



CAMBRIDGE LICENSE COMMISSION

831 MASSACHUSETTS AVE, CAMBRIDGE, MA 02139

NICOLE MURATI FERRER
CHAIRPERSON | BOARD MEMBER

BRANVILLE G. BARD, JR.
POLICE COMMISSIONER | BOARD MEMBER

GERARD E. MAHONEY
FIRE CHIEF | BOARD MEMBER

ELIZABETH Y. LINT
EXECUTIVE DIRECTOR

BOARD OF LICENSE COMMISSIONERS' ADMINISTRATIVE MEETING AGENDA

March 1, 2021 at 1:00 p.m.

Remote Participation

Link: https://cambridgema.zoom.us/webinar/register/WN_dVYE8dabTRuHDCsTH49o5A

The meeting is being held by remote participation through Zoom, pursuant to Governor Baker's Executive Order of March 12, 2020, suspending certain provisions of M.G.L. c. 30A, due to the COVID-19 Pandemic.

The Chair of the Board of License Commissioners (the "Board") reasonably anticipates that the below will be considered, discussed, and may be voted upon by the Board. There will be no public testimony solicited or taken at the meeting. Any comments may be sent to license@cambridgema.gov. The Board may consider any statements received prior to the meeting.

1) City Council's Order No. O-9 of 11/16/20, regarding a home rule petition to remove the statutory legal requirements to obtain a license to allow acoustical musical performances of five or fewer performers with no amplification, except for one microphone, at any retail business. Discussion of the City Council's February 22, 2021 responses, questions, and comments regarding the Board's communication dated February 12, 2021 and addressed to the City Manager and City Solicitor. Attached are various communications which may be addressed during the discussion.

Executive Director



City of Cambridge

O-9
FIRST IN COUNCIL
November 16, 2020

VICE MAYOR MALLON

ORDERED: That the City Manager work with the City Solicitor to draft appropriate Home Rule language which would allow for acoustic live entertainment performances in small businesses under certain conditions without a license, and report back to the City Council with Home Rule language by the December 14th regular City Council meeting.

In City Council November 16, 2020.
Order Adopted by a ye and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- Anthony I. Wilson, City Clerk

A true copy;

ATTEST:-

A handwritten signature in black ink, reading "Anthony I. Wilson", is written over a horizontal line.

Anthony I. Wilson, City Clerk



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MEMORANDUM

TO: Louis E. DePasquale, City Manager; Nancy E. Glowa, City Solicitor; Arthur Goldberg, Deputy City Solicitor; Samuel Aylesworth, First Assistant City Solicitor; and Keplin Allwaters, Assistant City Solicitor

FROM: Nicole Murati Ferrer, Esq., Chair of Board of License Commissioners

DATE: February 12, 2021

RE: Home Rule Petition to Eliminate Certain Licensing Requirements of G. L. c. 140, § 183A

At the request of the City Solicitor, during a public meeting on February 10, 2021, the Board of License Commissioners (the "Board") discussed the possibility of a home rule petition seeking special legislation to allow acoustic music performances of five or fewer performers with no amplification except for one microphone at licensed establishments in the City of Cambridge, without the establishment being required to first obtain a license as required by G. L. c. 140, § 183A (the "Home Rule Petition") as requested by the City Council in Council Order No. O-9 of 11/16/20, and to discuss whether the Board had any concerns. I write this as the Board's designee and inform you that our consensus is we have many concerns adopting or implementing the Home Rule Petition as proposed.

Specifically, the Board discussed that even though the City of Boston engaged in this type of non-licensing through a pilot program, this type of program or Home Rule Petition would not work in the City of Cambridge. Since 2016, the Board has done a comprehensive review of what was being licensed under G. L. c. 140. The Board eliminated a lot of the "superfluous" categories that were being licensed, eliminated the requirement to license categories which were not required to be licensed and which did not affect the factors that the Board needs to consider per state law when issuing such licenses. The Board focused on the categories listed in the state law, those that create noise, that may affect the public safety, that may increase traffic, and all other considerations pursuant to state law. The Board gave careful consideration not only to state law but also the City of Cambridge's Noise Ordinance and the nature of our City. Hence, the Board believes that the current licensing requirement for live music is necessary and appropriate.

The Board discussed their concerns about the zoning issues that are implicated by the proposed Home Rule Petition and which are not addressed or being discussed front and center. The way the City is zoned would impede this type of entertainment in many, if not most, of the places that are not currently licensed. It would be misleading and create unnecessary roadblocks for the businesses to adopt such a Home Rule Petition when there would be zoning impediments or need for a variance. There is also the issue that if this is allowed on any area of the licensed premises, those that have outdoor areas and add this amenity to it, can end up adversely affecting street performers.

In addition, the City of Cambridge is very dense, commercial, and residential areas are often mixed and intertwined, and our residents expect a peaceful and quiet City. The Board could not recall a time when noise was not an issue one way or another in its last meetings. For example, in the meeting where this was discussed the two disciplinary items on the agenda both related to noise complaints/violations. Often, when a new establishment applies for a license, noise is a consideration and one that is raised as a possible problem. Noise variances are often part of the matters considered

Memorandum

RE: Council Order No. O-9 of 11/16/20

February 12, 2021

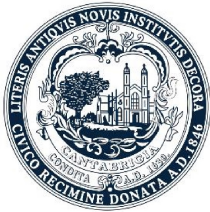
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by the Board. Since the Board, License Commission and Police enforce the Noise Ordinance, the Board understands that adopting such a Home Rule Petition would create a flurry of new and additional noise complaints and raise a serious enforcement issue. Noise of this nature is actionable under the Ordinance only if plainly audible from a distance of fifty (50) feet. This means that many times it is not actionable because the complainant is closer than fifty (50) feet. In addition, even if it is actionable, unless it is heard by the responding investigator or police officer, it is very hard to take action against the business, which ends up frustrating the residents/complainants. We have people staying home more and using home as an office. Prior and even during COVID-19, the noise complaints we receive are not limited to late night, they include daytime and early evening. Allowing this without any licensing or consideration to the residents surrounding the businesses would create an incredible problem.

The Board also raised safety concerns. Live music, even if limited to 5 people with instruments and one microphone, take up a lot of space. Even ignoring the current space limitations we have with COVID-19, you still need a dedicated space for these musicians and their equipment to ensure that they (or their instruments) are not blocking the ingress/egresses, pathways or affect the minimal ADA space requirements. There are a lot of small venues in Cambridge where adding this type of amenity without review could end up creating safety issues for the employees and patrons.

The Board concluded that currently there is a way to apply to the License Commission for this type of event/amenity either on an annual or daily basis. It is not a difficult process, and it is a process that ensures that zoning approval is obtained, that if a variance is required one is obtained, or that if it is not allowed because of zoning, that a license is not improperly issued. It is a process that allows the public to express their concerns before the license is approved, and it is a process that allows the Board and other regulating departments to dedicate staff to monitor to ensure common good and public safety. It is not a cost prohibitive process and it is one that is necessary for this type of entertainment in the City of Cambridge. Allowing such a Home Rule Petition would create an insurmountable number of noise complaints, would result in places engaging in the practice against zoning and other legal requirements, and would result in an unmanageable system for issues such as safety and enforcement of laws and Ordinances.

Please let us know if you would like to discuss further. Thank you.



CAMBRIDGE LICENSE COMMISSION

831 Massachusetts Avenue, First Floor, Cambridge, Massachusetts 02139

NOTICE OF VOTE REGARDING VARIOUS FEES

Discussed March 22, 2017 & June 19, 2017

Vetted by Law Department May 25, 2017

Adopted by Board on June 19, 2017

On June 19, 2017, the Board of License Commissioners (the "Board") voted to implement the following changes in fees starting January 1, 2018 for new licensees, and for current licensees for the renewal year of 2018 which gets billed in October & November, 2017. Some fees have been increased, others reduced and some eliminated (or combined).

- (1) Common Victualler License fee: \$100 annual license fee + \$1 per person (using the total indoor occupancy #). All common victualler licenses will include the licensing of background music as entertainment.
- (2) Patio fee for licenses that hold a liquor license pursuant to G. L. c. 138, § 12: on public property - \$750 (as is); on private property \$250 (new); if patio on public and private property \$1000.
- (3) Redefine Recorded Music Played Below Conversation Level (Background Music) to *Recorded Music Played **at or Below** Conversation Level*. There is no fee for this entertainment if the business holds a common victualler license. If the business does not have a common victualler license, the annual fee is \$110.
- (4) Redefine Recorded Music Played At or Above Conversation Level to *Recorded Music Played **Above** Conversation Level*, fee is \$500.
- (5) Disk Jockey fee \$500
- (6) Karaoke fee \$500.
- (7) Readings of poetry and other works \$135
- (8) Magic shows \$135.
- (9) Remove as categories of entertainment radio & phonograph; no fees.
- (10) Added Lottery Screen to exceptions to Video Screen or Film Projector Screen (except the first screen on a video juke box and cinema screen). Changed the fee from \$0 per screen to \$0 for first three (3), \$50/TV thereafter.
- (11) Reduced the fee of Video Game, Pinball Machine, or other to \$100 per machine.

(12) Removed the inclusion of the common victualler fee from the entertainment fee of Theatrical Stage or Cinema Screen. If the licensee requires a common victualler license, it would have to be licensed as such and the fee for the common victualler is \$100 flat fee (no \$1 per person fee occupancy fee since the common victualler is ancillary to the entertainment). Theatrical Stage fee remains \$750 per stage and cinema screen fee is \$500 per screen.

(13) The Board did not adopt a modified schedule for non-profits.

Vote by Board:

Nicole Murati Ferrer, Esq., Chairperson

Brent Larrabee, Police Commissioner, Commissioner

Gerard Mahoney, Fire Chief, Commissioner


Notice Posted & Dated: June 19, 2017



CAMBRIDGE LICENSE COMMISSION

831 Massachusetts Avenue, First Floor, Cambridge, MA 02139

RESPONSE TO COUNCIL ORDER

TO: Louis DePasquale, City Manager
Lisa Peterson, Deputy City Manager
CC: Nancy Glowa, City Solicitor
Joseph Barr, Director of Traffic, Parking & Transportation
FROM: Nicole Murati Ferrer, Esq., Chair of License Commission 
Dr. Branville G. Bard, Jr., Police Commissioner
DATE: August 20, 2018
RE: Response to City Council Policy Order #60 – Fee for Block Parties

In response to City Council Policy Order #60, adopted March 5, 2018, the Board of License Commissioners (the “Board”) discussed re-evaluating the fees associated with community block parties, specifically entertainment fees for unpaid, local musicians. Per the Board’s discussion and vote of August 15, 2018, the Board found that the one-day entertainment fee of \$50.00 is reasonable and should remain unchanged.

The \$50.00 fee has been in place since July 1, 2012, when it was increased from \$40.00. The fee has remained unchanged since 2012 even though there has been a significant increase in these one-day events. For example, during the 2017 calendar year, the Board issued a total of 331 one-day entertainment licenses. To date, the Board has issued more one-day entertainment licenses than last year. The increase in numbers is due in part to the economic development of the City and its robust social calendar. The other reason for the increase is the amount of time the License Commission has spent monitoring unlicensed events or responding to complaints as to unlicensed events that now seek the proper licenses to run such events. Finally, the City is now hosting more events that require entertainment licenses (the City or its departments do not pay a license fee but do require a license).

The Board issues one-day entertainment licenses when there is a public show, public amusement, theatrical exhibition or exhibition of every description. This includes licensing of entertainment encompassing live and recorded music, movies, DJs, floor shows, patrons dancing, and/or amplified music/voice. The licensing requirements come from multiple provisions of Massachusetts General Laws Chapter 140. Neither state laws, nor the Board’s application, differentiate between a “block party” or any other party, or whether the entertainment is being provided by paid or unpaid entertainers. The standard applied when considering an entertainment application pivots on whether the “license would lead to the creation of a nuisance or would endanger the public health, safety or order by: unreasonably increasing pedestrian traffic in the area . . .[,] or increasing the incidence of disruptive conduct in the area . . .[,] or unreasonably increasing the level of noise in the area. . .” See generally G. L. c. 140, § 181.

Every time a one-day application is received, the License Commission staff reviews it for completion. In addition, attachments are to be reviewed and solicited if not provided by the applicant. Depending on the type of application and location of the event, the attachments include a letter of permission from the owner of the location where the event is to take place and may include permits

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from different City or State agencies. Police sign-off is also required and sometimes the staff works with the applicants and assists them in getting these sign-offs, as well as any additional sign-offs. Once the application is reviewed, the staff schedules the application for a hearing, notifies the applicant of the hearing, and places it on the Board's agenda. Most of these applications are considered by the Board "on the papers" and the applicants do not have to appear before the Board on the date of the hearing. If there is a history of complaints with regard to the applicant, event, or if the event is in a noise sensitive location, the staff has to pull out the information for the Board.

The Board members review the application. This review may happen multiple times as the Board members may review it prior to the hearing and always review it at the hearing. Part of the Board's review includes any disciplinary history regarding the applicant or previous complaints with regard to the applicant, event or location. The Board members, at an open meeting, discuss the application and vote to either grant, deny or defer. If there is a vote of deferral, that means further follow up is needed and/or more information necessary before the Board can vote. This will probably result in the consideration of the application in a future hearing, which requires administrative and Board follow up.

License Investigators are informed of any one-day license that is granted. In the past, all one-day events were inspected by License Investigators. As these events grow in numbers, Investigators no longer have the capability of inspecting them all. However, Investigators often monitor and inspect as many one-day events as possible. In addition, any complaint with regard to a one-day event is investigated. If there is an investigation of an event, it may result in the issuance of a warning to the applicant or a disciplinary hearing before the Board. If there is a disciplinary hearing, further administrative tasks are performed by the License Commission staff and Investigators, including preparation of the case and file, noticing of the hearing, coordinating with witnesses, and live testimony at the hearing. The Board conducts the hearing, and issues written decisions on its findings.

Although most one-day events in the City run smoothly and the License Commission and Board's role end with the event, some do not. There is a lot of administrative, regulatory and enforcement work tied to these one-day events. The cost of \$50.00 per license/event is reasonable and does not even cover the costs of processing, regulating and maintaining these applications and licenses. However, because the importance of these events is recognized, the license fee has been unchanged since July 1, 2012.

Thank you.