

CITY OF EASTHAMPTON, MASSACHUSETTS



CITY ORDINANCES

Updated as of January 10, 2023

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CODE OF ORDINANCES

CHAPTER 1 - GENERAL PROVISIONS

Editor's Note: Chapter 1 changed from by-laws to ordinances by vote of the City Council on March 21, 2000; approved by Mayor on March 22, 2000

Sec. 1-1. Designation of Code

The provisions of the following chapters and sections shall constitute and be designated the "Code of Ordinances of the City of Easthampton, Massachusetts," and may be so cited.

State law reference--General authority of city to adopt by-laws, G. L. c. 40, 21

Sec. 1-2. Repeal of ordinances not to revive previously repealed ordinances.

The repeal of an ordinance shall not thereby have the effect of reviving any ordinance theretofore repealed.

Sec. 1-3. Construction of certain terms.

Words and phrases specifying or naming any officer, board or committee of the city shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board or committee.

County shall mean Hampshire Council of Governments.

Person shall mean person, firm or corporation.

City shall mean City of Easthampton.

Sec. 1-4. Issuance of certain licenses, permits.

When an ordinance prohibits any act from without the license or permission of a certain officer, board or committee, such officer, board or committee shall have the right to issue a license or permit for such act to be performed. (Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022).

Sec. 1-5. Repeal or amendment of ordinances.

Any or all of these ordinances may be repealed or amended by an act of the City Council.

Sec. 1-6. General penalty.

Whoever violates any of the provisions of this Code of Ordinances whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine not exceeding three hundred dollars (\$300.00) for each offense? (By-law of 5-4-89, 1)

State law reference--Authority of city to prescribe a penalty for by-law violations, G.L. c. 40, 21.

Sec. 1-7. Ordinances to be printed; copies to be kept in city offices.

The City Council shall cause copies of these ordinances posted on the city website, and to be kept in the City Clerk's Office in print and digital form, where copies or portions thereof may be requested. (Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022).

Cross references -- Registration of bicycles, 3-17 et seq.; building permits, 4-32 et seq.; plumbing permits, 4-170 et seq.; electrical permits, 4-211 et seq.; permit for use and occupancy of buildings, 4-269 et seq.; license for hawkers and peddlers of fruits and vegetables, 5-3; junk dealers license, 5-14; license for sale of certain nonintoxicating beverages, 6-6; permit for street excavations, 8-55; permit for construction of signs, 8-74; license for persons delivering merchandise, 9-16 et seq.; taxicab licenses, 9-31.

CHAPTER 2 – ADMINISTRATION

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Editor's Note: Chapter 2 changed from by-laws to ordinances by vote of City Council on March 21, 2000; approved by Mayor on March 22, 2000

***Cross references--**The building department, 4-16 et seq.; building board of appeals, 4-43 et seq.; personnel, 7-1 et seq.; personnel officer, 7-29 et seq.

ARTICLE 1. IN GENERAL

Sec. 2-1. City offices may close on Saturdays.

All public offices of the city may remain closed on Saturdays as provided by Chapter 265 of the Acts of 1947 [G.L. c. 41, 110A].

Sec. 2-2. Payment of money by city treasurer.

No money of the city shall be paid out by the treasurer except in settlement of bills, duly certified by the department under which the expense is incurred, or when properly approved by the Chief Procurement Officer. State and county taxes, the bonds and notes of the city, and interest thereon may be paid by the city treasurer without such approval. (1945 By-laws, Art. I, 4, Appvd. 5-1-45)

Charter reference--Fiscal procedures, Art. 5.

Sec. 2-3. Sale of personal property of city with value of less than five hundred dollars.

- (a) Any personal property held by the city, acquired by purchase, gift, abandonment or otherwise, having a fair market value of five hundred dollars (\$500.00) or less, may be sold, alienated or otherwise disposed of by the Chief Procurement Officer according to written procedure approved by the City Council.

Cross reference: City Council Rule #18 (Procurement Procedures)

State Law reference: Chapter 30B (the Uniform Procurement Act).

- (b) For purposes of this section each item or unit of personal property shall be considered separately in determining whether or not its fair market value is five hundred dollars (\$500.00) or less. (By-law of 3-22-58, Appvd. 5-16-58)

State law reference--Purchases, bids, letting contracts, G.L. c. 40, 4B.

Sec. 2-4. (Section deleted per vote of City Council on March 21, 2000)

Sec. 2-5. Sale of materials to city by officers and employees.

No city officer and no salaried employee of the city or any agent of any such officer or employee, shall sell materials or supplies to the city without complying with the State Conflict of Interest Laws under M.G.L. Chapter 268A.

Sec. 2-6. Purchase of fuel efficient vehicles for municipal use.

When the City of Easthampton purchases motor vehicles for its municipal operations, each vehicle purchased must be among the most fuel efficient model available that will fulfill the intended municipal function. The vehicle should meet normal procurement criteria including price, reliability, and life-cycle. If the requested vehicle is not among the most fuel efficient model, a detailed report demonstrating the need and justification for the choice should be submitted to the Mayor and City Council. Strong consideration should be given to hybrid or alternately fueled vehicles. All hybrid or alternately fueled vehicles shall be prominently labeled. Among the most fuel-efficient vehicles, a preference will be given for vehicles that are made domestically. (Approved by the City Council 8-3-04; approved by Mayor 8-10-04)

The City will maintain an annual vehicle inventory for non-exempt vehicles and a plan for replacing these vehicles with vehicles that meet, at a minimum, the fuel efficiency ratings contained in the most recent guidance published by the MA Dept. of Energy Resources' Green Communities Division. The fuel efficiency ratings contained therein are based on the most recently published US Environmental Protection Agency combined city and highway MPG ratings for vehicles. Future acquisition of vehicles will comply with the most current guidance available from the Green Communities Division. (Second paragraph added by City Council on 3-21-12; approved by Mayor on 3-22-12)

Sec. 2-7. Departmental Revolving Funds.¹

Sec. 2-7.1. Purpose.

This ordinance establishes and authorizes revolving funds for use by city departments, boards, committees, agencies or officers in connections with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53 E ½.

Sec. 2-7.2. Expenditure Limitations.

- a) A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by the ordinance without appropriation subject to the following limitations:
- b) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- c) No liability shall be incurred in excess of the available balance of the fund.
- d) The total amount spent during a fiscal year shall not exceed the amount authorized by city council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the city council.

Sec. 2-7.3. Interest.

Interest earned on monies credited to a revolving fund established by this ordinance shall be credited to the general fund.

Sec. 2-7.4. Procedures and Reports.

Except as provided in General Laws Chapter 44, § E ½ and this ordinance, the laws, charter provisions, ordinances, rules, regulations, policies or procedures that govern the receipt and custody of city monies and the expenditure and payment of city funds shall apply to the use of a revolving fund established and authorized by this ordinance.

The City Auditor shall include a statement on the collections credited to the fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the City Auditor provides the department, board, committee, agency or officer on appropriations made for its use.

¹ Sec. 2-7 approved by the City Council on 11-18-2020; approved by the Mayor on 11-19-2020.

Sec. 2-7.5. Authorized Revolving Funds.

The table establishes:

- a) Each revolving fund authorized for use by a city department, board, committee, agency or officer.
- b) The department or agency head, board, committee or officer authorized to spend from each fund.
- c) The fees, charges and other monies charged and received by the department, board committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the City Auditor.
- d) The expenses of the program or activity for which each fund may be used
- e) Any restrictions or conditions on expenditures from each fund
- f) Any reporting or other requirements that apply to each fund, and
- g) The fiscal years each fund shall operate under this ordinance.

Sec. 2-8. Holidays²

The city shall observe the following holidays for the purpose of building closures, enforcement and personnel: New Year's Eve (half day), New Year's Day, Martin Luther King Day (third Monday in January), Presidents Day (third Monday in February), Patriots Day (third Monday in April), Memorial Day (last Monday in May), Juneteenth Independence Day (June 19), Independence Day, Labor Day (first Monday in September), Indigenous Peoples Day (second Monday in October, per March 3, 2021 City Council Resolution), Veterans Day (November 11), Thanksgiving Day, Christmas Eve (half day), Christmas Day. The renaming of "Columbus Day" to Indigenous Peoples Day shall in no way impair or otherwise change any obligation, contractual or otherwise of the City in which the term Columbus Day is currently used. (Amended by the City Council on 02-02-22; approved by the Mayor on 02-07-2022).

Sec. 2-9 to 2-15. Reserved.

² Sec. 2-8 added by the City Council on 03-17-2021; approved by the Mayor on 03-19-2021.

ARTICLE II. ELECTED OFFICIALS

Sec. 2-16. Mayoral Salary.

In accordance with the Home Rule Charter, Chapter 3, Section 3-1(c) and Chapter 9, Section 9-6(i) (2), the annual salary of the Mayor of Easthampton shall be \$82,000.00 effective January 2, 2022; \$84,000.00 effective January 1, 2023; \$87,000.00 effective January 1, 2024 and \$90,000.00 effective January 1, 2025. (Amended by the City Council 9-5-2000; approved by the Mayor 9-6-2000. Further amended by the City Council on 4-6-2004; approved by the Mayor 4-7-2004; amended by the City Council 4-2-2008; approved by Mayor 4-3-2008; amended by the City Council 12-17-2014; approved by the Mayor 12-18-2014; amended by the City Council on 12-02-2020; approved by the Mayor on 12-07-2020)

Sec. 2-17. School Committee Salary.

In accordance with the Home Rule Charter, Chapter 4, Section 4-1(e), the annual salary of the six elected members of the School Committee shall be \$4,000.00 per member, effective January 2, 2024. The salary of the School Committee chair shall be \$4,250.00 effective January 2, 2024. (Approved by the City Council 12-19-2000; approved by Mayor 12-20-2000; further amended by the City Council 11-8-2006; approved by Mayor 11-9-2006; further amended by the City Council 7-6-2016; approved by the Mayor on 7-7-2016; further amended by the City Council 11-18-2020; approved by the Mayor on 11-19-2020; further amended by the City Council on 11-16-2022; approved by the Mayor on 11-21-2022).

Sec. 2-18. City Council Salary.

In accordance with the Home Rule Charter, Article 2, Sec. 2-4 (a) the annual salary of the City Councilors shall be \$6,000.00 per member, effective January 2, 2024. The salary of the president of the council shall be \$6,500.00 effective January 2, 2024. (Approved by the City Council 11-8-2006; approved by Mayor 11-9-2006; amended by the City Council on 7-6-2016; approved by the Mayor on 7-7-2016; further amended by the City Council on 11-18-2020; approved by the Mayor on 11-19-2020; further amended by the City Council on 11-16-2022; approved by the Mayor on 11-21-2022).

Secs. 2-19 to 2-27. Reserved.

ARTICLE III. CITY COMMITTEES, BOARDS AND COUNCILS+

+Charter reference--Organization of city agencies, 6-1

DIVISION 1. RESERVED

Secs. 2-28 to 2-37. Reserved.

DIVISION 2. RESERVED

(This division formerly referred to the Finance Committee)

Sec. 2-38 to 2-50. Reserved.

DIVISION 3. THE COUNCIL ON AGING*

Sec. 2-51. Established; appointment of members; designation of chairperson; term of office.

- (a) There is hereby established a Council on Aging consisting of nine (9) persons appointed by the Mayor, from the voters and residents of the city.
- (b) The chairperson of the Council on Aging shall be designated from time to time by the Mayor.
- (c) Appointees to the Council on Aging shall be appointed by the Mayor for terms of three years (By-law of 3-23-57, Appvd.4-29-57; By-law of 3-2567, Appvd. 6-21-67; Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

*State law reference--State department of elder affairs, G.L. c. 1 9A, 1 et seq.

Sec. 2-52. Employees of council.

The council for the aging may appoint such clerks and other employees as it may require. (Bylaw of 3-23-57, Appvd. 4-29-57)

Sec. 2-53. Duty to carry out programs on problems of aging; coordination with state council.

It shall be the duty of the Council on Aging to carry out programs designed to meet problems of the aging in coordination with programs of the department of elder affairs established under Section 1 of Chapter 19A of the General Laws. (By-law of 3-23-57, Appvd. 4-19-57; By-law of 5-4-89, 5)

Secs. 2-54 to 2-58. Reserved.

DIVISION 4. THE PLANNING BOARD+

Sec. 2-59. Established.

There is hereby established a Planning Board consisting of five (5) members and one (1) associate member under the provisions of the General Laws, Chapter 41, Section 81-A as amended by Chapter 340 of the Acts of 1947. (By-law of 7-17-50 & City Council amendment 10-21-97).

Sec. 2-60. Appointments; terms.

Members of the Planning Board shall be appointed by the Mayor for terms of three years.
~~+State law reference--~~Planning board generally, G.L. c. 41, 81A et seq.

Sec. 2-61. Powers.

The Planning Board shall have all of the powers granted to it by state law or city ordinance.
(By-law of 7-17-50)

DIVISION 5. VETERANS' COUNCIL

Sec. 2-62. Established.

There is hereby established a veterans' council consisting of eleven (11) persons appointed by the Mayor according to Sec. 3-3 of the Easthampton Home Rule Charter from all the veterans who are voters and residents of the city under the provisions of General Law, Chapter 115, Section 12, with each member serving a three-year term. (Amended by City Council 10-7-1997)

Sec. 2-63. Appointment; terms.

[Sec. 2-63 deleted 10-7-1997; incorporated into Sec. 2-62]

Sec. 2-64. Powers and duties.

- a. The veterans' council shall meet at least four (4) times a year or upon the call of the chairperson. The veterans' council shall advise and make recommendations to the director of veteran's services and the Mayor or City Council on legislation pertaining to veteran's affairs, and promote the welfare of veterans in the City of Easthampton. Further, the veterans' council shall be responsible for conducting the annual Memorial and Veterans' Day parades and ceremonies in the City of Easthampton, and be responsible for such other related duties as may be voted by the City Council.
- b. The veterans' council may assume further duties and responsibilities as they may deem fit with the advice and approval of the Mayor and City Council. (By-law of 5-12-1988, Appvd. 7-15-1988)

DIVISION 6. BOARD OF PUBLIC WORKS

Sec. 2-65. Annual Payment

Subject to appropriation, the individual members of the Board of Public Works shall be entitled to an annual payment of three hundred dollars (\$300.00) each for their services. Such payment shall be made in equal monthly installments, pro-rated for services rendered in the prior month. Members of the Board of Public Works shall not be considered municipal employees for the purposes of chapter thirty-two B of the General Laws of Massachusetts.

(Approved by City Council on 11-4-1997; Approved by the Mayor on 11-5-1997)

Sec. 2-66. Department of Public Works

There shall be a department of public works responsible for the performance of all public works related activities of the city. The department of public works shall assume all the duties and responsibilities related to public works activities and building operations, including the maintenance and repair of city buildings and property. Additional powers, duties and responsibilities with respect to public works related functions may from time to time be provided by Administrative Code in accordance with the Home Rule Charter, Article 6, Section 6-1 (b). Sec. 2-66 added by the City Council on 09-18-2019; approved by the Mayor on 09-18-2019.

Sec. 2-67 to 2-70. Reserved

DIVISION 7. CONSERVATION COMMISSION

Sec. 2-71. Established

There is hereby established a Conservation Commission consisting of seven (7) members appointed in accordance with the Easthampton Home Rule Charter for terms of three (3) years each, and so arranged that the terms of approximately one-third (1/3) of the members will expire each year, and their successors shall be appointed for terms of three (3) years each. Such seven member commission shall be established effective with the City Council approval of the two additional members, pursuant to Section 2-10 of the Easthampton Home Rule Charter. (Approved by City Council 6-2-1998; Mayor 6-4-1998.)

In accordance with the 1996 Home Rule Charter Sec. 6-1, this section supersedes Conservation Commission membership noted in Sec. 9-6(h) of the same Home Rule Charter.)

DIVISION 8. COMMUNITY PRESERVATION COMMITTEE*³

Sec. 2-72.1 Establishment.

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

1. One member of the Conservation Commission as designated by the Commission for a term of three years.
2. One member of the Historical Commission as designated by the Commission for a term of three years.
3. One member of the Planning Board as designated by the Board for a term of three years.
4. One member of the Parks and Recreation Commission as designated by the Commission for an initial term of two years and thereafter for a term of three years.
5. One member of the Housing Authority as designated by the Authority for an initial term of one year and thereafter for a term of three years.
6. One member appointed by the Mayor, subject to City Council approval, for an initial term of one year and thereafter for a term of three years.
7. One member to be the City Council Finance Committee Chairperson, or their designee from the Finance Subcommittee, for the Councilor's remaining term of office.
8. Two members, who shall not be sitting members of the City Council, are to be appointed by the City Council President and approved by the Council in accordance with the Easthampton City Charter, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board, or Council shall become the responsibility of the Mayor, such appointments being subject to the approval of the Easthampton City Council.

Each appointing authority shall have thirty days after approval of this ordinance by the City Council to make their initial appointments.

Sec. 2-72.2 Duties.

- (1) The Community Preservation Committee shall, at least annually, study the needs, possibilities and resources of the city regarding community preservation including the consideration of regional projects for community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Parks and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city. (Amended by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)
- (2) The Community Preservation Committee shall, at least annually, make recommendations to the City Council for the acquisition, creation and preservation of open space; for the acquisition,

³ (*Division 8 added by the City Council on April 2, 2002; approved by the Mayor on April 3, 2002. Amended by the City Council on Sept. 2, 2015; approved by the Mayor on Sept. 3, 2015)

preservation, rehabilitation, and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation, and restoration of land for recreational use; for the acquisition, creation, preservation, and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created in accordance with the Community Preservation Act; provided, however, that funds are not used for maintenance. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. With respect to recreational use, the acquisition of artificial turf athletic fields shall be prohibited. (Amended by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)

- (3) The Community Preservation Committee may include in its recommendation to the City Council a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- (4) In determining its recommendation to the City Council, the Committee shall consider the requirement of the Community Preservation Act and this ordinance that in each fiscal year the City spend or set aside for later spending not less than 10% of the annual revenues for open space (which may include recreational uses), not less than 10% of the annual revenues for historic resources, and not less than 10% of the annual revenues for community housing. In each fiscal year, the Committee may recommend to spend or set aside no more than 5% of the annual revenues for the administrative and operating expenses of the Committee. (Amended by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)
- (5) A real property interest that is acquired with monies from the Community Preservation Fund must be bound by a permanent restriction, recorded as a separate instrument, that meets the requirements of sections 31 to 33, inclusive, of M.G.L. chapter 184 limiting the use of the interest to the purpose for which it was acquired. The permanent restriction shall run with the land and shall be enforceable by the City or the Commonwealth. The permanent restriction may also run to the benefit of a nonprofit organization, charitable corporation or foundation selected by the city with the right to enforce the restriction. Monies from the Community Preservation Fund may be appropriated to pay a nonprofit organization created pursuant to M.G.L. chapter 180 to hold, monitor and enforce the deed restriction on the property. (Subsection added by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)
- (6) Management of real property interests acquired with monies from the Community Preservation Fund may be delegated to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. Management of real property interests may also be delegated to a nonprofit organization created under M.G.L. chapter 180 or chapter 203. (Subsection added by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)
- (7) The community preservation committee shall keep a full and accurate account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the Community Preservation Fund. The committee shall also keep records of any real property interests acquired, disposed of or improved by the city or town upon its recommendation, including the names and addresses of the grantors or grantees and the nature of the consideration. The records and accounts shall be public records. (Subsection added by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)

Sec. 2-72.3 Requirement for a quorum and cost estimates.

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by a majority vote of the entire committee membership. Projects recommended to the City Council for Community Preservation shall include their anticipated costs. (Amended by the City Council on 9-2-2015; approved by the Mayor on 9-3-2015)

Sec. 2-72.4 Amendments.

This ordinance may be amended from time to time by a majority vote of the City Council, provided, however, that the amendments would not cause a conflict to occur with Massachusetts General Law, Chapter 44B.

Sec. 2-72.5 Severability.

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect; or take any action relative thereto.

DIVISION 9. AGRICULTURAL COMMISSION⁴

Sec. 2-73a. Establishment and Purpose

This ordinance establishes an Agricultural Commission to represent the Easthampton agricultural community, including all types of farming and raising of livestock, poultry, and horses, as well as forestry and wood products businesses, and accessory uses and activities customarily associated with these endeavors. These are also enumerated in the city's Right to Farm Ordinance (Chapter 12, Article VI).

The purpose of the Agricultural commission will be to support commercial agriculture and other farming and forestry activities in the City of Easthampton. The Commission's duties shall include, but not be limited to, the following:

- Serving as facilitators for encouraging the pursuits of agriculture and forestry in Easthampton;
- Promoting agricultural and forestry-based economic opportunities and business diversification in Easthampton;
- Acting as mediators between parties involved in issues between operators of working lands and other residents;
- Educating the public and owners and users of working lands;
- Working for the preservation of agricultural and forest resource lands;
- Advising the Mayor, City Council, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors, and any other appropriate city boards and appointed committees on issues involving agricultural and forestry;
- Pursuing initiatives appropriate to creating a sustainable agricultural community.

Sec. 2-73b. Appointment; Terms.

The Commission shall consist of five (5) members appointed by the Mayor, with approval by the City Council, of which at least four (4) of the membership shall be engaged in the pursuit of agriculture or forestry. All members of the Commission must either be residents of the city, or owners and farmers of agricultural or forest property within the city.

There may be up to three (3) alternates appointed to the Commission by the Mayor, and will fill any vacancies at a meeting of the Commission.

In making appointments, the Mayor is asked specifically to consider the intent of the Commission to represent the agricultural interests of the city.

The terms will be as follows: Two members for a term of three years; two members for a term of two years and three thereafter, and one member for a term of one year and three years thereafter.

The Mayor shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments.

⁴ *Division 9 added by City Council on Oct. 6, 2010; approved by the Mayor on Oct. 7, 2010.

DIVISION 10. TELECOMMUNICATIONS ADVISORY COMMITTEE⁵

Sec. 2-74.1 Establishment.

There is hereby established a Telecommunications Advisory Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

1. One member of the Board of Public Works as designated by the Board for a term of three years.
2. One member of the Economic Development and Industrial Commission as designated by the Commission for a term of three years.
3. One member of the Planning Board as designated by the Board for a term of three years.
4. One sitting City Councilor, to be appointed by the City Council President and approved by the Council in accordance with the Easthampton City Charter, for the Councilor's remaining term of office.
5. Five member appointed by the Mayor, subject to City Council approval, for an initial term of one year and thereafter for a term of three years.

Should any of the Commissions, Boards, Councils who have appointment authority under this Chapter be no longer in existence for whatever reason, or should they elect not to appoint a member to the Committee, the appointment authority for that Commission, Board, or Council shall become the responsibility of the Mayor, such appointments being subject to the approval of the Easthampton City Council.

Each appointing authority shall have sixty (60) days after approval of this ordinance by the City Council to make their initial appointments.

Sec. 2-74.2 Duties.

1. The Telecommunications Advisory Committee shall study meet on a monthly basis to study any actions that the City of Easthampton might take to ensure the provision of affordable, high-quality internet access to Easthampton residents. Options to consider should include but are not limited to a publically owned internet utility, delivered over fiber, wireless technology, or any other method, through a municipal light plan or any other arrangement, so long as it benefits the residents of Easthampton.
2. In evaluating any potential plan, the Telecommunications Advisory Committee shall consider factors including, but not limited to, cost of implementation, costs to consumers, and opportunities for revenue to the City of Easthampton, opportunities to attract new businesses and/or residents, and preservation of the principle of net neutrality.
3. The Telecommunications Advisory Committee shall elect from among its members a Chairperson, who shall have the authority to delegate research assignments among the members of the Committee to be completed between scheduled meetings. The Chairperson shall make themselves available to provide updates on the status of the Committee's work to the Mayor or City Council as requested.
4. The Telecommunications Advisory Committee shall endeavor to complete a report to the Mayor and City Council recommending a course of action for the city in order to provide the best possible internet access to the residents of Easthampton, based on the factors outlined in subsection (2) above, within a year of the Committee's first meeting. If the Committee determines that more time will be required to complete the report, the Chair of the Committee shall immediately inform the City Council and the Mayor by email of the need for an extension.

⁵ Division 10 added by the City Council on May 2, 2018; approved by the Mayor on May 2, 2018.

Sec. 2-74.3 Requirement for a quorum, transparency and cost estimates.

The Telecommunications Advisory Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Telecommunications Advisory Committee shall constitute a quorum. The Telecommunications Advisory Committee shall record all of its meetings for the public and shall enter any written correspondence pertaining to the business before the committee into the public record at the start of each meeting. The Telecommunications Advisory Committee shall approve its actions by a majority vote of the entire committee membership. Recommendations to the City Council shall include their anticipated costs.

Sec. 2-74.4 Amendments.

This ordinance may be amended from time to time by a majority vote of the City Council, provided, however, that the amendments would not cause a conflict to occur with Massachusetts General Law, Chapter 44B.

Sec. 2-74.5 Severability.

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect; or take any action relative thereto.

DIVISION 11. EASTHAMPTON COMMUNITY RELATIONS COMMITTEE (CRC)⁶

Sec. 2-75.1 Established.

The City of Easthampton deems it necessary to establish a committee concerned with preserving a welcoming community and promoting an atmosphere of mutual understanding and cooperation among all resident; and the City wishes to gather a diverse pool of interests and broaden the eligibility for Community Relations Committee (CRC) members.

There is hereby established an Easthampton Community Relations Committee consisting of eleven (11) persons appointed by the Mayor according to Sec. 3-3 of the Easthampton Home Rule Charter who are voters and residents of the city.

Sec. 2-75.2. Appointment; terms.

Each member of the CRC shall serve a three-year term. The Chairperson shall be designated annually by the Mayor, to be approved by a majority of the committee members. Appointees shall hold office until their successors are designated.

Sec. 2-75.3 Duties and Responsibilities.

The CRC shall have the following duties and responsibilities:

1. Advise and make recommendations to the Mayor and City Council on community issues related to health, safety, community involvement and the fair & equal treatment of all persons including but not limited to, issues outlined in the report from the DOJ session held June 20, 2018.
2. May receive and review complaints of discrimination, harassment or violation of civil and/or human rights brought forward to the Community Relations Committee by any person, regardless of the person's physical address or citizenship status.
3. Study the nature and causes of barriers to preserving a welcoming community through review of the language in the city's ordinances and community policies and make recommendations for improvements.
4. Foster through education and public information, general awareness and understanding of community relations and city operations.
5. Enlist the cooperation of other government agencies, groups, organizations and individuals in the community attentive to Community Relations.
6. Assist in the development of public information and programs aimed at enhancing the quality of life in Easthampton.
7. Engage residents and businesses through developing or supporting programs, events, and projects that support the commission's purpose.
8. Promote strong neighborhoods and community connections.

The Easthampton Community Relations Committee may assume further duties and responsibilities as they may deem fit with the advice and approval of the Mayor and City Council.

⁶ Division 11 added by the City Council on July 11, 2018; approved by the Mayor on July 16, 2018.

ARTICLE IV. LICENSES & PERMITS OF DELINQUENT TAXPAYERS⁷

Sec. 2-76. List to be furnished annually showing delinquent taxpayers.

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 of 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. (Amended by the City Council Jan. 4, 2017; Approved by the Mayor on Jan. 5, 2017.)

Sec. 2-77. License or permit may be denied, revoked or suspended.

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, 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 licensing 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 of the date of issuance of said certificate.

Sec. 2-78. Payment agreement may be entered into.

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.

Sec. 2-79. Waiver.

The Mayor 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 their 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. (Amended by the City Council Jan. 4, 2017; approved by the Mayor Jan. 5, 2017)

⁷ *By-law of Oct. 5, 1994; Approved by the Attorney General Dec. 16, 1994. Amended by the City Council on Jan. 4, 2017; approved by the Mayor on Jan. 4, 2017.

Sec. 2-80. Exceptions.

This ordinance 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.

ARTICLE V. NAMING OF MUNICIPAL BUILDINGS, FACILITIES & PUBLIC PLACES ⁸

Sec. 2-81. Purpose

The City of Easthampton hereby establishes a policy and set of procedures to govern the naming of municipal buildings, other fixed facilities, and public places. A sound naming policy adds meaning, significance and uniformity to public facilities, minimizes conflict and provides a clear and meaningful forum for discussion.

Sec. 2-82. Definitions.

(a) **Public Place.** For the purpose of this section a public place shall include but not be limited to any parking lot, municipal lot, side walk, trail, park, playground, cemetery, or any such place which may reasonably be expected to be viewed by others, and owned or under the dominion of the municipality.

Sec. 2-83. Procedure.

Requests concerning the naming or renaming of municipal buildings, fixed facilities & public places shall be in writing and filed with the Clerk of the Council. Such written requests may be initiated by the Mayor, a City Councilor, the full City Council, or by citizen petition signed by one hundred registered voters, or more, of the City. Those submitting the request shall provide background information into the rationale behind the request.

Upon receipt of such a request the City Council shall vote to convene a five member panel to review proposed names, to hear public testimony, including holding a public hearing and to offer a recommendation to the Council. The Mayor shall appoint two members of their choosing to the panel, and the Council President shall appoint three member of their choosing to the panel. (Paragraph amended by the City Council on Dec. 7, 2022; approved by the Mayor on Dec. 19, 2022).

The panel may consider those names submitted by the Mayor, a City Councilor, the full City Council, or any resident of the city. Any letters from appropriate organizations and individuals that provide evidence of substantial local support shall be submitted at this time to the panel. Upon agreement by a majority of the panel, a recommendation advising the City Council shall be made in writing for consideration at the next available Council meeting. Naming or renaming shall be accomplished through a 2/3 vote of the full City Council.

Sec. 2-84. Applicability of procedure.

This procedure shall not apply to the naming or renaming of facilities which were donated to the municipality contingent upon assignment of a specific name or to any facility constructed or purchased from money or property donated to the municipality for the specific purpose of securing a name. Further this procedure does not apply to the naming or renaming of school buildings, fixed facilities, and public places or any other property under the jurisdiction of the School Committee.

⁸ Approved by City Council Nov. 16, 2004; approved by the Mayor on Nov. 17, 2004.

Sec. 2-85. Severability Clause.

Should any section or portion thereof of this Ordinance herein be rendered or declared invalid, unlawful, or unenforceable, by reason of any existing or subsequently enacted legislation or by a court of competent jurisdiction such legislation or decision shall apply only to the specific sections, or portion thereof directly specified in the legislation or decision. All other provisions, sections, or portions thereof shall remain in full force and effect.

* Cross-references: M.G.L. Chapter 40, Section 3; MGL Chapter 43, Section 33; M.G.L Chapter 85, Sections 3 and 3A. “

ARTICLE VI. RANKED CHOICE VOTING⁹

Sec. 2-86. Definitions.

Candidate: Includes all Qualified Candidates and all recipients of write-in votes.

Continuing Ballot: A ballot that is not an Exhausted Ballot.

Continuing Candidate: A Candidate who has not been defeated.

Exhausted Ballot: A ballot that does not contain a highest-ranked Continuing Candidate.

Instant Runoff: The sequential counting process used when no Continuing Candidate receives a majority of the highest-Ranking votes.

Overvote: Occurs when a voter has marked more than one Continuing Candidate for the same Ranking.

Panel: A group of three (3) election judges designated by the city clerk in writing at least one week prior to the election, none of whom shall be an elected official or a Candidate for elected office in the City.

Plurality Voting: The voting system in which the Candidate receiving the most votes is declared the winner, even if such Candidate does not receive a majority of the votes cast in the election.

Qualified Candidate: Any person satisfying the criteria of Article 7 Section 7-2 of the Easthampton Home Rule Charter.

Ranked Choice Voting: Shall have the meaning provided for in Article 1 Section 1-7 of the Easthampton Home Rule Charter.

Ranking: The number or the numeric position assigned on a ballot by a voter to a Candidate to express the voter's preference for that Candidate. Ranking number 1 is the highest Ranking, Ranking number 2 is the next-highest Ranking, and so on.

Round: One instance of the Instant Runoff process in which all Continuing Ballots are counted.

Skipped Ranking: Occurs when the voter left one or more Rankings blank but then ranked a Candidate at a subsequent lower Ranking.

Tabulation: The process of counting the number of votes cast for each Candidate.

Sec. 2-87. When ranked choice voting is applicable.

- (a) As per Article 7 Sections 7-1.1, 7-1.2 of the Easthampton Home Rule Charter, City municipal elections for mayor and for each precinct city councilor shall be determined by the Ranked Choice Voting process described in this ordinance when there are two or more Qualified Candidates listed on the ballot for that contest.

⁹ Article VI added by the City Council on July 7, 2021; approved by the Mayor on July 8, 2021.

- (b) Plurality Voting shall be used when fewer than two Qualified Candidates are listed on the ballot for that contest.

Sec. 2-88. Ballot design; instructions to voters; number of rankings.

- (a) The city clerk shall have the sole authority to determine or approve the design of ballots containing any Ranked Choice Voting contests.
- (b) Specific voting instructions describing the Ranked Choice Voting process shall appear above or next to the first Ranked Choice Voting contest on a ballot.
- (c) The ballot shall be designed in a manner that allows each voter to rank all Qualified Candidates and at least one write-in Candidate. If the ballot design software, the overall size or shape of the ballot, the tabulation machines, or any other associated piece of election hardware or software prevents the ballot from allowing a voter to rank all Qualified Candidates and at least one write-in Candidate, the city clerk shall have the sole authority to limit the ballot to no fewer than ten (10) Rankings. Limiting the number of Rankings shall not exclude any Qualified Candidate from appearing on the ballot.

Sec. 2-89. Tabulation; exhausted ballots; breaking ties.

- (a) Upon the polls closing on Election Day, election officials in each polling location shall tally the ballots using a Tabulation system approved by the city clerk and shall thereafter record the first-choice votes cast for all Ranked Choice Voting contests in substantially the same manner as for contests determined by Plurality Voting.
- (b) If no Candidate receives a majority of the first-choice votes cast for that Ranked Choice Voting contest, an Instant Runoff shall be conducted under the supervision of the city clerk in successive Rounds until a winning Candidate is determined. The Instant Runoff may be conducted at a central municipal location using a Tabulation system approved by the city clerk.
- (c) In each Round of the Instant Runoff, the vote on each Continuing Ballot for each Continuing Candidate shall be counted. Each Continuing Ballot shall count as one vote for the highest-ranked Continuing Candidate on that Continuing Ballot.
- (d) At the end of each Round, the following considerations shall be made:
 - (i) If two (2) or fewer Candidates remain, then the Candidate with the most votes in that Round is declared the winner.
 - (ii) If more than two (2) Candidates remain, then the Continuing Candidate receiving the fewest votes is defeated and a new Round begins.
 - (iii) If there is a tie between the Continuing Candidates receiving the fewest votes in any Round other than the first Round, then the vote totals from the previous Round for the tied Continuing Candidates shall be compared, and the tied Continuing Candidate receiving the fewest votes in the previous Round is defeated. If the Continuing Candidates remain tied, this process shall be repeated using the votes from the next closest previous Round, until either one Continuing Candidate has fewer votes or there are no more previous Rounds to examine.
 - (iv) If there is a tie between the Candidates receiving the fewest votes in the first Round, and all Candidates receiving the fewest votes in the first Round have no mathematical

possibility of winning the contest, then all of the tied Candidates receiving the fewest votes are defeated at the same time. By way of example only, if the sum of the votes for the tied Candidates receiving the fewest votes is less than the total for the Candidate with the next-lowest number of votes, then the order in which the tied Candidates receiving the fewest votes are eliminated does not affect the result of the contest.

- (v) If there is a tie between Candidates receiving the fewest votes in the first Round, and any such candidate has a mathematical possibility of winning the contest, then the tie shall be broken in accordance with Article 7 Section 7-5 of the Easthampton Home Rule Charter.
- (e) In any Round, if a voter has not ranked any Continuing Candidate, the ballot is exhausted for that contest only. Once a ballot is exhausted, subsequent Candidate Rankings marked on that ballot shall not be counted for that contest. An exhausted ballot indicates that election officials cannot determine the intent of the voter regarding the remaining Candidates. Other contests on that ballot shall not be affected by the exhaustion of such ballot for a particular contest.
- (f) **The following special ballot situations shall be resolved as follows:**
 - (i) **Overvotes:** When a voter marks more than one Candidate for the same Ranking, then those Rankings shall be ignored and the ballot shall be exhausted for that contest.
 - (ii) **Skipped Rankings:** When a voter does not mark (skips or leaves blank) one or more consecutive Rankings, then subsequent lower Rankings are ignored and the ballot is exhausted for that contest.
 - (iii) **Duplicate Rankings for the same candidate:** If a voter marks more than one Ranking for the same Candidate, the ballot shall be counted for the highest Ranking of that Candidate. If a Candidate with a duplicate Ranking is defeated, then the vote for the next Continuing Candidate ranked by that voter is counted in the next Round.
- (g) If computer software is utilized to perform the instant runoff Tabulation, the software configuration settings shall comply with each requirement of this ordinance.
- (h) A summary, written in plain English, of all software configuration settings that have any potential to affect the results of any Ranked Choice Voting election, shall be posted on the city website prior to the candidate filing deadline and shall be posted at each polling location during voting.
- (i) Adjudication of ballots not accepted by the voting equipment on Election Day may take place the day following the election through a process established by the city clerk that is consistent with Section 2-90 of this ordinance as well as state and federal law. The adjudication process shall be open to observation by the public.
- (j) Resolution of ballots with write-in votes may take place the day following the election through a process established by the city clerk that is consistent with Section 2-91 of this ordinance as well as state and federal law. The write-in resolution process must be open to observation by the public.

Sec. 2-90. Adjudication of unreadable ballots; ballot duplication.

- (a) The purpose of the ballot duplication process is to ensure that any ballots that could not be read by the electronic voting equipment are properly tabulated according to the intent of the voter. By way of example only, a ballot may be received damaged or improperly marked, which prevents it from being read by the voting equipment. In the event this occurs, election officials shall supplement the original ballot with a new ballot capable of being read and tabulated by the electronic voting equipment.

- (b) The ballot duplication process shall be performed by the Panel.
- (c) Duplicated ballots shall only be counted once.
- (d) Upon determining that a ballot may not be read by the electronic voting equipment, the Panel shall create a duplicate ballot. In doing so, all votes, including votes for write-in Candidates, from the original ballot shall be transferred verbatim to the duplicate ballot. If the voter failed to place a mark next to their write-in vote and their intent as determined by the Panel is clear, such mark may be added by the Panel to the duplicate ballot.
- (e) During the duplication process, any ballot issues or discrepancies other than those which prevent the ballot from being read by the electronic voting equipment (Overvotes, skipped Rankings, etc.) shall not be changed by the Panel. The sole purpose of the ballot duplication process is to replicate the original ballot to allow it to be read by the electronic voting equipment.
- (f) Ballot duplication as described herein may be performed by handwriting, printing, stamping, stickers, or any combination of these methods. The ballot duplication process must involve the following steps:
 - (i) The original ballot must be marked "ORIGINAL" with red ink.
 - (ii) The duplicate ballot must be marked "DUPLICATE" with red ink.
 - (iii) The duplicate ballot and the original ballot shall be assigned the same serial number, which shall be written on the original and duplicate ballots in red ink. The serial numbers shall be unique for each election and must start at "1" and increase sequentially.
 - (iv) One Panel member shall call out the valid selections from the original ballot while a second Panel member shall mark the duplicate ballot with such valid selections using black ink.
 - (v) The Panel shall vote on whether to accept the duplicated ballot as a valid and accurate representation of the original ballot. If the vote passes by majority, the ballot must be marked "APPROVED" with red ink. If the vote fails, the duplicate ballot shall be altered or spoiled and restarted until the vote passes. Any spoiled duplicate ballot must be marked "SPOILED" with red ink and kept alongside any originals.
 - (vi) After all applicable ballots have been duplicated, any ballots marked "ORIGINAL" or "SPOILED" shall be placed in the same marked envelope for storage. Any ballots marked "APPROVED" shall be processed through the electronic voting equipment and retained in the same manner as other ballots.

Sec. 2-91. Resolution of write-in votes.

- (a) The purpose of the write-in resolution process is to ensure that any write-in votes are accurately Tabulated for the intended Candidate.
- (b) The write-in resolution process shall be completed after the ballot duplication process and after any resulting duplicate ballots have been processed by the electronic voting equipment.
- (c) Write-in resolution must be performed by the city clerk or their designee in a manner that is consistent with state and federal law.

Sec. 2-92. Recounts; margins of victory.

- (a) For the purposes of a recount, the margin of victory for each Round is the difference between the vote total of the defeated Candidate and the Candidate receiving the next-lowest number of votes in that Round.
- (b) For the purposes of a recount, the margin of victory for the contest as a whole is the lowest value from the set of all margins of victory from each individual Round.
- (c) For all purposes other than a recount, the margin of victory for the contest as a whole is the difference between the vote total of the winning Candidate and the last Candidate to be defeated.

Sec. 2-93. Reporting of election results; cast vote records.

- (a) Following Tabulation of votes, the results of each Ranked Choice Voting contest must be reported by the city clerk in a format which details at a minimum:
 - (a) the vote totals from each Round; and
 - (b) the total number of exhausted ballots in each Round.
- (b) The complete cast vote records from each Ranked Choice Voting contest, in a format determined by the city clerk based on the methods and tools that were employed at the time of Tabulation, shall be made available to any member of the public upon request and shall at a minimum include all Rankings as marked on each ballot cast in the Ranked Choice Voting contest.

CHAPTER 3 - BICYCLES

Art. I. In General, Secs. 3-1 to 3-16

Art. II. Manhan Rail Trail (Bike Path), Secs. 3-17 to 3-36

Art. III. Operation, Secs. 3-37 to 3-57

Art. IV. Equipment, Secs. 3-58 to 3-75

Art. V. Penalties, Secs. 3-76 to 3-77

ARTICLE I. GENERAL¹⁰

Sec. 3-1. Definitions.

Bicycle: A two wheeled vehicle having a rear drive wheel that is solely human powered.

Low Speed Electric Bicycle (E bike): As defined in USC 2085 (b), a two or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

Motorized Scooter: Any 2 wheeled tandem or 3 wheeled device that has handlebars, designed to be stood or sat upon by the operator, powered by an electric or gas powered motor that is capable of propelling the device with or without human propulsion. The definition of "motorized scooter" shall not include a motorcycle or motorized bicycle or a 3 wheeled motorized wheelchair. See General Laws c. 90 § 1.

Motor Vehicle is defined as found in General Laws c. 90 § 1.

Motorized Vehicle: Any vehicle, not otherwise defined herein, or in General Laws c. 90 § 1 that uses an electric, gas powered, or other motor for propulsion with or without the addition of human propulsion.

Pedal Assisted Electric Bicycle (Pedelec): A Low Speed Electric Bicycle, the motor of which provides power to the drive assembly only when the rider is pedaling.

Throttle Assisted Electric Bicycle: A Low Speed Electric Bicycle, the motor of which is controlled by throttle and is capable of providing power to the drive assembly in the absence of rider pedaling.

Sec. 3-2. Application of chapter.

This chapter shall apply whenever a bicycle is operated upon any city owned property, public way or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions set forth in this chapter. (By-law of 10-8-67, 1) (Section amended by City Council 4-16-2002; approved by Mayor 4-17-2002)

Sec. 3-3 to 3-16. Reserved.

¹⁰ By-law of Oct. 8, 1967. Amended by the City Council on April 16, 2002; approved by the Mayor on April 17, 2002. Further amended by the City Council on Sept. 19, 2012; approved by the Mayor on Sept. 20, 2012. Section 3-1 further amended by the City Council on Oct. 2, 2019; approved by the Mayor on Oct. 2, 2019.)

ARTICLE II. MANHAN RAIL TRAIL (Bike Path)¹¹

Sec. 3-17.1 Scope.

The Manhan Rail Trail is a “shared use path” as detailed in the Massachusetts Department of Transportation’s specifications, which is used for recreation, commuting, and local travel (see Mass Highway 2006 Project and Development Design Guide, Chapter 11). The Manhan Rail Trail is designed to accommodate a variety of non-motorized uses including walking, jogging, bicycling, skating, pet walking and allows for use by people with disabilities. The use of the Manhan Rail Trail by non-motorized, human powered vehicles is explicitly permitted, except as described herein.

Sec. 3-17.2 Low Speed Electric Bicycles.

Low Speed Electric Bicycles, are permitted to operate on the Manhan Rail Trail. Riders of such vehicles on the Manhan Rail trail shall operate with the motor in use as a physical aid to pedaling, such as is the inherent function in a Pedal Assisted Electric Bicycle, or in conjunction with pedaling as in the method of operation of a Throttle Assisted Electric Bicycle. Throttle Assisted Electric Bicycles may not be operated on the Manhan Rail Trail in the absence of rider pedaling.

Sec. 3-17.3 Restrictions:

The following are prohibited from the Manhan Rail Trail:

- a) Motor Vehicles or Motorized Vehicles including but not limited to automobiles, motorcycles, snowmobiles, gasoline powered motorized bicycles and ATVs.
- b) Throttle Assisted Electric Bicycles in the absence of active rider pedaling.
- c) Vehicles exceeding 4.5 feet of width as measured at the widest part or exceeding 15 feet in length as measured from tip to tail.
- d) Motorized scooters.
- e) Horses, livestock, or other draft animals. This prohibition may be temporarily suspended by a vote of the City Council.
- f) **Exceptions:** Despite otherwise being prohibited by this ordinance (1) vehicles used as mobility aids including but not limited to electric wheelchairs, by persons with disabilities (2) public safety and emergency vehicles, and (3) official vehicles, may utilize the Manhan Rail Trail.

Sec. 3-17.4 Provisions for users with disabilities.

Users of the trail shall not occupy or use the trail in any way that violates ADA standard or generally restricts access by other users.

¹¹ Section 3-17 amended by the City Council on Sept. 19, 2012; approved by the Mayor on Sept. 20, 2012. Section 3-17 replaced in its entirety by the City Council on Oct. 2, 2019; approved by the Mayor on Oct. 2, 2019.

Sec. 3-17.5 Undefined vehicles:

The city council may by vote allow vehicles not clearly defined to temporarily operate on the Manhan Rail Trail.

Sec. 3-17.6 Permitting

Commerce whose sole function is dependent on the use of the Manhan Rail Trail is prohibited unless specified elsewhere.

Sec. 3-17.7 Enforcement.

Any violation of this ordinance may result in a fine of up to \$125 dollars.

Sec. 3-18 to 3-36. Reserved.

ARTICLE III. OPERATION

Sec. 3-37. Obedience to traffic-control devices.

- (a) Any person operating a bicycle shall obey the instructions of official traffic signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (b) Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make the turn, in which event the person shall obey the regulations applicable to pedestrians. (By-law of 10-8-1967, 11)
- (c) The operator of a bicycle shall signal by either hand their intention to stop or turn; provided, however, that signals need not be made continuously and shall not be made when the use of both hands is necessary for the safe operation of the bicycle.
(Subsection (c) added by City Council 4-16-2002; approved by Mayor 4-17-2002. Amended by the City Council 9-19-2012; approved by the Mayor 9-20-2012)

Sec. 3-38. Riding on bicycle seat; passengers.

- a. The operator of a bicycle should not carry passengers on their bike unless a seat that is designed for that purpose is used.
- b. Trailers and seats that are designed for transporting children are permitted.

(Sec. 3-38 amended by the City Council 9-19-2012; approved by the Mayor 9-20-2012)

Sec. 3-39 (Deleted by City Council Sept. 19, 2012)

Sec. 3-40. Speed.

No person shall operate a bicycle at a speed greater than reasonable and prudent under the conditions then existing. (By-law of 10-8-1967, 14)

Sec. 3-41. Operation of a bicycle upon a roadway.

Every person operating a bicycle upon a roadway may use the full lane anywhere, anytime and on any street as is safe, avoiding degraded street surfaces ("broken pavement") and sewer grates, avoiding the "door zone" of parked automobiles, avoiding obstructions such as pedestrians and stopped vehicles or avoiding debris which could damage the bicycle or degrade handling (sand/gravel/glass). The operator of the bicycle shall not unnecessarily obstruct vehicles wishing to safely pass on the left and shall yield to the passing vehicle by moving as far to the right as is safe. Nothing in this ordinance shall override Mass. G.L. Ch. 85, Section 11B and Mass. G.L. Ch. 89, Section 2. (Sec. 3-41 amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012; further amended by the City Council on 10-03-2018; approved by the Mayor on 10-03-2018)

Sec. 3-42. Emerging from alley or driveway.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across an alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (By-law of 10-8-1967, 16)

Sec. 3-43. Clinging to vehicles.

The operator shall not permit the bicycle to be drawn by any other moving vehicle. The operator shall not tow any other vehicle or person, except that bicycle trailers properly attached to the bicycle which allow for firm control and braking may be used. (By-law of 10-8-1967, 17; By-law of 5-4-1989, 7)

Sec. 3-44. Riding in a group.

Persons operating bicycles upon roads shall ride no more than two (2) abreast, however the cyclists shall allow overtaking and ride single file to facilitate safe passing on narrow roads. (Sec. 3-44 amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012)

Sec. 3-45. Carrying articles.

An operator of a bicycle shall not carry any package, bundle or article except in or on a basket, rack, trailer, or bag or backpack, or other device designed for such purposes. The operator shall keep at least one hand upon the handlebar at all times. (By-law of 10-8-1967, 19; By-law of 5-4-1989, 9; amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012)

Sec. 3-46. Parking.

The operator of a bicycle shall park their bicycle upon a way or sidewalk in such a manner as not to obstruct vehicular or pedestrian traffic. (Amended by City Council 9-19-2012; approved by Mayor 9-20-2012)

Sec. 3-47. Riding on sidewalks and other public areas prohibited.

Bicycles may be ridden on sidewalks outside business districts when necessary in the interest of safety. The city's business districts are specified as follows:

- Main Street between Northampton Street and Center Street,
- Union Street,
- Park Street between Main Street and Payson Avenue,
- Cottage Street

All bicyclists riding on sidewalks shall maintain appropriate speed for the area and number of users on said walk, and yield to other users, staying to the right hand side of the sidewalk allowing for safe use by all.

(Amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012)

Sec. 3-48. Reporting of Accidents.

The operator of a bicycle shall report any accident involving either personal injury or property damage in excess of one-hundred dollars (\$100.00), or both, to the Police Department as soon as possible. (Sec. 3-48 added by the City Council on 4-16-2002; approved by the Mayor on 4-17-2002).

Secs. 3-49 to 3-57. Reserved.

ARTICLE IV. EQUIPMENT

Secs. 3-58 and 3-59. (Deleted by City Council 9-19-2012)

Sec. 3-60. Brakes.

Every bicycle operated upon a way shall be equipped with a braking system. (By-law of 10-8-1967, 24; By-law of 5-4-1989, 11. Amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012)

Sec. 3-61. Helmets.

Any person sixteen years of age or younger operating a bicycle or being carried as a passenger on a bicycle on a public way, bicycle path or on any other public right-of-way shall wear a helmet. Said helmet shall fit the person's head, shall be secured to the person's head by straps while the bicycle is being operated, and shall meet the accepted standards for helmets. (Amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012).

Secs. 3-62 to 3-75. Reserved.

ARTICLE V. PENALTIES

Sec. 3-76. Penalties.

Unless otherwise specified, violations of any provisions of this chapter shall be punished by a fine of not more than twenty dollars (\$20.00). The parent or guardian of any person under age eighteen shall not authorize or knowingly permit any person to violate any provision of this chapter. A bicycle operated by a person under the age of sixteen in violation of this chapter may be impounded by the police department until a parent or guardian picks up the bike. A violation of any provision of this chapter by a minor under the age of eighteen shall not affect any civil right or liability nor shall such violation be considered a criminal offense. (Amended by the City Council on 9-19-2012; approved by the Mayor on 9-20-2012)

Sec. 3-77. Notification.

Copies of said citations will be forwarded to the parents or guardians of violators under the age of 18. (Added by the City Council on 4-16-2002; approved by the Mayor on 4-17-2002).

CHAPTER 4 - BUILDINGS AND BUILDING REGULATIONS¹²

Art. I. Municipal Building Regulations, Sec. 4-1
Adoption of MA Building Code 780 CMR, Appendix 120AA (The
Stretch Energy Code, Sec. 4-2
Wage Theft Ordinance, Sec. 4-3
Reserved, Sec. 4-4 to 4-15

Art. II. Demolition Delay Ordinance, Secs. 4-16 to 4-30

Art. III. Numerical Identification of Buildings, Secs. 4-31 to 4-40

Art. IV. Rapid Entry Key System Required. Secs. 4-41 to 4-48

Cross references--The planning board, 2-59 et seq.; streets, sidewalks and public grounds, Ch. 8; construction of sign, 8-74 et seq.; rules and regulations governing the use of public sewers, App. E - zoning ordinance.

State law reference--Inspection and regulation of buildings, G.L. c. 143

¹²

*Chapter 4 was amended by vote of the City Council on 12-2-2003; approved by the Mayor on 12-3-2003. Chapter number has been retained but section numbers have been changed at the discretion of the editor.

BUILDINGS & BUILDING REGULATIONS

ARTICLE 1. IN GENERAL

Sec. 4-1. Municipal Building Regulations.

The City of Easthampton Municipal Building Regulations shall encompass 780 Code of Massachusetts Regulations, the State Building Code, in its entirety.

(Sec. 4-1 approved by the City Council on 5-15-2001; approved by the Mayor on 5-16-2001)

Sec. 4-2. Adoption of MA Building Code 780 CMR, Appendix 120AA (The Stretch Energy Code)

The Stretch Energy Code, Appendix 120AA of the 7th edition Massachusetts Building Code 780 CMR is hereby adopted with an effective date of July 1, 2010.

(Sec. 4-2 approved by the City Council on 5-5-2010; approved by the Mayor on 5-6-2010)

Secs. 4-3. Wage Theft Ordinance¹³

Section 4-3.1 Definitions

- (a) **"Easthampton"** means the City of Easthampton, Massachusetts.
- (b) **"Easthampton Resident"** means any natural person who is domiciled in, and has a principal place residence in the City of Easthampton Massachusetts during the entirety of time the person works on a Public Construction Project taking place in the City. Proof of such residence may include, but is not limited to, the following: a valid Massachusetts Driver's License or Massachusetts Identification Card, utility bills, proof of voter registration, or such other proof acceptable to the City.
- (c) **"People of color"** shall have the same meaning as the term "minority" in Bulletin 14.
- (d) **"Veteran"** means (1) any person, (a) whose last discharge or release from their wartime service as defined herein, was under honorable conditions and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States, or on full time national guard duty under Titles 10 or 32 of the United States Code or under sections 38, 40 and 41 of c. 33 for not less than 90 days active service, at least 1 day of which was for wartime service; provided, however, than any person who so served in wartime and was awarded a service-connected disability or a Purple Heart, shall be deemed to be a veteran notwithstanding their failure to complete 90 days of active service; (2) a member of the American Merchant Marine who served in armed conflict between December 7, 1941 and December 31, 1946, and who has received honorable discharges from the United States Coast Guard, Army, or Navy; (3) any person (a) whose last discharge from active service was under honorable conditions, and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States for not less than 180 days active service; provided, however, that any person who so served and was awarded a service-connected disability, shall be deemed to be a veteran notwithstanding their failure to complete 180 days of active service.

¹³ Wage Theft Ordinance approved by the City Council 11/26/2019; approved by Mayor 11/26/2019.

Section 4-3.2. Municipal Construction Contracts

Whenever the City of Easthampton is procuring construction services subject to the provisions of M.G.L. c. 149, 149A or 30, § 39M, the following terms and conditions shall be (1) incorporated into the procurement documents and (2) made part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.

- (a) All bidders or proposers, contractors, and subcontractors and trade contractors, including subcontractors that are not subject to M.G.L. c. 149, §44F under the bidder for projects subject to M.G.L. c. 149, § 44A(2), M.G.L. c. 30, §39M and, proposers under M.G.L. c.149A, (all collectively the "Contractor") shall as a condition for bidding or subcontracting verify under oath and in writing on a form provided by the City of Easthampton at the time of bidding or submittal in response to an RFP or in any event prior to entering into a contract or subcontract at any tier, that they comply with the following conditions for bidding, contracting or subcontracting and, for the duration of the project, shall comply with the following requirements and obligations:
1. The Contractor shall not have been debarred or suspended from performing construction work by any federal, state or local government, agency or authority in the past five years;
 2. The Contractor shall not within the past five years following a final adjudication by a court or governmental agency to have been in violation of any law relating to providing workers compensation insurance coverage, misclassification of employees as independent contractors, payment of employer payroll taxes, employee income tax withholding, wage and hour laws, earned sick time, prompt payment laws, or prevailing wage laws and the like;
 3. The Contractor shall maintain appropriate industrial accident insurance as required by Massachusetts law, sufficient to provide coverage for Contractor's employees on the project in accordance with M.G.L. c. 152 and shall provide documentary proof of such coverage with the Contractor's submitted bid to the City of Easthampton.
 4. The Contractor shall properly classify individuals working on the project, be it as employees or independent contractors as the case may be and treat them accordingly for purposes of prevailing wages and overtime, workers 'compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding. (See e.g. M.G.L. c. 149, §148B on employee classification).
 5. The Contractor shall comply with all state and federal wage and hour laws, including but not limited to M.G.L. c. 151, §1A and c. 149, § 148 with respect to the payment of wages;
 6. The Contractor shall not discriminate against citizens of states other than Massachusetts except as allowed by law in hiring individuals for the project but, as between prospective employees who are residents of Massachusetts, the Contractor, shall give preference to residents of the City. The City may provide the contractor with local instructions on the preferred means to publicize employment opportunities to City Residents.
 7. The Contractor, consistent with Bulletin 14, shall strive to achieve the following labor participation goals of providing employment in the amount of 15.3% of the contractor's hours worked on the project to minorities, 6.9% of the Contractor's hours worked on the project to women, and 5% of the Contractor's hours worked on the project to Veterans. In the event the Contractor cannot find qualified diverse

workers, the Contractor shall submit documentation to the City detailing efforts to meet these requirements. These participation goals are neither floors nor ceilings, but shall be used by the City to measure progress in meeting the purpose and intent of this Ordinance.

8. The Contractor shall make arrangements to ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. The sign in/out log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign-in/out logs shall be provided to the City on a weekly basis with the certified payrolls.
 9. The Contractor, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath and provide to the City a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the United States, Commonwealth of Massachusetts or in the City.
 10. The Contractor must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended to date, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority; and
 11. The Contractor must submit weekly to the City certified payrolls for all employees. A certified payroll shall be provided by the City and shall include the employees full name, address, identifying number, gender and race, and which tabulates hours worked for females, Minorities and Residents of Easthampton. Each Contractor shall provide a copy of the OSHA 10 card for every employee attached to the first certified payroll submitted to the City on which the employee appears.
 12. The Contractor shall attend all regularly scheduled and/or special meetings convened by the City for the purpose of reviewing workforce hiring commitments in this Ordinance.
- (b) A Contractor bid that does not comply with this Ordinance shall be rejected, and no subcontract for work outside the scope of M.G.L. c. 149, §44F shall be awarded to a subcontractor of any tier that does not comply with this Ordinance.
- (c) All Contractors who are awarded or who otherwise obtain contracts on projects subject to M.G.L. c. 149, § 44A (2); 149A, or 30 §39M shall comply with this Ordinance for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.
- (d) Any Contractor that fails to comply with any one of obligations set forth in this Ordinance, may at the sole discretion of the City, be subject to one or more of the following sanctions: (1) cessation of work on the project until compliance with the Ordinance is obtained; (2) withholding of payment due under any contract or subcontract until compliance with the Ordinance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City in the amount of 5% of the total dollar value of the contract. Any Contractor or subcontractor or the like that has been determined by the City or by any court or state or federal agency to have violated any of the obligations set forth in this Ordinance may at the sole and absolute discretion of the City be barred from

performing any work on any future projects for six months for a first violation, three years for a second violation and upon a judicial finding that a third violation has occurred permanently.

- (e) A Contractor shall be strictly liable for the violations of this Ordinance by its subcontractors with the exception of violations arising from work performed pursuant to subcontracts that are subject to M.G.L. c. 149, § 44F.

Section 4-3.3 Tax Increment Financing and Housing Development Exemption Agreements

Minimum Mandatory Conditions. In addition to any other conditions that may be required in connection with tax increment financing ("TIF") or housing development exemption relief granted by the City ("HDEA"), each Tax Increment Financing Agreement and each Housing Development Exemption Agreement entered into between the City and the Applicant or recipient of such TIF or HDEA (collectively "Applicant") shall be subject to and shall include the following set of mandatory conditions:

- (a) It shall be a special and material condition of this Agreement that any construction manager, general contractor or other lead or prime contractor, or any entity functioning in any such capacity, and any other contractor or subcontractor of any tier or other person that is engaged to perform the construction work during the term of this Agreement on the property that is the subject of this Agreement (hereinafter, collectively and individually, the "TIF Contractor") utilized by the Applicant shall comply with the following qualifications and conditions at all times during their performance of work:
 - (1) The TIF Contractor and/or Applicant has not been debarred or suspended from performing construction work by any federal, state or local government agency or authority in the past five years;
 - (2) The TIF Contractor and/or Applicant shall not within the past five years following a final adjudication by a court or governmental agency to have been in violation of any law relating to providing workers compensation insurance coverage, misclassification of employees as independent contractors, payment of employer payroll taxes, employee income tax withholding, wage and hour laws, earned sick time, prompt payment laws, or prevailing wage laws and the like;
 - (3) The TIF Contractor and/or Applicant shall maintain appropriate industrial accident insurance as required by Massachusetts law, sufficient to provide coverage for such TIF Contractor's or Applicant's employees on the project in accordance with M.G.L. c. 152 and provide documentary proof of such coverage included with the Contractor's submitted bid to the City of Easthampton;
 - (4) The TIF Contractor and/or Applicant shall properly classify individuals working on the project, be it as employees or independent contractors as the case may be and treat them accordingly for purposes of prevailing wages and overtime, workers' compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding. (See e.g. M.G.L. c. 149, §148B on employee classification).
 - (5) The TIF Contractor and/or Applicant must comply with M.G.L. c. 151, §1A and M.G.L. c. 149, § 148 with respect to the payment of wages;

- (6) The TIF Contractor and/or Applicant must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended to date, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority; and
 - (7) The TIF Contractor and/or Applicant shall not discriminate against citizens of states other than Massachusetts except as allowed by law in hiring individuals for the project but, as between prospective employees who are residents of Massachusetts, the TIF Contractor and Applicant, shall give preference to residents of the City. The City shall provide the TIF Contractor and Applicant with local instructions on the preferred means to publicize employment opportunities to City Residents.
 - (8) The TIF Contractor, consistent with Bulletin 14, shall strive to achieve the following labor participation goals of providing employment in the amount of 15.3% of the TIF Contractor's hours worked on the project to minorities, 6.9% of the TIF Contractor's hours worked on the project to women, and 5% of the TIF Contractor's hours worked on the project to Veterans. In the event the TIF Contractor cannot find qualified diverse workers, the Contractor shall submit documentation the City detailing efforts to meet these requirements. These participation goals are neither floors nor ceilings, but shall be used to measure progress in meeting the purpose and intent of this Ordinance.
 - (9) The Applicant shall submit a list to the City of all the expected TIF Contractors and their subcontractors expected to work on the project as part of the Applicant's request for tax relief. The list shall include the name of the primary contact, the TIF Contractor or subcontractor's address and either a phone number or email address. The Applicant will provide a final all-inclusive list of its TIF Contractors and subcontractors to the City within 30 days of the conclusion of the project.
 - (10) The Applicant and/or TIF Contractor must submit monthly City certified payrolls for all TIF Contractors and subcontractors. A certified payroll format will be provided by the City that includes the employee's full name, address, identifying number, gender and race, and which tabulates hours worked for females, minorities and residents of the City. Each TIF Contractor or subcontractor shall provide a copy of the OSHA 10 card for every employee attached to the first certified payroll they submit on which the employee appears.
 - (11) The TIF Contractor shall ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. Such sign-in/out logs shall be provided to the City on a weekly basis with the certified payrolls.
 - (12) The TIF Contractor and Applicant shall attend all regularly scheduled and/or special meetings convened by the City for the purpose of reviewing workforce hiring commitments in this Ordinance.
- (b) If any Applicant, TIF Contractor or person or entity subject to the foregoing qualifications and conditions fails to comply with any of them with respect to work on the project, the parties agree that such an event materially frustrates the public purpose for which this

Agreement and any certification by the state was intended to advance. In such an event, the City may petition the appropriate state agency or body for revocation of the certification and, upon such revocation, the tax relief provided by the TIF or HDEA shall be terminated. ("Termination") Unless the Termination is challenged by the Applicant in the appropriate administrative agency or Court, the Applicant shall pay to the City an amount equal to the value of the tax relief received under the TIF or HDEA within ten days of Termination.

- (c) In the event the owner of the property challenges the Termination, the Applicant shall set aside, in an escrow account, an amount equal to the full amount of the tax savings, which would have accrued under the TIF or HDEA to the date of termination. The Applicant shall thereafter have a continuing obligation to contribute to the escrow account an amount equal to the tax savings that would accrue under the TIF or HDEA during the time its challenge of the Termination remains pending. The Applicant shall upon request promptly provide to the City written documentation of its compliance with its escrow obligation. In the event the Applicant is unsuccessful in its challenge of the Termination, the funds in the escrow account shall be paid to the City within ten days of a final decision on the challenge. If the property owner is successful in its challenge of the Termination, the escrow shall be released to the Applicant.

Section 4-3.4. Severability

If any provision of this Ordinance, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this Ordinance, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall be not affected thereby.

Section 4-3.5. Effective Date

Sections 4-3.2 and 4-3.3 shall be effective with respect to all Municipal Construction Contracts and all Tax Increment Financing and all Housing Development Exemption Agreements entered in following the adoption of this Ordinance.

Sections 4-14 to 4-15. Reserved.

ARTICLE II. DEMOLITION DELAY ORDINANCE¹⁴

(Demolition of Historically Significant Buildings)

Sec. 4-16. Intent and Purpose.

This ordinance is enacted for the purpose of preserving and protecting significant buildings within the City which are outside Local Historic Districts and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them. To achieve these purposes the Easthampton Historical Commission (the "Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided in this ordinance.

Sec. 4-17. Definitions.

1. **"Building"** - any combination of materials forming a shelter for persons, animals, or property.
2. **"Demolition"** - any act of pulling down, destroying, removing or razing a building or any portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.
3. **"Significant building"** - any building or portion thereof which:
 - (a) In whole or in part was built fifty (50) or more years prior to the date of the application for the demolition permit or is of unknown age; or
 - (b) Is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or
 - (c) is included in the Cultural Resources Inventory prepared by the Commission including those buildings listed for which complete surveys may be pending; or
 - (d) Has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder provided that the owner of such a building and the Building Commissioner have been notified, in hand or by certified mail, within ten (10) days of such vote.
4. **"Commission"** - the Easthampton Historical Commission.

(By-law of 5-30-1990, Approved 10-1-1990)

***Editor's Note:** The original arrangement of this chapter has been maintained but section numbers have been assigned at the discretion of the editor.

State Law Reference: The provisions of this ordinance may not be used to restrict the Building Inspector from immediately ordering the demolition of any structure in the event of an imminent danger to the safety of the public. See MGL Chpt. 139, Sec. 1 et seq; MGL Chpt. 143, Sec. 6 et seq.

¹⁴ By-law of May 30, 1990; approved by the Attorney General on Oct. 1, 1990.

Sec. 4-18. Procedure.

1. Upon receipt of an application for a demolition permit for a significant building the Building Inspector shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time.
2. Within fourteen (14) days, the Commission shall make an Initial Determination as to the historic significance of the building. The Initial Determination shall be positive if the structure is historically inventoried or to be inventoried by the Historical Commission. Otherwise the Determination is negative.
3. If the Initial Determination is negative, the Building Inspector may issue the permit. If the determination is positive, the Commission shall fix a reasonable time for a public hearing on the application and shall give public notice thereof by publishing notice of the time, place, and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing and also within seven (7) days of said hearing, mail a copy of said notice to the applicant, to the owners of all property deemed by the Commission to be affected thereby as they appear on the most recent local tax list, and to such other persons as the Commission shall deem entitled to notice.
4. If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the City, the Commission shall so notify the Building Inspector within ten (10) days of such determination. Upon receipt of such notification, or after the expiration of fifteen days (15) from the date of the conduct of the hearing if they have not received notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, ordinances, rules and regulations, issue the demolition permit.
5. If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the city, such building shall be considered a preferably-preserved significant building. The Commission shall notify Massachusetts Historic Commission, the City Planner, and other interested parties requesting assistance in preservation funding and adaptive reuses.
6. Upon a determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Inspector, and no demolition permit may be issued until at least six months after the date of such determination by the Commission.
7. Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a preferably-preserved significant building at any time after receipt of written advice from the Commission to the effect that either:
 - (i) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
 - (ii) the Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserved, rehabilitate and restore the subject building, and that such efforts have been unsuccessful.

Sec. 4-18. Enforcement and Remedies.

1. The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent violation thereof.
2. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this ordinance for a period of two years after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.

Sec. 4-19. Severability.

If any section, paragraph or part of this ordinance be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect

Sec. 4-20. Review and Appeal.

Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the City Clerk, file a written request with the City Clerk for a review by the Zoning Board of Appeals.

The finding of the Zoning Board of Appeals shall be filed with the City Clerk within 45 days after the request and shall be binding on the applicant and the Commission.

Secs. 4-21 to 4-30. Reserved.

ARTICLE III. NUMERICAL IDENTIFICATION OF BUILDINGS¹⁵

***Editor's Note:** Article III was originally intended to be placed in Chapter 6 (Miscellaneous Offenses and Provisions) but due to its subject matter, it has been moved to Chapter 4 at the discretion of the editor.
The original arrangement has been maintained but section numbers have been changed.

Sec. 4-31. Required.

Every dwelling, business or industry within the City of Easthampton shall display numerical identification upon its structure.

Sec. 4-32. Location.

Said identification to be placed in such a way as to allow clear unobstructed visibility of the numerals from the street. In the event that such structure is located in excess of two-hundred (200) feet from a roadway, or in the event a structure is not visible from the roadway, a numbered sign post shall be erected in a conspicuous location on or near the street entry way to the structure or the numbers may be placed on the mailbox if the mailbox is located in a conspicuous location on or near the street entry way to the structure.

Sec. 4-33. Identifying numerals.

All numerals shall be a minimum of three (3) inches in height, be of contrasting color and visible day or night.

Sec. 4-34. Effective date.

Compliance with this ordinance shall be required within ninety (90) days of its effective date.

Sec. 4-35. Enforcement.

The Fire Department shall be responsible for the enforcement for all existing structures. The Inspector of Buildings shall be responsible for all new construction prior to the issuance of a certificate of occupancy. The Department of Public Works shall be responsible for establishing the proper street number for any structure under this ordinance.

Sec. 4-36 to 4-40. Reserved.

¹⁵ By-law of Feb. 13, 1990; approved by the Attorney General on March 14, 1990.

ARTICLE IV. RAPID ENTRY KEY SYSTEM REQUIRED¹⁶

Sec. 4-41. Applicability.

When access to, or within, a structure or area is unduly difficult because of secured openings or where immediate access is necessary for life saving or firefighter purposes, the Fire Chief may require the owner, lessee, tenant or other party in control of said structure or area to install a rapid entry key system in an accessible location approved by the Fire Chief.

Such property includes:

- Property which is protected with a fire alarm system with automatic notification of the Easthampton Fire Department;
- Any residential occupancy of four units or more as defined in the State Building Code, 780 CMR, Use Group R-1, 310.4, Use Group R-2 or 310.5, Use Group R-3;
- Any occupancy with a fire suppression system.

A rapid entry key system as used in this ordinance shall mean a key safe which shall contain keys for exterior doors, all areas covered by the fire detection or suppression system, hazardous areas, mechanical areas and other areas required by the Fire Chief.

Sec. 4-42. Type of system required; place of installation.

The Rapid Entry Key System shall be of a type approved by the Fire Chief and of a sufficient size to hold all necessary keys and any pertinent information, which shall include a typewritten, laminated list of emergency contact persons and telephone numbers.

Installation shall be in a location approved by the Fire Chief. A building map shall be provided as required by the Fire Chief.

Sec. 4-43. Cost to be incurred by owner.

All costs associated with the key safe are the sole responsibility of the owner.

Sec. 4-44 to 4-48. Reserved.

¹⁶ Article IV added by the City Council on 8-2-2005, amended 9-6-05; approved by the Mayor on 8-9-2005 & 9-8-2005)

CHAPTER 5 – JUNK DEALERS, HAWKERS AND PEDDLERS; & SALES OF SECONDHAND ARTICLES*

Art. I. In General, Secs. 5-1 to 5-13

Art. II. Junk Dealers, Sections 5-14 to 5-30

Art. III. Garage Sales, Sections 5-31 to 5-36

Art. IV. Mobile Vendor Ordinance, Sections 5-37 to 5-43

***State law reference**--Transient vendors and peddlers generally, G.L. c. 101, sec. 1 et seq.
Chapter 5 by-laws changed to ordinances by vote of City Council on Oct. 6, 1998; vetoed by Mayor on Oct. 14, 1998.
Overridden by council on Nov. 4, 1998.

ARTICLE I. IN GENERAL

Sec. 5-1. Hawking of goods in loud manner; prohibited.

No person while hawking, soliciting, peddling or offering for sale any goods, wares or merchandise upon any of the public ways of the city shall make or cause to be made any outcry or noise, or ring or cause to be rung any bell or use torches or utter loud outcries for the purpose of advertising such goods, wares or merchandise so as to disturb the public peace or do anything contrary to the peace and comfort of the inhabitants of the city. (1945 By-laws, Art. IV, 10, 11, Approved 5-1-1945)

Sec. 5-2. Use of streets for sale of merchandise prohibited; exception.

- (a) No person exposing or offering for sale any article of merchandise or anything whatsoever shall locate or remain in or on any street or ways in the city.
- (b) A farmer who raises their own produce may be allocated space by the licensing authority to remain on any street or ways in the city from which to sell their produce, upon application made to say licensing authority. (1945 By-laws, Art IV, 11, Approved 5-1-1945)

Sec. 5-3. License fee for peddlers of fruits & vegetables when not engaged in pursuit of agriculture.

Hawkers and peddlers of fruits and vegetables who are not engaged in the pursuit of agriculture, shall be required to pay a license fee of twelve dollars (\$12.00) before being allowed to operate within the city. (1945 By-laws, Art. IV, 12, Approved 5-1-1945)

Sec. 5-4 to 5-13. Reserved.

***Cross Reference** - See Appendix F (Miscellaneous Rules & Regulations of the Board of Selectmen), Art. IV for Hawker, Peddler and Transient Vendor Regulations.

*ARTICLE II. JUNK DEALERS**

Sec. 5-14. License required.

No persons shall be dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or secondhand articles, or go about collecting same in this city, unless they are duly licensed by the licensing authority in accordance with the provisions of Chapter 140, Sections 54 to 56 inclusive of the General Laws as amended.

(1945 By-laws, Art. IV, 1, Approved 5-1-1945)

Sec. 5-15. Authority of licensing authority to grant licenses; records.

The licensing authority may grant licenses to persons pursuant to this article and a record of the licenses so granted shall be kept by the city clerk.

(1945 By-laws, Art. IV, 2, Approved 5-1-1945)

***State law reference** - Authority of city to license collectors and dealers of junk, metals and secondhand articles, G.L. c. 140, 54; junk dealer defined, G.L. c. 140, 56.

Sec. 5-16. Badge to be worn; size.

Every junk collector so licensed pursuant to this article shall have placed upon some conspicuous part of their clothing a badge giving the number of the license in plain legible figures of not less than one inch in length. (1945 By-laws, Art. IV, 3, Approved 5-1-1945)

Sec. 5-17. Closing hours.

Every shop for the purchase, sale or barter of junk, old metals or secondhand articles shall be closed between the hours of 6:00 p.m. and 7:00 a.m., and no keeper thereof and no junk collector shall purchase any of the articles aforesaid during such hours. (1945 By-laws, Art. IV, 4, Approved 5-1-1945)

Sec. 5-18. Examination of shop and vehicles.

Every shop licensed pursuant to this article and all articles of merchandise therein, and any place, vehicle or receptacle used for the collecting or keeping of the articles aforesaid, may be examined at all times by the licensing authority or by any person by them authorized thereto.

(1945 By-laws, Art. IV, 6, Approved 5-1-1945)

Sec. 5-19. Records to be kept; inspection.

Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand materials or articles, shall keep a book, in which shall be written at the same time of the purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when such purchase was made; that such book shall at all times be open to the inspection of the licensing authority and by any person by them authorized to make such inspection. (1945 By-laws, Art. IV, 6, Approved 5-1-1945)

Sec. 5-20. Sign showing name and occupation of owner to be posted.

Every keeper of a shop licensed pursuant to this article shall put in a suitable and conspicuous place on their shop a sign having their name and occupation legibly inscribed thereon in large letters. (1945 By-laws, Art. IV, 7, Approved 5-1-1945)

Sec. 5-21. Purchase from minors prohibited.

No keeper of any shop licensed pursuant to this article and no collector of junk shall, directly or indirectly purchase or receive by way of barter or exchange, any of the articles referred to in this article from a minor, knowing or having reason to believe they are a minor. (1945 By-laws, Art. IV, 8, Approved 5-1-1945)

Sec. 5-22. Articles to be held one week prior to resale.

No article purchased or received by the operator of a shop licensed pursuant to this article shall be sold until at least one week from the date of purchase or receipt of the article has elapsed. (1945 By-laws, Art. IV, 9, Approved 5-1-1945)

Secs. 5-23 to 5-30. Reserved.

ARTICLE III. GARAGE SALES ¹⁷

Sec. 5-31. Purpose.

It is the intent of these rules and regulations to provide a mechanism for allowing, subject to reasonable and appropriate controls, certain types of activities having to do with the sale of second-hand articles within the community while at the same time preserving the residential atmosphere of the various neighborhoods of the city.

Sec. 5-32. Definitions.

For the purposes of these rules and regulations the following words and terms shall have and include the following respective meanings:

Garage sale: The sale for not more than two (2) consecutive days of old, used, secondhand or antique articles upon residential property where all the material to be sold originates from the property that is the locus of the sale.

Yard sale: See "garage sale."

Porch sale: See "garage sale."

Sec. 5-33. Procedure; application for permit.

- (a) Any person, organization or corporation intending to conduct a garage sale, yard sale, or porch sale or any similar activity by a different name shall make application for a permit to conduct such activity at the office of the city clerk not less than five (5) calendar days prior to the date of the proposed activity.
- (b) If such an application is granted by the city clerk, or their designated representative, a permit shall be issued to the person, organization, or corporation to conduct such activity and said permit shall be available at all times on the site during the term of the sale.

Sec. 5-34. Fees.

- (a) The fee for permit applications pursuant to these rules and regulations shall be tendered upon filing of the initial application and shall be established according to the following schedule:

Garage sale	\$5.00
Yard sale.....	\$5.00
Porch sale	\$5.00
- (b) The schedule above lists only the most commonly used terms in describing various temporary sales dealing with secondhand articles. If different names are used to describe the sale of secondhand articles, the city clerk in their sole discretion shall determine which of the above terms most clearly describes the proposed activity and shall set the fee accordingly.
- (c) Societies, associations, or corporations organized solely for religious or charitable purposes shall not be required to pay a fee for any such permit.

¹⁷ *Editor's note--A by-law adopted May 18, 1983 amended the Code of By-laws by the addition of Art. III to Ch. 5. At the discretion of the editor, the provisions of said article have been designated #5-31 to 5-36 to facilitate referencing and indexing.

Sec. 5-35. Enforcement.

- (a) The assistant building inspector shall have primary responsibility for enforcement of these rules and regulations.
- (b) Whoever violates any provisions of these rules and regulations may be punished by a fine not exceeding twenty-five dollars (\$25.00) for each offense.

Sec. 5-36. Decisions of licensing authority re: permit and waiver.

- (a) Nothing contained in these rules and regulations shall require the licensing authority to issue a permit if, in their opinion, the public interest would be adversely affected by so doing.
- (b) The licensing authority, upon motion and vote, may waive strict compliance with any of the above rules and regulations after examination of the facts in a particular case and waiver can be warranted without derogation from the intent and purpose of these rules and regulations.

ARTICLE IV. MOBILE VENDOR ORDINANCE ¹⁸

Sec. 5-37 - Definitions

For purposes of this Article, certain words are defined as follows:

Mobile Vendor shall mean any person, either principal or agent, who engages in a temporary or transient business in the Commonwealth selling goods, wares, or merchandise, either in one location or in traveling from place to place.

Temporary or transient business shall mean any exhibition and sale of goods, ware or merchandise, which is carried on in any tent, booth, or mobile cart on public property, or any person who is licensed as a transient vendor under Chapter 101, Section 3 of the General Laws of the Commonwealth of Massachusetts.

Sec. 5-38 - License Required

- a. It shall be unlawful for any person to operate as a mobile vendor in the City without having complied with the provisions of this Section.
- b. Every person desiring to commence business in the City as a mobile vendor, whether as principal or agent, shall make written application to the City Clerk for that purpose. The application shall contain the following information:
 1. The name and permanent address of the applicant;
 2. Identification of all goods and ware that will be sold;
 3. A detailed description of where the goods will be sold;
 4. Shall file a copy of their valid state vendor's license;
 5. A statement pursuant to General Laws Chapter 62C, §49A, signed under the pains and penalties of perjury, that the applicant will be responsible for and pay all applicable taxes for all goods sold;
 6. The applicant shall provide a plan for the disposal/recycling of the products sold, if applicable. The plan should include the number of waste disposal containers to be used and, if selling a product that has redemption value, then the applicant must provide recycling containers.
- c. Any person desiring to commence business in the City as a mobile vendor must secure all permits required pursuant to General Laws Chapter 101, §3. In addition, if the mobile vendor desires to serve food, then a food service permit from the Easthampton Board of Health must be obtained prior to the issuance of a mobile vendor license.
- d. The cost of a mobile vendor license is \$10.00 per day of the requested license period or \$200 for a period of 1 year to be paid to the City Clerk.

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* Article IV added by vote of the City Council on October 4, 2005; approved by the Mayor on October 5, 2005. This article supersedes the former Art. IV contained in Appendix F (Hawker, Peddler & Transient Vendor Regulations). This article was rescinded by the City Council on October 4, 2005

Sec. 5-39 - Display

Every mobile vendor, at all times while engaged in such activity, shall attach the permit issued to them under the provisions of Section 5-38, to their clothing so as to make it fully visible and conspicuous upon their outer clothing and shall produce said license whenever demanded by a police officer, constable, the City Clerk or the Health Inspector, all of whom shall be authorized to enforce this ordinance within the City of Easthampton.

Sec. 5-40 - Transfer; Use by Other Person

Permits issued pursuant to Section 5-38 shall not be assigned or transferred, nor shall they be used by any person other than the person to whom they were issued.

Sec. 5-41 - Restrictions of Permitted Activity; Operation on Street, Sidewalk or Other City-Owned Property

- a. Mobile vendor permits issued under Section 5-38, shall only be valid for use in the Downtown Business or Mill Industrial zones, as defined by the Easthampton Zoning Ordinance or other areas of the city with permission of the Mayor.
- b. Should any holder of this license use a cart to display or sell their wares, the size of the cart shall be no greater than four feet by six feet.
- c. No mobile vendor operating on a sidewalk shall impede or impair pedestrian traffic. No mobile vendor should conduct business on a public way unless the way has been closed by order of the police for a special event. No mobile vendor shall commence or conduct business on any city-owned property unless the use has been previously authorized, in writing, by the Mayor.
- d. If the sale of merchandise, goods or wares under this transient vendor license is to be conducted on property under the control of the Easthampton School Department or property under the control of the Easthampton Park and Recreation Department, written permission for the use of such property must be presented to the office of the City Clerk prior to the issuance of any license under these regulations.
- e. During the Annual Fireworks Festival, the sale of aerosol powered novelties, such as so-called "Silly String", "Poppers", and similar novelty products, are expressly prohibited as a nuisance pursuant to the authority granted the City under M.G.L. Chapter 101.

Sec. 5-42 - Revocation

The Mayor, City Clerk, Health Inspector, or Chief of Police may revoke any license issued under the provisions of Section 5-38 at their discretion. The use of and possession by any mobile vendor of a false or counterfeit license shall constitute sufficient cause for withholding future licenses. In addition, any mobile vendor found to have an expired or counterfeit license shall be subject to a fine of \$100.00 payable to the City of Easthampton.

Sec. 5-43 - Penalty

Any person who violates any provisions set forth in this Article (other than operation with an expired or counterfeit license) shall be subject to a fine of \$100.00 for each violation.

CHAPTER 6 - MISCELLANEOUS OFFENSES & PROVISIONS

- Sec. 6-1. Storage of Unregistered Vehicles - Prohibited.
- Sec. 6-2. Depositing Animal Carcasses in Water
- Sec. 6-3. Damage to Drinking Fountains/Watering Troughs
- Sec. 6-4. Throwing Objects into Sewers/Inlets
- ~~Sec. 6-5. Keeping Swine~~
- ~~Sec. 6-6. Sale of Non-Intoxicating Beverages~~
- ~~Sec. 6-7. Swimming in the Nude (Prohibited)~~
- Sec. 6-8. Loitering by minors (under 17)
- Sec. 6-9. Discharging of Weapons
- Sec. 6-10. Dogs Running at Large
- Sec. 6-11. Mutual Aid Program
- Sec. 6-12. Consumption of Alcoholic Beverages on Public Ways
- Sec. 6-13. Limit Sodium Chloride Use on Roads
- Sec. 6-14. Invading Privacy by Peeping
- Sec. 6-15. Non-Criminal Enforcement Ordinance
- Sec. 6-16. False Alarm Ordinance
- Sec. 6-17. Garage/Storage of Flammables Fees
- Sec. 6-18. Municipal Fire Prevention Regulations
- Sec. 6-19. Newspaper Dispensing Devices; Permits & Applications
- Sec. 6-20. Urinating or Defecating
- Sec. 6-21. Prohibition of Single Use Plastic Bags and Disposable Food Containers
- Sec. 6-22. Ban on Facial Recognition Surveillance Technology

Editor's Note: Chapter 6 by-laws changed to ordinances by vote of the City Council on October 6, 1998; vetoed by Mayor on October 14, 1998. Veto overridden by council on Nov. 4, 1998. **Cross references** - Animal Control - Chapter 10 and City Cemeteries - Chapter 8, Sec. 79. A by-law of March 27, 1972, nonamendatory of the Code, has been included as 6-10 at the editor's discretion.

Section 6-1. Storage of unregistered vehicles prohibited; exceptions; penalty.

- (a) The keeping of more than one unregistered vehicle assembled or disassembled, except by a person licensed under General Law, Chapter 140, Section 59, on any premises, including residential or business, shall be unlawful unless the motor vehicle is stored in an enclosed building or otherwise out of sight of all abutters and public ways.
- (b) This section shall not apply to motor vehicles which are designed and used for farming, industrial and construction purposes.
- (c) Placing a car cover, tarp, or other material over the vehicle, in which the vehicle can still be identified as a vehicle, is not considered out of sight for purposes of this ordinance.
- (d) Whoever violates any provisions of this section shall be subject to a penalty of fifty dollars (\$50.00) and ten dollars (\$10.00) per day for each day of violation, commencing ten (10) days following date of receipt of written notice from the Police Department (By-law of 3-22-1969, Approved 5-27-1999; amended by the City Council on 11-5-2003; approved by the Mayor 11-6-2003; amended by the City Council on 11-02-2022; approved by the Mayor on 11-02-2022).

Section 6-2. Depositing animal carcasses on ground or in water.

No person shall throw any animal, or the carcass of any dead animal into any pond or stream within the limits of the city, and no person shall leave any carcass of any animal on the surface of the ground, or insufficiently buried. (1945 By-laws, Art. IV, 26, Approved 5-1-1945)

Section 6-3. Injuring drinking fountains and water troughs.

No person shall in any manner injure any of the drinking fountains or watering troughs in any street or public place in the city, or shall throw or place any substance in the same. (1945 By-laws, Art. IV, Sec. 28, Approved 5-1-1945)

Section 6-4. Throwing objects into sewers and inlets.

No person shall throw or place into any common sewer or inlet in the city any dead animal, stone, brick, stick or other substance likely to obstruct the flow of water in the sewer or inlet. (1945 By-laws, Art. IV, 25, Approved 5-1-1945)

~~Cross reference--~~Rules and regulations governing the use of public sewers, App. D.

~~Section 6-5. Keeping swine; license required; manner of keeping; license renewal.~~

(Section deleted by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022).

~~Section 6-6. Sale of certain non-intoxicating beverages; license; fee.~~

(Section deleted by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022).

~~Section 6-7. Swimming in the nude.~~

(Section deleted by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

Section 6-8. Loitering by certain minors during certain hours.

No person under the age of seventeen (17) years shall loiter on or about the public ways of the city between the hours of 10:00 p.m. to 6:00 a.m. (By-law of 3-20-65, Approved 3-31-1965)

Section 6-9. Discharging dangerous weapons.

No person under the age of sixteen (16) shall discharge any firearms, air guns, BB rifles, or any other dangerous weapon in the city. (By-law of 3-25-50, Approved 8-17-1950)

Section 6-10. Dogs running at large.

No person owning or keeping a dog in the city shall allow such dog to roam at large upon the land of another, except if it be on the premises of another person with the knowledge and permission of such other person, nor allow such dog to roam at large on any portion of any public highway. Such owner or keeper of a dog in the city which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person, shall restrain such dog by a chain or leash not exceeding six (6) feet in length. Nothing in this section shall be construed to limit or prohibit the use of hunting dogs during the open hunting season.

The unauthorized presence of any dog on the land of any person other than the owner or keeper of such dog or on the premises of any school, when such dog is not restrained as mentioned above shall be prima facie evidence of a violation of this section.

A violation of this section shall be punishable by a fine of not more than fifty dollars (\$50.00) for each offense. (By-law of 3-27-1972, Approved 8-30-72; By-law of 5-4-1989, 13)

Section 6-11. Mutual aid program.

The city may enter into an agreement with another community or communities, to provide mutual aid programs for police departments to increase the capability of such departments to protect the lives, safety and property of the people in the area designated in the agreement. Said agreement may include the furnishing of personal services supplies, materials, contractual services, and equipment when the resources normally available to any municipality in the agreement are not sufficient to cope with a situation which requires police action. (By-law of 3-24-1973)

Section 6-12. Consumption of alcoholic beverages on public ways.

Possessing open container of alcohol, drinking on streets, sidewalks, parking lots, playgrounds, parks or cemeteries owned or maintained by the City of Easthampton.

- a. No person shall consume any alcoholic beverage, nor possess or transport any open can, bottle, or other container containing an alcoholic beverage on any city street or sidewalks owned and/or maintained by the City of Easthampton.
- b. No person shall consume any alcoholic beverage, nor possess or transport any open can, bottle, or other container containing an alcoholic beverage in any parking lot owned and/or maintained by the City of Easthampton; including but not limited to the Cottage Street Municipal Parking Lot, Millside Park. (Subsection b. amended 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).
- c. No person shall consume any alcoholic beverage, nor possess or transport any open can, bottle, or other container containing an alcoholic beverage on any playground or park; including but not limited to, Nonotuck Park, Pleasant Green, Millside Park, all city owned property abutting the Nashawannuck Pond, the Manhan Rail Trail, and any property owned and/or maintained by the City of Easthampton Parks and Recreation Department or the Conservation Commission; all city owned schools to include parking areas of said schools;

all cemeteries owned and/or maintained by the City of Easthampton; including but not limited to Brookside Cemetery. (Subsection c. amended 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

The Parks and Recreation Department may set designated area, such as rental pavilions, for consumption of alcohol at a yearly meeting, passed by majority vote of the commission, and outlined in yearly policies and procedures. (Amended 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

Temporary areas allowable for public consumption of alcohol may additionally be further determined per section (f) below. (Added 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

- d. No person shall consume any alcoholic beverage, nor possess or transport any open can, bottle, or other container containing an alcoholic beverage on any city owned property, including city owned buildings, not otherwise specified in sections (a), (b) or (c). (Subsection d. added 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).
- e. No person shall possess, in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, an open bottle, can, or other receptacle used to contain an alcoholic beverage that has been opened or has a broken seal or the contents of which have been partially removed or consumed, within the passenger area of any motor vehicle. The passenger area shall include the area designed to seat the driver and passengers while the vehicle is in operation and any area that is readily accessible to the driver or a passenger while in a seated position included, but not limited to, the glove compartment; provided, however, that the passenger area shall not include a motor vehicle's trunk or a locked glove compartment or, if a vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

This shall not be applied to passengers of a motor vehicle designed, maintained, and used for the transportation of persons for compensation or the living quarters of a mobile home or trailer, however the drivers of any such vehicles shall be subject to the above regulations. (Subsection e. added 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

- f. The Parks and Recreation Department (Commission), by majority vote may allow the possession and use of alcoholic beverages and the consumption thereof at Nonotuck Park, Millside Park and Pleasant Green for a specific event or occasion, and may impose such conditions on said sale, use and possession as it deems appropriate. (Subsection f. amended 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

The City Council, by a majority vote, may temporarily suspend the operation of this ordinance to permit the public sale, use and/or possession of alcoholic beverages and consumption thereof in any of the locations listed in paragraphs (a), (b), (c) or (d) and may impose such conditions on such sale, use and possession as deemed appropriate.

Suspension of this ordinance by either body shall include the designated area or areas for consumption, including all applicable geographical boundaries, and the relevant date(s) or time time period for suspension. (Sentence added 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

Police powers of arrest of City Ordinances Section 6-12: Violators may be arrested without a warrant by an office authorized to serve criminal process in the City of Easthampton, and kept in custody until they can be taken before the court having Jurisdiction of the offense, the Northampton District Court.

Penalty: Violators of sections (a), (b), (c) or (d) shall be punished by a fine not exceeding one-hundred dollars (\$100.00) for each offense. Violators of section (e) shall be punishable by a fine

not exceeding three-hundred dollars (\$300.00). (Penalties amended 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).

(By-law of 11-24-75; Section 6-12 amended by the City Council on 10-20-2010; approved by the Mayor on 10-21-2010). Further amended by the City Council on 04-15-2020; approved by the Mayor on 04-20-2020.

Editor's note--Inclusion of a by-law of Nov. 24, 1975, nonamendatory of the Code, was at the editor's discretion.

Section 6-13. Limitations on sodium chloride use on roads.

If the sodium content of the public water supply exceeds fifteen (15 mg/l, the use of sodium chloride for maintenance of roads within the district shall be discontinued, except at the application rates approved by the board of health and designed to prevent the sodium content of the public water supply from exceeding twenty (20) mg/l. (By-law of 5-16-1984)

Section 6-14. Invading the privacy of another by peeping.

No person shall enter upon the premises of another for the purpose of committing any wanton or malicious act and/or for the purpose of invading the privacy of another by peeping into property or spying upon any person.

Nothing contained in this ordinance shall be construed to abridge or in any way limit the right of a police officer to enter upon private property or to perform any act necessary in the performance of their official duties.

Violations of this section shall be punishable by a fine of not more than two hundred dollars (\$200.00) for each violation. (By-law of 2-4-1986)

Section 6-15 Non-Criminal Enforcement Ordinance

- (a) **Criminal Complaint:**
Whoever violates any provisions of the ordinances of the City of Easthampton may be penalized by indictment or criminal complaint brought in the District Court. The penalty shall be that fixed by ordinance; provided, however, that in no case shall the maximum penalty for each violation, or offense, brought in such manner, be in excess of three hundred (\$300.00) dollars unless otherwise allowed by law.

- (b) **Non-Criminal Disposition:**
Whoever violates any provisions of the ordinances listed herein of the City of Easthampton the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in the General Laws, Chapter 40, Section 21D. The non-criminal method for disposition may also be used pursuant to this article for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty provided that the City Council first approve, by majority vote, each such rule or regulation to be enforced by this procedure.

- (c) Any person, board or department taking cognizance of a specific ordinance, rule or regulation which they are empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice informing the offender has the following two alternatives in such a matter;
 - 1) To pay the fine, by appearing in person or through a duly authorized agent or by mailing a check, money order or postal note WITHIN 21 DAYS OF RECEIVING THE ABOVE NOTICE to: City Clerk, City Hall, Easthampton, MA 01027,

 - OR**

 - 2) To contest the matter, by making a written request for a non-criminal hearing, and enclosing a copy of the citation WITHIN 21 DAYS OF RECEIVING THE ABOVE NOTICE to: Clerk-Magistrate, Northampton District Court, 15 Gothic Street, Northampton, MA 01060, ATTN: 21D Non-Criminal Hearings.

- (d) The following ordinances are to be included within the scope of this article and the specific penalties listed here shall apply in such cases. Further, the rules and regulations of any municipal officer, board or department approved by the City Council shall also be included within the scope of this article and the specific penalties approved by the City Council shall apply in such cases. Notwithstanding any city ordinance provisions to the contrary, the municipal personnel listed for each section shall be enforcing persons for such sections. Each day on which any violations exists shall be deemed to be a separate offense.

(By-law of 10-2-1991; Approved by the Attorney General on 12-3-1991; Amended 10-5-1994; approved by the Attorney General on 1-9-1995)

EASTHAMPTON ORDINANCES SUBJECT TO NON-CRIMINAL DISPOSITION:

1. **Storage of Unregistered Vehicles:**
Penalty: \$50.00
Enforcing Person: Police Officers
Citation: Chapter 6, Section 6-1
2. **Removal of Snow, Sleet or Ice on Sidewalks:**
Penalty: \$50.00
Enforcing Person: Police Officers
Citation: Chapter 8, Section 8-41
3. **Dogs Running at Large:**
Penalty: \$50.00
Enforcing Persons: Animal Control Officer & Police Officers
Citation: Chapter 11, Section 11-5 (also see Chapter 6, Sec. 6-10)
4. **Unlawful Disposal of Refuse:**
Penalty: \$50.00
Enforcing Person: Health Inspector
Citation: Chapter 10, Section 10-2
5. **Consumption of Alcohol on Certain Public Property:**
Penalty: \$100.00
Vehicle open container: \$300.00
Enforcing Person: Police Officers
Citation: Chapter 6, Section 6-12
(#5 amended 04-15-2020 by the City Council; approved by the Mayor on 04-20-2020).
6. **Handicapped Parking Ordinance:**
Penalty: \$50.00
Enforcing Person: Police Officers
Citation: Appendix A, Article V, Sec. 1-33
7. **Easthampton Fire Prevention Regulations (527 CMR1.00 - the Board of MA Fire Prevention Regulations):**
(Amended by the City Council on 09-02-2015; approved by the Mayor on 09-03-2015)
Penalty: \$50.00
Enforcing Persons: Fire Department's Chief, Deputy Chief & Captains
Citation: Chapter 6, Section 6-18
8. **Sale of Tobacco to Minor:**
Penalty: \$100.00
Citation: Board of Health Regulations, Appendix C, Chapter 7
Enforcement: Board of Health, its staff or other designated official
(Vote of the Board of Selectmen 9-21-1994)
9. **Board of Health Regulations:**
Penalty: To be assigned by the Easthampton Board of Health Regulations
Enforcing Persons: Board of Health's Agent or designee
Citation: Appendix C
(Approved by the City Council on 07-06-1999; approved by the Mayor on 07-07-1999)

10. **Easthampton Building Regulations and Zoning Ordinance:**
 Penalty: \$50.00
 Enforcing Person: Building Inspector
 Citation: Chapter 4, Section 4-6; 780 CMR – State Building Code Regulations;
 Appendix G, Easthampton Zoning Ordinance
 (Approved by the City Council on 05-15-2001; approved by the Mayor on 05-16-2001)
11. **Easthampton Bicycle Ordinance**
 Penalty: \$125.00
 Enforcing Persons: Police Officers
 Citation: Chapter 3 (Bicycles)
 (Approved by the City Council on 04-16-3002; Mayor 4-17-2002; Amended by the City Council on 08-07-2007;
 Mayor on 08-14-2007)
12. **Placing unsolicited printed material upon public or private property**
 Penalty: \$50.00 per violation*
 Enforcement: Police Officers, Health Agent
 Citation: Chapter 8, Sec. 8-1
 *All fines issued will be the responsibility of the company, organization, etc. that solicited
 the materials to be placed.
 (Approved by the City Council on 10-06-2010; approved by the Mayor on 10-07-2010)
13. **Storm water Management Ordinance**
 Penalty**: Up to \$100 for first violation
 Up to \$200 for second violation
 \$300 for third and subsequent violations
 **Per day or part thereof that violation occurs
 Enforcement: Dept. of Public Works
 Citation: Chapter 12, Article VII, Sec. 12-81(h) (5)
 (Article VII approved by the City Council on 05-18-2011; approved by the Mayor on 05-19-2011)
14. **Illicit Discharge Detection and Elimination Ordinance**
 Penalty**: Up to \$100 for first violation
 Up to \$200 for second violation
 \$300 for third and subsequent violations
 ** Per day or part thereof that violation occurs
 Enforcement: Dept. of Public Works
 Citation: Chapter 12, Article VIII, Sec. 12-93 (h)
 (Article VIII approved by the City Council on 05-18-2011; approved by the Mayor on 05-19-2011)

Section 6-16. False Alarm Ordinance

1) **Definitions:** For the purpose of this ordinance, the following words and phrases shall have the following meaning(s):

Alarm System - any assembly of equipment and/or devices that are designed to be activated either manually or automatically for the purpose of drawing attention to the presence of a hazard or situation, criminal or otherwise, to which police are expected to respond.

Alarm User - any person or business on whose premises an alarm system is installed and maintained within the City of Easthampton, except for alarm systems that are installed in motor vehicles. Municipal buildings are hereby expressly excluded from the provisions of this ordinance.

False Alarm - shall mean:

- a. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of the alarm system or their employees or agents; and
- b. Any signal or communication transmitted to the police department requesting, requiring, or resulting in a response from the police department when, in fact, there has been no unauthorized entry or intrusion into the premises, and there has been no attempted robbery or burglary at the premises. Excluded from this definition shall be the activation of an alarm system by power outages, utility companies, motor vehicle accidents, severe storms and general maintenance and/or repairs to the alarm systems when the police department has been notified in advance of potential alarm activation.

2) **False alarms:** After the police department has recorded three (3) separate false alarms within a calendar year, the alarm user shall be assessed the following fees:

- No charge for the first through third false alarm(s);
- \$25.00 for the fourth false alarm;
- \$50.00 for the fifth and subsequent false alarm(s).

Failure to pay the fee within twenty-one (21) days of the billing date will result in court action for violation of a City ordinance or a municipal charges lien being placed on the real property pursuant to M.G.L. Ch. 40, Sec. 58, in the Hampshire County Registry of Deeds, until the fee is paid.

3) **Audible Alarm:** All alarm systems that emit an audible signal shall be equipped with a device for limiting the length of the audible signal to ten (10) minutes. Any user of an alarm system that either does not have such a device or has a malfunction that allows the audible signal to continue for more than 10 minutes shall be assessed the following fees:

- No charge for the first through third violation(s);
- \$25.00 for the fourth violation;
- \$50.00 for the fifth and subsequent violation(s).

Failure to pay said fee within twenty-one (21) days of the billing date will result in either court action for violation of a city ordinance, or the placement of a municipal charges lien on the real property pursuant to Mass. G.L. Ch. 40, Sec. 58, in the Hampshire County Registry of Deeds, until the fee is paid. (By-law of 7-11-1991)

Section 6-17. Garage/Storage of Flammables Fees

The following fee schedule is hereby established for all permits or Certificates of Registration issued pursuant to M.G.L. Chapter 148, Section 13:

GARAGE PERMIT (Storage in Tanks of Vehicles):

Original License -- \$25.00
Annual Renewal -- \$10.00

STORAGE OF FLAMMABLES (Above or Underground, etc.):

Original License -- \$50.00
Annual Renewal -- \$25.00

(By-law of 2-13-1990)

Section 6-18. Municipal Fire Prevention Regulations

The City of Easthampton Municipal Fire Regulations encompass 527 CMR1.00 the Board of Massachusetts Fire Prevention Regulations in its entirety. (By-law of 10-5-1994, approved 1-9-1995. Amended by City Council on 9-2-2015; approved by the Mayor on 9-3-2015)

Section 6-19. Newspaper Dispensing Devices; Permits and Applications¹⁹.

a. Applications:

Applications may be made to and on forms approved by the Chief of Police, or the Chief's designee for permits allowing the installation of newspaper dispensing devices on public property along the streets and thoroughfares within the city respecting newspapers having general circulation throughout the city.

b. Issuing Authority:

The Chief of Police, or the Chief's designee, shall either deny the application - but only for reasons of public safety, stating the reasons for such denial - or grant said permit subject to the following terms:

c. Definitions:

The term "*newspaper dispensing device*" as used in this section, shall mean a mechanical, coin-operated (if a charge is involved) container constructed of metal or other material of substantially equivalent strength and durability, including, but not limited to, apartment, home sales and vehicle periodicals.

d. Placement:

Newspaper dispensing devices shall be placed adjacent and parallel to building walls not more than six inches distant therefrom or nearer and parallel to the curb not less than eighteen (18) inches and not more than twenty-four (24) inches distant from the curb at such locations applied for and determined by the Chief of Police, or the Chief's designee, not to cause an undue health or safety hazard, interfere with the right of public to the proper use of the streets and thoroughfares or cause a nuisance as described by Mass. General Laws, Chapter 139, Section 1. Provided further, however, that no newspaper dispensing device shall be placed, installed, used or maintained:

¹⁹ Sec. 6-19 added by the City Council on Sept. 16, 1998; approved by the Mayor on Sept. 18, 1998.

1. So as to reduce the clear, continuance combined sidewalk and paved tree lawn width to less than five feet;
2. Within five feet of any fire hydrant or other emergency facility;
3. Within five feet of any intersecting driveway, alley or street;
4. Within three feet of any marked crosswalk;
5. At any location where the width of the clear space in any direction for the passageway of pedestrians is reduced to less than five feet;
6. Within two hundred and fifty (250) feet of another newspaper dispensing device containing the same newspaper or periodical, except that the Chief of Police, or the Chief's designee, may permit two such dispensing devices at an intersection where such placement would not impair traffic or otherwise create a hazardous condition; and
7. The number of newspaper dispensing devices in any location shall be subject to the approval of the Chief of Police, or the Chief's designee, for the reason of public safety only. If the number of applications exceed the amount recommended by the Chief of Police, or the Chief's designee, the space shall be awarded by a lottery system.

e. Permit Conditions:

Permits shall be granted upon the following conditions:

1. The permittee, upon removal of a newspaper dispensing device, shall restore the property of the city to the same condition as when the device was initially installed, ordinary wear and tear excepted.
2. The permittee shall maintain the device in good working order and in a safe and clean condition, keep the immediate area surrounding such device free from litter and debris.
3. The permittee shall not use a newspaper dispensing device for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper sold thereunder.
4. The permittee shall save and hold the municipality harmless from any and all liability for any reason whatsoever occasioned upon the installation and use of each newspaper dispensing device and shall furnish, at the permittee's expense, such public liability insurance as will protect permittee and the municipality from all claims for damage to property or bodily injury, including death, which may arise from the operation under the permit or in connection therewith. Such policy shall name the municipality as additional insured and shall be in the amount not less than one hundred thousand (\$100,000.00) dollars combined single limit for injury to persons and/or property and shall provide that the insurance coverage shall not be canceled or reduced by the insurance carrier without thirty (30) days prior written notice to the municipality. A certificate of such insurance shall be provided to the municipality and maintained before and during the installation of such device;
5. Permits shall be for a term of one year and shall not be assignable. The permitting process shall begin on January 1st and continues to each succeeding January 1st of the following years.

f. **Appeal Process:**

A person aggrieved by a decision of the Chief of Police, or the Chief's designee, in refusing to grant or revoking a permit, shall have a right to appeal to the City Council. Such appeal shall be taken by filing a notice of appeal, including a statement of the grounds for the appeal with the City Clerk within ten days after notice of the decision by the Chief of Police has been given. The City Council shall set a time and place for hearing such appeal and notice of such time and place shall be given in the same manner as specified hereinabove. The City Council shall have the power to reverse, affirm or modify the decision of the Chief of Police, or Chief's designee, and any decision made by the City Council shall be final.

Section 6-20. Urinating or Defecating.²⁰

- (a) **Prohibitions and exceptions.** It shall be unlawful for any persons to urinate or defecate in, or in view of, a public place other than one set aside and designated for that particular purpose. Persons who violate this ordinance due to verified medical conditions shall be exempt from the enforcement provisions of this ordinance.
- (b) **Public place defined.** Any place where the conduct may reasonably be expected to be viewed or could be viewed by others is a public place. Such areas shall include, but not be limited to, any street, alley, sidewalk, parking lot, park, playground, school yard, cemetery, floor of any building, except in such place that has been designated a restroom.
- (c) **Penalty for violation.** Any person who violates the provisions of this section shall be guilty of an infraction, the penalty for which shall be a city citation for \$50.00.

²⁰ Sec. 6-20 added by the City Council on Aug. 3, 2004; approved by the Mayor on Aug. 10, 2004.

Section 6-21. Prohibition of Single Use Plastic Bags and Disposable Food Containers.²¹

Sec. 6-21.1 General Definitions.

ASTM – shall mean a testing standard developed by the American Society for Testing and Materials.

ASTM D6400 - shall mean the American Society for Testing and Materials (ASTM) International “Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities.”

ASTM D6868 – shall mean the American Society for Testing and Materials (ASTM) International “Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities.”

Biodegradable Packaging - shall mean packaging other than plastic or styrofoam which composts into beneficial breakdown components

BPI - shall mean the Biodegradable Products Institute, and associated certification.

Compostable Packaging – shall mean packaging that is made of material that conforms to the current American Society for Testing and Materials International D6400 or D6868 for compostability and is certified by BPI.

Compostable Straw – shall mean any straw made of a material that decomposes naturally into non-toxic materials, to include but not limited to: paper, bamboo, hay.

Disposable Plastic Straw – shall mean any straw, which is designed for a single use, and made from fossil fuel based polymers including, but not limited to: low-density polyethyelene, polyethelene terephthalate, polystyrene, polypropylene, polyvinyl chloride.

Disposable Food Service Ware - shall mean all food and beverage containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, film wrap, and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods, or uncooked foods, or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and leftover food from partially consumed meals prepared at food establishments.

Expanded Polystyrene (EPS) – shall mean polystyrene that has been expanded or “blown” using a gaseous blowing agent into a solid foam and is also known as styrofoam.

Manifest Injustice – A decision that is obviously unfair or shocking to the conscience; a decision that is direct, obvious, observable, and plainly and obviously unjust. (Definition added 11-17-2021)

Merchandise - shall mean products of any nature or kind that are sold or purchased in Retail Establishments.

²¹ Sec. 6-21 was added by the City Council on Feb. 21, 2018; approved by the Mayor on Feb. 26, 2018. It was deleted in its entirety and replaced with a new Sec. 6-21 on Oct. 14, 2020; approved by the Mayor on Oct. 19, 2020. Amended by the City Council on Aug. 4, 2021; approved by the Mayor on Aug. 5, 2021. Further amended by the City Council on Nov. 17, 2021; approved by the Mayor on Nov. 21, 2021. Further amended by the City Council on Dec. 21, 2022; approved by the Mayor on December 21, 2022.

Prepared Food - shall mean any food or beverage prepared for consumption on the Retail Food Establishment's premises, using any cooking or food preparation technique. This does not include any raw, uncooked meat, or fish unless provided for consumption without further food preparation.

Polystyrene – shall mean expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is sometimes known as “oriented polystyrene”.

Recyclable - Material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. “Recycling” does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

Retail Establishment - shall mean all sales outlets, stores, shops or other places of business located within the City of Easthampton which sell or convey merchandise directly to the end consumer. This includes, but is not limited to: convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

Retail Food Establishment - shall mean all sales outlets, stores, shops, restaurants, clubs or other places of business which sell, serve or convey foods directly to the end consumer. This definition shall include but is not limited to any place where food is prepared, mixed, cooked, baked, smoked, preserved, bottled, packaged, handled, stored, manufactured, sold or offered to the public; similar places in which food or drink is prepared for sale or service on the premises or elsewhere; and any other establishment or operation, including in-home caterers, where food is processed, prepared, stored, served or provided for the public regardless of whether there is a charge for the food.

Shopping Bag Definitions

Checkout Bag - shall mean a carryout bag provided by a Retail Establishment to a consumer at the point of sale. Checkout Bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

Compostable Plastic Bags – shall mean a plastic bags that (1) conform to the current ASTM D6400 for compostability; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized third party certification entity; and (3) conforms to any other standards deemed acceptable by this section.

Produce Bag - shall mean a bag provided by a store in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the Retail Establishment.

Recyclable Paper Bag – shall mean a paper bag that is (1) 100 percent recyclable; (2) contains at least 40% post-consumer recycled paper content; and (3) displays the words “Recyclable” and made from 40% post-consumer recycled content (or other applicable amount) in a visible manner on the outside of the bag.

Reusable Checkout Bag - shall mean a sewn bag with stitched handles that (1) can carry 25 pounds; (2) is either (a) made of cloth or other machine washable fabric; or (b) made of a non-toxic plastic as defined by applicable state and federal regulations, that is more than 4 mils thick; and (3) is designed for multiple uses.

Thin-Film Single-Use Plastic Bag – shall mean a bag with a thickness of 4.0 mils or less and that is intended for single-use transport of purchased products.

Straw – shall mean a thin, hollow tube used to extract liquid from cups as commonly understood.

Transfer- shall mean to give, sell, provide, dispense or otherwise convey.

Sec. 6-21.2 General Prohibitions and Regulations. (Sec. 6-21.2 amended 12-21-2022)

6-21.2.1 No Retail Establishment or Retail Food Establishment shall transfer merchandise to end consumers in a Thin-Film Single-Use Plastic Bag, and shall only use Checkout Bags that are: 1) Reusable Checkout bags or 2) Recyclable Paper Bags.

6-21.2.2 Any Retail Establishment or Retail Food Establishment that is greater than 5,000 square feet in area, and provides any type of Checkout Bag, shall sell such Checkout Bags for no less than ten cents (\$0.10) per Checkout Bag. All proceeds from the sale of such Checkout Bags shall be retained by the Retail Establishment or Retail Food Establishment. Any charge for a Checkout Bag shall be separately stated on a receipt provided to the consumer at the time of sale and shall be identified as the "Checkout Bag Charge" thereon.

6-21.2.3 No Retail Food Establishment shall transfer prepared Food to consumers in Disposable Food Service Ware made from Polysterene or Expanded Polystyrene.

6-21.2.4.1 No retail food establishment shall dispense, distribute, or sell a beverage straw in conjunction with the sale or service of prepared food, except upon request of an individual. Businesses shall post a printed sign reading "straws are available upon request" and clearly displayed at the place where food is ordered.

Signage shall be developed in consultation with the Board of Health to maintain consistent legibility and messaging across all businesses in the city.

- a. This provision shall be satisfied by providing accessible dispensers containing single use plastic straws and compostable straws. These dispensers shall be clearly visible and accessible to customers and be clearly marked. Compostable straws containing known allergens must be marked to include a warning to consumers and the known allergen.

6-21.2.4.2 All food service establishments shall maintain a sufficient supply of single-use plastic beverage straws that are not compostable, as well as a sufficient supply of compostable straws. If a person specifically requests a plastic beverage straw, such food service establishment shall provide a single-use plastic beverage straw that is not compostable free of charge and shall make no inquiry into the reason for such request.

6-21.2.4.3 Nothing in this article prohibits retail food establishments and their employees from prompting patrons to request straws as described in item (1) above.

6-21.2.4.4 Nothing in this article prohibits customers from using their own straws of any material for personal use in any business establishment.

6-21.2.4.5 Exempt from this provision is the dispensing of straws for beverages where consumption with a thick walled durable straw is required, such as shakes, frappes, smoothies, slushies, etc.

6-21.2.4.6 Any violation of this section is punishable as detailed in Section 6-21.4

(Sec. 61-21.2.4 added 11-17-2021)

Sec. 6-21.3 Exemptions.

Sec. 6-21.2 of this ordinance shall not apply to the following items:

6-21.3.1 Any flexible transparent covering used in conjunction with uncooked or raw meat, poultry, or fish.

6-21.3.2 Foods or merchandise prepared or packaged outside the City of Easthampton for transfer to consumers in Easthampton.

6-21.3.3 Aluminum containers used for the purpose of catering or packaging of food for serving to more than one individual

Sec. 6-21.4 Penalties and Enforcement.

6-21.4.1 If it is determined that a violation of any section of this ordinance has occurred the Health Department or its designee shall issue a warning notice for the initial violation.

6-21.4.2 If an additional violation of this ordinance occurs within one (1) year after a warning notice has been issued, the Board of Health or its designee shall issue a notice of violation and shall impose a penalty against the Retail Establishment or Retail Food Establishment.

6-21.4.3 The penalty for each violation that occurs after the issuance of a warning notice shall be: 1) \$100 for the first offense; 2) \$200 for the second offense; 3) \$300 for the third and each subsequent offense. Payment shall be made within twenty- one (21) days to the Clerk for the City of Easthampton. Non-payment of such penalty may be enforced through civil action in the Northampton District Court. Provided however, that no more than one (1) penalty shall be imposed upon a Retail Establishment or Retail Food Establishment every seven (7) calendar days.

Sec. 6-21.5 Date of Effect.

This ordinance shall take effect on January 1, 2022. Businesses shall have a period of one year from the date of effect to be fully in compliance with this ordinance. (Second sentence added 11-17-2021)

Sec. 6-21.6 Variances.

6-21.6.1 The Board of Health ("Board) may, but is not required to, grant a variance after receiving a variance request in writing. The Board may approve variances on a permanent basis or temporary basis until the applicant can come into full compliance.

6-21.6.2 To request a variance, applicants must do the following:

- a. Applicants will be required to submit, in writing, which section of the ordinance they are requesting a variance on.
- b. Applicants shall articulate the following:
 1. The enforcement of the ordinance, as written, would do manifest injustice and/or;
 2. The applicant provides documentation that there is no readily available compliant substitute and/or;
 3. The applicant has proved that the same degree of environmental protection can be achieved without strict application of a particular section of the ordinance

6-21.6.3 Decisions by the Board shall be documented in writing and approvals shall not be in effect until the applicant receives written approval from the Health Department.

(Sec. 6-21.6 replaced in its entirety on 11-17-2021)

Sec. 6-21.7 Severability.

Any word, term, or section deemed illegal for any reason may be severed from this ordinance without affecting viability of the whole.

Section 6-22. Ban on Facial Recognition Surveillance Technology²²

Sec. 6-22.1 Definitions.

Facial surveillance shall mean an automated or semi-automated process that assists in identifying or verifying an individual, based on the physical characteristics of an individual's face.

Facial surveillance system shall mean any computer software or application that performs facial surveillance.

Easthampton shall mean the City of Easthampton, and any agency or department thereof.

Easthampton official shall mean any person or entity acting on behalf of the City of Easthampton, including any officer, employee, agent, contractor, subcontractor, or vendor.

Section 6-22.2. Ban on Government Use of Facial Surveillance.

- a) It shall be unlawful for Easthampton or any Easthampton official to obtain, retain, access, or use:
1. Any facial surveillance system; or
 2. Any information obtained from a facial surveillance system.

Section 6-22.3. Enforcement.

- a) **Suppression:** No data collected or derived from any use of facial surveillance in violation of this ordinance and no evidence derived therefrom may be received in evidence in any proceeding in or before any department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the City of Easthampton.
- b) **Violations:**
1. **Fine.** A violation of this Ordinance shall be governed by section 6-15(b) of Chapter 6 of the City's General Ordinances and shall not be subject to subsection 6-15(a) of Chapter 6. The fine shall be Three Hundred (\$300) Dollars per violation.
 2. **Cause of Action.** Any violation of this ordinance constitutes an injury, and any person aggrieved by a violation of this ordinance may institute proceedings for injunctive relief, declaratory relief, or other equitable relief in any court of competent jurisdiction to enforce this ordinance. An action instituted under this paragraph shall be brought against Easthampton and, if necessary to effectuate compliance with this section, any other governmental agency with possession, custody, or control of data subject to this ordinance.
 3. The City will address alleged violations of this ordinance by Easthampton officials in accordance with its usual practices, applicable law and contractual obligations.
 4. Nothing in this section shall be construed to limit any individual's rights under State or Federal law.

²² Sec. 6-22 added by the City Council on July 1, 2020. Approved by the Mayor on July 2, 2020.

Section 6-22.4. Exceptions

Nothing in Sec. 6-22.2 and Sec. 6-22.3 shall prohibit Easthampton or any Easthampton official from otherwise lawfully:

1. Using evidence from a law enforcement agency outside Easthampton that may have been generated from a facial surveillance system for the purposes of the investigation of a specific crime;
2. Obtaining or possessing (i) an electronic device, such as a cell phone or computer, for evidentiary purposes, or (ii) an electronic device, such as a cell phone or tablet, that performs facial surveillance for the sole purpose of user authentication;
3. Using facial recognition on an electronic device, such as a cell phone or tablet, owned by Easthampton or by such official, for the sole purpose of user authentication;
4. Using social media or communications software or application for communicating with the public, provided such use does not include the affirmative use of any facial surveillance;
5. Using automated redaction software, provided such software does not have the capability of performing facial surveillance; or
6. Complying with the National Child Search Assistance Act.

Section 6-22.5. Severability.

Should any provision, paragraph, sentence or clause of this ordinance be adjudicated invalid, unlawful or unenforceable for any reason, the remaining provisions shall remain in full force and effect.

CHAPTER 7 - PERSONNEL*

- Art. I. In General, Sections 7-1 to 7-14**
 - Sec. 7-1. Compensation other than salary**
 - Sec. 7-2. Career Incentive Program for Police Officers**
 - Sec. 7-3. Working hours for members of the Fire Department**
 - Sec. 7-4. Subpoena Power.**
 - Sec. 7-5. Clerk to the City Council Salary**
 - Secs. 7-6 to 7-14. Reserved**

- Art. II. Classification and Pay Plan, Sections 7-15 to 7-23**
 - Sec. 7-15. Adoption of Plan**
 - ~~**Sec. 7-16. Effective date of plan; pay adjustments**~~
 - Sec. 7-17. Classification of Employees**
 - Sec. 7-18. The Pay Plan**
 - Sec. 7-19. Contract with employees covered by plan to be consistent with plan**
 - Sec. 7-20. Overtime pay**
 - Sec. 7-21. Amendments to plan**
 - Sec. 7-22. Provisions of article not to be construed to conflict with civil Service law**
 - Sec. 7-23. Designation of titles.**

***Charter reference**—Administrative organization, Art. 6.

Cross references – Sale of materials to city by officers and employees of city, Sec. 2-5; city committees, boards and councils, Sec. 2-28 et seq.; inspectors of the building department, 4-6 et seq.; building board of appeal, 4 -43 et seq.

Chapter 7 updated to city standards by vote of the City Council on 8-7-01: approved by Mayor on 8-13-01. Sections have been renumbered due to this vote.

ARTICLE I. IN GENERAL

Sec. 7-1. Compensation other than salary.

No city officer and no salaried employee of the city, or any agent of any such officer or employee, shall receive any compensation or commission for work done by them for the city, except their official salary and fees allowed by law, without the permission of the Mayor and City Council expressed in a vote which shall appear on their records with the reasons therefor.

(1945 By-laws, Art. III, 2, approved 5-1-1945; amended by vote of the City Council 8-7-01; approved by the Mayor 8-13-2001)

Sec. 7-2. Career incentive program for police officers.

For the purposes of establishing a career incentive program for regular full-time police officers of the city and receiving partial reimbursements for its implementation by the Commonwealth, the city accepts Section 108L of Chapter 41 of the General Laws. (By-law of 3-21-1970)

Sec. 7-3. Working hours for members of fire department.

The average weekly working hours of duty for permanent uniformed members of the city fire department shall not exceed forty-two (42) per week in any one year beginning April 1, 1972.

(By-law of 3-21-70, Approved 7-16-1970)

Sec. 7-4. Subpoena Power.

The Mayor, or their designee, shall have the power and is authorized in employment hearings to subpoena witnesses, to compel their attendance, to administer oaths, take the testimony of any person under oath and, in connection therewith, to require the production of evidence relating to any matter before them. This ordinance shall stand repealed on the ninety-first day following its adoption (May 21, 2002). (Approved by the City Council on 2-19-02; approved by the Mayor on 2-20-2002)

Sec. 7-5. Clerk to the City Council Salary.

In accordance with the Home Rule Charter, Article 2, Sec. 2-8(e) the salary of the Clerk to the City Council shall be \$5,000.00 per year effective July 1, 2022. Compensation for alternate clerk coverage shall be \$100.00 per council meeting. (Approved by the City Council 11-8-2006; approved by the Mayor 11-9-2006; amended by the City Council on 9-21-2016; approved by the Mayor on 9-22-2016; amended by the City Council on 02-16-2022; approved by the Mayor on 02-22-2022)

Secs. 7-6 to 7-14. Reserved.

ARTICLE II. CLASSIFICATION AND PAY PLAN*

***State law reference** - Authority of city to enact by bylaw a classification plan, G.L. c. 41, ~ 108A; civil service, G.L. 31.

Sec. 7-15. Adoption of plan.

The most recent report on classification and compensation of positions, a copy of which is on file in the office of the city clerk, is hereby made a part of this chapter as if fully set forth herein. Section replaced in its entirety by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

Sec. 7-16. Effective date of plan; pay adjustments.

Sec. 7-16 deleted by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022.

Sec. 7-17. Classification of employees.

- (a) The official classification plan for positions in the service of the city shall consist of the classes listed in Exhibit A of the report adopted by this article.
- (b) The classification plan shall apply to all positions in the service of the city except positions under the jurisdiction of the school committee and all part-time elected officials. (By-law of 7-17-1950, 1)

Sec. 7-18. The pay plan.

The official pay plan shall consist of the scales of pay for the several classes set forth in Exhibit B of the report adopted by this article. (By-law of 7-17-1950, 2)

Sec. 7-19. Contracts with employees covered by plan to be consistent with plan.

After the effective date of the classification and compensation plans adopted by this article, no contract shall be made with any employee occupying a position governed by the classification plan, which shall provide for a rate of pay inconsistent with the rates set forth in the pay plan. (By-law of 7-17-1950, 2)

Sec. 7-20. Overtime pay.

Time and one-half shall be paid for all hours worked in excess of forty (40) to all employees assigned to positions allocated to a class, the rate for which is set forth in the hourly wage scale appearing in Exhibit B of the report adopted by this article. (By-law of 7-17-1950, 2; amended by vote of the City Council 8-7-2001; approved by Mayor 8-13-2001)

Sec. 7-21. Amendments to plan.

The classification plan and the provisions of this article may be amended in the manner provided by law, or in the manner provided by the ordinances of the city, whichever is applicable. The pay plan may be established or changed by vote of the City Council or as provided by law, whichever is applicable. (By-law of 7-17-1950, 3; amended by vote of the City Council 8-7-2001; approved by Mayor 8-13-2001)

Sec. 7-22. Provisions of article not to be construed to conflict with civil service law.

Nothing in this article shall be construed to conflict with Chapter 31 of the General Laws. (By-law of 7-17-1950, 11)

Sec. 7-23. Designation of titles.

The title of each class under the classification plan shall be the official title of every position allocated to the class for all purposes having to do with the position as such, and shall be used to designate the position in all payrolls, budget estimates, and official records and reports, and in every other connection involving personnel and fiscal processes, but any abbreviation or code symbol approved by the personnel officer may be used in lieu of the title to designate the class of a position in any such connection. (By-law of 7-17-1950, 10)

CHAPTER 8 - STREETS, SIDEWALKS & PUBLIC GROUNDS*

- Art. I. In General, Sections 8-1 to 8-17**
- Art. II. Streets, Sections 8-18 to 8-33**
- Art. III. Sidewalks, Sections 8-34 to 8-54**
 - Div. 1. Generally, 8-34 to 8-40**
 - Div. 2. Snow and Ice Removal, 8-41 to 8-54**
- Art. IV. Excavations and Construction, 8-55 to 8-73**
- Art. V. Signs, Sections 8-74 to 8-78**
- Art. VI. City Cemeteries, Sections 8-79**

***Cross references**--Use of streets for sale of merchandise, 6-2; rules and regulations governing use of public sewers, App. D.

Editor's Note: Chapter 8 by-laws changed to ordinances by vote of the City Council on October 20, 1998; approved by Mayor on October 21, 1998.

State law references--Streets, G.L. c. 8--92; sidewalks, c. 83, 25--29; c. 85, 4 et seq.; jurisdiction of city over highways, c. 82, 17 et seq.; authority of city relative to removal of snow from sidewalks, G.L. c. 40, 21(3); c. 85, 5; authority of city to regulate prevention of snow and ice falling from roofs, G.L. c. 40, 21(3), (4); authority of city to regulate numbering of buildings, G.L. c. 40, 21(10); signs and structures projecting into ways, G.L. c. 85, 8, 9; throwing glass in streets, G.L. c. 265, 32; street names, G.L. c. 85, 3--3B; digging up public ways for sewer laying, alteration, repair, G.L. c. 83, 8; laying out altering, etc., public ways, G.L. c. 82; procedure of city officers in respect to highways, G.L. c. 82, 17--20; permission required to dig up, obstruct sidewalk, G.L. c. 83, 25; sidewalk establishment and assessment, G.L. c. 83, 25, 26, MGL Chapter 85, s. 6 .

ARTICLE I. IN GENERAL

Sec. 8-1. Placing garbage and refuse upon public or private property prohibited; exceptions.

Garbage or refuse: Any dirt, filth, garbage, decaying animal or vegetable matter, snow, ice, or any combustible and noncombustible waste material. This includes, but it not limited to such materials as papers, playbills, posters, notices, advertisements or printed papers of any description or any advertising, appliance or medium, except newspapers distributed to purchasers, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings or clippings, tin cans, metals, mineral matter, glass, dust, and the residue from the burning of wood materials, coke and other combustible materials

(a) No person shall place, or cause to be placed, any garbage or refuse on any street, lane, common, park, court, alley or other public place in the city or on private property without the express approval of the City Council or its agents. No person shall do the same on any private property without the express approval of the owner of said property or their agent. This section shall not be construed to prohibit the placement of trash for the express purpose of being collected in a timely manner. (Amended by City Council 3-19-2002; approved by the Mayor 3-20-2002; further amended by the City Council on 10-6-2010; approved by the Mayor 10-7-2010)

(b) All unsolicited printed materials that are distributed onto public and/or private property in the City of Easthampton must be placed/attached to a mailbox, placed on a porch, hung on a doorknob or placed between doors. No such material should be placed in the street, driveway or elsewhere, without the permission from the landowner. Fines for any violation of this ordinance are outlined in Chapter 6, Sec. 6-15, #12. (Paragraph added by the City Council on 10-6-2010; approved by the Mayor on 10-7-2010).

(c) Ashes may be placed in any city way as may be directed by the superintendent of streets. It shall not be unlawful for any person to place ashes, sand or other suitable material upon any public sidewalk in the city for the purpose of preventing it from being slippery as a result of snow or ice being on the sidewalk.

(d) Any violation of this section shall be subject to a fine of \$50 for each violation.

(1945 By-laws, Art. IV, 22, Approved 5-1-45; amended 3-30-1994, Approved 7-29-1994; amended 3-19-2002; amended 10-6-2010) Section 8-1 amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022.

Cross references--Disposal of solid waste, Ch. 10; App. C, Art. III.

Sec. 8-2. Burning leaves, rubbish, etc., public ways.

No person shall burn or cause to be burned in any public way within the city, dried leaves, grass, papers, limbs or branches of trees, rubbish or combustible material of any kind.

(By-law of 3-24-1951, Approved 8-17-1951)

Cross references--Disposal of solid waste - App. C, Art. III

Sec. 8-3. Obstructing passage through streets and other public places generally.

- (a) It shall be unlawful for any person to obstruct passage through or upon any public street, park or other public place.
- (b) "Other public place," for the purpose of this section, shall include the quasi-public area in front of or adjacent to any store, shop, restaurant, luncheonette or other place of business and shall include also any parking lots and other vacant private property not owned or under the dominion of the persons charged with a violation of this section. (By-law of 3-25-67, Approved 6-21-67)

Sec. 8-4. Obstructing sidewalks and other public places by standing in groups.

Three (3) or more persons shall not continue to stand or remain in a group, or near to each other, adjacent to, or on any sidewalk, or in any public place in such manner as to obstruct the free passage of pedestrians after having been requested by a police officer to clear the public passageway. (1945 By-laws, Art. IV, 15, Approved 5-1-195; Bylaw of 5-4-1989, 15)

Sec. 8-5. Obstructing and disturbing other persons on public streets and grounds.

No person shall be or remain on any sidewalk or street, or in any other public place or public building within the city, or shall obstruct any passage to the same, or the approaches thereto, and any person so being or remaining shall, when ordered by any police officer or watchman, immediately clear the public passageway. (1945 By-laws, Art. IV, 17, Approved 5-1-1945; Bylaw of 5-4-1989, 16)

Sec. 8-6. Throwing or shooting missiles upon public ways.

No person shall throw stones, snowballs, sticks or other missiles, or shoot or use any spring gun, air gun or bow and arrow in any public way of the city. (1945 By-laws, Art. IV, 14, Approved 5-1-1945)

Sec. 8-7. Cellar hatchways and doors to be closed when not in use.

No person having the legal control of any hatchway, cellar door or other opening from any street or sidewalk in the city into any cellar or basement, shall cause the same to remain open when not in immediate use. (1945 By-laws, Art. IV, 23, Approved 5-1-1945)

Secs. 8-8 to 8-17. Reserved.

ARTICLE II. STREETS

Sec. 8-18. Naming of streets.

- (a) The streets in the city shall continue to be called and known by their present names until the name be changed by the city.
- (b) The name of a street, now or hereafter located, and accepted by the city, shall be altered or established only by the city and said names shall be recorded in the records of the city.

(1945 By-laws, Art. II, 1, 2, Approved 5-1-1945)

Sec. 8-19. Plans for new or altered streets to be filed with city clerk; records.

Wherever a street is laid out or altered, a plan thereof shall be made and filed in the city clerk's office, with the location of the street. It shall be the duty of the city clerk to keep a book of records for the sole purpose of recording the location of all streets within the city with an index thereto. (1945 By-laws, Art. II, 3, Approved 5-1-1945)

Sec. 8-20. Fire Department to order address numbers to be affixed to buildings; time for compliance.

The Fire Department may order numbers to be affixed to or painted on any building on any streets in their discretion and shall do so when requested in writing by a majority of the voters residing on the street. The owner of every building shall comply with such order within twenty (20) days thereafter. (1945 By-laws, Art. II, 4, Approved 5-1-1945)

***Cross Reference** - Numerical Identification of Buildings, Chapter 4, Art. IX.

Sec. 8-21. Placing nails, glass and other similar objects in streets.

No person shall place upon any street in the city, any glass, crockery, scrap-iron, nails, tacks or other articles which would be liable to injure the feet of animals or people, or injure or damage the wheels or tires of any vehicles. (1945 By-laws, Art. IV, 21, Approved 5-1-1945; Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

Sec. 8-22. Removal of vehicles obstructing snow removal operations; lien.

- (a) The superintendent of streets is hereby authorized when the presence of any vehicle upon any public highway interferes with the removal or plowing of snow, or removing ice therefrom, to remove or cause said vehicles to be removed to some convenient place, including a public garage.
- (b) Any person upon whose property or in whose garage any such vehicle shall be stored shall have a lien thereon for all reasonable charges for such storage and removal, which may be enforced as provided in section 26-29 inclusive of Chapter 255 of the General Laws.

(1945 By-laws, Art. IV, 20, Approved 5-1-1945)

Sec. 8-23. Coasting and playing games in streets.

No person shall within the limits of any public street or highway in the city, play any games which which interferes with the convenient and free use of the street or highway by any person traveling or passing along the same. No person shall throw stones, snow balls, sticks or other missiles, or shoot with or use any spring gun or air gun or bow and arrows in any public ways of this city. (1945 By-laws, Art. IV, 14, Approved 5-1-1945; Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

Secs. 8-24 to 8-33. Reserved.

ARTICLE III. SIDEWALKS

DIVISION 1. GENERALLY

Sec. 8-34. Riding vehicles on sidewalks prohibited.

No person shall ride or drive a motor propelled vehicle upon any sidewalk within the limits of the city. (1945 By-laws, Art. IV, 35, Approved 5-1-1945)

Sec. 8-35. Obstructing sidewalks by placing boxes and other objects thereon.

No person shall place upon any sidewalk any object, so as to obstruct the sidewalk for more than one hour, or for more than ten (10) minutes after being notified by a police officer to remove it.

(1945 By-laws, Art. IV, 24, Approved 5-1-1945; Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

Secs. 8-36 to 8-40. Reserved.

DIVISION 2. SNOW AND ICE REMOVAL

Sec. 8-41. Duty of person whose property abuts sidewalks.

- (a) The tenant, occupant or owner of any estate abutting on any street, highway or city way in the city and where there now is or hereafter may be, a sidewalk constructed of or covered with concrete, brick, cement, stone, wood or any other material than earth, ashes or gravel, shall within twelve (12) hours after ceasing to fall, form or drift thereon, of any snow, sleet or ice, remove or cause to be removed such snow, sleet or ice therefrom so far as it can be removed and if the same cannot be wholly removed, shall sprinkle, or cause to be sprinkled thereon sand, ashes, sawdust or other suitable substance so that such sidewalk shall not be slippery and shall be safe and convenient for public travel. The duty of enforcing the provisions of this and the following section shall devolve upon the police department.
- (b) When the estate so abutting on a street shall be occupied by more than one tenant or by separate families or when the estate so abutting is not occupied by anyone, the owner or agent having charge of such premises shall cause the snow, ice or sleet to be removed or sand or other substance to be sprinkled thereon as above provided. (1945 By-laws, Art. IV, 31, 32, Approved 5-1-1945)
- (c) Owners or agents having charge of property that abuts city sidewalks who fail to remove snow, sleet or ice or sprinkle sand or other substances as provided in Sec. 8-41(a) shall be subject to a fine of:
 - a. \$50.00 for the first offense;
 - b. \$50.00 for the second offense occurring within three months of the first offense; and
 - c. Upon the third offense occurring within three months of the first offense, the city's Department of Public Works shall clear the sidewalk. The cost of \$150.00/hour for labor and materials incurred by the city for said clearing shall be billed to the owners or agent having charge of the property by the city Assessors pursuant to the provisions of General Laws, Chapter 85, and Section 6. If said charges are not paid within 30 days of the issuance of the bill by the Assessors, said costs will be assessed and collected in accordance with the provisions of General Laws Chapter 80, pertaining to betterment assessments.

All fines are payable to the City of Easthampton and payable to the City Clerk within 30 days of the date of the citation, unless otherwise stated on the citation. Any owner or agent fined in accordance with the provisions of this section shall have a right of appeals to the City Council Public Safety Committee, said appeal to be taken no later than 60 days after the citation was issued. Appeals may be taken by written request to the City Council Public Safety Committee, addressed to the City Clerk, and sent via first class mail, postage prepaid.

(Subsection c. added by vote of the City Council on Feb., 7, 2006; approved by the Mayor on Feb. 8, 2006).

Sec. 8-42. Erection of barriers to prevent snow and ice from falling from building.

No owner or occupant of a building shall permit any accumulation of snow or ice on the building which is likely to fall upon a sidewalk or street. Every such person shall erect upon any building which they own or which they have charge, and which is near the line of a sidewalk or street, a barrier or other suitable provision sufficient to prevent the falling of snow and ice from the building upon persons who may be traveling on the sidewalk or street. (1945 By-laws, Art. IV, 33, Approved 5-1-45)

Sec. 8-43. Enforcement.

The provisions of this division shall be enforced by the building inspector. (1945 By-laws, Art. IV, 31, Approved 5-1-1945)

Secs. 8-44 to 8-54. Reserved.

ARTICLE IV. EXCAVATIONS & CONSTRUCTION

Sec. 8-55. Permit required for street excavations.

No person shall excavate the ground in any street in city, without written permit from the Superintendent of Public Works, or the Superintendent's designee. (1945 By-laws, Art. II, 5, Approved 5-1-45, Amended 1-18-1995, Approved 3-10-1995)

Sec. 8-56. Permit required to erect scaffolding and placing materials in street

No person shall erect in or upon any street in the city any scaffolding or place thereon any wood, ties, logs, earth, stone, brick or lumber in such manner as to obstruct or impede the free use of the street for public travel without a written permit from the Board of Public Works. (1945 By-laws, Art. II, 6, Approved 5-1-1945)

Sec. 8-57. Board of Public Works to grant permits

The Board of Public Works may grant permits in writing for the obstruction of any street, or for such excavations of the same as may be needful for the purpose of erecting, repairing or altering any building, or for any other purpose which may seem to them reasonable. (1945 By-laws, Art. II, 7, Approved 5-1-1945)

Sec. 8-58. Term to be stated on permit.

Every person receiving such permit pursuant to this article shall specify the length of time it shall continue in force. (1945 By-laws, Art. II, 8, Approved 5-1-1945)

Sec. 8-59. City to be indemnified and saved harmless; safety precautions.

Every person receiving such permit pursuant to this article shall execute a written agreement to indemnify and save harmless the city against all damage or cost by reason of any claim for damages, or by reason of any process, civil or criminal on account of the existence of the obstruction or excavation, and the Board of Public Works may impose such conditions, terms and limitations as they shall see fit in respect to the erecting of barricades, maintaining lights, and taking other precautions for the safety of travelers. (1945 By-laws, Art. II, 9, Approved 5-1-1945)

Sec. 8-60. Street to be restored prior to expiration of permit.

Any person who is granted a permit pursuant to this article shall, before the expiration of the permit, restore the street to a condition acceptable to the Superintendent of Public Works, or the Superintendent's designee. The Board of Public Works is authorized to adopt reasonable regulations covering permits granted pursuant to this article, including, but not limited to, requiring a performance guarantee to insure that streets will be restored to a condition acceptable to the Superintendent of Public Works, or the Superintendent's designee. (1945 By-laws, Art. II, 6, Approved 5-1-1945, Amended 1-18-95, Appvd. 3-10-1995)

Sec. 8-61. Barricading and lighting.

Any person who is granted a permit to obstruct or excavate upon any street shall put up and keep at all times a suitable railing around the parts of the sidewalk or street so obstructed or dug up, so long as the same shall be unsafe or inconvenient for traveling. The person granted the permit shall also ensure that there is a sufficient amount of lighting where the parts of the street of sidewalk are dug up, from dusk to dawn to warn travelers. (1945 By-laws, Art. II, 10, Approved 5-1-1945; Amended by the City Council on 12-07-2022; approved by the Mayor on 12-19-2022)

Sec. 8-62. Permit for excavating for purpose of building cellar doors, etc.; specifications.

- (a) The Board of Public Works may grant permits for excavations in any sidewalk or other portion of the street, not inconsistent with the provisions of the general laws, for cellar doors, passage ways, coal holes, passages for light and air and other necessary purposes, on such conditions and terms as they may deem reasonable.
- (b) No cellar door, passage way, coal hole, or other passage shall extend more than three and one-half (1/2) feet into the sidewalk, or other portion of the street or way, and the same shall be made secure by a suitable platform, grate or other covering as the Board of Public Works shall determine. (1945 By-laws, Art. II, 11, Approved 5-1-1945)

Secs. 8-63 to 8-73. Reserved.

ARTICLE V. SIGNS*

*Cross reference--Traffic signs, signals and markings, App. A, Art. III.
And Zoning Ordinance, Section X (10.1)

Sec. 8-74. Permit required to erect certain signs extending over public ways; exception.

- (a) No person shall erect, maintain or display any sign or other advertising device any part of which extends six (6) inches or more into or over the limits of a public way in the city without first obtaining a permit in writing therefor from the Board of Public Works.
- (b) The provisions of subsection (a) shall not apply to signs or advertising devices existing prior to May 1, 1945. (1945 By-laws, Art. V, 1, Approved 5-1-1945)

Sec. 8-75. Height requirements.

Any sign, advertising device or commercial insignia erected pursuant to the permit required by Section 8-74 shall be at least ten (10) feet in height above the level of the public way it hangs over.

(1945 By-laws, Art. V, 1, Approved 5-1-1945)

Sec. 8-76. Permit required for erection of certain signs by non-profit organizations; term; renewal; penalty; injunction.

- (a) Special advertising displays or banners, visible from any highway, public park or reservation, by churches, civic or charitable organizations or for community drives or celebrations may be displayed only on permit from the Board of Public Works, such permits to be good for ten (10) days and to be renewable for not over ten (10) days more at the discretion of the Board of Public Works. In regard to the issuance of such permits and the location and character of the matter displayed the discretion of the Board of Public Works shall be final.
- (b) Persons erecting or maintaining a display or banner in violation of this section shall pay a fine of not over one hundred dollars (\$100.00). The Board of Public Works may enjoin in any court of competent jurisdiction in the erection and maintenance of the display or banner in violation of this section. (1945 By-laws, art., 2, Approved 5-1-1945)

Sec. 8-77. When duties required are performed by the city; recovery of costs.

In any case where a duty is imposed by any provision of this article and a penalty is imposed for refusal or neglect to perform the same, and such refusal or neglect to perform the same occurs, such duty may be performed by the Board of Public Works at the expense of the person liable to perform the same, and such expense, to an amount not exceeding the penalty, may be recovered of such person by the city in an action of contract. (1945 By-laws, Art. V, 3, Approved 5-1-1945)

Sec. 8-78. Penalty.

Persons violating the provisions of this article shall be subject to the penalties imposed by the regulations of the Board of Public Works made in accordance with sections 8 and 9 of Chapter 85 of the General Laws. (1945 By-laws, Art. V, 1, Approved 5-1-1945)

*ARTICLE VI. CITY CEMETERIES**

*Cross Reference - Chapter 11, Sec. 11-6.

Sec. 8-79. Dogs prohibited in cemeteries; exceptions.

No person owning or keeping a dog in the city shall allow such dog to come upon the property of any city cemetery, unless such dog is kept within a motor vehicle while the motor vehicle is on cemetery property.

The presence of any dog, leashed or unleashed, on the land of any city cemetery shall be prima facie evidence of a violation of this section. (By-law of 1-11-1989)

CHAPTER 9 - VEHICLES FOR HIRE*

Art. I. Taxicabs. Secs. 9-1 to 9-20

Sec. 9-1. Definitions

Sec. 9-2. Permits Required.

Sec. 9-3. Fees for Permits.

Sec. 9-4. Exception for common carriers regulated under state law.

Sec. 9-5. Business Owner's Permit.

Sec. 9-6. Operator's Permit.

Sec. 9-7. Registration of vehicles.

Sec. 9-8. Penalties.

Sec. 9-9. Rates of Operation.

Sec. 9-10. City Council may promulgate rules & orders.

Sec. 9-11 to 9-20. Reserved.

Editor's Note: Chapter 9 was changed from by-laws to ordinances on March 21, 2000; approved by Mayor on March 22, 2000. This chapter supersedes the former Chapter 9, Sections 9-1 through 9-36 and the Rules and Regulations of the Board of Selectmen as contained in Appendix B – Chapter 2, Taxicab Regulations.

***Cross reference**--Traffic rules and orders, Appendix A

State law references--Common carriers generally, G.L. c. 159; common carriers of passengers by motor vehicles, M.G.L. c. 159A; authority of city to regulate vehicles, c. 40, 22

ARTICLE I. TAXICABS

Sec. 9-1. Definitions.

Business Owner's Permit: Permit required to operate a business utilizing vehicles for the conveyance of people or goods.

Operator's Permit: Permit required by any person operating vehicles performing services under a business owner's permit.

Registration of Vehicles: The filing with the City Clerk certain information relative to vehicles providing service under a business owner's license.

Taxicabs: Every motor vehicle used or to be used for the conveyance of persons for hire shall be deemed to be a taxicab within the meaning of this Article, except a motor vehicle operated in a manner for the purposes stated in Chapter 159A of the General Laws of Massachusetts, as amended.

Sec. 9-2. Permits required.

The City Council may issue a permit to any person or persons, or corporation to operate a business utilizing vehicles for the conveyance of persons or goods for hire within the city limits. All persons operating said vehicles shall be issued a permit as provided herein and no vehicle shall be used for such purpose unless properly registered with the City of Easthampton. All records relating to said licenses and the registration of vehicles shall be kept by the City Clerk.

Sec. 9-3. Fees for permits.

Business Owner's Permit: \$50.00 (one-time fee)
Operator's Permit: \$25.00 (annually)
Registration of Vehicles: \$25.00 per vehicle (annually)

Sec. 9-4. Exception for common carriers regulated under state law.

The provisions for this Article shall not apply to any business operated in a manner and for the purposes stated in Chapter 159A of the General Laws of Massachusetts and which is a holder of a certificate issued by the Department of Public Utilities.

Sec. 9-5. Business Owner's Permit.

- a. No person, firm, or corporation shall operate a business for the conveyance of persons or goods for hire within the City of Easthampton, unless the owner of said business has obtained a permit as provided herein. Permits may be granted only to suitable persons and/or corporations who are the legally registered owners of said taxicabs, and provided the principle place of business for servicing Easthampton is established at a legal street address within the city conforming to all applicable city ordinances and state laws.
- b. All permits shall continue in force until the first day of May next after the date issued and shall not be sold, assigned or transferred without the approval of the City Council. A transfer includes the issuance or transfer of more than forty (40) percent of the outstanding stock of the corporation.
- c. Any person desiring to operate such a business within the City of Easthampton shall file an application with the City Clerk for referral to the City Council setting forth the name and residence of the owners of said business, the address from which the business shall be operated, the kind of services to be provided under the permit, and the hours of

daily service. Said application shall also state a description of the motor vehicle(s) to be operated under the permit. No owner or driver shall solicit business except at the place of business listed or at city approved taxi stands.

- d. No permit shall be issued until the applicant has delivered to the City Clerk a policy of insurance issued by an insurance company authorized to transact business specified in subdivision (b) of the sixth clause of section 47 of Chapter 175 of the General Laws, covering the motor vehicle(s) to be operated by the applicant under their permit, conforming to the provisions of sections 112 and 113 of said chapter 175, nor until the applicant has also delivered to the City Clerk a certificate of the insurance company issuing the policy showing that the policy shall not be canceled without giving the City Clerk ten (10) days' notice thereof.
- e. Such policy shall be a policy of liability insurance which provides indemnity for or protection to the insured, and any person responsible for the operation of the insured's vehicle(s) with their express or implied consent, against loss by reason of the liability to pay damages to others for injury to property or bodily injuries, including death at any time resulting therefrom, sustained during the term of said policy by any person other than the employees of the insured or of such other person responsible as aforesaid who are entitled to payments or benefit under the provisions of Chapter 152 and arising out of the ownership, operation, maintenance, control or use upon the ways of the Commonwealth, of such car to the amount or limit of at least one-hundred thousand dollars (\$100,000.00) on account of injury to or death of any one person and subject to such limits as respects injury to or death of one person, or at least three-hundred thousand dollars (\$300,000.00) on account of any one accident resulting in injury to or death of more than one person, and to the amount or limit of at least twenty-five thousand dollars (\$25,000.00) on account of any one accident resulting in damage to property. (Subsection e. amended by the City Council 10-1-2014; approved by the Mayor 10-2-2014)
- f. Every vehicle operated by the business owner shall be inspected by a state certified inspection station semi-annually. A current, valid inspection sticker must be possessed upon application for registration with the city and at the six (6) month anniversary of operation. Such inspection is at the owner's expense and proof must be supplied to the City Clerk. The City Council shall cause each vehicle permitted pursuant to this section to be inspected by the Police Department at least semi-annually. Whenever the Chief of Police or their designee has reason to doubt such taxicab is in safe, proper mechanical condition, properly equipped, properly lettered and in a suitably clean condition, they may suspend the city registration permit thereof without a hearing, and take possession of said permit until the conditions are corrected. The owner and /or corporation may file an appeal on the Chief's action to the City Council however, the suspension shall remain in effect.
- g. No taxicab shall be made so closely to resemble the taxicab of another so as to mislead the public as to its identity. All taxicabs will conform with section 22 of Chapter 40 of the General Las, to wit, "shall have the name or company name of the owner and the name of the city or city in which it is licensed, painted or lettered on the sides thereof in letters not less than four (4) inches nor more than five (5) inches high and one-half (1/2) inches wide."
- h. The City Council shall issue to the applicant a permit, which shall be placed in a conspicuous location in the applicant's place of business.

Sec. 9-6. Operator's Permit.

- a. No person shall operate a vehicle governed by the provisions of this Article unless they have obtained an operator's permit from the Chief of Police. Applicants shall apply on forms furnished by the City Clerk and shall set forth under oath such information as the Chief of Police may require. All applications shall be forwarded by the City Clerk to the Chief of Police within five (5) days of filing of the application. The Chief of Police shall issue or deny the license within thirty (30) days of referral. No operator permit shall be issued until the Chief of Police has sufficiently investigated the applicant's driving history and criminal offender records, and any other pertinent information necessary to insure the applicant has the good character and safe driving record to safely operate a vehicle. The Chief of Police may require, as a condition of filing an application, that an applicant execute releases to obtain criminal and/or driving record histories.
- b. Operator permits shall be signed by the Chief of Police and shall be numbered in order as granted and unless sooner suspended or revoked shall continue in force until the first day of May next following the date of issuance thereof. The Chief of Police shall cause notice of the issuance or denial of a permit to be filed with the City Clerk.
- c. Upon being denied an operator's permit by the Chief of Police, an applicant shall have the right of appeal to the City Council. All such appeals must be made in writing and addressed to the City Council. Appeals will be heard at the next, regularly scheduled meeting of the City Council. The decision of the City Council shall be final and binding.
- d. The permit issued to the applicant shall be encased in plastic and shall bear a color photograph of the applicant. Said permit shall be displayed in a prominent place in the interior of any vehicle while being operated as a taxicab by the applicant. No permit shall be issued unless the applicant furnishes proof of having a valid Commonwealth of Massachusetts motor vehicle operator's license. Any suspension or revocation of said license or right to operate shall cause the applicant's taxi operator's permit to be automatically revoked.
- e. It shall be the duty of the driver of any taxicab to accept as passengers any person who seeks to use the taxicab provided such person is not intoxicated and conducts himself in an orderly fashion. No person shall be admitted to a taxicab occupied by a passenger without the consent of the passenger.
- f. No person in charge of a taxicab shall give directions, information, or service to any person seeking a place or person for unlawful purposes, or convey from place to place a person who is noisy or disorderly.
- g. Loud or importunate solicitation of passengers for taxicabs on the public ways is prohibited.
- h. No taxicab shall be used for the transportation for hire of any alcoholic beverages or alcohol without a common carrier's license issued by the Department of Public Utilities and without a permit issued by the Alcoholic Beverages Control Commission as required by Chapter 138 of the Massachusetts General Laws as amended.
- i. It shall be unlawful to knowingly permit any taxicab to be used in the perpetration of any crime.

- j. It shall be unlawful for any driver of a taxicab while on duty to drink any intoxicating beverage, to disturb the peace of the passenger or be impolite, or to smoke while transporting any passenger.
- k. The licensed operator of each taxicab will be responsible to make notification to the Police Department of any article of value left therein by any passenger not later than twenty-four (24) hours after finding same. The company owner shall secure such item until ninety (90) days have elapsed, and if not claimed will revert to the taxi company.
- l. The licensed operator of the taxicab and all passengers must comply with Chapter 90, sec. 13A of the Massachusetts General Laws regarding the wearing of seat belts.
- m. The city strongly encourages the use of child safety seats. Taxicab companies shall submit a voluntary plan for proper child safety restraint usage in their vehicles.

Sec. 9-7. Registration of vehicles.

No vehicle shall be operated for the purposes regulated under this Article unless said vehicle has been registered with the City Clerk. The owner shall provide the City Clerk with the year, make, model, color, current taxi registration number and vehicle identification number, together with the number of persons exclusive of the operator which it may carry and a photograph of such vehicle. The applicant shall also provide the City Clerk with a policy of insurance as provided under Sec. 9-5. The City Clerk shall provide the applicant registering a taxicab with a placard for each vehicle bearing the words "Taxi Vehicle License, Easthampton, Massachusetts," setting forth the serial number of the permit, the year issued, the name and address of the holder of the owner's business permit, the year, make and color of the vehicle and the number of passengers permitted to be carried in the vehicle, which shall be attached to the interior of the vehicle so as to be plainly visible to the occupants thereof. No such permit shall be issued unless the applicant has presented to the City Clerk a valid certificate of taxi registration issued by the Registrar of Motor Vehicles as required under CMR 540-2.05. (Amended by the City Council on 12/2/2009; approved by Mayor Tautznik on 12/3/2009).

Sec. 9-8. Penalties.

Any owner or driver violating the requirements of Sections 9-6, 9-7 and/or 9-9 shall be subject to a penalty of One-Hundred Dollars (\$100.00) for the first offense and Two-Hundred Dollars (\$200.00) for each and every subsequent offense during a calendar year. Any owner or driver violating the requirements of Section 9-5 shall be subject to a penalty of Three-Hundred Dollars (\$300.00) for each and every offense. The City Council may suspend or revoke any permit issued under Sections 9-5, 9-6 and/or 9-7 for violation of any state statute, city ordinance, or any rule, order or regulation promulgated by the City of Easthampton and/or the City Council. Sections 9-5, 9-6, 9-7 and 9-9 may be enforced by criminal complaint, or any other civil or criminal procedure available by law.

Sec. 9-9. Rates of Operation.

Each taxicab operating under this ordinance shall be equipped with an electronic, digital read out taximeter capable of calculating and displaying elapsed mileage rate as well as elapsed time when waiting time is applied to the fee. Each meter shall be mounted in such a manner to allow rear seat passenger viewing of the screen display.

Each meter shall be periodically and/or randomly checked for accuracy by the City of Easthampton's Sealer or Weights and Measures. Any refusal to submit to such inspection shall be grounds for suspension or revocation of the business' permit to operate.

Maximum rates of operation are established below, and may periodically be adjusted over time either at the City Council's request, or by written request of a legally registered business, upon which time the City Council shall hold a public hearing on the matter to determine what, if any, adjustment is to be made.

Rates to be effective July 5, 2008:

Initial Pick-Up Fee:	\$ 2.50
Mileage Fee:	\$ 2.80 per mile
Partial Mileage Fee:	\$ 0.35 per 1/8 mile
Waiting Time:	\$ 0.35 per minute

Section 9-9 amended by the City Council on July 2, 2008; approved by the Mayor on July 3, 2008.

Sec. 9-10. City Council may promulgate rules and orders.

The City Council may, from time to time, promulgate rules and orders covering persons permitted pursuant to this chapter as may be consistent with the laws of the Commonwealth.

Secs. 9-11 to 9-20. Reserved.

CHAPTER 10 - DISPOSAL OF SOLID WASTES (CHAPTER DELETED 6/02)*

This chapter was deleted by the City Council on June 4, 2002
(Approved by the Mayor on June 5, 2002)

***PLEASE SEE APPENDIX C “Board of Health Regulations”
Chapter 4 – Disposal of Solid Wastes***

CHAPTER 11 – ANIMAL CONTROL

- Sec. 11-1. License Required
- Sec. 11-2. License Fee
- Sec. 11-3. Rabies Vaccination
- Sec. 11-4. Nuisance – Public Safety
- Sec. 11-5. Dogs Running at Large
- Sec. 11-6. Dogs in Cemeteries.
- Sec. 11-7. Complaint of Nuisance.
- Sec. 11-8. Animal Control Officer Authority to restrain.
- Sec. 11-9. Appeal of restraint or muzzling.
- Sec. 11-10. Dog Officer/A.C.O. authorization.
- Sec. 11-11. Municipal Animal Shelter
- Sec. 11-12. Pick-up Fee.
- Sec. 11-13. Sale of Dogs.
- Sec. 11-14. Disposition of collected fees and fines.
- Sec. 11-15. Penalties; unlicensed dogs.
- Sec. 11-16. Penalties; roaming dogs.
- Sec. 11-17. Penalties.
- Sec. 11-18. Prolonged Chaining, Tethering & Confinement of Dogs

Editor's Note: Chapter 11 was changed from by-laws to ordinances by vote of the City Council on March 21, 2000; approved by the Mayor on March 22, 2000

Chapter 11 was originally approved by vote of Town Meeting on February 13, 1990; approved by the Attorney General on March 14, 1990.

Sec. 11-1. License required.

Any owner or keeper of a dog six (6) months of age or older in the City of Easthampton shall cause that dog to be licensed as required by Massachusetts General Laws Chapter 140 commencing on April 1st of each year.

Sec. 11-2. License fee.

Effective January 1, 2005 and thereafter, the fee for licenses under Section 11-1 shall be as follows:

Neutered Male Dogs	\$10.00
Spayed Female Dogs	\$10.00
Unneutered Male Dogs	\$15.00
Unspayed Female Dogs	\$15.00

Kennel License

Not more than 4 Dogs	\$50.00
Not more than 10 Dogs	\$75.00
More than 10 Dogs	\$125.00

- **State Law Reference** - Authority of the city to charge license fee M.G.L Chapter 40, Section 22.

No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person or a deaf person provided that the Division of Blind or Deaf certifies that such dog is so trained and actually in the service of a blind or deaf person. No fee shall be charged for a license for a dog specifically trained for, and in service as, a Police Department K-9, provided that the Chief of the Police Department or Station Commander certifies that such dog is so trained and actually in the service of a Police Department.

No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering or removal from the City of Easthampton, the Commonwealth of Massachusetts or other disposal of the dog.

Unless otherwise provided by ordinance, the City Clerk shall be entitled to retain, for their personal use, a fee for each license issued under this section. Said fee shall be commensurate with that as authorized in M.G.L. Chapter 140, Section 147 and amendments thereto. (Amended by City Council 11-3-2004; approved by Mayor 11-4-2004)

Sec. 11-3. Rabies vaccination.

When applying for a license the applicant must show proof of rabies vaccination by a veterinarian certificate dated within the last three years, if the dog is six months of age or over, as required by Massachusetts General Laws Chapter 140, Section 145B and any subsequent amendments thereto.

Sec. 11-4. Nuisance - Public Safety.

- a. No person shall own or keep within the City any dog which by biting, barking, howling, or in any other manner disturbs the peace and quiet of any neighborhood or endangers the safety of any person or domesticated or farm animal. No person shall permit a dog owned or kept by them to perform its natural body functions on public property or the property of other than that of the dog's owner or keeper without the approval of said property owner.
- b. Violation of this section shall be subject to a twenty-five dollar fine for the first offense and a fifty-dollar fine for the second and subsequent offenses during one calendar year, payable to the City of Easthampton.

Sec. 11-5. Dogs running at large.

- a. No person owning, keeping, or having possession, custody, or control of any dog in the city shall allow such dog to stray, run or roam at large upon public property or the land of another, except if it be on the premises of another person with the knowledge and permission of such other person, nor allow such dog to roam at large on any portion of any public highway. Such owner or keeper of a dog in the city which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person, shall restrain such dog by a chain or leash not exceeding six (6) feet in length. Nothing in this section shall be construed to limit or prohibit the use of hunting dogs during the open hunting season or the training of hunting dogs or the holding of field trials for hunting dogs.
- b. The unauthorized presence of any dog on the land of any person other than the owner or keeper of such dog or on the premises of any school, when such dog is not restrained as mentioned above shall be prima facie evidence of a violation of this section.
- c. Violation of this section shall be subject to a twenty-five dollar fine for the first offense and a fifty-dollar fine for the second and subsequent offenses during one calendar year, payable to the City of Easthampton.

Sec. 11-6. Dogs in cemeteries.

- a. No person owning or keeping a dog in the city shall allow such dog to come upon the property of any city cemetery, unless such dog is kept within a motor vehicle while the motor vehicle is on cemetery.
- b. The presence of any dog, leashed or unleashed, on the land of any city cemetery shall be prima facie evidence of a violation of this section. **Cross reference** - Chapter 8, Art. VI.
- c. Violation of this section shall be subject to a twenty-five dollar fine for the first offense and a fifty-dollar fine for the second and subsequent offenses during one calendar year, payable to the City of Easthampton.

Sec. 11-7. Complaint of nuisance.

If any person shall make a complaint in writing to the Animal Control Officer (Dog Officer) that any dog owned or harbored within their jurisdiction a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Animal Control Officer (Dog Officer) shall investigate such complaint, which may include an examination under oath of the complainant, and submit a written report to the Chief of Police of their findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant under oath, the Chief of Police may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. The Animal Control Officer (Dog Officer) after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Chief of Police to issue their order following receipt of the report of the Dog Officer. If the Chief of Police fails to act during the period of the interim order, upon expiration of the period the interim order automatically is vacated.

Sec. 11-8. Animal Control Officer Authority to restrain.

The Animal Control Officer (Dog Officer) may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen (14) days, any dog for any of the following reasons:

- a) For having bitten any person;
- b) If found at large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect;
- c) If found in a school, schoolyard or public recreational area;
- d) For having killed or maimed or otherwise damaged any other domesticated animal;
- e) For chasing any vehicle upon any public way or way open to public travel in the city
- f) For any violation of Section 11-4.

Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer (Dog Officer) shall submit in writing to the Chief of Police a report of their action and the reasons therefor. Upon receipt of such report, the Chief of Police may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Chief of Police fails to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated.

Sec. 11-9. Appeal of restraint or muzzling.

The owner or keeper of any dog that has been ordered to be restrained or muzzled or has been restrained under this article, may file a request in writing with the Animal Control Officer (Dog Officer) that the restraining order be vacated, or that the dog be released, and after investigation by the Animal Control Officer (Dog Officer) such Officer may vacate such order or release such dog, if the order or restraint was imposed by them. If the order was imposed by the Chief of Police, the Animal Control Officer (Dog Officer) shall submit a written report of their investigation, with their recommendations, to the Mayor, who may vacate the order.

Sec. 11-10. Dog Officer/Animal Control Officer authorization.

In addition to any other statutory authority contained in Massachusetts General Laws, Chapter 140, the Animal Control Officer (Dog Officer) may enter a complaint before the Mayor for the purpose of obtaining an order with respect to the control or disposition of a dog found to be uncontrollable or whose owner or keeper is unresponsive to any other penalties contained in this ordinance.

Sec. 11-11. Municipal animal shelter.

The city shall maintain, operate or lease, subject to appropriation, a municipal animal shelter for the purpose of providing temporary shelter for animals in the care and custody of the Animal Control Officer (Dog Officer).

The Animal Control Officer shall determine from time to time the per diem rate to be charged for the keeping of animals within the municipal animal shelter. At no time shall the per diem rate be lower than \$10.00. Authorization is granted for an increase of per diem rate by the amount of \$2.00, over and above the established rate, to be charged to owners of dogs who fail to pick up their dog within twenty four hours of notification of its detention at the facility. (Amended by City Council 7-1-2003; approved by Mayor 7-2-2003)

Sec. 11-12. Pick-up fee.

The Animal Control Officer shall determine from time to time a pick-up fee to be charged to the owner or keeper of any unleashed dog found to be roaming at large off the premises of the owner or keeper. The pick-up fee shall be in addition to, and not in substitution of, any fine levied under Section 11-15 and/or Section 11-16. Said pick-up fee shall be paid to the Animal Control Officer, along with any other applicable kennel fees, prior to said dog being released to the owner or keeper.

Sec. 11-13. Sale of dogs.

A dog adopted from the municipal animal shelter, which has been kept for ten (10) days by the Animal Control Officer (Dog Officer) may be sold for not less than ten (\$10) dollars nor more than fifty (\$50) dollars. The provisions of Massachusetts General Laws, Chapter 140, Section 139A regarding the neutering of dogs or cats at animal shelters shall be complied with.

Sec. 11-14. Disposition of collected fees and fines.

All fees and/or fines collected in relation to the control of dogs within the City of Easthampton, unless otherwise approved by the City Council or controlled by law, shall be deposited with the Treasurer of the city and deposited as part of the general fund.

Sec. 11-15. Penalties; Unlicensed dogs.

In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog or dogs which is not licensed on or before June 1st. in any year shall be subject to a fine of \$50.00 in addition to the license fee upon the complaint of the Animal Control Officer (Dog Officer).

Sec. 11-16. Penalties; Roaming dogs.

The owner of any unspayed and unleashed female dog found to be roaming at large in season (heat) off the premises of the owner or keeper shall be subject to a penalty fee of \$50.00, for each offense, payable to the City of Easthampton.

Sec. 11-17. Penalties.

The Animal Control Officer (Dog Officer) is hereby authorized to seek a complaint in a court of competent jurisdiction against the owner or keeper of have violated any provisions of Chapter 11.

Section 11-18. Prolonged Chaining, Tethering, and Confinement of Dogs²³

a. Prolonged Chaining or Tethering of Dogs.

No person owning or keeping a dog in the City shall chain or tether a dog for longer than 8 continuous hours during any twenty-four hour period. Nothing in this section shall be construed as prohibiting a person from walking a dog on a hand-held leash. It shall be lawful for a responsible party to tether a dog while outdoors when all of the following conditions are met:

²³ Sec. 11-18 approved by the City Council on May 18, 2011.

1. The dog must be wearing a suitable collar (no pinch collars) when connected to the tether.
2. The tether must be appropriate to the age and size of the dog and be long enough to allow the dog ample movement.
3. The dog is tethered in such a manner as to prevent injury, strangulation, or entanglement.
4. The dog is not outside during a period of extreme weather. Arctic breeds and other dogs with a double-layered coat, bred to live in an arctic climate, may be out in suitable freezing temperatures.
5. The dog is always within reach of drinking water and has access to dry ground.
6. The dog is not sick or injured.
7. If there are multiple dogs, each dog is tethered separately.

b. Permissible Outside Confinement.

A person owning or keeping a dog may confine such dog outside for up to 8 continuous hours in a twenty-four hour period when the pen, secure enclosure, or fully fenced-in yard (including a properly maintained electric dog fence) which have adequate space for exercise. A pen or secure enclosure must be appropriate to the age and size of the dog and be constructed with chain link or other similar material as determined by the Animal Control Officer.

c. Access to Water and Shelter.

Any person owning or keeping a dog confined outside in accordance with Paragraph (a) or (b) of this section must provide the dog with access to water and appropriate shelter. Dog shelters must be structurally sound and allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on three sides, roofed, and have a solid floor. The shelter shall be small enough to retain the dog's body heat and large enough to allow the dog to stand and turn comfortably. Filthy and dirty confinement conditions, which could cause harm to the dog's physical or emotional health, are prohibited.

d. No Overnight Chaining, Tethering, and Confinement.

No person owning or keeping a dog in the City may leave a dog chained, tethered, or confined outside between the hours of 11:00 p.m. and 6:00 a.m.

e. Exceptions to Outdoor Confinement.

Exceptions to the above restrictions on outdoor confinement may be made for sporting or working dogs.

f. Extreme/Hazardous Weather Conditions.

Law Enforcement Officials shall determine if weather conditions are hazardous to a particular dog or dogs chained, tethered or confined outside in accordance with Paragraphs (a) or (b) of this section. Upon such determination, the official shall order the responsible party to provide the dog with immediate access to an approved area.

g. Violations and Penalties.

A violation of any provision of this ordinance shall be punishable by a written warning for the first offense; offenders must correct the violation within ten (10) calendar days. Failure to satisfy the conditions of the first violation shall immediately subject the violator to a second violation. The second violation shall be punishable by a fine of fifty dollars (\$50.00) and must meet remediation

requirements set forth by the City no later than ten (10) calendar days after the violation. If any owner or keeper of a dog in the City violates this section three (3) times the violator will be subject to a fine of two-hundred dollars (\$200.00), impoundment of the dog in the City's shelter at the owner/guardian's expense pending compliance with the ordinance and potential loss of ownership of the dog.

h. Temporary Impoundment.

Dogs impounded under the authority of this section shall be confined in a place suitable for the care and detention of animals. The owner of the dog will be notified in writing of the impoundment and will have a period of ten (10) calendar days to recover the dog. The owner of the dog shall be required to pay the expense of maintaining the dog in confinement, including, but not limited to cost of boarding, feeding, medical care, and medicines. Return of the dog to the licensed owner shall require payment of fines and expenses, and satisfactorily meeting the conditions outlined in this section, as verified with an inspection by the Animal Control Officer.

i. Permanent Removal and Appeals.

If the owner fails to perform all actions necessary for the return of the dog within ten (10) calendar days, the Animal Control Officer may find permanent placement for the dog in a new home, shelter, or rescue. If the Animal Control Officer recommends a permanent removal of the dog after said investigation, the Chief of Police or their designee shall convene a hearing board and determine the permanent placement of the dog. Within ten (10) calendar days of the hearing board's decision, the owner may file an appeal to the mayor. The mayor will form a committee, which shall consider the appeal.

j. Enforcement.

Primary enforcement of this ordinance shall rest with the Animal Control Officer. The Easthampton Police Department shall also enforce provisions of Section 11-18 as necessary.

k. Appendix A:

At the time of licensing, the city clerk shall provide all dog owners with Appendix A: Dog Tethering Recommendations, which may be revised from time to time by the Animal Control Officer.

Appendix A
Dog Tethering Recommendations

In recognition of the danger of unregulated, prolonged tethering, the City of Easthampton ("City") finds importance in enacting legislation (see City Ordinances, Chapter 11, Sec.11-18) that will enhance public safety and animal welfare. Several authorities have acknowledged the cruelty involved with prolonged tethering, as well as the negative effect it has on a dog, making it three-times more likely to bite. Dogs are social, pack animals by nature, requiring closeness and interaction to be content; thus, prolonged tethering or confinement deprives them of their basic social and instinctual needs. They are also den animals, preferring a safe and quiet place to rest, such as your house. A dog who resides more in a home than in the yard is a much happier and trainable animal, because of the security of a den and the companionship of the (human) "pack".

Dogs that are tethered for prolonged periods of time are also more likely to exhibit signs of stress or being anxious (digging, barking, howling or whining, chewing, and hyperactivity). Walking a dog on a leash, playing, and spending time with it in the house can relieve these symptoms. Keep in mind, dogs that are usually tethered when outside will be more likely pull on

a leash when walked because they are used to the tension of the tether and pull against it. It may take some training and patience to get them used to walks on leashes.

Recommendations

- When tethered, the dog is in visual range of the responsible party. As dogs may cause a nuisance, become injured, or knock over water bowls, it is advisable for the responsible party to be available to take immediate action for such situations.
- Dogs have a buckle-type collar made of nylon or leather, with current dog license and ID tag attached, when connected to a tether. This type of collar is less likely to cause injury to the neck. There should be enough room between the collar and the dog's throat through which two adult fingers may fit.
- Dogs are tethered to a pulley, running line, or trolley system as opposed to a stationary object. The tether will be less likely to knock over water and food bowls and gives the dog more ample space for exercise.
- The dog is at least six months of age when being tethered.
- In the winter months, use heated water bowls outside to prevent drinking water from freezing. Heated water bowls are available at most major pet supplies stores.
- Consider putting up a mesh fence around your yard, instead of tethering. It is one the simplest and cheapest types of fencing available.

Resources

- Organization that may be able to help fund fencing for a yard:
www.dogsdeservebetter.com
- Dog Training (sliding scale for enrollment costs available):
www.dpvhs.org
- Low Cost Spay/Neuter Clinics in Massachusetts:
www.massanimalcoalition.com/resources/spay-neuter/

CHAPTER 12 - ENVIRONMENTAL ORDINANCES

(INCLUDING PROTECTION OF THE BARNES AQUIFER)*

- Art. I. Hazardous Materials Ordinance Secs. 12-1 to 12-15**
- Art. II. Fuel Storage System Ordinance Secs. 12-16 to 12-40**
 - Div. I. Regulations for all underground Storage systems, Secs. 12-18 to 12-26**
 - Div. II. Regulations for all new or replacement Underground storage systems, Secs. 12-27 to 12-31**
- Art. III Wetlands Control Ordinance (Repealed June 2, 1998)**
- Art. IV Water Use Restriction Ordinance. Secs. 12-41 to 12-59**
- Art. V Brownfield Redevelopment. Secs. 12-60 to 12-62**
- Art. VI. The Right to Farm Ordinance. Secs. 12-63 to 12-75**
- Art. VII. Storm water Management Ordinance. Sec. 12-76 to 12-85**
- Art. VIII. Illicit Discharge Detection & Elimination Ordinance Secs. 12-86 to 12-99**

***Editor's Note:** The original arrangement of the ordinances in this chapter have been maintained but chapter and section numbers have been changed at the discretion of the editor. Explanatory headings have been added in [].

Chapter 12 by-laws changed to ordinances by vote of the City Council on October 20, 1998; vetoed by Mayor on October 21, 1998. Veto overridden by council on November 17, 1998

ARTICLE I. HAZARDOUS MATERIALS ORDINANCE²⁴

Sec. 12-1. Register storage of hazardous materials with Board of Health.

Every owner or occupant of any property within the Aquifer Protection District who stores hazardous materials for a period in excess of 14 days in quantities totaling more than fifty gallons liquid volume or twenty-five pounds dry weight shall register with the Board of Health the types, quantities, location and method of storage of said materials. Hazardous materials shall include all those materials as defined in Chapter 21 E, section 2 and 310 CMR.

Sec. 12-2. Effective date; inventory to be filed with Board of Health.

Registration shall be initially submitted by sixty (60) days after the effective date of this ordinance and annually thereafter by the end of the calendar year. The Board of Health may also require that an inventory of hazardous materials be maintained on the premises and reconciled with purchase, use, sales and disposal records on a monthly basis.

Sec. 12-3. Method of storage.

Hazardous materials shall be stored in product-tight storage containers on an impervious surface, and storage areas shall be enclosed by an impermeable dike with a volume at least equal to 110% of the capacity of the container(s) within it.

Sec. 12-4. Types of materials to be regulated.

Notwithstanding the above, the storage of pesticides, herbicides and fertilizers shall be regulated as follows: persons storing over fifty-five gallons liquid volume or two hundred fifty pounds dry weight of pesticides and herbicides, and persons storing fertilizer containing over one hundred pounds of available nitrogen, shall register with the Board of Health as stated above. The other requirements shall not apply.

Sec. 12-5. Penalty for violation of ordinance.

Persons violating this ordinance shall be punished by a fine of \$10.00 to \$300.00 per day, each day constituting a separate offense.

Sec. 12-6. Materials not regulated.

This ordinance shall not apply to the storage of petroleum products in above ground and underground storage tanks nor for the storage of pool chemicals for residential use

Secs. 12-7 to 12-15. Reserved.

²⁴ By-law of May 8, 1991; approved by the Attorney General on Oct 1, 1991.

ARTICLE II. UNDERGROUND STORAGE SYSTEM ORDINANCE ²⁵

Sec. 12-16. Authority

Whereas, leaking underground storage systems pose an immediate and serious threat to the Barnes Aquifer, an important water supply source for the communities of Holyoke, Southampton and Westfield, and the sole source of water for Easthampton;

Whereas, the City of Easthampton needs accurate records of the location, age and ownership of all such systems installed within the City of Easthampton;

Therefore, the City of Easthampton adopts the following measures under its home rule powers, its police powers to protect the public health and welfare, and its authority under M.G.L., Ch. 40, section 21, in order to protect the ground and surface waters from contamination with liquid toxic or hazardous materials.

Sec. 12-17. Definitions

- a. **Abandoned:** Out of service in excess of twelve (12) months.
- B. **Out of Service:** Not in use in that no filling or drawing is occurring.
- c. **Toxic or Hazardous Materials:** All liquid hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil, toxic or corrosive chemicals, radioactive materials or other substances controlled as being toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts, under the provisions of Massachusetts General Laws, Chapter 21C, Section 1, et seq.
- d. **Underground Storage:** Storage of petroleum products or other toxic or hazardous materials below ground level but not including storage in a free-standing container within a building.
- e. **Underground Storage System:** Any underground storage tank and related piping for toxic or hazardous materials.

²⁵ By-law of May 8, 1991; approved by the Attorney General on Oct. 1, 1991.

DIVISION I

REGULATIONS FOR ALL UNDERGROUND STORAGE SYSTEMS

The following regulations shall apply to all underground storage systems containing toxic or hazardous materials, as defined above:

Sec. 12-18. Compliance with applicable state regulations.

Every owner of an underground storage system for fuel or other hazardous or toxic materials shall comply with 527 CMR 9.00 and all other applicable state regulations for such storage.

Sec. 12-19. Registration of all storage systems

Every owner of an existing underground storage system for toxic or hazardous materials, including petroleum products, whether in use or abandoned, shall apply to the Fire Department for a permit to have a storage facility. Application shall be made on a form provided by the Fire Department, if available, within ninety (90) days of the effective date of this ordinance and shall contain, at a minimum, the following information:

- (1) Name, address and telephone numbers of the owner and operator;
- (2) Address of storage tank location;
- (3) The type of materials stored;
- (4) Tank size and construction type for tank and piping;
- (5) Evidence of the date of installation and of system warranty; (where the age of a tank is unknown, the tank shall be presumed to be twenty-five (25) years old.)
- (6) Plot plan of the site, including structures, location of the tank, pumping components, any wells or water bodies, and any subsurface drains;
- (7) Approximate tank location marked on a copy of an 8 1/2 x 11" street atlas map or United States Geological Survey topographic map, provided with the Fire Department's application form;
- (8) Leak detection, overfill prevention, and spill containment devices;
- (9) Corrosion prevention, if any.

Sec. 12-20. Registration tags.

- a. Upon registering the tank with the Fire Department, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe or in such location as to be visible to any inspector authorized by the City.
- b. Effective August 1, 1992, every petroleum or other chemical distributor, when filling an underground storage tank, shall note on the invoice or bill for the product delivered, the registration number appearing on the tank. Every petroleum or other chemical distributor shall notify the Fire Department of the existence and location of any unregistered or untagged underground tank, or any tank which the distributor cannot clearly identify as being either above or belowground, which they are requested to fill. Such notification must be completed within seven (7) working days of the time the distributor discovers that the tank registration tag is not present.
- c. Effective November 1, 2003, it shall be a violation of this ordinance for any petroleum and other chemical distributor to fill any underground storage tank within the Aquifer Protection District with any petroleum, toxic, or hazardous materials as defined under Section 12-17(c).

(Subsection c approved by the City Council 5-15-2001; approved by the Mayor 5-16-2001)

Sec. 12-21. Underground tanks 20 years or older.

For any underground tank or storage system twenty (20) years or older, the city shall send a notice to the owner strongly recommending that the tank be drained and removed, or that a testing system, approved by the Fire Chief, be instituted to ensure that the tank is not leaking. The notice shall inform the owner of the potential hazards of a leaking tank.

Sec. 12-22A. Existing Storage Tanks in the Aquifer Protection District.

After November 1, 2003 (provided that funds under the Underground Tank Removal Program are available during the intervening fiscal years), all underground storage tanks in the Aquifer Protection District will be removed and eliminated or removed and replaced with aboveground storage tanks, installed to meet all state requirements of aboveground storage tank installation (set forth in 527 CMR 9.00). This ordinance shall be enforced by the Easthampton Fire Department and/or Easthampton Board of Health. The Aquifer Protection District is that area as defined in the city's Zoning Ordinance, Appendix G, and Section 7.03 as listed below:

7.03 Establishment and Delineation of Aquifer Protection District

- a. For the purpose of this district, there is hereby established within the city, an aquifer recharge area, which has been defined by standard geologic and hydrologic investigations. This district consists of lands lying within the primary and secondary aquifer recharge of groundwater aquifers or within one-half mile radius of wells which now, or may in the future, provide public water supply within the boundaries of the City of Easthampton.
- b. The boundaries of this district are delineated on a map at a scale of one inch to eight hundred (800) feet entitled, "Aquifer Protection District," City of Easthampton, on file in the office of the City Clerk.
- c. Where the bounds as delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. At the request of the owner(s), the city may engage a professional geologist, hydrogeologist, soil scientist or engineer trained and experienced in hydrogeology, to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) for all or part of the investigation.

(Sec. 12-22A approved by the City Council 5-15-2001; approved by the Mayor 5-16-2001)

Sec. 12-22A.1. Variances for Extraordinary Circumstances

Underground storage tank systems that are located under or very near a building and cannot be removed without first removing the building or with compromising the structural integrity of the building may be formally abandoned in place. After verification by the Fire Chief that such a condition so exists, the property owner shall have all tank contents removed, by hand pump if necessary, under the direction of the Fire Chief or designee. The tank shall be cleaned and certified as such. Prior to filling the tank, the absence of soil contamination under the tank must be demonstrated. Hole(s) must be cored through the tank bottom and soil samples must be collected and laboratory analyzed. After the absence of soil contamination has been confirmed, the tank shall be filled with a concrete slurry mix or other inert material as has been approved by the State Fire Marshal for this purpose.

(Sec. 12-22A.1. approved by the City Council 5-15-2001; approved by the Mayor 5-16-2001)

Sec. 12-22B. Tank Removal.

- a. Prior to the removal of an underground storage tank governed by this regulation, the owner shall first obtain a permit from the head of the Fire Department, pursuant to M.G.L., Chapter 148.
- b. Any person granted a permit by the Marshal or the Chief of the Fire Department to remove a tank under the provisions of M.G.L., Chapter 148 or 527 CMR 9.00 shall within 72 hours provide the permit granting authority with a receipt for delivery, of said tank to the site designated on the permit.
- c. Before any person is granted a permit by the Marshal or the Chief of the Fire Department to remove a tank under the provisions of M.G.L., Chapter 148 or 527 CMR 9.00, and said tank is not being transported to an approved tank yard, the person requesting the permit shall provide the permit granting authority with written approval from the owner/manager of the disposal site. (Reference 502 CMR 3.00 for tank removal and disposal procedure.)
- d. The fill pipe must be removed or sealed.

(By-law of 5-8-1991; approved 10-1-1991. Sec. 12-22B renumbered by vote of the City Council 5-15-2001; approved by the Mayor 5-16-2001)

Sec. 12-23. Costs.

In every case, the owner shall assume responsibility for costs incurred necessary to comply with this regulation.

Sec. 12-24. Abandoned tanks.

Tanks or storage systems which are abandoned must comply with Massachusetts Board of Fire Prevention regulations under 527 CMR 9.22-23. All abandoned tanks must be drained and removed as specified in 527 CMR 9.22 - 23.

Sec. 12-25. Fees for registration.

These permits shall be in addition to any license or permit required by M.G.L., Chapter 148, as amended, or by any regulation issued thereunder. The fee for this permit, payable to the City of Easthampton shall be established by the Fire Department based on the cost of performing the registration.

Sec. 12-26. Transfer of ownership.

If the ownership of any storage system is transferred, the new owner shall notify the Fire Department within thirty (30) days. Any tanks twenty (20) years or older, without cathodic protection or other leak prevention devices, shall be removed under the supervision of the Fire Chief. This provision may be waived if the tank owner can prove, through testing to the satisfaction of the Fire Chief, the tank and piping are tight. If proof of date of installation is not known, the tank will be assumed to be twenty-five (25) years old.

DIVISION II. REGULATIONS FOR ALL NEW OR REPLACEMENT UNDERGROUND STORAGE SYSTEMS

The following regulations shall apply to all applications for new storage systems containing toxic or hazardous materials:

Sec. 12-27. Registration of storage systems.

All new storage systems must comply with the registration procedures in Section 12-19.

Sec. 12-28. Procedures for review of permit applications.

- a. The head of the Easthampton Fire Department is required to send to the Board of Health, the Water Department and the Conservation Commission a copy of every permit application for a new storage facility, with a request for a recommendation of approval or disapproval within thirty (30) days.
- b. Subsequent to the effective date of this ordinance, no new or replacement underground storage containers shall be installed unless the owner shall have first obtained a permit from the Fire Department. If the Fire Department determines that the proposed storage container constitutes a danger to a water supply, water body, public health or safety, the Fire Department may deny the permit or may grant it subject to conditions which the Department determines are necessary. All new and replacement underground storage tanks, regardless of size, shall meet the requirements of Massachusetts regulations 527 CMR 9.00 regarding tank design, construction and installation.

Sec. 12-29. Regulations for new or replacement storage systems within the Barnes Aquifer

Within the Barnes Aquifer area designated on the map entitled "Aquifer Protection District" (Town of Easthampton, May 1990) the following additional regulations shall apply:

- a. All new or replacement storage systems for toxic or hazardous materials shall be located above ground inside a structure or within the basement of a structure, within an impervious bermed containment area sufficient to contain the volume of the tank.
- b. Above ground tanks must comply with all applicable provisions of 527 CMR 9.00, Massachusetts Board of Fire Prevention regulations.

Sec. 12-30. Report of leaks, spills or violations.

Any person who is aware of a spill of one gallon or more from any cause, or a loss of product, or unaccounted for increase in consumption which may indicate a leak or violation of this ordinance shall report such spill, loss or increase immediately to the Chief of the Fire Department, to the Board of Health, and to the Office of Incident Response of the Mass. Department of Environmental Protection, as required in 527 CMR 9.20.

Any violation of the provisions of this ordinance, the conditions of a permit granted under this ordinance, or any decisions rendered by the Fire Department under this ordinance, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each violation. Each day such violation continues shall be deemed a separate offense.

Sec. 12-31. Severability.

Provisions of this regulation are severable and if any provision hereof shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or circumstances.

Secs. 12-32 to 12-40. Reserved.

ARTICLE III.

EASTHAMPTON WETLANDS CONTROL ORDINANCE

(Repealed by vote of City Council June 2, 1998)

ARTICLE IV.
WATER USE RESTRICTION ORDINANCE²⁶

Sec. 12-41. Authority.

This Ordinance is adopted by the City of Easthampton under its police powers to protect public health and welfare and its powers under M.G. L. c.40, §§21 et seq. and implements the City's authority to regulate water use pursuant to M.G.L. c.41, §69B. This ordinance also implements the City's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Sec. 12-42. Purpose.

The purpose of this ordinance is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the City or by the Department of Environmental Protection.

Sec. 12-43. Definitions.

Person shall mean any individual, corporation trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the City pursuant to Section 12-44 of this ordinance.

Water Users or Water Consumers shall mean all public and private users of the City's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

Sec. 12-44. Declaration of a State of Water Supply Conservation.

The City, through its Board of Public Works, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under Section 12-46 of this ordinance before it may be enforced.

²⁶ Approved by the City Council on July 2, 2002; approved by the Mayor on July 3, 2002.

Sec. 12-45. Restricted Water Uses.

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 12-46.

- a) ***Odd/Even Day Outdoor Watering:*** Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) ***Outdoor Watering Ban:*** Outdoor watering is prohibited.
- c) ***Outdoor Watering Hours:*** Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) ***Filling Swimming Pools:*** Filling of swimming pools is prohibited.
- e) ***Automatic Sprinkler Use:*** The use of automatic sprinkler systems is prohibited

Sec. 12-46. Public Notification of a State of Water Supply Conservation: Notification of DEP.

Notification of any provision, restriction, requirement or condition imposed by the City as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the City, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 12-45 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

Sec. 12-47. Termination of a State of Water Supply Conservation; Notice.

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Public Works, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 12-46.

Sec. 12-48. State of Water Supply Emergency. Compliance with DEP Orders.

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

Sec. 12-49. Penalties.

Any person violating this bylaw shall be liable to the City in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the City for such uses as the Board of Public Works may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21 D of chapter 40 of the general laws. Each day of violation shall constitute a separate offense.

Sec. 12-50. Severability.

The invalidity of any portion or provision of this ordinance shall not invalidate any other portion or provision thereof.

Secs. 12-51 to 12-59. Reserved.

ARTICLE V.

BROWNFIELD REDEVELOPMENT²⁷

Sec. 12-60. Authority.

The Mayor is hereby authorized to negotiate agreements from the payment of outstanding real-estate taxes, interest and penalties, including abatement if those amounts needed to make a cleanup and redevelopment project economically feasible. Said agreement may also contain additional incentives financial and otherwise as may be deemed appropriate.

Sect.12-61. Scope of Authority.

Agreements may cover any property contaminated with oil or other hazardous materials and must be zoned for Commercial or Industrial use.

An agreement may be entered in to with any eligible person as defined in M.G.L. Chapter 21E, Section 2.

Agreements must specify the details agreed to regarding payments of any outstanding obligations, including the amount owed, rate of interest to accrue if any, amount of monthly payments, payment schedule, late penalties, and other terms. These obligations may consist of outstanding real-estate taxes or other financing packages negotiated with the City.

Agreements must be signed by the Mayor, President of the City Council, property owner and must be notarized and attested to by the City Clerk. Copies must be provided to the Massachusetts Department of Environmental Protection, the Federal Environmental Protection Agency, the property owner and the City Council.

Sec. 12-62. Approval of Agreements.

The City Council must approve, by majority vote, any agreements that reduce the outstanding property taxes, penalties and interest that total over \$5,000.00. All other agreements take effect upon execution by the Mayor.

²⁷ Article V. approved by City Council on October 19, 2004; approved by Mayor on October 20, 2004

ARTICLE VI²⁸
THE RIGHT TO FARM ORDINANCE

Sec. 12-63. Purpose and Intent

The City of Easthampton finds that farming is an essential and valued activity, which provides fresh food, clean-air, economic diversity, local employment, and open spaces to all the citizens of our City. This Ordinance is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities, and protect farmland within the City of Easthampton. The purpose is to allow agricultural uses and related activities to function in harmony with the community, City agencies and others. This Ordinance shall apply to all jurisdictional areas within the City.

This ordinance restates with emphasis the Right to Farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations including but not limited to Article 97 of the Constitution, Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1 (the "Zoning Act"); Chapter 90, Section 9; Chapter 111, Section 125A; and Chapter 128, Section 1A. We the citizens of Easthampton restate and republish these rights pursuant to the City's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution (the "Home Rule Amendment").

Sec. 12-64. Definitions

"Farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or uses accessory thereto. Commercial shall be defined by the minimum acreage requirement or the gross sales and program payment requirement specified in Massachusetts General Laws Chapter 61A, Section 3, as amended. "Farm" shall include youth related agricultural activities, such as but not limited to 4-H, irrespective of minimum acreage or gross sales and program payment requirements. "Farming" or "agriculture" shall include, but not be limited to the following:

- Farming in all its branches and the cultivation and tillage of soil;
- Dairying;
- Orchards;
- Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- Raising of livestock including horses
- Keeping of horses as a commercial enterprise; and
- Keeping and raising of poultry, sheep, goats, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads within the City;
- Control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- Application of manure, fertilizers and pesticides;

²⁸Article VI approved by the City Council on Nov. 4, 2009; approved by the Mayor on Nov. 5, 2009.

- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm
- Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto; maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products;
- On-farm relocation of earth and the clearing of ground for farming operations;
- Revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenation and maintaining pastures; and
- Herding of livestock from area to area, including along roads

Sec. 12-65. Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the City of Easthampton. The above described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this Ordinance are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. Moreover, nothing in this Right to Farm Ordinance shall be deemed as acquiring any interest in land. The protections contained in this Ordinance do not supersede any applicable zoning or legal restrictions associated with agricultural operations or other local, state or federal laws or regulations.

Sec. 12-66. Notification to Residents and Real Estate Buyers

In order to promote harmony between farmers and their neighbors, residents shall be notified by the City as set forth below and buyers and occupants shall be notified by landholders and/or their agents (and assigns) prior to the sale or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, through written notification, as follows:

“It is the policy of the City of Easthampton to conserve, protect, and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform residents and buyers that the property they occupy or are about to acquire or occupy lies within a City where farming activities occur. Such farming activities (which may occur on holidays, weekdays, and weekends by night or day) may include, but are not limited to, activities that cause noise, dust and odors. Occupying land within Easthampton means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area. Buyers or occupants are also informed that the location of property within the City may be impacted by commercial agricultural operations.”

A copy of the above notification shall be posted in the City Hall, and at any other location at the Mayor's sole discretion. The notification shall also be available for distribution upon request in the offices of the Mayor, Board of Assessors, and the City Clerk. A copy of the notification may, at the Mayor's sole discretion, be mailed to all City residents from time to time.

Sec. 12-67. Resolution of Complaints

Any person having a complaint about a farm or farming activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer. Such person may, notwithstanding pursuing any other available remedy, request resolution assistance from the Mayor. Such a request does not suspend the time within which to pursue any other available remedies. The Mayor may, at its sole discretion and to the extent the Mayor believes resolution of the matter may be facilitated by involvement of the City, appoint a panel of at least three individuals, to include representation from farmers, or refer such request to a Easthampton Agricultural Commission, should one exist, or other appropriate board or officer. Said panel, Agricultural Commission or board or officer shall review and facilitate the resolution of such a request and report its recommendations to the Mayor within the agreed upon time frame. Notwithstanding any other provision of this section, however, the Mayor shall not be required to forward a complaint filed in accordance herewith or to take any other action whatsoever with regard thereto.

Sec.12-68. Severability Clause

If any part of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Ordinance. The City of Easthampton hereby declares the provisions of this Ordinance to be severable.

Secs. 12-69 to 12-75. Reserved

ARTICLE VII ²⁹
STORMWATER MANAGEMENT ORDINANCE

Sec. 12-76. Purpose and Authority

a. **Purpose.**

The purpose of this ordinance is to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Easthampton by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff from new development and redevelopment.

b. **Objectives.**

The objectives of this ordinance are:

1. Establish regulations for land development activities that preserve the health of water resources by reducing the adverse impacts to water quality from stormwater discharges to rivers, lakes, reservoirs and streams in order to attain federal water quality standards;
2. Require that new development, redevelopment and all land conversion activities maintain the natural hydrologic characteristics of the land in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage and the integrity of aquatic habitats and stream channels;
3. Inform the public about the value and benefits of groundwater recharge, pollution reduction and importance of clean water;
4. Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
5. Minimize the volume and rate of stormwater discharged to rivers, streams, reservoirs, lakes and storm sewers from any site during construction and following development;
6. Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
7. Require pre-development and post-development runoff volume and quality to be equivalent or improved by reducing runoff volumes, increasing infiltration, and improving runoff water quality;
8. Provide for the recharge of groundwater aquifers and maintain the base flow of streams;
9. Require the use of Low Impact Development (LID) site planning and design strategies such as reducing impervious cover, treating and infiltrating stormwater at the source, utilizing environmentally sensitive site design and, the preservation of open space and natural areas, to the maximum extent feasible;
10. Coordinate site plans that include open space with the City's Open Space and Recreation Plan or other community plans to promote the connection of open space corridors;

²⁹ Article VII approved by the City Council on May 18, 2011; approved by the Mayor on May 19, 2011. Article VII was amended by the City Council on July 7, 2021; approved by the Mayor on July 8, 2021.

***Editor's Note:** The original arrangement of this chapter has been maintained but section numbers have been assigned at the discretion of the editor.

11. Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
12. Minimize damage to public and private property from flooding;
13. Establish maintenance provisions to ensure the stormwater treatment devices and facilities will continue to function as designed;
14. Establish procedures for the City's review of Stormwater Management Plans, for the City's inspection of approved stormwater controls and the City's enforcement of this ordinance; and
15. Comply with state and federal statutes and regulations relating to stormwater discharges.

c. **Authority.**

For activities requiring a permit or waiver, Easthampton's Planning Board shall administer and implement this Ordinance when an eligible project involves a zoning special permit, site plan approval, or definitive subdivision approval. When a project does not require review or permitting from the Planning Board, or requires review or a permit by the Conservation Commission in addition to review or permitting from the Planning Board, the Conservation Commission shall administer and implement this Ordinance.

In the case of a special permit, site plan approval and/or definitive subdivision approval said application for a stormwater management permit shall be incorporated and included as a part of the applications for such other zoning and/or subdivision permit approvals, and shall be issued with and become a part of said other approved zoning and/or subdivision permits. In the case of a Notice of Intent to the Conservation Commission, said application for a stormwater management permit shall be incorporated and included as part of the applications if none of the aforementioned permits are also triggered by the project. In these cases, submission of the Stormwater Report and Plan under the Notice of Intent shall suffice as the submission for said stormwater management permit, provided that it contains all information required under this Ordinance. All other eligible projects not requiring any of the aforementioned permits will be reviewed by the Conservation Commission as part of its review for building permits.

Inspections of activities requiring a permit or waiver shall be performed by the Department of Public Works, who shall be authorized to approve work completed, order work to stop, and order temporary remedial measures to be implemented until such time that the authorized permitting agency can act, and make recommendations to the authorized permitting agency.

For construction activities that result in the disturbance of less than one acre of land, but more than 10,000 square feet unless exempted in Section 12-78 and unless part of a larger common plan of development that will disturb greater than one acre, the Building Inspector will review and approve evidence that the requirements have been met prior to issuance of a building permit.

The provisions of this Ordinance will be enforced by the Planning Board, Conservation Commission, Building Inspector, and Department of Public Works, and/or their employees or designated agents.

Sec. 12-77. Definitions

The following definitions describe the meaning of the terms used in this ordinance.

Adverse impact: Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Authorized permitting agency: The Planning Board when an eligible project involves a zoning special permit, site plan approval or definitive subdivision approval and does not require a Notice of Intent from the Conservation Commission. The Conservation Commission when a project requires a Notice of Intent from the Conservation Commission or does not require any review or permitting from the Planning Board. For construction activities that result in the disturbance of less than one acre of land, but more than 10,000 square feet that are not part of a larger common plan of development that will disturb greater than one acre, the Building Inspector will review and approve evidence that the requirements have been met prior to issuance of a building permit.

Authorized enforcement agency: The Planning Board, Conservation Commission, Building Inspector, Department of Public Works, and/or its employees or designated agents.

Best management practices (BMP): Stormwater management systems and facilities including structural or biological devices that temporarily store, treat, or convey stormwater runoff to reduce flooding, remove pollutants, recharge groundwater, and provide other amenities. They can also be nonstructural practices that reduce pollutants at their source. BMPs are further described in a stormwater design manual, *Massachusetts Stormwater Handbook: Volume 2 Technical Guide for Compliance with the Massachusetts Stormwater Management Standards* (February 2008, Massachusetts Department of Environmental Protection or as amended).

Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.) as hereinafter amended.

Construction activity: Disturbance of the ground by removal or moving of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

Design storm: A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP.

Detention: The temporary storage of storm runoff in a BMP, which is used to control the "peak discharge" rates, and which provides gravity settling of pollutants.

Discharge of pollutants: The addition from any source of any pollutant or combination of pollutants into storm drain systems or into the waters of the United States or Commonwealth from any source.

Disturbance: Any land clearing, grading, bulldozing, digging or similar activities.

Drainage area: That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline.

Drywell: Similar to an infiltration trench but smaller with inflow from a pipe; commonly covered with soil and used for drainage areas of less than 1 acre such as roadside inlets and rooftops runoff.

Easement: A right of use over the property of another, generally for a specific purpose such as rights of access or rights regarding flowing waters or drainage.

Environmental Site Design (ESD): Site planning and layout that seeks to create pockets of development that avoid sensitive natural areas to prevent disruption of the natural hydrology and habitat function of the site.

Flow attenuation: Prolonging the flow time of runoff to reduce the peak discharge.

Groundwater: All water beneath the surface of the ground not contained in a manmade structure.

Hydrology model: One of the following:

1. TR-20, or Technical Release 20, a watershed hydrology model developed by the Natural Resources Conservation Service that is used to route a design storm hydrograph through a pond;
2. TR-55, or Technical Release 55, "Urban Hydrology for Small Watersheds" is a publication developed by the Natural Resources Conservation Service to calculate stormwater runoff and aid in designing detention basins; or,
3. Commercially available stormwater modeling software based on TR 20 or TR 55.

Illegal discharge: Any direct or indirect non-stormwater discharge to storm drain systems, except as specifically exempted in the Easthampton Illicit Discharge Detection and Elimination Ordinance. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from firefighting activities exempted pursuant to aforementioned Ordinance.

Illicit connection: Any surface or subsurface drain or conveyance, which allows an illegal discharge into storm drain systems. Illicit connections include conveyances which allow a non-stormwater discharge to storm drain systems including sewage, process wastewater or wash water and any connections from indoor drains, sinks or toilets, regardless of whether said connection was previously allowed, permitted or approved before the effective date of this Ordinance.

Impervious surfaces: Developed areas, such as pavement or rooftops, which prevent the infiltration of water into the soil. Any material or structure on or above the ground that prevents water from infiltrating the underlying soil.

Infiltration: The downward movement of water from the surface to the subsoil.

Infiltration trench: A stormwater management excavation filled with aggregate which removes both soluble and particulate pollutants. Trenches are not intended to trap coarse sediments.

Low Impact Development (LID): A set of approaches that seeks to mimic a site's predevelopment hydrology using design techniques that infiltrate, filter, store, evaporate and detain runoff close to its source. Instead of conveying, managing and/or treating stormwater in large, end-of-pipe facilities, LID utilizes small-scale, decentralized practices that infiltrate, treat, evaporate, and transpire rain water and snow melt including bio retention areas, grassed swales, reducing impervious areas, preservation of open space, development density, lot size and configuration, street design, parking design, and other structural stormwater treatment methods.

Municipal separate storm sewer system (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drain channel, reservoir, and other

drainage structure that together comprise the storm drainage system owned and operated by the City of Easthampton.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit:

A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

New Development: Any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

Non-stormwater discharges: Any discharge to the storm drain systems not composed entirely of stormwater.

Outfall: The terminus of a storm drain or other stormwater structure where the contents are released.

Owner: Every person who alone, jointly or severally with others:

1. Has legal title to any building, structure or parcel of land; or,
2. Has care, charge or control of any building, structure, or parcel of land in any capacity including but not limited to, an agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or,
3. Lessee under a written lease agreement; or,
4. Mortgagee in possession; or,
5. Agent, trustee or other person appointed by the courts.

Peak discharge: The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event.

Permeable soils: oil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

Person: Any individual, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof or the federal government, to the extent permitted by law and agent of such person.

Pollutant: Any element of property or sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include:

1. Paints, varnishes and solvents;
2. Oil and other automotive fluids;
3. Nonhazardous liquid and solid wastes and yard wastes;
4. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5. Pesticides, herbicides and fertilizers;
6. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. Dissolved and particulate metals;
8. Animal wastes and residues;
9. Rock, sand, salt and soils;
10. Construction wastes and residues;
11. Noxious or offense matter of any kind.

Process water: Any water that during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product or waste product.

Recharge: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Redevelopment: Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

Retention: The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

Small MS4 General Permit: EPA General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, dated April 2016, as amended.

Start of construction: The first land-disturbing activity associated with a development, including land preparation such as: clearing and grubbing, grading and filling; installation of streets and walkways; excavation for basements; footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Stormwater: Runoff from precipitation or snow melt.

Swale: A natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

Toxic or hazardous material or waste: Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare of to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under M.G.L.A. c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

Transportation project: A project involving construction, reconstruction, or maintenance of public highways, roadways, bike paths, and other travel and freight corridors being proposed by a public agency having jurisdiction over transportation or transit such as the Easthampton Department of Public Works, the Massachusetts Department of Transportation, and the Federal Highway Administration.

Uncontaminated: Water containing no pollutants.

Watercourses: A natural or manmade channel through which water flows or a stream of water, including a river, brook or underground stream.

Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and groundwater.

Wastewater: Any sanitary waste, sludge or septic tank or cesspool overflow and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

Sec.12-78. Applicability

a. Applicability

This Ordinance shall apply to stormwater entering the municipal storm drain system, and stormwater on private property for those activities identified in Section 12-78 (b) whether or not flows enter the municipal storm drain system.

b. Permit or Waiver Required

Prior to the commencement of construction for any proposed development listed below, a stormwater management permit, or a waiver of the requirement for a stormwater management permit, must be approved by the applicable authorized permitting agency. No person shall, on or after the effective date of the section, initiate any land clearing and grubbing, land grading, earth moving or development activities without first complying with this Ordinance. The following uses and activities shall be required to submit drainage reports, plans, construction drawings, specifications and as-built information in conformance with the requirements of this Ordinance:

1. Construction activities and subdivisions disturbing greater than or equal to one acre.
2. Multifamily residential developments involving four or more units;
3. Any new commercial, industrial, and institutional structures under the same ownership, with at least 5,000 square feet of gross floor area, 10,000 square feet of impervious surface, or that require 10 or more parking spaces;
4. Redevelopment or additions to existing commercial, industrial, and institutional uses which result in an additional impervious surface area or gross floor area of greater than 5,000 square feet, or which results in an increase of 10 or more parking spaces.
5. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that together disturbs one or more acres.

c. Other projects

Construction activities that are not part of a larger common plan and that result in the disturbance of less than one acre of land, but more than 10,000 square feet, must minimize impervious area; disconnect impervious area runoff from the municipal storm drainage system, wetlands, waterways, and adjacent off-site impervious areas; or otherwise treat, infiltrate, or retain stormwater run-off by implementing stormwater management measures designed in accordance with this Ordinance and the *Massachusetts Stormwater Handbook*. The applicant shall submit evidence on a form prescribed by the Building Inspector that the requirements of this Section and Sections 12-79(h); 12-80(c); and 12-81(b) of this Ordinance have been met prior to issuance of a building permit.

d. Exemptions

The following uses and activities are exempt from the requirements for submittal and approval of a Stormwater Management Plan. All exempt uses and activities, however, must still comply with the purposes and the stormwater performance standards of this Ordinance. Failure of an exempt use or activity to comply with the provisions of this Ordinance shall be interpreted as a violation and exempt status revoked.

1. Any activity that will disturb an area less than 10,000 square feet, not including projects

that will disturb an area less than 10,000 square feet that are part of a larger common plan of development or sale that will ultimately disturb greater than or equal to 10,000 square feet.

2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04.
3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling.
4. Repair or replacement of an existing roof of a single-family dwelling.
5. Repair or replacement of an existing septic system.
7. The construction of any fence that will not alter existing terrain or drainage patterns.
8. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not permanently alter terrain, ground cover, or drainage patterns.
9. Routine maintenance to existing town roads that is performed to maintain the original width, line, grade, hydraulic capacity, or original purpose of the roadway.
10. Repairs to any stormwater treatment system deemed necessary by the City's Department of Public Works
11. Any emergency activity that is immediately necessary for the protection of life, property, or the environment, as determined by the Authorized Permitting Agency
12. Customary cemetery management.
13. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Ordinance.
14. Any logging that is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation.
15. Any agricultural activity that is consistent with a soil conservation plan prepared or approved by the Natural Resources Conservation Service.

e. **Stormwater Design Manual**

Two stormwater design manuals are hereby incorporated by reference. For transportation projects, the authorized permitting agency shall consider the use of the *Mass Highway Stormwater Handbook for Highways and Bridges*, as updated or amended. For all other projects, there is the stormwater design manual, *Massachusetts Stormwater Handbook: Volume 2 Technical Guide for Compliance with Massachusetts Stormwater Management Standard* (Massachusetts Department of Environmental Protection, February 2008), as updated or amended, is hereby incorporated by reference as part of this Ordinance, and shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this Ordinance. This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience, at the discretion of the Massachusetts Department of Environmental Protection. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria and that meet the pollutant removal percentages required in 12-81.a.2 and 3 based on

calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available will be presumed to meet the minimum water quality performance standards.

f. **Erosion and Sediment Control Guidelines**

The general guide to conservation measures and erosion and sediment control practices in Massachusetts is entitled, *The Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas* located at: <http://www.mass.gov/eea/docs/dep/water/essec1.pdf> (May 2003, Massachusetts Department of Environmental Protection) as updated or amended. This guide is hereby incorporated by reference as part of this Ordinance, and shall furnish additional criteria and information for the proper implementation of the requirements of this Ordinance.

g. **For projects not addressed above**, the City Engineer may order erosion and sediment controls for any size of disturbance that results in the visible discharge of sediment causing off-site stormwater impacts.

Sec. 12-79. Stormwater Management Permit Procedures and Requirements

a. **Permit required.**

No owner or operator may apply for nor be issued any of the building, grading, or other land development permits required for land disturbance activities as described in Section 12-78 above, and no owner shall commence any such land disturbance activities, without the prior approval of a stormwater management permit from the authorized permitting agency and meeting the requirements of this Ordinance.

b. **Application.**

Application for approval of a stormwater management permit shall include the following:

1. A Stormwater Management Plan which shall contain sufficient information to describe the nature and purpose of the proposed development (see Section 12-80, Contents of the Stormwater Management Plan below). The plan shall serve as the basis for all subsequent construction.
2. Supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff and erosion will be managed for the entire development during and after construction.
3. Ongoing operations, maintenance, and inspections agreement.
4. Nonrefundable permit fee (see Section 12-79h "Fees", below for fee schedule).

The applicant may request, and the authorized permitting agency may grant, a waiver from any information requirements it judges to be unnecessary to the review of a particular plan. Note that for projects that involve a Notice of Intent to the Conservation Commission, submission of the Stormwater Report and Plan under the Notice of Intent shall suffice as the submission for said stormwater management permit, provided that it contains all information required under this Ordinance.

c. Procedures for review and approval of stormwater permits

1. A Stormwater Management Plan (or an application for waiver) shall be submitted to the authorized permitting agency for review and approval for any proposed development specified in Section 12-78. Eight copies of the Stormwater Management Plan shall be submitted (along with all other documents required for any zoning or subdivision permits/approvals when required).
2. The procedures for review and approval of Stormwater Management Plans shall be consistent with review procedures of the authorized permitting agency, as appropriate to the use.
3. The authorized permitting agency shall refer copies of the Stormwater Management Plan to other appropriate city departments for review, and shall consider any comments submitted by said departments during the review period.
4. The authorized permitting agency need not hold a public hearing for projects or activities outside the currently regulated jurisdictions of existing city boards, commissions, and/or departments. For stormwater permit applications that are included as part of applications for activities and projects that require other permit approvals within the currently regulated jurisdictions of existing town boards, commissions, and/or departments, a public hearing will be held in accordance with established procedures for these other permits. A public hearing shall be held when requested by at least five members of the public. Public comments will be noted and addressed as appropriate through the permitting process.

d. Criteria for review of Stormwater Management Plans.

In addition to other criteria used by the authorized permitting agency in making permit decisions, for the uses specified in this Ordinance, said authorized permitting agency must also find that the Stormwater Management Plan submitted with the permit application meets the following criteria:

1. The Stormwater Management Plan is consistent with the purposes and objectives of Section 12-76;
2. The Stormwater Management Plan meets the performance standards described in Section 12-81; and
3. The Stormwater Management Plan meets the design requirements in Section 12-81.

e. Authorized permitting agency action.

The authorized permitting agency's action, rendered in writing, shall consist of either:

1. Approval of the stormwater management permit application based upon determination that the proposed Stormwater Management Plan meets the purposes in Section 12-76, the standards in Section 12-81, and is in compliance with the requirements set forth in this Ordinance; or
2. Approval of the stormwater management permit application subject to any conditions, modifications or restrictions required by the board which will ensure that the project meets the purposes in Section 12-76 and the performance standards in Section 12-81; or
3. Disapproval of the stormwater management permit application based upon a determination that the proposed Stormwater Management Plan, as submitted, does not meet the purposes in Section 12-76 and the performance standards in Section 12-81 to adequately protect water resources, as set forth in this Ordinance.

Failure of the authorized permitting agency to take final action upon a complete application within 45 days shall be deemed to be approval of said application, unless the stormwater permit application is part of other permit approvals in which case already established time frames for the other permits shall take precedence. Upon certification by the city clerk that the allowed time has passed without authorized permitting agency action, the authorized permitting agency must issue a stormwater management permit or the stormwater management permit is deemed to be approved.

f. Inspections

No plan will be approved without adequate provision for inspection of the property at key times in the development process. The applicant shall arrange with the authorized permitting agency (or its appointed agent) for scheduling inspections, or upon request by the authorized permitting agency, shall have a qualified third party inspector as determined by the City Engineer perform the inspections and submit a detailed report as to their findings. A qualified inspector is a person knowledgeable in the principals and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of this permit. Inspections may include the following:

1. Initial inspection prior to approval of any plan;
2. Erosion control inspections after site clearing, rough grading and final grading to ensure erosion control practices are in accord with the plan;
3. Bury inspection prior to backfilling of any underground drainage or stormwater conveyance structures; and,
4. Final inspection when all work, including construction of stormwater management facilities and landscaping have been completed.

For construction activities disturbing less than 1 acre of land, but more than 10,000 square feet that are not part of a larger common plan of development that will disturb greater than one acre, inspection activities may be limited at the discretion of the City Engineer to an erosion control inspection (number 2 above) and a final inspection (number 4 above).

Inspection reporting shall either approve compliance of site conditions at the time of inspection with the requirement of the approved plan or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant will be subject to the bonding provisions of Section 12-81(g) or the penalty provisions of Section 12-81(h). The authorized permitting agency or its agent may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

g. Right of entry for inspection.

The filing of a Stormwater Management Permit application or the filing of an application form with the Building Inspector for activities defined in Section 12-78(c), shall be deemed as the property owner's permission to the authorized permitting agency, or its agent, for the right to enter the property at reasonable times and in a reasonable manner for the purpose of the inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction a violation.

h. Application Fees

For construction projects disturbing an acre or more of land, a non-refundable Permit Application Fee of \$300.00 must accompany the application.

For construction projects disturbing less than an acre of land, but more than 10,000 square feet that are not part of a larger common plan of development that will disturb greater than one acre, a non-refundable Permit Application Fee of \$100.00 must accompany the application form.

This fee schedule is reasonably related to the costs of processing, reviewing, acting upon the application, and conducting inspections. The fee shall be made payable to the City of Easthampton and shall accompany the permit application. The City may require an additional fee for review of any change in or alteration from an approved permit.

Said fee shall be paid into a special account set up by the City Treasurer and may be expended by the authorized permitting and enforcement agencies for the purpose allocated without further appropriation in accordance with the provisions of Massachusetts General Laws, Chapter 44, Section 53E 1/2.

i. Consultant Fees

The Authorized Permitting Agency may require the applicant to pay reasonable costs to be incurred by the Authorized Permitting Agency for the employment of outside consultants as authorized by G.L. c. 44, s 53G.

Sec. 12-80. Contents of the Stormwater Management Plan

a. Stormwater management plan.

A Stormwater Management Plan submitted with the permit application shall contain sufficient information for the Authorized Permitting Agency to evaluate the environmental impact, effectiveness and acceptability of the measures proposed for reducing adverse impacts from construction stormwater runoff and post-development stormwater runoff. This plan shall comply with the criteria established in the Ordinance and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts.

For construction activities disturbing less than an acre of land, but more than 10,000 square feet that are not part of a larger common plan of development that will disturb greater than one acre, a less technical stormwater management plan, as described in Section 12-80(c) below, must be submitted.

b. Construction activities disturbing one acre or more.

For land altering activity subject to this Ordinance involving construction that disturbs one acre or more, the Stormwater Management Plan shall fully describe the project in narrative, drawings and calculations and shall include:

1. Contact information of person or entity responsible for plan compliance;
2. Locus map;
3. The existing zoning, and land use at the site;
4. The proposed land use and proposed area of disturbance;
5. The location(s) of existing and proposed easements;
6. The location of existing and proposed utilities;
7. The site's existing and proposed topography with contours at two-foot intervals;
8. Description of existing site hydrology;
9. A description and location of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which storm water flows;

10. A delineation of 100-year flood plains, if applicable;
11. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
12. The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
13. A drainage area map showing pre and post-construction watershed boundaries, drainage area and storm water flow paths;
14. A description and drawings of all components of the proposed drainage system including:
 - a. Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - b. All measures for the detention, retention or infiltration of water performed per the requirements of the *Massachusetts Stormwater Handbook* and this Ordinance;
 - c. All measures for the protection of water quality;
 - d. The structural details for all components of the proposed drainage systems and storm water management facilities;
 - e. Notes on drawings specifying materials to be used, construction specifications and details;
 - f. Expected hydrology with supporting calculations;
 - g. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
 - h. Environmentally sensitive site design and LID analysis demonstrating application of principles, where feasible, through:
 - i. reduced impervious surface coverage through street design, street width, parking design, and sidewalks;
 - ii. Retention of open space and mature trees;
 - iii. Increased development density in exchange for open space protection in other areas of site; and,
 - iv. Incorporation of decentralized, naturalized LID stormwater management systems to treat and infiltrate stormwater at the source.
15. Stormwater Management Facilities must be designed to comply with the new development and redevelopment requirements of the Massachusetts Stormwater Management Standards and EPA General Permits for Stormwater Discharges from Small MS4s In Massachusetts. It is presumed that this standard is met when:
 - a. Suitable nonstructural practices for source control and pollution prevention are implemented;
 - b. Stormwater management Best Management Practices (BMPs) are sized to capture the prescribed Runoff volume; and
 - c. Stormwater management BMPs are maintained as designed.
16. Erosion and Sedimentation Control Plan (ESCP) for Construction Activities:
 - a. A description of construction and waste materials expected to be stored on site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, controls for other wastes on construction sites such as demolition debris, litter and sanitary wastes, and spill prevention and response;
 - b. Narrative describing all erosion and sediment control practices, including tree preservation and protection;
 - c. Erosion and sedimentation control plan drawings, including detailed drawings and specifications with sizing calculations;
 - d. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;

- e. An inspection and maintenance schedule, including an inspection and maintenance log form, for the period of construction;
17. Operations, Maintenance, and Inspection Plan, which shall serve as the basis for the agreement as described in Section 12-81 (f):
- a. Name of the stormwater management system owners;
 - b. Party responsible for operation and maintenance;
 - c. Schedule for implementation of routine and non-routine maintenance tasks;
 - d. Plan showing the location of all stormwater BMPs maintenance access areas;
 - e. Description and delineation of public safety features;
 - f. Estimated operation and maintenance budget; and
 - g. Operation and Maintenance Log Form.
18. Any other information required by the permitting agency.

c. Construction activities disturbing less than one acre of land, but more than 10,000 square feet.

For land altering activity subject to this Ordinance involving construction that disturbs less than one acre of land, but more than 10,000 square feet that are not part of a larger common plan of development that will disturb greater than one acre, the Stormwater Management Plan shall demonstrate that every effort is being made to minimize impervious area; disconnect impervious area runoff from the municipal storm drain system, wetlands, waterways, and adjacent off-site impervious areas; or otherwise treat, infiltrate, or retain stormwater run-off by implementing stormwater management measures or Low Impact Development designed in accordance with this Ordinance and the Massachusetts Stormwater Handbook. The Stormwater Management Plan shall include a form prescribed by the Building Inspector and attachments that shall include:

- 1. Contact information of person or entity responsible for plan compliance;
- 2. Locus map;
- 3. The existing zoning and land use at the site;
- 4. The proposed land use and proposed area of disturbance;
- 5. Description of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
- 6. Description of erosion and sediment control measures to be used during construction; and
- 7. Description of the proposed stormwater management and Low Impact Development measures to comply with the Stormwater Management Standards of Section 6b and which serve to disconnect, treat, infiltrate, or retain stormwater discharges from impervious surfaces including roofs and driveways and the locations of any foundation drains, curtain drains, or other site features that serve to collect and convey stormwater or groundwater and their outfalls.
- 8. A sketch or survey plan indicating:
 - a. The locations of existing and proposed structures;
 - b. The location(s) of existing and proposed easements;
 - c. The location of existing and proposed utilities;
 - d. The location of major features;
 - e. North arrow and indication of scale, whether accurate or approximate;
 - f. Direction of slopes and description of existing site hydrology;
 - g. Location of existing stormwater conveyances, impoundments and wetlands on or adjacent to the site or into which stormwater flows;
 - h. Location of erosion and sediment controls to be used during construction; and
 - i. Location of proposed stormwater management and Low Impact Development measures to disconnect, treat, infiltrate, or retain stormwater discharges.
- 9. Any other information required by the permitting agency.

Sec. 12-81. Stormwater Management Performance Standards.

- a. **Minimum control requirements for construction activities disturbing one acre or more.** Projects that require a permit under this Ordinance, and that involve construction activities that disturb one acre or more, must meet the following standards:

1. General Performance Standards for All Sites.

- a. LID site planning and design strategies must be utilized to the maximum extent feasible.
- b. The selection, design and construction of all pre-treatment, treatment and infiltration BMPs shall be in accordance with Massachusetts Stormwater Handbook and shall be consistent with all elements of the Massachusetts Stormwater Standards including but not limited to those regarding new stormwater conveyances, peak runoff rates, recharge, land uses with higher potential pollutant loads, discharges to Zone II or interim wellhead protection areas, sediment and erosion control, and illicit discharges.

2. Performance Standards for New Development.

- a. Stormwater management systems on new development shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual load of Total Phosphorus (TP) related to the total postconstruction impervious surface area on the site. Average annual pollutant removal requirements shall be achieved through one of the following methods:
 - i. Installing stormwater BMPs that meet the pollutant removal percentages required in 12-81.a.2.a., based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance; or
 - ii. Retaining the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the new development site; or
 - iii. Meeting a combination of retention and treatment that achieves the above standards.

3. Performance Standards for Redevelopment Sites.

- a. Stormwater management systems on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual postconstruction load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site. Average annual pollutant removal requirements shall be achieved through one of the following methods:
 - i. Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and

Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance; or

- ii. Retaining the volume of runoff equivalent to, or greater than, 0.8 inch multiplied by the total post-construction impervious surface area on the redeveloped site; or
 - iii. Meeting a combination of retention and treatment that achieves the above standards; or
 - iv. Utilizing off-site mitigation that meets the above standards within the same USGS HUC12 as the redevelopment site.
- b. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from Section 12-81a.3.a and 12-81a.4.

4. Performance Standards for Redevelopment Projects Offsite Mitigation.

- a. For Redevelopment projects where the Applicant proposes to utilize off-site mitigation to meet the average annual pollutant removal requirements of 12-81.a.3.a., the Applicant will describe in writing why it is not technically feasible to meet the average annual pollutant removal requirements on-site, including which on-site treatment BMPs were considered and why they were deemed not feasible.
 - b. Off-site mitigation shall be located within Easthampton and the same tributary to the maximum extent feasible. Under no circumstances will off-site mitigation be located outside the same USGS HUC12.
 - c. The off-site mitigation project shall be designed and constructed in a manner consistent with the requirements of the Easthampton Stormwater Management Ordinance and related regulations.
 - d. The authorized permitting agency shall, at its discretion, identify priority areas within the watershed in which offsite mitigation may be completed.
 - e. Offsite mitigation provided at a site not owned by the City of Easthampton, requires a separate Stormwater Management Permit covering the off-site mitigation project, the terms and conditions of which, including ongoing operations and maintenance requirements, shall run with the land where the off-site mitigation is located.
 - f. Construction of the off-site mitigation project shall commence within 12 months of Stormwater Management Permit issuance and be completed within 12 months of commencement.
5. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
6. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed (see Section 12-81f of this Ordinance).
7. New development and redevelopment stormwater management BMPs be optimized for nitrogen removal and removal of other pollutants in accordance with the Small

MS4 General Permit on the Massachusetts Integrated List of Waters published by Massachusetts Department of Environmental Protection.

8. As-built drawings shall be submitted no later than two (2) years after completion of construction projects. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post construction stormwater management).

When the proposed discharge may have an impact upon a sensitive receptor, including streams, wetlands, vernal pools, storm sewers, and/or combined sewers, the authorized permitting agency may require an increase in these minimum requirements, based on existing stormwater system capacity.

b. Minimum control requirements for construction activities disturbing less than one acre of land, but more than 10,000 square feet that are not part of a larger common plan of development that will disturb greater than one acre.

Projects that involve construction activities that disturb less than one acre of land, but more than 10,000 square feet and are not part of a larger common plan of development that will disturb greater than one acre must meet the following standards:

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
2. On sites that have not been previously developed (including agricultural sites and sites that have not been previously improved with buildings or impervious surfaces), stormwater management and low impact development measures must be designed so that runoff from at least one half of the impervious areas at the site are directed toward grassy or vegetated areas, or are infiltrated, treated, or retained using rain gardens, cisterns, drywells, or other measures included in the *Massachusetts Stormwater Handbook*.
3. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures, including but not limited to environmentally sensitive site design, low impact development techniques, and stormwater best management practices to the maximum extent practicable.
4. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
5. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed (see Section 12-81f of this Ordinance).

c. Stormwater management measures

1. **Stormwater management measures shall be required to satisfy the minimum control requirements and shall be implemented in the following order of preference:**
 - a. Infiltration, flow attenuation, and pollutant removal of runoff on site to existing areas with grass, trees, and similar vegetation and through the use of open vegetated swales and natural depressions;
 - b. Use of stormwater on site to replace water used in industrial processes or for irrigation;
 - c. Stormwater detention structures for the temporary storage of runoff which is designed so as not to create a permanent pool of water; and

- d. Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water; and,
 - e. Detention and evaporation of stormwater on rooftops or in parking lots.
2. Infiltration practices shall be utilized to reduce runoff volume increases. A combination of successive practices may be used to achieve the applicable minimum control requirements.
 3. Best management practices shall be employed to minimize pollutants in stormwater runoff prior to discharge into the municipal storm drain system or water body.
 4. All stormwater management facilities shall be designed to provide an emergency overflow system, and incorporate measures to provide a non-erosive velocity of flow along its length and at any outfall.
 5. The designed release rate of any stormwater structure shall be modified if any increase in flooding or stream channel erosion would result at a downstream dam, highway, structure, or normal point of restricted stream flow.
 6. Stormwater best management practices that mimic natural hydrology (i.e., nonstructural and small-scale upland management approaches) should be considered as first-line practices. Given appropriate soils and conditions, all opportunities to use nonstructural and small-scale upland management designs must be exhausted prior to exploring end-of-pipe stormwater management approaches.

d. Specific design criteria.

Additional policy, criteria, and information including specifications and design standards may be found in the stormwater design manual.

1. All projects subject to this Ordinance must consider the following environmentally sensitive site design and Low Impact Development (LID) techniques:
 - a. Identify, map and preserve the site's natural features and environmentally sensitive areas such as wetlands, native vegetation, mature trees, slopes, drainage ways, permeable soils, flood plains, woodlands, and prime agricultural soils to the maximum extent practicable;
 - B. Minimize grading and clearing;
 - c. Delineate potential building envelopes, avoiding environmental resource areas and appropriate buffers by clustering buildings and reducing building footprints;
 - d. Develop methods to minimize impervious surfaces, and protect and preserve open space. Reduce impervious surfaces where ever possible through alternative street design, such as omission of curbs and use of narrower streets, shared driveways and through the use of shared parking areas;
 - e. Manage runoff using smaller, decentralized, low-tech stormwater management techniques to treat and recharge stormwater close to the source; lengthen flow paths and maximize sheet flow;
 - f. Use nonstructural, low-tech methods including open drainage systems, disconnection of roof runoff and street sweeping where possible;
 - g. Use native plant vegetation in buffer strips and in rain gardens (small planted depressions that can trap and filter runoff);
 - h. Use of vegetation that does not require irrigation during periods of drought; and,
 - i. Integrate the following techniques into the site design to create a hydrologically functional site, including but not limited to the following:
 - i. Grass swales along roads;
 - ii. Rain gardens;
 - iii. Buffer strips;

- iv. Use of roof gardens where practicable;
- v. Use of amended soils that will store, filter and infiltrate runoff;
- vii. Use of rain barrels and other cisterns to provide additional stormwater storage; and,
- viii. Use of permeable pavement.

2. Infiltration systems

- a. Infiltration systems shall be equipped with clean stone and or filter fabric adjacent to the soil or other sediment removal mechanisms;
- b. Infiltration systems greater than three feet deep shall be located at least ten feet from basement walls;
- c. Due to the potential for groundwater contamination, dry wells shall not be an acceptable method for management of runoff containing pollutants;
- d. Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any drinking water supply well;
- e. Infiltration systems shall not be used as sediment control basins during construction unless specific plans are included to restore or improve the basin surface;
- f. Infiltration basins shall be constructed with a three foot minimum separation between the bottom of the structure and the seasonal high groundwater elevation, as determined by a certified soil evaluator; and,
- g. Provisions shall be made for safe overflow passage, in the event of a storm which exceeds the capacity of an infiltration system.

3. Retention and detention ponds

Retention and detention ponds shall be designed and constructed in accordance with the criteria of the *Massachusetts Stormwater Handbook: Volume 2 Technical Guide for Compliance with Massachusetts Stormwater Management Standard* (Massachusetts Department of Environmental Protection, February 2008), as updated or amended.

4. Natural topography and land cover

The applicant shall give consideration in any plan to incorporating the use of natural topography and land cover such as natural swales, and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water.

5. Swales

The authorized permitting agency shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case by case review of Stormwater Management Plans by the city engineer and authorized permitting agency.

6. Public Safety

The applicant shall consider public safety in the design of any stormwater facilities. The banks of detention, retention, and infiltration basins shall be sloped at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore. Basins shall have a four-to-one slope to a depth two feet below the control elevation. Side slopes must be stabilized and planted with vegetation to prevent erosion and provide pollutant removal. The banks of detention and retention areas shall be designed with sinuous rather than straight shorelines so that the length of the shoreline is maximized, thus offering more space for the growth of vegetation;

7. Where a Stormwater Management Plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a Stormwater Management Plan does not create or affect any such rights.

8. All applicants for projects which involve the storage or use of hazardous chemicals shall incorporate handling and storage "best management practices" that prevent such chemicals from contaminating runoff discharged from a site into infiltration systems, receiving water bodies or storm drains, and shall include a list of such chemicals in the application and the Material Safety Data Sheets (MSDS) for each listed chemical.
9. Runoff from parking lots and streets shall be treated by oil and water separators or other controls to remove oil and sediment;
10. The basic design criteria methodologies and construction specifications, subject to the approval of the authorized permitting agency and review and recommendation of the city engineer, shall be those generally found in the most current edition of the *Massachusetts Stormwater Handbook: Volume 2 Technical Guide for Compliance with Massachusetts Stormwater Management Standard* (Massachusetts Department of Environmental Protection, February 2008), as updated or amended.

e. Design requirements for construction related activities.

The design requirements for construction related activities in the Stormwater Management Plan are:

1. Minimize total area of disturbance and protect natural resources;
2. Sequence construction activities to minimize simultaneous areas of disturbance;
3. Minimize peak rate of runoff in accordance with the Massachusetts DEP Stormwater Policy;
4. Minimize soil erosion and control sedimentation during construction, including use of perimeter controls, protection of slopes on the construction site and protection of all storm drain inlets and armoring of newly constructed outlets. Prevention of erosion is preferred over sedimentation control;
5. Divert uncontaminated water around disturbed areas;
6. Maximize groundwater recharge;
7. Install and maintain all erosion and sediment control measures in accordance with the manufacturer's specifications and good engineering practices;
8. Prevent off-site transport of sediment including stabilization of construction site entrances and exits to prevent off-site vehicle tracking of sediment;
9. Protect and manage on- and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
10. Comply with applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
11. Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species;
12. Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site; and,
13. Properly manage on-site construction and waste materials.
14. Inspect stormwater controls at consistent intervals.

f. Maintenance.

1. Operation, maintenance and inspection agreement

Prior to issuance of any building permit for which stormwater management is required, the authorized permitting agency shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of

land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:

- I. The name(s) of the owner(s) for all components of the system.
 - ii. Maintenance agreements that specify:
 - ◆ The names and addresses of the person(s) responsible for operation and maintenance
 - ◆ The person(s) responsible for financing maintenance and emergency repairs.
 - ◆ A maintenance schedule for all drainage structures, including swales and ponds.
 - ◆ Plan showing the location of all stormwater BMPs maintenance access areas;
 - ◆ A list of easements with the purpose and location of each;
 - ◆ Schedule for submission of annual maintenance reports to the City Engineer certifying the maintenance work completed during the calendar year to property operate and maintain the stormwater control measures; and
 - ◆ The signature(s) of the owner(s).
2. Stormwater management easements as necessary for:
- a. Access for facility inspections and maintenance;
 - b. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;
 - c. Direct maintenance access by heavy equipment to structures requiring regular cleanout.
3. Stormwater management easement requirements
- a. Purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
 - b. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the city.
 - c. Easements shall be recorded with the registry of deeds prior to issuance of a certificate of completion.
4. Changes to operation and maintenance plans
- a. The owner(s) of the stormwater management system must notify the authorized enforcement agency of changes in ownership or assignment of financial responsibility.
 - b. The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this Ordinance by mutual agreement of the authorized permitting agency and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.
 - c. The agreement shall be recorded by the applicant and/or owner in the land records of the registry of deeds. Proof of such recording shall be filed by the applicant and/or owner with the authorized permitting agency.
 - d. The agreement shall also provide that, if after notice by the city engineer to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within 30 days, by the agency, granted *inter alia*, Amendment Article 89 to Article II of the Massachusetts Constitution, Chapter 294 of the Acts of 1920, as amended, Sections one through twenty-four of Chapter 83 of the General Laws of the Commonwealth of Massachusetts, the City may seek civil penalties of up to \$5,000 for each day of violation of this Ordinance, and/or seek remedy in Superior Court.

5. Maintenance responsibility

- a. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.
- b. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the Stormwater Management Plan.
- c. Providing as-built drawings no later than two (2) years after completion of construction projects and submission of an annual report on maintenance activities conducted in the previous calendar year to the City Engineer.
- d. Maintain records of installation and maintenance.
- e. Failure to maintain practices.

g. Performance bond.

The authorized permitting agency shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the authorized permitting agency prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this subsection shall include provisions relative to forfeiture for failure to complete work specified in the approved Stormwater Management Plan, compliance with all of the provisions of this Ordinance and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the City Engineer, submission of "as-built" plans, and certification of completion by the authorized permitting agency of the stormwater management facilities being in compliance with the approved plan and the provisions of this Ordinance.

h. Enforcement and penalties.

1. Violations

Any development activity that has commenced or is conducted contrary to this Ordinance may be restrained by injunction or otherwise abated in a manner provided by law.

2. Notice of violation

When the authorized permitting agency or its designated agent determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- a. The name and address of the owner applicant;
- b. The address when available or the description of the building, structure, or land upon which the violation is occurring;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- f. A statement that the determination of violation may be appealed to the Authorized Permitting Agency by filing a written notice of appeal within 15 days of service of notice of violation.

3. Stop work orders
Persons receiving a notice of violations will be required to halt all construction activities. This "stop work order" will be in effect until the authorized permitting agency or its designated agent confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.
4. Criminal and civil penalties
Any person who violates any provision of this Ordinance, valid regulation, or the terms or conditions in any permit or order prescribed or issued there under, shall in accordance with Section 10 of Chapter 83 of the Massachusetts General Laws, be subject to a civil penalty of \$5,000 for each day such violation occurs or continues, which may be assessed in an action brought on behalf of the City in any court of competent jurisdiction together with such equitable relief as is appropriate.
5. Non-criminal disposition
As an alternative to criminal prosecution or civil action, the city may elect to utilize the non-criminal disposition procedure set forth in Chapter 6, Section 6-15 of the City's General Ordinances. The Department of Public Works shall be the enforcing entity. The penalty for the first violation shall be up to \$100.00. The penalty for the second violation shall be up to \$200.00. The penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
6. Restoration of lands
Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Department of Public Works may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
7. Holds on occupancy permits
Occupancy permits will not be granted until corrections to all stormwater practices have been made and accepted by the Department of Public Works.
8. Severability
The invalidity of any section or provision of this section shall not invalidate any other section or provision thereof.
9. Appeals
Decisions of the authorized permitting agency shall be final. Further relief of a decision made under this Ordinance shall be reviewable in Superior Court in an action filed in accordance with Massachusetts General Laws, Chapter 249, and Section 4. An appeal of an action by a board, commission or department that has current regulatory authority for a project and/or activity shall be conducted under the applicable appeal provisions of said board, commission and/or department of the City of Easthampton. Such an appeal shall result in revocation of the approval as described under Section 12-79(e), numbers 1 and 2 of this Ordinance, until such time as the appeal process of the applicable board, commission and/or department has been resolved.

Secs. 12-82 to 12-85. Reserved.

ARTICLE VIII³⁰

ILLCIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

Sec. 12-86. Purpose and Authority

- a. The purpose of this Ordinance is to regulate illicit connections and discharges to the storm drain system, which is necessary for the protection of Easthampton's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- b. The objectives of this Ordinance are:
 1. To prevent pollutants from entering Easthampton's municipal separate storm sewer system (MS4);
 2. To prohibit illicit connections and unauthorized discharges to the MS4;
 3. To require the removal of all such illicit connections;
 4. To comply with state and federal statutes and regulations relating to stormwater discharges;
 5. To establish the legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement; and
 6. To prevent contamination of drinking water supplies.
- c. The Department of Public Works shall administer, implement and enforce this Ordinance.

Sec. 12-87. Applicability

This Ordinance shall apply to flows entering the stormwater and drainage system on public or private ways within the city.

Sec. 12-88. Regulations

The Department of Public Works may promulgate rules, regulations and a permitting process to effectuate the purposes of this Ordinance. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Ordinance.

Sec. 12-89. Prohibited Activities

- a. No person shall dump, discharge, cause or allow to be discharged any pollutant or non stormwater discharge into the storm drain system, a watercourse, or into the waters of the Commonwealth.
- b. No person shall construct, use, allow, maintain or continue any illicit connection to the storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- c. No person shall obstruct or interfere with the normal flow of stormwater into or out of the storm drain system without prior approval from the Board of Public Works or its designated agent.

Sec. 12-90. Exemptions

This Ordinance shall not apply to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to storm drain systems as

³⁰ Article VIII approved by the City Council on May 18, 2011; approved by the Mayor on May 19, 2011. Article VIII amended by the City Council on July 7, 2021; approved by the Mayor on July 8, 2021.

***Editor's Note:** The original arrangement of this chapter has been maintained but section numbers have been assigned at the discretion of the editor.

defined by Stormwater Phase II Final Rule in the *Federal Register*, Volume 64, No. 235, December 8, 1999:

- a. Municipal waterline flushing;
- b. Discharges from landscape irrigation or lawn watering;
- c. Water from individual residential car washing and temporary fund-raising car wash events;
- d. Discharges from dechlorinated swimming pool water (chlorine less than one part per million chlorine), and the pool is drained in such a way as not to cause a nuisance;
- e. Discharges from street sweepers of minor amounts of water during operations;
- f. Discharges or flows resulting from firefighting activities;
- g. Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.
- h. Flows from potable water sources;
- i. Springs;
- j. Natural flows from riparian habitats and wetlands;
- k. Diverted stream flows;
- l. Rising groundwater;
- m. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- n. Uncontaminated groundwater discharge from a sump pump, with a permit from the Department of Public Works, in accordance with Section 3;
- o. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems, such as dewatering excavations for foundation or pipelines), crawl space pumps, or air conditioning condensation, with a permit from the Department of Public Works, in accordance with Section 3;
- p. Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test.

The Department of Public Works may develop criteria for issuing permits under this ordinance, based on the need to maintain capacity of the storm drain system and to protect public health, safety, welfare or the environment.

Sec. 12-91. Suspension of Storm Drainage System Access

- a. The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- b. Any person discharging to a municipal storm drain system in violation of this Ordinance may have their storm drain system access terminated if such termination would abate or reduce an illicit discharge. The Department of Public Works will notify a violator of the proposed termination of storm drain system access. The violator may petition the Board of Public Works for reconsideration and hearing. A person commits an offense if the person reinstates storm drain system access to premises terminated pursuant to this Ordinance, without prior approval from the Board of Public Works.

Sec. 12-92. Notification of Spills

Notwithstanding any other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility

operation which is resulting or may result in illegal discharge of pollutants that person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments, Department of Public Works and Board of Health. In the event of a release of nonhazardous material, said person shall notify the authorized permitting agency no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the authorized permitting agency within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 12-93. Enforcement

- a. The Department of Public Works or its authorized agent shall enforce this ordinance, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.
- b. If anyone violates the provisions of this Ordinance, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or compelling the person to abate or remediate the violation.
- c. The Department of Public Works may issue a written compliance order to enforce the provisions of this Ordinance or the regulations thereunder, which may include:
 1. Elimination of illicit connections or discharges to the municipal storm drain system;
 2. Termination of access to the municipal storm drain system;
 3. Performance of monitoring, analyses, and reporting;
 4. Cessation of unlawful discharges, practices, or operations; and
 5. Remediation of contamination in connection therewith. If the Board of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation.
- d. Property owners shall comply with this Ordinance on a schedule, not to exceed six months, set forth by the Board of Public Works.
- e. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the City may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner.
- f. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the city, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the board of public works within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Board of Public Works affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L.A. c. 59, § 57 after the 31st day at which the costs first become due.
- g. Criminal and civil penalties
Any person who violates any provision of this Ordinance, valid regulation, or the terms or conditions in any permit or order prescribed or issued there under, shall in accordance with Section 10 of Chapter 83 of the Massachusetts General Laws, be subject to a civil penalty of \$5,000 for each day such violation occurs or continues, which may be assessed in an action

brought on behalf of the City of Easthampton in any court of competent jurisdiction together with such equitable relief as is appropriate.

h. Noncriminal disposition

As an alternative to criminal prosecution or civil action, the city may elect to utilize the noncriminal disposition procedure set forth in Chapter 6, Section 6-15 of the City's General Ordinances. The Department of Public Works shall be the enforcing entity. The penalty for the first violation shall be up to \$100.00. The penalty for the second violation shall be up to \$200.00. The penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

i. Entry to perform duties under this Ordinance

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Ordinance and regulations and may make or cause to be made such examinations, surveys or sampling as the Department of Public Works deems reasonably necessary.

j. Appeals

The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

k. Remedies not exclusive

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

l. Severability

If any provision, paragraph, sentence, or clause, of this Ordinance shall be held invalid for any reason, all other provisions shall continue in full force and effect.

m. Transitional provisions

All property owners shall have six months from the effective date of the Ordinance to comply with its provisions, unless good cause is shown for the failure to comply with the Ordinance during that period.

Secs. 12-94 to 12-99. Reserved.

CHAPTER 13

Article 1. Welcoming Community Trust Ordinance

ARTICLE 1.
WELCOMING COMMUNITY TRUST ORDINANCE³¹

Purpose:

This ordinance shall be called the "Welcoming Community Trust Ordinance", and is meant to promote trust and safety in the community. It follows from a history of a desire for inclusion, including but not limited to a resolution passed on January 3, 2018, by the City Council which states in part " ... that the City of Easthampton and its representatives shall not condone or tolerate any form of discrimination on the basis of race, color, religious creed, age, familial status, national origin, immigration status, sexual orientation, gender, gender identity or expression...." This resolution demonstrates the City's ongoing practice of providing a welcoming community for all residents, visitors, and those who work in our City.

In General:

This ordinance will be known as the City of Easthampton "Welcoming Community Trust Ordinance" and affirms that Easthampton is a welcoming city and seeks to ensure trust between employees, officials, representatives of the City, all residents of our City and visitors to our City, facilitating dialogue as well as effective law enforcement and public safety.

Sec. 13-1. Definitions

"City official" means any City of Easthampton department, its employees or any officer or employee of the City authorized, or with the power, to enforce regulations, codes, local ordinances, or criminal statutes; or authorized to detain or maintain custody of individuals.

"Civil immigration detainer request" means a non-mandatory, written or verbal, request issued by Immigration and Customs Enforcement ("ICE") or by any other federal immigration officer or agency to a local law enforcement official, either (1) to maintain custody of an individual once that person is eligible for release from local custody, or (2) to notify the requesting federal immigration office or official prior to the release of the individual.

"Eligible for release from custody" means that there is no judicial warrant, judicial order or law that prevents an individual from being released from the custody of an Easthampton official.

"ICE administrative warrant" means a warrant, notice to appear, removal order, or warrant of deportation issued by a federal immigration officer, not a judicial officer, that does not confer detention authority on a local jurisdiction.

Sec. 13-2. Order

- a) Equal treatment: Easthampton will treat all persons equally, enforce laws, and serve the public without consideration of immigration status. Citizenship, immigration status, national origin, race, and ethnicity shall have no bearing on an individual's treatment by employees or officers of Easthampton agencies or departments.
- b) Inquiries about immigration status: Officers and employees of the Easthampton may not

³¹ Approved by the City Council on July 10, 2019; approved by the Mayor on July 10, 2019.

inquire about the immigration status of any victim, suspect, arrestee, 911 caller, or other member of the public with whom they have contact, except as required to provide a public benefit or required by law, i.e. Firearms licensing, CHS, AFIS, etc."

- c) Notwithstanding subsections (a) and (b) above, a person's immigration status shall not prohibit or inhibit the City or any city official's participation in any government operation or program that confers an immigration benefit, or temporary or permanently protects noncitizen from removal as provided through programs such as U Visa, the T Visa, and the federal Violence against Women Act.
- d) ICE detainers and administrative warrants: No city official officer or employee of the Easthampton Police Department may arrest or detain an individual solely on the basis of an ICE detainer or ICE administrative warrant.
- e) Federal requests for information: No city official shall provide an ICE Officer with the following information relating to a person in the custody of the Department: information about an individual's incarceration status, length of detention, home address, work address, personal information other than citizenship or immigration status, hearing information, or pending release, except information that is available through the Massachusetts Public Records Laws, G.L. c. 66, section 10 and G.L. c. 4, section 7(twenty-sixth).
- f) Deputizing of local officials: No city official shall perform the functions of an immigration officer, whether pursuant to 8 U.S.C. section 1357(g) or any other law, regulation, or policy, whether formal or informal.

Sec. 13-3. Reporting Requirements

Upon written request of a member of the City Council of Easthampton, a report will be created and presented at the next scheduled City Council meeting. The report shall include the following information for the immediately preceding calendar year:

- a. The number of civil immigration detainer requests submitted to city officials by ICE and/or any other federal immigration officer or agency, and the reason(s) given for each request;
- b. The number of individuals that city officials detained pursuant to a judicial warrant requested by ICE or any other federal immigration officer or agency and submitted to the City;
- c. The number of individuals taken into custody by ICE who immediately preceding that had been in the custody of city officials;
- d. The number of requests received for certification for U Visas, the number approved, the number denied, and the number still pending.

Sec. 13-4. Compliance

Nothing in this ordinance shall be construed to violate any federal law, or to prohibit any Easthampton agency or department from providing another law enforcement agency citizenship or information status, consistent with 8 U.S.C. § 1373 or other state and federal law.

Sec. 13-5. Severability

If any part of this ordinance is declared invalid for any reason, such a declaration shall not affect the validity of the remaining parts of this ordinance.