

**LICENSING BOARD MEETING****-AGENDA- -****Monday, June 25, 2018****Room 314 – 7:00 p.m.****REQUIRED: Steven A. Beaugard, Chairman****Marcelino “Sonny” G. Almeida, Commissioner****Edmund F. Craig, Jr., Commissioner****Atty. Kreg Espinola, Asst. City Solicitor****Capt. Adelino Sousa, Police Department Liaison to the Lic. Bd.****Nick Nanopoulos, Director****a/o 06/20/18****❖ MOTION TO ACCEPT THE MEETING MINUTES OF April 23, 2018****❖ MOTION TO ACCEPT THE MEETING MINUTES OF May 21, 2018****APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION:****Change of Manager - Trans. # 00147-CL-0778 – Plot # 106--141**

**Society of Senhor Da Pedra, Inc., 81 Tinkham Street, is requesting the approval of Mario J. Almeida, who resides at 12 Dudley Street, New Bedford, MA., as their new manager.**

**Approved By ABCC – 05/24/18****Transfer of License - Trans. #00105-RS-0778– Plot # 47--219**

**New England Fisheries, LLC d/b/a Waterfront Grille, Kevin Santos, Manager of LLC, who is petitioning to transfer a Common Victualler (Restaurant) All Alcoholic Beverages License to Homer’s Wharf, LLC d/b/a Waterfront Grille. Upon approval, Charles F. Fellows and Jeffrey Pineault will be the Co-Managers, Co-Members, and Co- Interest Holders (16.6 % each) of the LLC; and Richard LaFrance, R. Christian, Sean LaFrance, and Eric LaFrance will all be Co-Members and Co-Interest Holders (16.6 % each). Charles F. Fellows is the **Proposed Manager of the Liquor License**. The premises will remain the same as follows: The premises consists of 8,900 sq. ft. on the 1st. Fl. of a 2-story building, which includes 3 dining rooms, bar area, reception area, office, kitchen and storage area, and 2 handicapped accessible restrooms with an additional Sushi dining room, with a bar area, and 2 restrooms; also included on the 1st.floor level is an exterior deck, approx. 624 sq. ft. for outside dining on the east side of the building & an outside patio area w/a seasonal bar, approx. 2,000 sq. ft. for dining on the south side of the building, which is enclosed with an entrance/exit into the main dining area with an exit into the parking lot. There is also an area approx. 1,900 sq. ft. on the 2nd fl., which includes a function/dining room with a bar and 2 restrooms, which also includes an upper outside deck area approx. 216 sq. ft., on the east side of the building; there is also an upper outside deck with a seasonal bar, approx. 806 sq. ft. for dining on the south side of the building, with a stairway to the lower outside deck. There are 3 entrances/exits into the premises, which includes 1 into the main dining area, and 1 into the Sushi dining room; and 1 into the outside patio area, which all have contiguous entrances/exits into the main dining area; and there are also 2 additional exits out through the kitchen and storage areas.**

**Premises is situated on the south side of Homer's Wharf, and numbered **36 Homer's Wharf**.**

**Final approval will require a ‘Change of Tenant’ from the Building Department, a new ‘Food Permit’ from the Health Department, and a copy of ‘Proof of Liquor Liability’.**

**Approved By ABCC – 06/07/18****1. Petition - Trans. # 00199-PK-0778– Plot # 93--24**

**Xavier Market, Inc., 290 North Front Street, is requesting the approval of John (Joao) de Gouveia, who resides at 434 Loftus Street, New Bedford, MA., as their new manager.**

**2. Petition - Trans. # 88893-PK-0778– Plot # 78-101**

**E-Z Convenience & Gas, LLC d/b/a Mutual Mart, 1800 Purchase Street, is requesting the approval of Roger DaSilva, who resides at 382 Hathaway Boulevard, New Bedford, MA., as their new manager.**

**3. Petition - Trans. # 00207-RS-0778– Plot # 52--289**

**No Problemo, LLC d/b/a No Problemo, Craig F. Paiva, Sole Manager of the LLC**, who is petitioning for a **Change of Description of the Common Victualler (Restaurant) Wine & Malt Only Beverages License to include an outdoor 'Sidewalk Café' seating area**. The 162 sq. ft. outdoor 'Sidewalk Café' area, which will be enclosed with a 2" Nautical Rope and Bollards, will be used for seated dining purposes only. The enclosed area, which will include three (3) tables with seating for three (3), which will allow for the seating of nine (9) patrons, will be located on the east side (front) of the building, which is contiguous to the licensed premises. The proposed outdoor area will only be accessible by way of an entrance/exit on the south side of the enclosed area in the front of the building, and will be accessible by 'Hostess Seating' only; the area will also be monitored by the hostess and waitstaff at all times. There will be one entrance/exit that leads to the front door of the establishment. The proposed hours of operation are **daily from 11:00 a.m. until Close of Business or Midnight, whichever is earlier, at which time all outdoor activity must cease. Also, yearly use of the license is allowed and no permanent structures are allowed**, in accordance, and as specified in the 'Revised' City of New Bedford Sidewalk Café Permit Ordinance. (Ord. Ch. 15, Article VI, sec. 15-100 (As Adopted 06/05/18)). The premises will remain numbered **805-813 Purchase Street**.  
**\*\*\*Outside Area Must Be Maintained As Advertised\*\*\***

*Application has been advertised; Abutters notification not required.*

**4. Petition - Trans. # 00189-RS-0778– Plot # 17-A-103**

**DeSouza Enterprises, LLC d/b/a Cove Surf & Turf, Jesse J. Souza, Co-Manager of the LLC**, who is petitioning for a **Change of Description of the Common Victualler (Restaurant) Wine & Malt Only Beverages License to include an Outdoor Patio Seating Area**. The 670 sq. ft. outdoor 'Patio' area, which will be enclosed with a 2" Nautical Rope and Bollards, and will be used for seated dining purposes only. The enclosed area, which will include three (3) tables with seating for four (4) and three (3) tables with seating for two (2), which will allow for the seating of eighteen (18) patrons; and will be located on the north side of the building, which is contiguous to the licensed premises. The proposed outdoor area will only be accessible by way of an entrance/exit on the south side of the enclosed area in the front of the building, and will be accessible by 'Hostess Seating' only; the area will also be monitored by the hostess and waitstaff at all times. There will be one entrance/exit that leads to the front door of the establishment. The proposed hours of operation are **daily from 11:00 a.m. until 9 p.m., at which time all outdoor activity must cease**. The applicant is also requesting that they be allowed to have live acoustic music within the patio area from **5 p.m. until 8 p.m. on Friday and Saturday nights only**. The premises will remain numbered **1500-1502 Cove Road**.

**\*\*\*Outside Area Must Be Maintained As Advertised\*\*\***

*Application has been advertised; Abutters notification not required.*

**5. Petition - Trans. # 00054-RS-0778– Plot # 93--92**

**Club Recordacoes de Portugal, Inc., Bento Rocha, New President**, who is petitioning for a **Change of Officers and Directors of the Club All Alcoholic Beverages license; as well as petitioning to Alter the Description of the Premises to include the basement level of the premises; an area that was previously licensed but was taken off the license in 2013**. The petitioner is requesting that the resignations of the current slate of Officers and Directors currently on file with the Alcoholic Beverages Control Commission be accepted, and be updated as follows, per the Commission's directive of 09/30/14 regarding "Club" licenses. Upon approval, Bento Rocha will be the President and a Co-Director, Abel M. DaSilva will be the Treasurer and a Co-Director, Doris M. Ganilho will be the Secretary and a Co-Director, and Mario Sousa will be the Asst. Clerk and Co-Director. Upon approval, the license will be amended to include the 4,089 sq. ft., basement area, which will include a dining hall and bar area; as well as a kitchen, a walk-in cooler, two restrooms, and a member's locker room. There will be two entrances/exits along with a stairway to the existing second floor area. **Ricardo Martins** will remain as **Manager**. Premises will remain the same at **249-253 Coggeshall Street**.

*Application has been advertised; Abutters notification not required.*

**6. APPLICATION, (No Representation Required)**

**Young Cape Verdean Athletic Association, Inc., John Maciel, Manager**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Father’s Day Cookout’ to be held within the ‘Club’ Parking Lot, located at **418 South Front Street**; and to be held on **Sunday, June 17, 2018, from 12:00 p.m. until 8:00 p.m.**

**7. APPLICATION, (No Representation Required)**

**Standard Marine Outfitters, James Rego, Manager**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a ‘Captain’s Meeting – Monster Shark Tournament’, to be held under a **Tented Area within the Standard Marine Outfitters Parking Lot**, located within **137 Pope’s Island**; and to be held on **Thursday, July 12, 2018, from 3:00 p.m. until 8:00 p.m.**

**8. APPLICATION, (No Representation Required)**

**N.B. Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Lighting the Way Launch & Reception”; to be held at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **July 12, 2018, from 5:00 p.m. until 7:00 p.m.**

**9. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Barons of the Sea Lecture & Reception”; to be held at the **N.B. Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **July 19, 2018, from 6:00 p.m. until 8:00 p.m.**

**10. APPLICATION, (No Representation Required)**

**N B. Art Museum/Artworks!, Margaret A. Albert, Representative**, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a ‘Fundraiser Garden Party’ event to be held at the **Haskell Gardens**, located at **787 Shawmut Avenue**; and to be held on **Friday, July 20, 2018, from 6:00 p.m. until 9:00 p.m.**

**11. APPLICATION, (No Representation Required)**

**The Monte Pio Luso Americano Corp., Helder Almeida, Treasurer**, requesting approval of an application for a **Special One-Day All Alcoholic Beverage License** for their ‘Annual Holy Ghost of Acores Feast’ to be held in the ‘Club Parking Lot’, located at **540 Orchard Street**, and to be held on **Friday, July 20, 2018 and Saturday, July 21, 2018, from 6:00 p.m. until 11:45 p.m. each night; and Sunday, July 22, 2018, from 12:00 p.m. until 10:30 p.m.**

*(A Copy of the Police Detail Contract is Required)*

**\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**12. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Panorama Local Arts & Reception”; to be held at the **Kilburn Mill**, located at **127 W. Rodney French Boulevard**; and to be held on **July 26, 2018, from 6:00 p.m. until 8:00 p.m.**

**13. APPLICATION, (No Representation Required)**

**Low Tide Yacht Club, Joseph Pacheco, Representative**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Steak Out/Silent Auction Fundraiser and Dinner, to be held **within the Low Tide Yacht Club**, as well as in the adjacent tent, located within **Fort Taber Park**; and to be held on **Saturday, July 28, 2018, from 6:00 p.m. until 10:00 p.m. (Final approval will require Liquor Liability with the City named as additionally insured)**

**\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**14. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a “Gala Fundraiser” to be held at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **July 28, 2018, from 5:00 p.m. until 10:00 p.m.**

**15. APPLICATION, (No Representation Required)**

**N.B. Women’s Center, Inc., Pamela Macleod-Lima, Applicant**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a “A Music on the Veranda Fundraiser”, to be held at the **N.B. Women’s Center** located at **405 County S.**; and to be held on **Sunday, August 8, 2018, from 5:00 p.m. until 8:00**

p.m.

**16. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Panorama Local Arts & Reception”; to be held at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **August 7, 2018, from 6:00 p.m. until 8:00 p.m.**

**17. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “AMHS Regatta Reception”; to be held at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **August 12, 2018, from 6:00 p.m. until 9:00 p.m.**

**18. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Panorama Local Arts & Reception”; to be held at the **Kilburn Mill**, located at **127 W. Rodney French Boulevard**; and to be held on **August 14, 2018, from 6:00 p.m. until 8:00 p.m.**

**19. APPLICATION, (No Representation Required)**

**Buttonwood Park Zoological Society, Inc., Michelle Gomes, Representative**, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverage License** for a ‘Feast in the Wild Food Tasting Fundraiser’, to be held within the **Buttonwood Park Zoo**; and to be held on **Thursday, August 16, 2018, from 6:00 p.m. until 9:00 p.m. (Liquor Liability with the City named as additionally on certificate is required/along w/Copy of the Police Detail Contract)**  
**NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**20. APPLICATION, (No Representation Required)**

**Low Tide Yacht Club, Edward Lobo, Representative**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a ‘Light Up the Bay Fundraiser’, to be held **within the Low Tide Yacht Club, as well as in the adjacent tent**, located within **Fort Taber Park**; and to be held on **Saturday, August 18, 2018, from 12:00 p.m. until 6:00 p.m. (Final approval will require Liquor Liability with the City named as additionally insured)**  
**\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**21. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a “Taste of the Panorama Event”; to be held at the **Kilburn Mill**, located at **127 W. Rodney French Boulevard**; and to be held on **August 23, 2018, from 6:00 p.m. until 9:00 p.m.**

**22. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Panorama Local Arts & Reception”; to be held at the **Kilburn Mill**, located at **127 W. Rodney French Boulevard**; and to be held on **August 28, 2018, from 6:00 p.m. until 8:00 p.m.**

**23. APPLICATION, (No Representation Required)**

**New Bedford Whaling Museum, Jocelyn Nunes, Representative**, who is requesting approval of an application for a **Special One-Day Wine & Malt Only Beverages License** for a “Panorama Conversation & Museum Studies Industry Night & Reception”, to be held at the **Kilburn Mill**, located at **127 W. Rodney French Boulevard**; and to be held on **September 21, 2018, from 6:00 p.m. until 8:00 p.m.**

- **Cape Verdean Day Parade - Special One-Day Licenses (2)**  
*Final approval will require Liquor Liability with the City named as additionally insured and/or a copy of their Police Detail Contract.*

**Cape Verdean Recognition Day Committee, Julio Barbosa, Representative,**

**“DID NOT APPLY THIS YEAR”****24. APPLICATION, (No Representation Required)**

**The Bisca Tournament Club, Jose Duarte, Manager**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Fundraiser/Cape Verdean Day Parade’, to be held in the **Club - Parking Lot**, located at **161 Acushnet Avenue**; and to be held on **Saturday, July 7, 2018, from 11:00 a.m. until 8:00 p.m.**

*(Final approval will require Liquor Liability with the City named as additionally insured and a copy of the Police Detail Contract)*  
**\*\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**25 APPLICATION, (No Representation Required)**

**Verdean Veteran’s Memorial Foundation, Kim Watkins, Manager**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘Fundraiser/Cape Verdean Day Parade’, to be held in the **Club - Parking Lot**, located at **561 Purchase Street**; and to be held on **Saturday, July 7, 2018, from 10:00 a.m. until 7:00 p.m.**

*(Final approval will require a copy of the Police Detail Contract)*

**\*\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

- **104<sup>th</sup> Annual Feast of the Blessed Sacrament - Special One-Day Licenses (1)**

**26. APPLICATION**

**Club Sports Madeirense, - S.S. Sacramento, Inc. Lawrence Jacques, Applicant** requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a ‘104<sup>th</sup> Feast of the Blessed Sacrament’ to be held on the **Madeira Feast Grounds (88 Tinkham Street)**, located on **Madeira Avenue**; and to be held **Thursday, August 2, 2018 from 6:00 p.m. until 11:45 p.m., Friday, August 3, 2018 from 12:00 p.m. until 11:45 p.m. and Saturday & Sunday, August 4<sup>th</sup> & 5<sup>th</sup>, 2018 from 12:00 p.m. until 11:45 p.m.**

**\*\*AWAITING 2018 SECURITY PLAN\*\***

**27. APPLICATION**

**Club Sports Madeirense - S.S. Sacramento, Inc. Lawrence Jacques, Applicant** requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a ‘104<sup>th</sup> Feast of the Blessed Sacrament’ to be held at the **Museum of Madeira Heritage**, located at **1 Funchal Place**; ; and to be held **Thursday, August 2, 2018 from 6:00 p.m. until 11:45 p.m., Friday, August 3, 2018 from 12:00 p.m. until 11:45 p.m. and Saturday & Sunday, August 4<sup>th</sup> & 5<sup>th</sup>, 2018 from 12:00 p.m. until 11:45 p.m.**

**\*\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**28. APPLICATION**

**Club Sports Madeirense, Inc., Richard Fernandes, President**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a ‘Fundraiser’ to be held in the ‘**Club – Parking Lot**’, located at **1626 Acushnet Avenue**; and to be held **Friday, August 3, 2018 from 6:00 p.m. until 11:45 p.m., and Saturday & Sunday, August 4<sup>th</sup> & 5<sup>th</sup>, 2018 from 12:00 p.m. until 11:45 p.m.**

**\*\*\* NOTE: Thursday night has been eliminated this year. \*\*\***

**\*\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**29. APPLICATION**

**Panthers Athletic and Social Club, Inc. Jeffrey Baker, Manager** who is requesting approval of an application for a **Special One Day All Alcoholic Beverage License** for a “Fundraiser” to be held in the **Club – Parking Lot**, located at **43 Madeira Avenue**; and to be held **Thursday, August 2, 2018, from 6:00 p.m. until 11:45 p.m., Friday, August 3, 2018 from 12:00 p.m. until 11:45 p.m. and Saturday & Sunday, August 4<sup>th</sup> & 5<sup>th</sup>, 2018 from 12:00 p.m. until 11:45 p.m.**

**\*\*\*NO CHANGES, AS PREVIOUSLY APPROVED\*\***

**30. APPLICATION,**

**Mohammed A. Dadouch**, who resides at **78 Lambert Street, Apt. #220, Cranston, R. I.**, is requesting approval of an application for a **Motor Vehicle Class II (Used Car Dealer) License** for **N. B. Auto Sales, Inc.**, with premises situated at **297 Belleville Avenue.**

**Note:** Site was previously licensed to Clear Auto Sales, Inc. and was previously for the display of **Twelve (12) cars for display**

by the Office of Inspectional Services. (New Owner Application)

Final approval of the Motor Vehicle Class II License will require a 'Change of Tenant' from the **Office of Inspectional Services**, a "**Notarized**" Letter stating where warranty repairs will be performed, and a \$25,000.00 Bond.

**\*\*\*Special Permit Is Pending\*\*\***

### **31. APPLICATION,**

**S. E. MASS Veterans Housing Program, Inc. d/b/a Veterans Transition House, James A. Reid, Executive Director**, who is requesting a license to keep a **Lodging House** under **Massachusetts General Laws, Chapter 140**; said license to be issued to the building formerly known as the "St. John's Rectory", which is located on the east side of County Street, and is numbered **344 County Street**.

Premises consists of a three-story brick building to include on the first floor, three offices, a common room, a kitchen and a half-bath; second floor, two offices, two five-bed rooms, one three-bed room, two full baths and two closets; and on the third floor, one six-bed room, four three-bed rooms, one two-bed room, one full bath and one storage room. **There will be a total of nine (9) rooms to let, with beds for thirty-three (33) lodgers; which will have twenty (20) lodgers above the second floor.**

Application is on file in the office of the Licensing Board, Room 206, Municipal Building.

*Application has been advertised; Abutters have been notified*

### **32. Hearing: United Fishermen Club, Inc.**

**Mr. Mark Custodio, Manager**

**639 Orchard Street**

Your presence and that of **Manuel Gil, President** is requested at a hearing to determine whether you have violated certain provisions of Massachusetts General Laws, and Licensing Board Rules and Regulations. Based on the testimony presented at this hearing or in the event you fail to comply with this notice, the Licensing Board may take action to suspend your license until this matter is resolved.

#### **Issue Summary**

On January 22, 2018, you appeared before this Board to determine the status of your annual liquor license for the year 2018, as well as to discuss the need to submit paperwork for a change of officers and directors, and possibly manager. You informed the Board that you would be staying on as manager and that your organization would be holding elections sometime in early January, at which time new officers would be elected; and that Atty. Christopher Markey would be filing an application reflecting the change of officers & directors. (And manager?)

Based on that information, the Board unanimously voted to take no further action regarding this matter with the stipulation that the required application be filed in a timely manner.

Since that meeting, this office has yet to receive an application for those required changes. Based on your failure to respond in a timely manner, it has necessitated that you be called in for a hearing regarding this matter.

Please be advised that you have until June 11, 2018 to submit an application for those changes previously referenced. **Your failure to submit this application will require you to attend the June 26, 2018 hearing.**

**\*\*Please be advised that a DOR Certificate of Good Standing is required with this application.\*\***

Please note that you are in violation of the following regulations that will require the board to take action.

#### **MGL Chapter 138, sections 12, 23-**

An application must be filed to obtain approval from the local licensing authorities and the ABCC for a change of officers, directors, and manager.

#### **Licensing Board Regulations No. 6-**

Each corporate licensee shall appoint a manager who shall have full authority and control of the premises and who shall be satisfactory to the Board and who shall be a United States citizen. Immediate notice of the appointment must be made to the Board in writing.

**33. Hearing: Al's Dog House, Inc.**

**Mr. Robert E. Benoit, President**  
**335 Coggeshall Street**

Your presence is requested at a hearing to determine whether you have violated certain provisions of Massachusetts General Laws and Licensing Board Rules and Regulations. Based on the testimony presented at this hearing or in the event you fail to comply with this notice, the Licensing Board may take action to suspend your license until this matter is resolved.

**Issue Summary**

Since that untimely death of a family member (Gail Pedro), who served as a Director and Stockholder (100 shares), this office has made numerous attempts to get a very important matter resolved. Under M. G. L. you are required to submit an application for a change of Officers, Directors, Stockholders, and a Transfer of Stock.

Your failure to respond to our requests through your Attorney as well as the attempts by this office to get this resolved with you, it has necessitated that you be called in for a hearing regarding this matter.

Please be advised that you have until June 11, 2018 to submit an application for those changes previously referenced. **Your failure to submit this application will require you to attend the June 25, 2018 hearing.**

Please note that you are in violation of the following regulations that will require the board to take action.

**MGL Chapter 138, sections 12, 23-**

An application must be filed to obtain approval from the local licensing authorities and the ABCC for a change of officers, directors, stockholders, and manager.

- **REVIEW NEW OUTDOOR CAFÉ ORDINANCE (VOTE NEEDED)**

**4 Main Points:**

**1. Every outdoor café shall be temporary in nature and there will be no permanent fixtures in the public right of way.**

**2. Lease and Permit shall be in effect until Dec. 31st yearly'**

**3. Cafes may be allowed to operate until close of business or midnight: whichever is earlier or regulated by the City of New Bedford Licensing Board and the ABCC, as applicable.**

**4. Licensing Board and ABCC shall have final regulatory authority over outdoor cafes that serve alcohol. (SEE BELOW)**

- **CORRESPONDENCE**

**AN ORDINANCE****Amending Chapter 15, Article VI – PLANNING BOARD LICENSES AND PERMITS**

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

**SECTION 1.**

Chapter 15, Article VI shall be struck in its entirety and the following shall be inserted in place thereof:

Chapter 15, Article VI – Department of Inspectional Services Licenses and Permits.

**Sec. 15-100. - Outdoor Café permit.**

- (1) **Jurisdiction.** The Department of Inspectional Services shall have the jurisdiction vested pursuant to Section 2-210 of the City of New Bedford Code to inspect, issue permits, and enforce the use of City public right-of-way property for the use of outdoor dining, and to regulate the placement of temporary tables and chairs and appurtenant street furniture for use as outdoor cafés on public ways by licensed restaurants. The City

of New Bedford Licensing Board and the Massachusetts Alcoholic Beverages Control Commission (ABCC) shall have regulatory authority over outdoor cafes that serve alcohol.

- (2) Permit Necessary. No person shall construct, maintain, use or operate an outdoor cafe without first obtaining a permit as provided in this Section. The outdoor café permit application consists of submitting a completed application form, payment of the annual licensing fee, proof of insurance and any and all information contained in the application. The Commissioner of Inspectional Services will review the application for completeness and compliance within this article. If the application is complete to the satisfaction of the Department of Inspectional Services, the Commissioner will then secure administrative approval from the Department of Public Infrastructure, Department of Planning, Housing and Community Development, Health Department, Police Department and Fire Department (hereinafter referred to as “Interested City Departments”), within forty-five (45) business days of the submittal of the completed application and will issue a determination within sixty (60) business days of the submittal of the completed application. In the event the application is incomplete or deficient, the Commissioner will promptly notify the applicant of any deficiencies.
- (3) For those serving alcohol. Applicants that do/will serve alcoholic beverages must complete the permit application process and, in addition, seek and secure approval from the City of New Bedford Licensing Board and the Massachusetts Alcoholic Beverages Control Commission (ABCC) .
- (4) For those within a Historic District. The New Bedford Historical Commission shall have aesthetic review through its Certificate of Appropriateness process for café enclosures, tables, chairs signage, and accessories in areas regulated by Massachusetts General Law Chapter 40C districts.

It shall be the applicant's responsibility to provide written proof that it has obtained a certificate of appropriateness and all requisite permits, and/or approvals from relevant agencies and boards to the Department of Inspectional Services, prior to the issuance of a permit.

- (5) Responsibility of property owner. Every owner of property being used for outdoor dining, within a City public right-of-way, shall be severally and jointly responsible for maintaining his or her real property, in compliance with this Ordinance.
- (6) Conditions and Standards for a license to operate an outdoor café on a City public right-of-way:
  - (a) Every outdoor café on a City public right-of-way shall be temporary in nature and designed so that the entire café structure and its appurtenances include, but not limited to, chairs, tables, fencing, bollards and planters can be easily removed during periods of non-use. There will be no permanent fixtures in the public right-of-way. Furthermore, the City reserves the right to require the user to remove the outdoor café if and when it determines it to be necessary, even during the term of the license. The license is available only to a holder of a common Victualler license.
  - (b) Location of outdoor café:
    - (i) The outdoor café must be contiguous to a licensed restaurant facility located on a street level. The outdoor café area may not extend beyond the frontage and/or side faces of the licensed restaurant.
    - (ii) There must be at least four (4) feet of free unimpeded pedestrian passageway on the sidewalk. However, the City reserves the right to require that more than four (4) feet of outdoor passageway be made available during certain hours of the day, or days of the week in order to accommodate pedestrian traffic.
    - (iii) When located on private property, outdoor cafes must be adjacent to the premises to which the outdoor cafe is accessory but may be located in front of, on the side of and/or to the rear of the



premises. Such cafes shall be required to comply with all applicable Federal, State and local laws and regulations, including the Americans with Disabilities Act

(c) Limitations on Use:

- (i) Service of alcohol. If alcohol is served at an outdoor café, necessary permits and/or licenses from the Licensing Board must be obtained. In an area where alcohol is served, the seating area must be separated from the pedestrian walk space with a system of enclosure, such as decorative fencing, planters or removable bollards.
- (ii) No portion of an outdoor café may be used for any purpose other than seated dining or circulation. Outdoor cafés must serve food. No one shall be seated in an outdoor café for the sole purpose of drinking alcohol, nor can the outdoor café be used as a place for patrons to drink while standing.
- (iii) The outdoor café area cannot be used for smoking.
- (iv) All outdoor café areas shall be maintained in good order and no refuse and no refuse containers are allowed within the area.
- (v) All outdoor activity must cease at the close of business or midnight; whichever is earlier or otherwise regulated by the City of New Bedford Licensing Board and the Massachusetts Alcoholic Beverages Control Commission (ABCC), as applicable.
- (vi) All outdoor cafés must comply with all applicable Federal, State and local laws and regulations, including the Americans with Disabilities Act. A minimum unobstructed passageway from end of use (parallel to street) of not less than four (4) feet in width at all points will be required.
- (vii) The applicant who applies for an outdoor café permit shall bear all financial responsibility for any and all improvements necessary to the public space, both within and surrounding the outdoor café area. At no time and for no reason shall public funds be expended for improvements designed to benefit the licensee.
- (viii) The license shall address liability, liability insurance, maintenance and trash removal concerns, and set forth the rental cost for the licensing of the public space.
- (ix) Commercial general liability insurance must be procured and maintained on an "occurrence basis" in such amounts as the City Solicitor's office shall from time to time determine to be required. This coverage shall include an endorsement naming the City, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members as an additional insured. This coverage must be primary, and any other insurance maintained by the additional insured shall be considered to be excess and non-contributing with this insurance, and shall include an endorsement providing for a thirty-day advance written notice of cancellation or non-renewal to send to the City Solicitor and the Department of Inspectional Services. The City on a yearly basis shall determine the fee for the license. The certificate of insurance will be provided to the Department of Inspectional Services prior to the issuance of license.
- (x) Vaults. The Department of Public Infrastructure shall determine whether there is a vault under the outdoor area proposed to be used for the outdoor café. In the event that there is an underground vault, the applicant shall not obtain a license for the outdoor café until such time as the applicant has obtained a certification from a licensed structural engineer that the area over the vault is structurally strong enough to support the use as a café.

- (xi) Length of license agreement. The license agreement for the use of the public space shall be an annual license that shall expire December 31<sup>st</sup> of each year.
- (xii) Fee for permitting public space. The Department of Inspectional Services is authorized to promulgate rules and regulations governing the use of outdoor cafés spaces including the license fee for use of the public space. The fee is subject to change on a periodic basis.
- (xiii) Renewals. An application for renewal of an outdoor café license shall be made to the Department of Inspectional Services. For license applications made by establishments not serving alcohol and not requiring the approval of the Licensing Board, provided no complaints have been made to the Department of Inspectional Services, renewal will be allowed as an administrative process requiring the sign-off of each Interested City Department per this section. For license applications made by establishments serving alcohol, Licensing Board approval is required each year prior to the initiation of the administrative process requiring the sign off of each Interested City Department.
- (xiv) Permits issued for outdoor cafés by the Department of Inspectional Services will require that the user adhere to all applicable rules, regulations and laws governing the use of public space, and the operation of the café. Licenses will be subject to renewal on a yearly basis. The City reserves the right to revoke the license for any reason and at any time.
- (xv) By accepting a license issued pursuant to this Section, the licensee shall be solely responsible for any and all costs of whatever kind and nature relating to the outdoor café and for maintaining the Outdoor café. The City shall not be responsible or liable for any such costs or be requested to reimburse the licensee for such costs in any respect or to any extent.
- (xvi) Every table or service area shall be suitably monitored by an employee of the business or organization operating the outdoor café in order to keep the area free from litter or food being left outside for extended periods of time.
- (xvii) No advertisements (exclusive of menus intended to be read on the premises of the café and other signage as permitted under Chapter 9 Comprehensive Zoning) and no outdoor entertainment unless allowed as a result of a separate entertainment license shall be permitted within the Outdoor café.

(7) Violations; enforcement.

- (a) The provisions of this Section shall be enforced by the Department of Inspectional Services.
- (b) Whoever violates this Ordinance shall receive a written warning to cure the violation within seven (7) days. In the event a violation of this Section is not cured after a written warning to take corrective action, the Department of Inspectional Services may seek remedies under the Ordinance, including instituting a civil action to obtain an injunction, criminal enforcement up to Fifty (\$50.00) Dollars per violation per day, and/or non-criminal citations, up to Fifty (\$50.00) Dollars per violation per day pursuant to G.L. c. 40, § 21D and G.L. c. 40U.
- (c) The Department of Inspectional Services may omit, revoke or suspend a license issued under §15-100 upon a second or subsequent infraction under this Section.
- (d) The City of New Bedford Licensing Board and the Massachusetts Alcoholic Beverages Control Commission (ABCC) shall govern and enforce all regulations and requirements for outdoor cafes that serve alcohol.

**SECTION 2.**

This Ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.

Referred to the Committee on Ordinances:.

Passed, to a Second Reading:

Passed, to be Ordained – Yeas 11, Nays 0.

Presented to the Mayor May 29, 2018:

Approved June 05, 2018:

**IN CITY COUNCIL**, December 14, 2017

Dennis W. Farias, City Clerk

**IN CITY COUNCIL**, April 26, 2018

Dennis W. Farias, City Clerk

**IN CITY COUNCIL**, May 24, 2018

Dennis W. Farias, City Clerk

Dennis W. Farias, City Clerk

Jonathan F. Mitchell, Mayor

- ❖ Motion to Accept the ‘Revised’ Outdoor Café Permitting Ordinance and ‘Amend ‘All Currently Licensed Outdoor Café Licenses to Reflect the New Ordinance.

### **SIDEWALK SEATING LICENSEES”**

**(10)**

‘BRICK’ (Daniels Goggin, Inc. d/b/a)	163 Union Street	W&M
Cafe Europa (European Cafe, Inc. d/b/a)	1248 & 1256 Acushnet Ave.	AA
‘Cork’ (Matterhorn Re, LLC d/b/a)	90 Front Street	AA
Cultivator (Cultivator Shoals, Inc. d/b/a)	35 Union Street	AA
Greasy Luck Brewpub (Vault, LLC d/b/a)	791-797 Purchase Street	AA
Moby Dick Brewing Company, Inc.	52 Union Street	AA
Pour Farm Tavern & Grille (Ribeiro Bros., LLC. d/b/a)	780 Purchase Street	AA
Sam Potter’s Roast Beef (The White Rose, LLC d/b/a)	37 Union Street	W&M
Slainte Irish Pub & Grille (Cork County, Inc. d/b/a)	34-44 Union Street	AA
Toussaint Restaurant (Agua de Pau Restaurant, Inc. d/b/a)	418-420 Rivet Street	AA

- **COMPLAINTS RECEIVED:**

--NONE--

- **DOWNTOWN DISTURBANCES**

1. 06/02/18 – 1:33 a.m.- Slainte Irish Pub – Intoxicated Male & Female/Disturbance
2. 06/03/18 – 8:36 p.m. - ‘Cork’ – Disturbance/Intoxicated Male PCd
3. 06/08/18 – 2:00 a.m. - The Garden – Group creating a disturbance.
4. 06/09/18 – 2:00 a.m. – Slainte Irish Pub – Disturbance Suppressed

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS/ COMPLAINTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Slainte Irish Pub	19-1553-AR	06/02/18	Intoxicated Patron PC’ d Leaving Area/Causing a Disturbance

(Approximate Time of Violation 2:20 a.m.)

- **Upcoming Summer Events & Festivals** (*For Review Only*)
  - Cape Verdean Day Parade – July 7<sup>th</sup> - **License Applied For – “No Changes**
  - New Bedford Folk Festival – July 7<sup>th</sup> & 8<sup>th</sup> - **License Applied For – “No Changes**
  - New Bedford Food Truck Festival – July 21<sup>st</sup> – **License Applied For – “No Changes”**
  - Summer Concert Series – July thru August. **– Licenses Applied For – “No Changes”**
  - Feast of the Blessed Sacrament (Madeira Feast) – Aug. 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, & 5<sup>th</sup> - **Licenses Applied For – “No Changes”**
  - 13<sup>th</sup> Annual N. B. Seaport Chowder Festival – Sept. 24<sup>th</sup>
  
- **NEXT TWO MEETING DATES:** July 23<sup>rd</sup> & August 27<sup>th</sup> both on Mondays, in Room 314
  
- **MEETING ADJOURNED:**

"In accordance with the Americans with Disabilities Act (ADA), if any accommodations are needed, please contact the Office of the Licensing Board at **508-979-1457**. Requests should be made as soon as possible but at least **48 hours** prior to the scheduled meeting."

The matters listed are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may, in fact, be discussed. Other items not listed may be brought up for discussion to the extent permitted by law.

Massachusetts General Laws, chapter 30A, Section 20(f) requires any person making a video or audio recording of the meeting to notify the Chair at the start of the meeting.