



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

May 17, 2018

City Council President Linda M. Morad
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Morad and Honorable Members of the City Council:

I am submitting for your approval an ORDER accepting the provisions of M.G.L. chapter 40, section 57, and an ORDINANCE amending Chapter 10, Section 10-45 of the City Code, pertaining to local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges.

Sincerely,

Jonathan F. Mitchell
Mayor

JFM/smt



CITY OF NEW BEDFORD

CITY COUNCIL

May 24, 2018

ORDERED that the City of New Bedford hereby accepts M.G.L. Chapter 40, Section 57, pertaining to local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges.



CITY OF NEW BEDFORD

In the Year Two Thousand and Eighteen

AN ORDINANCE

Amending Chapter 10 Finance; Taxation; Property

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1.

Chapter 10 Finance; Taxation; Property; Article I, Sec. 10-45. - Grant of renewal of license as affected by nonpayment of local taxes, fees, etc.; ordinance; exceptions is hereby amended by striking Section 10-45 subsections (a) and (b) in their entirety and inserting in place thereof, the following:

- (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, and may periodically, 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, 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



CITY OF NEW BEDFORD

MASSACHUSETTS

OFFICE OF THE TREASURER


R. Renee Fernandes
Treasurer/Collector

Mark P. Fuller
Assistant Treasurer

Blair S. Bailey
Tax Title Attorney

TO: Honorable Mayor Jon Mitchell

THROUGH: Ari Sky, CFO

FROM: R. Renee Fernandes, Treasurer-Collector 

DATE: April 20, 2018

RE: Amendment to Section 10-45 of the CONB Code of Ordinances

I am writing for your consideration, for presentation to the City Council, an ordinance to accept the provisions of Chapter 40, §57, as amended, and to revise the City of New Bedford Code of Ordinances to reflect the change. In November, 2016, Governor Baker signed into law Chapter 218 of the Acts of 2016, commonly referred to as the Massachusetts Municipal Modernization Act.

Sections 37-38 of this Act provides additional collection authority to municipalities, whereas, licenses and permits may be denied to any taxpayer who has delinquent taxes, assessments, betterments and other municipal charges, regardless of a time constraint. Internal policy will determine what length of delinquency prompts non-issuance. Prior to the modernization bill, licenses and permits could only be denied if the applicant was delinquent for at least one year.

Attorney Bailey has amended Section 10-45 of the City of New Bedford Code of Ordinances to reflect the changes brought about by the Municipal Modernization Act. The document is included with this correspondence for your perusal. Also included is the amended MGL Chapter 40, §57 and a draft policy of how delinquencies will be determined.

Please be advised that the Collector's office will continue to exercise prudent judgment when determining withholding of a permit. At no time will a permit be denied if the improvement addresses a health or safety repair or improvement.

Thank you for your consideration.

copy: Attorney Blair Bailey

**CITY OF NEW BEDFORD DELINQUENT POLICY AS IT RELATES TO NON-
ISSUANCE OF LICENSES AND PERMITS IN ACCORDANCE WITH CODE OF
ORDINANCES SECTION 10-45 AND MGL CHAPTER 40; §57.**

Licenses and permits may be denied to applicants based on the following delinquency schedule:

General Billing	90 days overdue
Real Estate	180 days overdue
Personal Property	180 days overdue
Excise Tax	Registry Mark
Tax Title	Immediate (or subject to a satisfactory payment arrangement).

The Collector of Taxes reserves the right to amend and/or modify the delinquency schedule as extenuating circumstances may dictate.

At no time will a permit be denied if the permit is for a repair or improvement that addresses a health or safety concern.

Part I ADMINISTRATION OF THE GOVERNMENT

Title VII CITIES, TOWNS AND DISTRICTS

Chapter 40 POWERS AND DUTIES OF CITIES AND TOWNS

Section 57 LOCAL LICENSES AND PERMITS; DENIAL, REVOCATION
OR SUSPENSION FOR FAILURE TO PAY MUNICIPAL
TAXES OR CHARGES

Section 57. 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 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:

[Paragraph (a) of the first paragraph effective until November 7, 2016. For text effective November 7, 2016, see below.]

(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.

[Paragraph (a) of the first paragraph as amended by 2016, 218, Secs. 37 and 38 effective November 7, 2016. For text effective until November 7, 2016, see above.]

(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, and may periodically, 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, 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 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.

Special Education Reserve Fund (24) – This section allows a school district to establish a reserve fund to pay, without further appropriation, for unanticipated or unbudgeted costs of special education, out-of-district tuition or transportation. The balance in the reserve fund shall not exceed 2% of the annual net school spending of the school district.

Parking Meter Local Acceptance (25, 28-29) – These sections allow revenue generated from parking meters to revert to the city or town's general fund, unless specifically accepted by the city or town to be accounted for in a separate fund.

Parking Meter Revenue Use (26-27, 30) – These sections expand the allowable use of parking meter funds and allow for rates to be set for the purpose of managing the parking supply. They also allow for the establishment of Parking Benefit Districts, a geographically defined area in which parking revenue collected therein may be designated in whole or in part for use in that district through a dedicated fund.

Water Infrastructure Surcharge Exemption (31) – This section changes the exemption application deadline for the new water infrastructure surcharge to April 1.

Regional Refuse Disposal Planning Committee (32-34) – This section modifies the statute on such committees to enable the Board of Selectmen in a town to establish the committee rather than Town Meeting.

Certification of Local Property Assessments (35-36, 250) – These sections decrease the frequency with which DOR must certify that local property assessments reflect fair cash valuation from every three years to every five years. The certification is a condition of approving the municipality's property classifications for purposes of allocating responsibility for the local tax levy. This change would take effect for the fiscal years starting on or after July 1, 2017.

Collections Taxpayer Good Standing (37-38) – These sections permit municipalities to deny local licenses and permits to any taxpayer who has neglected or refused to pay local taxes and who has not filed a good faith application for an abatement. Current law permits this collection method, but only if the taxpayer has been delinquent for at least one year. This change is intended to allow municipalities to mirror a "good standing" requirement for licensure under their implementation by-law or ordinance.

Workforce Housing Special Tax Assessment Plan (39, 123) – These sections allow a municipality to adopt and implement a workforce housing special tax assessment plan, intended to encourage and facilitate the increased development of middle income housing. Special tax assessment exemptions from property taxes can be entered into by the municipality and the developer for a period not to exceed 5 years.