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# CODE OF ORDINANCES

## CHAPTER 1 - GENERAL PROVISIONS

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

**Sec. 1-1. Designation of Code**

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

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

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 Repeal of ordinances not to revive previously repealed ordinances.**

The repeal of an ordinance shall not thereby have the effect of reviving any ordinance theretofore repealed.

**Sec. 1-3. Construction of certain terms.**

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

**County** shall mean Hampshire Council of Governments.

**Person** shall mean person, firm or corporation.

**City** shall mean City of Easthampton.

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

When an ordinance authorizes any act from being performed without the license or permission of a certain officer, board or committee, such officer, board or committee shall have the right to issue a license or permit for such act to be performed.

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

Any or all of these ordinances may be repealed or amended by an act of the City Council.

**Sec. 1-6. General penalty.**

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

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

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

The City Council shall cause copies of these ordinances to be printed, and to be kept in the City Clerk's Office, where copies or portions thereof may be purchased upon application.

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

# CHAPTER 2 – ADMINISTRATION

## **Art. I. In General**

- Sec. 2-1. City Offices may close on Saturdays**
- Sec. 2-2. Payment of money by Treasurer**
- Sec. 2-3. Sale of personal property of city (value less than \$500)**
- Sec. 2-4. Section deleted by City Council**
- Sec. 2-5. Sale of materials to city by officers and employees**
- Sec. 2-6. Purchase of fuel efficient vehicles for municipal use**
- Sec. 2-7 to 2-15. Reserved**

## **Art. II. Elected Officials**

- Sec. 2-16. Mayoral Salary.**
- Sec. 2-17. School Committee Salary**
- Sec. 2-18. City Council Salary**
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## **Art. III. City Committees, Boards and Councils, Sections 2-28 to 2-75**

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## **Art. IV. Licenses & Permits of Delinquent Taxpayers, Secs. 2-76 to 2-80**

## **Art. V. Naming of Municipal Buildings, Facilities and Public Places Sections 2-81 to 2-85.**

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

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

## *ARTICLE 1. IN GENERAL*

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

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

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

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

**Charter reference**--Fiscal procedures, Art. 5.

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

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

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

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

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

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

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

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

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

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

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

### **Secs. 2-7 to 2-15. Reserved.**



## *ARTICLE II. ELECTED OFFICIALS*

### **Sec. 2-16. Mayoral Salary.**

In accordance with the Home Rule Charter, Chapter 3, Section 3-1(c) and Chapter 9, Section 9-6(i)(2), the annual salary of the Mayor of Easthampton shall be \$70,000.00 effective January 2, 2010. (Approved by the City Council 9-5-00; approved by Mayor 9-6-00. Further amended by the City Council on 4-6-04; approved by Mayor 4-7-04; amended by the City Council 4-2-08; approved by Mayor 4-3-08)

### **Sec. 2-17. School Committee Salary.**

In accordance with the Home Rule Charter, Chapter 4, Section 4-1(e), the annual salary of the six elected members of the School Committee shall be \$900.00 per member, effective January 2, 2008. (Approved by the City Council 12-19-00; approved by Mayor 12-20-00; further amended by the City Council 11-8-06; approved by Mayor 11-9-06).

### **Sec. 2-18. City Council Salary.**

In accordance with the Home Rule Charter, Article 2, Sec. 2-4 (a) the annual salary of the City Councilors shall be \$3,000.00 per member, effective January 2, 2008. (Approved by the City Council 11-8-06; approved by Mayor 11-9-06).

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

*ARTICLE III. CITY COMMITTEES, BOARDS AND COUNCILS+*

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

DIVISION 1. RESERVED

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

DIVISION 2. RESERVED

(This division formerly referred to the Finance Committee)

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

### DIVISION 3. THE COUNCIL ON AGING\*

#### **Sec. 2-51. Established; appointment of members; designation of chairman; term of office.**

- (a) There is hereby established a Council on Aging consisting of nine (9) persons appointed by the Mayor, from the voters and residents of the city.
- (b) The chairperson of the Council on Aging shall be designated from time to time by the Mayor.
- (c) Appointees to the council for the aging shall hold office until their successors are designated. (By-law of 3-23-57, Appvd.4-29-57; By-law of 3-2567, Appvd. 6-21-67)

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

#### **Sec. 2-52. Employees of council.**

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

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

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

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

## DIVISION 4. THE PLANNING BOARD+

### **Sec. 2-59. Established.**

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

### **Sec. 2-60. Appointments; terms.**

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

### **Sec. 2-61. Powers.**

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

## DIVISION 5. VETERANS' COUNCIL

### **Sec. 2-62. Established.**

There is hereby established a veterans' council consisting of eleven (11) persons appointed by the Mayor according to Sec. 3-3 of the Easthampton Home Rule Charter from all the veterans who are voters and residents of the city under the provisions of General Law, Chapter 115, Section 12, with each member serving a three-year term. (Amended by City Council 10-7-97)

### **Sec. 2-63. Appointment; terms.**

[Sec. 2-63 deleted 10-7-97; incorporated into Sec. 2-62]

### **Sec. 2-64. Powers and duties.**

- a. The veterans' council shall meet at least four (4) times a year or upon the call of the chairperson. The veterans' council shall advise and make recommendations to the director of veterans services and the Mayor or City Council on legislation pertaining to veterans affairs, and promote the welfare of veterans in the City of Easthampton. Further, the veterans' council shall be responsible for conducting the annual Memorial and Veterans' Day parades and ceremonies in the City of Easthampton, and be responsible for such other related duties as may be voted by the City Council.
- b. The veterans' council may assume further duties and responsibilities as they may deem fit with the advice and approval of the Mayor and City Council. (By-law of 5-12-88, Appvd. 7-15-88)

## DIVISION 6. BOARD OF PUBLIC WORKS

### **Sec. 2-65. Annual Payment**

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

(Approved by City Council 11-4-97; Mayor 11-5-97)

### **Sec. 2-66 to 2-70. Reserved**

## DIVISION 7. CONSERVATION COMMISSION

### **Sec. 2-71. Established**

There is hereby established a Conservation Commission consisting of seven (7) members appointed in accordance with the Easthampton Home Rule Charter for terms of three (3) years each, and so arranged that the terms of approximately one-third (1/3) of the members will expire each year, and their successors shall be appointed for terms of three (3) years each. Such seven member commission shall be established effective with the City Council approval of the two additional members, pursuant to Section 2-10 of the Easthampton Home Rule Charter. (Approved by City Council 6-2-98; Mayor 6-4-98. In accordance with the 1996 Home Rule Charter Sec. 6-1, this section supercedes Conservation Commission membership noted in Sec. 9-6(h) of the same Home Rule Charter.)

## DIVISION 8. COMMUNITY PRESERVATION COMMITTEE \*

(\*Division 8 added by City Council 4-2-02; approved by Mayor 4-3-02)

### **Sec. 2-72.1 Establishment.**

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

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

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

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

### **Sec. 2-72.2 Duties.**

- (1) The Community Preservation Committee shall, at least annually, study the needs, possibilities and resources of the city regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Parks and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee

shall hold one or more public informational hearings on the needs, possibilities and resources of the city regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city.

- (2) The Community Preservation Committee shall, at least annually, make recommendations to the City Council for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in the Community Preservation Act. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the City Council shall include their anticipated costs.
- (3) The Community Preservation Committee may include in its recommendation to the City Council a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- (4) In determining its recommendation to the City Council, the Committee shall consider the requirement of the Community Preservation Act and this ordinance that the City spend or set aside for later spending not less than 10% of the annual revenues for open space (not including recreational use), not less than 10% for historic resources, and not less than 10% for community housing.

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

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by a majority vote of the entire committee membership.

### **Sec. 2-72.4 Amendments.**

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

### **Sec. 2-72.5 Severability.**

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

ARTICLE IV. LICENSES & PERMITS OF DELINQUENT  
TAXPAYERS\*

(\*By-law of 10-5-94, approved 12-16-94)

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

The Tax Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

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

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

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

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**Sec. 2-79. Waiver.**

The City Council may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members

of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

**Sec. 2-80. Exceptions.**

This ordinance shall not apply to the following licenses and permits: open burning, section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one-hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one-hundred and forty; dog licenses, section one-hundred and thirty-seven of chapter one-hundred and forty; fishing, hunting, trapping license, section twelve of chapter one-hundred and thirty-one; marriage licenses, section twenty-eight of chapter two-hundred and seven and theatrical events, public exhibition permits, section one-hundred and eighty-one of chapter one-hundred and forty.

## ARTICLE V. NAMING OF MUNICIPAL BUILDINGS, FACILITIES & PUBLIC PLACES\*

(Approved by City Council 11-16-04; approved by Mayor 11-17-04)

### **Sec. 2-81. Purpose**

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

### **Sec. 2-82. Definitions.**

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

### **Sec. 2-83. Procedure.**

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

Upon receipt of such a request the City Council shall vote, to convene a five member panel to review proposed names, to hear public testimony, including holding a public hearing if appropriate, and to offer a recommendation to the Council. The Mayor shall appoint two members of his/her choosing to the panel, and the Council President shall appoint three members of his/her choosing to the panel.

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

### **Sec. 2-84. Applicability of procedure.**

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

**Sec. 2-85. Severability Clause.**

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

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

# CHAPTER 3 - BICYCLES

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

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

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

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

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

*ARTICLE I. GENERAL*

**Sec. 3-1. Bicycle defined.**

For the purposes of this chapter the term "bicycle" shall mean every device having two (2) tandem wheels, twenty (20) inches or more in diameter, connected by a frame of metal or wood and arranged to be propelled by human power. This definition of a bicycle is in no way to be construed as applying to children's toy bicycles or velocipedes. A bicycle shall for the purpose of this regulation be construed as a vehicle. (By-law of 10-8-67, 2)

**Sec. 3-2. Application of chapter.**

This chapter shall apply whenever a bicycle is operated upon any city owned property, public **way** or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions set forth in this chapter. (By-law of 10-8-67, 1) (Section amended by City Council 4-16-02; approved by Mayor 4-17-02)

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

(Sections 3-3 to 3-6 deleted by City Council 4-16-02; approved by Mayor 4-17-02)

*ARTICLE II. MANHAN RAIL TRAIL (Bike Path)*

**Sec. 3-17. Restricted Usage.**

Use of any motorized vehicle, including snow and recreational vehicles, is prohibited on the city owned "Manhan Rail Trail", except for public safety, emergency and maintenance vehicles used in the course of their normal duties. (See also Appendix A, Article VII, Sec.1-65). (Section added by City Council 4-16-02; approved by Mayor 4-17-02)

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

(Original Secs. 3-17 to 3-26 deleted by City Council 4-16-02; approved by Mayor 4-17-02)

## *ARTICLE III. OPERATION*

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

- (a) Any person operating a bicycle shall obey the instructions of official traffic signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (b) Whenever authorized signs are erected indicating that no right or left or "U" turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make the turn, in which event the person shall obey the regulations applicable to pedestrians. (By-law of 10-8-67, 11)
- (c) The bicycle operator shall signal with his/her left hand his/her intention to stop or turn. (Subsection (c) added by City Council 4-16-02; approved by Mayor 4-17-02)

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

- a. The operator shall not ride other than upon or astride a permanent and regular seat attached to the bicycle. The operator shall not carry another person on said bicycle, except on a baby seat attached to the bicycle, provided that such seat is equipped with a harness to hold said person secured in the seat and that protection is provided against the feet of said person hitting the spokes of the wheel of the bicycle. (By-law of 10-8-67, 12; By-law of 5-4-89),
- b. The operator shall not transport another person between the ages of one (1) to four (4) years, or weighing forty (40) pounds or less, on a bicycle, except in a "baby seat", so-called, attached to the bicycle, in which such other person shall be able to sit upright; provided, however, that such seat is equipped with a harness to hold such other person securely in the seat and that protection is provided against the feet or hands of such person hitting spokes of the wheel of the bicycle; or upon or astride a seat of a tandem bicycle equipped so that the other person can comfortably reach the handlebars and pedals. The operator shall not transport any person under the age of one year on said bicycle. (Subsection (b) added by City Council 4-16-02; approved by Mayor 4-17-02).

### **Sec. 3-39. Fancy or trick riding.**

- a. The operator of a bicycle shall not engage in fancy or trick riding and without maintaining full control of the bicycle keeping both hands upon the handlebar except when necessary to give a signal. (By-law 10-8-67, 13)
- b. No bicycle shall be operated upon a way with handlebars so raised that the operator's hands are above his shoulders while gripping them. Any alteration to extend the fork of a bicycle from the original design and construction of the bicycle manufacturer is prohibited. (Subsection (b) added by City Council 4-16-02; approved by Mayor 4-17-02).

### **Sec. 3-40. Speed.**

No person shall operate a bicycle at a speed greater than reasonable and prudent under the conditions then existing. (By-law of 10-8-67, 14)

**Sec. 3-41. Riding on right hand side of roadway.**

Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing vehicles or approaching vehicles proceeding in the same direction. (By-law of 10-8-67, 15)

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

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across an alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (By-law of 10-8-67, 16)

**Sec. 3-43. Clinging to vehicles.**

The operator shall not permit the bicycle to be drawn by any other moving vehicle. The operator shall not tow any other vehicle or person, except that bicycle trailers properly attached to the bicycle which allow for firm control and braking may be used. (By-law of 10-8-67, 17; By-law of 5-4-89, 7)

**Sec. 3-44. Riding in a group.**

Persons operating bicycles upon a way shall ride single file except when passing. (By-law of 10-8-67, 18; By-law of 5-4-89, 8)

**Sec. 3-45. Carrying articles.**

An operator of a bicycle shall not carry any package, bundle or article except in or on a basket, rack, trailer or other device designed for such purposes. The operator shall keep at least one hand upon the handlebar at all times. (By-law of 10-8-67, 19; By-law of 5-4-89, 9)

**Sec. 3-46. Parking.**

No person shall park a bicycle upon a street other than upon the roadway against the curb in an upright position, or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic. (By-law of 10-8-67, 20)

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

No person shall ride, drive, propel or wheel any hand cart, sled, wheelbarrow, bicycle, roller skates (including but not limited to in-line skates), motorized scooters and roller blades on any sidewalk. Provided, however, that bicycles being used by police officers in the performance of their duties shall be exempt from the provisions of this ordinance. No person shall ride, drive, propel or use a sidewalk surfboard or skateboard or roller skates on the following public areas, streets, and sidewalks adjacent to said streets:

a) **Downtown Business District:**

Main Street to Center Street  
Park Street to Payson Avenue  
School Street, entire length  
Union Street, entire length  
Cottage Street, entire length  
Chapman Avenue, entire length  
Campus Lane, entire length  
High Street, entire length  
Clark Avenue, entire length  
Union Court, entire length  
Railroad Street, entire length  
Liberty Street, entire length  
Chapel Street, entire length  
Maple Street, entire to S. Hampshire Street  
Payson Avenue, entire length  
Franklin Street, entire length

b) All city owned parking lots with the exception of designated areas as determined by the Chief of Police or the Chief's designee.

c) Pulaski Park

(By-law of 10-8-67, 21; Amended by City Council 6-17-97; approved by Mayor 6-23-97. Amended by City Council 4-16-02; approved by Mayor 4-17-02)

**Sec. 3-48. Reporting of Accidents.**

The operator of a bicycle shall report any accident involving either personal injury or property damage in excess of one-hundred dollars (\$100.00), or both, to the Police Department as soon as possible. (Sec. 3-48 added by City Council 4-16-02; approved by Mayor 4-17-02).

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

## ARTICLE IV. EQUIPMENT

### **Sec. 3-58. Lamps and reflectors.**

During the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, the operator shall display to the front of his bicycle a lamp emitting a white light visible from a distance of at least five hundred (500) feet, and to the rear of said bicycle either a lamp emitting a red light, or a red reflector visible for not less than six hundred (600) feet when directly in front of lawful lower beams of headlamps on a motor vehicle. A generator-powered lamp which emits light only when the bicycle is moving shall meet the requirements of this clause.

During the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, the operator shall display on each pedal of his bicycle a reflector, or around each of his ankles reflective material visible from the front and rear for a distance of six hundred (600) feet, and reflectors or reflective material, either on said bicycle or on the person of the operator, visible on each side for a distance of six hundred (600) feet, when directly in front of lawful lower beams of headlamps of a motor vehicle. This clause shall not prohibit a bicycle or its operator to be equipped with lights or reflectors in addition to those required herein. (By-law of 10-8-67, 22; By-law of 5-4-89. 10)

### **Sec. 3-59. Audible signals.**

The operator shall give an audible warning whenever necessary to insure safe operation of the bicycle; provided, however, the use of a siren or whistle is prohibited. (Sec. Amended by City Council 4-1602; approved by Mayor 4-17-02)

### **Sec. 3-60. Brakes.**

Every bicycle operated upon a way shall be equipped with a braking system to enable the operator to bring the bicycle traveling at a speed of fifteen (15) miles per hour to a smooth, safe stop within thirty (30) feet on a dry, clean, hard, level surface. (By-law of 10-8-67, 24; By-law of 5-4-89, 11)

### **Sec. 3-61. Helmets.**

- a. Any person twelve years of age or younger operating a bicycle or being carried as a passenger on a bicycle on a public way, bicycle path or on any other public right-of-way shall wear a helmet. Said helmet shall fit the person's head, shall be secured to the person's head by straps while the bicycle is being operated, and shall meet the standards for helmets established by the American National Standards Institute (ANSI Z 90.4) or subsequent standards or the Snell Memorial Foundation's nineteen hundred and eighty-four standard for use in bicycling or subsequent standards. These requirements shall not apply to a passenger if the passenger is in an enclosed trailer or other device which adequately holds the passenger in place and protects the passenger's head from impact in an accident.

- b. Every person engaged in the retail business of selling or renting bicycles shall display in an area conspicuous to customers of such business a sign containing the following statement: "Massachusetts law requires that bicycle helmets be worn by persons twelve years of age and under who are operators or passengers on a bicycle.

(Sec. 3-61 added by City Council 4-16-02; approved by Mayor 4-17-02).

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

*ARTICLE 5. PENALTIES*

**Sec. 3-76. Penalties.**

Violators of any section of this chapter may be subject to confiscation of said wheeled object and/or a city citation up to \$25.00\* at the discretion of the police officer.

(Amended by City Council 4-16-02; approved by Mayor 4-17-02)

\*Penalty amended to \$125.00 under Chapter 6, Sec. 6-15, Subsection #11 by the City Council on 8-7-07; Approved by Mayor 8-14-07.

**Sec. 3-77. Notification.**

Copies of said citations will be forwarded to the parents or guardians of violators under the age of 18. (Added by City Council 4-16-02; approved by Mayor 4-17-02).

# CHAPTER 4 - BUILDINGS AND BUILDING REGULATIONS\*

**Art. I. In General, Secs. 4-1 to 4-15**

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

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

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

\*Chapter 4 was amended by vote of the City Council on 12-2-03; approved by the Mayor on 12-3-03. Chapter number has been retained but section numbers have been changed at the discretion of the editor.

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

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

# BUILDINGS & BUILDING REGULATIONS\*

## ARTICLE 1. IN GENERAL

### **Sec. 4-1. Municipal Building Regulations.**

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

(Sec. 4-1 approved by City Council 5-15-01; approved by the Mayor 5-16-01)

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

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

(Sec. 4-2 approved by the City Council 5-5-10; approved by the Mayor on 5-6-10)

### **Secs. 4-3 to 4-15. Reserved.**

*ARTICLE II. DEMOLITION DELAY ORDINANCE*  
**(Demolition of Historically Significant Buildings)**

**Sec. 4-16. Intent and Purpose.**

This ordinance is enacted for the purpose of preserving and protecting significant buildings within the City which are outside Local Historic Districts and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them. To achieve these purposes the Easthampton Historical Commission (the "Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided in this ordinance. (By-law of 5-30-90, Appved. 10-1-90)

**Sec. 4-17. Definitions.**

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

(By-law of 5-30-90, Appved. 10-1-90)

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

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

**Sec. 4-18. Procedure.**

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

(By-law of 5-30-90, Appved. 10-1-90)

**Sec. 4-18. Enforcement and Remedies.**

1. The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent violation thereof.
2. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this ordinance for a period of two years after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.  
(By-law of 5-30-90, Appved. 10-1-90)

**Sec. 4-19. Severability.**

If any section, paragraph or part of this ordinance be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect. (By-law of 5-30-90, Appved. 10-1-90)

**Sec. 4-20. Review and Appeal.**

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

The finding of the Zoning Board of Appeals shall be filed with the City Clerk within 45 days after the request and shall be binding on the applicant and the Commission. (By-law of 5-30-90, Appved. 10-1-90)

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

## ARTICLE III. NUMERICAL IDENTIFICATION OF BUILDINGS\*

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

### **Sec. 4-31. Required.**

Every dwelling, business or industry within the City of Easthampton shall display numerical identification upon its structure. (By-law of 2-13-90, Appved. 3-14-90)

### **Sec. 4-32. Location.**

Said identification to be placed in such a way as to allow clear unobstructed visibility of the numerals from the street. In the event that such structure is located in excess of two-hundred (200) feet from a roadway, or in the event a structure is not visible from the roadway, a numbered sign post shall be erected in a conspicuous location on or near the street entry way to the structure or the numbers may be placed on the mailbox if the mailbox is located in a conspicuous location on or near the street entry way to the structure. (By-law of 2-13-90, Appved. 3-14-90)

### **Sec. 4-33. Identifying numerals.**

All numerals shall be a minimum of three (3) inches in height, be of contrasting color and visible day or night. (By-law of 2-13-90, Appved. 3-14-90)

### **Sec. 4-34. Effective date.**

Compliance with this ordinance shall be required within ninety (90) days of its effective date. (By-law of 2-13-90, Appved. 3-14-90)

### **Sec. 4-35. Enforcement.**

The Fire Department shall be responsible for the enforcement for all existing structures. The Inspector of Buildings shall be responsible for all new construction prior to the issuance of a certificate of occupancy. The Department of Public Works shall be responsible for establishing the proper street number for any structure under this ordinance. (By-law of 2-13-90, Appved. 3-14-90)

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

## ARTICLE IV. RAPID ENTRY KEY SYSTEM REQUIRED

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

### **Sec. 4-41. Applicability.**

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

Such property includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## *ARTICLE I. IN GENERAL*

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

No person while hawking, soliciting, peddling or offering for sale any goods, wares or merchandise upon any of the public ways of the city shall make or cause to be made any outcry or noise, or ring or cause to be rung any bell or use torches or utter loud outcries for the purpose of advertising such goods, wares or merchandise so as to disturb the public peace or do anything contrary to the peace and comfort of the inhabitants of the city. (1945 By-laws, Art. IV, 10, 11, Appvd. 5-1-45)

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

- (a) No person exposing or offering for sale any article of merchandise or anything whatsoever shall locate or remain in or on any street or ways in the city.
- (b) A farmer who raises his own produce may be allocated space by the licensing authority to remain on any street or ways in the city from which to sell his produce, upon application made to said licensing authority. (1945 By-laws, Art IV, 11, Appvd. 5-1-45)

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

Hawkers and peddlers of fruits and vegetables who are not engaged in the pursuit of agriculture, shall be required to pay a license fee of twelve dollars (\$12.00) before being allowed to operate within the city. (1945 By-laws, Art. IV, 12, Appvd. 5-1-45)

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

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

## ARTICLE II. JUNK DEALERS\*

### **Sec. 5-14. License required.**

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

(1945 By-laws, Art. IV, 1, Appvd. 5-1-45)

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

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

(1945 By-laws, Art. IV, 2, Appvd. 5-1-45)

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

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

Every junk collector so licensed pursuant to this article shall have placed upon some conspicuous part of his clothing a badge giving the number of the license in plain legible figures of not less than one inch in length. (1945 By-laws, Art. IV, 3, Appvd. 5-1-45)

### **Sec. 5-17. Closing hours.**

Every shop for the purchase, sale or barter of junk, old metals or secondhand articles shall be closed between the hours of 6:00 p.m. and 7:00 a.m., and no keeper thereof and no junk collector shall purchase any of the articles aforesaid during such hours. (1945 By-laws, Art. IV, 4, Appvd. 5-1-45)

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

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

(1945 By-laws, Art. IV, 6, Appvd. 5-1-45)

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

Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand materials or articles, shall keep a book, in which shall be written at the same time of the purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when such purchase was made; that such book shall at all times be open to the inspection of the licensing authority and by any person by them authorized to make such inspection. (1945 By-laws, Art. IV, 6, Appvd. 5-1-45)

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

Every keeper of a shop licensed pursuant to this article shall put in a suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters. (1945 By-laws, Art. IV, 7, Appvd. 5-1-45)

**Sec. 5-21. Purchase from minors prohibited.**

No keeper of any shop licensed pursuant to this article and no collector of junk shall, directly or indirectly purchase or receive by way of barter or exchange, any of the articles referred to in this article from a minor, knowing or having reason to believe he is a minor. (1945 By-laws, Art. IV, 8, Appvd. 5-1-45)

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

No article purchased or received by the operator of a shop licensed pursuant to this article shall be sold until at least one week from the date of purchase or receipt of the article has elapsed. (1945 By-laws, Art. IV, 9, Appvd. 5-1-45)

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

## *ARTICLE III. GARAGE SALES\**

### **Sec. 5-31. Purpose.**

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

### **Sec. 5-32. Definitions.**

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

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

**Yard sale:** See "garage sale."

**Porch sale:** See "garage sale."

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

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

### **Sec. 5-34. Fees.**

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

Garage sale .....	\$5.00
Yard sale.....	\$5.00
Porch sale .....	\$5.00

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

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

**Sec. 5-35. Enforcement.**

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

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

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

## ARTICLE IV. MOBILE VENDOR ORDINANCE\*

### **Sec. 5-37 - Definitions**

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

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

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

### **Sec. 5-38 - License Required**

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

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

**Sec. 5-39 - Display**

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

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

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

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

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

**Sec. 5-42 - Revocation**

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

**Sec. 5-43 - Penalty**

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

# CHAPTER 6 - MISCELLANEOUS OFFENSES & PROVISIONS

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

**Editor's Note:** Chapter 6 by-laws changed to ordinances by vote of the City Council on October 6, 1998; vetoed by Mayor on October 14, 1998. Veto overridden by council on Nov. 4, 1998.

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

- (a) The keeping of more than one unregistered vehicle assembled or disassembled, except by a person licensed under General Law, Chapter 140, Section 59, on any premises shall be unlawful unless the motor vehicle is stored in an enclosed building or otherwise out of sight of all abutters and public ways.
- (b) This section shall not apply to motor vehicles which are designed and used for farming, industrial and construction purposes.
- (c) Whoever violates any provisions of this section shall be subject to a penalty of fifty dollars (\$50.00) and ten dollars (\$10.00) per day for each day of violation, commencing ten (10) days following date of receipt of written notice from the Mayor (By-law of 3-22-69, Appvd. 5-27-69; amended by the City Council on 11-5-03; approved by Mayor 11-6-03).

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

No person shall throw any animal, or the carcass of any dead animal into any pond or stream within the limits of the city, and no person shall leave any carcass of any animal on the surface of the ground, or insufficiently buried. (1945 By-laws, Art. IV, 26, Appvd. 5-1-45)

**Sec. 6-3. Injuring drinking fountains and water troughs.**

No person shall in any manner injure any of the drinking fountains or watering troughs in any street or public place in the city, or shall throw or place any substance in the same. (1945 By-laws, Art. IV, Sec. 28, Appvd. 5-1-45)

**Sec. 6-4. Throwing objects into sewers and inlets.**

No person shall throw or place into any common sewer or inlet in the city any dead animal, stone, brick, stick or other substance likely to obstruct the flow of water in the sewer or inlet. (1945 By-laws, Art. IV, 25, Appvd. 5-1-45)

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

**Sec. 6-5. Keeping swine; license required; manner of keeping; license renewal.**

No swine shall be kept in any part of this city without a license from the board of health, and then only in such a place and in such a manner as the board shall prescribe. The license shall be renewed in May of each year. (1945 By-laws, Art. IV, 27, Appvd. 5-1-45)

**Cross reference** - Regulations of the Board of Health, Appendix C, Article VII.

**Sec. 6-6. Sale of certain nonintoxicating beverages; license; fee.**

No person shall keep open a place of business for the retail sale of beverages derived wholly or in part from cereals or substitutes thereof and containing less than one-half of one (0.5) percent of alcohol, unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters, carbonated waters or beverages, natural fruit juices, or other so-called soft drinks, without first obtaining a license from the licensing authority, issued in accordance with the provisions of Chapter 140, Section 21A of the General Laws. The fee for each such license shall be one dollar (\$1.00). (1945 By-laws, Art. IV, 36, Appvd. 5-1-45; Bylaw of 5-4-89, 12)

**Sec. 6-7. Swimming in the nude.**

No person shall swim or bathe in any of the waters of the city so as to be exposed in a nude or indecent state to the view of any person or any dwelling house, shop or factory in the city. (1945 By-laws, Art. IV, 18, Appvd. 5-1-45)

**Sec. 6-8. Loitering by certain minors during certain hours.**

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

**Sec. 6-9. Discharging dangerous weapons.**

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

**Sec. 6-10. Dogs running at large.**

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

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

A violation of this section shall be punishable by a fine of not more than fifty dollars (\$50.00) for each offense. (By-law of 3-27-72, Appvd. 8-30-72; By-law of 5-4-89, 13)

**Cross references** - Animal Control - Chpt. 10 and City Cemeteries - Chpt. 8, Sec. 79.

**Editor's note**--A by-law of March 27, 1972, nonamendatory of the Code, has been included as 6-10 at the editor's discretion.

**Sec. 6-11. Mutual aid program.**

The city may enter into an agreement with another community or communities, to provide mutual aid programs for police departments to increase the capability of such departments to protect the lives, safety and property of the people in the area designated in the agreement. Said agreement may include the furnishing of personal services supplies, materials, contractual services, and equipment when the resources normally available to any municipality in the agreement are not sufficient to cope with a situation which requires police action. (By-law of 3-24-73)

**Sec. 6-12. Consumption of alcoholic beverages on public ways.**

No person shall consume any alcoholic beverages in the City of Easthampton on any public way, sidewalk or while in the following: Main Street Park, Wayside Park, Pleasant Green, Parsons Street Park, the public library lawn and city cemeteries. Any person convicted of a violation of the regulation or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense. (By-law of 11-24-75)

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

**Sec. 6-13. Limitations on sodium chloride use on roads.**

If the sodium content of the public water supply exceeds fifteen (15 mg/l, the use of sodium chloride for maintenance of roads within the district shall be discontinued, except at the application rates approved by the board of health and designed to prevent the sodium content of the public water supply from exceeding twenty (20) mg/l. (By-law of 5-16-84)

**Sec. 6-14. Invading the privacy of another by peeping.**

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

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

Violations of this section shall be punishable by a fine of not more than two hundred dollars (\$200.00) for each violation. (By-law of 2-4-86)

**Sec. 6-15 Non-Criminal Enforcement Ordinance**

(a) **Criminal Complaint:**

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

(b) **Non-Criminal Disposition:**

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

(c) Any person, board or department taking cognizance of a specific ordinance, rule or regulation which he, she or it is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice informing the offender has the following two alternatives in such a matter;

1) To pay the fine, by appearing in person or through a duly authorized agent or by mailing a check, money order or postal note WITHIN 21 DAYS OF RECEIVING THE ABOVE NOTICE to: City Clerk, City Hall, Easthampton, MA 01027,

**OR**

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

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

(By-law of 10-2-91; Appved. 12-3-91; Amended 10-5-94; Appved. 1-9-95)

**EASTHAMPTON ORDINANCES SUBJECT TO NON-CRIMINAL DISPOSITION:**

1. **Storage of Unregistered Vehicles:**  
Penalty: \$50.00  
Enforcing Person: Police Officers  
Citation: Chapter 6, Section 6-1
2. **Removal of Snow, Sleet or Ice on Sidewalks:**  
Penalty: \$50.00  
Enforcing Person: Police Officers  
Citation: Chapter 8, Section 8-41
3. **Dogs Running at Large:**  
Penalty: \$50.00  
Enforcing Persons: Animal Control Officer & Police Officers  
Citation: Chapter 11, Section 11-5 (also see Chapter 6, Sec. 6-10)
4. **Unlawful Disposal of Refuse:**  
Penalty: \$50.00  
Enforcing Person: Health Inspector  
Citation: Chapter 10, Section 10-2
5. **Consumption of Alcohol on Certain Public Property:**  
Penalty: \$50.00  
Enforcing Person: Police Officers  
Citation: Chapter 6, Section 6-12
6. **Handicapped Parking Ordinance:**  
Penalty: \$50.00  
Enforcing Person: Police Officers  
Citation: Appendix A, Article V, Sec. 1-33
7. **Easthampton Fire Prevention Regulations (527 CMR - the Board of MA Fire Prevention Regulations):**  
Penalty: \$50.00  
Enforcing Persons: Fire Department's Chief, Deputy Chief & Captains  
Citation: Chapter 6, Section 6-18
8. **Sale of Tobacco to Minor:**  
Penalty: \$100.00  
Citation: Board of Health Regulations, Appendix C, Chpt. 7  
Enforcement: Board of Health, its staff or other designated official  
(Vote of the Board of Selectmen 9-21-94)
9. **Board of Health Regulations:**  
Penalty: To be assigned by the Easthampton Board of Health Regulations  
Enforcing Persons: Board of Health's Agent or designee  
Citation: Appendix C  
(Approved by City Council 7-6-99; Mayor 7-7-99)
10. **Easthampton Building Regulations and Zoning Ordinance:**  
Penalty: \$50.00  
Enforcing Person: Building Inspector  
Citation: Chapter 4, Section 4-6; 780 CMR – State Building Code Regulations;  
Appendix G, Easthampton Zoning Ordinance  
(Approved by City Council 5-15-01; Mayor 5-16-01)

11. **Easthampton Bicycle Ordinance**

Penalty: \$125.00

Enforcing Persons: Police Officers

Citation: Chapter 3 (Bicycles)

(Approved by City Council 4-16-02; Mayor 4-17-02; Amended by City Council 8-7-07; Mayor 8-14-07)

**Sec. 6-16. False Alarm Ordinance**

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

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

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

***False Alarm*** - shall mean:

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

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

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

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

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

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

Failure to pay said fee within twenty-one (21) days of the billing date will result in either court action for violation of a city ordinance, or the placement of a municipal charges lien on the real property pursuant to Mass. G.L. Ch. 40, Sec. 58, in the Hampshire County Registry of Deeds, until the fee is paid. (By-law of 7-11-91)

**Sec. 6-17. Garage/Storage of Flammables Fees**

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

**GARAGE PERMIT (Storage in Tanks of Vehicles):**

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

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

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

(By-law of 2-13-90)

**Sec. 6-18. Municipal Fire Prevention Regulations**

The City of Easthampton Municipal Fire Regulations encompass 527 CMR the Board of Massachusetts Fire Prevention Regulations in its entirety. (By-law of 10-5-94, approved 1-9-95)

**Sec. 6-19. Newspaper Dispensing Devices; Permits and Applications\*.**

a. **Applications:**

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

b. **Issuing Authority:**

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

c. **Definitions:**

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

d. **Placement:**

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

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

**e. Permit Conditions:**

Permits shall be granted upon the following conditions:

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

5. Permits shall be for a term of one year and shall not be assignable. The permitting process shall begin on January 1st and continues to each succeeding January 1st of the following years.

f. **Appeal Process:**

A person aggrieved by a decision of the Chief of Police, or the Chief's designee, in refusing to grant or revoking a permit, shall have a right to appeal to the City Council. Such appeal shall be taken by filing a notice of appeal, including a statement of the grounds for the appeal with the City Clerk within ten days after notice of the decision by the Chief of Police has been given. The City Council shall set a time and place for hearing such appeal and notice of such time and place shall be given in the same manner as specified hereinabove. The City Council shall have the power to reverse, affirm or modify the decision of the Chief of Police, or Chief's designee, and any decision made by the City Council shall be final. (Added by City Council 9-16-98; approved by Mayor 9-18-98)

**Sec. 6-20. Urinating or Defecating.**

- (a) **Prohibitions and exceptions.** It shall be unlawful for any persons to urinate or defecate in, or in view of, a public place other than one set aside and designated for that particular purpose. Persons who violate this ordinance due to verified medical conditions shall be exempt from the enforcement provisions of this ordinance.
- (b) **Public place defined.** Any place where the conduct may reasonably be expected to be viewed or could be viewed by others is a public place. Such areas shall included, but not be limited to, any street, alley, sidewalk, parking lot, park, playground, school yard, cemetery, floor of any building, except in such place that has been designated a restroom.
- (c) **Penalty for violation.** Any person who violates the provisions of this section shall be guilty of an infraction, the penalty for which shall be a city citation for \$50.00.  
(Approved by the City Council 8-3-04; approved by the Mayor 8-10-04)

# CHAPTER 7 - PERSONNEL \*

- Art. I. In General, Sections 7-1 to 7-14**
  - Sec. 7-1. Compensation other than salary**
  - Sec. 7-2. Career Incentive Program for Police Officers**
  - Sec. 7-3. Working hours for members of the Fire Department**
  - Sec. 7-4. Subpoena Power.**
  - Sec. 7-5. Clerk to the City Council Salary**
  - Secs. 7-6 to 7-14. Reserved**
  
- Art. II. Classification and Pay Plan, Sections 7-15 to 7-23**
  - Sec. 7-15. Adoption of Plan**
  - Sec. 7-16. Effective date of plan; pay adjustments**
  - Sec. 7-17. Classification of Employees**
  - Sec. 7-18. The Pay Plan**
  - Sec. 7-19. Contract with employees covered by plan to be consistent with plan**
  - Sec. 7-20. Overtime pay**
  - Sec. 7-21. Amendments to plan**
  - Sec. 7-22. Provisions of article not to be construed to conflict with civil service law**
  - Sec. 7-23. Designation of titles.**

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

**Cross references** – Sale of materials to city by officers and employees of city, Sec. 2-5; city committees, boards and councils, Sec. 2-28 et seq.; inspectors of the building department, 4-6 et seq.; building board of appeal, 4 -43 et seq. Chapter 7 updated to city standards by vote of the City Council on 8-7-01: approved by Mayor on 8-13-01. Sections have been renumbered due to this vote.

## *ARTICLE I. IN GENERAL*

### **Sec. 7-1. Compensation other than salary.**

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

(1945 By-laws, Art. III, 2, Appvd. 5-1-45; amended by vote of the City Council 8-7-01; approved by Mayor 8-13-01)

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

For the purposes of establishing a career incentive program for regular full-time police officers of the city and receiving partial reimbursements for its implementation by the Commonwealth, the city accepts Section 108L of Chapter 41 of the General Laws. (By-law of 3-21-70)

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

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

(By-law of 3-21-70, Appvd. 7-16-70)

### **Sec. 7-4. Subpoena Power.**

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

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

In accordance with the Home Rule Charter, Article 2, Sec. 2-8(e) the salary of the Clerk to the City Council shall be \$100.00 per month and \$65.00 per City City Council meeting effective July 1, 2007. (Approved by the City Council 11-8-06; approved by Mayor 11-9-06)

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

## ARTICLE II. CLASSIFICATION AND PAY PLAN\*

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

### **Sec. 7-15. Adoption of plan.**

The report on classification and compensation of positions prepared by Griffenhagen and Associates, a copy of which is on file in the office of the city clerk, is hereby made a part of this chapter as if fully set forth herein. (By-law of 7-17-50, 1)

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

The classification and compensation plans adopted by this article shall be come effective in 1950 and any salary or wage adjustments shall be retroactive to April 1, 1950. Any salary adjustment of elected officials of the city for the year 1950 shall be considered a temporary "cost of living" bonus payable in weekly installments from April 1, 1950, terminating December 31, 1950. (By-law of 7-17-50, 2)

### **Sec. 7-17. Classification of employees.**

- (a) The official classification plan for positions in the service of the city shall consist of the classes listed in Exhibit A of the report adopted by this article.
- (b) The classification plan shall apply to all positions in the service of the city except positions under the jurisdiction of the school committee and all part-time elected officials. (By-law of 7-17-50, 1)

### **Sec. 7-18. The pay plan.**

The official pay plan shall consist of the scales of pay for the several classes set forth in Exhibit B of the report adopted by this article. (By-law of 7-17-50, 2)

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

After the effective date of the classification and compensation plans adopted by this article, no contract shall be made with any employee occupying a position governed by the classification plan, which shall provide for a rate of pay inconsistent with the rates set forth in the pay plan. (By-law of 7-17-50, 2)

**Sec. 7-20. Overtime pay.**

Time and one-half shall be paid for all hours worked in excess of forty (40) to all employees assigned to positions allocated to a class, the rate for which is set forth in the hourly wage scale appearing in Exhibit B of the report adopted by this article. (By-law of 7-17-50, 2; amended by vote of the City Council 8-7-01; approved by Mayor 8-13-01)

**Sec. 7-21. Amendments to plan.**

The classification plan and the provisions of this article may be amended in the manner provided by law, or in the manner provided by the ordinances of the city, whichever is applicable. The pay plan may be established or changed by vote of the City Council or as provided by law, whichever is applicable. (By-law of 7-17-50, 3; amended by vote of the City Council 8-7-01; approved by Mayor 8-13-01)

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

Nothing in this article shall be construed to conflict with Chapter 31 of the General Laws. (By-law of 7-17-50, 11)

**Sec. 7-23. Designation of titles.**

The title of each class under the classification plan shall be the official title of every position allocated to the class for all purposes having to do with the position as such, and shall be used to designate the position in all payrolls, budget estimates, and official records and reports, and in every other connection involving personnel and fiscal processes, but any abbreviation or code symbol approved by the personnel officer may be used in lieu of the title to designate the class of a position in any such connection. (By-law of 7-17-50, 10)

# CHAPTER 8 - STREETS, SIDEWALKS & PUBLIC GROUNDS\*

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

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

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

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

*ARTICLE I. IN GENERAL*

**Sec. 8-1. Placing garbage and refuse upon public property prohibited: exceptions.**

- (a) No person without express approval of the City Council or its agents shall place or cause to be placed in any street, lane, common, park, court, alley or other public place in the town, any dirt, filth, garbage, decaying animal or vegetable matter, or snow, ice or rubbish; rubbish being defined as any combustible and noncombustible waste material, except garbage, and includes but is not limited to such material as papers, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings or clippings, tin cans, metals, mineral matter, glass, dust, and the residue from the burning of wood materials, coke and other combustible materials. (Amended by City Council 3-19-02; approved by Mayor 3-20-02)
- (b) Ashes may be placed in any city way as may be directed by the superintendent of streets. It shall not be unlawful for any person to place ashes, sand or other suitable material upon any public sidewalk in the city for the purpose of preventing it from being slippery as a result of snow or ice being on the sidewalk.
- (c) Any violation of this section shall be subject to a fine of \$50 for each violation.

(1945 By-laws, Art. IV, 22, Appvd. 5-1-45; amended 3-30-94, Appvd. 7-29-94)  
**Cross references**--Disposal of solid waste, Ch. 10; App. C, Art. III.

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

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

(By-law of 3-24-51, Appvd. 8-17-51)  
**Cross references**--Disposal of solid waste - App. C, Art. III

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

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

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

Three (3) or more persons shall not continue to stand or remain in a group, or near to each other, adjacent to, or on any sidewalk, or in any public place in such manner as to obstruct the free passage of pedestrians after having been requested by a police officer to clear the public passageway. (1945 By-laws, Art. IV, 15, Appvd. 5-1-45; Bylaw of 5-4-89, 15)

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

No person shall be or remain on any sidewalk or street, or in any other public place or public building within the city, or shall obstruct any passage to the same, or the approaches thereto, and any person so being or remaining shall, when ordered by any police officer or watchman, immediately clear the public passageway. (1945 By-laws, Art. IV, 17, Appvd. 5-1-45; Bylaw of 5-4-89, 16)

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

No person shall throw stones, snowballs, sticks or other missiles, or shoot or use any spring gun, air gun or bow and arrow in any public way of the city. (1945 By-laws, Art. IV, 14, Appvd. 5-1-45)

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

No person having the legal control of any hatchway, cellar door or other opening from any street or sidewalk in the city into any cellar or basement, shall cause the same to remain open when not in immediate use. (1945 By-laws, Art. IV, 23, Appvd. 5-1-45)

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

## *ARTICLE II. STREETS*

### **Sec. 8-18. Naming of streets.**

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

(1945 By-laws, Art. II, 1, 2, Appvd. 5-1-45)

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

Wherever a street is laid out or altered, a plan thereof shall be made and filed in the city clerk's office, with the location of the street. It shall be the duty of the city clerk to keep a book of records for the sole purpose of recording the location of all streets within the city with an index thereto. (1945 By-laws, Art. II, 3, Appvd. 5-1-45)

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

The Fire Department may order numbers to be affixed to or painted on any building on any streets in their discretion and shall do so when requested in writing by a majority of the voters residing on the street. The owner of every building shall comply with such order within twenty (20) days thereafter. (1945 By-laws, Art. II, 4, Appvd. 5-1-45)

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

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

No person shall place upon any street in the city, any glass, crockery, scrap-iron, nails, tacks or other articles which would be liable to injure the feet of horses, or injure or damage the wheels or tires of any vehicles. (1945 By-laws, Art. IV, 21, Appvd. 5-1-45)

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

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

(1945 By-laws, Art. IV, 20, Appvd. 5-1-45)

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

No person shall within the limits of any public street or highway in the city, coast or play any game of ball, football, quoits, or any other game or amusement which interferes with the convenient and free use of the street or highway by any person traveling or passing along the same, or throw stones, snow balls, sticks or other missiles, or shoot with or use any spring gun or air gun or bow and arrows in any public ways of this city. (1945 By-laws, Art. IV, 14, Appvd. 5-1-45)

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

## ARTICLE III. SIDEWALKS

### DIVISION 1. GENERALLY

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

No person shall ride or drive a motor propelled vehicle upon any sidewalk within the limits of the city. (1945 By-laws, Art. IV, 35, Appvd. 5-1-45)

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

No person shall place upon any sidewalk, any coal, trunk, bale, box, crate, cask, barrel or package or thing, so as to obstruct the sidewalk for more than one hour, or for more than ten (10) minutes after being notified by a police officer to remove it. (1945 By-laws, Art. IV, 24, Appvd. 5-1-45)

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

### DIVISION 2. SNOW AND ICE REMOVAL

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

- (a) The tenant, occupant or owner of any estate abutting on any street, highway or city way in the city and where there now is or hereafter may be, a sidewalk constructed of or covered with concrete, brick, cement, stone, wood or any other material than earth, ashes or gravel, shall within twelve (12) hours after ceasing to fall, form or drift thereon, of any snow, sleet or ice, remove or cause to be removed such snow, sleet or ice therefrom so far as it can be removed and if the same cannot be wholly removed, shall sprinkle, or cause to be sprinkled thereon sand, ashes, sawdust or other suitable substance so that such sidewalk shall not be slippery and shall be safe and convenient for public travel. The duty of enforcing the provisions of this and the following section shall devolve upon the police department.
- (b) When the estate so abutting on a street shall be occupied by more than one tenant or by separate families or when the estate so abutting is not occupied by anyone, the owner or agent having charge of such premises shall cause the snow, ice or sleet to be removed or sand or other substance to be sprinkled thereon as above provided. (1945 By-laws, Art. IV, 31, 32, Appvd. 5-1-45)
- (c) Owners or agents having charge of property that abuts city sidewalks who fail to remove snow, sleet or ice or sprinkle sand or other substances as provided in Sec. 8-41(a) shall be subject to a fine of:
  - a. \$50.00 for the first offense;
  - b. \$50.00 for the second offense occurring within three months of the first offense;and

- c. Upon the third offense occurring within three months of the first offense, the city's Department of Public Works shall clear the sidewalk. The cost of \$150.00/hour for labor and materials incurred by the city for said clearing shall be billed to the owners or agent having charge of the property by the city Assessors pursuant to the provisions of General Laws, Chapter 85, Section 6. If said charges are not paid within 30 days of the issuance of the bill by the Assessors, said costs will be assessed and collected in accordance with the provisions of General Laws Chapter 80, pertaining to betterment assessments.

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

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

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

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

**Sec. 8-43. Enforcement.**

The provisions of this division shall be enforced by the building inspector. (1945 By-laws, Art. IV, 31, Appvd. 5-1-45)

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

## ARTICLE IV. EXCAVATIONS & CONSTRUCTION

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

No person shall excavate the ground in any street in city, without written permit from the Superintendent of Public Works, or the Superintendent's designee. (1945 By-laws, Art. II, 5, Appvd. 5-1-45, Amended 1-18-95, Appvd. 3-10-95)

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

No person shall erect in or upon any street in the city any scaffolding or place thereon any wood, ties, logs, earth, stone, brick or lumber in such manner as to obstruct or impede the free use of the street for public travel without a written permit from the Board of Public Works. (1945 By-laws, Art. II, 6, Appvd. 5-1-45)

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

The Board of Public Works may grant permits in writing for the obstruction of any street, or for such excavations of the same as may be needful for the purpose of erecting, repairing or altering any building, or for any other purpose which may seem to them reasonable. (1945 By-laws, Art. II, 7, Appvd. 5-1-45)

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

Every person receiving such permit pursuant to this article shall specify the length of time it shall continue in force. (1945 By-laws, Art. II, 8, Appvd. 5-1-45)

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

Every person receiving such permit pursuant to this article shall execute a written agreement to indemnify and save harmless the city against all damage or cost by reason of any claim for damages, or by reason of any process, civil or criminal on account of the existence of the obstruction or excavation, and the Board of Public Works may impose such conditions, terms and limitations as they shall see fit in respect to the erecting of barricades, maintaining lights, and taking other precautions for the safety of travelers. (1945 By-laws, Art. II, 9, Appvd. 5-1-45)

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

Any person who is granted a permit pursuant to this article shall, before the expiration of the permit, restore the street to a condition acceptable to the Superintendent of Public Works, or the Superintendent's designee. The Board of Public Works is authorized to adopt reasonable regulations covering permits granted pursuant to this article, including, but not limited to, requiring a performance guarantee to insure that streets will be restored to a condition acceptable to the Superintendent of Public Works, or the Superintendent's designee. (1945 By-laws, Art. II, 6, Appvd. 5-1-45, Amended 1-18-95, Appvd. 3-10-95)

**Sec. 8-61. Barricading and lighting.**

Any person who is granted a permit to obstruct or excavate upon any street shall put up and keep at all times a suitable railing around the parts of the sidewalk or street so obstructed or dug up, so long as the same shall be unsafe or inconvenient for traveling. The person granted the permit shall also keep a sufficient number of lighted lanterns at, or near, the parts of the street or sidewalk so dug up, from twilight through the entire night to warn travelers. (1945 By-laws, Art. II, 10, Appvd. 5-1-45)

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

- (a) The Board of Public Works may grant permits for excavations in any sidewalk or other portion of the street, not inconsistent with the provisions of the general laws, for cellar doors, passage ways, coal holes, passages for light and air and other necessary purposes, on such conditions and terms as they may deem reasonable.
- (b) No cellar door, passage way, coal hole, or other passage shall extend more than three and one-half (1/2) feet into the sidewalk, or other portion of the street or way, and the same shall be made secure by a suitable platform, grate or other covering as the Board of Public Works shall determine. (1945 By-laws, Art. II, 11, Appvd. 5-1-45)

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

## ARTICLE V. SIGNS\*

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

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

- (a) No person shall erect, maintain or display any sign or other advertising device any part of which extends six (6) inches or more into or over the limits of a public way in the city without first obtaining a permit in writing therefor from the Board of Public Works.
- (b) The provisions of subsection (a) shall not apply to signs or advertising devices existing prior to May 1, 1945. (1945 By-laws, Art. V, 1, Appvd. 5-1-45)

### **Sec. 8-75. Height requirements.**

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

(1945 By-laws, Art. V, 1, Appvd. 5-1-45)

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

- (a) Special advertising displays or banners, visible from any highway, public park or reservation, by churches, civic or charitable organizations or for community drives or celebrations may be displayed only on permit from the Board of Public Works, such permits to be good for ten (10) days and to be renewable for not over ten (10) days more at the discretion of the Board of Public Works. In regard to the issuance of such permits and the location and character of the matter displayed the discretion of the Board of Public Works shall be final.
- (b) Persons erecting or maintaining a display or banner in violation of this section shall pay a fine of not over one hundred dollars (\$100.00). The Board of Public Works may enjoin in any court of competent jurisdiction in the erection and maintenance of the display or banner in violation of this section. (1945 By-laws, art., 2, Appvd. 5-1-45)

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

In any case where a duty is imposed by any provision of this article and a penalty is imposed for refusal or neglect to perform the same, and such refusal or neglect to perform the same occurs, such duty may be performed by the Board of Public Works at the expense of the person liable to perform the same, and such expense, to an amount not exceeding the penalty, may be recovered of such person by the city in an action of contract. (1945 By-laws, Art. V, 3, Appvd. 5-1-45)

**Sec. 8-78. Penalty.**

Persons violating the provisions of this article shall be subject to the penalties imposed by the regulations of the Board of Public Works made in accordance with sections 8 and 9 of Chapter 85 of the General Laws. (1945 By-laws, Art. V, 1, Appvd. 5-1-45)

*ARTICLE VI. CITY CEMETERIES\**

\*Cross Reference - Chpt. 11, Sec. 11-6.

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

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

The presence of any dog, leashed or unleashed, on the land of any city cemetery shall be prima facie evidence of a violation of this section. (By-law of 1-11-89)

# CHAPTER 9 - VEHICLES FOR HIRE\*

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

- Sec. 9-1. Definitions
- Sec. 9-2. Permits Required.
- Sec. 9-3. Fees for Permits.
- Sec. 9-4. Exemption for common carriers regulated under state law.
- Sec. 9-5. Business Owner's Permit.
- Sec. 9-6. Operator's Permit.
- Sec. 9-7. Registration of vehicles.
- Sec. 9-8. Penalties.
- Sec. 9-9. Rates of Operation.
- Sec. 9-10. City Council may promulgate rules & orders.
- Sec. 9-11 to 9-20. Reserved.

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

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

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

*ARTICLE I. TAXICABS*

**Sec. 9-1. Definitions.**

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

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

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

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

**Sec. 9-2. Permits required.**

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

**Sec. 9-3. Fees for permits.**

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

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

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

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

- a. No person, firm, or corporation shall operate a business for the conveyance of persons or goods for hire within the City of Easthampton, unless the owner of said business has obtained a permit as provided herein. Permits may be granted only to suitable persons and/or corporations who are the legally registered owners of said taxicabs, and provided the principle place of business for servicing Easthampton is established at a legal street address within the city conforming to all applicable city ordinances and state laws.

- b. All permits shall continue in force until the first day of May next after the date issued and shall not be sold, assigned or transferred without the approval of the City Council. A transfer includes the issuance or transfer of more than forty (40) percent of the outstanding stock of the corporation.
- c. Any person desiring to operate such a business within the City of Easthampton shall file an application with the City Clerk for referral to the City Council setting forth the name and residence of the owners of said business, the address from which the business shall be operated, the kind of services to be provided under the permit, and the hours of daily service. Said application shall also state a description of the motor vehicle(s) to be operated under the permit. No owner or driver shall solicit business except at the place of business listed or at city approved taxi stands.
- d. No permit shall be issued until the applicant has delivered to the City Clerk a policy of insurance issued by an insurance company authorized to transact business specified in subdivision (b) of the sixth clause of section 47 of Chapter 175 of the General Laws, covering the motor vehicle(s) to be operated by the applicant under his or her permit, conforming to the provisions of sections 112 and 113 of said chapter 175, nor until the applicant has also delivered to the City Clerk a certificate of the insurance company issuing the policy showing that the policy shall not be canceled without giving the City Clerk ten (10) days notice thereof.
- e. Such policy shall be a policy of liability insurance which provides indemnity for or protection to the insured, and any person responsible for the operation of the insured's vehicle(s) with his express or implied consent, against loss by reason of the liability to pay damages to others for injury to property or bodily injuries, including death at any time resulting therefrom, sustained during the term of said policy by any person other than the employees of the insured or of such other person responsible as aforesaid who are entitled to payments or benefit under the provisions of Chapter 152 and arising out of the ownership, operation, maintenance, control or use upon the ways of the Commonwealth, of such car to the amount or limit of at least two hundred and fifty thousand dollars (\$250,000.00) on account of injury to or death of any one person and subject to such limits as respects injury to or death of one person, or at least five hundred thousand dollars (\$500,000.00) on account of any one accident resulting in injury to or death of more than one person, and to the amount or limit of at least twenty-five thousand dollars (\$25,000.00) on account of any one accident resulting in damage to property.
- f. Every vehicle operated by the business owner shall be inspected by a state certified inspection station semi-annually. A current, valid inspection sticker must be possessed upon application for registration with the city and at the six (6) month anniversary of operation. Such inspection is at the owner's expense and proof must be supplied to the City Clerk. The City Council shall cause each vehicle permitted pursuant to this section to be inspected by the Police Department at least semi-annually. Whenever the Chief of Police or his designee has reason to doubt such taxicab is in safe, proper mechanical condition, properly equipped, properly lettered and in a suitably clean condition, he/she may suspend the city registration permit thereof without a hearing, and take possession of said permit until the conditions are corrected. The owner and /or corporation may file an appeal on the Chief's action to the City Council however, the suspension shall remain in effect.
- g. No taxicab shall be made so closely to resemble the taxicab of another so as to mislead the public as to its identity. All taxicabs will conform with section 22 of Chapter 40 of the General Las, to wit, "shall have the name or company name of the owner and the name of the city or city in which it is licensed, painted or lettered on the sides thereof in

letters not less than four (4) inches nor more than five (5) inches high and one-half (1/2) inches wide.”

- h. The City Council shall issue to the applicant a permit, which shall be placed in a conspicuous location in the applicant’s place of business.

**Sec. 9-6. Operator’s Permit.**

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

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

**Sec. 9-7. Registration of vehicles.**

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

**Sec. 9-8. Penalties.**

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

**Sec. 9-9. Rates of Operation.**

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

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

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

**Rates to be effective July 5, 2008:**

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

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

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

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

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

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

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

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

# CHAPTER 11 – ANIMAL CONTROL

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

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

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

**Sec. 11-1. License required.**

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

**Sec. 11-2. License fee.**

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

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

**Kennel License**

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

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

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

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

Unless otherwise provided by ordinance, the City Clerk shall be entitled to retain, for his/her personal use, a fee for each license issued under this section. Said fee shall be commensurate with that as authorized in M.G.L. Chapter 140, Section 147 and amendments thereto. **(Amended by City Council 11-3-04; approved by Mayor 11-4-04)**

**Sec. 11-3. Rabies vaccination.**

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

**Sec. 11-4. Nuisance - Public Safety.**

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

**Sec. 11-5. Dogs running at large.**

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

**Sec. 11-6. Dogs in cemeteries.**

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

**Sec. 11-7. Complaint of nuisance.**

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

**Sec. 11-8. Animal Control Officer authority to restrain.**

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

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

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

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

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

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

In addition to any other statutory authority contained in Massachusetts General Laws, Chapter 140, the Animal Control Officer (Dog Officer) may enter a complaint before the Mayor for the purpose of obtaining an order with respect to the control or disposition of a dog found to

be uncontrollable or whose owner or keeper is unresponsive to any other penalties contained in this ordinance.

**Sec. 11-11. Municipal animal shelter.**

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

The Animal Control Officer shall determine from time to time the per diem rate to be charged for the keeping of animals within the municipal animal shelter. At no time shall the per diem rate be lower than \$10.00. Authorization is granted for an increase of per diem rate by the amount of \$2.00, over and above the established rate, to be charged to owners of dogs who fail to pick up their dog within twenty four hours of notification of its detention at the facility. (Amended by City Council 7-1-03; approved by Mayor 7-2-03)

**Sec. 11-12. Pick-up fee.**

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

**Sec. 11-13. Sale of dogs.**

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

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

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

**Sec. 11-15. Penalties; Unlicensed dogs.**

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

**Sec. 11-16. Penalties; Roaming dogs.**

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

**Sec. 11-17. Penalties.**

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

# CHAPTER 12 - ENVIRONMENTAL ORDINANCES

## ***(INCLUDING PROTECTION OF THE BARNES AQUIFER)\****

- Art. I. Hazardous Materials Ordinance Secs. 12-1 to 12-15**
- Art. II. Fuel Storage System Ordinance Secs. 12-16 to 12-40**
  - Div. I. Regulations for all underground storage systems, Secs. 12-18 to 12-26**
  - Div. II. Regulations for all new or replacement underground storage systems, Secs. 12-27 to 12-31**
- Art. III Wetlands Control Ordinance** (Repealed June 2, 1998)
- Art. IV Water Use Restriction Ordinance**  
**Secs. 12-41 to 12-59**
- Art. V Brownfield Redevelopment Secs. 12-60 to 12-62**

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

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

### *ARTICLE I. HAZARDOUS MATERIALS ORDINANCE\**

(\*By-law of 5-8-91; approved 10-1-91)

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

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

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

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

**Sec. 12-3. Method of storage.**

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

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

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

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

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

**Sec. 12-6. Materials not regulated.**

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

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

*ARTICLE II. UNDERGROUND STORAGE SYSTEM ORDINANCE\*\**

(\*\* By-law of 5-8-91; approved 10-1-91)

### **Sec. 12-16. Authority**

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

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

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

### **Sec. 12-17. Definitions**

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

## DIVISION I

### REGULATIONS FOR ALL UNDERGROUND STORAGE SYSTEMS

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

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

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

#### **Sec. 12-19. Registration of all storage systems**

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

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

#### **Sec. 12-20. Registration tags.**

- a. Upon registering the tank with the Fire Department, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe or in such location as to be visible to any inspector authorized by the City.
- b. Effective August 1, 1992, every petroleum or other chemical distributor, when filling an underground storage tank, shall note on the invoice or bill for the product delivered, the registration number appearing on the tank. Every petroleum or other chemical distributor shall notify the Fire Department of the existence and location of any unregistered or untagged underground tank, or any tank which the distributor cannot clearly identify as being either above or belowground, which they are requested to fill.

Such notification must be completed within seven (7) working days of the time the distributor discovers that the tank registration tag is not present.

- c. Effective November 1, 2003, it shall be a violation of this ordinance for any petroleum and other chemical distributor to fill any underground storage tank within the Aquifer Protection District with any petroleum, toxic, or hazardous materials as defined under Section 12-17(c).

(Subsection c approved by the City Council 5-15-01; approved by the Mayor 5-16-01)

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

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

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

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

#### **7.03 Establishment and Delineation of Aquifer Protection District**

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

(Sec. 12-22A approved by the City Council 5-15-01; approved by the Mayor 5-16-01)

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

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

(Sec. 12-22A.1. approved by the City Council 5-15-01; approved by the Mayor 5-16-01)

**Sec. 12-22B. Tank Removal.**

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

(By-law of 5-8-91; approved 10-1-91. Sec. 12-22B renumbered by vote of the City Council 5-15-01; approved by the Mayor 5-16-01)

**Sec. 12-23. Costs.**

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

**Sec. 12-24. Abandoned tanks.**

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

**Sec. 12-25. Fees for registration.**

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

**Sec. 12-26. Transfer of ownership.**

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

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

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

**Sec. 12-27. Registration of storage systems.**

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

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

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

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

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

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

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

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

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

**Sec. 12-31. Severability.**

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

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

ARTICLE III.

EASTHAMPTON WETLANDS CONTROL ORDINANCE

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

## ARTICLE IV.

### WATER USE RESTRICTION ORDINANCE

(Approved by City Council on July 2, 2002; approved by Mayor on July 3, 2002)

#### **Sec. 12-41. Authority .**

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

#### **Sec. 12-42. Purpose.**

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

#### **Sec. 12-43. Definitions.**

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

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

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

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

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

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

**Sec. 12-45. Restricted Water Uses.**

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

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

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

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

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

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

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

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

**Sec. 12-49. Penalties.**

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

**Sec. 12-50. Severability.**

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

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

## ARTICLE V.

### BROWNFIELD REDEVELOPMENT

(Approved by City Council on October 19, 2004; approved by Mayor on October 20, 2004)

#### **Section 12-60. Authority.**

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

#### **Section 12-61. Scope of Authority.**

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

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

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

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

#### **Section 12-62. Approval of Agreements.**

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

## <sup>1</sup>CHAPTER VI.

### THE RIGHT TO FARM ORDINANCE

#### **Section 12-63. Purpose and Intent**

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

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

#### **Section 12-64. Definitions**

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

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

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

- . Operation and transportation of slow-moving farm equipment over roads within the City;

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<sup>1</sup> Article VI approved by the City Council on Nov. 4, 2009; approved by the Mayor on Nov. 5, 2009

- Control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- Application of manure, fertilizers and pesticides;
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm
- Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto; maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products;
- On-farm relocation of earth and the clearing of ground for farming operations;
- Revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenation and maintaining pastures; and
- Herding of livestock from area to area, including along roads

### **Section 12-65. Right To Farm Declaration**

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

### **Section 12-66. Notification to Residents and Real Estate Buyers**

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

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

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

### **Section 12-67. Resolution of Complaints**

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

### **Section 12-68. Severability Clause**

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

### **Section 12-69 to 12-75. Reserved**