) All solicitors and soliciting organizations with a Post Office Box address must also have a street address in the City where their organization is based, works out of or where meetings are held.

(5) Soliciting organizations must present documentation depicting their not-for-profit status within current IRS guidelines. Permit will not be granted without proof of not-for-profit status.

(6) Soliciting organizations must use sealed cans for collecting funds.

(7) City of Taunton departments are exempt from this ordinance.

(b) Limitation of Permits

Permits shall be issued on a first-come first-served basis and shall be for one calendar day. No more than one soliciting organization will be permitted to solicit on any day. No more than two permits shall be issued to any one organization within the same calendar year, and the permits must be for separate days.

(c) Hours of Soliciting in a public place.

Solicitation activities are not to occur prior to 8:00 a.m. or after 8:00 p.m.

(d) Severability

The provisions of this section shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the remainder of the ordinance shall remain in effect.

SECTION 2. This Ordinance shall become effective immediately upon passage.

NEW BUSINESS

Respectfully submitted,

rm Blackwell

**Rose Marie Blackwell
City Clerk**



City of Taunton

LAW DEPARTMENT

141 Oak Street

Taunton, Massachusetts 02780

Phone (508) 821-1036 Facsimile (508) 821-1397



Thomas C. Hoye, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

January 21, 2015

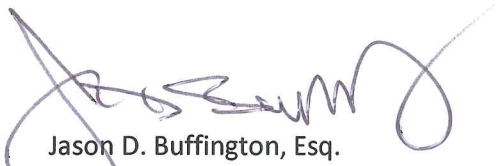
Honorable Mayor Thomas C. Hoye, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

RE: Procedures to Follow in Order to Deny, Revoke, or Suspend Local Licenses and Permits for Failure to Pay Municipal Financial Obligations

Dear Mayor Hoye and Members of the Municipal Council:

At the January 20, 2015 meeting, the Municipal Council requested that the Law Department provide guidance on this matter. Attached to this letter please find the Law Department's February 5, 2013 legal opinion on this issue and the ordinance passed by the Council on March 5, 2013.

Very truly yours,

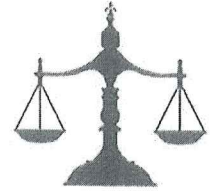


Jason D. Buffington, Esq.
City Solicitor



City of Taunton
LAW DEPARTMENT

141 Oak Street
Taunton, Massachusetts 02780
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Thomas C. Hoyer, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

February 5, 2013

Honorable Mayor Thomas C. Hoyer, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

**RE: Legal Opinion re: Denial, Revocation, or Suspension of Local Licenses and Permits
for Failure to Pay Municipal Taxes or Charges**

Dear Mayor Hoyer and Members of the Municipal Council:

The Municipal Council voted to refer the above-referenced matter to the Law Department for a legal opinion. After a great deal of research, I am happy to provide to you the following opinion, with applicable legal citations, as well as recommendations for changes to the manner in which the City currently operates.

Existing Local Ordinances

I have located four separate sections of the Revised Ordinances of the City of Taunton that are applicable to this discussion:

1. Section 4-43: Tax Status Form (adopted in 2009): This ordinance states as follows:

Notwithstanding the provisions of any other section of the Ordinances, no application for a permit, license or zoning variance shall be granted to any person, business, charity, corporation or association if the

applicant or the owner of the property upon which the business is located has any delinquent municipal tax, fee or other municipal charges, whether or not the same appears on a Tax Status Form.

- 2. Section 7-48: Penalty on Overdue Fire Detail Invoices (adopted in 2002, amended in 2004): Subsection 2 of this ordinance states as follows:

The local licensing authorities shall not issue, transfer or renew any existing license, permits for any individual, business, corporation, agency or unincorporated association who has unpaid detail monies due to the municipal corporation.

- 3. Section 18-71: Penalty on Overdue Police Detail Invoices (adopted in 2002, amended in 2004): Subsection 2 of this ordinance states as follows:

The local licensing authorities shall not issue, transfer, or renew any existing license, permits for any individual, business, corporation, agency or unincorporated association who has unpaid detail monies due to the municipal corporation.

- 4. Section 12-1: Licenses and permits; denial, revocation or suspension (adopted in 1986, amended in 2003, June 2004, and November 2004):

As this ordinance is too large to be reproduced verbatim herein, a copy of it is attached. Please note that this ordinance was first adopted in December 1986 and that the language of the ordinance, while not identical, is substantially similar to the language that appears within Section 57 of Chapter 40 of the Massachusetts General Laws. This statute is discussed further below.

State Law

The controlling state law is G.L. c. 40, § 57. This statute was inserted into the General Laws of Massachusetts by Chapter 640 of the Acts of 1985, which was passed by the Legislature and approved by the Governor on December 23, 1985. The title of said enactment was *An Act Relative to the Granting or Renewing of Certain Licenses and Permits in Cities and Towns*.

Since its codification in 1985, G.L. c. 40, § 57 has been amended in 1992, 1993, and 1996. A copy of the current version of this law is attached hereto. It is what is known as a local option statute.

Under this law, a city may by ordinance deny any application for, or revoke or suspend a building permit, or any local license or permit (including renewals and transfers) issued by any board, officer, or department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges (including 21D assessments). Furthermore, G.L. c. 40, § 57 does not restrict the city from taking such action against only the applicant. The statute specifically contemplates that a city could take such similar action when the "activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised ... on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges."

G.L. c. 40, § 57 mandates that any ordinance passed thereunder must contain certain provisions. Among them are:

- Creation of a list. The treasurer/collector must annually furnish to each licensing authority a list of those parties who have neglected or refused to pay municipal charges for not less than a twelve month period. This means that, in order to be on the list, a party must be at least one year late in paying some municipal charge. Further, a party cannot be placed on the list if that party has filed in good faith a pending application for abatement of a tax or a petition before the appellate tax board. G.L. c. 40, § 57 (a).
- Grant of authority to deny, revoke or suspend a license or permit. The ordinance must provide that the licensing authority "may" deny, revoke, or suspend any license or permit when the applicant or property owner appears on the list. The ordinance cannot mandate an automatic disqualification just because the applicant or property owner appears thereon. G.L. c. 40, § 57(b).
- Written Notice. The licensing authority must give written notice to the party and the treasurer/collector that it is considering taking adverse action as a result of the party's name appearing on the list. Id.
- Hearing. The licensing authority must afford the party a hearing at least 14 days after the written notice is issued. At the hearing, the list would constitute *prima facie* evidence for the denial, revocation or suspension of a license or permit to any party. The treasurer/collector must be given the right to intervene in any such hearing. In the event that, after the hearing, the licensing authority denies, suspends, or revokes a license or permit, the same may not be reissued until the

licensing authority receives a certificate from the treasurer/collector that the party has come into good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the city as the date of issuance of the certificate¹. Id.

- Payment Agreement. The statute states that “any party shall be given an opportunity to enter into a payment agreement....” This would allow the licensing authority to issue limitations to the license or permit and the validity of the license or permit would be expressly conditioned upon the satisfactory compliance with the agreement. Failure to comply with the agreement would constitute grounds for suspension or revocation, so long as written notice and a hearing were provided as aforesaid. G.L. c. 40, § 57(c).
- Authority to Waive Denial, Suspension or Revocation if only Property Owner Delinquent and No Business Interest by Property Owner in Activity Proposed to be Permitted/Licensed on Property. The law states that, if a local licensing authority denies a permit or license to an applicant due to the property owner owing municipal charges, then the Municipal Council² “may waive” the denial of the permit or license “if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family ... in the business or activity conducted in or on said property³.” G.L. c. 40, § 57(d).

¹ This provision makes it clear that, while a party must be “not less than” twelve months behind on some municipal tax or charge in order to appear on the list, once the local licensing authority denies, suspends, or revokes a permit or license in accordance with G.L. c. 40, § 57, the license or permit could not be reissued until that party receives a dated certificate from the tax collector stating that the party is in good standing on all municipal charges as of the date of the certificate, including all charges due and owing in the current year.

² The exact language of the statute provides that “the board of selectmen may waive such denial....” However, under G.L. c. 39, § 1, “boards of aldermen shall have the powers, perform the duties and be subject to the liabilities of selectmen, except with respect to appointments....” G.L. c. 39, § 1 also provides that “in cities having a single legislative board other than a board of aldermen, such board shall ... have the powers, perform the duties and be subject to the liabilities of the board of aldermen.” Under G.L. c. 4, § 7, clause the First, “board of aldermen ... shall, in a city which has no such body..., mean the board ... having like powers and duties.” Taunton does not have a board of alderman, but does have a single legislative board known as the Municipal Council. Thus, the power conferred by G.L. c. 40, § 57(d) to the “board of selectmen” would be exercised in Taunton by the Municipal Council.

³ This provision essentially gives the Municipal Council the authority to override the denial, suspension, or revocation of a license or permit by another local licensing authority in the event that the other local licensing authority has taken adverse action on an applicant under G.L. c. 40, § 57 due solely to the fact that the owner of the property owes municipal charges. In order to override the other local licensing authority’s adverse action for

- Certain Licenses Exempt from Law. The law states that the following licenses and permits cannot be denied, suspended, or revoked on the basis of non-payment of municipal charges:
 - Open burning permit under G.L. c. 48, § 13
 - Bicycle permit under G.L. c. 85, § 11A
 - Sales of articles for charitable purposes under G.L. c. 101, § 33
 - Child work permits under G.L. c. 149, § 69
 - Licenses to clubs or associations dispensing food or beverages under G.L. c. 140, § 21E
 - Dog licenses under G.L. c. 140, § 137
 - Licenses for hunting, trapping, and fishing under G.L. c. 131, § 12
 - Marriage licenses under G.L. c. 207, § 28
 - Permits for theatrical events and public exhibitions under G.L. c. 140, § 181

- Local Option to Exclude Any Other Local License or Permit from this Procedure. Finally, G.L. c. 40, § 57 states that the City could, in its discretion, delineate by ordinance any additional local licenses or permits to the list of those that cannot be denied, suspended, or revoked on the basis of non-payment of municipal charges.

Discussion

1. Local Acceptance of G.L. c. 40, § 57

As an initial matter, G.L. c. 40, § 57 is a local option statute and only becomes effective in those cities and towns that have officially accepted it. G.L. c. 40, § 57 does not appear in the "Table of statutes and General Laws which have been accepted," as appearing in the most recent version of the city ordinance book published in 2010.

The City Clerk informs me that she has located no specific record of G.L. c. 40, § 57 having being accepted by the City. However, at the same time, she has provided me with the minutes of the September 15, 1986 Municipal Council meeting at which Chapter 640 of the Acts of 1985 were accepted by the City.

G.L. c. 4, § 4 provides for the mode of acceptance of a statute by a municipality. In pertinent part, this law provides as follows: "Wherever a statute is to take effect upon its

that reason, the Municipal Council must specifically find that "there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family ... in the business or activity conducted in or on said property."

acceptance by a municipality ..., or is to be effective in municipalities ... accepting its provisions, this acceptance shall be, ... in a municipality, by vote of its legislative body, subject to the charter of the municipality....”

G.L. c. 40, § 57 provides that “Any city or town which accepts the provisions of *this section* may ... by ordinance deny any application...” (emphasis added). In enacting G.L. c. 40, § 57, the Legislature required municipalities to accept “this section.” While it seems clear that the Municipal Council intended to accept G.L. c. 40, § 57 on September 15, 1986, it did not specifically do so. For purposes of clarity⁴, it is the recommendation of this office that the Municipal Council adopt an order in the very near future formally accepting the provisions of G.L. c. 40, § 57.

2. Conflicts with State Law

It is black-letter law that municipalities may not adopt by-laws or ordinances that are inconsistent with state law. Boston Gas Co. v. Newton, 425 Mass. 697 (1997). See also § 15.16, Randall and Franklin, *Municipal Law*, Massachusetts Practice Series (5th ed., 2006). Further, when an ordinance and a statute relate to a matter that is fully, exclusively and validly covered by the statute, the municipal ordinance cannot prevail. See generally, Doherty v. Woburn, 345 Mass. 523 (1963), Dudley v. Cambridge, 347 Mass. 543 (1964), Bartley v. Town of Watertown, 350 Mass. 622 (1966), Del Duca v. Town Administrator of Methuen, 368 Mass. 1 (1975), and Boston Edison Co. v. Town of Bedford, 444 Mass. 775 (2005).

In the current situation, G.L. c. 40, § 57 not only provides municipalities with the authority to deny, suspend, or revoke local permits and licenses for non-payment of municipal taxes and charges, it specifically sets forth the manner and procedure which must be followed in the event a municipality wishes to exercise this authority. Furthermore, G.L. c. 40, § 57 states that any municipality who wishes to exercise this authority must pass an ordinance to do so and mandates that any such ordinance contain certain specific requirements. Therefore, in order for such an ordinance to be lawful, it cannot be inconsistent with the plain terms of G.L. c. 40, § 57.

⁴ This should in no way be construed to be an admission that the City has not accepted the provisions of G.L. c. 40, § 57. The Municipal Council clearly intended to do so in September of 1986 when it voted to accept Chapter 640 of the Acts of 1985, prior to enacting an ordinance mirroring G.L. c. 40, § 57 that would eventually become § 12-1. This opinion merely sets forth a recommendation to the Mayor and Municipal Council that, for purposes of clarity, an official acceptance of G.L. c. 40, § 57 should be performed.

For the reasons set forth herein, it is the opinion of this office that §§ 4-43, 7-48(2), and 18-71(2) of the Revised Ordinances of the City of Taunton are all inconsistent with G.L. c. 40, § 57 and are therefore unlawful and unenforceable under Massachusetts law. This office recommends that all local licensing authorities, including the Municipal Council, immediately cease the enforcement of these ordinances. These ordinances should also be officially repealed.

Section 4-43, entitled Tax Status Form, purports to prohibit the grant of a license or permit to any party "if the applicant or the owner of the property ... has *any delinquent municipal tax, fee or other municipal charges...*" (emphasis added). The language from this ordinance that I have set forth in italics is in direct conflict with the mandatory terms of G.L. c. 40, § 57(b), which, prior to authorizing⁵ a denial, suspension, or revocation of a permit or license for this reason, requires the party's name to be on a certain list. Furthermore, G.L. c.40, § 57(b) requires this list to be furnished by the treasurer/collector and, in order to be placed on such list, the party must have "neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges *for not less than a twelve month period*, and that such party has not filed in good faith a pending application for an abatement..." (emphasis added). In failing to require the mandated list and in failing to require a municipal charge to be no less than twelve months old prior to taking adverse action, Section 4-43 runs afoul of G.L. c. 40, § 57.

Section 4-43, by mandating the denial of permits and licenses whenever municipal charges are owed, also violates state law by (1) failing to provide applicants written notice, (2) failing to provide applicants a hearing and the opportunity to be heard prior to a denial, (3) failing to provide parties the opportunity to enter into a payment agreement, (4) failing to provide an applicant the opportunity to demonstrate that the property owner who owes municipal charges has no business interest in the activity to be conducted by the applicant, and (5) failing to exempt the required permits and licenses required to be exempted by law. All of these things are specifically required by G.L. c. 40, § 57.

Sections 7-48(2) and 18-71(2) of the Revised Ordinances also violate state law. These ordinances purport to prohibit local licensing authorities from issuing, transferring, or renewing licenses or permits to any party "who has unpaid detail monies due to the municipal corporation." These ordinances are inconsistent with G.L. c. 40, § 57, for the same reasons cited with respect to § 4-43 of the Revised Ordinances.

⁵ G.L. c. 40, § 57(b) uses permissive language in that a licensing authority "may" deny, revoke, or suspend a license or permit under certain delineated circumstances. Contrast that with the language of § 4-43 of the Revised Ordinances which *prohibits* the grant of any license or permit under certain other circumstances.

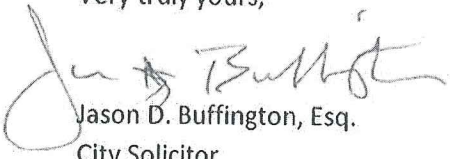
Conclusions and Recommendations

For the reasons set forth above, it is the opinion of this office that §§ 4-43, 7-48(2), and 18-71(2) of the Revised Ordinances of the City of Taunton conflict with G.L. c. 40, § 57 and are therefore unlawful and unenforceable under Massachusetts law. This office recommends the following course of action:

1. All local licensing authorities should immediately cease the enforcement of §§ 4-43, 7-48(2), and 18-71(2) of the Revised Ordinances of the City of Taunton.
2. The Municipal Council should repeal §§ 4-43, 7-48(2), and 18-71(2) of the Revised Ordinances of the City of Taunton.
3. The City should officially accept G.L. c. 40, §57.
4. The Municipal Council should amend § 12-1 of the Revised Ordinances of the City of Taunton to correct a few typographical errors and to otherwise take full advantage of the provisions of G.L. c. 40, § 57. Follow-up and coordination with the Treasurer/Collector, Police and Fire Departments, and all local licensing authorities will also be needed to ensure the effectiveness of this ordinance.
5. The Municipal Council should correct a minor typographical error⁶ I discovered in §7-48(4) of the Revised Ordinances of the City of Taunton.

I would be happy to draft a proposed new ordinance to accomplish these objectives, should you so desire. Thank you, as always, for allowing the Law Department to be of assistance to you and the citizens of Taunton.

Very truly yours,



Jason D. Buffington, Esq.
City Solicitor

Enclosures:

1. § 12-1, Revised Ordinances of the City of Taunton
2. G.L. c. 40, § 57

⁶ §7-48 is entitled "Penalty on Overdue Fire Detail Invoices." Subsection 4 of this ordinance incorrectly refers to "police details," when it should instead refer to "fire details."

Chapter 12

LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS"

- Art I. In General, secs 12-1--12-16
- Art II. Billiard Rooms, Poolrooms and Bowling Alleys, secs 12-17 - 12-36
- Art. III. Jukeboxes, secs 12-37-12-55
- Art. IV. Storage, Etc., of Flammables, secs 12-56--12-73
- Art. V. Hawkers and Peddlers, secs 12-74--12-94
- Art. VI. Junk, Old Metal, Antiques and Secondhand Articles, secs 12-95-12-122
- Art. VII. Lunch Carts, secs 12-123--12-140
- Art. VIII. Newsboys, secs 12-141-12-157
- Art. IX. Pawnbrokers, secs 12-158-12-178
- Art. X. Public Service Vehicles, secs 12-179--12-214
- Art. XI. Sale of Secondhand Motor Vehicles, secs 12-215--12-227
- Art. XII. Uniform Commercial Code Filings, secs 12-228--12-239
- Art. XIII. Sidewalk Cafes, secs 12-240--12-250

ARTICLE I. IN GENERAL

Sec. 12-1, Licenses and permits; denial, revocation or suspension .

(a) The treasurer/ collector or other municipal official responsible for records of all municipal taxes, assessments, betterments, police details, fire details or proceeds from the sale of official City of Taunton waste bags and other municipal charges, hereinafter referred to as the "treasurer/collector," shall furnish on a quarterly basis, and at any and all other times as directed by the Municipal Council, to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments, police details, fire details or proceeds from the sale of official City of Taunton waste bags or other municipal charges for not less than twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

*Cross references-Inspector of weights and measures, Ch. 2, Art. III, Div. 7;use of streets for advertising purposes. sec; 13-16.

State law reference-License generally, M.G.L.A., c. 140.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the treasurer/collector; provided, however, that written notice is given to the party and the treasurer/collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The treasurer/ collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be

relevant to or introduced in any other proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the treasurer/ collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments, police details, fire details or proceeds from the sale of official City of Taunton waste bags or other municipal charges payable to the City of Taunton as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder is given notice and a hearing as required by applicable provisions of law.

(d) The municipal council may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of the immediate family, as defined in M.G.L. Chapter 268, Section 1, in the business or activity conducted in or on said property.

(e) This section shall not apply to the following licenses and permits:

<i>Licenses or Permits for</i>	<i>Chapter/ Section</i>	
(1) Open burning	48	13
(2) Bicycles permit	85	11A
(3) Sales of articles for charitable purposes	101	33
(4) Children work permits	149	69
(5) Clubs, associations dispensing food or beverages	140	21E
(6) Dog licenses	140	37
(7) Fishing, hunting and trapping licenses	131	12
(8) Marriage licenses	207	28
(9) Theatrical events and public exhibition permits	140	181

(Ord. of 12-28-86, secs 1—5; Ord of 1-14-2003 Ord of 6-1-2004; Ord of 11-9-2004)

Editor's note--The provisions of an ordinance adopted Dec. 23, 1986, were not enacted as a specific amendment or addition to the Code, and hence are included herein as a new sec 12-1 at the editor's discretion.

State law reference-See Ch. 641 of the Acts of 1985.

Sec 12-2 Closing Hours for Commercial Establishments

(a) Generally. No shops, stores, or other places of trade or entertainment shall be kept open between 1:00 a.m. and 4:00 a.m., except as hereinafter provided.

(b) Licensing exceptions. Licensed taverns, drugstores, hotels, motels, gasoline stations, self-service laundries, restaurants, and such other businesses as may be approved by the Municipal Council, may keep open between the hours of 1:00 a.m. and 4:00 a.m., provided that a permit therefor has been obtained from the Municipal Council, and further provided that the operation of

Classification of real property, see c. 59, § 2A.
 Electrical generation facilities, inclusion in tax base, see c. 59, § 38H.

American Law Reports

Requirement of full-value real property taxation assessments. 42 ALR4th 676.

Law Review and Journal Commentaries

Real estate taxation, legislation, classification amendment. Richard A. Goren, 26 Ann. Surv.Mass.L. 478 (1979).
 A new system of property taxation. Richard A. Goren (1980) 65 Mass.L.Rev. 209.
 Local property taxation: 1979 classification legislation. Edward F. Hines, Jr. (1980) 24 Boston B.J. No. 6, p. 5.

Library References

Municipal Corporations §970 et seq.
 Towns §58.
 C.J.S. Municipal Corporations § 2042.
 C.J.S. Towns § 162.
 Local taxation, other duties of assessors, see M.P.S. vol. 18B, Randall and Franklin, § 1587.
Texts and Treatises
 72 Am Jur 2d, State and Local Taxation §§ 704-718.
 22 Am Jur Pl & Pr Forms (Rev), State and Local Taxation, Forms 1 et seq., 11 et seq.

Comments.

Local taxation, allocation of levy, see M.P.S. vol. 18B, Randall and Franklin, § 1673.

Notes of Decisions

In general 1

1. In general

Reliance by board of assessors on certified valuations for three-year period despite increase in property values did not constitute deliberate scheme of disproportionate assessment, and, thus, owners of rent controlled apartment buildings were not entitled to tax relief on basis

of disproportionate assessment, even though apartment buildings had been assessed at higher percentage of fair cash value than single-family homes during three-year period, in absence of any evidence that apartment buildings were less affected by escalating market than were single family residences. *Brown v. Board of Assessors of Brookline* (1997) 682 N.E.2d 1373, 43 Mass.App.Ct. 327, review granted 686 N.E.2d 200, 426 Mass. 1102.

LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

Caption editorially supplied

§ 57. Local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges

Any city or town which accepts the provisions of this section, may by by-law or ordinance deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised

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on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Such by-law or ordinances shall provide that:

(a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The board of selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as

5.

on: 1979 classification
Hines, Jr. (1980) 24

duties of assessors, see
Randall and Franklin,

and Local Taxation

(Rev), State and Local
et seq., 11 et seq.

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defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

A city or town may exclude any local license or permit from this section by by-law or ordinance.

Added by St.1985, c. 640. Amended by St.1992, c. 286, § 117; St.1993, c. 408, §§ 1, 2; St.1996, c. 74, §§ 1, 2.

Historical and Statutory Notes

St.1985, c. 640, was approved Dec. 23, 1985.

St.1992, c. 286, § 117, an emergency act, approved Dec. 23, 1992, in the first paragraph, in par. (d), substituted "sixty-eight A" for "sixty-eight".

St.1993, c. 408, § 1, approved Jan. 10, 1994, in the first paragraph, in the first sentence, added "or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges".

Section 2 of St.1993, c. 408, in the first paragraph, in par. (b), in the first sentence, inserted "or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector".

St.1996, c. 74, § 1, approved April 26, 1996, in the first paragraph, in the first sentence, inserted "a building permit, or".

Section 2 of St.1996, c. 74, in the first paragraph, in the first sentence, inserted ", including amounts assessed under the provisions of section twenty-one D".

Library References

Licenses ⇨38.
WESTLAW Topic No. 238.
C.J.S. Agriculture § 4.5.
C.J.S. Architects § 10.
C.J.S. Licenses §§ 48, 50 to 63.

Comments.

Licenses and permits, unpaid local taxes and charges, see M.P.S. vol. 18, Randall and Franklin, § 434.

MUNICIPAL CHARGES LIENS

Caption editorially supplied

§ 58. Municipal charges lien

Any city or town may impose a lien on real property located within the city or town for any local charge or fee that has not been paid by the due date, said

lien shall be known vote at a town meeting or fee.

A municipal charge the recording of a and by the name of deeds of the county

If a charge or fee unpaid when the as committed under section charge of the collector taxes, if applicable such charge or fee to the tax on the property to the collector of taxes

If the property to or fee shall be collected discharged by filing charges or fees collected thereon, have been a lien under this section Added by St.1987, c. 626, an emergency act approved Dec. 30, 1987.

St.1987, c. 626, an emergency act approved Dec. 30, 1987.

Superiority of special or creating such special

Municipal Corporation WESTLAW Topic No. 238 C.J.S. Municipal Corporation

Comments, Financial administration charges lien, see Randall and Franklin, § 434

Tax increment financing seq.



CITY OF TAUNTON

In the year two thousand and thirteen

**AN ORDINANCE PERTAINING TO THE DENIAL,
REVOCATION, OR SUSPENSION OF LOCAL LICENSES AND
PERMITS FOR FAILURE TO PAY MUNICIPAL TAXES OR CHARGES**

**Chapter 4
Buildings**

**Chapter 7
Fire Prevention
And Protection**

**Chapter 12
Licenses and
Miscellaneous
Business Regulations**

**Chapter 18
Police**

Be it ordained by the Municipal Council of the City of Taunton and by authority of the same as follows:

SECTION 1. Section 4-43 of Article III of Chapter 4 of the Revised Ordinances of the City of Taunton, as amended, is hereby repealed.

SECTION 2. Subsection (2) of Section 7-48 of Article II of Chapter 7 of the Revised Ordinances of the City of Taunton, as amended, is hereby repealed.

SECTION 3. The first sentence of subsection (4) of said Section 7-48 of said Article II of said Chapter 7, as amended, is hereby further amended by striking out the words "police details" and inserting in place thereof the following words:-- fire details

SECTION 4. Article I of Chapter 12 of the Revised Ordinances of the City of Taunton, as amended, is hereby further amended by striking out the entirety of Section 12-1 and inserting in place thereof the following section:--

Section 12-1. Licenses and Permits; denial, revocation, or suspension

- (a) This ordinance is enacted pursuant to, and under the authority of, Massachusetts General Laws, Chapter 40, Section 57, the provisions of which have been accepted by the City of Taunton.

- (b) The purpose of this ordinance is to set forth a mechanism by which any licensing or permitting authority in the City of Taunton may deny any application for, or revoke or suspend a building permit or any local license or permit, including renewals and transfers, issued by any board, officer, or department of the City of Taunton for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other municipal charges, including amounts assessed under the provisions of G.L. c. 40, § 21D, or with respect to any activity, event, or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

- (c) For the purposes of this ordinance, the term "local taxes, fees, assessments, betterments or other municipal charges" shall be construed to include, without limitation, police details, fire details, proceeds from the sale of official City of Taunton waste bags, or any other sum lawfully due to the City of Taunton.

- (d) The treasurer/collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

- (e) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the treasurer/collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the treasurer/collector; provided, however, that written notice is given to the party and the treasurer/collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The treasurer/collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority

receives a certificate issued by the treasurer/collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges as of the date of issuance of said certificate.

- (f) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- (g) The Municipal Council may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in G.L. c. 268A, § 1, in the business or activity conducted in or on said property.
- (h) This ordinance shall not apply to the following licenses and permits:

<u>Type of License/Permit</u>	<u>Citation to License/Permit</u>
(1) Open burning permit	G.L. c. 48, § 13
(2) Bicycle permit	G.L. c. 85, § 11A
(3) Sales of articles for charitable purposes	G.L. c. 101, § 33
(4) Child work permits	G.L. c. 149, § 69
(5) Licenses to clubs or associations dispensing food or beverages	G.L. c. 140, § 21E
(6) Dog licenses	G.L. c. 140, § 137
(7) Licenses for fishing, hunting, trapping	G.L. c. 131, § 12
(8) Marriage licenses	G.L. c. 207, § 28
(9) Permits for theatrical events and public exhibitions	G.L. c. 140, § 181

- (i) If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 5. Subsection (2) of Section 18-71 of Article III of Chapter 18 of the Revised Ordinances of the City of Taunton, as amended, is hereby repealed.

SECTION 6. All ordinances or parts thereof inconsistent herewith are hereby repealed. This Ordinance shall become effective immediately upon passage.

City of Taunton

Presented to the Mayor and Approved:

In Municipal Council

First Reading: 2/12/2013



Thomas C. Hoye, Mayor

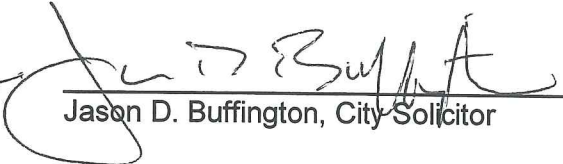
Second Reading: 2/26/2013

Passed to be Ordained: 3/5/2013

Approved as to Form and Character:



Rose Marie Blackwell, City Clerk



Jason D. Buffington, City Solicitor

A NiSource Company

995 Belmont Street
Brockton, MA 02301

January 13, 2015

City of Taunton Mayor Tom Hoye & Municipal Council
Temporary City Hall
141 Oak Street
Taunton, MA 02780

**RE: Columbia Gas of Massachusetts Roadway Moratorium Excavation
Washington St @ Avon St Intersection**

Dear Mr. Hoye and Municipal Council:

Columbia Gas of Massachusetts (CMA) is proposing to complete a small gas main infrastructure replacement project at the intersection of Washington St and Avon St in conjunction with the construction completed during 2014 by the City of Taunton Phase 9 Infrastructure Upgrade project. The proposed work will involve the replacement of our existing low pressure cast iron leak prone gas main with approximately 90' of new low pressure HDPE plastic gas main.

To complete the overall scope of our project, CMA is requesting permission to cut into Washington St, currently under moratorium to install the new gas main and work this project during the month of January which would take approximately three days.


Upon being granted permission, CMA agrees to work closely with and communicate on a daily basis with the Taunton DPW on the projects status. Also, CMA will closely monitor the weather for any forecasted snow or freezing conditions to ensure safe construction activities. Lastly, road plates, if used, will be done so with the prior notice to the Taunton DPW and will not be left in place if there is any chance of snow in the forecast.

CMA respectfully requests approval to work this particular project during the winter months and perform excavation on Washington St. CMA is available to meet with the Council to discuss this request at its next scheduled meeting.

Should you have any questions, please do not hesitate to contact me at the office (508)-580-0100 ext. 1319 or by email at bgillis@nisource.com

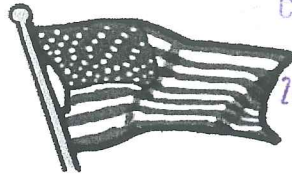
Very truly yours,

Columbia Gas of Massachusetts



Brian Gillis
Field Engineer
cc: file

Fred Cornaglia (DPW)
Tony Abreau (DPW)



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TAUNTON, MA

CITY CLERK

JANUARY 27, 2015

HONORABLE THOMAS C. HOYE, JR., MAYOR
COUNCIL PRESIDENT ESTELE BORGES
AND MEMBERS OF THE MUNICIPAL COUNCIL

PLEASE NOTE: THE FOLLOWING COMMITTEE MEETINGS HAVE BEEN SCHEDULED FOR TUESDAY, JANUARY 27, 2015 AT 5:30 P.M. AT THE TEMPORARY CITY HALL AT MAXHAM SCHOOL, 141 OAK STREET, TAUNTON, MA. 02780, IN THE CHESTER R. MARTIN MUNICIPAL COUNCIL CHAMBERS

5:30 P.M.

THE COMMITTEE ON FINANCE & SALARIES

1. MEET TO REVIEW THE WEEKLY VOUCHERS & PAYROLLS FOR CITY DEPARTMENTS
2. MEET TO REVIEW REQUESTS FOR FUNDING
3. MEET TO REVIEW MATTERS IN FILE

PLEASE NOTE: A "MEETING" OF THE ENTIRE MUNICIPAL COUNCIL, AS SAID TERM IS DEFINED IN MASS. GEN. L. C. 30A, §18 MAY OCCUR CONCURRENTLY WITH THIS COMMITTEE MEETING

THE COMMITTEE ON PUBLIC PROPERTY

1. MEET TO DISCUSS WALKER SCHOOL RFP
2. MEET TO REVIEW MATTERS IN FILE

PLEASE NOTE: A "MEETING" OF THE ENTIRE MUNICIPAL COUNCIL, AS SAID TERM IS DEFINED IN MASS. GEN. L. C. 30A, §18 MAY OCCUR CONCURRENTLY WITH THIS COMMITTEE MEETING

THE COMMITTEE ON POLICE AND LICENSE

1. MEET TO INTERVIEW POLICE CANDIDATES
2. MEET TO REVIEW MATTERS IN FILE
3. PUBLIC INPUT

PLEASE NOTE: A "MEETING" OF THE ENTIRE MUNICIPAL COUNCIL, AS SAID TERM IS DEFINED IN MASS. GEN. L. C. 30A, §18 MAY OCCUR CONCURRENTLY WITH THIS COMMITTEE MEETING

RESPECTFULLY,

COLLEEN M. ELLIS
CLERK OF COUNCIL COMMITTEES