ZONING ORDINANCE

Easthampton, Massachusetts

“Appendix G”
Zoning Ordinance & Map of the
Code of Ordinances of the City of Easthampton, Massachusetts

This zoning ordinance was adopted by vote of Town Meeting on January 18, 1995

(All amendments adopted thereafter are incorporated herein)
Appendix G*

CITY OF EASTHAMPTON

ZONING ORDINANCE AND MAP

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*Editor's note: This appendix contains the town zoning Bylaw which was adopted by the town on January 18, 1995 as approved by the Attorney General on March 10, 1995. It supercedes the zoning Bylaws of 1951 and 1972. The original section catch lines have been retained by the editor. It was changed from a by-law to ordinance by vote of the City Council on March 21, 2000; approved by the Mayor on March 22, 2000.

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SECTION I. TITLE, AUTHORITY AND PURPOSE

The "Easthampton Zoning Bylaw" adopted in 1951 and all subsequent amendments thereto is hereby amended in total and a revised "Easthampton Zoning Ordinance Map" herein called "this Ordinance" is adopted by virtue of and pursuant to the authority granted by Chapter 40A of the General laws of the Commonwealth of Massachusetts as now existing or hereafter amended, herein called the "Zoning Act." (Bylaw of 5/31/79)
SECTION II. DEFINITIONS

2.0 WORD DEFINITIONS

For the purpose of this Ordinance, certain terms and words shall have the following meaning. Words used in the present tense include the future; the plural number includes the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended", or "offered to be used or occupied"; the words "building", "structure", "lot", "land", or "premises" shall be construed as though followed by the words "or any portion thereof"; and the world "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the state Building Code or Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. Uses listed in the table of use regulations under the classes retail and service trades and wholesale trade and manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

2.1 TERM DEFINITIONS

Abandonment: The cessation of a nonconforming use or structure as indicated by the visible or otherwise indicated intention to discontinue a nonconforming use of a structure or a lot, or the cessation of a nonconforming use or structure by its replacement with a conforming use or structure.

Accessory building: A building which: (a) is subordinate in area or extent to the principal building, (b) the use of which is customarily incidental and subordinate to that of the principal building, and (c) is located on the same lot as that occupied by the principal building. An accessory building which is necessary in connection with the principal building of scientific research, scientific development or related production, and when the principal use of scientific research and development is permitted by right in a zoning district, may be permitted by special permit from the special permit granting authority and does not have to be located on the same lot as the principal building if the special permit granting authority finds that the proposed accessory building does not substantially derogate from the public good. (Definition amended by the City Council on Nov. 20, 2013; approved by the Mayor on Nov. 23, 2013)

Accessory use: See use, accessory

Active recreation: Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields.

Affordable Housing: Affordable housing units are those which may be purchased by families with incomes less than eighty (80) percent of the median income for the Springfield-Chicopee-Holyoke Standard Metropolitan Statistical Area, and for whom the whole expenditure for housing costs does not exceed thirty (30) percent of the gross annual income of the owner. (Definition added by the City Council on Oct. 15, 2008; approved by the Mayor on Oct. 16, 2008)

Agriculture: The production, keeping or maintenance, for sale or lease of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, swine, horses, mules, ponies, or goats or any mutations of hybrids hereof, including the breeding and grazing of any or all such animals, bees, and apiary products, for animals, trees and forest products; fruits of all kinds, including grapes, nuts and berries, vegetables, floral, nursery, ornamental and greenhouse products, or lands devoted to a soil conservation or forestry management program.
**Air transportation:** Establishments engaged in domestic and foreign transportation by air including airports, flying fields, air cargo, as well as passenger and air freight terminal services.

**Alteration:** Any construction, reconstruction or other action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

**Amusement and recreation services:** Establishments engaged in providing amusement or entertainment for a fee or admission charge and include, but are not limited to, the following activities: dance halls; studios; theatrical producers; bands, orchestras and other musical entertainment; bowling alleys and billiards and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; swimming pools; carnival operations; and game parlors.

**Automotive service station or garage:** A building or part thereof whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service or general auto repair.

**Awning:** A retractable or fixed shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

**Bar:** An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises.

**Basement:** A portion of a building, partly below grade, which has more than one-half (1/2) of its height, measured from the finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless the ceiling is six (6) feet or more above the finished grade.

**Bed and Breakfast Use:** An owner-occupied single-family dwelling which may rent up to a maximum of three (3) rooming units for transient occupancy and where a breakfast is included in the rent and all accommodations are reserved in advance.

**Building (see structure):** A structure enclosed within exteriors, walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof."

**Building accessory:** See accessory building.

**Building area:** The aggregate of the maximum horizontal cross section of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces, expressed as a percentage of total lot area.

**Building, attached:** A building having any portion of one or more walls in common with adjoining buildings.

**Building, detached:** A building having open space on all sides.

**Building, nonconforming:** See nonconforming building or structure.

**Building, principal:** A building in which is conducted the principal use of the lot on which it is located.
Building coverage: The building area of a lot expressed as a percent of the total lot area.

Bus terminal: Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

Business repair service establishment: Any building wherein primary occupation is the repair and general servicing of appliances, tools, and other small machinery common to use in homes or businesses, but not including automotive repair or automobile service stations; or any place wherein the primary occupation is interior decorating, to include reupholstering and the making of draperies, slipcovers, and other similar articles, but not to include furniture or cabinet making establishments.

Business services: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, including but not limited to the following: advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research, etc.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents and recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character.

Canopy: A permanent roof-like shelter that extends from part or all of a building face and is constructed of non-rigid material, except for the supporting framework.

Carport: A roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than two sides.

Cellar: A portion of a building, partly or entirely below grade, which has more than one-half (1/2) of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building. A cellar is not deemed a story.

Childcare facility: Facilities that serve children under seven years of age or sixteen years if the children have special needs, or school-age children (under fourteen years of age or sixteen years if they have special needs) in programs that are held before or after school hours or during vacations.

Cordwood operation: An activity that provides wood for fuel. The wood shall include wood cut to any lengths of less than four feet and more than eight inches for fuel.

Country club: A land area and buildings containing recreational facilities, clubhouse and usual accessory uses, open only to members and their guests for a membership fee.

Court: An open, unoccupied space other than a yard on the same lot with a building. An inner court is one not extending to a street, alley, right of way, open passageway or yard on the same lot. An outer court is a court extending to a street, alley, passageway or yard on the same lot.

Community facilities: Premises owned and operated by a governmental or chartered nonprofit organization, but not including fraternal, sports, or similar membership organizations.

Condominium: A multifamily dwelling where the land and building are collectively owned but each unit is individually owned, subject to M.G.L. Ch. 183A (Condominium Law and Ch. 527 of 1983 Condominium Conversion Law).
Discount club: A store with a wide variety of merchandise for sale at less-than-retail cost, open on an annual fee for membership or places restrictions upon patrons.

Discount store: A store advertising a wide variety of merchandise for sale at less-than-retail cost, generally open to the public.

District: A zoning district as established by Section III of this ordinance.

Drive-in restaurant: A place of business operated for the sale and purchase at retail of food and/or beverages, any part of which is laid out or equipped so as to deliver prepared food and/or beverages to patrons in motor vehicles or to permit patrons to purchase prepared food and/or beverages for consumption.

Drive-through restaurant: A place of business operated for the sale and purchase at retail of food and/or beverages where the patron customarily drives a motor vehicle onto the site and to a window or mechanical drive-through by which the patron is served without exiting the vehicle. Prior to service, the engine of the motor vehicle customarily remains in operation.

Driveway: An open space, located on a lot, which is not more than twenty-four (24) feet in width built for access to a garage, of off-street parking or loading space.

Duplex: A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Dwelling: A privately or publicly owned permanent structure, containing a dwelling unit or dwelling units. Hotels, lodging houses, hospitals, membership clubs, or dormitories shall not be considered dwellings.

Dwelling, detached: A dwelling which is not attached to any other dwelling by any means.

Dwelling, single-family: A structure containing one (1) dwelling unit.

Dwelling, multifamily: A building containing two (2) or more dwelling units. Multifamily dwellings also include multifamily housing for the elderly/and or disabled persons. Multifamily developments include one or more multifamily dwellings. (Definition amended by the City Council on Oct. 15, 2008; approved by the Mayor on October 16, 2008)

Dwelling unit: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

Encroachment: Fill, construction of new structures, substantial improvement to existing structures or other development.

Essential services: Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems and collection, communication, supply, or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.
Family: A number of individuals related by blood, marriage and/or adoption or a group of unrelated individuals not to exceed four (4) who are occupying a dwelling unit and living as a single nonprofit housekeeping unit. This definition, however, does not apply to non-related disabled persons as defined by any applicable federal and/or state law and/or regulations.

Family home day care: Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed six, including participating children living in the residence. Family home day care shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Flood line: The limits of flooding from a particular body of water caused by a storm with a minimum intensity of five (5) years or greater, as determined and certified by a registered professional engineer, qualified in drainage.

Floodplain: Areas which would be flooded during the occurrence of the 100-year flood, shown as Zones A, A1-30 on the Easthampton Flood Insurance Rate Maps.

Floodway: The channel of a river or other watercourse plus any adjacent areas that must be kept free of encroachment in order that the 100-year flood may be carried without any increase in flood heights, as shown on the Easthampton Flood Boundary and Floodway Map.

Floor area, gross: The sum of the gross horizontal area of all floors of a building, measured from the interior faces of the exterior walls. It does not include cellars, unenclosed porches, attics, spaces designed and used for accessory heating and ventilating equipment or required parking, or any floor space in accessory buildings or detached buildings or structures not designed for human occupancy or retail display and sale of goods. (Definition amended by the City Council on June 17, 2015; approved by the Mayor on June 17, 2015)

Floriculture: The cultivation of ornamental flowering plants.

Forestry, commercial: Establishments conducted as a business and primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

Funeral establishment: An establishment used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therein before burial or cremation.

Garden center: An establishment where the primary business includes a yard of plantings and landscape stock and where tools, applications, and other necessities used in the practice of gardening are sold.

Greenhouse or nursery: Premises used for the gainful purpose of propagation of trees, shrubs, vines, flowers, or other plants for transplanting, stock for grafting, or for cut flowers.

Height: The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the mean level of the highest gable or slope of a hip roof.
Heliport: An area, either at ground level or elevated on a structure, licensed or approved for the loading and unloading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Helistop: A heliport, but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Home occupation: A business, profession, occupation, or trade conducted for gain or support, operated by residents of the property entirely within the residential building or structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. (Definition revised in its entirety by the City Council on Sept. 16, 2015; approved by the Mayor on Sept. 17, 2015)

Home Occupation, Major: Any home occupation that is not a Minor Home Occupation. The property on which the Major Home Occupation is conducted may be open-to-the-public but may not have more than two (2) vehicular visitations per hour. No more than two (2) non-resident employees may work at the property on which the home occupation is conducted. (Definition added by the City Council on Sept. 16, 2015; approved by the Mayor on Sept. 17, 2015.

Home Occupation, Minor: A home occupation that is not open to members of the public (including but not limited to non-resident employees and business partners, contractors, clients, and business visitors) and does not create nuisances (including but not limited to emission of atmospheric pollution, excessive light, glare, noise, or vibrations) for the residential character of the neighborhood or increase the amount of traffic to the neighborhood. (Definition added by the City Council on Sept. 16, 2015; approved by the Mayor on Sept. 17, 2015.

Horticulture: The cultivation of a garden or orchard.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities, a sanitarium, a sanitarium, and clinic. The term "hospital" does not include a rest home, nursing home and/or convalescent home.

Hospital, veterinary: A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care, but not including crematory facilities.

Hotel: A building or any part of a building containing rooming units without individual cooling facilities for transient occupancy; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is usually through a lobby and interior corridors. Includes an inn, but does not include a motel, motor inn and tourist court, boardinghouse, or rooming house.

Junkyard: Any area, lot, land, parcel, building or structure or part thereof used for the collection, storage, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or three or more unregistered, inoperable motor vehicles or other type of junk.

Kennel, commercial: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

Kennel, private: Any building or land designed or arranged for the care of dogs, cats or other household pets belonging to the owner of the residential, principal use, kept for purposes of show, hunting, or as pets.
**Loading space:** An off-street space used for loading or unloading, not less than fourteen (14) feet in width, forty-five (45) feet in length and fourteen (14) feet in height, and containing not less than one thousand three hundred (1,300) square feet including both access and maneuvering area.

**Lodging house:** A building containing more than two (2) lodging units for semi-permanent residence (longer than one (1) week) for compensation and which meals may also be supplied as part of the fee. This shall not include bed and breakfast home uses, congregate housing, motels, hotels, multi-family dwellings, or nursing homes.

**Lodging unit:** One or more rooms for the use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boarding houses, tourist houses, or rooming houses.

**Lot:** A parcel of land. In order to be used for building purposes, it must meet the criteria for a building lot.

**Lot, building:** A parcel of land held in one ownership meeting the dimensional requirements of this zoning ordinance in which such land is situated, and if occupied by a principal building and its accessory buildings, meeting the minimum yard requirements of that district, and defined on a plan or deed recorded in the Hampshire County Registry of Deeds.

**Lot depth:** The mean horizontal distance between the front lot line and the rear lot line. *See Diagram 2-1.*

**Lot frontage:** The horizontal distance measured continuously along the front lot line between the points of intersection of the side lot lines with the front lot lines. Frontage shall provide both rights of access and potential vehicular access across that lot line to a potential building site. That portion of a lot fronting on a discontinued or unconstructed road does not constitute frontage. *See Diagram 2-2.*

**Lot width:** The horizontal distance between the side lot lines as measured at the minimum front yard depth required by this ordinance and parallel to the street line. *See Diagram 2-1.*

**Lot corner:** A lot at the point of intersection of two (2) or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended lot lines, being not more than one hundred thirty-five (135) degrees. *See Diagram 2-3.*

**Lot, interior:** Any lot other than a corner lot or through lot. *See Diagram 2-4.*

**Lot, nonconforming:** *See nonconforming lot.*

**Lot, through:** An interior lot, the front and rear lot lines of which abut streets, or a corner lot two (2) opposite lines of which abut streets. The owner shall designate one street line as the front lot line. *See Diagram 2-4.*

**Low-level radioactive waste:** Any low-level radioactive waste as defined in the Atomic Energy Act of 1954, Section 11e(2) as from time to time amended.

**Manufactured home:** A structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein as defined in M.G.L. Chapter 140, Section 32Q, as amended.
**Manufacturing:** A facility primarily for heavy or light industry and the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and package. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted. (Manufacturing may include, but is not limited to, the following products: aircraft parts; ceramics, pottery; cosmetics; engines; furniture and home furnishings; pharmaceuticals; poisons, pesticides and the like; soap, glue, detergents and related by-products; wallboard, joint cement and plaster; etc. Manufacturing may include, but is not limited to, the following materials: aluminum, sheet metal, steel; bone, shell, cellophane; gypsum; hydrocyanic acid, tar, coal tar, asbestos, beryllium, trichloroethylene, vinyl chloride; rubber; textiles, wool, yarn, felt, canvas, leather, paper cloth; wood, cork, fiberglass, clay, glass, plastics; fertilizer; etc. Manufacturing may include, but is not limited to the following processes: metal engraving, metal fabrication, welding, foundry; asphalt plant, sand blasting plant; fertilizer works; forging, drop forging, drop hammer, boiler works; printing; metal plating and finishing; spray painting; etc.)

**Medical/dental center or clinic:** A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, (including physicians, dentists, optometrists, ophthalmologists, and persons engaged in all fields related generally to medicine, but not including veterinarians) and including such common facilities as an outpatient clinic or emergency treatment rooms, but not including inpatient facilities.

**Membership club:** A social, sports or fraternal association or organization which is used exclusively by members and their guests and which may contain bar facilities.

**Motel:** A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy each of which maintains a separate outside entrance including, a motel, motor inn and tourist court, but not including a boardinghouse, lodging house, or rooming house.

**Multifamily Housing for the Elderly and/or Handicapped Persons:** Definition removed by the City Council on Nov. 20, 2013; approved by the Mayor on Nov. 23, 2013

**Nonconforming building or structure:** A building or structure, existing at the effective date of this ordinance, or any subsequent amendment to, which does not conform to one or more provisions of this ordinance.

**Nonconforming lot:** A lot lawfully existing at the effective date of this ordinance, or any subsequent amendment to, which is not in accordance with all the provisions of this ordinance.

**Nonconforming use:** A use lawfully existing at the time of adoption of this ordinance, or any subsequent amendment thereto, which does not conform to one or more provisions of this ordinance.

**Nonresident Employee:** An individual (including but not limited to employees, business partners and contractors) who works at, but does not reside at, a property with a home occupation. (Definition added by the City Council on Sept. 16, 2015; approved by the Mayor on Sept. 17, 2015.

**Nursing, rest or convalescent home:** An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**Occupancy permit:** A permit authorizing the occupancy and use of land and/or structures and buildings.
**Off-Site Medical Marijuana Dispensary (OMMD):** A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00. (Definition added by the City Council on Feb. 12, 2014; approved by the Mayor on Feb. 13, 2014)

**Open space:** The space on a lot unoccupied by buildings, structures, driveways, off-street parking or loading spaces or other impervious surfaces.

**Owner:** The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**Parking space:** An off-street space having an area of not less than two hundred (200) square feet plus access and maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle, and further being surfaced with durable pavement.

**Passive recreation:** Any leisure activity not considered active.

**Permit granting authority:** The permit granting authority for variance and administrative appeal in the City of Easthampton, Massachusetts shall be the board of appeals.

**Personal and consumer service establishment:** Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. Personal service establishments shall include, but not be limited to: barber shops, beauty shops, pet grooming establishments; laundering, cleaning and other garment servicing establishments; tailors, dressmaking shops, shoe cleaning or repair shops; health clubs; and other similar places of business, but not including offices of physicians, dentists, and veterinarians, or any other recognized professional.

**Planned development:** A development involving the construction of two (2) or more principal buildings on the same lot for any permitted use.

**Principal use:** See use, principal.

**Private garage:** A structure which is accessory to a building and which is used for the parking and storage of vehicles owned and operated by the occupants thereof, and which is not a separate commercial enterprise available to the general public.

**Professional services:** Establishments primarily engaged in rendering services by professional persons on a fee or contract basis, including, but not limited to the following: accounting, auditing, and bookkeeping; medical, dental or health; planning, engineering and architectural; education and science; attorneys and notary publics; etc.

**Recorded:** Recorded in the Hampshire County Registry of Deeds or registered in the Hampshire County Registry of the Land Court of the Commonwealth of Massachusetts.

**Recreational facility:** A place designed and equipped for the conduct of sports leisure time activities and other customary and usual recreational activities.

**Recreational facility, nonprofit:** A recreational facility not conducted or maintained for the purpose of making a profit.
Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning. (Definition added by City Council on Feb. 12, 2014; approved by the Mayor on Feb. 13, 2014)

Research office or establishment: A facility primarily for scientific or product research, investigation, testing, or experimentation, along with incidental offices, incidental storage, incidental manufacture and sale of products, and incidental employee-only facilities.

Residential Kitchen: A kitchen in a private home that produces non-potentially hazardous foods, such as baked goods, confectionaries, and jams and jellies, and sells directly to the consumer for consumption off-site or wholesale. (Definition added by the City Council on May 15, 2013; approved by the Mayor on May 20, 2013)

Restaurant: An establishment where food and drink is prepared, served and consumed primarily within the principal building.

Restaurant, drive-in: A building or portion thereof where food and/or beverages are sold in a form ready for consumption and are usually served to or consumed by patrons who are outside the confines of the building, often in a motor vehicle.

Riverbank: The mean annual high-water line, located within a river bank, that is apparent from visible markings, changes in the character or soils or vegetation due to the prolonged presence of water and which distinguishes between predominantly aquatic and predominantly terrestrial land.

Riverine material: Stone, rock, gravel, soil or other materials which comprise the river’s bed or riverbank.

Sanitarium: A hospital used for treating chronic and usually long-term illness.

Sign: Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.

Sign, business: A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

Sign, identification: A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

Sign, surface area of:

(1) For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, and designs and symbols.

**Special permit:** A process which allows the city to conduct a more detailed review of certain uses and structures which may have a significant impact on their surroundings and ensures proposals are consistent with the purposes of the zoning ordinance, as specified in Section V of this ordinance. Such special permit shall be issued in accordance with the provisions of Sections X(i) and X(1), of this Ordinance.

**Special Permit Granting Authority:** The Special Permit Granting Authority for the City of Easthampton, Massachusetts shall be the Board of Appeals or Planning Board as provided in Sections V and Section X of this ordinance.

**Stable, commercial:** A building where horses are kept for remuneration, hire, sale, boarding, riding or show.

**Stable, private:** A building incidental to an existing residential, principal use that shelters animals for the exclusive use of occupants of the premises.

**Story:** That part of a building comprised between a floor and the floor or roof of next above. If the mezzanine floor area exceeds one-third (1/3) of the floor immediately below it shall be deemed a story. A basement shall be deemed to be a story when its ceiling is six (6) or more feet above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy. A story in a sloping roof, the area of which story, at a height four (4) feet above the floor does not exceed two-thirds (2/3) the floor area of the story immediately below it, shall be counted as a half story.

**Street:** A way which is over thirty (30) feet in right-of-way width which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes:

(a) all public ways,

(b) a way shown on a plan approved and endorsed in accordance with the “Subdivision Rules and Regulations” of Easthampton, Massachusetts, and

(c) A way having in the opinion of the Easthampton Planning Board sufficient width, suitable grades and adequate construction, or has been secured by an adequate performance guarantee by the Planning Board pursuant to the Subdivision Control Law, to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

**Street right-of-way:** A general term denoting land, property or interest therein, usually a strip acquired for or devoted to a planned roadway. A street right-of-way should be sufficient to accommodate the ultimate roadway, including, but not limited to: the street pavement, shoulder, grass strip, sidewalk, public utility facilities, street trees, and snow storage.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, or the like, recreational tramway, mast for radio antenna.

**Structure:** See nonconforming building or structure.
Substantial improvement: Improvement to a structure or building which exceeds 25% of the original footprint of such structure or building.

Substantially different use: See use, substantially different.

Supermarket: A retail establishment primarily selling food as well as other convenience and household goods.

Trailer: Any vehicle or object on wheels having no motive power of its own, but which is drawn by or used in combination with, a motor vehicle.

Transportation service facility: An establishment providing transportation services including, but not limited to, the following: air transportation; bus terminals; heliports and helistops; railroad yards and railroad passenger terminals; truck stops, trucking terminals; etc.

Truck stop: Any building, premises or land in which or upon which a business service, or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles.

Trucking terminal: An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

Use: The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

Use, Accessory: A use incidental and subordinate to the principal use of a structure or lot. An Accessory Use, other than a home occupation, may not occupy more than forty (40) percent of the total area of the structure or lot on which it is located, except that this limitation does not apply to uses accessory to scientific research, development or related production (see the home occupation section of this Ordinance for regulations specific to home occupations). When the principal use is permitted by right in a zoning district, an accessory use for scientific research, development, or related production may be permitted by special permit from the permit granting authority and the use does not have to be located on the same lot as the principal permitted use if the special permit granting authority finds that the proposed accessory use does not derogate from the public good. (Definition revised in its entirety by the City Council on Sept. 16, 2015; approved by the Mayor on Sept. 17, 2015.

Use, Nonconforming: A use lawfully existing at the time of adoption of this ordinance or any subsequent amendment thereto which does not conform to one or more provisions of this ordinance.

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this ordinance. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this ordinance shall be considered an accessory use.

Use, Substantially Different: A use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics from the use to which it is being compared.

Variance: Such departure from the terms of this ordinance relating to structures, front yard, side yards, frontage requirements and/or lot size as the Board of Appeals, upon appeal in specific cases, is empowered to authorize under the terms of Section XII. A variance is granted because strict enforcement of the zoning
ordinance as it applies to a specific lot would cause an undue hardship and present site-specific practical difficulties that are not relevant to other lots in the district.

**Viticulture**: The cultivation of grapes.

**Warehouse, discount**: An establishment with a wide variety of merchandise for sale at less-than-retail cost, open on an annual fee membership basis or places restrictions on patrons.

**Warehousing**: Terminal facilities for handling freight with or without maintenance facilities.

**Wholesale trade**: Establishment or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Yard**: A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof. See Diagram 2-2.

**Yard, front**: A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line. See Diagram 2-2.

**Yard, rear**: A yard, except by a necessary structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard, side**: Yard extending for the full length of a building between the nearest building wall and the side lot line. See Diagram 2-2.

(Bylaw of 5-31-79; Bylaw of 5-19-82; Bylaw of 5-12-88, Approved 7-15-88, and as amended per notes within Section II)
SECTION III. ESTABLISHMENT OF ZONING DISTRICTS

3.0 DIVISION INTO DISTRICTS

The City of Easthampton, Massachusetts is hereby divided into fourteen (14) zoning districts to be designated as follows:

<table>
<thead>
<tr>
<th>Full Name</th>
<th>Short Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential - Rural A</td>
<td>R-80</td>
</tr>
<tr>
<td>Residential - Rural B</td>
<td>R-40</td>
</tr>
<tr>
<td>Residential - Rural C</td>
<td>R-35</td>
</tr>
<tr>
<td>Residential - Suburban A</td>
<td>R-15</td>
</tr>
<tr>
<td>Residential - Suburban B</td>
<td>R-10</td>
</tr>
<tr>
<td>Residential - Urban</td>
<td>R-5</td>
</tr>
<tr>
<td>Downtown Business</td>
<td>DB</td>
</tr>
<tr>
<td>Highway Business</td>
<td>HB</td>
</tr>
<tr>
<td>Neighborhood Business</td>
<td>NB</td>
</tr>
<tr>
<td>Industrial</td>
<td>I</td>
</tr>
<tr>
<td>Mixed Use/Mill Industrial</td>
<td>MI</td>
</tr>
</tbody>
</table>

**Overlay Zoning Districts**

<table>
<thead>
<tr>
<th>Full Name</th>
<th>Short Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aquifer Protection</td>
<td>AP</td>
</tr>
<tr>
<td>Floodplain and Manhan River Protection</td>
<td>FL</td>
</tr>
<tr>
<td>Wireless Communications Services District</td>
<td>WCSD</td>
</tr>
<tr>
<td>Smart Growth Zoning Overlay District</td>
<td>SGZD</td>
</tr>
</tbody>
</table>

3.1 ZONING MAP

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Easthampton, Massachusetts," dated May 29, 1990, which accompanies and is hereby declared to be a part of this ordinance. The authenticity of the zoning map shall be identified by the signature of the City Clerk, and the imprinted seal of the city under the following words: "This is to certify that this is the zoning map of the Town of Easthampton, Massachusetts, which was approved by the town meeting May 29, 1990."

3.2 CHANGES TO THE MAP

Any change in the location of boundaries of a zoning district hereafter made through the amendments of this ordinance shall be indicated by the alteration of such map, and the map thus altered as declared to be part of the ordinance thus amended. The zoning map shall be drawn at a scale of one inch equals eight hundred (800) feet with ink on stable material, and shall be located in the town hall. Such changes shall be made by the Board of Public Works within fifteen (15) days of the effective date of the amendment.
3.3 **BOUNDARIES OF DISTRICTS**

Where any uncertainty exists with respect to the boundary of any district as shown on the zoning map, the following rules apply:

3.3.1 Where a boundary is indicated as a street, railroad, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a city boundary, then to the limits of the city boundary.

3.3.2 Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the zoning map. If no dimension is given, any distance shall be determined by the use of the scale shown on the zoning map.

3.3.3 Where a dimensioned boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.

3.3.4 Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angles to the tangent to the curve at the point of intersection.

3.3.5 Wherever any uncertainty exists as to the exact location of a zoning district boundary, the exact location shall be as determined by the Building Inspector.

(Bylaw of 5/31/93)
SECTION IV. INTERPRETATION AND APPLICATION

4.0 INTERPRETATION

The provisions of this ordinance shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, convenience, morals, or the general welfare of the City of Easthampton, Massachusetts; and except for the zoning ordinance of the Town of Easthampton dated 1951 and any amendments thereto, the provisions of this ordinance are not intended to repeal, or in any way impair or interfere with any lawfully adopted ordinance or regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any ordinance or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

4.1 APPLICATION

Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this ordinance shall apply to the moving, erection, construction, reconstruction, alteration, or use of buildings and structures or use of land.

4.2 APPLICATION OF ZONING TO LAWFUL NONCONFORMING USES OR STRUCTURES

4.21 This zoning ordinance shall not apply to any nonconforming use or structure under the following circumstances:

a. Insubstantial or trivial extension of a use.
b. Alteration of a structure to provide a use not substantially different in purpose from the existing use.
c. Alteration of a structure to provide the same use in a manner which is not substantially different or to a substantially greater extent than the existing use.
d. Alteration, extension, reconstruction or structural change to a single or two-family residential structure if the nonconforming nature of the structure is not increased.

4.22 This zoning ordinance shall apply to any nonconforming use or structure under the following circumstances:

a. Any change of a use.
b. Substantial extension of a use.
c. Any extension of a structure except single and two-family residential structure.
d. Any structural change to a structure except single and two-family residential structure.
e. Any alteration of a structure to provide a use which is different in purpose from the existing use.
f. Any alteration of a structure to provide the same use but in a substantially different manner or to a substantially greater extent than the existing use.

4.3 MIXED USES

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. (Bylaw of 5-31-79)
SECTION V. USE REGULATIONS

5.0 APPLICABILITY OF USE REGULATIONS

Except as provided in the Zoning Act or in this ordinance, no building, structure, or land shall be used except for the purposes permitted in the district as described in this section. Any use not listed shall be construed to be prohibited.

5.1 PERMITTED USES

The restrictions and controls intended to regulate development in each district are set forth in Table 5-1 Use Regulations as follows:

- P - Use Permitted by Right in the District
- PA - Use Permitted with Site Plan Approval in the District from the Planning Board in accordance with Section XII.
- SP - Use Permitted by Special Permit in the District from the Zoning Board of Appeals, in accordance with Section XII
- SPB - Use Permitted by Special Permit in the District from the Planning Board, in accordance with Section XII
- - Use Prohibited

5.2 USES SUBJECT TO OTHER REGULATIONS

Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this ordinance.

5.3 TABLE OF USE REGULATIONS

5.31 See Table 5-1 on accompanying pages which is declared to be a part of this ordinance.

5.32 Aquifer Protection District

See Section 7.0, the Aquifer Protection District, to determine what uses are permitted.

5.33 Flood Plain Zoning District/Manhan River Protection District

See Section 7.1, the Flood Plain Zoning District, to determine what uses are permitted.
## SECTION V – Easthampton Table of Use Regulations

### Key to abbreviations used in the following Table of Use Regulations (Table 5-1)

<table>
<thead>
<tr>
<th>Districts</th>
<th>Permitted Uses / Permitting Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-5 Residential - Urban</td>
<td>– Use Prohibited</td>
</tr>
<tr>
<td>R-10 Residential - Suburban B</td>
<td>P Use Permitted by Right</td>
</tr>
<tr>
<td>R-15 Residential - Suburban A</td>
<td>PA Use Permitted by Site Plan Approval from the Planning Board (see Section 12.9)</td>
</tr>
<tr>
<td>R-35 Residential - Rural C</td>
<td>SP Use Permitted by Special Permit from the Zoning Board of Appeals (see Section 12.7)</td>
</tr>
<tr>
<td>R-40 Residential - Rural B (Aquifer Drift Area)</td>
<td>SPB Use Permitted by Special Permit from the Planning Board (see Section 12.7)</td>
</tr>
<tr>
<td>R-80 Residential - Rural A (Aquifer Till Area)</td>
<td></td>
</tr>
</tbody>
</table>

### Table 5-1 – Easthampton Table of Use Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Standards and Conditions</th>
<th>Zoning Districts ¹</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-5</td>
<td>R-10</td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Single-family detached dwelling</td>
<td>P</td>
<td>P</td>
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<tr>
<td>2. Duplex</td>
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<td>P</td>
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<tr>
<td>3. Multifamily dwelling</td>
<td>PA ³</td>
<td>SPB ⁴</td>
</tr>
<tr>
<td>4. Multifamily dwellings with 15% affordable housing ⁶</td>
<td>SPB</td>
<td>SPB</td>
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<tr>
<td>5. Conversion of existing one-family dwelling to two-family dwelling</td>
<td>SP</td>
<td>SP</td>
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<tr>
<td>6. Conversion of existing one-family dwellings to three- and four-family</td>
<td>SP</td>
<td>SP</td>
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<tr>
<td>7. Accessory apartments</td>
<td>SP</td>
<td>SP</td>
</tr>
</tbody>
</table>

¹ See Section 7.0 for Aquifer Protection District use regulations and Section 7.1 for Floodplain and Manhan River Protection Zoning District use regulations when applicable

² New construction development in the Downtown Business District for a single use totaling over 4,000 sq. ft. shall require a special permit from the Planning Bd. under Section 12.7 added by the City Council on 09-02-2009; approved by the Mayor on 09-03-2009


⁴ Amended 10-15-2008; Approved by Mayor 10-16-2008

⁵ Amended 10-15-2008; Approved by Mayor 10-16-2008

⁶ Amended 10-15-2008; Approved by Mayor 10-16-2008

⁷ Amended 10-15-2008; Approved by Mayor 10-16-2008

⁸ Amended 10-18-1995; Approved 01-10-1996

⁹ Amended 10-15-2008; Approved by Mayor 10-16-2008
Table 5-1 – Easthampton Table of Use Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Standards and Conditions</th>
<th>Zoning Districts</th>
<th>R-5</th>
<th>R-10</th>
<th>R-15</th>
<th>R-35</th>
<th>R-40</th>
<th>R-80</th>
<th>DB ²</th>
<th>HB ²</th>
<th>NB ²</th>
<th>I ²</th>
<th>MI ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Planned Unit Residential Development for Affordable Housing</td>
<td>See Section 8.6 for additional standards</td>
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<tr>
<td>RESIDENTIAL, cont.</td>
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<tr>
<td>9. Planned Unit Development for mixed uses</td>
<td>See Section 8.7 for additional standards</td>
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<tr>
<td>10. Open Space Residential Development</td>
<td>See Section 9.1 for additional standards</td>
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<tr>
<td>11. Major Residential Development</td>
<td>See Section 7.2 for additional standards</td>
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</table>

| RESIDENTIAL TEMPORARY                                               |                                                                |                 |     |      |      |      |      |      |      |      |      |     |      |
| 1. Temporary manufactured homes to be placed on the same lot as a residence which has been destroyed by fire or other natural holocaust | Temporary manufactured homes to be placed on the same lot as a residence which has been destroyed by fire or other natural holocaust. Such temporary living quarters may remain on the lot for 12 months while the residence is being rebuilt. Any such manufactured home shall be subject to the provisions of the state sanitary code. The term manufactured home includes mobile homes. ¹⁰ |                 |     |      |      |      |      |      |      |      |      |      |     |      |

| COMMUNITY FACILITIES                                                |                                                                |                 |     |      |      |      |      |      |      |      |      |     |      |
| 1. Church or other religious purpose                                |                                                                |                 |     |      |      |      |      |      |      |      |      |     |      |
| 2. Educational purpose which is on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies political; or by a religious sect or denomination; or by a nonprofit educational corporation. |                                                                |                 |     |      |      |      |      |      |      |      |      |     |      |
| 3. Childcare facility                                               |                                                                |                 |     |      |      |      |      |      |      |      |      |     |      |

¹⁰ Bylaw of 05-31-1979; Bylaw of 05-19-1982
## Table 5-1 – Easthampton Table of Use Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Standards and Conditions</th>
<th>Zoning Districts</th>
<th>R-5</th>
<th>R-10</th>
<th>R-15</th>
<th>R-35</th>
<th>R-40</th>
<th>R-80</th>
<th>DB</th>
<th>HB</th>
<th>NB</th>
<th>I</th>
<th>MI</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Public park, conservation area and preserved open spaces including areas for passive recreation, but not including active recreational facilities</td>
<td>P</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>P</td>
</tr>
<tr>
<td><strong>COMMUNITY FACILITIES, cont.</strong></td>
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<tr>
<td>5. Nonprofit recreational facility, not including a membership club</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>-</td>
<td>PA</td>
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</tr>
<tr>
<td>6. Nonprofit country, hunting, fishing, tennis or golf club</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>-</td>
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<tr>
<td>7. Day camp or other similar campground</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>PA</td>
<td>SP</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>8. City administration building, fire or police station</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
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<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>P</td>
</tr>
<tr>
<td>9. City cemetery, including any crematory therein</td>
<td>SP</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>-</td>
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</tr>
<tr>
<td>11. Public libraries and museums</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>SP</td>
<td>SP</td>
<td>PA</td>
<td>PA</td>
<td>-</td>
<td>PA</td>
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<td>-</td>
</tr>
<tr>
<td>12. Nursing, rest, or convalescent home</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>-</td>
<td>-</td>
<td>PA</td>
<td>-</td>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>13. Hospital or sanitarium</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>-</td>
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</tr>
<tr>
<td>15. City highway equipment and electric utility garage</td>
<td>-</td>
<td>SP</td>
<td>SP</td>
<td>-</td>
<td>-</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>PA</td>
<td>PA</td>
<td>P</td>
<td>P</td>
<td>SP</td>
</tr>
<tr>
<td>16. Reservoir, pumping station, water treatment plant, wastewater treatment plant</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>PA</td>
<td>PA</td>
<td>SP</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
<td>SP</td>
</tr>
<tr>
<td>18. Police firing range</td>
<td>-</td>
<td>-</td>
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<td>SP</td>
<td>SP</td>
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<td>19. Large Solar Energy Facility</td>
<td>SPB</td>
<td>SPB</td>
<td>SPB</td>
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<td>21. Power Plant</td>
<td>-</td>
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1. Added by the City Council on 12-16-2009; Approved by Mayor Tautznik on 12-17-2009
2. Added by the City Council on 12-16-2009; Approved by Mayor Tautznik on 12-17-2009

5-4
<table>
<thead>
<tr>
<th>Uses</th>
<th>Standards and Conditions</th>
<th>Zoning Districts ¹</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-5</td>
<td>R-10</td>
</tr>
<tr>
<td>22. Other governmental use not specifically listed herein</td>
<td>SP</td>
<td>SP</td>
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</tbody>
</table>
## Table 5-1 – Easthampton Table of Use Regulations

<table>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>R-5</td>
</tr>
<tr>
<td>AGRICULTURE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Agriculture, horticulture, floriculture or viticulture except a greenhouse or stand for retail trade:</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>a. On parcels of 5 acres or under</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>b. On parcels over 5 acres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Year-round greenhouse or farmstand:</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>a. On parcels of 5 acres or under</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>b. On parcels over 5 acres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Temporary (not to exceed erection or use for a period exceeding 4 months in any one year) greenhouse or stand for retail sale of agricultural or farm products raised primarily on the same premises:</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>a. On parcels of 5 acres or under</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>b. On parcels over 5 acres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Raising and keeping of livestock, horses, and poultry, not including the raising of swine or fur animals for commercial use:</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>a. On parcels of 5 acres or under</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>b. On parcels over 5 acres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Raising of fur animals and/or swine:</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>a. On parcels of 5 acres or under</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>b. On parcels over 5 acres</td>
<td></td>
<td></td>
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<tbody>
<tr>
<td></td>
<td></td>
<td>R-5</td>
</tr>
<tr>
<td>AGRICULTURE, cont.</td>
<td>Agricultural uses exempt under M.G.L. Chapter 40A includes the boarding of horses and the breeding of animals and are permitted by right, if they are a principal use</td>
<td>-</td>
</tr>
<tr>
<td>6. Commercial stables, kennels, or veterinary hospital in which all animals, fowl or other form of life are completely enclosed in pens or other structures</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>7. Noncommercial forestry and growing of all vegetation</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>8. Commercial forestry</td>
<td>Any forestry or lumbering operations performed by a farmer on parcels over 5 acres exempt under M.G.L. Chapter 40A are permitted by right</td>
<td>-</td>
</tr>
<tr>
<td>9. Commercial cordwood operations for sale</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>RETAIL AND SERVICE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Convenience market</td>
<td>Retail establishment selling principally convenience goods including but not limited to food, drug and proprietary goods ¹³</td>
<td>-</td>
</tr>
<tr>
<td>2. Discount store</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>3. Hardware/paint store</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>4. Garden center</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>5. Factory outlet store</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>6. Antique or gift shop</td>
<td></td>
<td>SP</td>
</tr>
<tr>
<td>7. Shop of a potter, sculptor, jeweler, artist, weaver or other similar craftsperson</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>8. Pharmacy, drugstore</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>9. Furniture store</td>
<td></td>
<td>-</td>
</tr>
</tbody>
</table>

¹³ Amended by the City Council on 6-17-2015; approved by the Mayor on 6-18-2015
Table 5-1 – Easthampton Table of Use Regulations

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<td></td>
<td>R-5</td>
</tr>
<tr>
<td>RETAIL AND SERVICE, cont.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Supermarket</td>
<td>In the NB district, supermarket buildings are limited to a maximum of 10,000 square feet of gross floor area</td>
<td>-</td>
</tr>
<tr>
<td>11. Discount club, warehouse club, warehouse super-market</td>
<td>In the MI district, uses must be located in existing building only</td>
<td>-</td>
</tr>
<tr>
<td>12. All other retail establishments</td>
<td>Does not include any retail establishments specifically listed in Table 5-1</td>
<td>-</td>
</tr>
<tr>
<td>13. Restaurants and bars not including drive-in or drive-through restaurants</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>14. Drive-in or drive-thru restaurant ¹⁴</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>15. Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>16. Establishment selling new and/or used automobiles and trucks, new automobile tires and other accessories, aircraft, boats, motorcycles and household trailers</td>
<td></td>
<td>-</td>
</tr>
</tbody>
</table>

¹⁴ Standards and conditions note removed by the City Council on 7-7-2010
Table 5-1 – Easthampton Table of Use Regulations

<table>
<thead>
<tr>
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<th>Zoning Districts 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>RETAIL AND SERVICE, cont.</td>
<td></td>
<td>R-5     R-10   R-15   R-35   R-40   R-80   DB 2   HB     NB    I     MI</td>
</tr>
</tbody>
</table>
| 17. Bed-and-Breakfast Use                                            | A bed-and-breakfast use must comply with the following standards:  
  a) The rooming units shall not include individual kitchens.    
  b) The rooming units must share a common entrance for the single-family dwelling.  
  c) The use must not change the single-family character of the dwelling.   
  d) Adequate parking must be provided. Parking spaces for the use or single-family dwelling cannot be located in the front-yard requirement.   
  e) Transient occupants are prohibited from staying more than 30 days in a one-year period.   
  f) The exterior appearance of the structure shall not be altered from its single-family character. | SP      SP      SP      SP    SP     SP     PA     -      PA    -    PA    |
| 18. Lodging House                                                    |                                                                                                                                                                                                                          | SP      -      -      -     -      -      -      SP     -     -    -    |
| 19. Motel                                                            |                                                                                                                                                                                                                          | -       -      -      -     -      -      -      PA     SP    -    -    |
| 20. Hotel                                                            |                                                                                                                                                                                                                          | -       -      -      -     -      -      -      PA     SPB   PA   -    -    |
| 21. Automotive service station                                       | Does not include the open storage of abandoned automobiles or other vehicles, or a junkyard 15                                                                                                                          | -       -      SP     SP    -      -      -      PA     SP    SPB SPB |
| 22. Automotive service station with convenience market 16            |                                                                                                                                                                                                                          | -       -      -      -     -      -      -      SPB   SP    SPB SPB |
| 23. Automotive repair or garage with three or less service bays      | Not including a junkyard or open storage of abandoned automobiles or other vehicles                                                                                                                                     | -       -      SP     SP    -      -      -      PA     SP    SPB SPB |
| 24. Automotive repair or garage with more than three service bays    |                                                                                                                                                                                                                          | -       -      -      -     -      -      -      SP     -     SPB -    |
| 25. Car wash                                                         |                                                                                                                                                                                                                          | -       -      -      -     -      -      -      SP     SP    SP  -    |

15 Amended by the City Council on 6-17-2015; approved by the Mayor on 6-18-2015
16 Standards & Conditions removed by City Council on 6-17-2015; approved by Mayor on 6-18-2015
17 Added by vote of the City Council on 4-18-2006; approved by the Mayor on 4-19-2006
### Table 5-1 – Easthampton Table of Use Regulations

#### Uses

<table>
<thead>
<tr>
<th>Uses</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>R-5</td>
</tr>
<tr>
<td>26. Funeral establishment</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>RETAIL AND SERVICE, cont.</td>
<td></td>
<td>SP</td>
</tr>
<tr>
<td>27. Membership club</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>28. Beauty or barber shop, hair salon, tanning salon, or similar establishment</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>29. Laundry or dry cleaning establishment</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>30. Tailor, garment marker, milliner, cobbler or other shop for the repair or manufacture and retail sale of clothing or footwear</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>31. Photographer's studio</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>32. Repair or service shop for household appliance or business equipment</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>33. Photocopy shop</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>34. All other personal and consumer establishment</td>
<td>Does not include any personal and consumer establishments specifically listed in Table 5-1</td>
<td>-</td>
</tr>
<tr>
<td>35. Travel agencies</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>36. Medical/dental center, clinic or laboratory</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>37. All other professional and business offices and services including ATM’s and banks including those with drive-through automatic teller machines and drive-through windows</td>
<td>Does not include any professional and business office and services specifically listed in Table 5-1</td>
<td>-</td>
</tr>
<tr>
<td>38. Golf course, miniature golf, driving range, pitch-and-put</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>39. All other outdoor amusement and recreation service</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>40. Indoor amusement and recreation service</td>
<td>-</td>
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</tr>
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18 Amended by vote of the City Council on 12-19-2000; approved by Mayor on 12-20-2000
19 Amended by the City Council on 01-05-2011; approved by the Mayor on 01-07-2011
20 Amended by vote of the City Council on 4-17-2001; approved by Mayor on 4-18-2001
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<tbody>
<tr>
<td><strong>RETAIL AND SERVICE, cont.</strong></td>
<td></td>
<td>R-5</td>
</tr>
<tr>
<td>41. Motor vehicle, machinery or other junkyard</td>
<td>Must be screened from outside view by an enclosed solid fence or wall and gate at least 10 feet in height or by natural or topographic features</td>
<td>-</td>
</tr>
<tr>
<td>42. Telecommunications Facilities ²¹</td>
<td>See Section 7.2</td>
<td>For permitting process see Section 7.2 - Wireless Communications Services District</td>
</tr>
<tr>
<td>43. Communications, radio television station</td>
<td></td>
<td>SP</td>
</tr>
<tr>
<td>44. Planned Business Development</td>
<td>See Section 8.1 for additional standards</td>
<td>-</td>
</tr>
<tr>
<td>45. Off-Site Medical Marijuana Dispensary (OMMD) ²²</td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>46. Cannabis Retailer ²³</td>
<td>See section 10.10 for additional standards</td>
<td>-</td>
</tr>
<tr>
<td>47. Cannabis Membership Club ²⁴</td>
<td>See section 10.10 for additional standards</td>
<td>-</td>
</tr>
<tr>
<td>48. Adult On-Site Cannabis Social Consumption ²⁵</td>
<td>See section 10.10 for additional standards</td>
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<table>
<thead>
<tr>
<th><strong>WHOLESALE, TRANSPORTATION, AND INDUSTRIAL</strong></th>
<th></th>
<th>SP</th>
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<th>SP</th>
<th>SP</th>
<th>SP</th>
<th>SP</th>
<th>SP</th>
<th>SP</th>
<th>SP</th>
<th>SP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Removal of sand, gravel, quarry, clay, or other raw material provided that the removal of such material will not increase the threat of contamination to the groundwater as determined by a professional geologist, hydrogeologist, soil scientist or engineer trained or experienced in hydrogeology</td>
<td></td>
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</tbody>
</table>

¹ Additional standards vary by zoning district. ²² Amended 01-06-1998; Approved 01-07-1998 ²³ Added by City Council 02-12-2014; approved by Mayor 02-13-2014 ²⁴ Added by City Council 03-28-2018; approved by Mayor 03-29-2018 ²⁵ Added by City Council 03-28-2018; approved by Mayor 03-29-2018
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<th>Uses</th>
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<tbody>
<tr>
<td><strong>W H O L E S A L E , T R A N S P O R T A T I O N , A N D I N D U S T R I A L , cont.</strong></td>
<td><strong>Zoning Districts</strong> ¹ <strong>R-5</strong> <strong>R-10</strong> <strong>R-15</strong> <strong>R-35</strong> <strong>R-40</strong> <strong>R-80</strong> <strong>DB</strong> ² <strong>HB</strong> <strong>NB</strong> <strong>I</strong> <strong>MI</strong></td>
</tr>
<tr>
<td>2. Processing and treating of raw materials including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding and milling operations</td>
<td>- - SPB SPB - - - - - - PA -</td>
</tr>
<tr>
<td>3. Construction trailers (temporary) while construction is in progress</td>
<td>Permitted only while construction is in operation</td>
</tr>
<tr>
<td>4. Transportation service facilities</td>
<td>- - - - - - - SPB - PA SPB</td>
</tr>
<tr>
<td>5. Taxi terminals and livery</td>
<td>- - - - - - - SP SP PA SPB</td>
</tr>
<tr>
<td>6. Open storage of raw materials, finished goods, or construction equipment and structures for storing such equipment</td>
<td>Must be screened from outside view by an enclosed solid fence and gate at least 10 feet in height, or a solid wall of evergreens planted not more than 18 inches apart and at least 3 feet in height, and a solid gate at least 10 feet in height and not more than 20 feet in width</td>
</tr>
<tr>
<td>7. Research offices or establishments devoted to research and development</td>
<td>- - - - - - SP SPB SP PA PA</td>
</tr>
<tr>
<td>8. Planned Industrial Development</td>
<td>See Section 8.2</td>
</tr>
<tr>
<td>9. Wholesale trade and distribution</td>
<td>- - - - - - - SPB SPB</td>
</tr>
<tr>
<td>10. General manufacturing uses not commonly considered hazardous or noxious</td>
<td>- - - - - - - SP SPB</td>
</tr>
<tr>
<td>11. Publishing, data processing and computer software manufacturing</td>
<td>Includes associated offices and distribution facilities</td>
</tr>
<tr>
<td>12. Hand forging, soldering and welding shops</td>
<td>Excludes punch presses over twenty tons rated capacity, drop hammers and other noise producing machine operated tools</td>
</tr>
<tr>
<td>13. Packing and crating services</td>
<td>- - - - - - - SP SPB</td>
</tr>
<tr>
<td>14. Recycling centers</td>
<td>- - - - - - - SPB SPB</td>
</tr>
<tr>
<td>15. Moving and storage operations</td>
<td>- - - - - - - SP SPB</td>
</tr>
<tr>
<td>16. Metal foundries</td>
<td>- - - - - - - - - SPB</td>
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</table>
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<td>R-5</td>
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</tr>
<tr>
<td>WHOLESALE, TRANSPORTATION, AND INDUSTRIAL, cont.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17. Warehousing establishments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18. Waste hauling establishments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. Self-storage units</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20. Radioactive waste disposal</td>
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</tr>
<tr>
<td>21. Registered Marijuana Dispensary (RMD) 27</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22. Cannabis Cultivator 28</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23. Cannabis Product Manufacturer 29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24. Cannabis Independent Testing Laboratory 30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25. Cannabis Research Facility 31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>26. Cannabis Craft Co-op 32</td>
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<td></td>
</tr>
<tr>
<td>27. Cannabis Micro-Business 33</td>
<td></td>
<td></td>
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<tr>
<td>28. Hemp Cultivation 34</td>
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<td></td>
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</tbody>
</table>

26 Amended 01-21-1997
27 Added by the City Council 02-12-2014; approved by Mayor 02-13-2014
28 Added by the City Council 03-28-2018; approved by Mayor 03-29-2018
29 Added by the City Council 03-28-2018; approved by Mayor 03-29-2018
30 Added by the City Council 03-28-2018; approved by Mayor 03-29-2018
31 Added by the City Council 03-28-2018; approved by Mayor 03-29-2018
32 Added by the City Council 03-28-2018; approved by Mayor 03-29-2018
33 Added by the City Council 03-28-2018; approved by Mayor 03-29-2018
34 Added by the City Council 02-12-2014; approved by Mayor 02-13-2014
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<tbody>
<tr>
<td><strong>ACCESSORY USES</strong></td>
<td></td>
<td>R-5</td>
</tr>
<tr>
<td>1a. Minor Home Occupation ³⁵</td>
<td>In accordance with Section 10.4</td>
<td>P</td>
</tr>
<tr>
<td>1b. Major Home Occupation ³⁶</td>
<td>In accordance with Section 10.4</td>
<td>SP</td>
</tr>
<tr>
<td>2. Family home day care ³⁷</td>
<td>Shall not occupy more than 40 percent of the gross floor area of the structure and there shall be a minimum number of 100 square feet of outside play area for each enrolled child</td>
<td>SP</td>
</tr>
<tr>
<td>3. Accessory building such as a private garage, playhouse, greenhouse not used in farming operations, tool shed, private swimming pool, or similar accessory structures</td>
<td>These uses are subject to the provisions of Section VI</td>
<td>P</td>
</tr>
<tr>
<td>4. Accessory private garage for not more than 3 non-commercial motor vehicles, and, except on a farm, not more than 10,000 pounds registered G.V.W. or less in size commercial motor vehicle</td>
<td>This use is subject to the provisions of Section VI</td>
<td>P</td>
</tr>
<tr>
<td>5. Accessory storage of a trailer, unregistered automobile or boat</td>
<td>A trailer, unregistered automobile or boat shall either be stored with a principal or accessory building or shall not be less than 25 feet from any lot line and shall not be within the side yards; and it shall not be used for dwelling or sleeping purposes. Maximum number of trailers, un-registered automobiles or boats per lot is two.</td>
<td>P</td>
</tr>
<tr>
<td>6. Accessory repair and storage facilities in any retail sales or consumer service establishment</td>
<td>Shall not accompany more than 25 percent of the gross floor area of the principal building or 5,000 square feet, whichever is less</td>
<td>-</td>
</tr>
</tbody>
</table>
Table 5-1 – Easthampton Table of Use Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Standards and Conditions</th>
<th>Zoning Districts 1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>R-5</td>
</tr>
<tr>
<td>ACCESSORY USES, cont.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Keeping of saddle or riding horses and other farm animals for the use of occupants only 38</td>
<td>-</td>
</tr>
<tr>
<td>7a.</td>
<td>Keeping a small flock of up to six (6) poultry including chickens (no roosters) on a residential lot for use of the occupants only. Poultry other than chickens only allowed on residential lots of at least one (1) acre in size. (Section 10.8) 39</td>
<td>Lots with one (1) or two (2) dwelling units</td>
</tr>
<tr>
<td></td>
<td>lots with three (3) or more dwelling units</td>
<td>SP</td>
</tr>
<tr>
<td>7b.</td>
<td>Keeping a larger flock of (7 to 25) poultry including chickens (no roosters) on residential lot for use of the occupants only (Section 10.8) 40</td>
<td>Only allowed on residential lots of at least one (1) acre in size.</td>
</tr>
<tr>
<td>7c.</td>
<td>Removed by City Council 05-02-2018 41</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Accessory industrial and commercial uses to serve principal industrial and commercial uses respectively</td>
<td>-</td>
</tr>
<tr>
<td>9.</td>
<td>Accessory signs</td>
<td>Subject to the provisions of Section 10.0</td>
</tr>
<tr>
<td>10.</td>
<td>Accessory off-street parking and loading spaces</td>
<td>As required in Section 10.1</td>
</tr>
</tbody>
</table>

38 Amended by City Council on 02-16-2011
39 Added by City Council on 02-16-2011; amended 03-06-2013, amended by the City Council on 05-02-2018; approved by the Mayor on 05-02-2018.
40 Added by City Council on 02-16-2011; amended 03-06-2013, amended by the City Council on 05-02-2018; approved by the Mayor on 05-02-2018.
41 Added by City Council on 02-16-2011; amended 03-06-2013; Sec. 7c deleted by the City Council on 05-02-2018.
Table 5-1 – Easthampton Table of Use Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Standards and Conditions</th>
<th>Zoning Districts</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>R-5</td>
<td>R-10</td>
</tr>
<tr>
<td>11.</td>
<td>Accessory uses which are necessary in connection with scientific research or scientific development or related production provided that the board of appeals makes a finding that the proposed accessory use does not substantially derogate from the public good</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td></td>
<td><strong>ACCESSORY USES, cont.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Removal of sand, gravel, quarry, clay or other raw material provided that the removal of such material will not increase the threat of contamination to the ground-water as determined by a professional geologist, hydrogeologist, soil scientist or engineer trained or experienced in hydrogeology</td>
<td>SP</td>
<td>SP</td>
</tr>
</tbody>
</table>
SECTION VI. AREA, HEIGHT AND BULK REGULATIONS

6.0  Applicability of Area, Height and Bulk Regulations
The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building area, and minimum open space shall be specified in this section and set forth in the tables of area, height, and bulk regulations, and subject to the further provisions of this section.

6.1  Table of Area Regulations
See Table 6-1 on accompanying pages plus attached notes, which is declared to be a part of this ordinance.

6.2  Table of Height and Bulk Regulations
See Table 6-2 on accompanying pages plus attached notes, which is declared to be a part of this ordinance.

6.3  Reduction of Lot Areas
The lot, yard areas or open space required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this ordinance, nor may these areas include any property of which the ownership has been transferred subsequent to 1972, if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

6.4  Separation of Lots
Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this ordinance.

6.5  Screening and Buffers – Industrial or Business
Screening and buffers shall be required in any I, GB, and HB district which adjoins a residential district. The standards for screening and buffers shall comply with the following:

6.51  This strip shall be at least twenty-five (25) feet in width, shall contain a screen of plantings in the center of the strip not less than three (3) feet in width and six (6) feet in height at the time of occupancy of such lot, and may be part of the yard area. On lots with one hundred seventy-five (175) feet or more, the strip shall be at least thirty-five (35) feet in width.

6.52  Individual shrubs or trees shall be planted not more than three (3) feet on center, and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least fifty (50) percent of the plants shall consist of evergreens.

6.53  A solid wall or fence, not to exceed six (6) feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strips.

6.54  Where an I, GB, or HB district abuts an R district, no buildings within the I, NB, GB, or HB district shall be within twenty-five (25) feet of the boundary line of the R district.
6.6 Buildings in Floodway
No building, except a boathouse or pump house, shall be erected in a floodway or within ten (10) feet of any watercourse or area subject to periodic flooding, unless the first floor elevation is higher than the flood line, or unless such flood line shall have been reduced by construction of dams at the headwaters, or by other means.

6.7 Accessory Buildings in all Residential Districts, the Highway Business District and the Neighborhood Business District (title amended by the City Council 11-10-2013; approved by the Mayor 11-23-2013)

In all residential districts, Highway Business (HB) and Neighborhood Business (NB) districts, an accessory building shall conform to the following provisions (sentence amended by the City Council 11-20-2013; approved by the Mayor on 11-23-2013):

6.71 An accessory building shall not occupy more than twenty-five (25) percent of the required rear yard; it shall not be less than thirty (30) feet from the front street line, or less than ten (10) feet from any principal building.

6.72 An accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building. (Title removed by the City Council 11-20-2013; approved by the Mayor 11-23-2013)

6.73 If a detached one-story accessory building is one hundred fifty (150) feet or more from the front lot line, a side setback distance of fifteen (15) feet is required; otherwise, a twenty-five foot side setback distance from any other lot line is required. (Sentence amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)

6.74 The maximum height for any accessory building shall be twenty-five (25) feet. (Title removed by the City Council 11-20-13; approved by the Mayor 11-23-13)

6.75 Accessory Buildings and Structures Other than Private Garages (title amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)
Accessory buildings other than private garages shall be in the rear yard. They shall not be less than five (5) feet from the rear of the principal building. They shall be placed not less than six (6) feet from all abutters’ boundaries. In addition, they shall not be more than twelve (12) feet in height at any point. (Amended by the City Council 04-06-2004; approved by the Mayor 04-07-2004; further amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)

6.8 Other General Area, Height and Bulk Provisions
In addition to the regulations in Section 6.0 through Section 6.7 above, the following regulations shall apply:

6.81 Provisions for inner and outer courts shall be subject to the building code.

6.82 Existing residential uses shall be subject to the regulations for the particular type of dwelling as defined in the R-10 district for use in the GB DB, NB, HB, MI and I districts.

6.83 Except for planned business and industrial development, multifamily developments, community facilities, and public utilities, only one principal structure shall be permitted on a lot. (Sentence amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)
a. The minimum distance between the walls of such principal buildings which contain windows shall be twice the minimum side yard or side setback required in the district, except multifamily developments. (Sentence amended by the City Council 11-20-2013; approved by the Mayor 11-23-2013)

b. The minimum lot area required per each individual dwelling unit, building, or other unit of use shall be multiplied by the number of such units to obtain the minimum lot area required for the total tract of land. Other area regulations shall apply to the tract as a whole.

6.84 A corner lot shall have minimum street yards with depths which shall be the same as the required front yard depths for the adjoining lots.

6.85 At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.

6.86 Projections into required yards or other required open spaces are permitted subject to the following:
   a. Balcony or bay window, limited in total length to one-half the length of the building, not more than two (2) feet.
   b. Open terrace or steps or stoop, under four (4) feet in height, up to one-half the required yard setback.
   c. Steps or stoop over four (4) feet in height, window sill, chimney, roof eaves, fire escape, fire tower, storm enclosure or similar architectural features, not more than two (2) feet.

6.87 **Building Heights**

   The provision of this ordinance governing the height of buildings shall not apply to chimneys, skylights, ventilators, electronic equipment and other necessary appurtenances usually carried above roof, radio broadcasting towers, television and radio antennae and other like structures, which do not occupy more than twenty (20) percent of the lot area except as provided in Section 7.2, Telecommunications Towers, Antennae and Facilities; nor to churches or public, agricultural or institutional buildings or buildings of private schools not conducted for profit that are primarily used for school purposes, provided the expected appurtenances are not located within the flight paths of an airport as defined by F.A.A. (Federal Aviation Agency) regulations. (Amended by the City Council 01-06-1998, approved by the Mayor 01-07-1998)

   Domes, towers, stacks, or other accessory structures and appurtenances not specified above and not used for human occupancy exceeding the height limits of Table 6-2, and which occupy not more than twenty (20) percent of the ground floor area of the building, may be permitted only by a special permit from the Planning Board in accordance with Section 12.7. (By-law of 05-03-1995, approved 05-24-1995)

6.88a. Section 6.88a removed by the City Council on May 2, 2018; approved by the Mayor on May 2, 2018)

6.88b. Subsection b added by the City Council on 12-16-2011; approved by the Mayor on 12-17-2011. Section 6.88b removed by the City Council on May 2, 2018; approved by the Mayor on May 2, 2018.
6.89 Where the existing development within one hundred twenty-five (125) feet to each side of the vacant lot amounts to more than twenty-five (25) percent of the frontage, and where said development has an average setback less than that required by this ordinance, then any vacant lot setback may be reduced to said average of the existing development.

6.90 Fences, Hedges, Walls or Other Enclosures

6.901 Applicability

Fences, walls or other enclosures shall be considered accessory structures and shall be permitted in the required yards of any use only upon the issuance of a building permit from the Building Inspector and in accordance with the following conditions:

6.902 Fence Height

a. In all zoning districts:

Fences or other enclosures shall not exceed four (4) feet in height along the front lot line and that portion of the side lot lines between the front lot line and the minimum front yard line in all zoning districts.

b. In all residential districts:

Fences and other enclosures shall not exceed six (6) feet in height along the portion of side lot lines between the minimum front yard line and rear lot line, and along the rear lot line in all residential districts. When required yard setbacks are not violated by a fence, the fence shall not exceed 8 feet in height. (Amended by City Council 01-19-1999; approved by Mayor 01-20-1999).

c. In all business and industrial districts:

Fences and other enclosures shall not exceed eight (8) feet in height along the portion of side lot lines between the minimum front yard line and rear lot line, and along the rear lot line in all business and industrial districts.

6.903 Fence Setbacks

a. In all zoning districts:

All privately owned hedges, walls or other enclosures shall be no closer to the sidewalk, street right-of-way, or property lines than three feet. All fences in residential zones can be located up to, but not on any property line. For agricultural uses on parcels greater than five acres, or where abutting property owners agree, a fence may closer to the property line or along the property line. (Amended by City Council 01-19-1999; approved by Mayor on 01-20-1999. Further amended by the City Council on 04-06-2004; approved by the Mayor on 04-07-2004).

In residential zones, all fences or other artificially constructed enclosures may be located up to, but not on, any lot line. Plant material for vegetative hedges or buffers shall be placed so that the central trunk or stem at the soil line is not closer than three feet to any lot line. (Paragraph added by the City Council on 06-01-1999).
b. In all business and industrial districts:

Fences located within the side or rear yards and exceeding six (6) feet in height shall be set back a distance equal to their height.

6.904 Fence Placement

Fences shall be placed with the most attractive side (e.g., in the case of a picket fence, the side without horizontal members) facing the street and neighboring properties. Exceptions due to site layout and abutting properties may be allowed as approved by the Building Inspector.

6.905 Corner Lot Fences

A fence, hedge, wall or other enclosures may be maintained on a corner lot, provided that no structure or vegetation shall be over three and one-half (3 1/2) feet in height within the “sight triangle”. The “sight triangle” is defined as the area within a triangle formed by two (2) lines measured along the center of the nearest lane of traveled way of intersecting streets from the point of intersection for a distance of twenty-five (25) feet, and a third line connecting the points on the two (2) legs.

6.906 General

Any specific, more stringent provision in any other section of this ordinance relating to fences, hedges, walls, or other enclosures shall prevail over provisions in this section.
Table 6-1 - Easthampton Table of Area Regulations

<table>
<thead>
<tr>
<th>District</th>
<th>Use</th>
<th>Area sq. ft.</th>
<th>Width ft.</th>
<th>Frontage ft.</th>
<th>Front(3) ft.</th>
<th>Side ft.</th>
<th>Rear ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-5</td>
<td>One-family detached year-round dwelling</td>
<td>5,000</td>
<td>(4)</td>
<td>50</td>
<td>15</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Multifamily Dwelling</td>
<td>5,000+ 2,500 for each unit more than one</td>
<td>50</td>
<td>15</td>
<td>10</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multifamily dwelling with at least 15% affordable units (9)</td>
<td>2,000 for each unit</td>
<td>50</td>
<td>15</td>
<td>10</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Planned Unit Residential Development for Affordable Housing(6)</td>
<td>10 acres</td>
<td>15</td>
<td>10</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any other permitted structure or principal use</td>
<td>5,000</td>
<td>50</td>
<td>15</td>
<td>10</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>R-10</td>
<td>One-family detached year-round dwelling</td>
<td>10,000</td>
<td>(4)</td>
<td>100</td>
<td>20</td>
<td>10</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Duplex</td>
<td>12,500</td>
<td>100</td>
<td>20</td>
<td>15</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multifamily dwelling</td>
<td>10,000 + 5,000 for each unit more than one</td>
<td>120</td>
<td>20</td>
<td>15</td>
<td>30</td>
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</tr>
</tbody>
</table>

Footnotes:
(1) In a residential district, no building, except a one-story accessory building, shall be constructed on any lot not having at least 50 feet in width at all points, parallel to the street, between the street and the building in question.
(2) See Section 6.5.
(3) For a 2 1/2 story structure, a 40-foot setback from the street line is required.
(4) Setback Width = Required Frontage. A special setback applies on both sides of Broad Brook in the Aquifer Protection District; see Section 7.0. This provision does not apply to the MI District. (Last sentence added by City Council 6-5-2019; approved by Mayor 6-5-2019)
(5) Lots of record in the R-15 district of Zoning Map dated March 25, 1972 which are or become nonconforming, and which are now in the R-40 district must meet the setback requirements of R-15 districts elsewhere in town, i.e., 30 foot front, 15 foot side, and 30 foot rear.
(6) See Section 8.6 for additional density and dimensional regulations.
(7) See Section 9.1 for additional density and dimensional regulations.
(8) See Section 8.7 for additional density and dimensional regulations.
(9) Section added by the City Council on 10-15-2008; approved by the Mayor 10-16-2008
(10) In the Mill Industrial District, a new lot may be created around an existing and/or substantially renovated building containing no minimum setbacks, area, coverage, and/or frontage requirements if said building and/or property demonstrate continued vehicular access to/from an adjacent roadway and compliance with relevant Building Code requirements (F10 added by City Council 6-5-2019; approved by Mayor 6-5-2019).
Table 6-1 (continued)* Easthampton Table of Area Regulations

<table>
<thead>
<tr>
<th>District</th>
<th>Use</th>
<th>Area sq. ft.</th>
<th>Width ft.</th>
<th>Frontage ft.</th>
<th>Front(3) ft.</th>
<th>Side ft.</th>
<th>Rear ft.</th>
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<tbody>
<tr>
<td>R-10 (cont.)</td>
<td>Planned Residential Development for Affordable Housing(6)</td>
<td>10 acres</td>
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<td>20</td>
<td>10</td>
<td></td>
<td>30</td>
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<td>Multifamily dwelling with at least 15% affordable units (9)</td>
<td>4,000 for each unit</td>
<td>100</td>
<td>20</td>
<td>15</td>
<td>30</td>
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<tr>
<td></td>
<td>Open Space Residential Development (7)</td>
<td>5 acres</td>
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</tr>
<tr>
<td></td>
<td>Any other permitted structure or principal use</td>
<td>10,000</td>
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<td>20</td>
<td>10</td>
<td>30</td>
<td></td>
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<td>One-family detached year-round dwelling</td>
<td>15,000</td>
<td>(4)</td>
<td>100</td>
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<td>Duplex</td>
<td>17,500</td>
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<td>40</td>
<td>25</td>
<td>40</td>
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<td></td>
<td>Multifamily dwelling (9)</td>
<td>15,000 for each unit</td>
<td>120</td>
<td>40</td>
<td>25</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multifamily dwelling with at least 15% affordable units(9)</td>
<td>5,000 for each unit</td>
<td>100</td>
<td>30</td>
<td>20</td>
<td>30</td>
<td></td>
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<tr>
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<td>Planned Residential Development for Affordable Housing(6)</td>
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<td>40</td>
<td>25</td>
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<td></td>
<td>Open Space Residential Development (7)</td>
<td>5 acres</td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Any other permitted structure or principal use</td>
<td>15,000</td>
<td></td>
<td>40</td>
<td>25</td>
<td>40</td>
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<tr>
<td>R-35</td>
<td>One-family detached year-round dwelling or any other permitted structure or principal use</td>
<td>35,000</td>
<td>(4)</td>
<td>120</td>
<td>50</td>
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<td>50</td>
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<tr>
<td></td>
<td>Duplex</td>
<td>40,000</td>
<td></td>
<td>120</td>
<td>50</td>
<td>25</td>
<td>50</td>
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*See footnotes on first page of Table 6-1.
** Amended by City Council 09-04-2001.
<table>
<thead>
<tr>
<th>District</th>
<th>Use</th>
<th>Area required</th>
<th>Width ft.</th>
<th>Frontage ft.</th>
<th>Front(3) ft.</th>
<th>Side ft.</th>
<th>Rear ft.</th>
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<tbody>
<tr>
<td>R-35 (cont.)</td>
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<td>35,000 for each unit</td>
<td>120</td>
<td>50</td>
<td>20</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multifamily dwelling with at least 15% affordable units (9)</td>
<td>25,000 for each unit</td>
<td>120</td>
<td>40</td>
<td>20</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Open Space Residential Development(6)</td>
<td>5 acres</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>R-40</td>
<td>One-family detached year-round dwelling or any other permitted structure or principal use</td>
<td>40,000</td>
<td>120</td>
<td>50</td>
<td>25</td>
<td>50(5)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Open Space Residential Development(7)</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-80</td>
<td>One-family detached year-round dwelling or other permitted structure or principal use</td>
<td>80,000</td>
<td>240</td>
<td>50</td>
<td>25</td>
<td>50</td>
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<tr>
<td></td>
<td>Open Space Residential Development(6)</td>
<td>5 acres</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DB</td>
<td>Planned Unit Development for Mixed Uses(8)</td>
<td>5 acres***</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any other permitted structure for uses in Table 5-1</td>
<td>5,000</td>
<td>(4)</td>
<td>50</td>
<td>10</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>HB</td>
<td>Planned Business Development</td>
<td>3 acres***</td>
<td>120</td>
<td>120</td>
<td>30</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Planned Unit Development for Mixed Uses(8)</td>
<td>5 acres***</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

*See footnotes on first page of Table 6-1.
** Added by City Council 09-4-2001; amended by the City Council on 01-04-2005; approved by the Mayor on 01-04-2005
*** Amended by the City Council 06-17-2015; approved by the Mayor on 06-18-2015
<table>
<thead>
<tr>
<th>District</th>
<th>Use</th>
<th>Area sq. ft.</th>
<th>Width ft.</th>
<th>Frontage ft.</th>
<th>Front(3) ft.</th>
<th>Side ft</th>
<th>Rear ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB (cont)</td>
<td>Any other permitted structure</td>
<td>25,000</td>
<td>120</td>
<td>30</td>
<td>25</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>NB</td>
<td>Planned Unit Development for Mixed Uses(8)</td>
<td>5 acres**</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any other permitted structure or principal use</td>
<td>5,000</td>
<td>(4)</td>
<td>50</td>
<td>15</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>I</td>
<td>Planned Unit Development for Mixed Uses(8)</td>
<td>5 acres**</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Planned Business Development</td>
<td>3 acres**</td>
<td>140</td>
<td>140</td>
<td>50</td>
<td>25</td>
<td>30</td>
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<tr>
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<td>Planned Industrial Development</td>
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<td>50</td>
<td>25</td>
<td>30</td>
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<tr>
<td></td>
<td>Any other permitted structure or principal use</td>
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<td>(4)</td>
<td>140</td>
<td>50</td>
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<td>30</td>
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<tr>
<td>MI</td>
<td>Planned Unit Development for Mixed Uses(8)</td>
<td>4 acres**</td>
<td></td>
<td></td>
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<td></td>
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<td></td>
<td>Planned Business Development</td>
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<td>120</td>
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<td>30</td>
<td>25</td>
<td>30</td>
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<td></td>
<td>Any other permitted structure for uses in Table 5-1(10)</td>
<td>10,000*</td>
<td>(4)*</td>
<td>100*</td>
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<td>15*</td>
<td>30*</td>
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<tr>
<td>GB**</td>
<td>Planned Business Development</td>
<td>5 acres</td>
<td>120</td>
<td>120</td>
<td>30</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Planned Unit Development for Mixed Uses(8)</td>
<td>10 acres</td>
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<td></td>
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*See footnotes on first page of Table 6-1.
** Amended by the City Council on 06-17-2015; approved by the Mayor on 06-18-2015.
<table>
<thead>
<tr>
<th>District</th>
<th>Use</th>
<th>Maximum Permitted Height Feet (1)</th>
<th>Maximum Permitted Height, Stories</th>
<th>Maximum Building Coverage of Lot (Covered Area as Percent of Total Lot Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-5</td>
<td>Any permitted use or structure</td>
<td>40(2)</td>
<td>3(2)</td>
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<td>R-10</td>
<td>Any permitted use or structure</td>
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<td>3</td>
<td>25</td>
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<tr>
<td>R-15</td>
<td>Any permitted use or structure</td>
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<td>3</td>
<td>20</td>
</tr>
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<td>R-35</td>
<td>Any permitted use or structure</td>
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<td>3</td>
<td>10</td>
</tr>
<tr>
<td>R-40</td>
<td>Any permitted use or structure</td>
<td>35</td>
<td>2 1/2</td>
<td>10</td>
</tr>
<tr>
<td>R-80</td>
<td>Any permitted use or structure</td>
<td>35</td>
<td>2 1/2</td>
<td>10</td>
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<tr>
<td>DB</td>
<td>Any other permitted use or structure</td>
<td>45 (3)</td>
<td>3(3)</td>
<td>72</td>
</tr>
<tr>
<td>HB</td>
<td>Planned Business Development</td>
<td>45</td>
<td>3</td>
<td>50</td>
</tr>
<tr>
<td></td>
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<td>Planned Business Development</td>
<td>30</td>
<td>2</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>Planned Industrial Development</td>
<td>30</td>
<td>2</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>Any other permitted use or structure</td>
<td>30</td>
<td>2</td>
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### Table 6-2 (continued) Easthampton Table of Height and Bulk Regulations

<table>
<thead>
<tr>
<th>District</th>
<th>Use</th>
<th>Maximum Permitted Height Feet (1)</th>
<th>Maximum Permitted Height, Stories</th>
<th>Maximum Building Coverage of Lot (Covered Area as Percent of Total Lot Area)</th>
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</thead>
<tbody>
<tr>
<td>GB</td>
<td>Planned Business Development</td>
<td>30</td>
<td>2</td>
<td>50</td>
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<tr>
<td></td>
<td>Any other permitted use or structure</td>
<td>30</td>
<td>2</td>
<td>40</td>
</tr>
<tr>
<td>MI</td>
<td>Any other permitted use or structure</td>
<td>55</td>
<td>4</td>
<td>100</td>
</tr>
</tbody>
</table>

**Footnotes:**

1. Any maximum height permitted in this ordinance shall not apply to:
   a. Community facility and public utility structures.
   b. Necessary appurtenant structures such as: church spire, smokestack, monument, flagpole, radio or television tower, aerial, airplane hangar, chimney or parapet wall, or any similar appurtenance.
   c. See Section 6.7.
2. Heights to a maximum ninety (90) feet or six (6) stories may be permitted in the R-5 district only by special permit from the Zoning Board of Appeals, in accordance with Section 12.7.
3. Heights to a maximum of fifty-five (55) feet or four (4) stories may be permitted in the DB district only by special permit from the Planning Board in accordance with Section 12.7.

(Bylaw of 03-22-1975; Bylaw of 05-31-1979; Amended by City Council 07-01-2003; approved by Mayor 07-02-2003; Amended by City Council 06-05-2019; approved by Mayor 06-05-2019)
Section 6.10   Building Size Cap for Retail Uses
(Section 6.10 added by the City Council on 06-17-2015; approved by the Mayor on 06-18-2015)

6.101 Purpose
1. To ensure that new, large scale retail development is consistent with the goals and strategies of the City’s Master Plan.
2. To encourage new retail development that enhances district character within the City’s primary commercial zones.
3. To ensure that new, large scale retail development has minimal impact on the environment and municipal costs of service.

6.102 Applicability
This section shall apply to all Retail and Service uses as listed in Table-5-1, Table of Uses Regulations of the Easthampton Zoning Ordinance, within the Downtown Business (DB), Highway Business (HB) and Neighborhood Business (NB) zoning districts.

6.103 Exemptions
The following uses are exempt from this ordinance:
1. Redevelopment of existing commercial buildings over 50,000 square feet within the Downtown Business (DB), Highway Business (HB) and Neighborhood Business (NB).
2. Educational uses as defined by M.G.L. Chapter 40A, Section 3.
3. Solar access or solar energy system as defined by M.G.L. Chapter 40A, Section 1A.

6.103 Size Cap
No building to be occupied by a single commercial retailer shall exceed fifty-thousand (50,000) square feet of gross floor area.
SECTION VII. SPECIAL DISTRICT REGULATIONS

7.0 AQUIFER PROTECTION DISTRICT

7.01 Purpose of the District

To promote the health, safety, and general welfare of the community and to protect and preserve the groundwater resources of the city from adverse development and land use practices that might reduce the quality or quantity of water that is now, and in the future will be, available for use by municipalities, individuals and industries.

7.02 Scope of Authority

The Aquifer Protection District is an overlay district and shall be super-imposed on the other zoning districts. All provisions of the zoning ordinance of the City of Easthampton applying to the district so overlaid shall remain valid and in full force and effect.

7.03 Establishment and Delineation of Aquifer Protection District

a. For the purposes 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.

7.04 Definitions

Aquifer: A geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

Artificial recharge: Recharge at a rate greater than natural, resulting from deliberate or incidental actions of man. The practice of facilitating the infiltration of stormwater through the soil into the groundwater through site design features such as basins, trenches, swales or similar devices (last sentence added 6-3-97).

Ground water: All water found beneath the surface of the ground.

Toxic or hazardous material: A substance or material which has been determined by the Department of Environmental Protection to be capable of posing an unreasonable risk to
health, safety and property when transported in commerce. Hazardous materials have been designated by the Department of Environmental Protection under Chapter 21C and 21E M.G.L. and 310 CMR 30. 130-136.

**Hazardous waste:** A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40 CFR Part 250 and the Hazardous Waste Management Act, Massachusetts General Laws Chapter 21.

**Impervious surfaces:** Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

**Primary Aquifer Recharge Area:** Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of public and private water supply wells.

**Secondary Aquifer Recharge Areas:** Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface wastewater flow is toward public water supply wells or potential sites for such wells.

**Solid wastes:** Useless, unwanted, or discarded solid materials with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, contained liquid or gaseous materials, inert fill material and landscape refuse.

**Trucking repair center:** Business which services or repairs commercial trucks which are not owned by the business.

**Wastewater Treatment Works Subject to 314 CMR 5.00:** Any wastewater treatment plants or works, including community septic systems, which require a groundwater discharge permit from the Massachusetts Department of Environmental Protection.

**Watershed:** A watershed is that area of land surrounding a water body or aquifer that drains into the water body--either naturally or artificially. A watershed, in its natural, undisturbed state will collect precipitation as both overland runoff and through underground seepage and percolation.

**Water table:** The surface in an unconfined aquifer at which the pressure is atmospheric. It is the level at which water stands in wells that penetrate the uppermost part of an aquifer.

**Zone I Recharge Area:** That circle of a 400-foot radius extending around the wellhead of a public drinking water well with the wellhead at its center and including all land within the boundaries of said circle.
7.05 **Use Regulations**

Within the Aquifer Protection District, the following use regulations shall apply:

7.051 Permitted Uses

The following uses are permitted within the Aquifer Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

2. Outdoor recreation, nature study, boating and fishing.
3. Foot, bicycle and/or horse paths, and bridges.
4. Single family residential development, as permitted in the underlying district provided that areas in the Aquifer Protection District, not served by the municipal sewerage system, meet the septic system provisions of Section 7.052-n and o, and all other applicable provisions herein.
5. Agriculture, horticulture, or floriculture provided that the storage of agricultural chemicals, in quantities greater than normal household use, including but not limited to: fertilizers, herbicides, pesticides, manure or other leachable materials are in compliance with the requirements found in 310 CMR 22.21:(2)(b) 3 and 4.
6. Forestry and nursery uses.
7. Day care centers, family day care homes and school age child care programs as defined in M.G.L. Chapter 40a.
8. Structures for educational or religious purposes.

7.052 Prohibited Uses

a. Business and industrial uses, not agricultural, which generate, treat, store, or dispose of hazardous wastes, including but not limited to: metal plating, chemical manufacturing, wood preserving, furniture stripping, hazardous materials processing or transfer, asphalt plants, plastics manufacturing, laboratory operations, machine shops, metal working, electronic component or semi-conductor manufacturing, dry cleaning, and auto body repair, except for the following:

(1) very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended which generate less than 20 kilograms or 6 gallons of hazardous waste per month may be allowed by Special Permit in accordance with Section 1.9 of this Ordinance;

(2) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390 as amended;
(3) waste oil retention facilities required by M.G.L. C.21, s52A, and;

(4) treatment works for the remediation of contaminated water, which are approved by Mass. Department of Environmental Protection and designed in accordance with 314 CMR 5.00 as amended.

b. Business or industrial uses, not agricultural, which dispose of process wastewaters on-site;

c. Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, with the exception of the disposal of brush or stumps;

d. Trucking repair centers, bus terminals, car washes, motor vehicle gasoline sales, motor vehicle and boat service and repair shops, commercial fuel oil storage and sales;

e. Storage of and/or transmission of liquid petroleum products is prohibited except for the following:

(1) Storage which is incidental to:

   (a) normal household use, outdoor maintenance, or the heating of a structure;

   (b) emergency generators required by statute, rule or regulation;

   (c) waste oil retention facilities required by statute, rule, or regulation;

   (d) treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

provided that storage listed in items (a) through (d) above, shall be in a free standing, above ground container within a structure or within the basement of a structure, with secondary containment adequate to contain a spill the size of the containers total storage capacity. The storage tank and piping must comply with all applicable provisions of 527 CMR 9.00 Massachusetts Board of Fire Prevention regulations.

(2) This subsection deleted by vote of the City Council on August 1, 2000; approved by the Mayor on August 2, 2000.

f. Outdoor or underground storage of hazardous chemicals, pesticides, herbicides or hazardous wastes, or indoor storage of such materials in corrodible containers.

g. Dumping or disposal of any hazardous material or hazardous waste on the ground, in water bodies, in septic systems or in other drainage system. This shall include the use of septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane.
h. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Aquifer Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;

i. Wastewater treatment works subject to a groundwater discharge permit under 314 CMR 5.00 except the following:

1. the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);

2. the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s), and;

3. treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.

j. Residential, commercial or industrial uses within Zone I of any municipal water supply well.

k. Duplexes or multifamily residential uses, except in an Open Space Residential Development served by the municipal sewer system.

l. Outdoor storage of salt or deicing chemicals.

m. Rendering impervious by any means, more than fifteen (15) percent or 2,500 square feet of the area of any single lot, whichever is greater, unless a system for artificial recharge that will not result in the degradation of groundwater is provided. As a guide to Best Management Practices, consult the publication “Artificial recharge: Evaluation and Guidance to Communities (1996)” by the Pioneer Valley Planning Commission. In an Open Space Residential Development permitted under Section 9.1 of this ordinance, the space in the entire cluster minus the area of the roadways shall be considered in determining permissible lot coverage, rather than the space on individual lots. The permissible coverage shall be evenly divided among the individual lots on a pro-rated basis. (Amended 6-3-97)

n. Septic system components within 150 feet of Broad Brook.

o. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement of repair of an existing system that will not result in an increase in design capacity above the original design

p. Excavation of or removal of earth, sand, gravel, clay and other soils shall not be permitted. This section shall not apply to such limited excavations incidental to permitted uses including, but not limited to, providing for installation or maintenance of structural foundations, utility conduits or on-site sewage disposal.
7.053 **Uses by Special Permit**

The following uses may be allowed by Special Permit from the Planning Board:

a. All business, commercial and industrial activities permitted in the underlying district either by right or by Special Permit, provided that such activity is not prohibited in section 7.052, and that such activity has a site plan to prevent compaction and siltation, loss of recharge, seepage from sewer pipes and contamination of groundwater by petroleum products or chemicals, and complies with all performance standards in section 7.054.

b. The installation or enlargement of subsurface waste disposal system for a residential dwelling.

c. The above ground storage of all hazardous materials and petroleum product. However, a Special Permit shall not be required for storage of liquid petroleum products of any kind which is incidental to normal household use, outdoor maintenance, or the heating of a structure, provided such storage is in a free standing container located within a building or in a free standing container with protection adequate to contain a spill the size of the total capacity of the container and is otherwise in compliance with the Massachusetts Fire Safety Code (537 CMR).

d. With respect to pre-existing commercial or industrial uses, any of the following changes in an existing business, commercial or industrial use:

   (1) increase in quantities of hazardous waste generated;

   (2) change of use;

7.054 **Aquifer Protection Performance Standards**

All uses, whether allowed by Special Permit or by right, must meet the performance standards herein:

a. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter. Alternative deicing materials, such as calcium chloride, shall be used to the extent feasible for winter road maintenance.

b. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located in a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.

c. Fertilizers, pesticides, herbicides, lawn care chemicals or other leachable materials shall be used in accordance with Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended, with manufacturer’s label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.

d. The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.
e. All new animal manure storage areas shall be covered and/or contained in accordance with the Natural Resource Conservation Service standards to prevent the generation and escape of contaminated run-off or leachate (Amended 6-3-97).

f. All hazardous materials, as defined in M.G.L. Chapter 21E, must be stored either in a free standing container within a building, or in a free-standing container above ground level with protection to contain a spill the size of the container’s total storage capacity.

g. In accordance with the State Plumbing Code, all vehicle maintenance facilities must have floor drains, unless they receive a variance from the State Plumbing Board, which must be connected to a municipal sewer system or to a state-approved holding tanks in unsewered areas. All other facilities which use, store or maintain hazardous materials or wastes must, with state approval, seal floor drains or connect them to a sewer system or holding tank.

h. With the exception of bridges, the area within 75 feet of Broad Brook shall be kept in a natural vegetated condition and not altered in any way.

i. The following standards for urban stormwater run-off control apply:

(1) For commercial and industrial uses, to the extent feasible, run-off from impervious surface shall be recharged on the site by stormwater infiltration basins or similar systems covered with natural vegetation. Such run-off shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are infeasible. All such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s). Infiltration systems greater than three-feet deep shall be located at least one hundred feet from drinking water wells, and shall be situated at least ten-feet down-gradient and one hundred-feet up-gradient from building foundations to avoid seepage problems. Infiltration basins and trenches shall be constructed with a three-foot minimum separation between the bottom of the structure and maximum groundwater elevation.

(2) For commercial or industrial projects which will render impervious, by any means:
   (a) more than ten (10) percent or up to twenty (20) percent of any single lot, or; (b) more than five (5) percent or up to ten (10) percent of lots of thirty-five thousand (35,000) square feet or more; a system of artificial aquifer recharge of precipitation must be developed to retain stormwater runoff within the confines of the lot. The management of stormwater and any artificial recharge systems developed shall be designed so as not to result in the degradation of groundwater. A stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater, where feasible. Recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, and through the use of stormwater infiltration basins, infiltration trenches, porous pavement or similar systems. All infiltration practices shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate removal of contamination.

(3) For residential uses, to the extent feasible, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation. To the extent possible, stormwater run-off from rooftops, driveways, roadways and other
impervious surfaces shall be routed through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches or similar systems.

(4) Infiltration practices shall be utilized to reduce run-off volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the Soil Conservation Service. A combination of successive practices may be used to achieve the desired control requirements. Justification shall be provided by the person developing land for rejecting each practice based on site conditions. Any and all recharge areas shall be permanently maintained in full working order by the owner. Provisions for maintenance shall be described in the stormwater management plan.

j. The application of pesticides, herbicides or fertilizers for non-domestic or non-agricultural uses must be approved by the Board of Health.

7.06 Procedures for Issuance of a Special Permit

7.061 Requirements for Special Permit in the Aquifer Protection District

The applicant shall file six (6) copies of a site plan prepared by a qualified professional with the Planning Board. The site plan shall at a minimum include the following information where pertinent.

a. A complete list of chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

b. Those businesses using or storing such toxic or hazardous materials shall file a hazardous materials management plan with the Planning Board, Hazardous Materials Coordinator, Fire Chief and Board of Health which shall include:

(1) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean-up procedures.

(2) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

(3) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass. Department of Environmental Protection.

c. Drainage recharge features and provisions to prevent loss of recharge.

d. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

e. Periodic water quality monitoring may be required by the Planning Board including sampling of wastewater disposed to on-site systems and sampling from groundwater monitoring wells to be located and constructed as specified in the Special Permit with reports to be submitted to the Planning Board, the
Board of Health and the City Engineer. The costs of monitoring, including sampling and analysis, shall be borne by the owner of the premises.

## 7.062 Additional Procedures for Special Permit in the Aquifer Protection District:

### a. The Planning Board shall follow all Special Permit procedures contained in Section 12.7 of this ordinance. In addition the Planning Board shall distribute copies of all application materials to the Board of Health, the Conservation Commission, and the City Engineer, each of which shall review the application, and following a vote, shall submit recommendations and comments to the Planning Board. Failure of boards to make recommendations within 35 days of distribution of the applications shall be deemed to be lack of opposition. One copy of the application materials shall be transmitted to or retained by the City Clerk for viewing by the public during office hours.

### b. The Planning Board may grant the required Special Permit only upon finding that the proposed use meets the following standards and those specified in Section 12.79 of this ordinance. The Planning Board must find that the proposed use:

1. Is in harmony with the purpose and intent of this ordinance and will promote the purposes of the aquifer protection district.

2. Is appropriate to the natural topography, soils and other characteristics of the site to be developed.

3. Has adequate public sewerage and water facilities, or the suitable soil for on-lot sewerage, in compliance with applicable Mass. Department of Environmental Protection standards in 310 CMR 22, and for an on-lot water system.

4. Will not, during construction or site work or thereafter, have an adverse environmental impact on any watershed or watercourse in the district. A commercial forestry operation shall present a plan for cutting which provides safe temporary equipment storage, and follows the Massachusetts Forest Cutting Practices Act 304 CMR 11.00.

5. Will not adversely affect the existing or potential quality and quantity of water in the aquifer protection district.

6. Has, where required, provided the mechanism to assure on-site quality recharge. Appearance shall be given by a professional engineer.

7. Will not promote the intensive use of pesticides. Golf courses must present an application schedule and list of pesticides to be used which will not contaminate the aquifer.

### c. The Special Permit Granting Authority shall not grant a special permit under this section unless the petitioner’s application materials include, in the Board’s opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.
7.07 Nonconforming Use

7.071 Nonconforming uses which were lawfully existing, begun or in receipt of a building or Special Permit prior to the first publication of notice of public hearing for this ordinance may be continued. Such nonconforming uses may be extended or altered, as specified in M.G.L. Ch. 40A, Sec. 6, and in compliance with Section 7.053 herein, provided that there is a finding by the Planning Board that such change does not increase the danger of surface or groundwater pollution from such use.
7.1 FLOODPLAIN AND MANHAN RIVER PROTECTION DISTRICTS

7.11 Purpose of the District

The purposes of the Floodplain and Manhan River Protection Districts are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to reduce public costs resulting from unwise individual choices of land use, to preserve the natural flood control characteristics, and the flood storage of the floodplain, and to preserve and maintain the groundwater table and water recharge areas within the floodplain, to preserve the scenic qualities, fisheries and wildlife habitat along the Manhan River and to prevent water pollution.

7.12 District Delineation

a. The Floodplain District is herein established as an overlay district:

(1) The general boundaries of the floodplain district are shown on the Easthampton Flood Insurance Rate Map (FIRM), dated August 15, 1979, as Zones A, A1 through 30, to indicate the one hundred-year flood. The exact boundaries of the district are defined by the one hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the flood insurance study, dated February 1979. The floodway boundaries are delineated on the Easthampton Flood Boundary Floodway Map (FBFM), dated August 15, 1979, and further defined by the floodway data tables contained in the flood insurance study. These two (2) maps as well as the accompanying study are incorporated herein by reference and are on file with the City Clerk, Planning Board, Building Inspector and the Conservation Commission.

(2) Within Zone A, where the one hundred-year flood elevation is not provided on the FIRM the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the conservation committee. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this ordinance and the state building code.

(3) In Zone A, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A1-A30 and AE, along water courses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. In Zones A1-A30 and AE, along water courses that have regulatory floodways designated on the Easthampton FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

b. The Manhan River Protection District is herein established as an overlay district:

(1) The area subject to the ordinance shall be the entire length of the Manhan River in Easthampton. The Manhan River Protection District shall encompass those floodplain areas designated as Zones A or Zone A 1-30 on the City of Easthampton Flood Insurance Rate Maps (FIRM) for the Manhan River. Where the floodplain has not been delineated on the FIRM maps or where the delineation is less than 100 feet from the riverbank, the Manhan River Protection District shall be defined as that area within 100 feet, measured horizontally, of the riverbank. For purposes of this
ordinance, the riverbank shall be defined as the river’s mean annual high water line (see definitions).

c. The boundaries of the Floodplain and Manhan River Protection Districts shall be determined by scaling distances on the Flood Insurance Rate Map. When interpretation is needed as to the exact location of the boundaries of a District, the Building Inspector shall make the necessary interpretation.

7.13 General Use Regulations

The floodplain district is established as an overlay district to all other districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of the following actions.

a. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40, and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently Section 744), with the State Environmental Code, Title V, and must comply in all respects to the provisions of the underlying district except that where the Floodplain and Manhan River Protection Zoning imposes additional regulations such regulations shall prevail.

b. In the floodplain district no new buildings shall be erected or constructed except by special permit from the special permit granting authority, nor shall existing buildings be enlarged, moved, except as hereinafter provided. No dumping, filling or earth transfer or relocation shall be permitted, and no land or building shall be used for any purpose except hereinafter provided.

7.14 Permitted Uses

The following uses of low flood damage potential, causing no obstructions to flood flows, shall be allowed in the Floodplain and Manhan River Protection Districts, provided that they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment.

a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.

b. Forestry and nursery uses.

c. Outdoor recreational uses, including fishing, boating, play areas, and foot, bicycle or horse paths.

d. Conservation of water, plants, wildlife.

e. Wildlife management areas, foot, bicycle, and/or horse paths.

f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

g. Structures existing prior to the adoption of these provisions which conform with the provisions of the ordinances regulating underlying districts, including maintenance and repair usual for continuance of such an existing structure and improvements to such structures provided that the footprint increase of those improvements does not exceed 25% of the overall footprint of the structure. In the event such structure is destroyed said
structure may be rebuilt on the same location but no larger than the original overall footprint.

h. Installation of driveways of minimum size necessary to serve areas outside the floodplain district, where other access is not feasible, provided no change in grade substantially effects purpose of this district.

7.15 Prohibited Uses in the Floodplain District

7.151 The following uses are specifically prohibited in the Floodplain District and may not be allowed by special permit:

a. The storage or disposal of any sand, gravel, rock or other mineral substance, refuse, trash, rubbish debris, or dredged spoil.

b. Draining, excavation or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock or other mineral substance, except as accessory to work permitted as of right or by special permit.

c. The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals.

d. The manufacture, storage or disposal of hazardous wastes, as designated by the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General laws, Chapter 21C, and by the U.S. Environmental Protection Agency under 40 CFR 250.

e. Solid waste landfills, junkyards and dumps.

The portion of any lot within the area delineated in Section 7.12 above may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated.

7.16 Prohibited Uses and Restrictions in the Manhan River Protection District

7.161 The following uses are prohibited or restricted in the Manhan River Protection District:

a. No altering, dumping, filling or removal of riverine materials or dredging is permitted, except that maintenance of the river, including stabilization or repair of eroded riverbanks, erosion control or removal of flood debris, may be done under requirements M.G.L. Chapter 131, Section 40, and any other applicable laws, ordinances, and regulations. Riverbank repairs shall be undertaken utilizing only natural materials (i.e. rock) and not with manmade materials (i.e. tires).

b. All forest cutting over 25,000 board feet at one time shall require the filing of a Forest Cutting Plan in accordance with the Mass. Forest Cutting Practices Act (M.G.L. Chapter 132, sections 40-46). In addition, no commercial cutting of forest shall occur within 50 feet of the riverbank. In the area between 50 feet and 100 feet from the riverbank, no more than 50% of existing forest shall be cut.
c. No new impoundments, dams or other water obstructions may be located within the district.

d. No private wastewater treatment facilities, including residential package treatment plants, shall discharge directly to the Manhan River.

e. No commercial earth removal or mining operation is permitted within 100 feet of the river.

f. All other uses not specifically permitted or allowed by special permit approval within the overlay zone are prohibited.

g. A buffer strip extending at least one hundred (100) feet in depth, to be measured landward from each riverbank of the Manhan River shall be required for all lots within the River Protection District. If any lot, existing at the time of adoption of this ordinance, does not contain sufficient depth, measured landward from the riverbank, to provide a one hundred foot buffer strip, the buffer strip may be reduced to 50% of the available lot depth, measured landward from the riverbank.

(1) The buffer strip shall be kept in a natural or scenic condition.

(2) No buildings nor structures shall be erected, enlarged, altered or moved within the buffer strip except as provided for in Sections 7.14 and 7.18.

h. All utilities shall meet the following standards:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

(3) New on-site waste disposal systems shall be located to avoid impairment or contamination from them during the flooding and shall be located no less than 150 feet from the riverbank. Replacement of existing on-site waste disposal systems shall be located as far away from the riverbank as is feasible.
7.17   **Prohibited Uses in the Floodway**

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Easthampton Flood Boundary and Floodway Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

7.18   **Special Permits**

7.181   Uses by Special Permit in the Floodplain and Manhan River Protection Districts

   a. No structure or building shall be erected or otherwise created or moved, except as provided in Section 7.14; no earth or other materials dumped, if excavated, or transferred, unless a special permit is granted by the Zoning Board of Appeals (ZBA). The following uses may be allowed by Special Permit from the Zoning Board of Appeals in accordance with the Special Permit regulations in Section 12.7 of this ordinance, and additional restrictions and criteria contained herein:

   (1) Residential Districts
       (a) Single-family residences, not including mobile homes.
       (b) Residential accessory uses including garages, driveway, private roads, utility rights-of-way and on-site wastewater disposal systems.
       (c) Substantial improvements to structures or buildings.

   (2) Business and Industrial Districts
       (a) Uses which are in compliance in all respects with the provisions of the underlying districts.

7.182   Special Permit Requirements

The Zoning Board of Appeals may issue a special permit hereunder (subject to other applicable provisions of this ordinance) only if the application is compliant with the following conditions:

   a. Four (4) copies of a plan determining that the construction will be in conformance with the State Building Code (specifically those sections dealing with construction in floodplains) and will not result in increased flood heights, additional threats to safety, extraordinary public expense, create nuisances, or conflict with existing local laws. The ZBA shall provide a copy of the plan to the Planning Board, the Board of Health, Conservation Commission and shall be required to wait twenty-one (21) days for a recommendation from each board. After twenty-one (21) days the ZBA may render its decision.

   b. Within Zones A1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
c. No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency’s regulations for the National Flood Insurance Program.

d. The proposed use shall comply in all respects with the provisions of the underlying district, and the Zoning Board of Appeals may require such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public or the occupants of the proposed use, or of the floodplain district.

e. A determination that the proposed use is in compliance with the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40.

7.183 Special Permit Procedures

a. In addition to the Special Permit procedures specified in Section 12.7, the following procedures apply:

(1) The Zoning Board of Appeals shall provide notice of any hearings hereunder to the Planning Board, the Board of Health and the Conservation Commission and shall maintain a record of all special permit actions, including a finding of the reasons for their issuance and report such special permits in the annual report submitted to the Federal Insurance Administration.

b. In addition to the provisions of Section 12.7 the Zoning Board of Appeals may issue a Special Permit if it finds the proposed use is compliant with the following provisions:

(1) In the Floodplain District, proposed uses must:

(a) Not create increased flood hazards which are detrimental to the public health, safety and welfare.

(b) Comply in all respects to the provisions of the underlying district or districts within which the land is located.

(c) Comply with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (M.G.L., Ch. 131, Sec. 40).

c. In the Manhan River Protection District, proposed uses must also:

(1) be situated in a portion of the site that will most likely conserve shoreland vegetation and the integrity of the buffer strip;

(2) be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines;

(3) not result in erosion or sedimentation;

(4) not result in water pollution.

7.19 Disclaimer of Liability
This zoning ordinance does not imply that land outside the areas of the floodplain district or uses permitted within such district will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City of Easthampton or by any official thereof for any flood damage that may result from reliance upon this ordinance or any administrative decision lawfully made hereunder. (Bylaw of 5-18-93)
Section 7.2 Wireless Communications Services District

In addition to the general conditions and procedures established in Section 12.7 of this Ordinance for all special permits or Section 12.9 Site Plan Approval, the following additional requirements and procedures shall apply.

7.21 Wireless Communications Service District

The purpose of this section is to establish a district in which wireless communication services may be provided which (a) minimize adverse impacts on adjacent properties, residential neighborhoods and the overall environmental quality and visual character of the City of Easthampton and (b) minimize visual impacts from wireless communications facilities on the Mt. Tom viewshed and residential districts within Easthampton. This section does not apply to satellite dishes and antennas for residential use.

7.22 Definitions

7.221 Telecommunications Facilities: Towers, antennas and accessory structures, including personal wireless facilities, used in connection with the provision of cellular telephone services, personal communication services, paging services, radio and television broadcast services, and similar broadcast services. Telecommunications facilities do not include the following facilities which are accessory uses or structures: antenna and towers used solely for the operations of municipal public safety services; antenna used solely for residential household television and radio reception; satellite antenna measuring 2 meters or less in diameter in business and industrial districts and satellite antenna 1 meter or less in diameter in other districts; nor amateur radio facilities actively used in accordance with the terms of any amateur radio service license issued by the Federal Communication Commission, provided that the tower is not used or licensed for any commercial use.

7.222 Telecommunications Towers: Structures designed to support antennas, including free-standing towers, guyed towers, monopoles, towers on buildings, and similar structures.

7.223 Telecommunications Antenna: A system of electrical conductors that transmit or receive radio frequency signals, but not including any support system designed to increase the height of the antenna above the tower or building. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication services (PCS) and microwave communications.

7.23 Description of Areas Included in the Wireless Communications Services District

7.231 The Wireless Communications Services District shall include the land within the boundaries delineated on a map at a scale of one inch to one thousand (1,000) feet entitled “Wireless Communications Services District,” City of Easthampton, on file in the office of the City Clerk.

7.232 The Wireless Communications Services District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.
7.24 Use Restrictions

(a) The telecommunication facilities allowed are free-standing monopoles, lattice steelwork structures, or antennae affixed to existing structures, with associated antenna and/or panels. Monopoles are preferred. Satellite dishes and/or antenna may be located on existing structures or may be free-standing. Monopoles shall not be located on buildings.

(b) Telecommunications towers may be constructed only after the issuance of a Special Permit from the Planning Board in accordance with this section and Section 12.7.

(c) Telecommunications towers are not permitted in the underlying Downtown Business District.

(d) Telecommunications antennas which are co-located on existing telecommunications towers or other existing structures may be constructed only after Site Plan Approval in accordance with this section and Section 12.9.

(e) To the extent feasible, all service providers shall co-locate on a single facility. All telecommunications towers must be designed, to the maximum extent which is practical and technologically feasible, for co-location of other telecommunications antenna, including offering space to all other telecommunication providers at market rates and providing for towers to be expanded upward. Special Permits for new towers shall be issued only upon a finding by the Planning Board that existing or approved towers cannot adequately fulfill the applicant’s service requirements or accommodate the telecommunications facilities contemplated by the applicant.

(f) In no event shall any telecommunications tower be located closer than one (1) mile to any other tower.

(g) Towers with one telecommunication provider shall be limited to 140 feet. Towers with co-located telecommunications facilities shall be allowed an additional 20 feet for each additional provider up to a maximum of one hundred ninety (190) feet.

(h) In a residential zoning district, a tower shall not be erected nearer to any property line than a distance equal to one hundred ten percent (110%) of the vertical height of the tower, measured at the mean finished grade of the facility base. The Planning Board may allow a shorter setback if the shorter setback provides adequate safety and esthetics, and the manufacturer or qualified licensed designer certifies that the tower is designed to collapse on itself in the event of failure.

(i) Setback from designated wetlands, water bodies and areas with a slope in excess of five (5) percent shall be at least one hundred and fifty (150) feet or 110% of the height of the tower, whichever is greater. Conservation Commission review and approval may be necessary.

(j) Siting shall be such that the view of the facility from adjacent abutters, residential neighbors, and other areas of City shall be as limited as possible. Generally, towers shall be a galvanized or non-rusting finish unless otherwise required by the FAA. Towers may be required to be painted, when appropriate, to blend in with the landscape.

(k) Fencing shall be provided to control access to telecommunication facilities and shall be compatible with the scenic character of the City and designed to be as unobtrusive as possible.

(l) The Site Plan shall provide for adequate landscaping to screen the telecommunications facilities to the extent possible and preserving, to the extent possible, existing on-site trees and vegetation.

(m) There shall be no signs except a sign identifying the telecommunications facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24)
hour basis; a no trespassing sign; a sign displaying the FCC registration number and, any signs required to warn of danger. All signs shall comply with the requirements of the Easthampton Zoning Ordinance.

(n) Design and siting of towers should avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).

(o) There shall be a minimum of one (1) parking space for each telecommunications tower, to be used in connection with the maintenance of the telecommunications facility and the site, and not to be used for the permanent storage of vehicles.

(p) To the extent technologically feasible, all network interconnections from the telecommunications facility shall be via underground lines.

(q) Applicants proposing to erect facilities on municipally owned land or structures shall provide evidence of contractual authorization from the City of Easthampton to construct telecommunications facilities on municipally owned property.

(r) Antennas or dishes located on a structure shall not exceed twenty-five (25) feet in height above the level of its attachment to the structure.

7.25 Submittal Requirements - Special Permit or Site Plan Approval

7.251 In accordance with this section, the location of a telecommunications facility will require either a Special Permit from the Planning Board or Site Plan Approval. An application for a Special Permit shall be filed in accordance with Section 12.7 and shall be accompanied by 10 copies of the following information. An application for Site Plan Approval shall be filed in accordance with Section 12.9 and shall be accompanied by 10 copies of the following information.

a. Details of the tower (monopole, steelwork, guyed, freestanding, or other), guy wires and anchors, tower lighting
b. Location of all structures located within 300 feet of any tower or structure.
c. Location of alternate sites, if any.
d. Color photographs, computer simulation or renditions illustrating the proposed tower with its antenna and/or panels or dishes and its location. The Planning Board may require additional visual analysis such as, among other items, enhanced landscaping plans and line-of-site drawings. Within thirty days after filing the application for any new tower or extension in height thereto, if requested by the Planning Board, the applicant shall arrange to fly a balloon at the site at the maximum height of the proposed installation on a weekend day between the hours of noon and 3 p.m. The balloon shall be of size and color that can be seen from every direction for a distance of one (1) mile.
e. A certification that the applicant possesses or will possess all necessary licenses to operate such telecommunications facility and has complied or will comply with all federal and state requirements to provide the proposed service.
f. Reports prepared by one or more registered professional engineers, which shall:

1. Demonstrate that the tower complies with all applicable standards of the Federal and State governments.
2. Describe the capacity of the tower including the number and type of transmitter receivers that it can accommodate and the basis for the calculation of capacity.
3. Demonstrate that the tower and site comply with this regulation.
4. Describe the auxiliary power source, if any.

g. A copy of the FCC registration, FCC license, and FAA opinion letter or registration for the proposed telecommunications facility and applicant.

h. Before a Special Permit is issued for a new tower, the applicant must explain why it is not feasible to locate their antenna and telecommunications facilities on an existing tower or building. Before a new tower is proposed in a residential district, the applicant must also explain why it is not feasible to locate their antenna and telecommunications facilities in other districts or on municipal facilities. Such explanation shall include a summary of propagation studies and a plan for any network of facilities.

7.26 Approval

(a) A Special Permit shall be granted by the Planning Board in accordance with the Massachusetts General Law and Section 12.7 of this Ordinance. Any extension, addition of cells, antennas or panels, construction of a new telecommunications facility, or replacement of a facility, shall be subject to a new application for an amendment to the Special Permit.

(b) A Site Plan shall be approved by the Planning Board in accordance with Section 12.9 of this Ordinance.

7.27 Conditions of Use

(a) The tower and its transmissions shall comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), whichever are stricter.

(b) All telecommunication facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies and power levels, and the applicant shall provide certification that the maximum allowable frequencies and power levels will not be exceeded. Certification shall include technical specifications, an explanation of those specifications, and, if necessary, field verification.

(c) All unused facilities or parts thereof or accessory facilities and structures which have not been used for one (1) year shall be dismantled and removed at the owner’s expense.

(d) All telecommunications facilities shall be maintained in good order and repair. Any paint and finish must be maintained and repaired when the blemishes are visible from the property line. Annual inspection and maintenance reports for the tower and site shall be filed with the Zoning Enforcement Officer.
7.28 Performance Guarantees

(a) Insurance in a reasonable amount determined and approved by the Planning Board after consultation, at the expense of the Applicant, with one (1) or more insurance companies shall be in force to cover damage from the structure and other site liabilities. Annual proof of said insurance shall be filed with the City Clerk.

(b) An initial bond may be posted for annual maintenance for any access road, site and telecommunications tower in an amount approved by the Planning Board.

(c) The Planning Board may require a performance guarantee to insure that telecommunications facilities which have not been used for one year are removed.

(d) Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute shall be filed with the Zoning Enforcement Officer by the Special Permit holder and/or all providers at the providers’ expense.

(Approved by City Council, as amended, 1-6-98; approved by Mayor 1-7-98)
SECTION 7.3 SOLAR ENERGY FACILITIES

7.3.0 Purpose

The purpose of this by-law is to provide for the construction and operation of solar energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of solar facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city or city and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of solar energy facilities.

Applicability. This section applies to all utility-scale, on-site solar facilities, and small solar energy systems, proposed to be constructed after the effective date of this section. This section also includes building integrated solar systems, and physical modifications to existing solar facilities that materially alter the type, configuration, or size of such facilities or other equipment.

7.3.1 Definitions

Solar Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of solar to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads.

Large Solar Energy Facility: A commercial solar facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets. Includes equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power with a rated output of electrical power production equipment of greater than 100kW/0.1MW.

Small Solar Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of solar energy into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads which have a total rated nameplate capacity of not more than 100kW/0.1MW.

On-Site Solar Facility: A solar project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will generate electricity on-site.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Building Permit: A building permit is a required approval of a project by a licensed building inspector which is consistent with the local, state and federal building codes. In addition, the permit must meet the criteria set forth in this ordinance.

Agriculture: ‘Farming’ or ‘agriculture’ shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in

1 Section 7.3 added by the City Council on 12-16-2009; approved by the Mayor 12-17-2009.

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conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Building Integrated Solar Energy Facility: A solar energy facility shall be considered to be building integrated if it is designed to be permanently mounted on a building or other inhabitable structure. This definition applies to solar facilities of any capacity that are designed to be operated in direct contact with a building. This definition also covers, for the purposes of this zoning provision, other solar energy facilities primarily used for land-based applications which may be permanently mounted and operated on a building.

7.3.3 General Requirements for all Solar Energy Facilities

The following requirements are common to all solar energy facilities and must be followed in addition to the technology-specific requirements given in Sections 7.4, 7.5, or 7.6.

7.3.3.1 Exemptions. Solar facilities constructed, reconstructed, or renovated for the primary purpose of commercial agriculture shall be considered a structure pursuant to MGL, c. 40A, §3 and, therefore, shall be exempt from this ordinance.

7.3.3.2 A permit shall be granted unless the permit granting authority finds in writing that there is substantial evidence that: (a) the specific site is not an appropriate location for such use; (b) a nuisance is expected to be created by the use; and (c) adequate and appropriate facilities will be not provided for the proper operation and maintenance of the use.

7.3.3.3 Compliance with Laws, Ordinances and Regulations. The construction and operation of all such proposed solar energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

7.3.3.4 Proof of Liability Insurance. The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.

7.3.3.5 Site Control. At the time of its application for special permit or building permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

7.3.3.6 Utility Notification. No solar energy facility shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

7.3.3.7 Solar Energy Facilities are not permitted to be constructed or placed on land previously used for the Loudville Road landfill, dump, or solid waste facility.
7.3.4 Design Standards

7.3.4.1 Lighting. Lighting of parts of the solar energy facility shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties.

7.3.4.2 Signage. Signs on the solar energy facility shall comply with the requirements of the city’s sign regulations, and shall be limited to:

(a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
(b) Educational signs providing information about the facility and the benefits of renewable energy.

7.3.4.3 Advertising. Solar facilities shall not be used for displaying any advertising.

7.3.4.4 Utility Connections. Reasonable efforts shall be made to locate utility connections from the solar energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

7.3.4.5 Appurtenant Structures. All appurtenant structures to such solar energy facilities shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

7.3.5 Safety and Environmental Standards

7.3.5.1 Emergency Services. The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the local emergency services entity, as designated by the permit granting authority. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the solar energy facility shall be clearly marked. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

7.3.5.2 Unauthorized Access. The solar energy facility shall be designed to prevent unauthorized access. Electrical equipment shall be locked where possible.

7.3.5.3 Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the solar facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

7.3.5.4 Wildlife Corridors. Solar Energy Facilities shall be designed and constructed to optimize the maintenance of wildlife corridors.

7.3.5.5 Natural Buffer for Large Solar Projects. An undisturbed natural vegetative buffer shall be maintained between the solar project and the 50ft. Setback. This buffer would only be required on projects that abut houses that would have a direct view of the solar facility. The natural buffer should be maintained at or slightly above the highest level of the solar panels. If the visual buffer
would have a detrimental effect on the ability to generate power, then a waiver may be granted during the special permit process.

7.3.6 Monitoring and Maintenance

7.3.6.1 Facility Conditions. The applicant shall maintain the solar energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the solar energy facility and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.

7.3.6.2 Modifications. All material modifications to a solar energy facility made after issuance of the permit shall require approval by the permit granting authority as provided in this section.

7.3.7 Abandonment or Decommissioning

7.3.7.1 Removal Requirements. Any solar energy facility which has reached the end of its useful life or has been abandoned shall be removed. When the solar energy facility is scheduled to be decommissioned, the applicant shall notify the city by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the solar facility no more than 150 days after the date of discontinued operations. At the time of removal, the solar facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

(a) Physical removal of all solar structures, equipment, security barriers and transmission lines from the site.
(b) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

7.3.7.2 Abandonment. Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the permit granting authority. The permit granting authority shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the solar energy facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the city shall have the authority to enter the property and physically remove the facility.

7.3.7.3 Expiration. A permit issued pursuant to this ordinance shall expire if: (a) The solar energy facility is not installed and functioning within 48-months from the date the permit is issued; or, (b) The solar energy facility is abandoned.

7.3.7.4 Violations. It is unlawful for any person to construct, install, or operate a solar energy system that is not in compliance with this ordinance or with any condition contained in a permit issued pursuant to this ordinance. Solar energy systems installed prior to the adoption of this ordinance are exempt.
7.3.8 Solar Energy Facility Permit Requirements

7.3.8.1 Special Permit and Building Inspector Issued Permit. No large solar energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit from the Planning Board and a building permit from a licensed building inspector. All such solar energy systems shall be constructed and operated in a manner that, where economically feasible, minimizes adverse visual, safety and environmental impacts. The construction of a solar facility shall be permitted subject to the issuance of a Permit and provided that the use complies with all requirements set forth in Sections 7.3 and 7.4.

7.3.8.2 Small solar energy facilities require a building permit prior to construction or installation.

7.3.8.3 Setbacks. Solar energy facilities shall be set back a distance 50 feet from the nearest property line and private or public way.

7.3.8.4 Setback Waiver. The permit granting authority may reduce the minimum setback distance as appropriate, based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a site plan under the provisions of this section.

7.3.8.5 General Required Documents. The Special Permit application shall be accompanied by deliverables including the following:

(a) A site plan showing:
   i. Property lines and physical dimensions of the subject property.
   ii. Location, dimensions, and types of existing major structures on the property.
   iii. Location of the proposed solar system structures, foundations, and associated equipment.
   iv. The right-of-way of any public road that is contiguous with the property;
   v. Any overhead utility lines
   vi. Location and approximate height of tree cover;

(b) Solar system specifications, including manufacturer and model,

(c) One or three line electrical diagram associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices.

(d) Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any.

(e) The name, contact information and signature of any agents representing the applicant.

(f) A plan for maintenance of the solar energy facility.

Site Plan of the proposed solar facility site, with contour intervals of no more than 10 feet, showing the following:

(a) Property lines for the site parcel and adjacent parcels within 300 feet.
(b) Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 300 feet. Include distances from the solar facility to each building shown.
(c) Location of all roads, public and private on the site parcel and adjacent parcels and proposed roads or driveways, either temporary or permanent.
(d) Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels
(e) Proposed location and design of solar facility, including ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.

7.3.8.6 Financial Surety. The permit granting authority may require the applicant for large scale solar facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the city must remove the facility, of an amount and form determined to be reasonable by the special permit granting authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

7.3.8.7 Technical Documentation The applicant shall, at a minimum, submit the following technical documentation regarding the proposed solar energy facility to the Planning Board
(a) Solar energy facility technical specifications, including manufacturer and model,
(b) Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
(c) Electrical schematic

7.3.8.8 Visualizations - Large Scale Projects. The Planning Board may select up to four sight lines, including from the nearest building with a view of the solar facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas proximate to the proposed solar energy facility. View representations shall have the following characteristics:
(a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the solar facility (e.g. superimpositions of the solar facility onto photographs of existing views).
(b) All view representations will include existing, or proposed, buildings or tree coverage.
(c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

Operation & Maintenance Plan. The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the solar facility.

7.3.8.9 Landscape Plan: (Large Scale Projects Only) A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution.

7.3.8.10 Independent Consultants – (Large-Scale Solar Facilities Only) Upon submission of an application, the Planning Board will be authorized to hire outside consultants, pursuant to Section 53G of Chapter 44 of the Massachusetts General Laws. As necessary, the applicant may be required to pay the consultant’s costs.
7.3.9 Building Integrated Solar Energy Facilities.

Permits shall be granted by the Permit Granting Authority for building integrated solar energy facilities that meet the criteria outlined in this Section and in Section 7.3 of this zoning provision.

7.3.9.1 No building integrated solar energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the Planning Board. The construction of a building integrated solar energy facility shall be permitted subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in sections 3 and 4. All such solar energy facilities shall, where economically feasible, be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.

7.3.9.2 Required Supporting Documentation for Building Integrated Solar Energy Facilities.

The special permit application submitted to the Permit Granting Authority must, at a minimum, include:

(a) Analysis and design documents, completed by a structural engineer registered to practice in the Commonwealth of Massachusetts, demonstrating that the proposed building is structurally sufficient to support the permanent installation of the proposed building integrated solar energy facility.
(b) Elevation drawings of building with building integrated solar energy facility installed, viewed from north, south, east, and west.
(c) Building schematic detailing point(s) of connection and associated supports for the building integrated solar energy facility.
(d) Schematic of attachment method for connecting the building integrated solar energy facility to the building.
SECTION 7.4: SMART GROWTH ZONING OVERLAY DISTRICT (SGZD)

7.41. PURPOSE

The purposes of this Section 7.4 are:

a. To establish an Easthampton Smart Growth Zoning District and Sub-Districts, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
b. To provide a range of safe, quality, and affordable housing options for individuals and families of all ages and incomes;
c. To create affordable housing that is consistent with the character of Easthampton’s existing neighborhoods;
d. To improve the quality of existing housing;
e. To help increase access for low to moderate income households to affordable housing;
f. To preserve the affordability of existing and new affordable units;
g. To support private developers in their efforts to develop affordable housing;
h. To encourage new development in the center city close to existing infrastructure and services, in order to protect open space and farmland in the outer reaches of the city.
i. To encourage development types as delineated in the 2008 Master Plan.

7.42 DEFINITIONS

For purposes of this Section 7.4, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 7.42, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 7.42 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Monitoring Agent – the regional Housing Partnership (HAP, Inc.) or other qualified housing entity designated by the PAA to review and implement the Affordability requirements affecting Projects under Section 7.46.

Affordable Homeownership Unit – an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 7.46 of this Ordinance.

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

Applicant – the individual or entity that submits a Project for Plan Approval.

As-of-right - a use allowed under Section 7.45 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 7.49 through 7.412 shall be considered an as-of-right Project.

Department or DHCD - the Massachusetts Department of Housing and Community Development.

1 Sec. 7.4 approved by the City Council on April 21, 2010; approved by Mayor Tautznik on April 22, 2010.
Design Standards – means provisions of Section 7.413 made applicable to Projects within the SGZD that are subject to the Plan Approval process.

Dwelling Unit - One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.

Eligible Household - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws - G.L. Chapter 40R and 760 CMR 59.00.

Mixed-Use Development Project – a Project containing a mix of residential uses and non-residential uses, as allowed in Section 7.45, and subject to all applicable provisions of this Section 7.4.

Open Space -- Land that is not intensively developed for residential, commercial, industrial or institutional use. Open space can be publicly or privately owned and may include: agricultural and forested land, undeveloped riparian areas, scenic lands, public parks and recreation areas, and preserves. It also includes wetlands and water bodies such as ponds and vernal pools.

PAA Regulations – the rules and regulations of the PAA adopted pursuant to Section 7.493.

Plan Approval - standards and procedures which Projects in the SGZD must meet pursuant to Sections 7.49 through 7.413 and the Enabling Laws.

Plan Approval Authority (PAA) – The Easthampton Planning Board shall be the local approval authority authorized under Section 7.492 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZD.

Project - a Residential Project or Mixed-use Development Project undertaken within the SGZD in accordance with the requirements of this Section 7.4.

Residential Project - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 7.451.

SGZD – the Smart Growth Zoning District established in accordance with this Section 7.4.

Smart Growth – a land use development technique that advocates compact, transit-oriented, walkable, bicycle-friendly land use, including mixed-use development with a range of housing choices to protect open space and farmland, keep housing affordable, use infrastructure efficiently, and provide more transportation choices.

Townhouse – A dwelling unit in a group, extending from the foundation of the roof, with open space on at least two sides, and separated by a fire-rated wall from any other dwelling unit, and each unit built on individual lots.

Zoning Ordinance - the Zoning Ordinance of the City of Easthampton.
7.43 OVERLAY DISTRICT

7.431 Establishment.
The Easthampton Smart Growth Zoning District, hereinafter referred to as the “SGZD,” is an overlay district that is superimposed over the underlying zoning district(s) and is shown on the Zoning Map as set forth on the map entitled “Easthampton Smart Growth Zoning District, dated April 21, 2010, prepared by the Pioneer Valley Planning Commission.” This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.

7.432 Sub-districts.
The SGZD contains the following sub-districts:
   a. Downtown Mixed Use
   b. Traditional Neighborhood Village

7.44 APPLICABILITY OF SGZD

7.441 Applicability of SGZD.
An applicant may seek development of a Project located within the SGZD in accordance with the provisions of the Enabling Laws and this Section 7.4, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Ordinance, such application shall not be subject to any other provisions of the Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

7.442 Underlying Zoning.
The SGZD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 7.4. Within the boundaries of the SGZD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s).

7.443 Administration, Enforcement, and Appeals.
The provisions of this Section 7.4 shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 7.49 through 7.413 shall be governed by the applicable provisions of MGL Chapter 40R.

7.45 PERMITTED USES
The restrictions and controls intended to regulate development in each district are set forth in Section 7.451 SGZD Table of Use as follows:

<table>
<thead>
<tr>
<th>P</th>
<th>Use Permitted by Right in the District</th>
</tr>
</thead>
<tbody>
<tr>
<td>PA</td>
<td>Use Permitted with Plan Approval in the District from the Planning Board in accordance with Section 7.49</td>
</tr>
<tr>
<td>N</td>
<td>Not permitted</td>
</tr>
</tbody>
</table>

7-32
All projects in a SGZD must have a residential use. Retail, service, and manufacturing uses will not be permitted without a residential component.

### Section 7.451 SGZD Table of Use

<table>
<thead>
<tr>
<th>Use Type</th>
<th>Standards and Conditions</th>
<th>Downtown Mixed Use</th>
<th>Traditional Neighborhood Village (TNV)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESIDENTIAL</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-family Residential Uses, Detached</td>
<td></td>
<td>N</td>
<td>PA</td>
</tr>
<tr>
<td>2 and 3 family Residential Uses</td>
<td></td>
<td>N</td>
<td>PA</td>
</tr>
<tr>
<td>Townhouses</td>
<td>Townhouses will be built on individual lots with zero side setback requirements.</td>
<td>N</td>
<td>PA</td>
</tr>
<tr>
<td>Multi-family Residential Uses (over 4 units)</td>
<td>Not allowed on the ground floor, unless the unit is handicap accessible and is located in the back of the building.</td>
<td>PA*</td>
<td>N</td>
</tr>
<tr>
<td>Assisted Living Residence</td>
<td>Any entity, however organized, which provides room and/or board in an independent residential living environment, provides services to residents who do not require 24-hour skilled nursing care, but need assistance with activities of daily living, and collects payments for the provision of these services.</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Nursing Home</td>
<td>A home for the aged or infirm in which three or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.</td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Accessory Apartments</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td><strong>RETAIL AND SERVICE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Convenience Market</td>
<td>Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Use Type</td>
<td>Standards and Conditions</td>
<td>Downtown Mixed Use</td>
<td>Traditional Neighborhood Village (TNV)</td>
</tr>
<tr>
<td>--------------------------------</td>
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<tr>
<td>RETAIL AND SERVICE** (con’t)</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Supermarket</td>
<td>A retail establishment primarily selling food, as well as other convenience and household goods, which occupies more than 5,000 square feet of gross floor area</td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Professional Offices</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Pharmacy, drugstore</td>
<td></td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Child Care Center</td>
<td>Facilities that serve children under seven years of age or sixteen years if the children have special needs, or school-age children in programs that are held before or after school hours or during vacations</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Restaurants and bars</td>
<td>Not including drive-in or drive-through restaurants</td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Bed-and-Breakfast Use</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Beauty or barber shop, hair salon, tanning salon, or similar establishment</td>
<td></td>
<td>PA</td>
<td>PA, tanning salon not permitted</td>
</tr>
<tr>
<td>Laundry or dry cleaning establishement</td>
<td>In the TNV, drop off laundry or dry cleaning service permitted only.</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>MIXED USE**</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Neighborhood scale mixed use development projects, allowing two or more uses within the same building</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Downtown scale mixed use development projects, allowing two or more uses within the same building</td>
<td></td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Use Type</td>
<td>Standards and Conditions</td>
<td>Downtown Mixed Use</td>
<td>Traditional Neighborhood Village (TNV)</td>
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</tr>
<tr>
<td><strong>MIXED USE</strong> (con’t)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mill Renovation for Mixed Use</td>
<td>PA</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td><strong>WHOLESALE, TRANSPORTATION, &amp; INDUSTRIAL</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research offices or establishments devoted to research and development</td>
<td>PA</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Wholesale trade and distribution</td>
<td>PA</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>General manufacturing uses not commonly considered hazardous or noxious</td>
<td>PA</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Publishing, data processing</td>
<td>Shall be carried on by the occupants of the dwelling unit with no more than one non-resident employee</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Computer software manufacturing</td>
<td>The manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and package</td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Warehousing establishments</td>
<td>In the Downtown Mixed Use District, this use is only permitted in an existing building</td>
<td>PA</td>
<td>N</td>
</tr>
<tr>
<td>Self Storage Facility</td>
<td>A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>ACCESSORY USES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Use Type</td>
<td>Standards and Conditions</td>
<td>Downtown Mixed Use</td>
<td>Traditional Neighborhood Village</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
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<td>----------------------------------</td>
</tr>
<tr>
<td>ACCESSORY USES (con’t)</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Accessory uses customarily incidental to any of the above permitted uses.</td>
<td></td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>See Section 10.4 of the Easthampton Zoning Ordinance in effect as of <em>(Date)</em> for standards</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Family Home Day Care</td>
<td>Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed six</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Church or other religious purpose</td>
<td></td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Educational Use</td>
<td>On land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies political; or by a religious sect or denomination; or by a nonprofit educational corporation.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Use Type</td>
<td>Standards and Conditions</td>
<td>Downtown Mixed Use</td>
<td>Traditional Neighborhood Village</td>
</tr>
<tr>
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<td>----------------------------------</td>
</tr>
<tr>
<td>ACCESSORY USES (con’t)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City administration building, fire or police station</td>
<td>PA</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Public park, conservation area and preserved open spaces</td>
<td>Including areas for passive and active recreation</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>City highway equipment and electric utility garage</td>
<td>N</td>
<td>N</td>
<td></td>
</tr>
<tr>
<td>Agriculture, aquaculture, silviculture, horticulture, floriculture and viticulture</td>
<td>On parcels of five acres or more.</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

* Permitted in Mixed-Use projects only, and not allowed on ground floor
** Not permitted unless within a Mixed-Use Project

Additional notes:
- a. All uses not specifically mentioned in Table 7.4-1 are prohibited.
- b. The total gross floor area devoted to non-residential uses within a mixed-use development project shall not exceed 50% of the total gross floor area of the Project.
- c. Neighborhood scale shall mean buildings with a maximum height of three (3) stories and forty (40) feet.
- d. Downtown scale shall mean a maximum height of five (5) stories and sixty (60) feet.
- e. The minimum allowable as-of-right density requirements for residential uses specified in Section 7.1 shall apply to the residential portion of any mixed-use development project.

**7.46 HOUSING AND HOUSING AFFORDABILITY**

**7.461 Number of Affordable Housing Units.**

For all Projects not less than twenty percent (20%) or more than 50% of housing units constructed shall be Affordable Housing. For Multifamily Housing limited to elderly residents, projects shall have at least thirty percent (30%) affordable housing units. Every project shall create at least one affordable housing unit. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

**7.462 Monitoring Agent.**

The Monitoring Agent shall be the regional Housing Partnership (HAP, Inc.). In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGZD, and on a continuing basis thereafter, as the case may be:
1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;

3. The housing marketing and resident selection plan conform to all requirements and are properly administered;

4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and

5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Hampshire County Registry of Deeds.

7.463 Submission Requirements.

As part of any application for Plan Approval for a Project within the SGZD submitted under Sections 7.49 through 7.413 the Applicant must submit the following documents to the PAA and the Monitoring Agent:

1. Evidence that the Project complies with the cost and eligibility requirements of Section 7.464 of this ordinance;

2. Project plans that demonstrate compliance with the requirements of 7.465 of this ordinance, and;

3. A form of Affordable Housing Restriction that satisfies the requirements of Section 7.466 of this ordinance.

These documents in combination, to be submitted with an application for Plan Approval shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

7.464 Cost and Eligibility Requirements. Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households. If approved by DHCD, preference will be given to local residents.

2. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the City of Easthampton.
7.465 **Design and Construction.** Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

7.466 **Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is recorded with the Hampshire County Registry of Deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction which shall be no less than thirty years;
2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for preferences in resident selection; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
7. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
8. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;
9. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
10. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
11. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and
12 A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

7.467 **Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

7.468 **Age Restrictions.** Nothing in this Section 7.4 shall permit the imposition of restrictions on age upon all Projects throughout the entire SGZD. However, the PAA may, in its review of a submission under Section 7.49, allow a specific Project within the SGZD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than thirty percent (30%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

7.469 **Phasing.** For any Project that is approved and developed in phases in accordance with Section 7.494, the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h)) shall be consistent across all phases.

7.4610 **No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7.46 shall not be waived.

7.47 **DIMENSIONAL AND DENSITY REQUIREMENTS**

This ordinance shall promote both small and large infill development projects within the designated Smart Growth Sub Districts throughout the City of Easthampton. Infill development of single lots considered non-conforming under MGL Chapter 40A, Section 6 is permitted within the SGZD, provided that the housing unit will be deeded as Affordable Housing, as defined in Section 7.42 of this ordinance.
7.471 Tables of Height and Bulk Requirements.

Notwithstanding anything to the contrary in this Zoning Ordinance, the dimensional requirements applicable in the SGZD are as follows:

**Table 7-1. Height and Density Requirements in the Downtown Mixed Use Sub-District**

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum Height (feet)</th>
<th>Maximum Height (stories)</th>
<th>Required Residential Density (du/ac.)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling Units, Multi-Family</td>
<td>60</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>45</td>
<td>3.5</td>
<td>20</td>
</tr>
<tr>
<td>Mill Renovation for Mixed Use</td>
<td>No limit</td>
<td>--</td>
<td>20</td>
</tr>
<tr>
<td>Mixed Use Development, Downtown and Neighborhood Scale</td>
<td>60</td>
<td>5</td>
<td>20</td>
</tr>
</tbody>
</table>

* Density requirement may be waived to a higher density in exchange for a higher percentage of affordable units.

**Table 7-2. Height and Density Requirements in the Traditional Neighborhood Village Sub-District**

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum Height (feet)</th>
<th>Maximum Height (stories)</th>
<th>Required Residential Density (du/ac.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling Units, Single Family Detached</td>
<td>35</td>
<td>2.5</td>
<td>8</td>
</tr>
<tr>
<td>Townhouses</td>
<td>35</td>
<td>2.5</td>
<td>8</td>
</tr>
<tr>
<td>Dwelling Units, Duplex</td>
<td>35</td>
<td>2.5</td>
<td>12</td>
</tr>
<tr>
<td>Dwelling Units, Three-Family Detached</td>
<td>35</td>
<td>2.5</td>
<td>12</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>35</td>
<td>2.5</td>
<td>20</td>
</tr>
<tr>
<td>Mixed Use Development, Neighborhood Scale</td>
<td>40</td>
<td>3</td>
<td>20</td>
</tr>
</tbody>
</table>

7.472 Tables of Area Requirements.

All projects within the SGZD must provide a twenty-five (25) foot buffer to adjacent residential uses not within the SGZD. Notwithstanding anything to the contrary in this Zoning Ordinance, the area requirements applicable in the SGZD are as follows:

**Table 7-3. Area Requirements in the Downtown Mixed Use Sub-District**

<table>
<thead>
<tr>
<th>Use</th>
<th>Front setback (ft)</th>
<th>Side setback (ft)</th>
<th>Rear setback (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling Units, Multi-Family Detached</td>
<td>10</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>10</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Mill Renovation for Mixed Use</td>
<td>10</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Mixed Use Development, Downtown and Neighborhood Scale</td>
<td>0</td>
<td>5</td>
<td>20</td>
</tr>
</tbody>
</table>
### Table 7-4. Area Requirements in the Traditional Neighborhood Village Sub-District

<table>
<thead>
<tr>
<th>Use</th>
<th>Front setback (ft)</th>
<th>Side setback (ft)</th>
<th>Rear setback (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling Units, Single Family Detached</td>
<td>20</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Townhouses</td>
<td>20</td>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td>Dwelling Units, Duplex</td>
<td>20</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Dwelling Units, Three-Family Detached</td>
<td>20</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>20</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Dwelling Units, Patio House</td>
<td>20</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Mixed Use Development, Neighborhood Scale</td>
<td>20</td>
<td>10</td>
<td>30</td>
</tr>
</tbody>
</table>
7.480 PARKING REQUIREMENTS

The parking requirements applicable for Projects within the SGZD are as follows.

7.481 **Number of parking spaces.** Unless otherwise approved by the PAA, the following minimum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures, or on-street:

<table>
<thead>
<tr>
<th>Uses</th>
<th>Number of Parking Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential</strong></td>
<td></td>
</tr>
<tr>
<td>One-family dwelling</td>
<td>Two (2) per dwelling unit</td>
</tr>
<tr>
<td>Accessory apartment</td>
<td>Two (2) per dwelling unit, except the one-bedroom accessory apartment requires only one (1) space</td>
</tr>
<tr>
<td>Duplex; conversion of existing one-family dwelling to two-family</td>
<td>Two (2) per dwelling unit</td>
</tr>
<tr>
<td>Conversion of existing one-family dwelling to three- and four-family dwelling; multifamily housing for elderly and/or handicapped persons</td>
<td>One and one-half (1½) for each dwelling unit</td>
</tr>
<tr>
<td>Multifamily housing</td>
<td>One (1) for each bedroom in each unit plus 1 additional visitor space for every 10 units in the development</td>
</tr>
<tr>
<td>Bed and Breakfast</td>
<td>Two (2) plus one (1) additional space for each rooming unit</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>In addition to meeting the parking standards for the dwelling unit, one (1) space plus one (1) space for each non-resident employee</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Uses</th>
<th>Number of Parking Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Community Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>Childcare facility; family day care home</td>
<td>One per two (2) employees plus one off-street passenger loading place for every eight (8) students</td>
</tr>
<tr>
<td>City building, recreational facility</td>
<td>One per each four hundred (400) square feet of gross floor area</td>
</tr>
<tr>
<td>Nursing, rest or convalescent home</td>
<td>One per three (3) beds at design capacity</td>
</tr>
<tr>
<td>Public Utility</td>
<td>One for each four hundred (400) square feet of gross floor area devoted to office use One for each eight hundred (800) square feet of gross floor area per other use</td>
</tr>
<tr>
<td>Uses</td>
<td>Number of Parking Spaces Per Unit</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td><strong>Retail and Service</strong></td>
<td></td>
</tr>
<tr>
<td>Convenience market; pharmacy, drugstore</td>
<td>Five (5) for each 1,000 square feet of gross floor area; minimum of four (4)</td>
</tr>
<tr>
<td>Supermarket</td>
<td>Six (6) for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Restaurants, bars</td>
<td>One for each four (4) seats of total seating capacity, plus one for each two employees on shift of greatest employment</td>
</tr>
<tr>
<td>Discount club, warehouse club, warehouse supermarket</td>
<td>Five (5) for each 1,000 square feet gross floor area</td>
</tr>
<tr>
<td>Other retail uses including, but not limited to: discount store; hardware/paint shop; garden center; factory outlet store; antique or gift shop</td>
<td>One per each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>Beauty or barber shop, hair salon or similar establishment</td>
<td>Two (2) for each operator chair</td>
</tr>
<tr>
<td>Personal and consumer establishments, including, but not limited to: laundry or dry cleaning; tailor; milliner; cobbler; photographer's studio; repair shop for household appliance or business equipment; photocopy shop</td>
<td>One per each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>Medical/dental center, clinic or laboratory</td>
<td>Five (5) for each practitioner or one for each three hundred (300) square feet of gross floor area, whichever is greater</td>
</tr>
<tr>
<td>Other professional and business offices and services</td>
<td>One for each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td><strong>Industrial</strong></td>
<td></td>
</tr>
<tr>
<td>Manufacturing or industrial establishment</td>
<td>One for each six hundred (600) square feet of gross floor area OR 0.75 for each employee of the combined employment of the two (2) largest successive shifts, whichever is larger</td>
</tr>
</tbody>
</table>

Offsite parking will be allowed within 300’ of the Project. The PAA may allow for a decrease in the required parking as provided in Sections 7.482 and 7.483 below.

**7.482 Shared Parking.**

Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).
7.483 Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

a) the availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
b) the availability of public or commercial parking facilities in the vicinity of the use being served;
c) shared use of off street parking spaces serving other uses having peak user demands at different times;
d) age or other occupancy restrictions which are likely to result in a lower level of auto usage;
e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
f) such other factors as may be considered by the PAA.

7.484 Location of Parking.

Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

7.49 PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

7.491 Plan Approval. An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 7.49 through 7.413. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. The following categories of Projects shall be subject to the Plan Approval process:

a) Any Project requiring Plan Approval in Section 7.451 SGZD Table of Use and any Project seeking a waiver.

7.492 Plan Approval Authority (PAA). The Easthampton Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZD.

7.493 PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

7.494 Project Phasing. An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of Section 7.469.
7.410 PLAN APPROVAL PROCEDURES

7.4101 Pre-application. Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

1. Overall building envelope areas;
2. Open space and natural resource areas; and
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGZD.

7.4102 Required Submittals. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with an application fee of $25 per residential unit, which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 7.46, the application shall be accompanied by all materials required under Section 7.463. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1”=40’) or larger, or at a scale as approved in advance by the PAA.

7.4103 Application Content. All of the following requirements shall be included on the Site Plan:

1. Name of the project, locus, boundaries and locus maps showing the site’s location, data, north arrow, and scale of the plan. All revisions occurring after original submission shall be noted and dated.
2. Name and address of the owner of record, developer, and original seal of the engineer, surveyor, architect, or landscape architect, as applicable.
3. Names and addresses of all owners of record abutting parcels and those within three hundred (300) feet of the property line.
4. All existing lot lines, easements, and rights-of-way. Included area in acres or square feet; abutting land uses, and the location and use of structures within three hundred (300) feet of the site.
5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations. Structures to be removed shall be indicated by dashed lines.
6. The locations of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
7. The locations, height, intensity and bulb type of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials, and design of all proposed signage.
9. The location and description of all present and proposed utility systems including sewage or septic system; water supply system; telephone, cable television, and electrical systems; and storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, manholes, and drainage swales.

The PAA will require soil logs, percolation tests, and storm run-off calculations for large or environmentally sensitive developments.

10. Plans to prevent pollution of surface or groundwater; erosion of soil both during and after construction; excessive run-off; excessive raising or lowering of the water table; and flooding of other properties, as applicable.

11. Existing topography, indicated by dashed lines of two-foot contour intervals where slopes are greater than three (3) percent but less than fifteen (15) percent, and at five-foot contour intervals where slopes are fifteen (15) percent or more. All elevations shall be referred to the nearest U.S. Coastal and Geodetic datum. Where any changes in topography are proposed, finished contours shall be shown as solid lines.

If any portion of the site is within the one hundred-year flood elevation of any water body, the area will be shown and base flood elevations given.

Indicate all areas within the site and within fifty (50) feet of the site, where ground removal or filling is proposed, and given its approximate volume in cubic yards.

12. A landscape plan showing all existing natural land features, major trees, forest cover, and water sources and all proposed changes to these features including size and type of plan material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas. General soil types shall be indicated as part of the landscape plan.

13. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan. Such features may be shown as a key map on the detail plan itself.

14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, size and location of curb cuts on the site and within one hundred (100) feet of the site. Include the possible organization of traffic channels, acceleration and deceleration lanes, additional width or other means necessary to prevent difficult traffic situations.

### 7.4104 Additional Material

All of the following requirements shall be included on the Site Plan:

1. **Traffic Impact Statement.** A detailed Traffic Impact Statement is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one of the following uses which generates high volumes of trips: convenience stores; drive-in restaurant; automotive service station; or bank. The Traffic Impact Statement shall contain:

   (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;

   (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site and entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.
(3) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.

(4) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.

(5) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

2. Elevation plans of a scale of one-quarter (1/4) inch equals one foot for all exterior facades indicating pertinent design features and type of materials to be used.

3. Deeds, easements, agreements, and other legal documents. Drafts of deeds, easements, agreements, and other legal documents, including the following where applicable:

   (1) Deeds of land to be conveyed to the city for streets or other public purposes;
   (2) Deeds of easements and right-of-way;
   (3) Covenants and any other agreements affecting the use of the site;
   (4) Articles of incorporation of a landowner’s association and the by-laws of the association; and,
   (5) Agreements between the applicant and the City regarding public improvements or other matters.

7.4105 Filing. An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the PAA.

7.4106 Circulation to Other Boards. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the City Council, Board of Health, Conservation Commission, Fire Department, Police Department, Building Inspector, Department of Public Works, the Monitoring Agent and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

7.4107 Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

7.4108 Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys,
engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith.

7.411 PLAN APPROVAL DECISIONS

7.4111 Plan Approval. Plan Approval shall be granted where the PAA finds that:
1. the applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. the Project as described in the application meets all of the requirements and standards set forth in this Section 7.4 and the PAA Regulations, or a waiver has been granted therefrom; and
3. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 7.46, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 7.4, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

7.4112 Plan Disapproval. A Plan Approval application may be disapproved only where the PAA finds that:
1. the applicant has not submitted the required fees and information as set forth in the Regulations; or
2. the Project as described in the application does not meet all of the requirements and standards set forth in this Section 7.4 and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
3. it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

7.4113 Waivers. Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 7.4, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGZD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 7.4.

7.4114 Project Phasing. The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

7.4115 Form of Decision. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and
that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

7.4116 Validity of Decision. A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

7.412 CHANGE IN PLANS AFTER APPROVAL BY PAA

7.4121 Minor Change. After Plan Approval, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk.

7.4122 Major Change. Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 7.49 - through 7.413.

7.413 DESIGN STANDARDS

7.4131 Adoption and Amendment of Design Standards. The Plan Approval Authority may adopt and amend, by simple majority vote, Design Standards which shall be applicable to all Projects subject to Plan Approval by the Plan Approval Authority. Such Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

7.4132 DHCD Approval

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Before adopting or amending Design Standards, the PAA shall submit Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the City Clerk.

**7.4133 Plan Approval**

An application for Plan Approval that has been submitted to the City Clerk pursuant to this Section shall not be subject to Design Standards that have not been approved by DHCD and filed with the City Clerk.

**7.414 SEVERABILITY**

If any provision of this Section 7.4 is found to be invalid by a court of competent jurisdiction, the remainder of Section 7.4 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 7.4 shall not affect the validity of the remainder of the City’s Zoning Ordinance.
SECTION VIII. DEVELOPMENT METHODS

8.0 GENERAL DEVELOPMENT STANDARDS

All developments in the city shall conform to the Rules and Regulations Governing the Subdivision of Land in the City of Easthampton, Massachusetts, as amended.

8.1 PLANNED BUSINESS DEVELOPMENT

8.11 Planned Business Developments shall be permitted in the General Business (GB) Highway Business (HB) and Industrial (I) districts only upon the issuance of a Special Permit from the Planning Board in accordance with Section 12.7 of this ordinance.

8.12 General Description

A Planned Business Development shall mean a development constructed on a lot or lots under single or consolidated ownership at the time of the application, planned, developed, operated and maintained as a single entity containing one or more structures to accommodate retail and service uses and shall be at least three (3) acres in size and shall conform to Section 6.10, Building Size Cap for Retail Uses, of the Easthampton Zoning Ordinance. (Sec. 8.12 amended by the City Council on June 17, 2015; approved by the Mayor on June 18, 2015)

Planned Business Developments are permitted a reduction in the parking requirements contained in the Table of Off-Street Parking Regulations provided that the Special Permit requirements (Section 12.7) of the ordinance are met as well as additional requirements herein specified.

8.13 Permitted Uses

Uses permitted by Special Permit in a Planned Business Development shall include all Retail and Service uses listed in Table 5-1.

8.14 Area, Height, and Bulk Regulations

a. All uses in a Planned Business Development shall be in conformity with the area, height and bulk regulations set forth in Table 6-1 (Easthampton Table of Area Regulations) and Table 6-2 (Easthampton Table of Height and Bulk Regulations).

b. Uses shall be contained in one continuous building except that groupings of buildings may be allowed by the special permit of the Special Permit Granting Authority where such groups are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.

c. The development shall be served by one common parking area and by common exit and entrance areas.

d. The following uses are restricted to a total of only twenty (20) percent of the gross floor area of the building(s) in the development: convenience market, drive-in or drive-through restaurants, automatic teller bank machines, banks with drive-through windows, and automotive service stations.

Unless the applicant provides data from existing uses, the Institute of Transportation Engineers' publication, Trip Generation, shall be used to calculate the number of vehicles trips per day for each proposed use.
Additional building permits for any uses listed above will not be issued once the twenty percent (20%) threshold has been reached.

8.15 Additional Planned Business Development Requirements

In addition to the Special Permit requirements in Section 12.7 of this ordinance, the planned business development must conform to the following:

8.151 The development shall be served only by one common parking area and by common exit and entrance areas.

8.152 The development shall be served by a public water and sewer system.

8.153 The proposed development must comply with the Commercial Development and Environmental Performance Standards of Section 10.5 and 10.2.

8.154 A reduction in parking space requirements is permitted for a Planned Business Development.

Reduction in parking space requirements shall not exceed more than ten (10) percent of those required under normal application of requirements for the particular uses proposed.

8.155 Except for the permitted parking space reduction, the Planned Business Development shall comply with the Off-Street Parking and Loading regulations in Section 10.1. In addition, the development must comply with the following:

a. Parking area may be located to the side or rear of the structure. No parking shall be permitted within the required front yard setback of a structure. (Subsection a. amended by the City Council on Aug. 4, 2010; approved by Mayor Tautznik on Aug. 10, 2010)

b. Notwithstanding other screening and landscape requirements set forth elsewhere in the ordinance, all yards shall be landscaped. Such landscaping shall include, but not necessarily be limited to, the planting of grass, ground cover, flowerbeds, shrubs, hedge or trees. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance, and free of refuse and debris. All plantings shall be arranged and maintained so as not to obscure the vision of traffic.

c. Street frontages shall include shade trees and there shall be trees planted for every 30 feet of street frontage, using trees no less than 2.5 inch caliper at the time of installation. In the case of an uncleared site, existing vegetation can be preserved to achieve said objective.

d. When a parking lot is located adjacent to a public right-of-way, at least a five (5) foot wide landscaped area between the right-of-way and the parking lot shall be provided. This area shall be landscaped with one shade or ornamental tree planted every forty (40) feet along the right-of-way.

e. For interior parking lot areas at least twelve (12) percent of the gross area of the vehicular use area shall be landscaped. Developed areas shall be a minimum of
nine (9) feet in width. One shade tree for every fifteen (15) parking spaces is required in parking lots of over fifty (50) spaces. Landscaped front, side and rear yard areas can be included in this calculation.

f. Failure to maintain landscaping shall be grounds to revoke parking lot approval and the approval for the principal use which the parking lot serves.

g. Loading and unloading facilities shall be located in a manner so as not to be visible from the street frontage. In addition, such facilities shall be screened from public view from any side streets abutting the lot on which the building is located.

8.156 Traffic Impact Statement

The Special Permit Granting Authority (SPGA) shall require a detailed traffic study for high-volume traffic generating uses with a trip generation rate over 700 vehicles/day (based on Institute of Transportation Engineers rates found in Trip Generation) within a Planned Business Development; for the construction of new Planned Business Development structure or more than 10,000 square feet in gross floor area; and for any external enlargement that brings the PBD total to 10,000 sq. ft. gross floor area for all structures. The SPGA may waive any or all requirements for a traffic study for external enlargements of less than 2,000 square feet of gross floor area in excess of the 10,000 gross floor area threshold. The traffic impact statement shall contain:

a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels.

b. The proposed traffic flow pattern for both vehicular and pedestrian access shall be described and related to the site plan, including vehicular movements, including vehicular movements at all major intersections likely to be affected by the proposed use of the site.

d. Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.

e. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersection. Existing daily and peak hour traffic levels and road capacities shall also be given.

f. An internal traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

8.157 Additional Buildings Within A Planned Business Development

Any additional buildings added to the development plan of a Planned Business Development, after it has received its initial Special Permit, shall be interpreted as an amendment to the initial special permit and results in a change of the special
permit conditions. The SPGA must hold a public hearing to discuss the proposed amendment to the PBD and any necessary changes to the special permit conditions.

A parking, landscaping and pedestrian system plan for any additional structure must be filed. Additional landscaping of the PBD's parking lot area may be required in order to ensure safe traffic flow within the PBD.

8.16 **Application for a Planned Business Development**

a. The applicant must comply with the application requirements of M.G.L. Chapter 40A, Section 9 and the requirements contained in Section 12.7 of this ordinance. Where the development constitutes a subdivision, the development shall be subject to Planning Board approval under the subdivision control law.

b. The applicant shall provide the city with a performance guarantee if the development requires subdivision. The performance guarantee is subject to approval from the SPGA and shall be in the form of (a) a Covenant covenating that before any lot is built upon or conveyed, all roads and utilities shall be built and approved by the SPGA; or (b) performance bond or surety. In the case of (b), the applicant shall complete all the required improvements at least nine (9) months prior to the expiration date of the financial performance guarantee so that the city will have time to draw upon said funds and complete the unfinished work.
8.2 PLANNED INDUSTRIAL DEVELOPMENT

8.21 Planned Industrial Developments shall be permitted in the Industrial (I) Districts only upon issuance of a Special Permit from the Planning Board.

8.22 A Planned Industrial Development shall mean a development constructed on a lot or lots under single or consolidated ownership at the time of the application, planned and developed as an integral unit and consistency primarily of light industrial uses.

8.23 General Description
A Planned Industrial Development shall encourage a wide range of manufacturing, research and other uses which can be built and operated with a minimum of noise, smoke, odor and other nuisances and which do not create adverse impacts upon adjacent uses.

8.24 Uses Permitted by Special Permit
Uses permitted by Special Permit in a Planned Industrial Development shall be limited only to the following:

8.241 Wholesale, Transportation and Industrial
   a. Enclosed processing and treating of raw materials including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding and milling operations.
   b. Transportation service facilities
   c. Open storage of raw materials, finished goods or construction equipment and structures for storing such equipment, provided such areas are screened from outside view.
   d. Wholesale trade and distribution
   e. Enclosed general manufacturing uses not commonly considered hazardous or noxious
   f. Research offices or establishments devoted to research and development
   g. Enclosed publishing, data processing and computer software manufacturing
   h. Moving and storage operations
   i. Warehousing establishments

8.242 Retail and Service Uses to Serve the Convenience Needs of Persons Working in the Development
The following retail and service uses shall be permitted, but no more than ten percent (10%) of the gross floor area of all the buildings in the Planned Industrial Development shall be retail and service uses:

   a. Convenience market
   b. Pharmacy, drugstore
c. Restaurants not including bars or drive-in or drive-through restaurants

d. Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverages

e. Automotive service station

f. Photocopy shop

g. Professional and business offices and services

8.243 Other Permitted Uses:

a. Agricultural uses including but not limited to farm stands, greenhouses, wood lots and other similar uses

b. Church or other religious purpose

c. Educational uses

d. Childcare facilities

e. Public park, conservation area and preserved open spaces including areas for active and passive recreation

f. Nonprofit recreational facility, not including a membership club

g. City buildings including but not limited to police stations, fire stations, ambulance services, highway equipment and electric utility garage

h. Public utility except power plant, water filter plant, sewerage treatment plant and refuse facility

i. Essential services

8.25 Dimensional Regulation

8.251 The minimum development size for any Planned Industrial Development is fifteen (15) acres. The tract must be in single or consolidated ownership at the time of application.

8.252 All uses shall be in conformity with the dimensional and density regulations set forth in Table 6-1, Easthampton Table of Area Regulations.

8.253 A fifty (50) foot buffer along the rear lot line and a thirty-five (35) foot buffer along the lot side line is required for a Planned Industrial Development abutting any residential districts.
8.26 **Incentives for Planned Industrial Developments**

In order to encourage the construction of Planned Industrial Developments the following incentives are provided:

a. Individual lot sizes must be reduced to no more than ten (10) percent below the largest that is normally required in the district.

b. The total number of establishments in the development shall not exceed the number of establishments which could be developed under normal application requirements of the district.

8.27 **Additional Requirements**

In addition to the Special Permit requirements in Section 12.7 of this ordinance, the development must conform to the following requirements:

8.271 The development shall be adequately served by a municipal water and municipal sewer system.

8.272 The development must comply with the Environmental Performance Standards in Section 10.2 and the Commercial Development and Performance Standards in Section 10.5 of this ordinance.

8.273 In addition to the Off-Street Parking and Loading regulations in Section 10.1, the development must comply with the following standards:

a. Parking areas shall be located to the side or rear of the structure. No parking shall be permitted within the required front yard of a structure.

b. No more than two (2) curb cuts per development is permitted onto any collector streets already existing when the Planned Industrial Development is proposed.

A collector street is a street which receives and distributes traffic to and from various subareas within a neighborhood and receives traffic from a given neighborhood and carries it to an arterial highway. These roads can be part of the state roadway system.

c. Not withstanding other screening and landscape requirements set forth elsewhere in this ordinance, all front and side yards shall be landscaped. Such landscaping shall include, but not necessarily be limited to, the planting of grass, ground cover, flowerbeds, shrubs, hedges or trees. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance, and free of refuse and debris. All plantings shall be arranged and maintained so as not to obscure the vision of traffic.

d. Street frontages shall include shade trees and there shall be trees planted for every 30 feet of street frontage, using trees no less than 2.5 inch caliper at the time of installation. In the case of an uncleared site, existing vegetation can be preserved to achieve said objective.

e. When a parking lot is located adjacent to a public right-of-way at least a 10-foot wide landscaped area between the right-of-way and the parking lot shall be
provided. This area shall be landscaped with one shade or ornamental tree planted every forty (40) feet along the right-of-way.

f. For interior parking lot areas five (5) percent of the gross area of the vehicular use area shall be landscaped areas and shall be a minimum of nine (9) feet in width. One shade tree for every fifteen (15) parking spaces is required in parking lots of over twenty (20) parking spaces.

g. Failure to maintain landscaping shall be grounds to revoke parking lot approval and the approval for the principal use which the parking lot serves.

h. Loading and unloading facilities shall be located in a manner so as to be visible from the street frontage. In addition, such facilities shall be screened from public view from any side streets abutting the lot on which the building is located.

8.274 Roads and utilities adequate to serve each stage of development must be installed prior to the occupancy of any structure within that stage of development.

8.275 Common Land Requirements

a. At least ten (10) percent of the total tract area (of which at least fifty (50) percent shall not be wetlands or over five (5) percent slope land) shall be set aside as common land.

b. A conservation restriction in perpetuity shall be recorded on the deed to ensure that common open space shall be for conservation purposes and not be built upon for residential use or developed for accessory uses such as roadways or parking. The conservation restriction shall be either:

(1) Conveyed to a non-profit organization whose principal purpose is the conservation or preservation of open space, and/or,

(2) Conveyed to the city at no cost. Such conveyance shall be at the option of the city and shall require the approval of the City Council.

c. Such common land shall be restricted to open space, playfield, golf course or conservation area.

d. Such common land shall have suitable access to a street.

8.28 Application for a Planned Industrial Development

a. The applicant must comply with the application requirements of M.G.L. Chapter 40A, Section 9 and the requirements contained in Section 12.7 of this ordinance. Where the site plan constitutes a subdivision, it shall be subject to Planning Board approval under the subdivision control law.

b. A Planned Industrial Development may be developed in stages, in accordance with a sequencing plan approved by the Planning Board.
c. The applicant shall provide the city with a performance guarantee if the development requires subdivision. The performance guarantee is subject to approval from the Planning Board and shall be in the form of: (a) a Covenant covenying that before any lot is built upon or conveyed, all roads and utilities shall be built and approved by the Planning Board; or (b) the applicant shall complete all the required improvements at least nine (9) months prior to the expiration date of the financial performance guaranteed so that the city will have time to draw upon said funds and complete the unfinished work.
8.3 MULTIFAMILY HOUSING

8.31 Multifamily Dwellings by Special Permit

a. Multifamily dwellings shall be permitted in the R-5, R-10, R-15, R-35, DB, HB, NB, and MI Districts as noted in Table 5-1, only upon issuance of a Special Permit from the Planning Board, as specified in Section XII of this ordinance, and in accordance with the additional requirements specified herein. (Amended by the City Council 1-21-97; further amended 10-15-08; approved by the Mayor 10-16-08)

b. Multifamily dwellings with at least fifteen percent (15%) of the dwelling units (and not less than one unit) meeting the criteria for affordability as defined in Section 8.34 shall be permitted in the R-5, R-10, R-15, R-35, DB, HB, NB and MI Districts as noted in Table 5-1, only upon issuance of a Special Permit from the Planning board, as specified in Table 5-1 of this ordinance, and in accordance with the additional requirements specified herein. (Subsection added by the City Council 10-15-08; approved by the Mayor 10-16-08)

c. The development shall be served by a public water system adequate in terms of fire protection and domestic use. The development shall be served by a public sewer or an individual on-lot septic system which meets the minimum requirements of Title 5, State Environmental Code and the Rules and Regulations of the Easthampton Board of Health, as amended.

8.32 Dimensional Requirements

a. All multifamily dwelling units shall conform to the dimensional requirements specified in Table 6-1 and Table 6-2.

b. More than one structure may be allowed on a lot in a multifamily housing project by Special Permit from the Planning Board provided that the minimum lot size requirements in Tables 6-1 and 6-2 are met for each structure.

c. The maximum number of dwelling units per structure shall be eighteen (18) with the condition in the R-15 and R-35 districts that the minimum yard setbacks be increased to fifty (50) feet if a structure contains over six units. In the Mixed Use Mill Industrial the Planning Board, by Special Permit, may allow a greater number of units in the historic mill buildings. (Amended 6-3-97; amended by the City Council 7-1-03; approved by the Mayor 7-2-03; further amended by the City Council 11-20-13; approved by the Mayor 11-23-13)

8.33 Additional Requirements for Multifamily Dwellings

8.331 Siting and Layout Requirements

a. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall to the extent feasible: (1) minimize use of wetlands, steep slopes, floodplains, hilltops; (2) minimize obstruction of scenic views from publicly accessible locations; (3) preserve unique natural or historical features; (4) minimize tree, vegetation and soil removal and grade changes; and (5) maximize open space retention and (6) screen objectionable features from neighboring properties and roadways.
b. More than one structure may be placed on a lot, but no residential structures shall be placed closer to each other than 10 feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.

c. In the DB, HB and MI Districts, no dwellings shall be permitted on the street level. (Amended by the City Council on 10-15-08; approved by the Mayor on 10-16-08)

8.332 Design Requirements

a. Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the city through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings.

8.333 Vehicular and Pedestrian Access Requirements

a. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.

b. Multifamily structures shall have access on roads having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic generated by the site.

c. Connecting walkways with tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Easthampton Subdivision Regulations.

8.334 Open Space and Buffer Area Requirements

a. The Board may require that a minimum of fifty percent (50%) of all land not devoted to dwellings, accessory uses, roads or other development be reserved as open space and be made available for active and passive recreation. (Sentence amended by the City Council 11-20-13; approved by the Mayor 11-23-13)

b. Multifamily dwellings shall be separated from adjacent properties by buffer strips consisting of trees and/or fencing sufficient to minimize the visual and noise impacts of the development. Such a buffer strip shall be at least ten (10) feet in width and it shall contain a screen of plantings. The screen shall not be less than five (5) feet in width and six (6) feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted as close as necessary to create a visual screen and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least fifty (50) percent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six (6) feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Planning Board. The strip may be part of the yard.
8.335 Parking, Loading and Lighting Requirements

a. To the extent feasible, parking areas shall not be located within a required front yard and shall be screened from public ways and adjacent or abutting properties by building location, fencing or planting. No individual parking area shall contain more than fourteen (14) spaces. Parking spaces shall be located not less than fifteen (15) feet from the front property line and ten (10) feet from the back or side property lines. No parking shall be allowed on interior streets.

b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.

c. No building shall be floodlit. Drives, parking areas, walkways and entrance ways shall be illuminated only by shielded lights not higher than fifteen (15) feet.

8.336 Water Supply and Sewerage Requirements

a. Water supply and waste disposal systems shall not place excessive demands on municipal infrastructure.

8.337 Storm Water Runoff

a. To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:

   (1) prevent non-point source pollution from urban runoff to streams, water bodies or groundwater;
   (2) prevent the flooding of other neighboring down-gradient properties;
   (3) promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

8.338 Utility Requirements

Electric, telephone, cable TV and other such utilities shall be underground.

8.339 Accessibility Requirements

Developments seeking permitting for deed restricted multifamily housing for persons over age 55 shall design first floor units for universal access, and shall construct all units to allow for future needed improvements for accessibility to persons with disabilities. (Subsection added by the City Council 10-15-08; approved by the Mayor 10-16-08)
8.34 Affordable Housing Requirements

8.341 Whenever an application is made under this section for a Special Permit or Site Plan Approval from the Planning Board for a multifamily dwelling or development, the Planning Board shall require as a condition of the grant of a Special Permit the provision within the development of affordable housing units amounting to fifteen (15) percent of the development's total number of dwelling units.

8.342 The affordable housing units to be provided shall be compatible with the equivalent in exterior architectural design to other units within the development.

8.343 The distribution of unit sizes (i.e., number of bedrooms) and determination of occupancy characteristics (i.e., elderly or family) shall be made by the Planning Board at the time of granting the Special Permit.

8.344 Target Population for Affordable Housing Units

   a. Affordable housing units are those which may be purchased by families with incomes less than eighty (80) percent of the median income for the Springfield-Chicopee-Holyoke Standard Metropolitan Statistical Area, and for whom the whole expenditure for housing costs does not exceed thirty (30) percent of the gross annual income of the owner. Housing costs for affordable housing units shall be calculated based upon current available mortgage interest rates, a thirty-year (30) mortgage term, and a ten (10) percent down payment. Adjustments must be made according to the number of persons in the household. The maximum sale price for the affordable housing units shall be based upon these housing cost calculations.

   b. The median income for the SMSA shall be as established by the U.S. Department of Housing and Urban Development median gross family income data, as annually updated.

   c. The selection of qualified buyers for the affordable units shall be administered by a qualified non-profit housing agency. The selection from a pool of prospective buyers meeting the established income guidelines shall be based upon the following criteria:

      (1) Priority consideration shall be given to households not currently owning a home

      (2) Priority consideration. To the extent legally permissible, preference for seventy percent (70%) of the Affordable Units within a development shall be given to Eligible Purchasers who are either: (a) City residents; (b) persons who work within the City; and/or (c) persons with a child or children in the Easthampton public school system.
8.345 Preservation of Affordability

a. In order to ensure equity and continued affordability, affordable housing units within the development shall be subject to resale controls administered by a qualified housing non-profit agency. Affordable housing units shall be subject to a deed restriction which shall establish the procedure for determining the maximum resale price of the unit as follows:

   (1) At the time of initial sale of the affordable unit, the Housing Authority shall arrange for a real estate appraisal to be made, the costs to be borne by the seller, to determine the market value of the unit. The sale price divided by the market value of the unit shall equal the discount rate. The discount rate shall be recorded as a deed restriction.

   (2) When the unit is resold, a real estate appraisal shall again be conducted to determine the market value of the unit. The market value shall be multiplied by the discount rate established on the deed to determine the maximum resale price.

   (3) The deed restriction shall contain the following language: "No deed shall be valid to convey good title, unless it is accompanied by the certificate of the Housing agency, which after having made at least one appraisal thereof, certifies the full market value of the property, and further state the maximum consideration to be permitted on the deed."

b. At the time of resale of an affordable housing unit, the housing non-profit agency shall notify qualifying households on their waiting list of the availability of the unit, immediately after determining the resale price.

c. Those families so notified shall have exclusive right to contract for the unit, for a period of sixty (60) days.

d. If no contract has been entered into with any party at the end of sixty days, the owner of the unit may offer the unit to the general public at the price determined by the deed restriction.
8.4 MULTIFAMILY HOUSING FOR ELDERLY AND/OR HANDICAPPED PERSONS

(Section 8.4 deleted in its entirety on 10-15-2008; approved by the Mayor on 10-16-2008)
8.5 ACCESSORY APARTMENTS

Accessory Apartments shall be permitted in all districts noted in Section V, Table 5-1, Table of Use Regulations only upon issuance of a Special Permit from the Zoning Board of Appeals as specified in Section XII of this ordinance, and in accordance with the additional requirements specified herein.

8.51 General Description
An accessory apartment shall mean a self-contained, separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities and a separate means of egress, that is substantially contained within or accessory to a single-family dwelling. (Amended by the City Council on 11/19/2014; approved by the Mayor on 11/20/2014).

8.52 Purpose
The purpose of the accessory apartment ordinance is to:

a. Provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;

b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;

c. Make housing units available to low and moderate income households who might otherwise have difficulty finding homes within the city;

d. Protect stability, property values and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this ordinance; and

e. Legalize conversion to encourage compliance with the State Building Code.

8.53 Accessory Apartment Standards

The Zoning Board of Appeals may authorize a Special Permit for a use known as Accessory Apartment in Owner-Occupied, Single-Family Dwelling, provided that the following standards and criteria are met:

a. The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit.

b. Only one apartment will be created on a single-family lot. (Amended by the City Council on 11/19/14; approved by the Mayor on 11/20/14).

c. The lot in which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.

d. The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
e. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. In general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single-family character of the neighborhood.

f. An addition to the original building is permitted, provided that the addition does not increase the floor area or volume of the original building by more than one-third (33%) of the existing total residential space (excluding unfinished attic and basement, garage, porch and patio). These same dimensional criteria shall apply to an Accessory Apartment constructed in an existing detached dwelling (such as a garage, barn or carriage house), or to an Accessory Apartment constructed as part of a new detached dwelling. (Amended by the City Council on 11/19/2014; approved by the Mayor on 11/20/2014).

g. The accessory apartment shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than one-third (33%) of the existing total residential space or eight-hundred (800) square feet, whichever is less. (Amended by the City Council on 11/19/2014; approved by the Mayor on 11/20/2014).

h. At least two off-street parking spaces per dwelling unit are available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure, to the extent feasible.

i. For dwellings to be served by on-site septic system, the owner must obtain a Disposal Works Construction Permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.

j. The construction of any accessory apartment must be in conformity with the State Building Code requirements.

8.54 Application Procedure

a. The procedure for the submission and approval of a Special Permit for an Accessory Apartment in Owner-Occupied, Single-Family Dwelling shall be the same as prescribed in the Special Permit, Section 12.7 by the Zoning Board of Appeals except it shall include a notarized letter of application from the owner(s) stating that he/they will occupy one of the dwelling units on the premises. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Sec. 11 must be notified. (Amended by the City Council on 11/19/2014; approved by the Mayor on 11/20/2014).

b. Upon receiving a special permit, the owner(s) must file on subject property a declaration of Covenants at the Hampshire County Registry of Deeds. The declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded declaration shall be provided to the Zoning Board of Appeals and filed with the City Clerk. (Amended by the City Council on 11/19/2014; approved by the Mayor on 11/20/2014).

c. In order to provide for the development of housing units for disabled and handicapped individuals, the Zoning Board of Appeals will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.
8.55 Transfer of Ownership of a Dwelling with an Accessory Apartment

a. The temporary Special Permit for an accessory apartment in owner-occupied, single-family dwelling shall terminate upon the sale of property or transfer of title of the dwelling, unless the Zoning Board of Appeals has approved a transfer of the Special Permit to the new owner.

b. The new owner(s) must apply for transfer of a Special Permit for an accessory apartment in owner-occupied, single-family dwelling and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Zoning Board of Appeals, stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.

c. Upon receiving the transferred special permit, the new owner(s) must file on subject property a declaration of Covenants at the Hampshire County Registry of Deeds. The declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded declaration shall be provided to the Zoning Board of Appeals.

8.56 Accessory Apartments in Existence Before the Adoption of An Accessory Apartment Ordinance

a. Statement of Intent

To ensure that accessory apartments or conversions in existence before the adoption of this Accessory Apartment ordinance are in compliance with the State Building Code Regulations.

b. Application Procedure

The Zoning Board of Appeals may authorize, under a Special Permit and in conjunction with the Building Inspector, a use known as an Accessory Apartment in an Owner-Occupied, Single-Family Dwelling. The Board will review each existing use on a case-by-case basis to determine if the dwelling conforms to State Building Regulations.

The applicant must follow the same procedure described in this Section including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.
8.6 PLANNED UNIT RESIDENTIAL DEVELOPMENT FOR AFFORDABLE HOUSING

8.61 Uses Allowed By Special Permit
Planned Unit Residential Developments shall be permitted in the R-5, R-10, and R-15 Districts only upon issuance of a Special Permit from the Planning Board as specified in Section XII of this ordinance.

8.62 General Description
A "Planned Unit Residential Development" shall mean a development containing a mixture of residential uses and building types, including single family dwellings, townhouses, two-family dwellings or multifamily dwellings, and open space. A planned unit residential development may be allowed by special permit to exceed the normal density requirements for the district to the extent authorized by this ordinance provided that standards for the permanent protection of open space, the provision of affordable housing, and other standards specified herein are met.

8.63 Purposes
The purposes of this Planned Unit Residential Development ordinance are to:

a. allow for greater variety and flexibility in the development of housing types;

b. promote the permanent preservation of open space;

c. facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner;

d. maintain and replicate the traditional New England rural character and land use pattern in which small villages are adjacent to common open space.

8.64 Uses Allowed by Special Permit

a. Single family dwellings;

b. Two-family dwellings;

c. Townhouses - single family dwellings connected by one or more common walls;

d. Multifamily dwellings;

e. Recreational uses and open space.

8.65 Density and Dimensional Regulations
If the proposed project complies with the affordable housing requirements specified in Section 8.69, the following density and dimensional requirements may be substituted for those requirements normally required in the district:

a. The minimum lot size for all dwelling units may be reduced by ten (10) percent below the lot size required in Table 6-1.

b. The minimum total land area for a Planned Unit Residential Development shall be ten (10) acres.

8.66 Density and Dimensional Regulations

a. There shall be no frontage requirements within the Planned Unit Residential Development.

d. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements shall pertain only to the periphery of the Planned Unit Residential Development.

e. The maximum number of dwelling units per structure shall be eighteen (18) with the condition in the R-15 and R-35 districts that the minimum yard setbacks be increased to fifty (50) feet if a structure contains over six units (Amended by the City Council on 07-01-2003; approved by the Mayor on 07-02-2003).
8.66 Utility, Parking, and Circulation Requirements
   a. All structures which require plumbing shall be connected to a public sanitary sewer and public water system.
   b. A minimum of two parking spaces per dwelling unit shall be required, which may include garages.
   c. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, facilities, roadways, driveways, and parking.

8.67 Landscaping and Buffer Area Requirements
   a. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways and walkways, shall be submitted for approval by the Planning Board, and shall be subsequent to such approval, implemented.
   b. Whenever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.
   c. All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width which shall include trees and shall be kept in a natural or landscaped condition.

8.68 Common Open Space Requirements
   a. All land not devoted to dwellings, accessory uses, roads, or other development shall be set aside as common land for recreation, conservation, or agricultural uses which preserve the land in essentially its natural condition.
   b. Further subdivision of common open land or its use for other than recreation, conservation, or agricultural, except for easements for underground utilities, shall be prohibited. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed five (5) percent coverage of such common open land.

8.69 Affordable Housing Requirements
   8.691 Whenever an application is made under this section for a Special Permit from the Planning Board for a Planned Unit Residential Development, the Planning Board shall require as a condition of the grant of a Special Permit the provision within the development of affordable housing units amounting to ten (10) percent of the development's total number of dwelling units.
   8.692 The affordable housing units to be provided shall be compatible with the equivalent in exterior architectural design to other units within the development.
   8.693 The distribution of unit sizes (i.e., number of bedrooms) and determination of occupancy characteristics (i.e., elderly or family) shall be made by the Planning Board at the time of granting the Special Permit.
8.694 Target Population for Affordable Housing Units
a. Affordable housing units are those which may be purchased by families with incomes less than one hundred (100) percent of the median income for the Springfield-Chicopee-Holyoke Standard Metropolitan Statistical Area, the whole expenditure for housing costs does not exceed thirty (30) percent of the gross annual income of the owner. Housing costs for affordable housing units shall be calculated based upon current available mortgage interest rates, a thirty-year (30) mortgage term, and a ten (10) percent down payment. Adjustments must be made according to the number of persons in the household. The maximum sale price for the affordable housing units shall be based upon these housing cost calculations.

b. The median income for the SMSA shall be established by the U.S. Department of Housing and Urban Development median gross family income data, as annually updated.

c. The selection of qualified buyers for the affordable units shall be administered by the Easthampton Housing Authority. The selection from a pool of prospective buyers meeting the established income guidelines shall be based upon the following criteria:

(1) Priority consideration shall be given to households not currently owning a home

(2) Priority consideration

8.695 Preservation of Affordability
a. In order to ensure equity and continued affordability, affordable housing units within the PURD shall be subject to resale controls administered by the Easthampton Housing Authority. Affordable housing units shall be subject to a deed restriction which shall establish the procedure for determining the maximum resale price of the unit as follows:

(1) At the time of initial sale of the affordable unit, the Housing Authority shall arrange for a real estate appraisal to be made, the costs to be borne by the seller, to determine the market value of the unit. The sale price divided by the market value of the unit shall equal the discount rate. The discount rate shall be recorded on the deed and mortgage documents.

(2) When the unit is resold, a real estate appraisal shall again be conducted to determine the market value of the unit. The market value shall be multiplied by the discount rate established on the deed to determine the maximum resale price.

(3) The deed shall contain the following language: "No deed shall be valid to convey good title, unless it is accompanied by the certificate of the Housing Authority, which after having made at least one appraisal thereof, certifies the full market value of the property, and further state the maximum consideration to be permitted on the deed."
b. At the time of resale of an affordable housing unit, the Easthampton Housing Authority shall notify qualifying households on their waiting list of the availability of the unit, immediately after determining the resale price.

c. Those families so notified shall have exclusive right to contract for the unit, for a period of sixty (60) days.

d. If no contract has been entered into with any party at the end of sixty days, the owner of the unit may offer the unit to the general public at the price determined by the deed restriction.
8.7 PLANNED UNIT DEVELOPMENT FOR MIXED USES

8.71 Uses Allowed by Special Permit

Planned Unit Developments for Mixed Uses shall be permitted in the HB, GB, NB, MI, and I Districts only upon issuance of a Special Permit from the Planning Board as specified in Section XII of this Ordinance. Planned Unit Developments for Mixed Uses shall also be permitted by Site Plan Approval from the Planning Board in the DB Districts as specified in Section XII of this Ordinance.

8.72 General Description

A "Planned Unit Development for Mixed Uses" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, business uses and industrial uses. Planned Unit Development for Mixed Uses shall conform to Section 6.10, Building Size Cap for Retail Uses, of the Easthampton Zoning Ordinance. A Planned Unit Development for Mixed Uses may be allowed by special permit to exceed the normal density requirements for the district to the extent authorized by this ordinance provided that standards for the provision of affordable housing and other standards specified herein are met. (Subsection 8.72 amended by the City Council on 06-17-2015; approved by the Mayor on 06-18-2015)

8.73 Purposes

The purposes of this Planned Unit Development for Mixed Uses ordinance are to:

a. allow for greater variety and flexibility in development forms;

b. encourage the redevelopment of underutilized industrial buildings for mixed uses;

c. reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity;

d. encourage more compact and efficient developments.

8.74 Uses Allowed by Special Permit

In a Planned Unit Development for Mixed Uses, the following uses may be allowed by Special Permit:

a. Single family dwellings;

b. Two-family dwellings;

c. Townhouses-single family dwellings connected by one or more walls;

d. Multifamily dwellings;

e. Business uses which are permitted in the underlying district;

f. Industrial uses which are permitted in the underlying district.

8.75 Density and Dimensional Regulations

If the proposed project complies with affordable housing requirements specified in Section 8.69, the following density and dimensional requirements may be substituted for those requirements required in the district:

a. The minimum lot size for all dwelling units may be reduced by ten (10) percent below the lot size required in Table 6-1.
b. The minimum total land area for Planned Unit Residential Development shall be ten (10) acres.
c. There shall be no frontage requirements within the Planned Unit Residential Development.
d. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements shall pertain only to the periphery of the Planned Unit Residential Development.
e. The maximum number of dwelling units per structure shall be six (6).
f. No dwellings shall be permitted on the street level.

8.76 Utility, Parking, Landscaping and Open Space Requirements

Planned Unit Developments for Mixed Uses must meet the utility, parking, landscaping and open space requirements in Section 8.6.

8.77 Affordable Housing Requirements

If a Planned Unit Development for Mixed Uses includes affordable housing units amounting to ten (10) percent of the developments total number of dwelling units, and the units are consistent with the provisions of Section 8.69, the density and dimensional requirements in Section 8.75 may be substituted for those requirements normally required in the district.
8.8 DOWNTOWN BUSINESS DISTRICT DEVELOPMENT METHODS

The Downtown Business District (DBD) is established to provide a comprehensive set of development methods to be applied in Easthampton’s downtown area to distinguish its unique qualities from other business areas within the city. These methods are established for the continuance and enhancement of the historic downtown area as the functional and symbolic center of Easthampton.

8.81 General Description

The Downtown Business District shall be a separate business district that incorporates the areas in city which are part of Easthampton Center as delineated on the Easthampton Zoning Map.

8.82 Purposes

The Downtown Business District is established to achieve the following objectives for the city:

a. to generate pride and confidence in the downtown area;

b. to create an attractive environment which is active throughout the day and evening;

c. to maintain a consistently high level of design quality;

d. to encourage pedestrian activity by creating a positive pedestrian experience;

e. to protect property values through quality control;

f. to provide incentives for new and existing businesses in the downtown area.

g. to maintain and promote a mix of residential & commercial uses.
   (subsection g. added by the City Council on Sept. 2, 2009; approved by the Mayor on Sept. 3, 2009)

8.83 Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Approval or by Special Permit from the Planning Board in the Downtown Business District are listed in the Table of Uses Regulations in Section V.

New construction development in the Downtown Business district for a single use totaling over 4,000 sq. ft. shall require a special permit from the Planning Bd. under sec. 12.7. (Sentence added by the City Council on 09-02-2009; approved by the Mayor on 09-03-2009)

8.84 Residential Uses in Commercial Buildings

Residential uses are permitted with Site Plan Approval from the Planning Board on all floors or levels in buildings in the Downtown Business District, except that residential uses are not permitted on the street level or first floor of new structures or commercial buildings which existed at the time of the adoption of this ordinance. The following types of residential uses may be permitted: apartments, hotels, and bed-and-breakfast establishments.
8.85 **Density and Dimensional Requirements**

All projects or uses in the DBD must conform to the density and dimensional requirements in Section VI.

8.86 **Bonus Provisions for Developments in the Downtown Business District**

If a new project or use improves the business environment of the DBD by donating to the City of Easthampton public amenities such as parks, benches, plazas, or public access to the riverfront, the Planning Board may allow up to ten (10) percent reduction in the minimum lot area requirements in Section VI as part of the Special Permit process. Applicants for projects or uses not requiring a Special Permit may apply for a Special Permit to be eligible for the Bonus Provisions in this section.

8.87 **Preservation and Re-Development**

Development in the Downtown Business district shall consider the preservation and re-use of existing buildings in order to maintain the historic character and mix of uses in the district.

(Sec. 8.87 added by the City Council on 09-02-2009; approved by the Mayor on 09-03-2009)
8.9 HIGHWAY BUSINESS AND GENERAL BUSINESS DISTRICT DEVELOPMENT METHODS

The Highway Business District (HBD) and General Business District are established to provide a comprehensive set of development methods to be applied in the highway business area of Easthampton, and to recognize the specific characteristics of the highway corridor. The HBD has special requirements as a major roadway and as a conduit to other communities.

8.91 General Description

The Highway Business District and General Business District shall be separate business districts that will contain businesses or uses which include auto-oriented uses that require larger lot sizes, are high volume traffic generators, and are not appropriate for other business districts in the city.

8.92 Purposes

The Highway Business District and General Business District are established to achieve the following objectives of the City of Easthampton:

a. to direct large-lot businesses, high-volume traffic generators, and auto-oriented uses to the appropriate location.

b. to provide safe, efficient traffic flow in the HBD and GBD.

c. to maintain a high level of design and landscaping quality.

d. to provide safe pedestrian and bicycle access to businesses and uses in the HBD.

e. to protect property values through quality control.

8.93 Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Approval or by Special Permit in the Highway Business District or General Business District are listed in the Table of Uses Regulations in Section V.

8.94 Density and Dimensional Requirements

All projects and uses within the HBD or GBD must conform to the density and dimensional requirements in Section VI.
SECTION IX. Mixed Use/Mill Industrial District Development Methods

The Mixed Use/Mill Industrial District (MI) is established to provide a comprehensive set of development methods which recognize the mill industrial area’s historic qualities and its capacities as a mixed-use district.

9.01 General Description
The Mixed Use/Mill Industrial District shall be a separate mixed-use district in the area of city delineated on the Easthampton Zoning Map.

9.02 Purposes
The Mixed Use/Mill Industrial District is established to achieve the following objectives of the City of Easthampton:

a. to generate pride and confidence in the historic mill district.
b. to restore and revitalize the historic mill buildings in Easthampton.
c. to maintain a consistently high level of design quality.
d. to provide for a compatible mix of uses within the old mills.
e. to improve the pedestrian environment in the mill district.
f. to establish connections between the mill buildings and the abutting mill ponds.
g. to allow diversification of existing businesses.
h. to provide incentives for new businesses.

9.03 Uses Permitted with Site Plan Approval or by Special Permit

Uses permitted with Site Plan Approval or by Special Permit from the Planning Board in the Mixed Use/Mill Industrial District are listed in the Table of Uses Regulations in Section V.

9.031 Compatible Uses in Existing Mill Buildings

Uses within an existing mill building must be compatible. As part of the Site Plan Approval process, the Planning Board will evaluate proposed projects or uses for compatibility with existing uses within the same mill building. Uses that create excessive noise or dust may not be compatible with residences, offices, restaurants or retail stores. Uses that create a high volume of vehicular or pedestrian traffic may not be compatible with residences. The Planning Board may disapprove a Site Plan for any proposed use which is deemed by the Planning Board to be incompatible with any existing use in the same building, unless adequate mitigating measures, such as noise reduction or traffic mitigation measures, are provided.
9.04 Residential Uses in Existing Buildings

Residential uses are permitted with Site Plan Approval from the Planning Board or by Special Permit from the Zoning Board of Appeals on all floors or levels in buildings in the Mixed Use/Mill Industrial District, except that residential uses are not permitted on the street level or first floor of new structures or commercial buildings which existed at the time of the adoption of this ordinance. The following types of residential uses may be permitted: multifamily dwellings, multifamily housing for elderly and/or handicapped persons, accessory apartments, and bed-and-breakfast establishments.

9.05 Density and Dimensional Requirements

Uses in the Mixed Use/Mill Industrial District must abide by the density and dimensional requirements in Section VI.

9.06 Bonus Provisions for Developments in the Mixed Use/Mill Industrial District

If a new project or use improves the business environment of the MI District by donating to the City of Easthampton public amenities such as parks, benches, plazas, or public access to the mill ponds, the Planning Board may allow up to ten (10) percent reduction in the minimum lot area requirements in Section VI as part of the Special Permit process. Applicants for projects or uses not requiring a Special Permit may apply for a Special Permit to be eligible for the Bonus Provisions in this section.
9.1 OPEN SPACE RESIDENTIAL DEVELOPMENT

Ordinance Contents

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9.17 Definitive Development Plan Contents
9.18 Criteria for Enhancing Development Flexibility/Additional Units
9.19 Procedures
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9.1.1 Applicability

Open Space Residential Developments shall be permitted in the Residential-10 (R-10), Residential-15 (R-15), Residential-35 (R-35), Residential-40 and Residential-80 (R-80) districts only upon issuance of a Special Permit from the Planning Board, as specified in Section 12-7 of this ordinance, and in accordance with the additional requirements specified herein.

9.1.2 Preamble and Purpose

The purpose of the Open Space Residential Development ordinance is, through more flexible design, to encourage the preservation of open land for its scenic beauty and agricultural, open space, forestry and recreational use; to preserve historical and archaeological resources; to protect the public water supply; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the traditional New England landscape; to promote a better use of the land in harmony with its natural features; and to facilitate the construction and maintenance of streets, utilities and public services in an economical and efficient manner.

To accomplish these community goals, it is intended that Open Space Residential Development be developed as an entity in which an alternative pattern of development may be permitted in order to gain the following benefits:

a. The more efficient use of land in harmony with its natural features.

b. The preservation of open space and promotion of aesthetics and other amenities.

c. Efficient use of land to increase the options for diverse and affordable housing.

d. Compatibility with the character of the surrounding residential areas.

e. Protection of natural resources including water bodies and wetlands, floodplains, agricultural lands and wildlife habitats.

f. Protection of the aquifer recharge areas and the municipal water supply.

g. Economical and efficient street, utility and public facility installation, construction and maintenance.
9.1.3 Definitions

a. Affordable housing units: are those which may be rented or purchased by those who meet the guidelines for maximum annual income for a low-income or moderate-income family or household. The income limit for "low income" shall be 80% of the median income for Easthampton, and the income limit for "moderate income" shall be 120% of median income for Easthampton. Median income for Easthampton will be as calculated by the U.S. Department of Housing and Urban Development, or any successor agency, and shall be adjusted for family size.

b. Open Space Residential Development/Cluster Development: An option which permits an applicant to build single-family, two-family and multifamily dwellings on lots with reduced area and frontage requirements so as to create a development in which the buildings and accessory uses are clustered together into one or more groups with adjacent common open land.

c. Homes association: A corporation or trust owned or to be owned by the owners of lots or residential units within a tract approved for cluster development, which holds the title to open land and which is responsible for the costs and maintenance of said open land and any other facilities to be held in common.

d. Open land: Open space within a cluster, prohibited from development.

e. Wetlands: Areas characterized by vegetation described in General Laws, Chapter 131, Section 40.

f. Two-family dwelling: A detached building containing two (2) dwelling units.

g. Zero lot line: Dwellings on separate lots with no side yard that share a common wall.

h. Flexible frontage lot: Lot(s) with less frontage than required by the zoning ordinance as permitted by Section 9.1 of this ordinance.

i. Common driveway: A driveway serving up to three (3) detached dwelling buildings.

9.1.4 Application Contents

9.1.4.1 Site Analysis Submission

The following shall be submitted/presented to the Planning Board at a regularly scheduled meeting for the purpose of assessing the impact or implications of the development and shall be used in the preparation of a preliminary design plan. The information below shall be submitted in as concise a manner as possible but shall be sufficient for the Board to engage in comprehensive discussion.

a. Statement of Sensitive Land and Site Specific Resources

In order to ensure that the land can be used for building purposes without danger to public health and safety with proper provisions made for the protection of various environmental resources. The development shall maximize the preservation of on-site sensitive resources. The Statement of Site Resources shall be comprised of a map and/or narrative, prepared by qualified experts, and shall include the following information unless provided elsewhere in the formal application submitted to the Board:
(1) Boundaries of areas regulated by the Easthampton Conservation Commission under MGL, Ch. 131, Ch. 40.

(2) Location and limits of soil types consistent with the soils classification maps prepared by the U.S. Department of Agriculture Soil Conservation Service.

(3) Areas where the depth of natural soil to bedrock is two (2) feet or less.

(4) The extent of any primary and secondary aquifers underlying the site, as currently shown on maps prepared by the City of Easthampton.

(5) Topographic contours at intervals of ten (10) feet or less.

(6) Delineation of slopes of twenty (20) percent or greater.

(7) The location of cultural and historic features including but not limited to stonewalls on the boundary of the site, archaeological and historic sites and structures, and significant trees (caliper of thirty (30) inches or more at the base). On sites of more than twenty (20) acres, interior stone walls shall be shown.

(8) The boundaries of the secondary watershed areas in which the site is located.

(9) Scenic viewsheds as identified by on-site observations from public roads and vantage points.

(10) The zone or zones in which the proposed development is located, including any overlay zones, and any zone boundary line crossing or within one hundred (100) feet of the site.

(11) If applicable, land which does or does not lie within a floodplain. If land does not fall within a floodplain, include the following notation on the map: "This land does not include areas of special flood hazard as defined by the City ordinances."

(12) Additional data shall be prepared as requested by the Board for land areas adjacent to and within one hundred (100) feet of the site, or for a greater distance where necessary for proper evaluation of the development proposal's impact on specific Sensitive Resources on and off the site.
b. Statement of Site Context within the Built Environment

Information shall be provided that describes the existing neighborhoods that surround the development and shall include but not be limited to:

(1) Relative building density and style as it relates to current zone districts in the surrounding areas.

(2) Vehicular and pedestrian circulation systems and width of existing roads.

(3) Existing and infrastructure (utilities) and other public facilities that may possibly be impacted.

c. The board shall provide a response to the applicant within forty-five (45) days as to the Board's preferred direction.

9.1.4.2 Preliminary Development Plan Submission

To promote better communication and to avoid misunderstanding, applicants are required to submit preliminary materials for review by the Planning Board prior to the application for a special permit. Such preliminary subdivision plans shall be submitted and comply with the Rules and Regulations governing the Subdivision of Land in the City of Easthampton.

Applicants who anticipate filing a Special Permit shall file with the City Clerk, one (1) copy and with the Planning Board, ten (10) copies, of the following documents:

a. A subdivision development plan of sufficient detail to show the number of building lots reasonably attainable, in accordance with the provisions for a preliminary plan as set forth in the City of Easthampton Subdivision Control Laws and Regulations and this ordinance, with deference to the site analysis and lands prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by the ordinance. The Development Plan must show the proposed locations of access roads, driveways and structures.

With respect to septic disposal sites, the Planning Board may, at its discretion, require on-site investigations (percolation tests) to be performed or request additional information from the applicant on those lots which it considers most marginal or questionable to assure compliance with Title V of the Massachusetts General Laws. The plan shall be subject to:

(1) On-site field check for appropriateness of design.

(2) Review by the City Engineer in order to evaluate the accuracy of such Conceptual Plan. All expenses incurred for engineering studies or percolation testing shall be borne by the applicant.

b. A Conceptual OSR development plan in conformance with this section as applicable and the provisions herein shall be submitted in order to set forth the intentions of the developer and further allow input from the Planning Board prior to submission of Definitive Plans. The Conceptual OSR development plan shall follow the use and dimensional standards in Section 9.15.
9.1.4.3 Definitive Development Plan Submission

Definitive Development Plan - General: A final Definitive Development Plan shall be submitted in conformance with this section and the City of Easthampton Subdivision Control Laws and Regulations as applicable. Such Definitive Plans shall adequately respond to Section 9.16 (Development Design Guidelines) and Section 9.17 (Development Plan Contents) and address issues that have been previously discussed at the Site Analysis and Preliminary Plan Submission.

9.1.5 Use and Dimensional Standards

9.1.5.1 The area of the tract to be developed shall not be less than 5 acres.

9.1.5.2 Allocated Housing Types

a. General: A one-family detached dwelling, a zero lot line single-family dwelling, a two-family detached dwelling, or attached dwellings may be constructed on certain lots in an Open Space Residential (OSR) Development although such lots have less area, frontage and/or rear and side yard dimensions than normally required.

b. Zero lot line units are allowed. A side yard need not be provided on that side of a dwelling unit that shares a party wall or double wall with an adjacent dwelling unit.

c. A minimum of seventy (70) percent of the total dwelling units shall be single-family dwellings. A minimum of sixty (60) percent of the total dwelling units shall be non-zero lot line, single family dwellings. A maximum of thirty percent of the dwelling units may be two-family or multifamily dwelling units. A multifamily unit shall consist of no more than eight (8) dwelling units in one building.

d. If multifamily units are included, the entire development shall be serviced with the public sanitary sewer system.

9.1.5.3 Except as specified in a special permit granted under this section, all requirements of the zoning ordinance shall continue to apply.

9.1.5.4 Unless otherwise provided for, the Dimensional Regulations of Table 9-1 shall be complied with.

9.1.5.5 No principal use other than residential, recreational, agricultural or silviculture shall be permitted.
9.1.5.6 Allowed Density

The density shall be calculated by taking the parcel area less wetland areas, subtracting ten (10) percent of that area (for roadways) and dividing that number by the minimum lot area of the zoning district in which the parcel is located. Refer to Section 9.18 for Provisions for Enhancing Development Flexibility.

9.1.5.7 Flexible Frontage Lots in an OSR

The Planning Board may reduce the frontage requirements for not more than fifty (50) percent of the lots in the development, when such flexible lot (FFL) is to be used solely for single-family residential purposes and shall meet the criteria:

1. At least one and one-half times (1.5x) the minimum lot area normally required for district; and

2. Access to frontage of at least forty (40) feet; and

3. Access width from front line to the principal structure, of at least forty (40) feet; and

4. An access roadway with no curve having a radius of less than eighty (80) feet; and

5. The front setback shall be sufficient to avoid encroachment on abutting lots and structures; at a minimum the setbacks of Table 4 shall apply, except the setback width requirement in Table 4 shall not apply to Flexible Frontage lots under this ordinance.

6. The maximum building coverage allowed shall not exceed two-thirds (2/3) of that normally permitted in the district; and

7. There shall be no more than three (3) contiguous Flexible Frontage lots which may be served by a common driveway, where appropriate frontage lots may be served by same driveway; and

8. The lot shall be laid out such that the width at the building site shall be at least the required frontage width for the zoning district; and

9. The grade, length and location of access driveways shall be of suitable construction, in the opinion of the Planning Board, for the access and turnaround of vehicles, including moving vans, ambulances, fire and police. Such driveway:
   a. shall have width of at least fifteen (15) feet, and
   b. shall have a maximum grade of twelve (12) percent, and
   c. shall have passing turnouts providing a total width of at least twenty (20) feet along a distance of at least twenty-five (25) feet, spaced with no more than three hundred (300) feet between turnouts and with the first such passing turnout at the driveway connection to the street, and
   d. must receive a Department of Public Works driveway permit, and
   e. approval by the Fire Department.
10. Appropriate easements shall be delineated on the Plot Plan and on the deed to the lot including a clear provision for the responsibility for the private maintenance of the common driveway, common utilities and snow removal running with the land.

11. The Flexible Frontage lots must meet all other requirements of the Easthampton Zoning Ordinance.

### Table 9-1
**Area Regulations for Open Space Residential Development**

<table>
<thead>
<tr>
<th>District</th>
<th>R-10</th>
<th>R-15</th>
<th>R-35</th>
<th>R-49</th>
<th>R-80</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Lot Area Single-family</td>
<td>7,500</td>
<td>10,000</td>
<td>12,500</td>
<td>15,000</td>
<td>40,000</td>
</tr>
<tr>
<td>Additional Area/Unit</td>
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<td>5,000</td>
<td>7,500</td>
<td>10,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Lot Frontage*</td>
<td>50</td>
<td>75</td>
<td>75</td>
<td>100</td>
<td>120</td>
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<tr>
<td>Min. Front Setback*</td>
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<td>20</td>
<td>30</td>
<td>30</td>
<td>50</td>
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<tr>
<td>Min. Side Setback*</td>
<td>10</td>
<td>10</td>
<td>15</td>
<td>15</td>
<td>25</td>
</tr>
<tr>
<td>Min. Rear Setback*</td>
<td>20</td>
<td>20</td>
<td>30</td>
<td>30</td>
<td>50</td>
</tr>
<tr>
<td>Max. Building Coverage*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Per Table 6-1 of the Zoning Ordinance</td>
</tr>
</tbody>
</table>

*May be modified by the Planning Board by OSR Special Permit. Flexible Frontage Lots in an Open Space Residential Development require 1.5 times the lot area, 40 feet of minimum frontage, increased yard setbacks.

### 9.1.5.8 Affordable Units

a. The Planning Board may authorize a greater number of dwelling units than would be allowed by the density requirements of this Section as provided for in the Provisions and Criteria for enhancing development flexibility Section 9.18.

b. The applicant shall establish such restrictions, conditions and/or limitations as are necessary to ensure that the units required for low- and moderate-income households will be permanently available for ownership, and available for a minimum of twenty years in the case of rental housing.

c. Housing constructed by a public agency or nonprofit corporation using a federal, state or local housing assistance program may adhere to the requirements set forth by the funding agency provided that the intent of these regulations are met.

d. Affordable housing units shall be geographically dispersed throughout the development.
9.1.6 OSR Development Design Guidelines

9.1.6.1 Vehicular and Pedestrian Circulation

a. Primary routes shall be clearly differentiated from secondary routes and driveways; conflicts shall be minimized between vehicular routes and pedestrian routes and recreation areas.

b. Roadways shall be laid out so as to minimize long vistas of pavement and monotonous linear arrangements of buildings.

9.1.6.2 Screening and Buffers

a. Layout and design shall respond to needs for privacy between and around dwelling units; structures shall be arranged to maximize the preservation of existing trees and tree groves.

b. All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width. A buffer of one hundred (100) feet in width from existing roads which shall be kept in a natural or landscaped condition.

9.1.6.3 Open Space/Common Land

a. The total area of open space required shall be at least fifty (50) percent of the total parcel area, of which at least seventy-five (75) percent shall be neither bordering vegetated wetlands (as defined in M.G.L. Ch. 131, Section 40, the Wetlands Protection Act and 310 CMR), shall be set aside as Common Open Space. A functional relationship shall exist between the Common Open Space areas and the proposed residential clusters in an OSR Development.

(1) Such Common Open Space shall be restricted to open space agricultural uses, recreational uses such as tot-lot, park, playground, play field, golf course or conservation.

(2) Such Common Open Space shall have suitable access to and from the development's street(s).

(3) Such Common Open Space shall be placed under a Conservation Restriction/Easement in accordance with the provisions of M.G.L. Chapter 184, Sections 31-33 as amended. Such common land shall be either deeded to (1) a corporation or trust comprising a home association whose membership includes the owners of all lots or units contained in the tract. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the City of Easthampton over such land pursuant to Massachusetts General Laws, Chapter 184, section 31-33, to insure that such land be kept in an open or natural state and not be built upon the residential use or developed for accessory uses such as parking or roadways; (2) to a non-profit organization, the principal purpose of which is the conservation of open space. The developer or charity shall grant a conservation restriction as set out in (1) above; or (3) to the Conservation Commission of the city for park or open space use, subject to the approval of the selectmen, with a trust clause insuring that it will be maintained as
A homes association organization shall be created by covenants running with the land, and such covenants shall be included with the submitted development plan and shall be subject to approval by the Planning Board.

Such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise (except to an organization conceived and organized to own and maintain the common open space), without first offering to dedicate the same to the city.

Covenants creating such organization shall provide that in the event the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the city may serve notice in writing upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a public hearing thereon which shall be held within twenty (20) days of the notice. At such hearing the city may modify the terms of the original notice as to the deficiencies and may grant an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the city in order to preserve the taxable values of the properties within the development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said one-year period, the city shall, upon its initiative or upon the request of the organization therefore responsible for the maintenance of the common open space, call a public hearing upon notice in writing to such organization or to the residents of such development, to be held by the Planning Board, at which hearing the organization shall show cause why such maintenance by the city shall not continue for a succeeding one-year period. The Planning Board shall send recommendations for further action, if any, to the City Council.

If the Planning Board determines that such organization is ready and able to maintain the common open space in reasonable condition at the end of said one-year period, the organization shall maintain the property. If the Planning Board determines that such organization is not ready and able to maintain the common open space in a reasonable condition, the city may, in its discretion, continue to maintain the common open space during the next succeeding year, and subject to a similar hearing and determination in each year thereafter. The covenants creating such organization shall further provide that the cost of such maintenance by the city shall be assessed ratably against the properties within the development that have a right of enjoyment of the common open space, and shall become a charge of said properties, and such charge shall be paid by the owners of said properties within thirty (30) days after receipt of a statement therefore.

The covenants shall provide that each dwelling unit shall have an equal say in determining the affairs of the organization; that costs shall be assessed equally to each dwelling unit; and that the organization shall be retained in the control of the
developer no longer than until a majority of dwelling units are conveyed to permanent owners.

Where appropriate, and with the approval of the City Council, by virtue of the large size of a development or of the diversity of uses or dwelling types therein, more than one separate and distinct organization may be created. Separate organizations may not be created, however, where one might be too small (in terms of the number of lots included) to operate efficiently, or where one has a responsibility for too large or costly (to maintain) parcel of open space in proportion to that under the responsibility of other organizations within the same development.

(4) Open space liens: Homeowners must pay their pro rata share of organization costs, and the assessments levied by the association can become a lien upon the property.

b. The majority of the common land shall consist of large blocks of contiguous areas easily accessible to most residents of the development from streets, cul-de-sacs and other open areas and linkages between different sections of common land shall be clearly shown; physical and visual access to the common land from the dwelling units, the preservation of the original land form and existing vegetation shall be maximized.

c. Where the proposed development abuts a body of water, a portion of the shoreline, as well as reasonable access to it, shall be a part of the residual common land.

9.1.6.4 Utilities and Services

a. Dumpsters, if applicable, shall be located in convenient locations, visually screened and shall not impede pedestrian or vehicular circulation.

b. The installation and location of drainage systems shall not impede access to common land.

9.1.6.5 Protection of Environmentally Sensitive Areas

a. The Planning Board may reduce the number of lots otherwise allowed for the protection of aquifers, wetlands, or other environmentally sensitive areas.

b. Wildlife habitats of species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program will be protected.

c. Historic and prehistoric sites and their environs will be preserved.
9.1.6.6 Building Lot Layout and Siting

a. The Planning Board may request the establishment of building envelopes for buildings in particularly sensitive areas within the OSR development.

b. Residences should be grouped in locations so that the greatest number of units can be designed to take advantage of solar heating opportunities; scenic views and long vistas will remain unblocked particularly as seen from public roads, special places or scenic roads.

c. In areas within two hundred (200) feet from open bodies of water (reservoirs, lakes, ponds, rivers, streams), lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:

   (1) On a portion of the site that will most likely conserve shoreline vegetation and the integrity of the buffer strip.

   (2) Integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines.

   (3) Will not result in erosion or sedimentation.

   (4) Will not result in water pollution.

   (5) Prevent any disruptions to the natural flow of the water course.

   (6) Protect fisheries and wildlife habitat within and along the water course.

   (7) Enhance and preserve existing agricultural lands, floodplain and other environmentally sensitive areas along the shoreline.

   (8) An uncut buffer strip of native vegetation shall be maintained fifty (50) feet back from the bank of any affected water course, within which limited limb removal may be permitted to create filtered views and within which unpaved woodland paths may be created subject to Conservation Commission approval.

   (9) Minimum set-backs from the bank for structures shall be one hundred (100) feet.

d. In areas of greater than ten to fifteen (10-15) percent average slope or upon hilltops or ridgelines, lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:

   (1) Building sites shall be located so that building silhouettes will be below the ridgeline or hilltop or if the site is heavily wooded, the building silhouettes shall be at least ten (10) feet lower than the average canopy height of trees on the ridge or hilltop.

   (2) The placement of buildings, structures, or signs shall not detract from the site's scenic qualities or obstruct significant views, and shall blend with the natural landscape.
(3) Where public views will be unavoidably affected by the proposed use, architectural and landscaped measures shall be employed so as to minimize significant degradation of the existing scenic or aesthetic qualities of the site.

(4) Foundations shall be constructed to reflect the natural slope of the terrain.

(5) Preference should be given to exterior facades that utilize building materials which blend with the natural wooded landscape, both in texture and darker color.

(6) The removal of native vegetation or trees shall be minimized to the extent feasible in clearing sites for new structures and roads. In landscaping, preference shall be given to native trees and plants in order to maintain the natural character.

(7) Any grading or earth-moving operation in conjunction with the proposed development shall be planned and executed in such a manner that the final contours are consistent with the existing terrain, both on and adjacent to the site.

(8) Safeguards shall be employed where needed to mitigate against environmental degradation from erosion, sedimentation, water pollution or flooding.

(9) The siting of roads, utilities and buildings shall be laid out to minimize the alteration of the existing surficial geography.

e. In agricultural areas, lots shall be laid out, to the greatest extent feasible, to achieve the following objectives (listed in order of priority, as it is recognized that some may conflict with others on any given site):

(1) On the most suitable soils for subsurface septic disposal (in areas not served by municipal or private waste treatment facilities only);

(2) On the least fertile areas for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;

(3) Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);

(4) In such a manner that the common boundary between the new house lots and the preserved farmland is designed to reduce potential conflict situations;

(5) In locations least likely to block or interrupt scenic vistas, as seen from the public roadway(s);

(6) Provide buffers between all dwelling units and non-agricultural structures as much as practicable to minimize conflicts between farming operations and residents.
9.1.7  **Definitive Development Plan Contents**

9.1.7.1  **Procedure**

The Planning Board approval of a Special Permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve a related definitive plan for subdivision, nor reduce any time periods for Planning Board consideration under that law.

If applicable, a definitive plan for subdivision of land should be prepared concurrently with preparation of the overall development plan consistent with the Subdivision Regulations of the Easthampton Planning Board, and submitted to the Planning Board prior to application for a Special Permit. A definitive plan shall be submitted to the Planning Board consistent with their Subdivision Regulations and in substantial conformity to the approved overall development plan.

9.1.7.2  **Application**

Applicants for a special permit for an OSR development shall submit to the Board ten (10) copies and an original of each of the following: an application, definitive development plan, and a site analysis. If the plan involves more than one (1) ownership, each owner of the land included in the plan shall be a party to the application, and upon approval, subject to its provisions.

9.1.7.3  **Plan Contents**

The definitive development plan shall meet the following requirements:

a. It shall be drawn at a scale of 1" = 40', unless another scale is previously requested and found suitable by the Planning Board;

b. A professional engineer, registered architect, or registered landscape architect shall prepare the site plan.

c. The plan shall be stamped by the registered land surveyor who performed the boundary survey.

d. A utilities and drainage plan shall be prepared by a professional engineer and/or landscape architect. Drainage calculations shall be submitted.

e. The scale, date and north arrow shall be shown.

f. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways; easements within the lot and abutting thereon.

g. The location of existing or proposed buildings on the lot shall include the total square footage and dimensions of all buildings, architectural building elevations, floor plans, and perspective renderings shall be submitted. Further, the Planning Board shall consider and make recommendations regarding the siting of buildings.

h. The total number of establishments and/or dwelling units.
i. The location of existing wetlands, water bodies, wells, one-hundred-year floodplain elevation and other natural features requested by the Planning Board during the preliminary plan review phase.

j. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot as may be required.

k. Percent of building lot coverage; existing and proposed topographical lines at two-foot intervals; the use designation of each building or part thereof, and of each section of open ground, plaza or usable roof space.

l. Numbering of parking spaces for multi-family developments.

m. A landscape plan; showing all materials to be used and the quality, size and species of plantings.

n. Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as an OSR Development and that the land is in single or consolidated ownership at the time of final plan application.

o. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors.

p. Information shall be submitted projecting traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

9.1.8 Provisions and Criteria for Enhancing Development Flexibility

9.1.8.1 Objective/Goal

The incentives offered in this section are to encourage creative alternative development for Open Space Residential Developments which are sensitive to the priorities as listed below.

a. Affordable Housing as defined in this ordinance.

b. Preservation of existing lands.

c. Preservation of open space:
   (1) beyond the amount required by this ordinance;
   (2) which would be deeded to public use; or
   (3) which provides linkage to:
      - adjacent existing open space
      - public parks

d. Performance in utilizing design criteria as set forth in these ordinances.

e. Utilization of city services (infrastructure) in an efficient manner.
f. Mitigation of the impacts on Aquifer Recharge Areas. (Note: techniques are further described in Section 9.16, Design Guidelines.)

9.1.8.2 Additional Units Criteria

a. The maximum total increase in units shall be 15 percent for any development.

b. A percentage increase equal to the percentage of affordable housing within proposed development may be allowed by the Planning Board.

c. Conformance with the spirit of the design requirements may merit additional consideration by the Planning Board.

d. In the Aquifer Protection District, the overall density in an OSRD shall not exceed one dwelling unit per 3/4 acre, in accordance with DEP Source Approval Regulations, 310 CMR 21.02.

9.1.9 Special Permit Application Procedures

9.1.9.1 Filing of Applications

a. Each application for the special permit for an Open Space Residential development shall be filed with the Planning Board, with a copy filed forthwith with the City Clerk, and shall be accompanied by ten (10) copies of a preliminary plan of the entire tract under consideration, prepared by a professional architect engineer or landscape architect.

b. Applications shall include each of the following: an application, an overall development plan and a site analysis. If the plan involves more than one (1) ownership, each owner of the land included in the plan shall be a party to the application, and upon approval, subject to its provisions.

9.1.9.2 Review of Other Boards

Upon receipt of the application for Special Permit and related plans/analyses, the board shall within ten (10) days transmit one copy each to the Board of Health, Conservation Commission, City Engineer, Department of Public Works, Police Department and Fire Department. These boards and agencies shall review said plans and provide recommendations to the Planning Board within thirty-five (35) days.

9.1.9.3 Review and Approval Process

a. Public Hearing. After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of General Laws, Chapter 40A, Section 9 and of the zoning ordinance and regulations of the Planning Board. The hearing shall be held within sixty-five (65) days after filing of the application with the Planning Board and the Clerk. Notice shall be given by publication and posting and by first class mailings to "parties of interest" as defined in General Laws, Chapter 40A, Section 11. The decision of the Planning Board, and any extension, modification or renewal thereof, shall be filed with the Board and Clerk within ninety (90) days following the closing of the public hearing. Failure of the Planning Board to act within ninety (90) days shall be deemed a grant of the permit applied for.
b. After notice and public hearing in accordance with Section 9 of the Zoning Act (MGL c. 40A), the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission, Board of Health, Department of Public Works and City Engineer, grant a Special Permit provided that the conditions and standards of this section of the zoning ordinance have been adequately met.

c. A Special Permit granted under this section of the zoning ordinance shall lapse within eighteen (18) months if construction has not begun or is not continuing to proceed, except for a good cause shown and approved by the Planning Board. The Special Permit may be renewed or extended with approval by the Planning Board.

d. Subsequent approval by the Planning Board of such portions of an OSR development as constitutes a subdivision will be required as set forth in the Subdivision Control Law (MGL c. 41, section 81K-81GG). A granting of the Special Permit by the Planning Board shall not be deemed to constitute subdivision approval under the Subdivision Control Law of the Subdivision Rules and Regulations of the Planning Board.

9.2.0 Planning Board Findings and Recommendations

9.2.0.1 The Board may grant a Special Permit under this section only if it finds that the proposed project has shown the following:

a. That the open space residential development is in harmony with the intent and spirit of the ordinance and the requirements of the Massachusetts General Laws, Chapter 40A, and the city's Master Plan and its latest revisions.

b. That it will not have a detrimental impact on the integrity of character of the surrounding neighborhoods or adjoining zones.

c. That it is designed with due consideration for the health, safety and welfare of the public.

d. That it is preferable to a conventional plan in preserving open space, minimizing environmental disruption and impacts of city services and which allows for more efficient provision of such services.

e. That the development allows for a greater diversity in affordable housing types.
9.2.0.2 The Planning Board may set forth additional conditions in its decision including but not limited to the following:

a. Granting of a covenant or easements to ensure:
   (1) protection and maintenance of pastures
   (2) rights of public access
   (3) building windows
   (4) protection of scenic views and vistas.

b. Specific approval of the uses allowed in designated open space and recreational areas including the requirement that before construction of any recreational structures such as tennis courts, swimming pools, or accessory clubhouses, detailed plans be submitted to the Planning Board for Site Plan approval.

c. An alternative rate of development schedule or phasing plan Building setback requirements different from those stated in this ordinance.

d. Provisions that would restrict overloading any public water, drainage system natural or man-made, sewer system or any other municipal system on which the development may have an adverse effect in the immediate area or in any other area of the city with regard to the health, safety or the general welfare of the public.

9.2.0.3 Administration of the Planning Board's findings shall be subject to the following: amendments or changes to an approved Site Analysis/Development Plan may be required based on the conditions of approval as set forth.
9.3 TRANSFER OF DEVELOPMENT RIGHTS
(Approved by the City Council on 01-17-2006)

9.31 Purposes:

1. The purposes of this ordinance are:
   a) to protect farmland, aquifer recharge and rural areas of Easthampton;
   b) to protect property values and provide a fair economic return to property owners;
   c) to foster compact development in areas served by public services and infrastructure.
   d) to promote the creation of traditional neighborhood developments with compact, pedestrian-friendly, predominantly residential areas on gridded streets.
   e) to preserve the remaining rural, historic, and agricultural character of the community by directing compact new development to appropriate locations adjacent to existing urbanized centers.

9.32 Transfer of Development Rights:

a. Transfer of Development Rights provides for increased density of residential and commercial development in the designated Receiving Area, when suitable open space land in the Sending Area, is permanently preserved from development. The transfer of development rights is accomplished by the execution of a Conservation Restriction, and the increased density is permitted by the issuance of a Special Permit, both as hereinafter provided. The Transfer of Development Rights shall conform in all respects to Section 6.10 of this ordinance, and in no event shall a Receiving Area be allowed to exceed the limitations set forth therein. (Subsection 9.32 amended by the City Council on June 17, 2015; approved by the Mayor on June 18, 2015).

9.33 Eligibility:

a. All lots shown on a plan, or described in a deed, recorded at the Registry of Deeds in the Sending Area are eligible to apply for a Special Permit from the Planning Board to transfer all or part of the development rights on the lot to a lot in the Receiving Area.

9.34 Establishment of Sending Area and Receiving Area:

a. The following districts are hereby established:
   (1) Sending Area;
   (2) Receiving Area.
   These districts are delineated on the Transfer of Development Rights Map of Easthampton, which is incorporated by reference as part of the Zoning Ordinance.

9.35 Special Permit Process for Transfer of Development Rights:

a. The applicant proposing to develop specified land in the Receiving Area at a density allowed by this ordinance with transfer of development rights shall make an application to the Planning Board for a Special Permit. The application shall clearly illustrate a land parcel or parcels in the Sending Area and a parcel or parcels in the Receiving Area proposed for transfer of development rights, and the number of development rights proposed for transfer.

b. As part of the Special Permit application, the applicant shall determine the number of lots eligible for transfer from the parcel in the Sending Area, using the following process:
(1) After conferring with the Conservation Commission, subtracting all acreage which are identified as wetlands, 100-year floodplain, or riverfront area under the Mass Rivers Protection Act. The Conservation Commission may require the applicant to complete a wetland delineation;

(2) Subtracting 5% of the total remaining parcel acreage, to account for land which would be used for roads if the parcel had been developed.

(3) After determining the remaining land area, determining the number of lots allowable in the Sending Area based on a conceptual development plan;

c. The Planning Board shall review the applicant’s assessment of acreage eligible for transfer, and shall make a final determination of such acreage eligible for transfer.

d. The applicant shall also file with the Planning Board a preliminary development plan for the parcel in the Receiving Area, illustrating lots created using the transferred development rights, and illustrating all wetland and floodplain areas.

e. Approval of a Special Permit, shall require the applicant to tender to the Planning Board a valid instrument granting to the City a permanent Conservation Restriction for eligible land in the Sending Area. The Conservation Restriction may be held by either the Easthampton Conservation Commission or a designated non-profit land trust. The applicant shall furnish to the Planning Board a certificate of title by a duly licensed attorney and such other evidence or assurance of title as may be satisfactory to the City Counsel.

f. Upon final approval of site plans, the Planning Board shall make a decision to grant, deny, or grant with conditions, the Special Permit to increase in number and density of units in the Receiving Area, based on the table in Section 9.37, as per the process indicated in Section 12.7 of the Easthampton Zoning Ordinance.

g. Upon the advice of City Counsel that the Conservation Restriction document is valid and sufficient, there must be a vote by the City Council authorizing acceptance of the Conservation Restriction by either the Conservation Commission or a designated non-profit land trust. If the Special Permit application is valid and sufficient, the Conservation Commission, acting on behalf of the City, shall accept the Conservation Restriction for recording in the County Registry of Deeds.

9.36 Receiving Area Regulations:

1. The Planning Board shall not approve a Special Permit for Transfer of Development Rights for a project which is not served by public sewer and water lines in the Receiving Area.

9.37 Dimensional and Density Regulations Allowed By the Transfer of Development Rights:

a. Each residential building lot within the Sending Area is equivalent to one of the development rights in the Receiving Area shown in the Table of Exchange Standards for Transfer of Development Rights, found below in this section.
Table 1. EXCHANGE STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS

<table>
<thead>
<tr>
<th>Sending Area</th>
<th>Receiving Area</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 residential building lot equals</td>
<td>2000 s.f. of additional commercial or industrial floor area, plus a 5% increase in building coverage for a single commercial or industrial lot, or</td>
<td>1) “Additional commercial or industrial floor area” shall be defined as floor area above that which would normally be permitted in the underlying district, under Table 6-2 the Easthampton Zoning Ordinance. The Planning Board may allow an increase in building coverage from the maximum building coverage required in Table 6-2, up to a maximum 75% building coverage for commercial or industrial uses.</td>
</tr>
<tr>
<td>1.2 residential building units, plus a 5% increase in building coverage, or</td>
<td></td>
<td>2) An additional 10% increase in the number of units may be allowed if the development provides for affordable home ownership. Affordable housing shall be as defined in Section 8.69 and controlled by deed.</td>
</tr>
<tr>
<td>1 neighborhood commercial building lot</td>
<td>3) See Section 9.42 for commercial uses allowed on a neighborhood building lot within a Traditional Neighborhood Development. Only one “neighborhood commercial building lot” may be approved per ten residential building lots within a TND.</td>
<td></td>
</tr>
</tbody>
</table>

b. For development rights purchased for every one (1) lot meeting minimum dimensional requirements for the underlying Rural Residential District within the Sending Area, the developer can add 1.2 residential lots or one neighborhood commercial lot in a Traditional Neighborhood Development in the Receiving Area above what could normally be built under Residential A standards, provided the dimensional requirements indicated in Section 9.37, Table 2, of this Ordinance and other requirements of the ordinance are met. Fractions of building lots cannot be rounded up to the next whole number.

For example, if a developer buys the development rights to 14 buildable lots in the Sending Area, the developer is entitled to:

\[14 \text{ lots} \times 1.2 = 16.8 \text{ lots}\]

in addition to the underlying density in the Receiving Area. However, since fractional lots cannot be built on, the developer can construct only 16 units (above what could normally be built under Residential A standards).

c. When a landowner wishes to sell less than the total number of development rights available to a tax parcel, the landowner may do so provided that the tax parcel is subdivided.

d. The maximum limits on density, building coverage, and parking reductions permitted to be developed by Special Permit in the Receiving Area shall be determined by reference to the Table of TDR Dimensional Standards for Receiving Areas found below in this section.
Table 2. TDR Dimensional Standards for Receiving Areas

<table>
<thead>
<tr>
<th>Underlying Zoning District</th>
<th>Dimensional Requirements in Underlying Zone</th>
<th>Dimensional Requirements in Receiving Area (with TDR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-10</td>
<td>Lot Size: 10,000 s.f.</td>
<td>Lot Size: 10,000 s.f.</td>
</tr>
<tr>
<td></td>
<td>Frontage: 100 ft.</td>
<td>Frontage: 60 ft.</td>
</tr>
<tr>
<td></td>
<td>Front Setback: 20 ft.</td>
<td>Front Setback: 15 ft.</td>
</tr>
<tr>
<td></td>
<td>Side Setback: 10 ft.</td>
<td>Side Setback: 10 ft.</td>
</tr>
<tr>
<td></td>
<td>Rear Setback: 30 ft.</td>
<td>Rear Setback: 20 ft.</td>
</tr>
<tr>
<td></td>
<td>Building coverage: 25%</td>
<td>Building coverage: 60%</td>
</tr>
<tr>
<td></td>
<td>Height: 2 ½ stories</td>
<td>Height: 2 ½ stories</td>
</tr>
<tr>
<td></td>
<td>Maximum multi-family units in building: 6</td>
<td>Maximum multi-family units in building: 9</td>
</tr>
<tr>
<td>R-15</td>
<td>Lot Size: 15,000 s.f.</td>
<td>Lot Size: 15,000 s.f.</td>
</tr>
<tr>
<td></td>
<td>Frontage: 100 ft.</td>
<td>Frontage: 60 ft.</td>
</tr>
<tr>
<td></td>
<td>Front Setback: 30 ft.</td>
<td>Front Setback: 15 ft.</td>
</tr>
<tr>
<td></td>
<td>Rear Setback: 30 ft.</td>
<td>Rear Setback: 20 ft.</td>
</tr>
<tr>
<td></td>
<td>Building coverage: 20%</td>
<td>Building coverage: 50%</td>
</tr>
<tr>
<td></td>
<td>Height: 2 ½ stories</td>
<td>Height: 2 ½ stories</td>
</tr>
<tr>
<td>R-35</td>
<td>Lot Size: 35,000 s.f.</td>
<td>Lot Size: 15,000 s.f.</td>
</tr>
<tr>
<td></td>
<td>Frontage: 120 ft.</td>
<td>Frontage: 75 ft.</td>
</tr>
<tr>
<td></td>
<td>Front Setback: 50 ft.</td>
<td>Front Setback: 50 ft.</td>
</tr>
<tr>
<td></td>
<td>Rear Setback: 50 ft.</td>
<td>Rear Setback: 30 ft.</td>
</tr>
<tr>
<td></td>
<td>Building coverage: 10%</td>
<td>Building coverage: 50%</td>
</tr>
<tr>
<td></td>
<td>Height: 2 ½ stories</td>
<td>Height: 2 ½ stories</td>
</tr>
<tr>
<td>Highway Business</td>
<td>Lot Size: 25,000 s.f.</td>
<td>Lot Size: 15,000 s.f.</td>
</tr>
<tr>
<td></td>
<td>Frontage: 120 ft.</td>
<td>Frontage: 80 ft.</td>
</tr>
<tr>
<td></td>
<td>Front Setback: 30 ft.</td>
<td>Front Setback: 15 ft.</td>
</tr>
<tr>
<td></td>
<td>Rear Setback: 30 ft.</td>
<td>Rear Setback: 20 ft.</td>
</tr>
<tr>
<td></td>
<td>Building coverage: 40%</td>
<td>Building coverage: 75%</td>
</tr>
<tr>
<td></td>
<td>Height: 2 ½ stories</td>
<td>Height: 2 ½ stories</td>
</tr>
<tr>
<td>Industrial</td>
<td>Lot Size: 40,000 s.f.</td>
<td>Lot Size: 15,000 s.f.</td>
</tr>
<tr>
<td></td>
<td>Frontage: 140 ft.</td>
<td>Frontage: 100 ft.</td>
</tr>
<tr>
<td></td>
<td>Front Setback: 50 ft.</td>
<td>Front Setback: 15 ft.</td>
</tr>
<tr>
<td></td>
<td>Rear Setback: 30 ft.</td>
<td>Rear Setback: 20 ft.</td>
</tr>
<tr>
<td></td>
<td>Building coverage: 40%</td>
<td>Building coverage: 75%</td>
</tr>
<tr>
<td></td>
<td>Height: 2 ½ stories</td>
<td>Height: 2 ½ stories</td>
</tr>
</tbody>
</table>

9.39 Special Permit Criteria:

a. In addition to the Special Permit criteria in Section 12.7, the Planning Board shall grant a special permit for transfer of development rights if it finds the following criteria are met:
   (1) The proposed use is in harmony with the purposes of this Ordinance:
   (2) The proposed use meets all of the procedural, dimensional and density requirements, and design standards of this Ordinance.
9.395 Reporting of TDR Transactions:

(1) Buyers and sellers must report all TDR transactions (options, sales, gifts, donations) to the Planning Board within ten business days.

9.396 Release of Agricultural Preservation Restriction:

a. No Agricultural Preservation Restriction, which has been conveyed under this Ordinance, may be released unless the provisions for release of Agricultural Preservation Restrictions in M.G.L. Chapter184, Section 32 have been met, which include:

   (1) The restriction must be repurchased from the City by the land owner at its then fair market value, and funds returned to the City bank for development rights;

   (2) The restriction shall only be released by its holder only if the land is no longer deemed suitable for agricultural or horticultural purposes and unless approved by a two-thirds vote of both branches of the Massachusetts general court.

9.397 Alternate Method for TDR Transactions:

a. In lieu of transferring development rights using the process described Sections 9.35-9.37 above, an applicant for a Special Permit in Section 9.35 may make a cash contribution to the City of Easthampton Farmland and Open Space Fund to be used for the purpose of purchasing agricultural preservation restrictions, conservation restrictions or open space in the Sending Area. The Easthampton Conservation Commission shall oversee all expenditures from this fund. The contribution shall be of a value equal to the value of raw developable land set by this ordinance at the time of adoption at $35,000.00 per lot. This value shall be reviewed and adjusted every two years by the City Council.

b. The maximum number of development rights which may be purchased though a cash contribution to the City of Easthampton shall be up to 100 development rights in any calendar year.

9.398 Registry of Willing Sellers:

a. The City shall maintain a registry of landowners in the Sending Area that have expressed interest in selling development rights under this bylaw. Applicants for TDR must seek development rights from this registry first, before considering making a cash payment in lieu of transferring development rights, as permitted under Section 9.397.
9.4 TRADITIONAL NEIGHBORHOOD DEVELOPMENT REGULATIONS

9.41 Minimum Standards Required for a Traditional Neighborhood Development:
a. The Traditional Neighborhood Development permits greater residential densities than allowed in the Residential R-10, R-15 and R-35 districts. This greater density is only permitted when development rights from the Sending Area are transferred to the Receiving Area as described in this ordinance. The following standards are required for the approval of a Traditional Neighborhood Development:
   (1) Public water and sewer service is required for all development. All utility lines such as telephone, cable television, and electric are to be located underground.
   (2) The tract of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly in accordance with an approved plan.

9.42 Uses Allowed by Special Permit in a Traditional Neighborhood Development:
a. Within a Traditional Neighborhood Development, the Planning Board may approve the following uses as part of the Special Permit:
   (1) Single family dwelling;
   (2) Neighborhood commercial uses, which may include: service oriented business, including bank, barber shop, beauty salon, and automatic self-serving laundry; retail service store or custom store such as a bakery or confectionery, florist, food store (no booth or restaurant facilities) or grocery designed primarily to provide daily service to the residents of the immediately surrounding neighborhood, provided that the gross floor area of the store does not exceed seven hundred and fifty (750) square feet, and provided that only one neighborhood commercial lot shall be approved for every ten residential lots within a TND;
   (3) Home office;
   (4) Accessory uses, buildings, and structures customarily incidental to any primary use located on the same lot.

9.43 Parking Standards:
a. Parking for residential uses shall be provided in individual lots or in combined parking lots, provided each dwelling unit has at least one off-street parking space within five hundred (500) feet from its property boundary. Additional parking may be provided on streets or off-street.

b. Parking lots for any uses shall generally be located at the rear of or at the side of buildings, and shall be no closer than six (6) feet from a building. When two adjacent lots contain parking areas it is encouraged to develop them as one parking area.

c. Parking lot layout, landscaping, buffering, and screening shall prevent direct views of parked vehicles from streets and sidewalks, avoid spill-over light, glare, noise, or exhaust fumes onto adjacent properties. In order to achieve these objectives, parking lots exposed to view shall be surrounded by a minimum of a five-foot-high screen, hedge, or wall visually impervious year-round.

d. The interior of all parking lots shall be landscaped to provide shade and visual relief. This is best achieved by protected planting islands or peninsulas within the perimeter of the parking lot. A minimum of one deciduous shade tree shall be planted for every six parking spaces. A six foot planting diamond or equivalent planter is required.

e. Parking lot layout shall take into consideration pedestrian circulation. Pedestrian crosswalks shall be provided, where necessary and appropriate, shall be distinguished by textured paving, and shall be integrated into the wider network of pedestrian walkways.
Table 3. Parking Requirements in the Traditional Neighborhood Development

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Residential</td>
<td>One (1) space per dwelling unit</td>
</tr>
<tr>
<td>b) Other Uses</td>
<td>As per Section 10.1 of this ordinance</td>
</tr>
</tbody>
</table>

9.44 Conflict with Other Laws:
a. All development activities with the TND shall comply with applicable laws, regulations, and standards of the City of Easthampton, except that in the event of a conflict between this TND Ordinance and any such laws and regulations, the provisions of this TND shall control, provided that they are consistent with state and federal law.

9.45 Map Review:
Upon adoption of this ordinance, the Transfer of Development Rights map shall be signed and dated by the City Planner. The map shall be reviewed by the Planning Board every three years.

9.46 Validity and Severability:
The invalidity, unconstitutionality, or illegality of any provision of this section of the ordinance or boundary shown on the Transfer of Development Rights map shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary of this ordinance.
SECTION X. ADDITIONAL LAND USE REGULATIONS

10.0 SIGNS

10.01 Purposes
The purposes of these sign regulations are: to protect public health, safety and welfare: to encourage effective use of signs as a means of communication in Easthampton; to maintain and enhance the aesthetic environment and Easthampton’s ability to attract sources of economic development; to protect property values; and to reduce potential traffic hazards to motorists and pedestrians, and to allow on-premise sign owners the ability to adequately identify their locations and promote their goods, services and/or products.

10.02 Applicability

a. The provisions of this section shall apply to the construction, erection, alteration, use, location, and maintenance of all signs located out of doors.

b. No sign shall be permitted except those which refer to a permitted use or an approved accessory use as set forth in Table 5-1 (Easthampton Table of Use Regulations) of this ordinance, provided such signs conform to the provisions of this Section.

c. A sign permit application including building and sign dimensions, colors, and attachment methods, may be made at the same time of application for a building permit. When a building permit is not required, a sign permit may be issued in conjunction with an application for a Certificate of Occupancy.

d. Street and apartment numbers are not regulated under this ordinance.

e. Permits will be issued by the Zoning Enforcement Officer and permit fees shall be recommended by the Zoning Enforcement Officer and approved by the Mayor.

f. A “Special Permit” from the Zoning Board of Appeals (ZBA) is required for exemptions to this ordinance, relating to sign area or number of signs. The ordinance has been written to cover most standard situations. There may be situations where businesses or institutions have, for example; unusual frontage, multiple access points or multiple structures where this ordinance will not allow necessary or appropriate signage. The ZBA shall review the request in accordance with Section 12.7 as well as the need for appropriate signage and shall find that the exemption is not detrimental to the zoning district and surrounding neighborhood and is necessary to meet the purpose of this sign regulation. Strict compliance with the requirements of this ordinance may be waived when, in the judgment of the ZBA, such action is in the public interest and is not inconsistent with the intent of this ordinance.

10.03 Definitions
For the purposes of this Section 10.0 et. seq. “Signs” only, the following terms shall be defined as follows:

Agriculture - The science, art, and business of cultivating soil, producing crops, and raising livestock; farming.

Banner - Any temporary sign of lightweight fabric or similar material that is mounted at two or more edges.

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43 Section 10 revised, in its entirety; approved by the City Council on December 1, 2010; amended May 20, 2015.
Building sign - Any sign attached to any part of a building, as contrasted to a free-standing sign.

Business Flag - Any temporary sign of lightweight fabric or similar material that is mounted at one edge.

Business Sign - A sign used to direct attention to a service, product sold, or other activity performed at the same premises upon which the sign is located.

Canopy Sign - Any permanent sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover. (A marquee is not a canopy.)

Changeable sign - A sign with the capability of content change by means of manual or remote operation.

Community information sign - Any sign wording, logo, or other representation that, directly or indirectly refers to an event sponsored by the City of Easthampton or a not-for-profit organization.

Construction sign - A temporary sign of an architect, engineer, or contractor, erected during the period such a person is performing work on the premises at which such sign is erected.

Development sign - A temporary sign used to direct attention to a construction site which includes a lot(s) considered as a unit for development purposes of three or more units of housing or commercial/industrial development where the lot or lots is occupied by more than one use whether in the same structure or not.

Directional sign - An off-premises sign, permanent or temporary, which indicates the direction or distance to a geographic area or destination.

Electronic Message Center - An exterior computer programmable sign capable of displaying words, symbols, figures or picture images that can be altered or rearranged by remote means without altering the face or surface of the sign.

For sale, rent or lease sign - A temporary sign advertising real property for sale, rent or lease.

Free-standing sign - Any sign supported by structure or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Gateway sign - A permanent sign used to direct attention to a site which includes a lot(s) considered as a unit for development purposes. For example, permanent subdivision, apartment or condominium project signs, campus of an academic institution or industrial park.

Incidental sign - A sign generally informational, its purpose is secondary to the use of the lot on which it is located, such as “No Parking” or other similar directives.

Identification sign - A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises on which the sign is located.

Marquee - Any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Movable sign - Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to, signs converted to A or T frames; menu and sandwich board signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, said vehicle must be registered and used in the normal day-to-day operations of the business.
Municipal Gateway Sign - A permanent sign on arterial city streets used to promote the entrance or exit to the city.

Nonconforming sign - Any sign that does not conform to the requirements of this ordinance.

Off-premise sign - Any sign that advertises or indicates someone other than the person occupying the premises on which the sign is erected or maintained, or some business or businesses other than that transacted thereon, or advertises another property or any part thereof as for sale or rent.

On-premise sign - Any sign that advertises or indicates the usage, activity, or event conducted on the premises on which the sign is erected or maintained.

Permanent sign(s) - A sign that is permanently mounted, including its support structure, and is intended to be used for permanent, continuous display.

Political sign - A noncommercial sign erected to show support for a candidate for public office or to express a political opinion.

Primary sign(s) - The principal permanent sign of a business, institution, service or other occupant.

Projecting sign - Any sign affixed perpendicularly to a building or a vertical wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such a building or wall.

Recreational facilities - City property controlled by the Easthampton Parks and Recreation Commission and other public spaces administered and maintained by other authorities.

Roof sign - A sign which is located above, or projected two (2) feet above, the lowest point of the eaves of the top story or the top of a parapet wall of any building, or which is painted on or fastened to a roof.

Sandwich Board Sign - Sandwich board signs are self-supporting A-shaped or T-shaped moveable signs with only two visible sides.

Service Station LED Sign – A sign that displays the price/cost of a fuel product. (Definition added by the City Council on 05-20-2015; approved by the Mayor on 05-21-2015).

Setback - Distance measured horizontally from the curb line to the nearest point of the sign.

Sign - Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of an advertisement, announcement, or direction.

Special event sign - A temporary sign used in connection with a circumstance, situation, or event (i.e. church bazaar, circus, competition, festival, grand opening, open house, performance) that is expected to be complete within a reasonably short or definite period of time.

Surface area of a sign - The surface area of a sign shall include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.

1. For a freestanding sign, the area shall include the frame, if any, but shall not include a pole or other structural components unless such parts are internally illuminated or otherwise designed to constitute a display device, or a part of a display device.
2. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, such as a building wall the area shall be defined as the smallest geometric area with no more than six sides or an oval or circle which encompasses all of the letters, designs and symbols.

Temporary sign - Any sign that is not permanently mounted, including its support structure, and is intended to be used temporarily, for not more than ninety (90) days in any calendar year, unless otherwise stated in this ordinance.

Unimproved right-of-way – The unpaved area of public property along the sides of roads.

Wall sign - Any sign attached parallel to, but within twelve (12) inches of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. Window or door lettering, murals, decorative artwork are not to be considered or regulated as Wall Signs.

Way-finding sign - A permanent off-premises display of one or more directional or community informational signs, commercial, industrial, or recreational development districts. (1) Public, municipal or community institutions, (2) Shared Commercial, (3) Individual businesses, (4) Temporary public events which are expected to draw significant numbers of visitors. Way-finding signs will be administered by the appropriate authority: The Easthampton Department of Public Works and where appropriate the approval of Massachusetts Highway Dept.

Window sign - A sign physically adhered to the inside or outside of a window surface. Window signs are not considered primary signs.

10.04 General Standards

a. All signs shall comply with the regulations for the erection and construction of signs contained in other applicable city regulations, except as shall be under the jurisdiction of Massachusetts State Building Code and the regulations promulgated there to. Any sign deemed deteriorated or unsafe may be ordered repaired or removed by the Zoning Enforcement Officer with written notice to the owner. The Building Commissioner shall have jurisdiction in matters where structural issues are a part of the deterioration or unsafe condition.

b. Any traffic or direction sign owned and installed by a governmental agency shall be permitted.

c. A sign or its illuminator shall not, by reason of its location, shape, or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking.

d. Occupants in a multi-use building in the Mixed Use Mill Industrial district shall be allowed up to five (5) sq. ft. of primary signage per every 1000 sq. ft. of occupied interior floor space up to a maximum of thirty-two (32) sq. ft. per occupant (subject to landlord approval).

e. A Special Permit from the Zoning Board of Appeals (ZBA) is required for any exceptions to this ordinance.

f. Traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle or on foot, of any business, institution, industry or residence shall not be limited.
5-03-2018

g. Unless permitted elsewhere under this ordinance, no private sign shall be permitted on public property.

h. No sign, together with any supporting framework, shall extend to a height above the maximum building height in the underlying zoning district.

i. No free-standing sign shall project over or into any public sidewalk or public way unless permitted elsewhere in the ordinance.

j. If any sign is illuminated, whether internally or externally, it shall be with non-flashing lights only.

k. Neon signs which meet all requirements of this ordinance are allowed without restriction to color.

l. **Service Station LED Sign** – A sign that displays the price/cost of a fuel product (applicable in all zones that currently have gas station signs):

**CRITERIA:**

a. Permanent ground mounted sign for sole use by fuel service stations for the purpose of advertising fuel costs are allowed.

b. The LED numerals may not exceed sixteen (16) inches in height. Signs may be double sided.

c. **Color:** All lighted LED numerals shall be of any color. LED background screen may only be black.

d. **Illumination:** The sign must not exceed a maximum illumination of .8 fc (footcandles) between dawn to dusk and .5 fc from dusk to dawn as measured from the sign’s face at maximum brightness. Such signs may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the passing drier. Sign installer should provide proof of sign’s brightness to the Building Inspector.

e. Signs that blink or flash are prohibited.

(Section 1 added by the City Council on 05-20-2015; approved by the Mayor on 05-21-2015)

m. **Electronic Message Centers (EMC)** shall be limited to the Mixed use Mill Industrial districts only, under the following restrictions:

1. **Operation controls:**
   i. **Changes:** The duration of each message shall be at least 30 seconds as recommended by the US Dept. of Transportation. Transition between messages shall be less than one second. A change of message must occur simultaneously on the entire face. Messages shall not contain flashing, animation, scrolling, rolling or running images or letters.

   ii. **Brightness:** The sign’s brightness must have the ability to respond to changes in the ambient light levels. Signs shall be equipped with brightness dimming controls. Brightness levels must be no more than Federal Highway standards.

   iii. Non-message and background lights shall be “off”, message lights shall be one color.

2. **Location:**
   i. One message center shall be permitted per property in allowed districts.
   ii. The location shall conform to all other regulations with regard to freestanding signs. EMCs must be free standing signs.
3. The allowable working sign area of an EMC shall be limited to no more than 75% of the total allowable max. area of a sign in said zone.
4. EMC sign messages may relate only to goods and services offered on the premises.

5. In Mixed Use Mill/Industrial Districts, an EMC sign is only permitted on properties with one hundred-thousand (100,000) sq. ft. or more of floor area.

6. EMCs shall not be illuminated between the hours of 11pm and 7am or no later than operating business hours if beyond 11pm.

n. **Gateway signs:**
   1. Gateway signs shall be limited to twenty (20) sq. ft. in all Neighborhood and Neighborhood Business Zones, thirty-two (32) sq. ft. in Highway Business and Mixed Use Mill/Industrial Zones and forty (40) sq. ft. in the Industrial Zone.

   2. The sign shall be placed at the entrance to a public way, but shall not be placed within the public way or on public property.

   3. The signs must be set back at least twenty (20) ft. from the street(s) unless in line with a lawfully placed, existing fence. Gateway signs shall be landscaped.

   4. The maximum height is six (6) ft. Gateway signs shall be owned and maintained by a homeowners association, or the institution it identifies. The sign shall display the name and logo of the development/institution only.

o. **Way-finding Signs:** Provide a welcoming, uniform, highly-visible and easily-identifiable system to facilitate the safe orientation and guidance of individual visitors and commercial traffic to various sites of economic, recreational, seasonal and cultural value to the community.

   **Administration:** Applications, approvals, sitting, installation and removal of permanent way-finding signs as described above, on all streets under the City of Easthampton jurisdiction will be within the authority of the Easthampton Dept. of Public Works. On highways maintained and administered by Mass Highway Dept., state standards, regulations and authority will apply to all way-finding signs. The Board of Public Works shall establish regulations for the placement, location and size of way-finding signs, along with any fees associated with design and installation.

p. **Window Signs** are limited in aggregate to forty percent (40%) of each window area.

q. **Roof Signs** are permitted where the top of the sign does not exceed a fifteen (15) ft. height above grade. Roof signs may not extend above the peak of the roof and no more than two (2) ft. above the eaves.

r. All signs must be maintained by the property owner in accordance with this ordinance. Signs that are not maintained may be ordered repaired or removed by the Building Commissioner, said notice shall be a written notice to the owner.

   i. If the sign is deemed by the Building Commissioner to be in an unsafe condition, the owner of the business shall be immediately notified in writing, and shall, within forty-eight (48) hours of receipt of such notification, respond to the city with a plan to correct the unsafe condition, either by repair or removal.

   ii. If such a plan has not been submitted the Building Commissioner shall undertake the repair or removal of said sign, such cost will be billed to the property owner.
iii. If the total costs are not paid in full within thirty (30) days of the repairs or removal, the amount owed shall be certified as an assessment against the property, and a lien upon the property, together with an additional percentage penalty for collection, the same as prescribed for unpaid real estate taxes, shall be applied.

s. Only sign types in Table 10-1 (Types of Permitted Signs) shall be permitted.

t. **Temporary Signs** for architect, engineer or contractor may only be erected during the period said person is performing work on the premises which said sign is erected and he/she shall have written permission of the owner.

u. Any sign for multiple use lots in the Highway Business, Mixed Use/Mill Industrial, and Industrial Districts must include the street number at the top of the sign.

v. **Protection of First Amendment Rights** – Any sign authorized with or without a permit under this Ordinance may, in lieu of any specified copy, contain any lawful message.

**10.05 Signs on Public Property**

a. If carefully regulated, the placement of signs on city sidewalks by private individuals can provide a useful outlet for the expression of ideas and communication of information related to beneficial commercial activity, including, but not limited to, the advertisement of real estate open house events and sandwich boards.

b. It is the desire of the City Council to enact standards that would allow for the regulated use of city sidewalks and areas near public ways for these communication purposes.

c. In enacting these regulations it is not the intention of the City Council to regulate the content of messages on signs to be placed on public property, but instead, it is the City Council’s intention to enact reasonable time, place and manner restrictions aimed at insuring the safety of those using the public sidewalks and those driving on adjacent streets, and to achieve the city’s aesthetic interests by reducing visual clutter that would result from the unregulated posting of signs.

**10.051 Restrictions Applicable to Signs on Public Property**

a. Except as otherwise provided in this section it shall be unlawful for any person to place a sign on public property where said sign fails to comply with any of the restrictions stated in this section. Unlawful signs shall be removed by Zoning Enforcement Officer and forfeited.

b. Permits and appropriate fees will be required for placement of signs on public property unless specifically exempted in this ordinance.

c. Restrictions applicable to signs on public property (unless specified elsewhere in this section):
   1. No sign shall exceed forty-two (42) inches in height.
   2. No sign shall exceed six (6) sq. ft. in area per side, no more than two sides.
   3. All signs shall be constructed or anchored to prevent movement of the sign, except that an anchor shall not be permanent and shall not damage the property on which it is placed.
d. Restrictions applicable to the placement of signs:

1. No sign shall be placed within the median of any public street, including Main Street Rotary, also known as Pulaski Park or any other traffic islands. Easthampton Parks and Recreation event signage is allowed to be placed at Pulaski Park for City Sponsored Community Events; any signage will be placed in the morning and removed that same evening. No sign shall be left overnight or longer than 12 hours of any given day. (Second and third sentences added by City Council 09-05-2012; approved by the Mayor on 09-06-2012)

2. No sign shall be attached to, or leaned against, any street furniture, utility facility (including poles and boxes), street light or any other sign.

3. No sign shall be placed in such a manner as to reduce the unobstructed path of travel on any sidewalk to less than forty-eight (48) inches wide, and if the existing unobstructed path of travel of a sidewalk is forty-eight (48) inches or less in width, no sign shall be placed on said sidewalk.

4. No sign shall be placed within a curb cut or ramp installed to provide improved access to a sidewalk for the disabled.

5. No sign shall be placed upon any public property other than a public sidewalk, except that temporary signs may be placed in an unimproved right-of-way with written consent of the owner of the adjoining property. A copy of written consent must be filed with the Zoning Enforcement Officer.

6. No person shall display a sign that would otherwise be in violation of any of the standards provided in subsections (2) and (3) by placing upon, attaching to, or leaning such sign against, a vehicle parked within a public street. This prohibition shall not apply to advertising or other messages either painted or attached in some other way upon the outside of a registered vehicle, or to signs that are placed within the interior of the vehicle.

c. Moveable signs i.e.: sandwich board signs, for use by adjacent entities (owners, tenants, etc.) are allowed on public property subject to the following restrictions:

1. An annual license issued by the City of Easthampton. Sandwich signs may be displayed only during hours and days of operation.

2. On a public sidewalk, curb, curb strip or pavement adjacent to the property owned, leased or used by the applicant. May not obstruct pedestrian access, movement, or vehicular traffic.

3. Movable signs shall not be illuminated, nor shall they contain moving parts (exclusive of changeable letters) nor have balloons, streamers, pennants or similar adornment attached to them. Attaching movable signs to structures, poles, objects, signs etc. by means of chains, cord, rope, wire cable is prohibited.

5. One sign per lot, or one sign per business on multi-tenant lots shall be permitted unless otherwise indicated. In Highway Business zones, no more than one temporary sign may be displayed for each fifty (50) lineal feet of frontage.
10.052 Signs allowed on Public Property by Right

Notwithstanding any other provisions of this section, the following signs are permitted:

a. Signs being held by one or more persons on any public property.

b. Traffic safety signs placed on public property by private persons as directed by a public official as part of the authorization to perform work on public property, or in connection with an event taking place on public or private property.

c. Signs placed by a public officer or employee acting in their official capacity, including such signs as traffic signs, public transit signs, public restroom signs, public parking signs, warning signs, or signs identifying the location of emergency centers, public facilities or places of public interest.

d. Temporary signs placed upon public right-of-ways may not interfere with traffic safety such as line of sight at intersections and must not block pedestrian passage on sidewalks or crosswalks.

e. Sandwich Board Signs may be placed on public property in DB, HB, NB, I, MI zones with a permit. Proof of insurance naming the City of Easthampton as an “additional insured” and a release of liability to the City of Easthampton are required (required insurance amount to be set by the Zoning Enforcement Officer and approved by the Mayor). Signs may be displayed during the hours and on days of operation of said business. Placement on a public sidewalk, curb, curb strip or pavement adjacent to the property owned, leased or used by the applicant. Said sign may not obstruct pedestrian access or movement, or vehicular traffic.

f. Community Event Signs are intended to be used for events sponsored by the City of Easthampton or a not-for-profit organization. The Mayor’s Office may assist the Zoning Enforcement Officer with the administration of permitting. All signs may be placed no more than ten (10) days prior to said event and must be removed no more than two (2) days after the event are permitted in the following areas:

1. Along the fence in front of Nashawannuck Pond (at the corner of Williston Avenue and Cottage Street), limited to three (3) signs displayed at any one time and the size shall be in keeping with any structures constructed for sign display.

2. In front of the Old Town Hall (43 Main Street), signs are to be no larger than 18 sq. ft.

3. Street crossing banners, across Main Street (Rte. 10) near the Emily Williston Memorial Library, requirements for erecting and removing said banners will be relaxed as necessary to coordinate this process with the Building Commissioner and electric utility company or other contractor who erects and removes said banner.

10.06 Prohibited Signs

a. Flashing signs, signs containing moving parts, signs containing reflective elements which sparkle in the sunlight, inflatable signs and tethered balloons (over 24” in diameter).
b. Off-premise sign are prohibited with the following exceptions: political signs, special event signs, directional, way-finding, municipal gateway or gateway signs, community event signs.

c. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises.

d. Size standards are listed for each district in Table 10-2.

e. Signs on wheels are prohibited. This does not apply to signs on registered vehicles.

Table 10-1 Types of Permitted Signs

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>All Residential</th>
<th>All Business and Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gateway</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Canopy</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Free standing</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Marquee</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Projecting</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Roof</td>
<td>N</td>
<td>Y**</td>
</tr>
<tr>
<td>Sandwich Board</td>
<td>N***</td>
<td>Y</td>
</tr>
<tr>
<td>Wall</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Way-finding</td>
<td>N*</td>
<td>Y*</td>
</tr>
<tr>
<td>Window</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Business Flag</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Banner</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Freestanding</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Movable</td>
<td>N***</td>
<td>Y</td>
</tr>
<tr>
<td>Development</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Directional</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>EMCs</td>
<td>N</td>
<td>Y - Only Mixed use Mill/Ind****</td>
</tr>
</tbody>
</table>

Y = Permitted
N = Prohibited

****In M/MI only buildings 100,000 sq. ft. or more qualify.
***Except as public safety may require.
**Roof signs permitted in accordance with Section 10.
*Only allowed along State numbered routes.

Movable signs, such as sandwich boards as well as other types being used as temporary signs are allowed in any zone, when being used to provide traffic, pedestrian and safety guidance on private property without a permit. When used on public property, authorization from the Chief of Police is required in addition to any permit required by this ordinance.
10.07 Non-Conforming Signs

a. **Continuance** – A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this ordinance may continue, although such sign does not conform to the provisions of this ordinance.

b. **Replacement** – Any sign replacing a non-conforming sign shall conform to the provisions of this section, and the non-conforming sign shall no longer be displayed. Similar uses may maintain the non-conforming size; the sign face may change. Different uses will require a special permit from the Zoning Board of Appeals to maintain a non-conforming sign. If the sign is structurally altered, then the non-conforming sign must become a conforming sign.

c. **Abandonment** – If a non-conforming sign associated with a permitted use of structure has been abandoned for no less than two years (i.e. the structure has not been occupied for two years) then the non-conforming sign shall be removed and its nonconformity shall not continue.

10.08 Permit/License Section

a. **Required with sign permit applications**: a placement diagram, explanation of where the proposed sign is to be placed and optional photographs if needed.

b. A sign permit is required prior to the installation of any sign requiring a permit.

c. Only one sign permit for a sandwich board sign is allowed per business and such permit is not transferable. If the sign is to be located on an adjacent public right-of-way to the business location, business owners shall sign a disclaimer that indemnifies the City of any liability for use of said public right-of-way. Evidence of insurance in an amount established by the Zoning Enforcement Officer and approved by the Mayor shall be provided annually with the permit application.

10.081 Enforcement

a. All enforcement will provide instruction, guidance, and a first offense warning with the opportunity for a violation to be corrected prior to any fines being imposed.

b. The Zoning Enforcement Officer shall be responsible for enforcement of this ordinance.

c. As stated within this ordinance the Zoning Enforcement Officer or designee has the authority to remove any temporary sign unlawfully placed on public property without notice.

d. The Zoning Enforcement Officer with the approval of the Mayor shall develop a specific policy for the permitting of permanent and temporary signs and shall annually review the fee schedule making adjustments when necessary.

10.082 Severability

The invalidity, unconstitutionality or illegality of any provision of this section of the ordinance shall not have any effect upon the validity, constitutionality or legality of any other provision of this section of the ordinance.
10.09 Temporary Signs

10.091 General Requirements
a. Permits for temporary signs are not required unless otherwise indicated herein.

b. Tethered hot air balloons, other inflatable objects, spinners and banners attached to temporary signs are not permitted.

c. See Table 10-2 for maximum sizes in all zones.

d. Each temporary freestanding sign cannot exceed six (6) feet in height above ground. The height restriction does not apply to flags.

e. One temporary sign per lot, or one temporary sign per business on multi-tenant lots shall be permitted unless otherwise indicated. In Highway Business zones, no more than one temporary sign may be displayed for each fifty (50) lineal feet of frontage.

f. All signs shall have a date written thereon indicating the date that the sign was installed. Signs without a date shall be removed by the Zoning Enforcement Officer.

g. No sign shall be displayed for more than 14 days, unless otherwise indicated.

h. Forfeiture of signs – Any sign installed or placed on public property, except in conformance with the General Requirements, will be removed without notice.

i. In addition to other remedies herein, the City shall have the right to recover from the owner or person placing or maintaining such a sign the full cost of removal and disposal of such sign.

10.092 Business Flags
Flag sizes allowed by zoning district:

- Industrial, Mill Industrial – Maximum of five (5) ft. by eight (8) ft. or forty (40) sq. ft.

- Downtown Business, Highway Business, Neighborhood Business – Maximum of four (4) ft. by six (6) ft. or twenty-four (24) sq. ft.

10.093 Banners
a. Banner sizes allowed by zoning district:
   - Neighborhood Business twenty-four (24) sq. ft.
   - Downtown Business, Highway Business, Industrial, Mixed Use/Mill Industrial forty (40) sq. ft.

b. Banners shall be allowed for a period not to exceed fourteen (14) calendar days at any one time. Banners displayed for more than fourteen (14) days shall require a sign permit.

c. Street spanning banners are only permitted for Community Events. The maximum size of a permitted street-spanning banner shall not exceed one-hundred (100) sq. ft.

d. Banners shall be securely attached to a building or other permanent structure.
10.094  Real Estate Signs
a. Signs must follow the items under General Requirements except as follows:

b. One real estate sign per property is permitted, and must be located on the property which is advertised for sale or lease.

c. Real estate signs that indicate the sale, rental, or lease of the property, provided such signs are located on private property, must be at least five (5) ft. from the paved portion of any street, sidewalk or public driveway.

d. The sign must be removed no later than seven (7) days after closing of sale, rental or lease of the property.

10.095  Development Signs
a. Signs must follow the items under General Requirements.

b. The development sign may be erected only after a special permit or subdivision approval has been issued for the site.

c. Signs shall be used to identify the name of the project, architect, engineers, contractors, and other individuals or firms involved with the construction.

d. No lighting of the sign is permitted.

e. Each temporary sign cannot exceed sixteen (16) sq. ft. in area on residential zoned property, and cannot exceed thirty-two (32) sq. ft. on all non-residential zoned property. In addition, up to three contractor signs are allowed at four (4) sq. ft. each.

f. Signs must be removed no later than seven (7) days after issuance of an occupancy permit by the City of Easthampton.

10.096  Other Temporary Signs
a. Signs must follow the items under General Requirements.

b. Election Signs – Election signs shall be displayed for a period of not more than ninety (90) days prior to an election and shall be removed within seven (7) days after the completion of the election. Political signs are allowed at any time of the year, no permit is required.

c. Notwithstanding any other provision in this ordinance, temporary and permanent political speech and election signs may be as large, and may remain as long, as any other sign allowed within the zoning district.

d. Signs shall conform in appearance, size and placement as specified in the General Requirements and Table 10-2.
## Table 10-2  Permitted Sign Uses

<table>
<thead>
<tr>
<th>ZONING DISTRICTS</th>
<th>Residential Districts</th>
<th>Downtown Business</th>
<th>Highway Business</th>
<th>Neighborhood Business</th>
<th>Industrial</th>
<th>Mixed Use/ Mill Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SIGN USES</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>Primary Signs</strong></td>
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<tr>
<td><strong>Identification Sign</strong></td>
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<td>Buildings with 1-4 units:</td>
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<tr>
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<td>1 sq. ft.</td>
<td>1 sq. ft.</td>
<td>1 sq. ft.</td>
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</tr>
<tr>
<td>Max. Height</td>
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<td>Number per Dwelling Unit</td>
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<td>1</td>
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<td>Buildings with Five or More Units:</td>
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<tr>
<td><strong>Home Occupation Sign</strong></td>
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<tr>
<td>Number per Dwelling Unit</td>
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<td>1</td>
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<tr>
<td><strong>Residential Accessory Use Sign</strong> (Not including home occupations)</td>
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</table>

10-14
## Table 10-2  Permitted Sign Uses

<table>
<thead>
<tr>
<th>SIGN USES</th>
<th>ZONING DISTRICTS</th>
<th>Residential Districts</th>
<th>Downtown Business</th>
<th>Highway Business</th>
<th>Neighborhood Business</th>
<th>Industrial</th>
<th>Mixed Use/ Mill Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Signs (continued)</strong></td>
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<tr>
<td>Government Use, Non-profit agency, Community Facility</td>
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<tr>
<td>Max. Height</td>
<td>6 sq. ft.</td>
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<tr>
<td>Agricultural Sign</td>
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<td>Max. Total Area of Signs</td>
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<td>Y</td>
<td>Y</td>
<td>Y</td>
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<tr>
<td>Max. Sign size</td>
<td>20 sq. ft.</td>
<td>74 sq. ft.</td>
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<td>Max. Height</td>
<td>20 sq. ft.</td>
<td>24 sq. ft.</td>
<td>32 sq. ft.</td>
<td>18 sq. ft.</td>
<td>40 sq. ft.</td>
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<td>Max. Height</td>
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<tr>
<td>Setback</td>
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<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
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<tr>
<td>Way-finding Signs</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Numbered Highways Only</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td>Gateway Signs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Max. Sign Area</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Max. Height</td>
<td>20 sq. ft.</td>
<td>32 sq. ft.</td>
<td>20 sq. ft.</td>
<td>40 sq. ft.</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td></td>
</tr>
<tr>
<td>Setback</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td></td>
</tr>
<tr>
<td>Municipal Gateway Signs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Max. Sign Area</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Max. Height</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td>32 sq. ft.</td>
<td></td>
</tr>
<tr>
<td>Setback</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td></td>
</tr>
</tbody>
</table>
| *Setback may be reduced to bring sign in line with an existing, legally placed fence or approval from the Chief of Police and DPW and where appropriate the Mass. Highway Dept.
<table>
<thead>
<tr>
<th>ZONING DISTRICTS</th>
<th>Residential Districts</th>
<th>Downtown Business</th>
<th>Highway Business</th>
<th>Neighborhood Business</th>
<th>Industrial</th>
<th>Mixed Use/ Mill Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Signs (continued)</strong></td>
<td><strong>Nonconforming signs</strong>*</td>
<td><strong>Business Sign for Commercial, Retail or Service Use</strong></td>
<td><strong>Commercial Building</strong></td>
<td><strong>Sandwich Board Signs</strong></td>
<td><strong>Electronic Message Center (EMC)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Max. Total Area of Signs</strong></td>
<td><strong>Permitted</strong></td>
<td><strong>74 sq. ft.</strong></td>
<td><strong>100 sq. ft.</strong></td>
<td><strong>36 sq. ft.</strong></td>
<td><strong>100 sq. ft.</strong></td>
<td><strong>100 sq. ft.</strong></td>
</tr>
<tr>
<td><strong>Max. Size Sign</strong></td>
<td><strong>for existing</strong></td>
<td><strong>24 sq. ft.</strong></td>
<td><strong>32 sq. ft.</strong></td>
<td><strong>18 sq. ft.</strong></td>
<td><strong>40 sq. ft.</strong></td>
<td><strong>32 sq. ft.</strong></td>
</tr>
<tr>
<td><strong>Max. Height - Free-Standing Sign</strong></td>
<td><strong>allowed</strong></td>
<td><strong>15 ft.</strong></td>
<td><strong>15 ft.</strong></td>
<td><strong>12 ft.</strong></td>
<td><strong>15 ft.</strong></td>
<td><strong>15 ft.</strong></td>
</tr>
<tr>
<td><strong>Setback</strong></td>
<td><strong>business use.</strong></td>
<td><strong>5 ft.</strong></td>
<td><strong>10 ft.</strong></td>
<td><strong>5 ft.</strong></td>
<td><strong>10 ft.</strong></td>
<td><strong>10 ft.</strong></td>
</tr>
<tr>
<td><strong>Business Sign for Commercial, Retail or Service Use – Multi-Use</strong></td>
<td><strong>N</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
</tr>
<tr>
<td><strong>Max. Total Area of Signs</strong></td>
<td><strong>N/A</strong></td>
<td><strong>74 sq. ft.</strong></td>
<td><strong>100 sq. ft.</strong></td>
<td><strong>36 sq. ft.</strong></td>
<td><strong>100 sq. ft.</strong></td>
<td><strong>100 sq. ft.</strong></td>
</tr>
<tr>
<td><strong>Max. Size Sign</strong></td>
<td><strong>N/A</strong></td>
<td><strong>24 sq. ft.</strong></td>
<td><strong>32 sq. ft.</strong></td>
<td><strong>18 sq. ft.</strong></td>
<td><strong>40 sq. ft.</strong></td>
<td><strong>32 sq. ft.</strong></td>
</tr>
<tr>
<td><strong>Sandwich Board Signs</strong></td>
<td><strong>N</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
<td><strong>Y</strong></td>
</tr>
<tr>
<td><strong>Max. Area</strong></td>
<td><strong>6 sq. ft.</strong></td>
<td><strong>6 sq. ft.</strong></td>
<td><strong>6 sq. ft.</strong></td>
<td><strong>6 sq. ft.</strong></td>
<td><strong>6 sq. ft.</strong></td>
<td><strong>6 sq. ft.</strong></td>
</tr>
<tr>
<td><strong>Max. Height</strong></td>
<td><strong>42”</strong></td>
<td><strong>42”</strong></td>
<td><strong>42”</strong></td>
<td><strong>42”</strong></td>
<td><strong>42”</strong></td>
<td><strong>42”</strong></td>
</tr>
<tr>
<td><strong>Electronic Message Center (EMC)</strong></td>
<td><strong>N</strong></td>
<td><strong>N</strong></td>
<td><strong>N</strong></td>
<td><strong>N</strong></td>
<td><strong>N</strong></td>
<td><strong>Y</strong>*</td>
</tr>
<tr>
<td><strong>Max. Working Area of Sign</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>24 sq. ft.</strong></td>
</tr>
<tr>
<td><strong>Max. Height - Free-Standing Sign</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>15 ft.</strong></td>
</tr>
<tr>
<td><strong>Setback</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>10 ft.</strong></td>
</tr>
</tbody>
</table>

*Each business is allowed 5 square feet of signage per 1000 sq. ft. of floor space used by said business up to max of 32 sq. ft.

**Use of Sandwich Board Signs is permitted in all zones to assist with safety.

***Only buildings with 100,000 sq. ft. or more qualify for an EMC.
Table 10-2  Permitted Sign Uses

<table>
<thead>
<tr>
<th>SIGN USES</th>
<th>Residential Districts</th>
<th>Downtown Business</th>
<th>Highway Business</th>
<th>Neighborhood Business</th>
<th>Industrial</th>
<th>Mixed Use/ Mill Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Temporary Sign Use</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For Sale, Rent or Lease Sign</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Max. Area</td>
<td>6 sq. ft.</td>
<td>24 sq. ft.</td>
<td>32 sq. ft.</td>
<td>18 sq. ft.</td>
<td>40 sq. ft.</td>
<td>32 sq. ft.</td>
</tr>
<tr>
<td>Max. Height</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Number per Permitted Use</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Setback</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td><strong>Architect, Engineer or Contractor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Max. Area</td>
<td>4 sq. ft.</td>
<td>4 sq. ft.</td>
<td>4 sq. ft.</td>
<td>4 sq. ft.</td>
<td>4 sq. ft.</td>
<td>4 sq. ft.</td>
</tr>
<tr>
<td>Max. Height</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Max. Number per Lot</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Min. Setback from the Curb</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td><strong>Real Estate Development Sign</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(commercial, industrial, or over 3 residential units)</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Max Area</td>
<td>16 sq. ft.</td>
<td>24 sq. ft.</td>
<td>32 sq. ft.</td>
<td>18 sq. ft.</td>
<td>40 sq. ft.</td>
<td>32 sq. ft.</td>
</tr>
<tr>
<td>Max. Height</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Number per Development</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Setback</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td><strong>Banner</strong>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Max. Area</td>
<td>24 sq. ft.</td>
<td>40 sq. ft.</td>
<td>40 sq. ft.</td>
<td>24 sq. ft.</td>
<td>40 sq. ft.</td>
<td>40 sq. ft.</td>
</tr>
<tr>
<td>Number per Permitted Use</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

*Maximum Area for permitted street-spanning banner is 100 sq. ft.
### Table 10-2  Permitted Sign Uses

<table>
<thead>
<tr>
<th>SIGN USES</th>
<th>Residential Districts</th>
<th>Downtown Business</th>
<th>Highway Business</th>
<th>Neighborhood Business</th>
<th>Industrial</th>
<th>Mixed Use/ Mill Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Temporary Sign Use (continued)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Business Flag</strong></td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>(pole mounted)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Max. Area</td>
<td>N/A</td>
<td>24 sq. ft.</td>
<td>24 sq. ft.</td>
<td>24 sq. ft.</td>
<td>40 sq. ft.</td>
<td>40 sq. ft.</td>
</tr>
<tr>
<td>Min. Height at 12 inches from the building facade.</td>
<td>N/A</td>
<td>7 ft.</td>
<td>7 ft.</td>
<td>7 ft.</td>
<td>7 ft.</td>
<td>7 ft.</td>
</tr>
<tr>
<td>Number per Permitted Use</td>
<td>N/A</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>Political Sign</strong></td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Max. Area</td>
<td>6 sq. ft.</td>
<td>24 sq. ft.</td>
<td>32 sq. ft.</td>
<td>18 sq. ft.</td>
<td>40 sq. ft.</td>
<td>32 sq. ft.</td>
</tr>
<tr>
<td>Max. Height</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Setback</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Number per Permitted Use</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Special Event Signs</strong></td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Max Area</td>
<td>6 sq. ft.</td>
<td>24 sq. ft.</td>
<td>32 sq. ft.</td>
<td>18 sq. ft.</td>
<td>40 sq. ft.</td>
<td>32 sq. ft.</td>
</tr>
<tr>
<td>Max. Height</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Setback</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>5 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Number per Permitted Use</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
10.1 OFF-STREET PARKING AND LOADING REGULATIONS

10.11 Off-Street Parking and/or Loading Requirements

In any district, if any structure is constructed, enlarged or extended, any use of land established, or any use in existence prior to 1973, is changed, parking and loading spaces shall be provided in accordance with the following tables and other requirements, except where noted below.

10.111 An structure in existence prior to 1973 which is enlarged or a use in existence prior to 1973 which is shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use unless the increase in units or measurements amounts to less than twenty-five percent (25%) whether such increase occurs at one time or in successive stages,

10.112 For the Downtown Business (DB) and Mixed Use/Mill Industrial (MI) Districts only, no additional off-street parking or loading is required for the following:

   a. City buildings and city properties
   b. Continued use or reuse of a building in existence prior to 1973 as long as that use or reuse does not increase the total floor area within the building.

10.12 General Regulations

   a. Accessory parking or loading spaces being maintained in any district in connection with any use in existence prior to 1973 shall hereafter be maintained so long as said use remains, unless an equivalent number of parking or loading spaces is constructed elsewhere conforming to the requirements of the following tables provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

   b. In granting a Special Permit for any use, the Special Permit Granting Authority may require off-street parking spaces, standards, or conditions in addition to those set forth in this ordinance, if it deems necessary for the use.

   c. Any specific, more stringent provision in any other section of this ordinance relating to parking shall prevail over provisions in this section.

   d. When the computation of required parking or loading spaces results in a fractional space, any fraction over one-half (½) shall require one space.

   e. Driveway Access Permit - A driveway access permit must be obtained from the Department of Public Works for all new or relocated driveways or parking lots located along a street with an existing curb.

10.13 General Parking Areas Design and Location

All new structures and additions or extensions on existing structures, except as noted in Section 10.11, shall be provided with off-street parking or loading spaces in accordance with the following specifications.
10.131 Definitions
   a. Driveway -- a space, located on a lot, which is not more than fifteen (15) feet in width for residential uses nor more than twenty-four (24) feet in width for business, commercial, institutional or industrial uses at the lot line, built for access to a garage or off-street parking or loading space.
   b. Parking Space -- An off-street space at least nine (9) feet in width and twenty (20) feet in length, excluding the portion of the driveway to such space.

10.132 Location
   a. For uses in the Downtown Business (DB), Neighborhood Business (NB), Highway Business (HB), General Business (GB), Industrial (I), and Mixed Use/Mill Industrial (MI) districts only: The parking spaces required for the uses listed in Table 10-3 shall be on the same lot as the use they are intended to serve or, when practical difficulties prevent their establishment upon the same lot, they shall be established no further than two hundred (200) feet from the premises to which they are appurtenant. In no case shall the required parking spaces be part of the area used to satisfy any loading requirements of this ordinance.

   b. The loading spaces required for the uses listed in the Table 10-4 Off-Street Loading Regulations shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this ordinance.

10.133 Lighting

Driveways and parking areas shall be illuminated in such a way that there shall be no glare for motorists, pedestrians or adjoining premises.
Table 10-3
Off-Street Parking Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Minimum Number of Parking Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential</strong></td>
<td></td>
</tr>
<tr>
<td>One-family dwelling</td>
<td>Two (2) per dwelling unit</td>
</tr>
<tr>
<td>Accessory apartment</td>
<td>Two (2) per dwelling unit, except the one-bedroom accessory apartment requires only one (1) space</td>
</tr>
<tr>
<td>Duplex; conversion of existing one-family dwelling to two-family</td>
<td>Two (2) per dwelling unit</td>
</tr>
<tr>
<td>Conversion of existing one-family dwelling to three- and four-family dwelling; multifamily housing for elderly and/or handicapped persons</td>
<td>One and one-half (1½) for each dwelling unit</td>
</tr>
<tr>
<td>Multifamily housing</td>
<td>One (1) for each bedroom in each unit plus 1 additional visitor space for every 10 units in the development</td>
</tr>
<tr>
<td>Bed and Breakfast</td>
<td>Two (2) plus one (1) additional space for each rooming unit</td>
</tr>
<tr>
<td>Lodging house</td>
<td>One (1) for each lodging unit</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>In addition to meeting the parking standards for the dwelling unit, one (1) space plus one (1) space for each non-resident employee</td>
</tr>
</tbody>
</table>

**Community Facilities**

<table>
<thead>
<tr>
<th>Uses</th>
<th>Minimum Number of Parking Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Church or religious facility</td>
<td>One for each four (4) seats of total seating capacity</td>
</tr>
<tr>
<td>Business, trade or industrial school or college</td>
<td>One per four (4) students, based on the design capacity of the building, plus one for each teacher or other employee</td>
</tr>
<tr>
<td>Elementary school; junior high school; middle school</td>
<td>Two (2) per each room used for administration or class instruction, plus space for auditoriums or other places of assembly or gymnasium, whichever is greater</td>
</tr>
<tr>
<td>Uses</td>
<td>Minimum Number of Parking Spaces Per Unit</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Community Facilities (cont.)</strong></td>
<td></td>
</tr>
<tr>
<td>Senior high school</td>
<td>One per employee on the largest shift and four (4) per classroom, plus space for auditoriums or other places of assembly or gymnasium, whichever is greater</td>
</tr>
<tr>
<td>Childcare facility; family day care home</td>
<td>One per two (2) employees plus one off-street passenger loading place for every eight (8) students</td>
</tr>
<tr>
<td>City building, recreational facility</td>
<td>One per each four hundred (400) square feet of gross floor area</td>
</tr>
<tr>
<td>Dormitory, fraternity, sorority, YMCA or similar use</td>
<td>One for each sleeping room</td>
</tr>
<tr>
<td>Public library or museum</td>
<td>One for each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>Nursing, rest or convalescent home</td>
<td>One per three (3) beds at design capacity</td>
</tr>
<tr>
<td>Hospital or sanitarium</td>
<td>Two (2) per bed, plus one space per medical staff member, plus one per each two (2) other employees on shift of greatest employment. Bassinets shall not be counted as beds for the purpose of computing parking</td>
</tr>
<tr>
<td>Public Utility</td>
<td>One for each four hundred (400) square feet of gross floor area devoted to office use</td>
</tr>
<tr>
<td></td>
<td>One for each eight hundred (800) square feet of gross floor area per other use</td>
</tr>
<tr>
<td><strong>Agricultural</strong></td>
<td></td>
</tr>
<tr>
<td>Commercial stable; kennel</td>
<td>One per employee, plus one for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Greenhouse</td>
<td>One space for each three hundred (300) square feet of sales floor area</td>
</tr>
<tr>
<td><strong>Retail and Service</strong></td>
<td></td>
</tr>
<tr>
<td>Convenience market; pharmacy, drugstore</td>
<td>Five (5) for each 1,000 square feet of gross floor area; minimum of four (4)</td>
</tr>
<tr>
<td>Furniture store</td>
<td>One for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Supermarket</td>
<td>Six (6) for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Uses</td>
<td>Minimum Number of Parking Spaces Per Unit</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Retail and Service (cont.)</strong></td>
<td></td>
</tr>
<tr>
<td>Restaurants, bars</td>
<td>One for each four (4) seats of total seating capacity, plus one for each two employees on shift of greatest employment</td>
</tr>
<tr>
<td>Drive-in or drive-through restaurants</td>
<td>One per eighty (80) square feet of gross floor area, plus five (5) off-street waiting spaces per drive-in or drive-through lane - a minimum of four (4) is required</td>
</tr>
<tr>
<td>Discount club, warehouse club, warehouse supermarket</td>
<td>Five (5) for each 1,000 square feet gross floor area</td>
</tr>
<tr>
<td>Other retail uses including, but not limited to: discount store; hardware/paint shop; garden center; factory outlet store; antique or gift shop</td>
<td>One per each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>Motel; hotel</td>
<td>One for each sleeping room plus one for each four hundred (400) square feet of public meeting room and restaurant space</td>
</tr>
<tr>
<td>Automotive sales with or without service establishment</td>
<td>One per six hundred (600) square feet of gross floor area, plus one for each 1,000 square feet of lot area used for outdoor display area</td>
</tr>
<tr>
<td>Automotive service station</td>
<td>One space for each gas pump, plus two (2) for each service bay/stall</td>
</tr>
<tr>
<td>Automotive repair or garage</td>
<td>Two (2) for each service bay/stall</td>
</tr>
<tr>
<td>Automotive parts store</td>
<td>Three (3) for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Car wash</td>
<td>One for each wash stall, plus two (2) additional. The wash stall shall not be construed as a required parking space. Additional for self-service car wash; lineup area for each wash stall of sufficient size to accommodate three (3) cars.</td>
</tr>
<tr>
<td>Funeral home</td>
<td>One for each fifty (50) square feet of floor area in the public rooms, plus one for each vehicle maintained on the premises, plus one for each employee</td>
</tr>
<tr>
<td>Membership club</td>
<td>One per fifty (50) square feet of assembly area</td>
</tr>
<tr>
<td>Beauty or barber shop, hair salon or similar establishment</td>
<td>Two (2) for each operator chair</td>
</tr>
</tbody>
</table>
### Table 10-3 (cont.) Off-Street Parking Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Minimum Number of Parking Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Retail and Service (cont.)</strong></td>
<td></td>
</tr>
<tr>
<td>Personal and consumer establishments, including, but not limited to:</td>
<td>One per each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>laundry or dry cleaning; tailor; milliner; cobbler; photographer's</td>
<td></td>
</tr>
<tr>
<td>studio; repair shop for household appliance or business equipment;</td>
<td></td>
</tr>
<tr>
<td>photocopy shop</td>
<td></td>
</tr>
<tr>
<td>Travel agencies</td>
<td>Four (4) for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Medical/dental center, clinic or laboratory, off-site</td>
<td>Five (5) for each practitioner or one for each three hundred (300) square feet of</td>
</tr>
<tr>
<td>medical marijuana dispensary (OMMD) or Cannabis retailer</td>
<td>gross floor area, whichever is greater</td>
</tr>
<tr>
<td><strong>Bank</strong></td>
<td>One for each two hundred (200) square feet of gross floor area, plus six stacking</td>
</tr>
<tr>
<td></td>
<td>spaces for each drive-in window</td>
</tr>
<tr>
<td>Other professional and business offices and services</td>
<td>One for each three hundred (300) square feet of gross floor area</td>
</tr>
<tr>
<td>Golf course; pitch-and-put</td>
<td>Six (6) for each golf hole and one for each employee on largest shift</td>
</tr>
<tr>
<td>Golf driving range; miniature golf course</td>
<td>Two (2) spaces for every tee</td>
</tr>
<tr>
<td>Amusement facilities</td>
<td>One for each one hundred fifty (150) square feet of gross floor, building, or ground</td>
</tr>
<tr>
<td></td>
<td>area devoted to such use, or one space for each four (4) seats for patron use,</td>
</tr>
<tr>
<td></td>
<td>whichever is needed by the facility</td>
</tr>
<tr>
<td>Junkyard</td>
<td>One per employee on shift of greatest employment, plus one for each 5,000 square</td>
</tr>
<tr>
<td></td>
<td>feet of storage area</td>
</tr>
<tr>
<td>Communications, radio and television station</td>
<td>Four (4) for each 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Planned business development</td>
<td>Sum of space requirements for various uses computed separately</td>
</tr>
<tr>
<td><strong>Industrial</strong></td>
<td></td>
</tr>
<tr>
<td>Manufacturing or industrial establishment, including Registered</td>
<td>One for each six hundred (600) square feet of gross floor area OR 0.75 for each</td>
</tr>
<tr>
<td>Marijuana Dispensary (RMD), Cannabis cultivator, Cannabis product</td>
<td>employee of the combined employment of the two (2) largest successive shifts,</td>
</tr>
<tr>
<td>manufacturer, Cannabis independent testing laboratory, Cannabis</td>
<td>whichever is larger</td>
</tr>
<tr>
<td>craft cooperative, Cannabis micro business, or Cannabis research</td>
<td></td>
</tr>
<tr>
<td>facility</td>
<td></td>
</tr>
<tr>
<td><strong>Transportation service facilities</strong></td>
<td>One for each six hundred (600) square feet of gross floor area</td>
</tr>
</tbody>
</table>
Table 10-3 (cont.)
Off-Street Parking Regulations

<table>
<thead>
<tr>
<th>Uses</th>
<th>Minimum Number of Parking Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Industrial</strong> (cont.)</td>
<td></td>
</tr>
<tr>
<td>Open storage of raw materials, finished goods or construction equipment</td>
<td>One for each 1,000 square feet of area in such use</td>
</tr>
<tr>
<td>Research and development</td>
<td>One for each employee on the shift of greatest employment</td>
</tr>
<tr>
<td>Planned industrial development</td>
<td>Sum of space requirements for various uses computed separately</td>
</tr>
<tr>
<td>Wholesale establishment, warehouse or storage establishment</td>
<td>One per each 1,000 square feet of gross floor space</td>
</tr>
<tr>
<td><strong>Mixed Use</strong></td>
<td></td>
</tr>
<tr>
<td>Mixed use</td>
<td>Sum of space requirements for various uses computed separately</td>
</tr>
<tr>
<td><strong>Other Uses</strong></td>
<td></td>
</tr>
<tr>
<td>Any use permitted by this Ordinance not interpreted to be covered by this schedule</td>
<td>Closest similar use space requirements as shall be determined by the building inspector</td>
</tr>
</tbody>
</table>

Note: Gross floor area shall mean the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
### Table 10-4

**Off-Street Loading Requirements**

<table>
<thead>
<tr>
<th>Uses</th>
<th>Number of Loading Spaces Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail trade, manufacturing and hospital establishment with over five thousand (5,000) square feet of gross floor area</td>
<td>One for each twenty thousand (20,000) square feet or fraction thereof of gross floor area up to two (2) spaces; one additional space for each sixty thousand (60,000) square feet or fraction thereof of gross floor area over forty thousand (40,000) square feet. Space used for ambulance receiving at a hospital is not to be used to meet these loading requirements.</td>
</tr>
<tr>
<td>Business services, other services, community facility (school, church, city building, recreation, etc.) or public utility with over five thousand (5,000) square feet of gross floor area</td>
<td>One for each seventy-five thousand (75,000) square feet or fraction thereof of gross floor area up to two (2) spaces; one additional space for each two hundred thousand (200,000) square feet or fraction thereof of gross floor area over one hundred fifty thousand (150,000) square feet</td>
</tr>
</tbody>
</table>

10.14 Additional Parking and Loading Space Standards for Areas with Five (5) or More Spaces

All parking and loading areas containing over five (5) spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

10.141 Front Yard Areas

Parking spaces shall not be located within the required front yard area in any district.

10.142 Parking and loading spaces shall be so arranged as not to permit backing of automobiles onto any street.

10.143 Placement

An open air parking space shall be at least five (5) feet from any building.

10.144 Lighting

Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
10.145 Surfacing

The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.

10.146 Bumper Requirements

A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks.

10.147 Driveway Location

a. Any portion of any entrance or exit driveway shall not be closer than fifty (50) feet to the curb line of an intersecting street.

b. Any two (2) driveways leading to or from a street to or from a single lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot.

10.148 Screening

a. The parking or loading area shall be effectively screened on each side which adjoins or faces the side or rear lot line of a lot situated in any residential "R" district.

b. Exposed storage areas, machinery, services areas, utility buildings and structures and other unsightly uses shall be effectively screened from neighboring properties when such properties are situated in any residential "R" district.

c. Screening may consist of dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with an expected mature height of at least six (6) feet within five years to provide a full screen of the use.

d. All screened areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

e. Completion of the screening requirements may be postponed for a period not to exceed six (6) months from the time of the project completion due to winter weather conditions.

10.149 Storage

There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.

10.150 There shall not be any vehicle repair or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive
use. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line.

10.151 Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
10.2 ENVIRONMENTAL PERFORMANCE STANDARDS

Any use permitted by right or special permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in any amount as to affect adversely the surrounding environment. The following standards shall apply:

10.21 Emissions

a. Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

b. No emission which can cause any damage to health of animals or vegetation or which can cause excessive soiling, at any point, shall be permitted.

c. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system.

10.22 Erosion Control

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best management" practices:

a. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regarding shall be permanently stabilized within six months of occupancy of a structure.

b. During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff shall be trapped by using staked hay bales or sedimentation traps.

c. Permanent erosion control and vegetative measures shall be in accordance with erosion/sedimentation vegetative practices recommended by the Soil Conservation Service.

d. All slopes exceeding fifteen (15) percent resulting from the site grading shall be either covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or be stabilized by a retaining wall.

e. Dust control shall be used during grading operations if the grading is to occur within 200 feet on an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.
10.23 **Discharge**

No discharge, at any point, into a private sewer system stream or the ground of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

10.24 **Glare**

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond its lot lines onto neighboring properties, or onto any street.

10.25 **Hazardous Activities**

a. No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

b. All activities that involve hazardous materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

10.26 **Hazardous Materials Storage**

a. All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain a volume of liquid kept within the storage area, at least equal to one hundred ten (110) percent of the capacity of the container(s), so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement.

b. All storage of hazardous materials, at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

10.27 **Noise**

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to the intermittence, beat frequency, shrillness or volume.

10.28 **Stormwater Management**

a. To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:

   (1) prevent non-point sources pollution from urban runoff to streams, water bodies or groundwater;
   (2) prevent flooding of neighboring or other down-gradient properties;
(3) promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

Appropriate recharge or detention methods may include: detention basins; vegetated swales; filter media; oil/water separators or other similar methods. Stormwater runoff design shall be in harmony with existing regulations set forth by the City of Easthampton and the Commonwealth of Massachusetts.

10.29 Vibration

No offensive vibration shall be permitted at any time.
10.3 FILLING OF SWALES, VALLEYS, ETC.

10.31 Applicability

No filling in of any swale, valley or other area or depression shall proceed without first securing a Special Permit from the Zoning Board of Appeals (ZBA), as specified in Section 12.7 of this Ordinance, and in accordance with the additional requirements specified herein, except where noted below.

10.311 Exceptions

The filling in of any swale, valley or other area or depression shall be exempt from this section provided all the following are compiled with:

a. A filling-in operation which does not exceed a total area of five hundred (500) cubic yards of material.

b. A filling-in operation which does not exceed a total area of ten thousand (10,000) square feet on any lot, land parcel or subdivision thereof.

c. A filling-in operation which is associated with acceptable agricultural land management practices, including, but not limited to, plowing and construction of agricultural structures; nursery operations, such as the removal and/or transplanting of cultivated sod, shrubs and trees; logging operations.

d. Filling-in operations necessary in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance.

e. Filling, as a maintenance measure, or for landscaping purposes on existing developed lots or parcels, provided that the aggregate of area(s) affected does not exceed ten thousand (10,000) square feet, the grade change does not exceed twelve (12) inches at any point and does not alter the drainage patterns; and the filling-in does not involve a quantity of material in excess of one hundred (100) cubic yards.

10.32 Required Plans

For the filling of swales, valleys, or other area or depression not exempt under Section 10.311 of this Ordinance shall submit the following to the ZBA as part of the Special Permit process:

a. Submission of a locus plan at a scale of one inch equals eight hundred (800) feet showing the area to be filled in or excavated, lot lines within which the filling is proposed and tie-in to the nearest road intersection.

b. Submission of a site plan to a scale of one inch equals forty (40) feet of the lot and surrounding area within one hundred (100) feet showing, in addition to above, existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered professional engineer and registered land surveyor.
10.33 Additional Requirements

The following standards shall be used as additional requirements in the Special Permit process for the filling of swales, valleys, etc. not exempt under Section 10.311 of this ordinance:

a. Provision for temporary and permanent drainage of the site.

b. Limitation of fill to terrace fills which are not to exceed ten (10) feet at any one time nor be within ten (10) feet of an adjacent lot line or any cut.

c. Re-grading of all or parts of the slopes resulting from such fill.

d. Replacement of at least four (4) inches of top soil over all filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.

e. Submission of plan for lighting, if night operation is contemplated.

f. Where any fill will have a depth of ten (10) feet or more and create a slope of more than one foot in two (2) feet, there shall be a substantial fence enclosing the fill at least six (6) feet in height with suitable gates. Such fence shall be located ten (10) feet or more from the edge of the fill.

g. Provisions shall be made such that the filling in of any land area shall not impair surface drainage, constitute an erosion hazard nor act as a source of sedimentation to any adjacent land or watercourse.

h. Provisions shall be made such that the filling in of any land area does not impair the safe and efficient operation of any on-site sewage disposal or drainage facilities nor those located on adjacent properties.

i. No filling in of land shall cause or permit any soil, earth, sand, gravel, rock, stone loam, or other fill material, or water or liquid to be deposited upon or to roll, flow or work upon or over the premises of another without the express consent of the owner of such premises so affected; nor shall any filling in of land cause or permit any soil, earth, sand, gravel, rock, stone, loam or other fill material or water or liquid to be deposited, or to roll, flow, or wash upon or over any public street, street improvement, road, sewer, storm drain, water course, or right-of-way, or public property.

j. Such other conditions as may be deemed necessary and reasonable shall be imposed by the Board of Appeals in order to prevent damage to public or private property or any sewer, storm drain, or watercourse, or to prevent the filling in of land from being conducted in a manner
10.4 HOME OCCUPATIONS*
(*Revised in its entirety by the City Council on 09-16-2015; approved by the Mayor on 09-17-2015)

10.41 Purpose

10.41.1 To promote equitable economic development by allowing city residents a broad choice in the use of their homes as places of livelihood without negatively affecting the surrounding area and other people that live there.

10.41.2 To regulate economic generating activities occurring in residential areas so as to be compatible with the surrounding residential uses by assuring that the neighborhood character and residential quality of life is protected from adverse impacts such as noise, traffic, and other nuisance issues.

10.42 Applicability

10.42.1 Minor Home Occupations complying with the standards in this Ordinance shall be permitted by-right in any dwelling unit or structure accessory thereto. The Zoning Enforcement Officer (ZEO) shall oversee the permitting of Minor Home Occupations and may, if necessary, consult with the City Planner or other municipal officials to determine if a proposed Home Occupation is truly a Minor Home Occupation complying with Section 10.43 and Section 10.44 of the Easthampton Zoning Ordinance.

10.42.2 Major Home Occupation complying with the standards in this Ordinance may be granted by a Special Permit from the Zoning Board of Appeals (ZBA) in any dwelling unit or structure accessory thereto.

10.42.3 Any Home Occupation involving hazardous materials (e.g. combustible, flammable, explosive, corrosive, toxic, radioactive, etc.), high heat or open flame (e.g. welding, kilns, etc.), or regulation by the Board of Health (e.g. clinics, bed-and-breakfasts, barbershops, beauty parlors, bakeries, residential kitchens, animal hospitals or kennels) must be reviewed as a Major Home Occupation.

10.42.4 In any case where standards in this Section 10.4 conflict with another Section of the Easthampton Zoning Ordinance, the stricter standard shall rule.

10.43 Standards for All Home Occupations

10.43.1 The owner/operator of every Home Occupation shall reside in the dwelling unit on the property at which the business operates.

10.43.2 No more than thirty-three percent (33%) of the existing gross floor area of the residential unit shall be devoted to the Home Occupation, regardless of whether such use is carried on in the residential unit or in an accessory structure.

10.43.3 There shall be no display or storage of finished goods, raw materials, or inventory visible from the street or lot lines.

10.43.4 There shall be no storage of goods or products produced off-site unless they are used as the raw materials to be combined into a finished product or they are used as the inventory or materials for services performed at an off-site destination.
10.43.5 There shall be no sales of products or services that are not produced on the premises. In addition, there shall be no areas intended for retail sales or service.

10.43.6 No advertising on the premises is permitted other than a small non-electric sign not to exceed two (2) square feet in area.

10.43.7 The premises and building on which the Home Occupation is conducted may not include a feature or design not customary in residential use buildings.

10.43.8 Any newly installed or replaced exterior lighting fixture shall be aimed and shielded so that it does not shine upwards or produce light beyond the boundaries of the property at which the Home Occupation is conducted.

10.43.9 Any addition, alteration, or change to a building must comply with all area, height, bulk, and setback restrictions as described in the Easthampton Zoning Ordinance.

10.43.10 Toxic, explosive, flammable, combustible, corrosive, radioactive, or similar hazardous materials shall not be used, stored, or manufactured on the premises in amounts exceeding those which are typically found in residential use.

10.43.11 Off-street parking for the Home Occupation shall be provided as described in Section 10.1 of the Easthampton Zoning Ordinance.

10.43.12 Traffic associated with a Home Occupation shall not place an unreasonable burden on the City, roads, or surrounding neighborhood due to noise, safety, congestion, or other associated nuisances.

10.43.13 No overnight storage of any kind of vehicle on the property is permitted except for those for the personal use of residents of the property and for those used in conjunction with the Home Occupation. Vehicles used in conjunction with the Home Occupation and stored overnight must be owned or leased by the operator of the Home Occupation and may not belong to people who do not reside at the property.

10.44 **Standards for Minor Home Occupations**

10.44.1 Minor Home Occupations must meet the following standards in addition to the standards listed in Section 10.43 of the Easthampton Zoning Ordinance. In case of conflict, the stricter standard shall apply.

10.44.2 No non-resident employees shall be employed to work at the subject property.

10.44.3 A Minor Home Occupation shall not be open by-appointment nor be open to members of the public (including but not limited to non-resident employees and business partners, contractors, clients, and business visitors) at any time.

10.44.4 There shall be no deliveries or pick-ups other than the types and frequency typically occurring in residential neighborhoods.
10.44.5 Only Class 1 and Class 2 vehicles, as classified by Massachusetts Department of Transportation, may be stored or used on the property in conjunction with the Home Occupation.

10.44.6 No use shall be allowed that causes the exterior appearance or emission of atmospheric pollution (including but not limited to odors, gas, fumes, smog, smoke, and dust), electrical disturbance, excessive light, glare, noise, vibrations, or any other nuisance to the residential character of the neighborhood and/or the residential use of the other units in a multi-family structure.

10.45 Standards for Major Home Occupations

10.45.1 Major Home Occupations must meet the following standards in addition to the standards listed in Section 10.43 and Section 12.79 of the Easthampton Zoning Ordinance. In case of conflict, the stricter standard shall apply.

10.45.2 No more than two (2) non-resident employees shall be employed to work at the subject property.

10.45.3 Unless otherwise determined by the Zoning Board of Appeals, hours of operation to the public, including non-resident employees, clients, business visitors, as well as pickups/deliveries shall be limited Monday through Friday to the hours between 8:00 AM and 8:00 PM and on weekends to the hours between 10:00 AM and 6:00 PM.

10.45.4 There shall be no increase of traffic to the in excess of two (2) vehicles per hour (on average) during hours of operation to the public.

10.45.5 Unless otherwise allowed by the board, only Class 1 and Class 2 vehicles, as classified by the Massachusetts Department of Transportation, may be stored or used on the property in conjunction with the Major Home Occupation.

10.45.6 The premises and building on which the Major Home Occupation is conducted shall not be made objectionable or detrimental in any manner (including but not limited to the exterior appearance or emission of atmospheric pollution (e.g. odors, gas, fumes, smog, smoke, and dust), electrical disturbance, excessive light, glare, noise, or vibrations) to the residential character of the neighborhood and/or the residential use of the other units in a multi-family structure.

10.46 Expiration, Amendment, and Renewal

10.46.1 Home occupation permits may be amended or renewed in accordance with this Ordinance. Home occupation permits are not transferable and shall expire upon (1) the sale of the property; (2) the abandonment or vacating of the property by the resident operating the home occupation; (3) the conclusion of the time as set as a condition by the Zoning Board of Appeals; or (4) the issuance of a subsequent Home Occupation permit at the same location.
10.5 COMMERCIAL DEVELOPMENT PERFORMANCE STANDARDS

In order to receive site plan approval or special permit, all projects or uses must demonstrate compliance with the Commercial Development Performance Standards herein, and abide by the Environmental Performance Standards set forth in Section 10.2.

10.51 Standards that apply to projects or uses in the Downtown Business District, Highway Business District, General Business District, Mixed Use/Mill Industrial District, and Neighborhood Business District

10.511 Parking Standards

Proposed projects or uses must comply with Parking and Off-street Loading regulations in Section 10.1 and the following standards:

a. No parking shall be permitted within the required front yard setback of a structure. If the physical configuration of the lot creates a hardship for the property owner to meet this requirement, the Planning Board may allow parking in the front, with adequate screening, as noted in Section 10.515 (b).

b. To the extent feasible, parking areas shall be shared with adjacent businesses.

c. For developments which make a long-term commitment to actively promote employee and public use of transit, ridesharing, and other means to reduce single occupant vehicle (SOV) trips, minimum parking standards may be reduced by a percentage, up to a maximum of twenty percent (20%) to be determined by the Planning Board based upon the adequacy of trip reduction plans submitted in accordance with Section 10.524.

10.512 Appearance/Architectural Design Standards

a. Architectural design shall be compatible with the character and scale of buildings in the city through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with Easthampton's character. For example, exterior materials such as wood or metal or vinyl clapboards or stone or brick, and treatment compatible on all four sides, are considered consistent with Easthampton's character. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the city’s character. Large work area doors or open bays shall not open toward or face roadways. (See Easthampton Facade and Sign Guidelines: A Community Development Handbook, for specific guidelines for facades in the downtown area, and for signs city-wide published in December 1985 - copies available in the City Planner's office).

b. The Planning Board may adopt such regulations as may be necessary to further specify design standards.
10.513 Lighting Standards

a. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.
b. No light standard shall be taller than fifteen (15) feet.

10.514 Access Standards

a. Curb cuts shall be limited to the minimum width for safe entering and exiting and shall in no case exceed 24 feet in width, per lane.
b. All driveways shall be designed to afford motorists exiting to highways with safe sight distance.
c. Adequate pedestrian and bicycle access shall be provided as follows:

   (1) Sidewalks shall be provided to enable pedestrian access to adjacent properties, and between individual businesses within a development. The appropriate authority may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes stated in Sections 12.7 and 12.9. The appropriate authority for by-right uses is the Building Inspector, for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.

10.515 Landscaping Standards

a. Large parking areas shall be subdivided with landscaped islands so that no paved parking surface shall extend more than eighty (80) feet in width. At least one tree (minimum two (2) inch caliper) per thirty-five (35) parking spaces shall be provided within the area.
b. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with the capacity to grow to full screening of the unsightly use. Plantings must be four (4) feet at planting when abutting a residential zone.
c. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
d. Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of project completion due to winter weather conditions.
10.52 Standards That Apply to Projects or Uses in Highway and General Business Districts

Projects or uses in the Highway Business District or General Business District must abide by the standards in this section in addition to the standards set forth in Section 10.51.

10.521 Access Standards

Applicants for projects or uses within the HBD or GBD must demonstrate that the project or use will minimize traffic and safety impacts on highways.

a. The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:

   (1) Access via a common driveway serving adjacent lots or premises

   (2) Access via an existing side street

   (3) Access via cul-de-sac or loop road shared by adjacent lots or premises.

b. One driveway shall be permitted as a matter of right per business or per project, if a project includes several businesses within a structure or group of structures. Entering and exiting lanes shall be separated by a median strip. Where deemed necessary by the appropriate authority, two driveways may be permitted as part of the Site Plan Approval process which shall be clearly marked "entrance" and "exit". The appropriate authority for by-right uses is the Building Inspector, and for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.

10.522 Landscaping and Screening Standards

a. A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, and shade trees (minimum two-inch (2) caliper, planted at least every fifty (50) feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk required in Section 10.514c(1) shall be incorporated into the buffer strip.

10.523 Traffic Impact Statement

a. A traffic impact statement shall be prepared, which shall contain:

   (1) Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred feet of the site.

   (2) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site.
estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.

(3) Adequate pedestrian and bicycle access shall be provided as follows:

(a) Sidewalk shall be provided to provide access to adjacent properties and between individual businesses within a development.

b. An additional traffic impact statement shall be prepared by projects over ten thousand (10,000) square feet, which shall contain:

(1) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.

(2) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

10.524 Trip Reduction Plan

a. In each case where a new building(s) or new use of more than ten thousand (10,000) square feet is proposed, the applicant shall prepare and submit a "Trip Reduction Plan" clearly identifying a combination of transportation systems management strategies which are designed to reduce anticipated vehicle trips by thirty-five (35) percent. These strategies may include, but are not limited to:

(1) Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services, and providing parking at the vanpool/carpool pick-up site.

(2) Allowing and encouraging flexible work hours and flexible work weeks.

(3) Encouraging pedestrian and bicycle commute modes by providing on-site bicycle parking storage, locker room facilities, bike and walking paths, and similar features.

(4) Site designs which are conducive to transit or vanpool use, such as convenient, weather protected transit shelters.

(5) Encouraging employee and customer use of transit services, including providing transit subsidies for improved transit service and accessibility.

(6) Provision of on-site services, retail opportunities, and housing if allowed in the zone.

(7) Naming a full-time or part-time transportation systems management coordinator to oversee implementing all strategies identified in the "Trip Reduction Plan."
SECTION 10.6. REMOVAL OF SAND, GRAVEL, QUARRY OR OTHER EARTH MATERIALS

10.61 Applicability

In addition to the general conditions and procedures established in Section 12.7 of this Ordinance for all special permits, the following additional requirements and procedures shall apply. No permit for earth products removal shall be issued if such removal will (1) endanger the general public health or safety or (2) constitute a nuisance, (3) result in detriment to the normal use of adjacent property by reason of noise, dust or vibration, or (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways.

For the removal of sand, gravel, quarry, loam, sod or other earth materials, other than that which is incidental to and in connection with the construction of a building for which a permit has been issued in accordance with these zoning regulations, and for processing and treating raw materials, the following conditions shall govern:

10.611 Any existing sand or gravel removal activity operating under a permit issued prior to the date of adoption of this ordinance may continue until the expiration of the permit, except that any expansion or change in operation not covered by such permit shall require conformance with the above regulations.

10.612 Removal and processing operations shall not be conducted closer than fifty (50) feet to a public street or to any property line and three hundred (300) feet from any public street.

10.613 No equipment, except mobile equipment for sorting, washing, crushing, grading, drying, processing, and treating, shall be used closer than one hundred (100) feet from any public street or from the line of any adjoining property.

10.614 All excavated, filled, or otherwise disturbed surfaces upon completion of the operation shall be covered with at least four (4) inches of topsoil and seed with perennial cover crop; with reseeding as necessary to assure uniform growth and soil surface stabilization. No slope created by the removal operation shall be finished at a grade in excess of the natural angle of repose for the material.

10.615 Any access to excavated areas or areas in the process of excavation shall be adequately posted with KEEP OUT - DANGER signs.

10.616 No excavation, quarry, bank or work face extending under original ground level shall create a slope of more than one vertical to one point five (1.5) horizontal. A temporary fence shall be located ten (10) feet or more from the edge of the excavation or quarry, and shall be at least four (4) feet in height.

10.617 Adequate provision is to be made for drainage during and after the completion of operations.

10.617(a) No top soil or loam is to be removed from any development unless there is an excess of ten inches remaining for lawn and landscape purposes.

10.618 Lateral support shall be maintained for all adjacent properties.
10.619 The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.

10.6110 All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.

10.6111 Hours of operation shall be designated.

10.6112 Provisions shall be made for the adequate control of dust during operation.

10.62 **Required Site Plan.**

Site plans for the removal areas shall be prepared by a registered professional engineer or a registered land surveyor according to Section 12.7, with the following additional information:

a. Water supply and sanitary sewerage systems and temporary and permanent drainage systems for the site.

b. Topographic mapping showing existing contours at intervals of not more than two (2) feet and contours of finished grade after the conclusion of the operation.

c. Submission of plan for lighting if night operation is contemplated.

d. Proper provision for vehicular traffic, service roads, and control of entrances and exits to highways.

e. The relocations of existing and future buildings and operations machinery to the removal areas.

f. Delineation of the existing removal areas and the proposed area for removal in the immediate future.

g. Provision for a substantial fence enclosing the excavation or quarry.

10.63 **Required Reuse Plan.**

Reuse of a removal site is in the public interest. Therefore, land reuse plan(s) on a scale of one hundred (100) feet to the inch or greater must be submitted to and approved by the Zoning Board of Appeals, subject to the regulations set forth below:

a. The Zoning Board of Appeals may require that up to two (2) approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, loam, sod, and associated earth materials. A land reuse plan is also required where an existing extraction operation is extended below the grade of adjacent ground.

b. Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and suitable erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (zero (0) to five (5) years), and be revised as necessary as the existing physical character of the removal area changes.
c. The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one (1) year of the abandonment of said operation. Abandonment for the purposes of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to discontinue the use of the land for a continuous period of one (1) year. Temporary operating of less than thirty (30) days shall not be construed to interrupt any continuous period of abandonment.

d. A reuse plan as defined in this section shall be required for each operation which would come under this section prior to three (3) years from the date of adoption of this amendment, and shall be subject to all of the review procedures as provided in this section, notwithstanding the fact that the operation itself is being undertaken under the provisions of previously existing zoning ordinance.

10.64 The Zoning Board of Appeals shall require a surety bond signed by a Surety Company authorized to do business in the Commonwealth of Massachusetts, or other acceptable performance security, in an amount approved by the Board as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

10.65 Exemption.

The removal of earth material in any of the following operations shall be exempt from this section:

a. The removal of less than ten (10) cubic yards of material in the aggregate in any year from any one lot.

b. The transfer of material from one part of a lot to another part of the same lot.

c. The removal of material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance provided the quantity of material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenances below finished grade.

d. The removal of material from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.

e. The moving or removal of material for any municipal purposes by, or on behalf of, any Department of the City of Easthampton

10.66 For a continuation of an operation beyond a period designated in the initial permit, a new application must be granted in the same manner as for the initial permit except that the Zoning Board of Appeals may waive requirements for submittal of materials required by this section. The waiver must be granted in writing by the Board to the applicant. All other provisions relating to operational standards and permit procedures shall apply. (By-law of 10-18-95, Approved 12-14-95)
SECTION 10.7. ADULT ENTERTAINMENT ENTERPRISES

10.71 Definitions

a. Adult bookstore: "Adult bookstore" means an establishment having as a substantial or significant portion of its stock in trade, rental or sale, books, magazines and/or other matter which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31 ("G.L. c.272, s. 31"), and which shall be deemed to include so-called sexual aids, mechanical and non-mechanical simulators and objects fashioned to resemble or perform certain of the functions of the human sexual organs and genitalia.

b. Adult entertainment establishment: "Adult entertainment establishment" means any establishment which displays entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272. s. 31.

c. Adult motion picture theater: "Adult motion picture theater" means a building used for presenting material related to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

d. Adult use: "Adult use" means a use (whether partially or in its entirety) of a building or business for the purpose of engaging in the sale, display, hire, trade, exhibition or viewing of materials or entertainments depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

e. Adult use advertisement sign: "Adult use advertisement sign" means an advertising sign or device which advertises an adult entertainment use, adult bookstore, adult video store, or adult motion picture theater and/or advertises the trade, rental or sale of material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

f. Adult video store: "Adult video store" means an establishment having as a substantial or significant portion of its stock in trade, rental or sale, videos and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

g. Substantial or significant portion: "Substantial or significant portion" means at least that portion of (i) retail sales accounting for at least twenty percent of gross sales or (ii) merchandise accounting for at least twenty percent of total merchandise available for sale or (iii) shelf-space and display space which when combined is in excess of eighty (80) square feet.

10.72 Adult entertainment establishments and businesses promoting adult uses within the City of Easthampton.

Based upon the experience of other communities, particularly the evident problems which existed in those portions of the City of Boston bordering and included within the so-called "Combat Zone", the city of Easthampton finds that the proliferation of adult entertainment establishments (as said term is herein defined) will have an adverse effect on the community by, among other impacts, limiting economic development and reducing residential property values. Furthermore, the city finds that adult entertainment establishments, if situated near schools, parks or conservation areas, houses of worship, nursery schools, day care centers, kindergartens or playgrounds would have an adverse impact on the youth of the City of Easthampton.
10.721 General Limitations

Notwithstanding any term or condition within the so-called Table of Use Regulations within the Easthampton Zoning Ordinance, or any other provision of said Zoning Ordinance, no adult entertainment establishments, adult bookstore, adult video store, adult motion picture theater and advertising signs or devices may be (i) erected, constructed, placed, altered, converted or otherwise changed in any district other than the "DB" District or (ii) erected, constructed, placed, altered, converted or otherwise changed without the issuance of a Special Permit issued by the Easthampton Planning Board or (iii) erected, constructed, placed, altered, converted or otherwise changed if it is within one thousand feet of the line of any lot which contains either an adult entertainment establishment, adult bookstore, adult video store, adult motion picture theater or adult advertising signs or devices.

10.722 Special Permit considerations for adult entertainment establishments and adult motion picture theaters

No special permit may be granted for any adult entertainment establishment or adult motion picture theater unless each of the following conditions are fully satisfied:

1. Adult entertainment establishments and adult motion picture theaters may not be located less than one thousand feet (1,000) from the nearest lot line of: each other; public or private nursery schools; public or private day care centers; public or private kindergartens; public or private elementary schools; public or private secondary schools; playgrounds; parks; conservation areas; and houses of worship.

2. A ten foot-wide landscaped strip shall be provided along the property line fronting a public or private way.

3. No adult entertainment establishments or adult motion picture theater may be situated on a lot which is less than five thousand square feet nor more than twenty thousand square feet.

4. Adult entertainment and adult motion picture theaters may not be allowed within a building containing other retail, consumer or residential uses.

5. A material condition to every special permit issued with respect to any adult entertainment establishment and adult motion picture theater shall be that such establishment or theater must cease its business operations between the hours of 1 a.m. and 10 a.m. each day.

6. No adult entertainment establishment or adult motion picture theater may have visible from outside the establishment or theater any flashing lights.

7. No adult entertainment establishment or adult motion picture theater shall be eligible to apply for a permit requesting a freestanding accessory sign.

8. Each applicant for a special permit to operate an adult entertainment establishment or an adult motion picture theater must provide on a plan submitted with its application adequate parking on the same lot of said establishment or theater in the following ratio: one parking space for every 1.25 persons allowed for said establishment's seating capacity.
10.723 **Special Permit consideration for adult bookstores and adult video stores.**

No special permit may be granted for any adult bookstores or adult video stores (collectively said bookstores and video stores hereinafter referred to as "adult merchandise establishments") unless each of the following conditions are fully satisfied:

1. Adult merchandise establishments may not be located less than one thousand (1,000) feet from the nearest lot line of: each other; public or private nursery schools; public or private elementary schools; public or private secondary schools; playgrounds; parks; conservation areas; and houses of worship.

2. A ten foot wide landscaped strip shall be provided along the property line fronting a public or private way.

3. No adult merchandise establishment may be situated on any lot which is less than five thousand square feet or more than twenty thousand square feet.

4. Adult merchandise establishments may not be allowed within a building containing other retail, consumer or residential uses.

5. No adult merchandise establishments shall be located within ten feet of a public or private way and must be set back a minimum of at least ten feet from all property lines (unless applicable zoning regulations provide for a greater setback).

6. A material condition to every special permit issued with respect to any adult merchandise establishment shall be that such establishment must cease its business operations between the hours of 11 p.m. and 9 a.m. each day.

7. No adult merchandise establishment may have visible from outside of the establishment or theater any flashing lights.

8. No adult merchandise establishment shall be eligible to apply for a special permit requesting a free-standing accessory sign.

10.724 **Special permit consideration for adult use advertisement signs**

No special permit may be granted for any adult use advertisement signs unless each of the following conditions are fully satisfied:

1. Adult use advertisement signs may not be located less than (1,000) from the nearest lot line of: each other; public or private nursery schools; public or private day care centers; public or private secondary schools; playgrounds; parks; conservation areas; and houses of worship.

2. Adult use advertisement signs may only be located on a building in which there is operating either an adult merchandise establishment, adult entertainment establishment or adult movie theater pursuant to a special permit issued by the Easthampton Planning Board.

3. The highest point on any adult use advertisement sign may be no higher than twenty feet above ground level.

4. No adult use advertisement sign may contain any moving, flashing of animated lights, or visible moving parts.
10.725 Construction; conflicts

In the event that the applicable provision of the zoning ordinance set forth in these amended provisions imposes greater dimensional or setback requirements than do the other provisions of the Easthampton Zoning Ordinance, the greater requirements of the zoning ordinance shall apply. No structure shall contain both an adult merchandise establishment and either an adult entertainment or adult movie theater.

(By-law of 5-1-96, Approved 7-23-96)
Section 10.8 KEEPING OF FARM ANIMALS.

(Section 10.8 Added by the City Council on 02-16-2011; approved by Mayor on 02-17-2011; amended by the City Council on 03-06-2013. Section 10.8 replaced in its entirety by the City Council on May 2, 2018; approved by the Mayor on May 2, 2018)

10.8.1 Purpose
The purpose of this Ordinance is to allow for the accessory use of keeping of farm animals on residential properties for the personal use of the residents of that property only.

10.8.2 Applicability
10.8.2.1 This section applies to the Accessory Uses of keeping of farm animals on residential properties as listed in Table 5-1 (Accessory Uses) and does not apply to the Principal Agricultural Uses of raising or keeping of farm animals as listed in Table 5-1 (Principal Uses – Agriculture).

10.8.2.2 Residential properties with one (1) or two (2) dwelling units: allowed by permit in accordance with this Section endorsed by the Zoning Enforcement Officer.

10.8.2.3 Residential properties with three (3) or more dwelling units: allowed by Special Permit in accordance with this Section and Section 12.7 (Special Permits) from the Zoning Board of Appeals.

10.8.2.4 Residential properties with rental dwelling units: allowed provided that written proof of permission from the property owner is presented as part of the permit application process.

10.8.2.5 Waivers to the setback or lot size requirements for keeping farm animals on residential properties may be granted by Special Permit in accordance with this Section and Section 12.7 (Special Permits) from the Zoning Board of Appeals.

10.8.3 Standards
10.8.3.1 Structures and waste (manure, compost) locations related to the keeping of animals shall meet the required setbacks for accessory structures in Section 6 and as described herein. In the case of conflicts, the standards in this section shall prevail.

10.8.3.2 Enclosures, structures, and waste locations for keeping:

10.8.3.2.1 A small flock of up to six (6) poultry including chickens (no roosters), shall be at least fifty (50) feet from the street line and at least fifty (50) feet from any dwelling unit other than the dwelling to which they are accessory.

10.8.3.2.2 A larger flock of (7 to 25) poultry including chickens (no roosters), shall be at least seventy-five (75) feet from the street line and at least fifty (50) feet from any dwelling unit other than the dwelling to which they are accessory.

10.8.3.2.3 Any other farm animals allowed under this Section, shall be at least seventy-five (75) feet from the street line and at least fifty (50) feet from any dwelling unit other than the dwelling to which they are accessory.

10.8.3.3 No enclosure, structure, or waste location shall be closer than ten (10) feet to the property lines of any abutting property.

10.8.3.4 Animals shall be restricted to the property.

10.8.3.5 Animal waste shall be composted on-site or kept in an enclosed container until disposed of or transported off-premises.
10.8.4 Permit and Inspections Required

10.8.4.1 A permit shall be obtained from the Zoning Enforcement Officer or Zoning Board of Appeals for all farm animals allowed under this section of the ordinance.

10.8.4.2 The Zoning Enforcement Officer shall develop a permit application and set reasonable fees for their administration of this ordinance.

10.8.4.3 Permit and Special Permit applications shall include a scaled site plan that clearly shows:

10.8.4.3.1 the boundary lines and lot size of the property

10.8.4.3.2 the location and use of all existing structures on the property and on abutting properties

10.8.4.3.3 the proposed structures, enclosures, and waste locations related to keeping of farm animals

10.8.4.3.4 the total numbers of each type of animal (existing & proposed) kept on the property

10.8.4.4 Copies of the permit or special permit decision shall be sent to the Applicant, the Animal Inspector, and Zoning Enforcement Officer.

10.8.4.5 Residents keeping farm animals allowed by this Ordinance shall permit the Animal Inspector to access the property and conduct inspections of the property and animals as described in Massachusetts General Laws Ch. 129.
SECTION 10.9    MEDICAL MARIJUANA
(Sec. 10.9 added by the City Council on 02-12-2014; approved by the Mayor 02-13-2014; Amended by the City Council on 08-02-2017; approved by the Mayor 08-03-2017)

10.91   Purpose
It is recognized that the nature of the substance cultivated, processed, and/or sold by Medical Marijuana Treatment Centers and Off-Site Medical Marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the City of Easthampton.

Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (DPH).

10.92   Application Requirements
In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall include the following:

   a. The name and address of each owner of the RMD or OMMD facility/operation;
   b. Documentation that demonstrates that said RMD or OMMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health;
   c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement;
   d. A notarized statement signed by the RMD or OMMD organization’s Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
   e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
   f. A detailed floor plan identifying the areas available and functional uses (including square footage);
   g. All signage;
   h. A traffic study to establish the RMD or OMMD impacts at peak demand times;
   i. A description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.
10.93 **Standards and Conditions**

a. **Use**
   1. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
   2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
   3. The hours of operation shall be set by the Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 11:00 p.m. and 6:00 a.m. (Amended by the City Council on 08-02-2017; approved by the Mayor on 08-03-2017)
   4. RMD facilities that can demonstrate that they comply with the agricultural exemption under M.G.L. Chapter 40A, Section 3 must still apply for Site Plan Approval.

b. **Physical Requirements**
   1. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
   2. No outside storage is permitted.
   3. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.
   4. All RMD and OMMD facilities shall be ventilated in such a manner that:
      a. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and;
      b. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
   5. Signage shall be displayed on the exterior of the RMD and OMMD facility’s entrance in plain sight of clients stating that “Registration Card issued by the MA Department of Public Health required” in text two inches in height.

c. **Location**
   1. No RMD and OMMD facility shall be located within two hundred feet (200’) of any building housing:
      a. an elementary, middle, preparatory, vocational or high school, or;
      b. another RMD or OMMD facility, except that this limitation shall not apply in Industrial zones;
   2. An RMD or OMMD facility shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Permit Granting Authority may grant permission for palliative and therapeutic care uses, which are separate facilities from a RMD or OMMD facilities, in the same building;
   3. An RMD or OMMD facility shall not be located within a building containing residential units, except mixed use buildings, including transient housing or group housing such as hotels, motels, lodging houses, or dormitories.
d. Reporting Requirements
   1. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Inspector and the Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
   2. The local Building Inspector, Board of Health, Police Department, Fire Department and Permit Granting Authority shall be notified in writing by an RMD or OMMD facility owner/manager:
      a. A minimum of 30 days prior to any change in ownership or management of that facility
      b. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.
   3. Permitted RMD and OMMD facilities shall file an annual report to the Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the permit.
   4. The owner or manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their RMD or OMMD at the phone number or email address provided to the City as the contact for the business.

e. Issuance/Transfer/Discontinuance of Use
   1. Special Permits/Site Plan Approvals shall be issued to the RMD Operator.
   2. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel.
   3. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel.
   4. Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant’s ownership/control of the premises as a RMD or OMMD, and shall lapse:
      a. if the permit holder ceases operation of the RMD, and/or
      b. if the permit holder’s registration by DPH expires or is terminated
      c. The permit holder shall notify the Building Inspector and Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
   5. An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.
10.94 **Findings**

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

1. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
2. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
3. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
4. That the RMD or OMMD project meets a demonstrated need;
5. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
6. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.
SECTION 10.10. Adult Use Cannabis Establishments.
(Approved by the City Council on 03-28-2018; approved by the Mayor on 03-29-2018)

10.10.1 Purpose. The purpose of this section is to regulate the time, place and manner of cannabis establishments. The zoning will serve to preserve the character of the community and create a place for the public to responsibly have access to legal cannabis while mitigating community impact. This ordinance should serve as a guide that will support the public’s right to access legal cannabis, protect the public health, safety, and well-being and expand new growth for the tax base.

10.10.2 Scope. This section 10.10 relates only to Cannabis Establishments authorized by General Laws, Chapter 94G, and not to medical cannabis treatment centers authorized by General Laws, Chapter 94I; the location and operation of which is governed locally by Section 10.9 of these bylaws, nor to cannabis-related businesses not required to be licensed by Chapter 94G, except as otherwise provided for herein.

10.10.3 Definitions.
For the purpose of this section the word cannabis is used in place of marijuana as found in MA General Laws, Chapter 94G, and 935 CMR 500, except where any potential conflict in terms appears the state regulations and purpose shall prevail.

Adult on-site cannabis social consumption operator: Means a Cannabis Retailer licensed to purchase cannabis and cannabis products from a cannabis establishment and to sell cannabis and cannabis products on its premises only to consumers or allow consumers to consume cannabis and cannabis products on its premises only. Note this term is not defined in 935 CMR 500.

Cannabis Cultivation: Means the use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis Cultivator: Means an entity licensed to cultivate, process and package cannabis, to transfer cannabis to other Cannabis Establishments, but not to consumers. A Craft Cannabis Cooperative is a type of Cannabis Cultivator.

Cannabis Establishment: Means a Cannabis Cultivator, Craft Marijuana Cooperative, Cannabis Product Manufacturer, Cannabis Retailer, Independent Testing Laboratory, Cannabis Research Facility, Cannabis Transporter, Cannabis Membership Club, or any other type of licensed cannabis-related business, except a medical marijuana treatment center.

Cannabis Membership Club: Means an organization, club, lodge, other private grounds (non-profit and private) allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator or where no sales occurs. Note this term is not defined in 935 CMR 500.

Cannabis Products: Means cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.
Cannabis Product Manufacturer: Means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Cannabis Establishments, but not to consumers.

Cannabis Retailer: Means an entity licensed to purchase and transfer cannabis or marijuana product from Cannabis Establishments and to sell or otherwise transfer this product to Cannabis Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Cannabis Establishment.

Cannabis Transporter: Means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Cannabis Establishments, but not to consumers. Cannabis Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Commission: Means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St.2016, c. 334 as amended by St. 2017, c.55., M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement: Means an agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Cannabis Cooperative: Means a Cannabis Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Cannabis Establishments, but not to consumers.

Hemp cultivation: Means for the purposes of this section, the cultivation of hemp shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Note this term is not defined in 935 CMR 500.

Independent Testing Laboratory: Means a laboratory that is licensed by the Commission and is:

- Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025:2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission;
- Independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- Qualified to test cannabis or marijuana in compliance with 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final license.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): Means a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered
qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

**Microbusiness:** Means a co-located Cannabis Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Cannabis Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Cannabis Establishments.

**Process or Processing:** Means to harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

**Research Facility:** Means an entity licensed to engage in research projects by the Commission.

### 10.10.4 Place

10.10.4.1 No Cannabis Establishment shall be located within 350 feet of pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, in operation at the time of application for a special permit or site plan approval. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located. In any case where the measurement is determined to be in question, the Planning Board may require verification of distances by a Registered Land Surveyor.

10.10.4.2 A Cannabis Establishment is permitted by Special Permit in Highway Business (HB), Downtown Business (DB), Mixed-Use / Mill Industrial (MI) and industrial (I) zoning districts. Refer to Table 5-1, Easthampton Table of Use Regulations. In the Highway Business (HB) and Downtown Business (DB), any Cannabis Establishment other than retail must be located within an existing building(s) and comply with the requirements of Section 10.5 of the Zoning Ordinance.

10.10.4.3 Except in the MI and DB districts, no Cannabis Establishment shall be located within a building containing residential units containing residential units, including transient housing and group housing.

10.10.4.4 No more than six (6) Cannabis Retailers shall be allowed within the City. Special Permit applications will be considered in the order in which the Planning Department receives a completed Special Permit application and confirmation that a completed license application has been received by the Commission.

10.10.4.5 No Cannabis Retailer shall be located within 200 feet of another Cannabis Retailer, except within the MI zone. Distance shall be measured by a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located.

10.10.4.6 No Cannabis Establishment shall be permitted to operate from a moveable, mobile or transitory location.

### 10.10.5 Time and Manner

10.10.5.1 No cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises, except as may be allowed in a Cannabis Membership Club. All Cannabis Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.
10.10.5.2 **Odor:** No Cannabis Establishment shall allow the escape of noxious odors or gases. They shall incorporate odor control technology and provisions, and ensure that emission do not violate MGL Chapter 111, Section 31 C.

10.10.5.3 **Signage:** All signage shall comply with the requirements of 935 CMR 500, and Section 10.0 of this zoning ordinance.

10.10.5.4 **Hours:** Cannabis Retailers shall be open to the public no earlier than 10:00 AM and no later than 11:00 PM.

10.10.5.5 **Visual Impact:** Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage is permitted. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.

10.10.5.6 **Nuisance:** Cannabis Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding the premises and adjacent properties. “Nuisance” includes, but is not limited to, disturbances of the peace, public consumption of cannabis, excessive pedestrian or vehicular traffic, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public or private way (sidewalks and streets).

10.10.5.7 **Home Occupation:** Cannabis Establishments are not permitted as a Home Occupation, as defined in Section 10.4 in the Easthampton Zoning Ordinance.

10.10.5.8 **Security:** Every application for a Special Permit for the operation of a Cannabis Establishment shall include a security plan describing all security measures. This should include site security, security for the transportation of cannabis and cannabis products. Safety plans should mitigate any potential harm to the employees and the public including ensuring all customers are at least 21 years of age.

10.10.6 **Adult On-Site Social Consumption.** Intentionally left blank. Reserved for future use.

10.10.7 **Other**

10.10.7.1 **Community Host Agreement:** No Special Permit shall be granted without first having an executed Community Host Agreement with the City of Easthampton.

10.10.7.2 **Community Outreach Meeting:** No Special Permit application shall be deemed complete by the Planning Department until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.

10.10.7.3 **State Law:** Cannabis Establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.

10.10.7.4 **License requirements:**

10.10.7.4.1 The applicant shall submit proof that the application to the CCC has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be provided as integral component of the application to the planning board and no Special Permit application shall be deemed complete by the Planning Department until this information is provided.
10.10.7.4.2 No Special Permit shall be granted by the Planning Board to an applicant without the Cannabis Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.

10.10.7.4.3 No person shall operate a cannabis establishment without having a license in good standing from the Commission.

10.10.7.5 Energy Use: All Cannabis Cultivators shall submit an energy use plan to the Planning Board to demonstrate best practices for energy conservation. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.

10.10.7.6 Line Queue Plan: The applicant shall submit a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.

10.10.7.7 Traffic Impact Statement: Any cannabis establishment open to the general public shall submit a detailed Traffic Impact Statement in accordance with Section 7.4104.

10.10.7.8 Parking: Parking shall be in accordance with Section 10.1 (off-street parking and loading regulations) and Table 10.3 (off-street parking regulations).

10.10.7.9 Permitting: The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to Section 12.7, Special Permits of the Zoning Ordinance.

10.10.7.10 Waivers: The applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 granted by the Commission. The Planning Board shall approve or disapprove said waivers based on the following Commission criteria in 935.CMR.500:

10.10.7.10.1 Compliance would cause undue hardship to the requestor;

10.10.7.10.2 If applicable, the requestor’s non-compliance does not jeopardize the health or safety of any patient or the public;

10.10.7.10.3 If applicable, the requestor has instituted compensating features that are acceptable to the planning board; and

10.10.7.10.4 The requestor provides to the planning board written documentation, in a form and manner determined by the planning board, supporting its request for a waiver.

10.10.7.11 Hemp: The cultivation of industrial hemp, as same is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123, shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Use of land or buildings for hemp processing and/or product manufacture shall be subject to such zoning controls as apply to other (non-cannabis) processing and product manufacture operations.

10.10.7.12 Notice of Enforcement Order: Within twenty-four (24) hours of receipt of notice of it, a Cannabis Establishment shall file with the Mayor, Health Agent and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state agency (including, but not limited to, the Commission and Massachusetts Department of Public
Health) regarding the Cannabis Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

10.10.7.13 **Annual Inspection:** Any operating Cannabis Establishment within the City shall be inspected annually by the Building Inspector, or their designee(s), to ensure compliance with this Section and with any conditions imposed by the Planning Board as a condition of the Special Permit approval.

10.10.8 **Severability:** If any provision of this Section 10.10 is found to be invalid by a court of competent jurisdiction, the remainder of Section 10.10 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 10.10 shall not affect the validity of the remainder of this zoning ordinance.
SECTION XI. NONCONFORMING USES, STRUCTURES AND LOTS

11.0 Nonconformity by Initial Enactment or Amendment

The provisions of this section affecting nonconforming uses, structures and/or lots cited herein and certain related nonconformities shall apply under the provisions of this Ordinance and established districts as enacted initially or as subsequently amended.

11.1 Extension, Alteration and Change

11.11 Pre-existing Nonconforming Uses

a. Pre-existing nonconforming uses may be altered, extended or changed by a special permit issued by the Zoning Board of Appeals (ZBA) in accordance with this ordinance. The ZBA may issue such special permit after a public hearing and the extension, alteration or change shall be permitted if the ZBA finds that such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

b. Any conforming use of a nonconforming structure may be extended throughout the existing structure.

11.12 Pre-Existing Nonconforming Single-Family or Two-Family Residential Structures

(Sec. 11.12 amended by the City Council on 10-17-2012; approved by the Mayor 10-18-2012)

a. Nonconforming single and two-family residential structures may be extended, altered, or structurally changed upon a determination by the Building Commissioner that the proposed changes comply with all required setback, yard, building coverage, and building height requirements. If the Building Commissioner finds that such proposed changes do not conform to all current applicable zoning ordinances, a review of the application shall be required by the Zoning Board of Appeals (ZBA).

b. If the ZBA finds that the proposed changes would not significantly intensify any existing non-conformities or create any new non-conformities, and that the proposed changes would not cause the structure to become substantially more detrimental than the existing non-conforming structure to the neighborhood, it shall grant a special permit for the proposed changes.

c. If the ZBA finds that any proposed change would create any new non-conformities a variance will be required for such changes.
11.13 Pre-Existing Non-Conforming Non-Residential Structures

a. A pre-existing nonconforming non-residential structure may not be expanded, altered or changed except by a special permit from the ZBA.

b. A special permit will be granted if the ZBA finds:

1. That the proposed alteration, extension or change complies with the zoning ordinance standards or has received a variance for such proposed alteration, extension or change from the ZBA;

2. That the proposed alteration, extension or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure(s).

11.14 Pre-Existing Nonconforming Uses, Structures or Lots Changed to Conformity

a. Any nonconforming structure or portion thereof or any nonconforming use which has come into conformity shall not be altered, extended, or changed so as to again become nonconforming.

b. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

11.2 Restoration

Any non-conforming structure damaged by fire or other cause in excess of fifty (50) percent of its value may be repaired or rebuilt if otherwise in accordance with this ordinance, and used for its original use or a nonconforming use. If such action does not occur within six (6) months the repair or rebuilt structure shall not be used except for a conforming use.

11.3 Abandonment and Non-Use

Any nonconforming use structure, and/or lot which has been abandoned within the meaning of this ordinance or not used for a continuing period of two (2) years or more shall not be used again, unless such use, structure, and/or lot complies with the provisions of this ordinance.

11.4 Moving

Any nonconforming structure shall not be moved to any other location on the lot or any other lot unless every portion of such structure, the use thereof, and the lot shall be conforming.

11.5 Unsafe Structure

Any structure determined to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall not place it in greater nonconformity, and provided further, if the cost to restore any structure shall exceed fifty (50) percent of its physical replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.
11.6 **Single Lot Exemption for Single-Family and Two-Family Uses**

Residential Lot of Record - Any increase in area, frontage, width, yard, or depth requirements of this ordinance shall not apply to a lot for single- and two-family residential use, if at the time of recording or endorsement of such lot, whichever occurs sooner, the following conditions were met:

11.61 The lot was not held in common ownership with any adjoining land.
11.62 The lot conformed to the applicable zoning requirements at the time it was recorded or endorsed.
11.63 The lot had at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.

(Bylaw of 5-31-79)
SECTION XII. ADMINISTRATION AND ENFORCEMENT

12.0 Zoning Enforcement Officer

It shall be the duty of the Zoning Enforcement Officer to administer and enforce the provisions of the ordinance and said duty may be delegated to an assistant Building Inspector as recommended by the Planning Board.

12.1 Permit Required

It shall be unlawful for any owner or person to erect, construct, reconstruct, or alter a structure or change the use or lot coverage, increase the intensity of use or lot coverage, increase the intensity of use, or extend or displace the use of any building, other structure or lot without applying for and receiving from the Building Inspector the required building permit therefor. In applying for the permit, the applicant shall submit a plan to show how all the pertinent regulations of this zoning ordinance are to be met.

12.2 Previously Approved Permits

The status of previously approved permits shall be as determined by the Zoning Act, Section 16.

12.3 Certificate of Use and Occupancy Required

It shall be unlawful to use or occupy any structure or lot thereafter erected or altered unless the building inspector has certified on the building permit, or if a building permit is not required, has issued a certificate of use and occupancy and has specified thereon, the use to which the structure or lot may be put.

12.4 Permit Time Limits

A permit shall be applied for to the building inspector, by the applicant. Construction or operations under a building or special permit shall conform to any subsequent amendment of this ordinance unless the use or construction is commenced within a period of not more than six (6) months after issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

12.5 Violations

12.51 The Building Inspector shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion or alteration of a structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of the provisions of this ordinance or in violation of any approved plan, information or drawing pertinent thereto, or in violation of a permit or certificate issued under the provisions of this ordinance, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the building inspector. Any owner, who having been served with a notice, and who ceases any work or other activity, shall not leave any structure or lot, in such conditions as to be a hazard or menace to the public safety, health, morals or general welfare.

12.52 Criminal Disposition/Violation

Any persons violating any of the provisions of this ordinance, the conditions of a permit granted under this ordinance or any decisions rendered by the Board of Appeals or the Planning Board
shall be liable to a fine of not less than twenty-five dollars ($25) and not more than three hundred dollars ($300.00) for each violation, any such fines to be enforceable through the Superior Court. Each day such violation continues shall constitute a separate offense.

The Mayor will be empowered to present summons for violation answerable in district court. After thirty (30) days' notice of a violation, each summons will result in a fine to the owner of not more than three hundred dollars ($300.00) per day for each violation.

12.53 Prosecution of Violation

If the notice of violation and order is not complied with promptly, the Mayor shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation.

12.6 Board of Appeals

12.61 Membership

There shall be a Board of Appeals of five (5) members and two (2) associate members.

12.62 Appointment

The Mayor shall make appointments to the Board of Appeals pursuant to the Zoning Act, Section 12. The terms of office of the Board of Appeals members shall be such length and so arranged that the term of one member shall expire each year.

12.63 Powers

The Board of Appeals shall have those powers granted under the Zoning Act.

12.64 Adoption of Rules

The Board of Appeals shall adopt rules to govern its proceedings pursuant to the Zoning Act.

12.65 Appeals of Decisions Made by the Board of Appeals

Any person, any municipal officer, or any municipal board, aggrieved by any of the following may appeal to the Hampshire County Superior Court or to the Hampshire County division of the district court department under the provisions of M.G.L., Chapter 40A, Section 17, as amended:

a) a decision by the Board of Appeals; or

b) the failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time.

Any such appeal must be taken within twenty (20) days after the decision is filed with the City Clerk.
12.7 **Special Permit**

12.7.1 **Purpose**

This section of the city ordinance is enacted under the authority of Chapter 40A, Section 9, of the Massachusetts General Laws to protect the health, safety, convenience and general welfare of the inhabitants of Easthampton. Special Permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic and environment, health and safety, property values, utility systems, and the character of the city among other things. The Special Permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure the proposals are consistent with the purpose and intent of the ordinance.

12.7.2 **Projects Requiring Special Permits**

Certain uses, structures, or conditions are designated within Section V, Table 5-1 Easthampton Table of Use Regulations as requiring a special permit. Such permit shall be granted only after written application to and a hearing by the Special Permit Granting Authority and subject to the provisions of Chapter 40A of the Massachusetts General Laws and this Ordinance. The Special Permit Granting Authority responsible for hearing a particular proposal shall be that board or other entity designated by the coding in the Table 5-1 Easthampton Table of Use Regulations.

12.7.3 **Authorization**

12.7.3.1 This ordinance authorizes the Board of Appeals and the Planning Board to be the Special Permit Granting Authority (SPGA), as specified in Section V Use Regulations. A Special Permit shall be granted only after written application to and a public hearing by the SPGA and subject to the provisions of Chapter 40A of the Massachusetts General Laws and this ordinance. The SPGA responsible for hearing a Special Permit shall be that board designated by the coding in Table 5.1, Easthampton Table of Use Regulations.

a. This ordinance authorizes the Planning Board to have one member to be appointed in accordance with the Easthampton Home Rule Charter.

b. The chairperson of the Planning Board may designate an associate member to sit on the board for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the board. (Subsections a. and b. approved by City Council 10-21-97; by Mayor 10-23-97)

12.7.3.2 All uses for which a Special Permit is granted shall satisfy the following:

a. The Special District requirements set forth in Section VII, when applicable;

b. The relevant Development Methods requirements set forth in Section VIII, when applicable;

c. The relevant Land Use Regulations set forth in Section X, when applicable;

d. The site plan standards set forth in this section of the ordinance; and

e. All other applicable requirements and standards of this ordinance.
12.7.3.3 In all instances where a Special Permit is required by this ordinance, no structure shall be erected or externally enlarged, altered, or used for activities or uses, nor shall land subject to such a permit be so used, nor shall any area for parking, loading, or vehicular service, including driveways giving access thereto, be established, used or changed, except in conformity with said Permit. All Special Permits granted by the Special Permit Granting Authority shall include an approved site plan bearing the endorsement of said Authority.

12.7.3.4 Nothing in this ordinance shall require a change in the plan, construction or designated use of any structure on land for which a Special Permit is in effect at the time of adoption of this ordinance, or on which a Building Permit has been issued; subject however, to any expiration term of such Special Permit or to Chapter 40A, Section 6, of the General Laws and to the requirement that construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance unless the use or construction is commenced within a period of not more than six (6) months after issuance of the permit, and on cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. The SPGA may require any such Special Permit to conform with some or all requirements of the ordinance if it is amended, modified or transferred.

12.7.3.5 No Special Permit may be authorized for an activity or use not generally permitted in the district in which the land or structure is located.

12.7.4 Special Permit Application Procedures

12.7.4.1 All applications for uses requiring a special permit in Table 5.1, Easthampton Table of Use Regulation shall be made in writing by the current owner of record on forms furnished by the City Clerk and located in the City Clerk's office and shall be accompanied by a site plan and by the required fee.

a. The applicant shall provide the SPGA with one original special permit application and site plan and eight (8) copies of the application and site plan for distribution, as well as any required supporting materials.

The SPGA may request additional copies as it deems necessary.

b. When the application has been received in a complete form as designated by the SPGA, a copy of the application shall be forwarded to the City Clerk for the City Clerk's stamp. The stamp of the City Clerk shall designate the date of filing.

12.7.4.2 Misrepresentation of any of the required plan items or supporting materials shall be cause to revoke a special permit.

12.7.5 Special Permit Application

12.7.5.1 The Special Permit application shall include an official Special Permit form available from the City Clerk and an endorsed site plan.

All site plans shall be prepared by a registered professional engineer, surveyor, architect, or landscape at a scale of one inch equals twenty (2) feet, one inch equals forty (40) feet or one inch equals eighty (80) feet, whichever is appropriate to the size of the proposal, on standard twenty-four (24) inch to thirty-six (36) inch sheets. All of the following requirements shall be included:
a. Name of the project, locus, boundaries and locus maps showing the site's location, data, north arrow, and scale of the plan. All revisions occurring after original submission shall be noted and dated.

b. Name and address of the owner of record, developer, and original seal of the engineer, surveyor, architect, or landscape architect, as applicable.

c. Names and addresses of all owners of record abutting parcels and those within three hundred (300) feet of the property line.

d. All existing lot lines, easements, and rights-of-way. Included area in acres or square feet; abutting land uses, and the location and use of structures within three hundred (300) feet of the site.

e. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations. Structures to be removed shall be indicated by dashed lines.

f. The locations of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls, and fences. Location type, and screening details for all waste disposal containers shall also be shown.

g. The locations, height, intensity and bulb type of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.

h. The location, height, size, materials, and design of all proposed signage.

i. The location and description of all present and proposed utility systems including sewage or septic system; water supply system; telephone, cable television, and electrical systems; and storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, manholes, and drainage swales.

The SPGA will require soil logs, percolation tests, and storm run-off calculations for large or environmentally sensitive developments.

j. Plans to prevent pollution of surface or groundwater; erosion of soil both during and after construction; excessive run-off; excessive raising or lowering of the water table; and flooding of other properties, as applicable.

k. Existing topography, indicated by dashed lines of two-foot contour intervals where slopes are greater than three (3) percent but less than fifteen (15) percent, and at five-foot contour intervals where slopes are fifteen (15) percent or more. All elevations shall be referred to the nearest U.S. Coastal and Geodetic datum. Where any changes in topography are proposed, finished contours shall be shown as solid lines.

If any portion of the site is within the one hundred-year flood elevation of any water body, the area will be shown and base flood elevations given.

Indicate all areas within the site and within fifty (50) feet of the site, where ground removal or filling is proposed, and given its approximate volume in cubic yards.
l. A landscape plan showing all existing natural land features, major trees, forest cover, and water sources and all proposed changes to these features including size and type of plan material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas. General soil types shall be indicated as part of the landscape plan.

m. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan. Such features may be shown as a key map on the detail plan itself.

n. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, size and location of curb cuts on the site and within one hundred (100) feet of the site. Include the possible organization of traffic channels, acceleration and deceleration lanes, additional width or other means necessary to prevent difficult traffic situations.

A detailed Traffic Impact Statement is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one of the following uses which generates high volumes of trips: convenience stores; drive-in restaurant; automotive service station; or bank. The Traffic Impact Statement shall contain:

(1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;

(2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site and entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.

(3) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.

(4) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.

(5) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

o. For new buildings, uses or projects, a table containing the following information must be included:
   (a) Area of building to be used for a particular use such as retail operation, office, storage, etc.;
   (b) Maximum number of employees;
   (c) Maximum seating capacity, where applicable;
   (d) Number of parking spaces existing and required for the intended use.

p. Elevation plans of a scale of one-quarter (1/4) inch equals one foot for all exterior facades indicating pertinent design features and type of materials to be used.
q. A detailed financial impact statement is required in each case where a proposed new commercial building or project will contain more than 25,000 gross square feet, either as a single structure to be operated by a single tenant or a combination of structures to be operated by more than one tenant. The financial impact statement shall evaluate the project costs and benefits to the community resulting from the project including:
   (1) Projected costs arising from increased demand for and required improvements to public services and infrastructure.
   (2) Value of improvements to public services and infrastructure to be provided by the project.
   (3) Projected tax revenue to be generated by the project.
   (4) Projected impact of the project on the surrounding land values and any potential loss or increase in tax revenues to the City.
   (5) Projected impact on employment levels in the City.

r. A detailed community impact statement is required in each case where a proposed new commercial building or project that contains more than 25,000 gross square feet, either as a single structure to be opened by a single tenant or a combination of structures to be operated by more than one tenant. The community impact statement shall contain:
   (1) Describe the surrounding neighborhood and the project’s impact on any scenic, unique geological, historical, or archeological features and recreational areas on the site or in the vicinity of the site.
   (2) Describe the layout of the proposed project in detail (site plans may be used) including scale, placement and design of buildings and structures, lighting, parking areas, open space, relationship to scenic views from the site, views of the project from distant vantage points and from adjacent properties and public ways.
   (3) Describe how the project is consistent with existing architecture in Easthampton.
   (Sections q & r added by the City Council on April 19, 2005; approved by the Mayor on April 20, 2005)

The SPGA may require that additional information be shown on any site plan submitted with an application for a Special Permit. The SPGA may also waive any of the above requirements as they deem necessary or appropriate in particular cases.

12.7.6 Referral to City Boards and Departments

The SPGA shall within ten (10) days of receiving a Special Permit application, transmit one copy each to the Building Inspector, Board of Health, Conservation Commission, Highway Department, Historical Committee, Fire Department, Police Department, Planning Board, Zoning Board of Appeals, who shall review the application and submit their recommendations to the SPGA concerning:

a. the adequacy of the data and methodology used by the applicant to determine the impacts of the proposed developments;

b. the effects of the projected impacts of the proposed development, and;

c. recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of boards to make recommendations within thirty-five (35) days of the referral of the application shall be deemed to be lack of opposition.
12.7.7 Public Hearing

a. A public hearing shall be held within sixty-five (65) days after the filing of a Special Permit application, in accordance with the procedures in Massachusetts General Laws, Chapter 40A, Section 9. However, a public hearing will not be closed until a response has been received from the Boards/Departments as required under Section 12.76 or the required comment period has elapsed.

b. Public Hearing Notice Requirement

In all cases when notice of a public hearing is required, the board holding such hearing shall cause to be given by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks. The first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the city hall for a period of not less than fourteen (14) days before the date of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid.

12.7.8 Decision Timetable

The Special Permit Granting Authority shall take final action on an application for special permit within ninety (90) days following the close of the public hearing.

Failure to take final action upon an application for a special permit within said ninety (90) days shall be deemed to be a grant of the special permit applied for.

12.7.9 Special Permit Criteria for Approval

The Special Permit Granting Authority shall not grant a special permit unless it finds the reasonable fulfillment of the following criteria:

a. Conformance with the provisions of the ordinances of the City of Easthampton, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies;

b. Protection of city amenities and abutting properties through the minimizing of any detrimental or offensive uses or destruction of unique or important natural, scenic or historic features on the site;

c. Minimization of traffic and safety impacts of the proposed development on adjacent highways or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;

d. Adequacy of the methods of disposal of sewage and refuse and the drainage of surface and subsurface water;

e. Adequate means of protecting wetlands, watersheds, aquifers and well areas.

f. Mitigation of adverse impacts on the city's resources including the effect on the city's water supply and distribution system, sewage collection and treatment systems, fire protection and streets.
g. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, parking, lighting and internal traffic control.

h. Applicant's efforts to integrate the development into the existing landscape through design features such as vegetative buffers and retention of open space or agricultural land.

i. Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees.

j. The consistency of the development with respect to setback, area, placement of parking, architectural style and landscaping of the surrounding buildings and development.

k. Adequacy of the measures to prevent pollution of surface or groundwater to minimize erosion and sedimentation and to minimize changes in groundwater levels, increased run-off and potential for flooding.

l. Adequacy of the methods to ensure that the use will not constitute a nuisance by reason of unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories.

12.7.10 Conditions, Safeguards, Limitations

In granting a Special Permit, the Special Permit Granting Authority may, in accordance with M.G.L., Chapter 40A, impose conditions, safeguards and limitations. Such conditions, safeguards and limitations may include but are not limited to the following:

a. Front, side or rear yards greater than the minimum required by this ordinance, screening, buffers or planting strips, fences or walls, as specified by the Special Permit Granting Authority;

b. Modification of the exterior appearance of the structures;

c. Limitation upon the size, number of occupants, method and time of operation, time of duration of permit, or extent of facilities;

d. Regulation of number and location of driveways or other traffic features;

e. Off-street parking or loading or other special features beyond the minimum required by this ordinance;

Such conditions shall be imposed in writing. For all commercial projects and residential projects greater than six (6) units, the applicant shall file a performance bond secured by surety of deposit money or negotiable securities, or other security, sufficient to cover the cost of all or any part of the conditions, in an amount and form satisfactory to the Special Permit Granting Authority. If at any time during the term of the performance guarantee the Special Permit Granting Authority shall decide that a change in the surety or the bond is warranted, it may reduce the amount of the bond, if the conditions are being met satisfactorily, or increase the surety or bond if additional measures are deemed necessary to insure compliance with the conditions. The Special Permit Granting Authority may also, in its discretion, waive the necessity of a performance guarantee in appropriate cases upon a written request from the applicant. (Paragraph amended by vote of the City Council on May 20, 2009; approved by the Mayor on May 21, 2009).
The Special Permit Granting Authority may suspend any permit or license when work is not performed as required.

12.7.11 Expiration

Special Permits shall expire if a substantial use thereof has not commenced, except for good cause, within two (2) years of Special Permit approval (exclusive of time required to pursue or await the determination of an appeal referred to in Massachusetts General Laws, Chapter 40A, Section 17, from the grant thereof).

12.7.12 Modification, Amendment or Renewal

The Special Permit Granting Authority shall have the authority to modify, amend, or renew its approval of a Special Permit upon written application of the owner, lessee, or mortgagee of the premise; provided, however, that such action is consistent with the purposes and intent of this ordinance, and a public hearing has been held.

12.7.13 Document Distribution

When a Special Permit has been granted, one copy each of the decision, conditions, and approved plans shall be filed with the Planning Board, the Assessors, Zoning Enforcement Officer and the City Clerk and one copy shall be returned to the applicant. The set of documents on file with the City Clerk shall bear the endorsement of the Special Permit Granting Authority and certification that copies of the decision and related plans have been filed in accordance with this section.

12.7.14 Method of Appeal

Any person, any municipal officer, or any municipal board aggrieved by a decision of the Special Permit Granting Authority may appeal to the Hampshire County Superior Court or to the Hampshire County division of the district court, by bringing action within the number of days after the decision has been filed by the City Clerk, in accordance with M.G.L. Chapter 40A, Section 17.
12.9 SITE PLAN APPROVAL

12.90 Projects Requiring Site Plan Approval

The building permit shall not be issued for any of the following uses unless a site plan has been approved and endorsed in accordance with this section:

a. New construction of any uses designed as "PA - Use Permitted with Site Plan Approval from the Planning Board" as designated by the coding in the Table 5.1, Easthampton Table of Use Regulations.

b. Expansion of any existing use requiring a Site Plan Approval as designated by the coding in Table 5.1, Easthampton Table of Use Regulations resulting in a floor space increase of twenty-five percent (25%) or five thousand (5,000) square feet, whichever is less;

c. Resumption of any use described above discontinued for more than two (2) years;

12.91 Purpose

This section of the city ordinance is enacted under the authority of Chapter 40A of the Massachusetts General Laws to protect the health, safety, convenience and general welfare of the inhabitants of the city. The site plan approval ordinance regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances.

In considering a site plan the Planning Board shall assure:

a. Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against light, sight, sound, dust and vibration, and preservation of light and air;

b. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;

c. Adequacy of the methods of disposal for wastes;

d. Protection of environment features, especially groundwater resources on the site and in adjacent sites.

12.92 Site Plan Approval Application

An applicant for site plan approval under this section shall file with the City Clerk ten (10) copies each of an application and a site plan, including the Mylar originals. Receipt of the documents shall be acknowledged by the City Clerk dating them. A copy of the site plan so endorsed shall be kept on file by the City Clerk.

Additional Site Plan Approval requirements are the same as Section 12.751.
12.93 **Referral to City Boards and Departments**

The Planning Board within five (5) days of receipt of the site plan approval application, shall transmit to the Building Inspector, the Conservation Commission, the Zoning Board of Appeals, and any other appropriate city boards, commissions or departments copies of the application and site plan. The Boards receiving these copies shall have up to thirty-five (35) days to make recommendations to the Planning Board.

Failure of boards to make recommendations within thirty-five (35) days of the referral of the application shall be deemed to be lack of opposition.

12.94 **Public Meeting and Decision Timetable**

   a. The Planning Board shall hold an open meeting within sixty (60) days of receipt of an application and shall take final action within sixty (60) days from the time of meeting, with public notice given as provided in General Laws, Chapter 40A, Sections 9 and 11, and this ordinance, relating to special permit procedures. (Subsection amended 10-15-08; approved by Mayor 10-16-08)

   b. Failure of the Planning Board to take final action upon an application for a site plan approval permit within said sixty (60) days shall be deemed to be a grant of the site plan approval permit applied for.

12.95 **Site Plan Approval Criteria for Approval**

The Planning Board shall review the site plan and supporting data taking into consideration the reasonable fulfillment of the following objectives:

   a. Conformance with the provisions of the ordinances of the City of Easthampton, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies;

   b. Protection of city amenities and abutting properties through the minimizing of any detrimental or offensive uses or destruction of unique or important natural, scenic, or historic features on the site;

   c. Convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties;

   d. Adequacy of the methods of disposal and sewage and refuse and the drainage of surface and subsurface water;

   e. Adequate means of protecting wetlands, watersheds, aquifers and well areas;

   f. Mitigation of adverse impacts on the city's resources including the effect on the city's water supply and distribution system, sewage collection and treatment systems, fire protection and streets;

   g. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, parking, lighting and internal traffic control;
h. Applicant's efforts to integrate the development into the existing landscape through design features such as vegetative buffers, and retention of open space or agricultural land;

i. Minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention is to be given to the planting of replacement trees;

j. The consistency of the development with respect to setback, area, placement of parking, architectural style and landscaping of the surrounding buildings and development.

12.96 Final Action

12.961 The Planning Board's final action shall consist of either:

a. A determination that the proposed project meets the criteria of Section 12.95 for Site Plan Approval, stating the specific manner and criteria in which the proposed project conforms to this ordinance.

b. A written denial of the application stating the reasons by which the submitted application and site plan are incomplete for sufficient review by the Planning Board and/or its agents; or

c. Approval subject to any condition, modifications, and restrictions as the Planning Board may deem necessary.

12.962 The Planning Board's decision shall be sent by certified mail to the applicant and filed with the City Clerk. A copy shall also be sent to the Building Inspector's Office.

12.963 Approval may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary; and any construction, reconstruction, alteration or addition shall be carried on only in conformity to such conditions, modifications or restrictions and in conformity with the application and site plan.

12.97 Enforcement

a. The Planning Board may require the posting of a bond to ensure compliance with the plan and conditions and may suspend any permit or license when work is not performed as required.

b. Any site plan approval permit issued under this section shall lapse within one year if a substantial use thereof has not commenced sooner except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 40A of the General Laws shall be included within the one year time limit.
13.0 ADMINISTRATIVE APPEALS

13.01 The Board of Appeals shall hear and decide administrative appeals from:

a. Any person aggrieved by reason of an inability to obtain a permit or enforcement action from any administrative officer under the provisions of the Massachusetts General Laws, Chapter 40A;

b. Any person including any officer or board of the city or of any abutting community, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of the Massachusetts General Laws, Chapter 40A, or this ordinance.

13.02 Any appeal shall be filed by the petitioner with the City Clerk within thirty (30) days from the date of the order or decision which is being appealed. The notice of appeal shall specify the grounds for the appeal. A copy of the notice, including the date and time of the filing certified by the City Clerk, shall be filed immediately by the petitioner with the Board of Appeals and with the officer or board whose order or decision is being appealed in accordance with the Zoning Act, Massachusetts General Laws, Chapter 40A, Section 15.

13.03 In accordance with the Zoning Act, Massachusetts General Laws, Chapter 40A, Section 15, the Board of Appeals shall hold a public hearing within sixty-five (65) days from the receipt of notice by the Board of such appeal. The Board of Appeals shall make a decision on the appeal within one hundred (100) days after the date of the filing with the City Clerk.

13.1 VARIANCES

13.11 The Board of Appeals shall have the power to grant, upon appeal or upon petition with respect to particular land or structures, a variance from the terms of this ordinance where the board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not generally affecting the zoning district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance.

13.12 Public Hearing and Decision Timetable

In the case of every application for a variance made to it under the provision of this zoning ordinance, the Board of Appeals shall hold a public hearing to consider the application in question and shall cause a notice thereof to be published in the local newspaper and by posting a notice on the Bulletin Board in the City Office Building not less than fourteen (14) days before the day of such hearing, as specified in M.G.L. Chapter 40A, Section 10. A copy of the notice shall also be sent by registered mail to the petitioner, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or city, the planning board of the city, the planning board of every abutting city or town, and any other person or persons who in the opinion of the board may be interested in such application.
A public hearing shall be held within sixty-five (65) days after the application for a variance has been filed with the Board of Appeals, as specified in M.G.L. Chapter 40A, Section 10, a copy of which shall forthwith be given to the City Clerk by the applicant. The Board of Appeals will take final action on the application for a variance within one hundred (100) days following the public hearing, as specified in M.G.L. Chapter 40A, Section 10. Failure to do so shall constitute approval. A unanimous vote of a three-member board and a vote of at least four members of a five-member board is required.

13.13 Findings

After giving public notice and holding a public hearing, the Board of Appeals may grant a variance. The following findings must be made by the Board of Appeals before a variance can be issued:

a. The variance must be with respect to a particular parcel of land or to an existing building on the land.

b. There must be circumstances relating to the soil conditions, shape or topography especially affecting such land or structure, but not affecting generally the zoning district in which it is located.

c. Literal enforcement of the ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

d. Desirable relief may be granted if there will not be substantial detriment to the public good, or nullification or substantial derogation from the intent and purpose of this ordinance.

13.14 Conditions, Safeguard and Limitations

The Board of Appeals may impose conditions, safeguards and limitations on both time and use, including the continued existence of any particular structures by excluding any conditions, safeguard or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or owner.

13.15 Permit Expiration

Rights granted by the Board of Appeals and not exercised within one (1) year shall lapse and may be re-established only after notice and a new hearing.

(By-law of 04-30-1974; By-law of 04-26-1976; By-law 05-31-1970; By-law of 05-27-1981)
SECTION XIV. AMENDMENT, VALIDITY AND EFFECTIVE DATE

14.0 AMENDMENT

14.01 Amendments and Filing of Subdivision Plans

This ordinance may be amended from time to time in accordance with Section 5 of the Zoning Act. If a definitive subdivision plan, or a preliminary plan followed within seven (7) months by a definitive subdivision plan, is submitted to a Planning Board for approval under the subdivision control law, and written notice of such submission has been given to the City Clerk before the effective date of this ordinance or any amendment thereto, the land shown on such plan shall be governed by the applicable provisions of the zoning ordinance in effect when such plan is submitted.

14.02 Two Years Before Reconsideration

No proposed zoning ordinance which has been unfavorably acted upon by City Council shall be considered by City Council within two (2) years after the date of such unfavorable action unless the adoption of the proposed ordinance is recommended in the final report of the Planning Board.

14.1 VALIDITY

The invalidity, unconstitutionality or illegality of any provision of this ordinance or boundary shown on the zoning map shall not have any effect upon the validity, constitutionality, or legality of any other provision or boundary.

14.2 EFFECTIVE DATE

The effective date of this ordinance shall be the date on which Town Meeting or City Council voted such adoption or amendment, if publication in a city bulletin or pamphlet and posting has been made or publication in a newspaper has been made pursuant to Section 32 of M.G.L., Chapter 40.

(Bylaw of 05-31-1979)