

City of Salem, Massachusetts



**“Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and
City Ordinance Sections 2-2028 through 2-2033.”**

The City Council Committee on Community & Economic Development co-posted with the Committee of the Whole

will met in the Council Chamber on May 20th, 2024 at 6:00 PM

for the purpose of discussing three (3) Public Guide Ordinance Amendments.. Notice of this meeting was posted on
May 13, 2024 at 4:00pm.

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: From Committee: C Jerzylo

From COW, also in Attendance: C Prosniewski, C Watson Felt, C Merkl, C Cohen, C Hapworth, C Morsillo

From the city in attendance; Mayor Pangallo, City Solicitor Beth Renard; Jeremy Fiske, City of Salem Special Events Manager;
Sargent Ball from Salem PD

Meeting Mintes

C Stott opened the meeting at 6:03 PM; Introduced those from the city in attendance; noted the amendments in front of the
body:

- An ordinance amending an ordinance relative to Public Guides Ch. 40 Sec. 27 – Application Requirements, Sec. 28 –
Contents; badges, Sec. 30 – Prohibitions, Sec. 31 – Revocation. -
- An ordinance amending an ordinance relative to Ch. 14 Sec. 38 - Fee Schedule for Public Guides.
- An ordinance amending an ordinance relative to Ch. 1 Sec. 10 non-criminal disposition of ordinance violations,
penalties for violations of section 40-26, Public guide licenses.

C Stott invited the Mayor to address the Committee.

Mayor Pangallo noted he could not stay for the duration of the meeting but provided a high-level background of the
amendments. These were driven from community feedback around Haunted Happenings including feedback that enforcement
of tour groups needs to be improved. The FY 25 budget does have an additional enforcement personal line, which will be offset
by the increase in licensed guides fees. In 2006 (when the ord was first adopted) there were 28 licensed guides – we are now
up to 176 so far in 2023, yet the fees have never increased. The amount of work and the enforcement needed should not be
the burden of the taxpayers. The increase of fees will cover the work and supplies needed to administer and enforce this
ordinance.

The Mayor noted a goal of his administration is that fees (not just those under discussion this evening) are part of the annual
budget review process so we are not in this position where 18 years later a dramatic increase is needed.

Amendments are also proposing to codify the 40 limit to tour group size, removing the assessment test, and groups cannot
stop within 25 feet of each other.

C Hapworth asked the Mayor about the 25 feet rule and how that would be enforced, without leading to disputes.

Mayor Pangallo noted that 40 people stopping on sidewalks is a challenge, let alone 80. Current code states a sidewalk cannot be obstructed, so this is a way to explain that in a tour group situation. The enforcer will be requesting groups to move apart if this is witnessed.

C Hapworth asked how easy this will be to enforce in busy spots.

Mayor Pangallo noted the ability to provide details to the tour guides on how much space (25 feet) is reasonable.

C Merkl reiterated the 25 foot rule seems very difficult to enforce. She sees many tour groups and the judgment the guides use. Addressing the distance might be a good idea to work out in the training as opposed to putting it in prohibitions; it might make the guides more nervous to follow this 25-foot rule versus what is safest for their current situation. Flexibility is needed.

C Hapworth noted we already have an ordinance that sidewalks cannot be obstructed. That should be enforced.

C Stott asked is this 25 foot rule is used elsewhere (A: no) C Stott inquired about the training requirement as written. Does it need to be re-taken every year? (A: Not as written)

C Prosniewski asked about amplification and why we are not talking about that. Private residents are hearing amplification outside their windows, outside of the downtown area.

The Mayor noted that this round of edits does not address the regulation of amplification but this can be addressed at a future discussion. There are many advancements in technology.

C Varela asked if in Ch 22 related to noise, is there language about decibel level and noise in general? B Renard noted yes, there are regulations downtown.

C Merkl noted that focusing on areas that are not downtown that might need restrictions is a good idea. C Merkl noted she thinks this should be thought thru though as some voice enhancement is more pleasant to listen to than guides yelling. Outdoor tours have difficulty with personal listening devices, per her conversations with guides.

C Cohen noted that his main concern are his constituents that are affected by tourism on their residential street, specifically Ocean Ave. The street was closed to traffic last year, yet cars still drove down. People knock on doors, etc.

C Hapworth noted that tour guides are valuable, and we need to figure out how to scale and grow. This requires enforcement and has a cost.

C Stott stated the amendments will be walked through – B Renard ran through all the changes (See back-up documentation)

B Renard noted that warnings are issued first – There is a line item in the budget for additional enforcement personnel.

C Stott walked through the amendments one by one and asked for feedback from the committee.

Section 1. Chapter 40, Section 40-27 Application requirements; exemptions is hereby amended by deleting this section in its entirety and replacing it with the following:

“Sec. 40-27. Application requirements; exemption.

(a) Each applicant who applies for a public guide license shall be at least 18 years of age and submit to and clear a criminal background investigation through the Massachusetts Criminal Offender Record Information (CORI) process.

(b) Any person while acting as teacher employed by a public or private school may function as a public guide for students enrolled in such school without first applying for a public guide license.

(c) For licenses effective January 1, 2025 and thereafter, applicants may apply for one of three license types, tours of up to 10 participants, tours of up to 29 participants or a tours with a maximum of 40 participants, not including the guide, for a fee set forth in Sec.14-38 of this Code.

(d) Public guides not utilizing any form of amplification after January , 2025 shall be eligible for a fee discount as provided in section 14-38 of this Code.”

No Comments from the committee on the above.

Section 2. Chapter 40, Section 40-28. Contents; badge of licensee is hereby amended by adding the following new paragraph at the end of this section:

“Effective January 1, 2025, each public guide shall also display a badge, placard or decal issued by the city indicating the permitted tour size.”

Comments from the committee on the above:

C Morsillo asked that the badges be color-coded so it is easy to tell what the size is. B Renard stated that will be done. C Stott also requested they be laminated. C Watson Felt requested the colors be ADA.

Section 3. Chapter 40, Sec. 40-30. Prohibitions is hereby amended by adding the following new prohibitions:
“(11) Stop a tour to point out or impart information if within twenty-five feet of another stopped tour;
(12) Conduct a tour with more than forty participants; or
(13) Conduct a tour without having obtained a one-time safety and compliance briefing offered by the Salem Police Department.”

Comments from the committee:

C Morsillo re #13; A pathway is needed (i.e. get the training completed before the license is issued)

C Morsillo asked if #7 was redundant of #12? B Renard noted that #7 remains in the event that the Chief needs to make any safety calls. C Morsillo requested that #12 should be more specific - not just the limit of 40, but tours should be limited to what the licensure is licensed for. (ie - not to exceed permitted group size)

C Morsillo asked about # 3 (“*Conduct a tour that blocks the entrance of a business, obstructs pedestrian access on a sidewalk, or leads a tour across or into a street open to vehicular traffic on a route other than a designated crosswalk*”) requests that language is added to ensure a crosswalk light is used if available

C Morsillo asked about the use of a sales booth, B Renard confirmed this can only be used on public property if you have a store front.

C Hapworth asked if the Committee would strike #11.

C Varela moved to Strike in its entirety #11 (“(11) Stop a tour to point out or impart information if within twenty-five feet of another stopped tour;”) in Sec 40-30 “Prohibitions”; 2nd by C Davis; 4/0 hand vote Motion Passed

C Varela moved to add a new Prohibition # 11 stating “that guides must not conduct a tour without their badge visible” It was discussed that this is already covered under section 40-28. C Varela removed his motion

C Watson Felt asked about the one-time safety and compliance briefing. An annual re-testing could be very difficult for managing this process. What is the best frequency for this to cover all that is needed.

C Stott noted the projected expenses only included two trainings. B Renard stated they are hoping to create a recorded training that can be completed ad-hoc.

B Renard noted the training program is still being finalized. C Stott asked if the expectation is that an annual renewal training is provided (like liquor licenses and how changes are notified). C Stott if the CORI is completed annually (A: Yes)

C Varela moved to edit #13 (13) Conduct a tour without having obtained a ~~one-time~~ **annual** safety and compliance briefing offered by the Salem Police Department.” C Stott seconded that for discussion. Offered that maybe this be placed in the application requirement section. C Watson Felt also noted the start date should confirm that the testing is not required until Jan 2025. C Stott asked that maybe this be added as an “E” in section. B Renard stated she can work on some new language

C Harvey asked why this training has to be annually. If it has to be renewed every year and not much changes, why do they have to re-do it? Maybe every other year or three years is better.

C Stott asked for what is planned for the training to get a better understanding. B Rennard noted the ordinance will be reviewed, what to do if there is an accident, best safety for the customer.

C Cohen noted the training will change as needed – does not think that the training is a huge ask.

C Watson Felt noted there are tour guides that are not members of the community, and this is a low barrier of engagement and making this annual is fair.

C Varela withdrew his motion – noted B Rennard will draft language for this

C Merkl noted her support of annual training. Always helpful.

C Davis moved to amend # 3 in Sec 40-30 “Prohibitions” to include “and that a crosswalk light should be used if available”; 2nd by C Stott; 4/0 hand vote Motion Passed

C Morsillo asked about #10 (33 Proctor Street restrictions) – does that include the sidewalks and street? Per B Renard; no, public sidewalk is not included.

C Watson felt pointed out #8 – This is where the specific streets prohibiting amplification is.

C Cohen requested Ocean Ave be added

C Varela moved to amend #8 in Sec 40-30 “Prohibitions” by adding at the end of the sentence “and Ocean Ave from Summit to Shore”; 2nd by C Harvey;

C Prosnewiski asked that this not be all of Ocean Ave, but are there other streets that can be added? Discussion on the history of the streets included and the implications of adding additional streets – Context provided by B Rennard. C Watson Felt noted this is ALL amplification, no block parties, etc. We cannot call out one use of amplification for one type of speech and not others. C Cohen requested that Ocean Ave be added, this is a special circumstance and a very particular problem that needs to be addressed. C Watson Felt noted that a conversation around time limitations is also welcomed.

On C Varelas motion to add Ocean Ave to #8; 4/0 hand vote motion passed.

Section 4. Amend section 40-31 Revocation; penalty by adding a new sentence at the end of this section:
“Any public guide receiving three notices of violation during a licensed period shall be immediately referred to the City Council for a revocation of license hearing. Unless otherwise voted by the City Council, license revocations shall be effective for the current licensed period and one additional licensed period.

Comments from the committee:

C Cohen asked for clarification on the hearing – is this similar to taxi license hearings (in executive session if requested?) B Renard: Yes.

C Watson Felt asked if guides could continue to give tours even after the third violation, but prior to appearing before the council? B Rennard: Yes. Unless there is a safety issue.

Section 1. Chapter 1-10 Non-criminal Disposition of Ordinance Violations is hereby amended by deleting penalties for violations of section 40-26, Public guide licenses in its entirety and replacing it with the following:
“ [Section 40-26](#), Public guide licenses.

Penalty:

First offense\$100.00

Second offense \$200.00

Third and subsequent \$300.00

Subsequent offense may result in license suspension or revocation per Sec. 40-31

Enforcing persons: Police, licensing inspector, and fire, health and building inspectors.”

No Comments from the committee on the above.

Section 1. Chapter 14, Section 14-38 Fee Schedule is hereby amended by deleting the following:

“Guide public 10.00” and

“Public guide examination fee:

One time examination passing30.00

First re-examination0.00

Second and subsequent re-examinations30.00”

And inserting the following new fees:

“Public guide fee, annual
2024
\$10.00 new applicant; \$20 late renewal
2025 and thereafter
Permitted group size 10 or less: 150
Permitted group size 11-29: 250
Permitted group size 30-40: 350
Wireless communication system discount: 50”

Discussion: B Renard broke down her revenue and expenses estimated

C Merkl noted she is not comfortable with the large increase all at once

C Watson Felt stated that the increase while large in comparison to current fee, she struggles with the resistance to the increase.

C Cohen noted his concern is the confusion with employee classification. C Cohen feels the fees should be assumed by the employer. He is wondering if those that have guides that work for them, do they assume the cost? He is concerned about this.

C Varela noted we need to be mindful of the cost of enforcement.

C Harvey agrees with C Merkl and that the increase should be incremental. He asked if the offense is for the guide, or towards the company? Sometimes the guide is forced to break the rules by their company

C Watson Felt is not sure how to regulate / mandate C Cohens comments re: employment status

C Harvey asked if there was any consideration towards in state vs out of state tour guides. B Rennard will investigate that – there may be some legal implications.

C Hapworth stated the biggest threat to this industry is not the rise in fees, but the uncontrolled growth of October. We need to be able to sustain our infrastructure and have controlled growth, or the industry will not be around.

C Cohen stated that his main concern is that workers that should be considered are. This is not just about following the rules, but treating your workers fairly.

Public Comment

Jeff Lilley, 265 Lafayette St; Appreciates the conversations that have occurred since this was introduced; Enforcement is not currently happening, so hard to understand that it will just start to happen. For the Safety class, it would be great if zoom / online was an option; Staying to the 40 person limit can be difficult during the busy season as often the ticketing apps assign purchasers to a time that was not available; a “ticket tax” is not legal in Massachusetts and should not be suggested.

Beth Crowley, 100 Federal Street, Owns Witch City Walking Tours which has 35 employees; Insurance and other fees are very burdensome; how will the tier structure affect her business year-round – she keeps tours running in January, but only a handful or participants; yet the max in October. Will be difficult to employ as many guides year-round.

David Prezenky – Is the 3- strike rule for the guides, or for the owner of the company they are working for? Often they are just doing as they are told. School tour guides should also follow these rules and be licensed. Everyone should pay the fees and follow the rules, take the training, including the employees of the Witch House

Giovanni Alabiso, Owns Salem Historical Tours; Also employs many in two (about 20 employees); thinks an annual training is okay; The fee increase is unreasonable

Tom Kusterer (Via Zoom) - Suggested that #11 perhaps instead of removing entirely, add language to prohibit co-mingling of groups. Make sure enforcement is equitable

Motion & Recap

C Stott recapped the motions made and the requested edits for the city solicitor:

- C Varela moved to Strike in its entirety #11 in Sec 40-30 "Prohibitions"; 2nd by C Davis; 4/0 hand vote Motion Passed
- C Davis moved to amend # 3 in Sec 40-30 "Prohibitions" to include "and that a pedestrian crosswalk light should be used if available"; 2nd by C Stott; 4/0 hand vote Motion Passed
- C Varela moved to amend #8 in Sec 40-30 "Prohibitions" by adding at the end of the sentence "and Ocean Ave from Summit to Shore"; 2nd by C Harvey; 4/0 hand vote Motion Passed

C Stott noted the City Solicitor is going to follow-up with language around the training (Amend to make annual and add parameters as to *when* the training must take place related to the providing the actual license badge to the applicant.

C Harvey also requested the City Solicitor provide an opinion on whether or not we can charge different fees for tour guides that are not local, or out of state.

C Varela moved that the matter remain in committee; 2nd by C Davis. Under Discussion:

C Stott asked the city solicitor when the new language would be available for the council to review? B Rennard stated Wednesday.

C Varela withdrew his motion and made a new motion that this matter be referred to council for positive recommendation for first passage, as amended; 2nd by C Davis. Voted 4/0, matter passed

on the motion of C. Varela the meeting adjourned at 8:02 P.M.



(Chairperson)