



CITY OF SOMERVILLE, MASSACHUSETTS

CITY CLERK'S OFFICE

KATJANA BALLANTYNE

MAYOR

KIMBERLY M. WELLS

CITY CLERK

MEMORANDUM

To: City Council Committee on Legislative Matters
From: Kimberly M. Wells, City Clerk
Date: October 5, 2023
Re: Item 23-0076: Amending Chapter 8, Article I of the Code of Ordinances by adding a new section regarding Closed Captioning Accessibility

I am aware that item 23-0076: Amending Chapter 8, Article I of the Code of Ordinances by adding a new section regarding Closed Captioning Accessibility, was recommended for approval at the Legislative Matters Committee meeting of October 3, 2023. The current text of the ordinance raises some operational concerns, primarily related to enforcement, that I recommend be addressed before ordainment.

The ordinance as written is applicable to all public facilities, but the Licensing Commission and the City Council's Committee on Licenses and Permits are the only bodies noted as having any enforcement authority. Importantly, there are businesses within the city which are licensed by the Board of Health, including tattoo parlors and take-out restaurants. Excluding the Board of Health as a licensing authority will lead to an uneven application of the law. Further, the ordinance as written would exclude any licenses issued by other licensing authorities that we may be currently unaware of, or that may be created in the future, and broadening the scope of the language around licensing bodies will allow for continued and universal enforcement.

Next, the ordinance as written establishes different standards for action on violations from those currently used by the city's licensing authorities. This may result in confusion and interfere with uniform enforcement by requiring multiple violations of this particular ordinance before action can be taken. Typically, violations of any ordinance, or conditions of a license, could be viewed as part of a pattern which may result in the licensing authority taking action.



Additionally, the ordinance as written grants investigatory authority to the Commission for Persons with Disabilities, which overlaps with existing investigatory processes and does not provide a clear and functional mechanism for reporting violations to the appropriate licensing authority. This is likely to result in inefficiencies, including significant delays in the review of complaints and longer meetings for the relevant bodies. As presently written, the only stated mechanism by which the Commission for Persons with Disabilities reports violations to a licensing authority is by testifying at a meeting of one of those bodies. Further, establishing the Commission for Persons with Disabilities as the primary investigatory authority will require a restructuring of existing processes which could instead be adapted to include investigation and enforcement of the new requirements. The ordinance should rely on existing processes and staff, while providing for members of the Commission for Persons with Disabilities to report violations that they have already investigated and for those reports to be treated as such.

Finally, the ordinance as written lacks an effective date, which will result in most businesses and public buildings being in violation of the ordinance, without warning, immediately after passage. To provide staff with the time to communicate new requirements to local businesses and bring public buildings into compliance, and to prepare resources to assist new business owners with ensuring that they will be in compliance on opening, the ordinance should include an effective date early in 2024.

I am including as an addendum to this memo, a redlined version of the proposed ordinance, which will address the above concerns. I have coordinated with the City Solicitor's office to ensure that there are no legal concerns with what I have proposed in said redlined version. I hope that you will give due consideration to the operational and logistical processes established and followed by the City Clerk's office and make these changes prior to ordainment.