

CITY COUNCIL AGENDA- AMENDED MAY 19 & MAY 20, 2026
WEDNESDAY, MAY 20, 2026 at 6:00 p.m.
50 PAYSON AVE., 2ndflr meeting area and remote* by Google Meet
***As allowed by the state through June 30, 2027**

City Council
Wednesday, May 20 · 6:00 – 9:00pm
Time zone: America/New_York
Google Meet joining info
Video call link: <https://meet.google.com/vjv-iquf-nnp>
Or dial: (US) +1 401-646-2050 PIN: 254 306 566#
More phone numbers: <https://tel.meet/vjv-iquf-nnp?pin=8652495553982>

1. **Roll Call.**
2. **Moment of Silence (up to one minute) and Pledge of Allegiance**
3. **Act on Minutes:** None at this time.
4. **Presentation** to Easthampton High School We the People team, teachers, and mentors
5. **Public Comment:** (Opportunity to address the council regarding any topic not listed under Public Hearings)

6. PUBLIC HEARINGS BEGINNING AT 6:15 P.M.

a. **Affordable & Fair Housing Partnership’s Zoning Ordinance Recommendations including:** *(continued from May 6, 2026)*

1. Updating references to Dept. of Housing and Community Development (DHCD) to Executive Office of Housing and Livable Communities (EOHLC).
2. Parking Minimums: Adopt a blanket minimum of 1.5 spaces per unit for all multifamily housing, which can be reduced to an average of 1 space per unit based on unit mix and project location.
3. Fair Housing & State Law Compliance: Modify local language to align with and defer to state housing law where applicable
4. Definition of “Family”: Update definition of “Family” to include “All the people who occupy a single housing unit, regardless of their relationship to one another” to reflect diverse living arrangements.
5. “Community Character” Language: Remove, rephrase, or clarify vague and subjective references to “character” throughout the zoning ordinance and replace with clear, objective criteria

b. **Interdepartmental Transfer Request** for Community Preservation Act (CPA) transfer of \$7,950.00 from CPA Undesignated Fund Balance to CPA Admin. Expenses

c. **City Council Action Request – Adoption of Local Property Tax Exemption Options**
M.G.L. c. 59, Sec. 5, Clause 17 F: Annual Cost-of-Living Adjustment (COLA) for Certain Exemptions
M.G.L. c. 59, Sec. 5, Clause 22G: Exception to Requirements for Legal and Sufficient Beneficial Interest (Trusts)
M.G.L. c. 59, Sec. 5, Clause 22I: COLA for Veteran Exemptions

d. **Supplemental Appropriation Request** for \$870,000 from Free Cash to 32 B Health and Dental Insurance

e. **General Ordinance Amendment proposing a Wetlands Protection Ordinance**

7. **Items for Immediate Attention:**

8. **Communications from elected officials, boards and commissions:**

Martha Leamy, Principal Assessor and Daniel Zdonek, Board of Assessors Chair

9. **Correspondence:**

Dr. Karin Camihort and Eleanor Cartelli from the Technology Dept. re: GoDigital Easthampton announcement of Laptops for Long-Term Lending

10. **Mayor Communications:**

11. **President/Vice-President Communications:**

12. **Council Communications, Announcements and Standing Committee Reports:**

(First date after item = date referred to committee, Second date = action deadline)

a. **FINANCE:**

- Fiscal Year 2027 Proposed Municipal Budget (5-6-26)
- Fiscal Year 2027 Proposed Municipal Budget with Reductions (5-6-26)

City Council Action Request:

- Adoption of M.G.L. Ch. 60, Sec. 3D to establish a Neighbor in Need fund (5-6-26) **(8-4-26)**
- Quarterly fiscal reports from the City Auditor (8-5-20)
- Rescinding of borrowing authorizations for CitySpace restoration & Honeywell Energy Cons. Project (7-9-25) **(8-3-26)**

City Council Action Request – Adoption of Local Property Tax Exemption Options (4-8-26) **(7-7-26)**

M.G.L. c. 59, Sec. 5, Clause 17 F: Annual Cost-of-Living Adjustment (COLA) for Certain Exemptions

M.G.L. c. 59, Sec. 5, Clause 22G: Exception to Requirements for Legal and Sufficient Beneficial Interest (Trusts)

M.G.L. c. 59, Sec. 5, Clause 22I: COLA for Veteran Exemptions

Interdepartmental Transfer Request – Community Preservation Act (CPA) transfer of \$7,950.00 from CPA Undesignated Fund Balance to CPA Admin. Expenses (4-22-26) **(7-21-26)**

Supplemental Appropriation Request for \$870,000 from Free Cash to 32 B Health and Dental Insurance (5-6-26) **(8-4-26)**

b. **PUBLIC SAFETY:**

- Quarterly review of Public Safety departments (2-2-22)
- Roadway, infrastructure, and pedestrian safety items (9-6-23)
- Review of language in the Traffic Rules & Orders (4-17-24) **(7-6-26)**

City Council Action Request – General Ordinance Amendment

Amend General Ordinances to include E-Bike Regulations and Use (4-8-26) **(7-7-26)**

c. **APPOINTMENTS:**

- Ongoing agenda item request for board/committee vacancy review/recruitment (1-17-24) **(7-5-26)**

- Proposal for Mayor and Clerk to create an Appointment Committee Handbook (8-6-25) **(7-2-26)**
- City Council President Appointment of Councilor Jonathan Schmidt to the TNGDI Committee (4-8-26) **(5-23-26)**

d. **ORDINANCE:**

- Ordinance Review Committee’s final report (12-4-24) **(5-28-26)**
- Request to review residency requirements for membership on committees, etc. (12-18-24) **(6-11-26)**
- Review of Afford. & Fair Housing Partnership’s zoning ordinance recommendations (12-18-24) **(6-11-26)**
- Amend Exhibit A to Add New Pay Plan Position of Recreation Coordinator (3-18-26) **(6-16-26)**

City Council Action Requests:

- Review Sandwich Board Signs in City and Zoning Ordinances (10-8-25) **(6-5-26)**
- General Ordinance Amendment proposing a Wetlands Protection Ordinance (3-18-26) **(6-16-26)**
- Creation of a Cannabis Equity Ordinance to facilitate business participation (4-8-26) **(7-7-26)**

e. **PROPERTY:**

- **City Ordinance request** regarding flags on public property (including over ponds) (12-18-24) **(6-11-26)**
- Authorization for Emerald Place Preliminary Eminent Domain Proceedings (5-6-26) **(8-4-26)**
- Authorization for Parsons & Ferry Streets Preliminary Eminent Domain Proceedings (5-6-26) **(8-4-26)**

f. **RULES & GOVERNMENT RELATIONS:**

City Council Action Request:

- Code of Conduct for Appointed Members of Boards, Committees, and Commissions (9-17-25) **(8-13-26)**

***Public Hearings May 20, 2026**

13. **Old Business/Pending:**

**Action
Required**

Information

14. **New Business:**

a. City Council Action Request:

Review MGL Ch. 59, Sec. 5, Clause 41A to allow qualifying senior citizens (age 65+) to delay payment of all or part of their property taxes

b. Fiscal Year '26 Supplemental Appropriation Requests from Free Cash

\$20,000.00 for the remaining fiscal year required Medicare Tax

\$23,000.00 for Auditor’s Salary to cover reinstated hours and backlog

\$16,000.00 for costs associated with the June 9, 2026 Special City Election

\$582,500.00 for Snow and Ice Removal for FY 2026

\$60,182.16 for School Nurse medical leave and replacement

\$10,000.00 for City Attorney Legal Fees

\$8,700.00 for Parks & Recreation Dept. for 12 mo. Rental of maint. office trailer

Overview of Affordable and Fair Housing Partnership Zoning Recommendations

Sections 1–4 Approved by Ordinance Committee & Planning Board on 4-21-2026

1. Updating References to DHCD

- Replace all references to the Massachusetts Department of Housing and Community Development (DHCD) with the Executive Office of Housing and Livable Communities (EOHLC).

2. Parking Minimums:

- Adopt a blanket minimum of 1.5 spaces per unit for all multifamily housing, which can be reduced to an average of 1 space per unit based on unit mix and project location.
 - Previous Multifamily Parking Minimum Requirement: One (1) for each bedroom in each unit plus 1 additional visitor space for every 10 units in the development

3. Fair Housing & State Law Compliance:

- Modify local language to align with and defer to state housing law where applicable

3a. Definition of "Family":

- Update the definition of "Family" to include "All the people who occupy a single housekeeping unit, regardless of their relationship to one another" to reflect diverse living arrangements.

4. "Community Character" Language:

- Remove, rephrase, or clarify vague and subjective references to "character" throughout the zoning ordinance and replace them with clear, objective criteria.

Detailed List of Proposed Changes

(Sections Approved by Ordinance Committee)

1. **Replace all references to the Massachusetts Department of Housing and Community Development (DHCD)** with the Massachusetts Executive Office of Housing and Livable Communities (EOHLC).
2. **Adopt a blanket parking minimum (Modifying Table 10-3) for all multifamily housing,** requiring 1.5 spaces per unit, which may be reduced to an average of 1 per unit based on unit mix and project location.
 - Previous Multifamily Parking Minimum Requirement: One (1) for each bedroom in each unit plus 1 additional visitor space for every 10 units in the development
3. **Modify language that contradicts or is superseded by state housing law and defer to state law wherever applicable.**
 - i. **Section 8.344** – Replace C. (1) & (2) with: “The selection of qualified buyers for the affordable units shall be administered by a qualified non-profit housing agency”
 - ii. **Section 8.345** – Replace “Housing Authority” with “Housing Agency”
 - iii. **Section 8.6** – Replace all references to “Families” with “Households”

3a. Modify definition of “Family” in Section 1 (Definitions) to read “All the people who occupy a single housekeeping unit, regardless of their relationship to one another.”
4. **Remove, rephrase, or clarify references to “character”** in the zoning ordinance.
 - a. **Section 2-6 (Definitions), Home Occupation, Minor** – Strike “*for the residential character of the neighborhood*”
 - b. **Section 6.101, 2.** – Strike “*district character within*”
 - c. **Section 7.21** – Strike “*quality and visual character of*”
 - d. **Section 7.24** – Strike “*compatible with the scenic character of the City and*”
 - e. **Section 8.332, a.** – Strike “*prevailing character and*”
 - f. **Section 8.51, a.** – Replace “*residential character of a neighborhood*” with “*architectural design of neighboring building, to the extent feasible*”
 - g. **Section 8.63, e.** – Strike “*rural character*”
 - h. **Section 8.87** – Replace “*character*” with “*nature*”

- i. **Section 9.1.2, d.** – Strike “*Compatibility with the character of the surrounding residential areas*”
- j. **Section 9.2.0.1, b.** – Strike “*integrity of character of the*”
- k. **Section 9.31, e.** – Leave as is
- l. **Section 10.41** – Strike “*neighborhood character*”
- m. **Section 10.44.6** – Strike “*residential character*”
- n. **Section 10.45.6** – Strike “*residential character of the*”
- o. **Section 10.512, a.** – Strike “*character and*”
- p. **Section 10.512, a.** – Replace “*The Planning Board may take into consideration whether exterior building facades and materials are consistent with Easthampton's character*” with “*The Planning Board may take into consideration whether exterior building facades and materials are consistent with other buildings in the City of Easthampton*”
- q. **Section 10.512, a.** – Replace “*For example, exterior materials such as wood or metal or vinyl clapboards or stone or brick, and treatment compatible on all four sides, are considered consistent with Easthampton's character*” with “*For example, exterior materials such as wood or metal or vinyl clapboards or stone or brick, and treatment compatible on all four sides*”
- r. **Section 10.512, a.** – Replace “*The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the city's character*” with “*The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with other building styles in the City of Easthampton*”
- s. **Section 10.10.1** – Strike “*serve to preserve the character of the community and*”
- t. **Section 10.10.5.5** – Replace “*Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood*” with “*Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surround landscape and viewshed to determine if it is similar to other vegetative screens in the neighborhood*”
- u. **Section 12.7.1** – Strike “*and the character of the city*”

Reference	Language	Suggested Change
<p>Section II - Definitions; Page 2-6</p>	<p>Home Occupation, Minor: A home occupation that is not open to members of the public (including but not limited to non-resident employees and business partners, contractors, clients, and business visitors) and does not create nuisances (including but not limited to emission of atmospheric pollution, excessive light, glare, noise, or vibrations) for the residential character of the neighborhood or increase the amount of traffic to the neighborhood.</p>	<p>Strike</p>
<p>Section 6.10 - Building Size Cap for Retail Uses; Page 6-13</p>	<p>6.101 Purpose</p> <p>2. To encourage new retail development that enhances district character within the City's primary commercial zones.</p>	<p>Replace with: "2. To encourage new retail development that enhances the City's primary commercial zones"</p>
<p>Section 7.2 Wireless Communications Services District; Page 7-18</p>	<p><u>7.21 Wireless Communications Service District</u></p> <p>The purpose of this section is to establish a district in which wireless communication services may be provided which (a) minimize adverse impacts on adjacent properties, residential neighborhoods and the overall environmental quality and visual character of the City of Easthampton and (b) minimize visual impacts from wireless communications facilities on the Mt. Tom viewshed and residential districts within Easthampton. This section does not apply to satellite dishes and antennas for residential use.</p>	<p>Replace with: "a) minimize adverse impacts on adjacent properties, residential neighborhoods and the overall environmental and visual quality of neighborhoods in the City of Easthampton"</p>
<p>Section 7.2 Wireless Communications Services District Page 7-19</p>	<p><u>7.24 Use Restrictions</u></p> <p>Fencing shall be provided to control access to telecommunication facilities and shall be compatible with the scenic character of the City and designed to be as unobtrusive as possible.</p>	<p>Strike</p>

Reference	Language	Suggested Change
<p>8.3 - MULTIFAMILY HOUSING Page 8-11</p>	<p>8.332 <u>Design Requirements</u></p> <p>a. Building designs should consider the prevailing character and scale of buildings in the neighborhood and incorporate the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting should be used to provide visual interest and avoid monotony. Proposed buildings should relate harmoniously to each other with adequate light, air, circulation and separation between buildings.</p>	<p>Replace with "a. Building designs should consider the scale of buildings in the neighborhood....."</p>
<p>8.5 - ACCESSORY DWELLING UNITS Page 8-16</p>	<p>8.51 <u>Purpose</u></p> <p>The purpose of the accessory dwelling unit ordinance is to:</p> <p>a. Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are created only in accordance with this ordinance; and</p>	<p>Replace with "architectural design of neighboring building, to the extent feasible, by ensuring that accessory apartments are created only in accordance with this ordinance"</p>
<p>8.6 - PLANNED UNIT RESIDENTIAL DEVELOPMENT FOR AFFORDABLE HOUSING ^[1] Page 8-19</p>	<p>8.63 <u>Purposes</u></p> <p>The purposes of this Planned Unit Residential Development ordinance are to:</p> <p>e. Maintain and replicate the traditional New England rural character and land use pattern in which small villages are adjacent to common open space.</p>	<p>Strike</p>
<p>8.8 - DOWNTOWN BUSINESS DISTRICT DEVELOPMENT METHODS PAGE 8-26</p>	<p>8.87 <u>Preservation and Re-Development</u></p> <p>Development in the Downtown Business district shall consider the preservation and re-use of existing buildings in order to maintain the historic character and mix of uses in the district.</p>	<p>Replace with "nature"</p>

Reference	Language	Suggested Change
<p>9.1 OPEN SPACE RESIDENTIAL DEVELOPMENT Page 9-3</p>	<p>9.1.2 Preamble and Purpose To accomplish these community goals, it is intended that Open Space Residential Development be developed as an entity in which an alternative pattern of development may be permitted in order to gain the following benefits:</p> <p>d. Compatibility with the character of the surrounding residential areas.</p>	Strike
<p>9.2.0 Planning Board Findings and Recommendations Page 9-18</p>	<p>9.2.0.1 The Board may grant a Special Permit under this section only if it finds that the proposed project has shown the following:</p> <p>b. That it will not have a detrimental impact on the integrity of character of the surrounding neighborhoods or adjoining zones.</p>	Strike
<p>9.3 TRANSFER OF DEVELOPMENT RIGHTS Page 9-20</p>	<p>9.31 Purposes: e) to preserve the remaining rural, historic, and agricultural character of the community by directing compact new development to appropriate locations adjacent to existing urbanized centers.</p>	Leave as-is
<p>10.4 HOME OCCUPATIONS* Page 10-33</p>	<p>10.41 Purpose To regulate economic generating activities occurring in residential areas so as to be compatible with the surrounding residential uses by assuring that the neighborhood character and residential quality of life is protected from adverse impacts such as noise, traffic, and other nuisance issues.</p>	Strike
<p>10.44 Standards for Minor Home Occupations Page 10-34</p>	<p>10.44.6 No use shall be allowed that causes the exterior appearance or emission of atmospheric pollution (including but not limited to odors, gas, fumes, smog, smoke, and dust), electrical disturbance, excessive light, glare, noise, vibrations, or any other nuisance to the residential character of the neighborhood and/or the residential use of the other units in a multi-family structure.</p>	Strike

Reference	Language	Suggested Change
<p>10.45 Standards for Major Home Occupations</p> <p>Page 10-35</p>	<p>10.45.6</p> <p>The premises and building on which the Major Home Occupation is conducted shall not be made objectionable or detrimental in any manner (including but not limited to the exterior appearance or emission of atmospheric pollution (e.g. odors, gas, fumes, smog, smoke, and dust), electrical disturbance, excessive light, glare, noise, or vibrations) to the residential character of the neighborhood and/or the residential use of the other units in a multi-family structure.</p>	<p>Strike</p>
<p>10.5 COMMERCIAL DEVELOPMENT PERFORMANCE STANDARDS</p> <p>Page 10-36</p>	<p>10.512 Appearance/Architectural Design Standards</p> <p>a. Architectural design shall be compatible with the character and scale of buildings in the city through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. [...] Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with Easthampton's character. For example, exterior materials such as wood or metal or vinyl clapboards or stone or brick, and treatment compatible on all four sides, are considered consistent with Easthampton's character. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the city's character.</p>	<p>Strike in first sentence</p> <p>4th sentence, replace with: The Planning Board may take into consideration whether exterior building facades and materials are consistent with other buildings in the City of Easthampton.</p> <p>6th sentence, replace with: The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with other building styles in the City of Easthampton.</p>
<p>SECTION 10.10. Adult Use Cannabis Establishments</p> <p>Page 10-53</p>	<p>10.10.1 Purpose.</p> <p>The purpose of this section is to regulate the time, place and manner of cannabis establishments. The zoning will serve to preserve the character of the community and create a place for the public to responsibly have access to legal cannabis while mitigating community impact. This ordinance should serve as a guide that will support the public's right to access legal cannabis, protect the public health, safety, and well-being and expand new growth for the tax base.</p>	<p>Strike</p>

Reference	Language	Suggested Change
<p>SECTION 10.10. Adult Use Cannabis Establishments</p> <p>Page 10-56</p>	<p>10.10.1 Time and Manner 10.10.5.5 <u>Visual Impact:</u> Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage is permitted. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood</p>	<p>Replace with "Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if it is similar to other vegetative screens in the neighborhood"</p>
<p>SECTION XII. ADMINISTRATION AND ENFORCEMENT</p> <p>Page 12-3</p>	<p>12.7.1 Purpose</p> <p>This section of the city ordinance is enacted under the authority of Chapter 40A, Section 9, of the Massachusetts General Laws to protect the health, safety, convenience and general welfare of the inhabitants of Easthampton. Special Permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic and environment, health and safety, property values, utility systems, and the character of the city among other things. The Special Permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure the proposals are consistent with the purpose and intent of the ordinance.</p>	<p>Strike</p>

INTERDEPARTMENTAL
~~INTRADPARTMENTAL~~ TRANSFER REQUEST
Community Preservation Act (CPA)
FY 2026

Date: 10/27/2025

Request is hereby made for approval of the following appropriation:

- | | | |
|----------------------------|---|---|
| 1. Amount requested: | \$7950.00 | <u>Netal G. Patel</u>
(Auditor's approval)
10/30/2025 |
| 2. To be transferred from: | 024.0024.3590
CPA Undesignated Fund Balance | \$7950.00 |
| 3. To be transferred to: | 024.2983.5400.2400
CPA Administration Expenses | \$7950.00 |

4. The amounts requested will be used for the following purpose:
For professional services such as appraisals and planning support.

Scott Cavanaugh

Scott Cavanaugh, CPA Committee Chair
10/27/2025

Allyson Manuel

Allyson Manuel, Planning Director
10/30/2025

City Council Action

Date received by City Council: April 22, 2026

Date referred to Committee: April 22, 2026

Public hearing date: May 20, 2026 Advertisement date: May 9, 2026

Number present & voting: _____ Appropriation approved: \$ _____

_____	_____	_____
_____	_____	_____
_____	_____	_____

Date of City Council approval: _____

Amount approved: \$ _____

Department transferred to: _____

Pursuant to Section 3-7 of the Easthampton Home Rule Charter, I, Salem Derby, Mayor of the City of Easthampton, hereby approve the foregoing City Council action.

Salem Derby, Mayor

Date of Approval



**CITY OF EASTHAMPTON
OFFICE OF THE CITY COUNCIL**

Easthampton Municipal Building
50 Payson Ave., Ste. 100
Easthampton, Massachusetts 01027-2260
Telephone #: (413) 529-1400, ext. 460
Fax #: (413) 529-1417

CITY COUNCIL ACTION REQUEST FORM

Date Submitted: April 2, 2026
Title of proposal: Adoption of Local Property Tax Exemption Options
Councilor Sponsor(s): Councilor Denham

Request is hereby made for consideration of the following:

- General Ordinance Amendment
- Traffic Rules & Orders Amendment
- Zoning Ordinance Amendment (for referral to committee to discuss; will need to come back to council with recommendation and subsequent referral to Planning Board)
- Council Rules Amendment
- Home Rule Charter Amendment
- City Council Resolution

Is your item a request for immediate consideration? Yes No

Chapter and Section number to be amended (for ordinance or council rules amendment):

Short summary of the proposal (A short - two to three sentence- description of what you are requesting.

Please attach any additional information – resolution, etc.): _____

The Board of Assessors has requested City Council adopt the following Local Property Tax Exemption Options

G.L. c. 59, § 5, Clause 17F: Annual Cost-of-Living Adjustment (COLA) for Certain Exemptions

G.L. c. 59, § 5, Clause 22G: Exception to Requirements for Legal and Sufficient Beneficial Interest (Trusts)

G.L. c. 59, § 5, Clause 22I: COLA for Veteran Exemptions



Martha Leamy, MAA
Principal Assessor

assessor@easthamptonma.gov
(413) 529-1401

MEMORANDUM

TO: Mayor Derby
FROM: Board of Assessors
cc: Koni Denham
DATE: April 1, 2026
SUBJECT: Recommendation for Adoption of Local Property Tax Exemption Options (G.L. c. 59, § 5)

This memorandum outlines the Board of Assessors' recommendation for the adoption of three local option statutory clauses concerning property tax exemptions under Massachusetts General Laws, Chapter 59, Section 5. These adoptions represent a targeted and fiscally responsible approach to providing essential relief to vulnerable residents, including qualifying seniors, and eligible veterans or their spouses within the Easthampton community.

Proposed Adoptions

We recommend the City Council adopt the following statutory clauses:

1. G.L. c. 59, § 5, Clause 17F: Annual Cost-of-Living Adjustment (COLA) for Certain Exemptions

Clause 17F provides communities with the option to increase the statutory property tax exemption granted under G.L. c. 59, § 5, Clause 17D each year. 17D benefits qualifying seniors, surviving spouses or minor children. The increase is equivalent to 100% of the annual cost-of-living adjustment (COLA).

- **Mechanism:** The COLA is measured by the increase in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for the previous calendar year.
- **Current Exemption (Clause 17D):** Easthampton currently grants an exemption of **\$175** to taxpayers who satisfy specific criteria related to age or status, domicile, ownership, and assets.
- **Impact Example (FY2026):** If adopted for Fiscal Year 2026 (beginning July 1, 2025), and assuming a COLA of 2.9%, the exemption amount would increase from \$175.00 to **\$180.08**.
- **Financial Impact:** Based on 21 Clause 17D exemptions granted this fiscal year, the estimated total additional relief would have been approximately **\$106.68** (21 taxpayers * \$5.08 increase per taxpayer).

This adoption ensures that the financial relief provided to these vulnerable residents keeps pace with inflationary costs.

2. G.L. c. 59, § 5, Clause 22G: Exception to Requirements for Legal and Sufficient Beneficial Interest (Trusts)

Clause 22G permits real estate that is the domicile of applicants for exemption under Clause 22 (veterans) to be eligible for such exemptions even if the property is owned by a trustee, conservator, or other fiduciary for the applicant's benefit. The veteran or veteran spouse can receive an exemption if they meet all other eligibility requirements but do not need to possess a legal interest in the property.

- **Current Requirement:** Currently, a veteran or veteran spouse must generally have both a legal interest (e.g., be a trustee) and a sufficient beneficial interest in a trust to be considered the "owner" for exemption purposes on July 1.
- **Benefit of Adoption:** Adoption of Clause 22G removes the restrictive requirement for the veteran or spouse to hold a legal interest (e.g., be a trustee). This simplifies the eligibility process for veterans whose homes are held in trust for their benefit, aligning the exemption with the intent of providing relief to the veteran residing in the domicile.

3. G.L. c. 59, § 5, Clause 22I: COLA for Veteran Exemptions

Clause 22I proposes to increase the amount of the tax exemption granted to qualifying veterans or their spouses on their domiciles under Clauses 22, 22A, 22B, 22C, and 22E annually by a cost-of-living adjustment (COLA) determined by the Department of Revenue (DOR) based on the Consumer Price Index (CPI).

- **Impact Example (FY2026 - 2.9% COLA):**

Exemption Clause	Current Amount	Proposed COLA Amount
Clause 22	\$400	\$411.60
Clause 22A	\$750	\$771.75
Clause 22B	\$1,250	\$1,286.25
Clause 22C	\$1,500	\$1,543.50
Clause 22E	\$1,000	\$1,029.00

- **Financial Impact:** Based on 134 qualifying veteran exemptions granted this fiscal year, the estimated total additional relief had the COLA been applied would have been approximately **\$1,954.80**.

Recommendation

We respectfully request that the City Council consider and adopt the local options provided under G.L. c. 59, § 5, Clause 17F, G.L. c. 59, § 5, Clause 22G, and G.L. c. 59, § 5, Clause 22I. All three measures represent a targeted and fiscally manageable approach to providing essential property tax relief to deserving members of the Easthampton community.

We are available to present further details and answer any questions the Council may have.

**Supplemental Appropriation
FY 2026**

Date: 04/29/2026

Request is hereby made for approval of the following appropriation:

1. Amount requested: **\$870,000.00** *Netal G. Patel*
(Auditor's Approval)

2. To be transferred from: # Free Cash - \$870,000.00
001.0001.3490

3. To be transferred to: 32B Health and Dental Insurance
001.9140.5600 - \$217,500.00
001.9140.5601 - \$217,500.00
001.9140.5742 - \$217,500.00
001.9140.5743 - \$217,500.00

4. The amount requested will be used for the following purpose:

To cover the remaining health and dental insurance premiums for coverage for June and July 2026.

Salem Derby
Mayor, Salem Derby

Emily Russo
Department Head Signature

City Council Action

Date of City Council meeting May 6, 2026
Date referred to Subcommittee May 6, 2026
Public hearing date May 20, 2026 Date of Advertising: May 9, 2026
Number present & voting _____ Appropriation approved \$ _____
Appropriation Disapproved \$ _____

Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

Pursuant to Section 3-7 of the Easthampton Home Rule Charter, I, Salem Derby, Mayor of the City of Easthampton, hereby approve the foregoing City Council action.

Salem Derby, Mayor

Date of Approval

32B Employer Contributions

		Health					Dental					Life					
		Active City	Retired City	Active School	Retired School	Monthly Total	Active City	Retired City	Active School	Retired School	Monthly Total	Active City	Retired City	Active School	Retired School	Monthly Total	
	Account	5742	5743	5600	5601	Monthly Total	5742	5743	5600	5601	Monthly Total	5742	5743	5600	5601	Monthly Total	
	PO Amt Encombered	\$2,100,000.00	\$570,000.00	\$3,009,000.00	\$798,000.00	\$6,477,000.00	\$547,200.00					\$547,200.00	\$4,700.00	\$2,000.00	\$5,800.00	\$3,800.00	\$16,300.00
Coverage Month	July/2025																
	August 2025	\$187,893.35	\$43,347.00	\$243,917.21	\$62,857.00	\$538,014.56	\$5,526.13	\$3,419.60	\$4,344.12	\$6,175.64	\$41,971.79	\$397.80	\$154.05	\$417.30	\$261.30	\$1,230.45	
	September/2025	\$181,268.08	\$44,127.50	\$251,293.80	\$62,508.00	\$539,197.38	\$5,327.56	\$3,398.34	\$7,901.35	\$6,162.52	\$48,235.10	\$390.00	\$154.05	\$421.20	\$257.40	\$1,222.65	
	October/2025	\$219,681.59	\$46,971.50	\$306,710.26	\$63,474.00	\$636,837.35	\$5,312.35	\$3,514.28	\$7,825.80	\$6,183.78	\$39,726.85	\$393.90	\$156.00	\$409.50	\$263.25	\$1,222.65	
	November/2025	\$213,224.40	\$46,905.50	\$303,424.02	\$63,823.00	\$629,376.92	\$5,361.94	\$3,470.26	\$7,628.63	\$6,247.56	\$34,726.56	\$393.90	\$156.00	\$425.10	\$255.45	\$1,230.45	
	December/2025	\$214,091.10	\$49,113.50	\$300,371.31	\$64,447.00	\$628,022.91	\$5,428.08	\$3,470.26	\$7,702.02	\$6,205.04	\$43,254.48	\$393.90	\$156.00	\$425.10	\$261.30	\$1,236.30	
	January 2026	\$223,200.61	\$53,103.00	\$304,135.86	\$73,592.00	\$654,031.47	\$5,135.42	\$3,643.50	\$7,600.58	\$6,082.46	\$39,253.15	\$448.50	\$148.20	\$432.90	\$261.30	\$1,290.90	
	February/2026	\$210,288.35	\$53,763.00	\$295,892.94	\$73,592.00	\$633,536.29	\$5,200.84	\$3,520.92	\$7,568.69	\$6,069.34	\$39,403.04	\$390.00	\$154.05	\$413.40	\$261.30	\$1,218.75	
	March/2026	\$219,791.57	\$54,019.00	\$299,056.31	\$72,858.00	\$645,724.88	\$5,300.00	\$3,600.00	\$7,700.00	\$6,200.00	\$36,086.60	\$397.80	\$152.10	\$405.60	\$253.50	\$1,209.00	
	April/2026	\$216,000.00	\$54,000.00	\$300,000.00	\$74,000.00	\$644,000.00	\$5,300.00	\$3,600.00	\$7,700.00	\$6,200.00	\$46,000.00	\$400.00	\$160.00	\$420.00	\$265.00	\$1,245.00	
May/2026	\$216,000.00	\$54,000.00	\$300,000.00	\$74,000.00	\$644,000.00	\$5,300.00	\$3,600.00	\$7,700.00	\$6,200.00	\$46,000.00	\$400.00	\$160.00	\$420.00	\$265.00	\$1,245.00		
June/2026	\$216,000.00	\$54,000.00	\$300,000.00	\$74,000.00	\$644,000.00	\$5,300.00	\$3,600.00	\$7,700.00	\$6,200.00	\$46,000.00	\$400.00	\$160.00	\$420.00	\$265.00	\$1,245.00		
July/2026	\$216,000.00	\$54,000.00	\$300,000.00	\$74,000.00	\$644,000.00	\$5,300.00	\$3,600.00	\$7,700.00	\$6,200.00	\$46,000.00	\$400.00	\$160.00	\$420.00	\$265.00	\$1,245.00		
Total Employer Contribution		\$2,533,439.05	\$609,350.00	\$3,504,801.71	\$833,151.00	\$7,480,741.76	\$63,792.32	\$42,437.16	\$89,071.19	\$74,126.34	\$506,657.57	\$4,805.80	\$1,870.45	\$5,030.10	\$3,134.80	\$14,841.15	
PO Amount Encombered		\$2,100,000.00	\$570,000.00	\$3,009,000.00	\$798,000.00					\$547,200.00	\$4,700.00	\$2,000.00	\$5,800.00	\$3,800.00			
Total Employer Contribution		\$2,533,439.05	\$609,350.00	\$3,504,801.71	\$833,151.00					\$506,657.57	\$4,805.80	\$1,870.45	\$5,030.10	\$3,134.80			
Remaining Amount		-\$433,439.05	-\$39,350.00	-\$495,801.71	-\$35,151.00					\$40,542.43	-\$105.80	\$129.55	\$769.90	\$665.20			

Notes: South Hadley Veterans Agent share comes out of 5743 - \$312 Quarterly

$568,959.07 (5742) \quad 864,000 + 21,200 + 1600 = 886,800.00$
 $201,730.72 (5743) \quad 216,000 + 14,400 + 640 = 231,040.00$
 $777,338.48 (5600) \quad 1200,000 + 30,800 + 1680 = 1,232,480.00$
 $337,666.92 (5601) \quad 296,000 + 24,800 + 1060 = 321,860.00$

 $1885,695.19$
 $2,672,180.00$
 $+ 80,000.00$

 $2,752,180.00$
 $866,484.81$
 08
 $870,000.00$



Julianne Busa, Chair
Eva Gerstle, Conservation Agent

conservation@easthamptonma.gov
(413) 529-1463

Dear City Councilors,

The Easthampton Conservation Commission is pleased to introduce the Easthampton Wetlands Ordinance for your review.

Across the Commonwealth, 220 municipalities have adopted wetland bylaws/ordinances, recognizing common limitations of the Wetlands Protection Act, and addressing the unique wetland challenges of their municipality. The Wetlands Protection Act Regulations specifically notes that “nothing contained in 310 CMR 10.00 should be construed as preempting or precluding more stringent protection of wetlands or other natural resource areas by local by-law, ordinance or regulation”, and local wetlands bylaws/ordinances have been repeatedly strengthened by case law.

The Easthampton Conservation Commission has experienced the shortcomings of the Wetlands Protection Act, particularly in the post-pandemic development boom in the City. The Commission has heard from residents who are frustrated by the inability of the Commission to better protect resource areas and property. These frustrations have been voiced in permitting hearings of new projects built adjacent to unprotected Isolated Wetlands, and in conversations with residents, whose homes and neighborhoods were built on filled wetlands, who are experiencing repeated flooding and wet basements. This Ordinance hopes to apply lessons learned from past mistakes and ensure that new development in Easthampton is well situated for the future.

The continuing changing climate further requires adapted regulations to ensure the protection of Resource Areas and property. One of our best forms of flood control is giving wetlands space to function as sponges, absorbing water, slowing and staggering runoff. This Ordinance seeks to be forward thinking with Land Subject to Flooding, utilizing future precipitation data to keep our residents safe and dry for the decades to come. As the City promotes an increase in housing stock, it is imperative to keep all residents protected from flood damage.

Easthampton has a special landscape with distinct characteristics that are not adequately protected by the Wetlands Protection Act. The waters that flow off of Mount Tom are frequently upgradient of Bordering Vegetated Wetlands and are not protected. Much of the City is located on glacial lakebed, with well-drained soils above a clay layer under which our aquifer is found. Sandy, well drained soils are highly erodible, and maintenance of riparian vegetation prevents erosion from frequently flashy streams. Additionally, the City’s wetlands are particularly susceptible to nearby land use change where sandy soils facilitate lateral movement of water from development toward wetlands. Increasing protection for buffer zones ensures that our wetlands and uplands have ample space to attenuate runoff without pushing the water onto others’ property. In all of these processes, the City’s wetlands act to filter water that recharges the Barnes Aquifer - our singular source of drinking water in Easthampton.



Julianne Busa, Chair
Eva Gerstle, Conservation Agent

conservation@easthamptonma.gov
(413) 529-1463

Topic	Mass. Wetlands Protection Act (M.G.L. c.131 §40)	Proposed Easthampton Ordinance (April 2026 Draft)
Enforcement	Enforcement Orders, escalation up to DEP	Local fines up to \$300/day
Vegetated Wetlands	1:1 replication requirements Bordering Vegetated Wetlands are jurisdictional, Isolated Vegetated Wetlands are not	Minimum 2:1 wetland replication requirements for BVW and IVW Isolated Vegetated Wetlands larger than 400 ft ² have same performance standards as BVW
Land Subject to Flooding	Utilizes 100 Year FEMA Floodplain Maps (currently preliminary)	Uses either 500 Year FEMA Floodplain or future climate data in calculating extent.
Intermittent Streams	Only protected downstream of Wetlands	Protected along the full reach of stream, including upgradient of wetlands
Vernal Pools	Not jurisdictional unless certified or located in other resource areas.	Jurisdictional with boundary 100 feet out from mean annual high water line , Presumed significant to habitat protection, without breeding evidence required
Buffer Zone	100 ft advisory; not regulated directly.	100 ft regulated zone divided into 50-ft "inner" (no disturbance) and 50-ft "outer" (limited work). With relief possible.
Climate Change	Not explicitly addressed.	Requires climate impact narrative and adaptation design.
Wildlife Habitat Assessment	Required for large impacts (per 310 CMR 10.60).	May be required at Commission discretion for any project.
Interests Protected	Water supply, flood control, pollution prevention, fisheries, wildlife habitat, etc.	Adds climate resilience, ecosystem services, recreation, carbon sequestration.
Riverfront/ Land Under Water/ Bank	Performance Standards described in WPA	No changes added in the Ordinance
Fees	Set by DEP- 50% to DEP, 50% to City	Modest additional fees, see fee schedule



City of Easthampton
50 Payson Avenue
Easthampton, MA 01027

Support Letter - Easthampton Wetlands Protection Ordinance

I am writing on behalf of Pascommuck Conservation Trust to express our strong support for the Easthampton Wetlands Protection Ordinance. This project represents a vital opportunity to protect and enhance our natural environment, our rivers and streams and drinking water while delivering lasting benefits to the community of Easthampton and surrounding municipalities.

Wetlands are among the most productive ecosystems, providing essential services such as water filtration, flood mitigation, wildlife habitat, and carbon storage. The proposed plan will not only improve ecological health, filter water that recharges the Barnes Aquifer - our single source of drinking water in Easthampton, among many other benefits.

Wetlands are irreplaceable in maintaining clean water, supporting biodiversity, and safeguarding our communities from extreme weather events. Once lost, their ecological functions cannot be easily restored. Protecting them is both an environmental necessity and a moral responsibility to future generations.

I urge the City to prioritize wetland conservation through Easthampton's Wetland Protection Ordinance. By safeguarding wetlands, we ensure a healthier, more resilient environment.

Thank you for your commitment to environmental stewardship.

Sincerely,

Dianne McLane

President, Pascommuck Conservation Trust



May 14, 2026

Nashawannuck Pond Steering Committee

50 Payson Ave,
Easthampton, MA 01027
nashawannuckpond@gmail.com

May 14, 2026

Easthampton City Council
City of Easthampton
50 Payson Ave.
Easthampton, MA 01027

Re: Proposed Easthampton Wetlands Protection Ordinance

Dear Council Members:

The Nashawannuck Pond Steering Committee would like to unanimously express its support for the proposed Wetlands Protection Ordinance under current consideration, as voted during our meeting on May 13, 2026. We believe that this additional protection and regulatory ordinance is important to the City of Easthampton. As stewards for Nashawannuck Pond, we recognize the need for these additional protections, not only for the pond, but also for the upgradient watershed wetland resources, which are the first line of defense protecting this critical waterbody and central feature of our community. While the MA Wetlands Protection Act 310 CMR 10.00 gives a body of state regulations protecting wetlands, with authority to the municipal conservation commissions, these regulations do not in many circumstances provide the specific authority to regulate the resource types or at the level of need that may be unique to each community. Therefore, the state allows communities to adopt additional bylaws and ordinances that parallel and extend protections beyond the State Wetlands Protection Act, which can focus on the needs for protection unique to each community. The Easthampton Conservation Commission has done an excellent job assessing the additional needs for a wetlands ordinance and tailoring it to the needs of our community, which will allow for critical regulation of activities, especially within the buffer zone to wetland resources and floodplains that directly connect to Nashawannuck Pond.

Notwithstanding the excellent work of the Conservation Commission in drafting this proposed ordinance, there may be some portions that would benefit with minor modifications and we include these for future reference purposes only, unless there is a more timely way to address them:



May 14, 2026

Nashawannuck Pond Steering Committee

50 Payson Ave,
Easthampton, MA 01027
nashawannuckpond@gmail.com

- the process for the determination of exemptions under Section 3.1 Preamble seems to be undefined and could be verbal, written, or coming from authorized individuals rather than the reflecting the will of the entire commission;
- the definition and determination of upgradient streams could inadvertently include any and all preferential flow paths that flow only in direct response to precipitation, such as upland swales, erosion scars, gullies, etc.; and
- the determination of adverse effects on wildlife habitat seems to be too inclusive (the referenced "10%" thresholds could be excessively low in some cases on small lots, inadvertently encumbering smaller, unintended projects with significantly large costs due to the requirement for a Masters level wildlife habitat evaluation).

Regardless of the above belatedly entered concerns, the Committee would not wish to delay implementation of these important regulatory mechanisms for the benefit of Easthampton residents. The Committee believes that the ordinance as proposed is worthy of approval as stands unless simple modifications can be made that do not unduly delay approval. The Commission has proven many times over to be a balanced and well-reasoned governing body protecting the wetland resources of our community. We have no doubt that they would continue to do so under the ordinance as written. However, in the event that such changes cannot be considered prior to implementation, we recommend that they consider such modifications as soon as possible so that future regulation authorities not exceed the well-intended goals of the proposed ordinance.

Sincerely,

A handwritten signature in blue ink that reads "Paul G. Davis". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paul G. Davis, PhD PWS CPSS CERP

For the
Nashawannuck Pond Steering Committee

Draft Fee Schedule to Accompany the Easthampton Wetlands Ordinance

Filing fees shall be required for permit applications subject to the following:

- a. Fees shall be provided at the time of submission of an application in the form of a check made payable to the City of Easthampton and are nonrefundable.
- b. Fees shall be calculated by adding each applicable category and shall be calculated by the Commission or its Agent per these Regulations.
- c. City, county, state, federal and restoration projects are exempt from fees.
- d. Upon request and demonstration of compelling reason to do so, which circumstances the Commission anticipates shall be rare, the Commission in its sole discretion may grant a waiver or variance from, or reduction of, filing fees.
- e. These filing fees shall be in addition to filing fees charged under the Wetlands Protection Act (M.G.L. c. 131, Section 40).
- f. Fees shall be deposited to the "Conservation Commission – Wetlands Ordinance Fees Acct" account to be managed separate from the "Conservation Commission – Wetlands WPA Fees Acct".

As described in 310 CMR 10.03 (7)(c)

NOI Filing Fees

Category 1 (Fee for each activity is an additional \$55)

Category 2 (Fee for each activity is an additional \$250)

Category 3 (Fee for each activity is an additional \$525)

Category 4 (Fee for each activity is an additional \$725)

Category 5 (Fee is \$2 per linear foot, the Ordinance fee shall not exceed \$1000)

ANRAD Filing Fee

Category 6 (Fee is \$1 per linear foot for each resource area, for each delineation, the Ordinance fee shall not exceed \$1000)

Category 7- **Certificate of Compliance**- \$0 if before the expiration of the Order.
\$100 if after the expiration of the Order.

Category 8- **Amended Order of Conditions**, \$100

Category 9- **Permit Extensions**, per extension: \$100

EASTHAMPTON WETLANDS PROTECTION
ORDINANCE

Table of Contents

1.	Purpose and Authority.....	1
2.	Jurisdiction.....	2
3.	Exemptions.....	3
4.	Definitions.....	5
5.	Procedures.....	7
6.	Outside Consultants.....	10
7.	Permits and Conditions.....	11
8.	Permit Extensions.....	13
9.	Security.....	13
10.	Enforcement.....	14
11.	Appeals.....	16
12.	Severability.....	16
13.	Performance Standards for Resource Areas (Inland Wetlands, Buffer Zones).....	16
14.	Performance Standards for Buffer Zones	25
15.	Evaluation of Wildlife Habitat Effects.....	26
16.	Evaluation of Ecological Climate Impacts.....	30
17.	Amendments and Effective Date.....	31

Section xx. Definitions

5.1 All terms in this Ordinance are presumed to have the same meaning as in the Wetland Protection Act MGL c. 131, §40 and the Regulations, unless otherwise noted below.

Administrative Approval: A determination by the Conservation Commission that the impacts of a proposed activity upon a jurisdictional resource area will be minor to its ability to perform the functions that support the interests protected by the Ordinance. The Commission determines whether it will issue Administrative Approval via discussion at a public hearing and issuance of a memorandum.

Adverse Effect: The result of an activity that causes a significant reduction in the ability of a jurisdictional resource area to perform functions that support or further the interests protected by this Ordinance.

Agent: Any City Staff, consultant or other representative, who is appointed by a majority vote of the Conservation Commission at a regularly scheduled meeting of the Commission.

Alter: Without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by the Ordinance:

- a. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind.
- b. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
- c. Drainage, or other disturbance of water level or water table.
- d. Dumping, discharging, or filling with any material which may degrade water quality.
- e. Placing of fill, or removal of material, which would alter elevation.
- f. Driving of piles, erection, expansion or repair of buildings, or structures of any kind.
- g. Destruction of plant life including cutting or trimming of trees and shrubs.
- h. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.
- i. Reducing the capacity of the resource areas to sequester and store carbon and/or ability to provide climate resilience benefits in mitigating extreme precipitation and/or localized cooling and/or drought conditions.
- j. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- k. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by the Ordinance.

Area Subject to Protection under the Ordinance: Any area specified in Ordinance Section 3.1(a-g) and is used synonymously with “Resource Area”.

Best Management Practices: Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution/impacts to resource areas and resource interests protected by the Ordinance.

Carbon Sequestration: The process whereby atmospheric carbon dioxide is converted into living plant material and then becomes soil organic matter after the plant material dies and decomposes, effectively sequestering the carbon out of the atmosphere and storing it in plant and soil material.

City: The City of Easthampton, Massachusetts.

Conservation Commission: Means the Conservation Commission for the City.

Competent Source(s): Individuals with credible knowledge related to the subject matter either through professional credentials, 3 years of experience, or other criteria determined by the Conservation Commission. In all instances, MassDEP staff, Conservation Commissioners, and Conservation Commission staff are competent sources.

Ecological Climate Resilience: Ability of an ecosystem to recover and achieve a pre-disturbance level of functioning after a climate-related disturbance such as flooding, severe storms, high heat and drought.

Filing Schedule: Means the schedule of filing fees adopted by the Commission for applications under this Ordinance as detailed in Section XX of this Ordinance.

Interests Protected By This Ordinance: See Section XX.

Ordinance: The Easthampton Wetlands Protection Ordinance.

Regulations: Means the regulations found at 310 C.M.R. 10.00

Replication: The process of constructing a new wetland resource area to mitigate for an impacted existing wetland; is used synonymously with "Replacement".

Violation: Any Violation of this Ordinance, any permit issued under this Ordinance or any Enforcement Order issued under this Ordinance as detailed in Section XX of this Ordinance.

Wetland Dependent Uses: Those minor or temporary activities, as determined by the Commission, which must occur within wetlands to achieve their purpose such as research equipment installation, temporary access structures, etc.

Wetlands Protection Act or the "Act": Means M.G.L c. M.G.L c. 131 § 40 et. seq.

Wetland Replication Translocation Methodology: This approach involves the removal, in intact blocks, of wetland impact area soil (at least the top foot or so and the full O and A horizons, with B horizon to the extent possible) and the vegetation growing on and in the block of soil, inclusive of roots and mycorrhizae. The removed blocks are directly transferred to the wetland replication area, which has already been excavated to accommodate the installation of the soil blocks.

Section 1. Purpose and Authority

1.1 The purpose of this Ordinance is to protect the wetlands, groundwater and surface water resources, flood-prone areas, and adjoining upland areas in the City by controlling activities deemed by the City that are likely to have a significant or cumulative effect on resource area values. The Ordinance sets forth a public review and decision-making process by which activities affecting areas subject to Protection under the Ordinance are to be regulated in order to contribute to the following Interests:

- a. Protection of public or private water supply;
- b. Protection of groundwater supply;
- c. Flood control;
- d. Erosion and sedimentation control;
- e. Storm damage prevention;
- f. Protection of water quality;
- g. Prevention and control of pollution;

- h. Protection of fisheries, wildlife, and wildlife habitat;
- i. Protection of rare species and rare species habitat;
- j. Protection of agriculture and aquaculture;
- k. Protection of ecosystem services that contribute to Climate Change resilience.

(collectively, the "Interests Protected by this Ordinance")

- 1.3 This Ordinance utilizes the Home Rule authority of the City to create additional standards for protection of resource areas identified in the Wetland Protection Act, to protect additional resource areas beyond those recognized in the Act, and to impose additional procedures to those of the Act and the Regulations. This Ordinance shall be administered by the Conservation Commission, who may, from time to time, propose amendments to this Ordinance.
- 1.4 The Ordinance establishes standard definitions, uniform procedures, design specifications, and performance standards by which the Conservation Commission and its Agent may carry out its responsibilities under the Ordinance.

Section 2. Jurisdiction

- 2.1 Except as permitted by the Conservation Commission or otherwise provided for in this Ordinance, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas (collectively the "Resource Areas" henceforth):
 - a. Any vegetated wetland (Bordering or Isolated), including but not limited to freshwater wetlands, riverine wetlands, marshes, wet meadows, bogs, swamps, or within one hundred (100) feet of said areas ("100 foot Buffer Zone");
 - b. Any Bank or Beach, or within the 100 foot Buffer Zone of said areas;
 - c. Any Land Under Water, such as that which occurs under reservoirs, lakes, and ponds;
 - d. Any intermittent stream or spring, including those portions that are upgradient of surface waters or vegetated wetlands, such as springs and seeps found on Mount Tom, or within the 100 foot Buffer Zone of said areas;
 - e. Any perennial rivers, perennial streams, perennial springs, and lands adjoining these resource areas out to a distance of 200 feet, known as the Riverfront Area;
 - f. Any lands subject to flooding or inundation by groundwater, surface water, or storm flowage (except artificially built detention areas and drainage channels including streets and gutters which would not otherwise be subject to jurisdiction under this Ordinance the Act, or the Regulations.
 - g. Any seasonal wetlands including vernal/ephemeral pools, or within the 100 foot Buffer Zone of said areas.

Section 3. Exemptions

3.1 *Preamble*

It is the intent of the Ordinance to include exemptions for specific projects which would result in a net benefit to wetland resource areas' functions and values through specific restoration activities; said activities only include those which meet the descriptions in Section 4.2.6 (a-h). The Commission or their Agent shall have the authority to determine whether any exemption(s) to the Ordinance apply to a particular project or activity. Irrespective of any exemption to the Ordinance, all requirements under the Act shall apply to all such projects.

3.2 *Exempt Activities*

3.2.1 The applications and permits required by this Ordinance shall not be required for work performed for normal maintenance or improvement of land in Agricultural and Aquacultural Use as defined in 310 CMR 10.04.

3.2.2 The applications and permits required by this Ordinance shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located and constructed structure, building or facility used in the service of the public to provide electric, gas, water, telephone, sewer or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

3.2.3 The applications and permits required by the Ordinance shall not be required for Emergency Orders issued pursuant to the authority found in the Regulations.

3.2.4 The exemptions provided in the Wetlands Protection Act and Regulations shall apply under this Ordinance except where stated otherwise. Those exemptions under the Act and Regulations which apply to this Ordinance include the listed minor activities found in 310 CMR 10.02(2)(b)(2) (a), (d), (f-q), provided the minor activities comply with 310 CMR 10.02(2)(b)1, and meet the additional requirements as listed below in 3.2.5 of this Ordinance and are not otherwise subject to regulation under the Act.

3.2.5 Exemptions provided for the following minor activities listed in 310 CMR 10.02(2)(b)(2) shall not apply under the Ordinance unless all additional listed requirements are met:

- a. 310 CMR 10.02(2)(b)(2)(b) – Related to fencing. The exemption for this minor activity does not apply unless the proposed fence is shown to be in compliance

with zoning requirements for the City then in effect and includes a 6 inch gap for wildlife passage along the bottom of the fence's entirety.

- b. 310 CMR 10.02(2)(b)(2)(e) – Related to the conversion of lawn to uses accessory to residential structures. The exemption for this minor activity shall not apply to conversion over 200 square feet of lawn, but shall apply to other applications.
- c. 310 CMR 10.02(2)(b)(2)(n)(iv) – Related to removal of vegetation for road safety maintenance. The exemption for this minor activity does not apply to the option to chip and spread invasive plants found on the Massachusetts Invasive Plant Advisory Group (MIPAG) lists of invasive, likely invasive, or potentially invasive species, but does apply to other applications.

3.2.6 The following activities are also exempt from the requirements of the Ordinance if they meet one of the specifications listed below. Projects may still require review and/or approval under other regulations such as the Wetlands Protection Act.

- a. Ecological Restoration Projects meeting the requirements of 310 CMR 10.11-10.13 for which a Restoration Order of Condition will be issued following 310 CMR 10.14, and Ecological Restoration Limited Projects following 310 CMR 10.54(4).
- b. Native planting projects within resource areas. The project shall involve only plants listed as native to Hampshire County or Hampden County on the most recent edition of Vascular Plants of Massachusetts: A County Checklist or otherwise approved by the Conservation Agent. The work shall only utilize hand tools. No other work/ground disturbance activities can be included in the project to qualify for the exemption.
- c. Stream/wetland area restoration projects. In order to be exempt, the project shall result in improved functions and values of the area over existing conditions, shall not include any new stream/wetlands crossings, shall not include any tree/vegetation clearing except for invasive plant species and/or the minimum vegetation clearing necessary to conduct restoration, and shall not include installation of any new impervious surfaces.
- d. Projects that consist entirely of invasive vegetation removal and management or which include such management as part of another exempted restoration type of project. Exempt management of invasive vegetation can include herbicide treatment if the herbicides are approved for wetland use and are applied by a licensed pesticide applicator.
- e. Excavation of historically filled wetland resource areas.
- f. Large wood installations (such as chop & drop, beaver dam analogs) for restorative purposes of wetland functions.
- g. Floodplain restoration/reconnection projects that adjust elevations specifically to create additional storage below the 100-year flood elevation only when such

actions are not associated with meeting compensatory flood storage performance standard obligations of another project.

- h. Fish passage projects including fish ladders and partial or full dam breaches.
- i. Projects that have the sole purpose of evidence-based wildlife habitat enhancement. Projects shall base their efforts on scientifically defensible methods for which precedent can be demonstrated.

3.3 Stormwater Systems as described in Section 10.04 definition for Stormwater Management System.

3.4 In all cases, the Commission shall have the discretion to review a project and determine whether it is exempt or subject to the protections of the Ordinance.

Section 4. Limited Projects

4.1 Projects meeting the criteria of Limited Projects described in 310 CMR 10.53(3)(a) through (t) shall also be considered Limited Projects under this Ordinance and the provisions of 310 CMR 10.53(3) shall apply under the Ordinance.

Section 6. Procedures/Applications & Fees

6.1 *Filing*

6.1.1 The Commission welcomes and encourages prospective applicants to request a pre-filing consultation with the Commission at one of its regularly scheduled meetings or its Agent.

6.1.2 Procedures and forms established by the Regulations and the Massachusetts Department of Environmental Protection, and other applicable state law for filings under the Wetlands Protection Act shall be used for filings under the Easthampton Wetlands Protection Ordinance and these Regulations. Concurrent filings made under the Act and the Ordinance shall not require separate submissions.

6.1.3 A complete application under the Ordinance shall include (1) a copy of the filing under the WPA, (2) Easthampton Wetlands **Form E**, (3) the fee appropriate for the project, (4) an analysis of resource area impacts under this Ordinance, and (5) an evaluation of wildlife habitat effects, and an evaluation of climate change effects as needed. No application shall be deemed to be complete until each of the foregoing criteria have been met.

6.1.4 Requests and permit applications to the Commission shall contain at least two (2) paper copies and one (1) digital copy of all data, forms, and plans necessary for the Commission. The Commission reserves the right to require additional paper copies of any and/or all application materials.

6.2 *Time Periods*

For all time periods mentioned, including for applications only reviewed under this Ordinance the time periods described in 310 CMR 10.05(1) shall apply.

6.3 *Actions by the Conservation Commission*

For all applications and actions under this Ordinance the actions described in 310 CMR 10.05(2) shall apply.

6.4 *Public Hearings*

6.4.1 The Commission shall conduct public hearings required by this Ordinance in the manner prescribed in 310 CMR 10.05(5)(a).

6.4.2 It is standard practice for the Commission to combine its hearings under the Ordinance with the hearing conducted under the Wetlands Protection Act for a single project if both are determined to be required.

6.4.3 The Commission shall continue public hearings required by this Ordinance in the manner prescribed in 310 CMR 10.05(5)(b).

6.5 *Local Filing Fees*

6.5.1 At the time of an application, the applicant shall pay a fee as specified in the Fee Schedule promulgated by the Commission for applications under this Ordinance. The fee is in addition to that required by the Wetlands Protection Act and Regulations per 310 CMR 10.03(7).

6.5.2. The Commission shall develop, adopt and may periodically update a Fee Schedule. Updates to the Fee Schedule shall constitute a Commission Action, shall be posted as a separate agenda item on the Commission's agenda, and shall take place following discussion and vote at a regularly scheduled public Commission meeting.

6.5.3. Filing fees shall be required for permit applications subject to the following:

- a. Fees shall be paid at the time of submission of an application in the form of a check made payable to the City of Easthampton and are nonrefundable.
- b. Fees shall be calculated by adding each applicable category and shall be calculated by the Commission or its Agent per this Ordinance.
- c. City, state, and federal projects shall be exempt from fees.
- d. Upon request and demonstration of compelling reason to do so, under which circumstances the Commission anticipates shall be rare, the Commission in its sole discretion may, following a request and public hearing, grant a waiver or variance from, or reduction of, filing fees.

- e. These filing fees shall be in addition to the local portion of the filing fees charged under the Wetlands Protection Act.
- f. Fees shall be deposited to a revolving account as established by City Council. These shall be managed separately from the Conservation Commission – “Wetlands WPA Fees Acct”.

6.6 *Coordination with Other Boards*

The Commission reserves the right to require an applicant to provide other City boards or abutting municipalities copies of application materials and supporting information.

Section 7. Employment of Outside Consultants

7.1 As provided by M.G.L. c. 44 §53G, the City by and through this Ordinance, and the Commission by and through its rulemaking authority may impose reasonable fees for the employment of outside consultants, engaged by the Commission, for specific expert services. Such services shall be deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of: the Wetlands Protection Act, the Ordinance, the Conservation Commission Act (M.G.L. Ch. 40 §8C), or any other state or municipal statute, bylaw ordinance or regulation, as they may be amended or enacted from time to time. The Conservation Commission may also impose fees for other consultant services, related to application review, or permit conditioning or monitoring, under any of the above-referenced laws or regulations.

7.2 Hearing and Vote: The decision to employ an outside consultant shall be made by a majority vote of the quorum present during a public meeting or hearing of the Commission on the application for which the outside consultant is considered.

7.3 Special Account. Funds received pursuant to this Ordinance or the Commission's Rules shall be deposited with the City treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Commission without further appropriation as provided in M.G.L. c. 44 § 53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the applicant. Expenditures of accrued interest may also be made for these purposes.

7.4 Consultant Services. Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydrogeologic and drainage analysis, impacts on municipal conservation lands, and environmental or land use law. Services may also include on-site monitoring during construction, or other services related to the project deemed necessary by the Commission. The consultant shall be chosen by, and report only to, the Commission and/or its Agent.

7.5 Notice. The Commission shall give written notice to the applicant of the selection of an outside consultant. Such notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

7.6 Payment of Fee. The fee must be received prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment, or refusal of payment, shall be cause for the Commission to deny the application based on lack of sufficient information to evaluate whether the project meets applicable performance standards in the Regulations, this Ordinance or the Commission's regulations. An appeal stops the clock on the above deadline; the countdown resumes on the first business day after the appeal is either denied or upheld. A denial for lack of information may be based solely on the lack of the third party consultant review identified as necessary by the Commission. The Commission shall specify in its denial the nature of the information lacking which its chosen consultant would provide, e.g. the questions it needs answered.

7.7 Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application for applications made under this Ordinance.

7.8 Appeals. The applicant may appeal the selection of the outside consultant to the City Council, who may only disqualify the outside consultant selected on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the City Council and a copy received by the Conservation Commission, so as to be received within ten (10) days of the date consultant fees were requested by the Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

7.9 Return of Unspent Fees. When the Commission's review of a project is completed and an Order of Conditions or other Order is issued, any balance in the special account attributable to that project shall be returned within 30 days. The excess amount, including interest, shall be repaid to the applicant or the applicant's successor in interest. For the purpose of this Ordinance, any person or entity claiming to be an applicant's successor in interest shall provide the Commission with appropriate documentation of same. A final report of said account shall be made available to the applicant or applicant's successor in interest.

Section 8. Permits, Conditions and Extensions

- 8.1 The Commission shall follow the procedures set out in the Regulations for issuance of permits, conditions, and extensions for all projects requiring approval under this Ordinance

Section 9. Security

- 9.1 As part of a permit issued under this Ordinance, and in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:
- a. By a bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission to secure performance of the agreed upon plans and conditions. Such bond or surety, if required to be filed or deposited, shall be approved as to form and manner of execution by the City Solicitor, and as to sureties by the City Treasurer, and shall be contingent upon the satisfaction of such conditions within the time frame of the permit and any approved extension(s). Such bonds shall be required and approved by the Commission by majority vote prior to the close of the public hearing on the application.
 - b. By acceptance of a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded in the Hampshire County Registry of Deeds by the owner of record, running with the land to the benefit of the City, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed (such method to be used only with the consent of the applicant).

Section 10. Enforcement

- 10.1. The Commission shall have authority to enforce this Ordinance and permits issued thereunder by Violation notices, Enforcement Orders, fines, and undertake civil and criminal court actions.

Violations include, but are not limited to:

- a. Unpermitted activities which remove, fill, dredge, build upon or otherwise alter resource areas protected by this Ordinance; or
- b. Unpermitted activities which cause, suffer, or allow significant negative impacts to resource areas and interests protected by this Ordinance; or
- c. Leave in place unauthorized fill; or

- d. Failure to comply with a permit or enforcement order issued pursuant to this Ordinance; or
- e. Failure to complete work described in a Permit, when such failure causes damage to the interests identified in the Ordinance; or
- f. Failure to obtain a valid Permit prior to conducting an activity subject to regulation under the Ordinance.

The Commission, its agents, officers, and employees will seek landowner consent to enter upon privately owned land at reasonable times for the purpose of performing their duties under the Ordinance and may make or cause to be made such examinations, surveys, or samplings as the Commission deems necessary, subject to the Constitution and laws of the United States and the Commonwealth of Massachusetts.

When a Violation is believed to have occurred, the Commission shall adhere to the following Procedures:

- a. Request access to the property from the property owner.
- b. Conduct a site visit. Determine if a Violation has occurred and the extent of the Violation.
- c. When the Commission determines that an activity is in Violation of the Ordinance and/or a permit issued under the Ordinance, based on the severity of the Violation, the Commission may:
 - i. Issue a Cease and Desist Letter requiring stoppage of part or all work; and/or
 - ii. Require the installation of soil erosion control measures, if necessary; and/or
 - iii. Require the property owner and/or project manager attend a scheduled Commission meeting to propose a suitable mitigation plan; and/or
 - iv. Issue an Enforcement Order signed by a majority of the Commission. Provided however that in a situation requiring immediate action, the Enforcement Order may be signed by a single member or Agent of the Commission. Such an Order shall be ratified by a majority of the members at the next scheduled meeting of the Commission; and/or
 - v. Hold a Public Hearing to determine whether the owner should be fined for the Violation and how much the fine is to be based on the criteria in Section 9.6 of these Regulations.
 - vi. Take any such action as it deems reasonably necessary to enforce the provisions of this order including but not limited to filing a civil action, seeking criminal enforcement, utilizing the non-criminal disposition procedure set forth in M.G.L., c. 40 § 21D.

10.2 Fines

10.2.1 Any person who commits any Violation of this Ordinance may be fined not more than \$300.00 per offense. Each day or portion thereof during which the Violation

continues shall constitute a separate offense, and each provision of the Ordinance, Regulations, or permit violated shall constitute a separate offense. The party in Violation, which may include both the landowner and his or her agent as applicable, shall be notified of the Violation by hand delivery by the Commission, any of its Agents/designees, or any police officer or by certified mail.

Fines paid under this Ordinance shall be deposited in

10.2.2 If a fine or an adjustment of fine for a Violation of this Ordinance is contemplated, the Commission shall hold a Public Hearing to discuss the Violation and to give the party charged with violating this Ordinance the opportunity to respond. The party alleged to have violated this Ordinance, and the landowner where the Violation occurred shall be given at least forty-eight (48) hours' notice in writing of the date, time, and place of the Public Hearing, by certified mail, return receipt requested or in hand delivery. The party charged with violating this Ordinance or landowner may apply in writing for a continuation of the Public Hearing stating in full the reason for the request. The Commission may by majority vote of the Commissioners present at the Public Hearing grant a continuance for compelling and/or environmentally sound reasons.

If a majority of the Commission present at the Public Hearing finds by a preponderance of the evidence that a Violation has occurred and that the person charged with committing the Violation committed the Violation, then at such Public Hearing the Commission shall determine the per occurrence amount of the fine by a majority vote of the Councilors present and the party violating the Ordinance shall be fined as provided in 10.2.1 above. Such fine shall jointly and severally run to the person found violating the Ordinance and the landowner where the Violation occurred, unless the landowner has demonstrated at the Public Hearing and the Commission finds by a preponderance of the evidence that the person violating the ordinance is not the landowner's agent.

The Commission may, following notice to the person in violation of this Ordinance, a Public Hearing, and majority vote of the councilors present revoke, or revise downward any fine issued under this Ordinance in response to new information or new circumstances presented to the Commission. Any written notice of the adjustment of fine shall be sent to the party violating this Ordinance by certified mail or hand delivered.

10.2.3 The notice of a fine or fines and explanation thereof, including the date from which daily Violations have accrued, shall be provided to the party violating the Ordinance and the landowner if they are not the same in writing by certified mail, return receipt requested or hand delivery. The fine or fines shall be due and owing to the City upon notice.

Section 11. Appeal

- 11.1 A decision of the Conservation Commission shall be reviewable in the Superior Court in accordance with M.G.L. c. 249 § 4. Such appeal shall be made in the time frame required by said statute.

Section 12. Severability

- 12.1 The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or Determination previously issued.
- 12.2 If any Court of the Commonwealth shall invalidate any provision of this Ordinance, the Commission shall present amendments to the Ordinance that are designed to comply with any court decision invalidating such provision or regulation to the City Council at its earliest opportunity.

Section 13. Standards for Inland Wetlands

13.1 Bordering Vegetated Wetlands

13.1.1 Preamble

The Preamble in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.55(1) for Bordering Vegetated Wetlands (BVWs).

13.1.2 Definition, Critical Characteristics, and Boundary

Bordering Vegetated Wetlands include wetlands, marshes, wet meadows, bogs, and swamps that abut on rivers, streams, lakes, and ponds. The Definition, Critical Characteristics, and Boundary shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.55(2). Required methods and data for delineations of BVWs shall follow the latest edition of the Massachusetts Handbook for Delineation of Bordering Vegetated Wetlands issued by DEP. Delineations shall be performed between April 1 and December 1. Delineations may be reviewed at the sole discretion of the Commission between December 1 and April 1. The Commission reserves the right to reject any wetlands delineation submitted if the data was collected during declared mild drought or worse conditions, of any given year, or is found to not be in accordance with the latest delineation methodologies promoted by MassDEP.

13.1.3 Presumption

The Presumption in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.55(3) for Bordering Vegetated Wetlands (BVWs).

13.1.4 Performance Standards

Where the presumption is not overcome, the applicant shall adhere to the Performance Standards as required in the Wetlands Protection Act Regulations 310 CMR 10.55(4) with the addition of the following:

- a. Notwithstanding 310 CMR 10.55(4), the Commission may issue a Permit allowing work which results in the loss of up to a total 5,000 square feet of BVWs and IVWs combined when it is replaced in accordance with the following general conditions and any additional, specific conditions the Commission deems necessary to ensure that the replacement area will function in a manner similar to the area that will be lost:
 1. All requirements as listed in the Wetlands Protection Act and 310 CMR 10.60(3).
 2. Best practices described in the latest edition of the Massachusetts Inland Wetland Replacement Guidelines. Including at a minimum:
 - i. Replacement of all impacted jurisdictional areas at a 2:1 replacement.
 - ii. Demonstration of replicated wetland hydrology, hydric soils, establishment of wetland vegetation, and associated 3 years of monitoring reports.
- b. Notwithstanding the provisions of 310 CMR 10.55(4)(a),(b) and (c), no project may be permitted which will have any adverse effect on habitat sites of rare vertebrate, invertebrate, or plant species as identified on the most current Massachusetts Natural Heritage and Endangered Species Priority and Estimated Habitat Maps on file with the Commission and as identified by procedures established under 310 CMR 10.59.

13.2 Isolated Vegetated Wetlands

13.2.1 Preamble

Isolated Vegetated Wetlands (IVWs) are likely to be significant to public or private water supply, to ground water supply, to flood control, to storm damage prevention, to prevention of pollution, and to the protection of wildlife habitat. Even small IVWs can contain high ecological value, such as micro-fens. IVWs may also be an isolated depression or a closed basin which serves as a ponding area for run-off or high ground water which has risen above the ground surface. The intent of these Regulations is to provide protections to Isolated Vegetated Wetlands similar to those provided for Bordering Vegetated Wetlands.

13.2.2 Definition, Critical Characteristics, and Boundary

- a. Isolated Vegetated Wetlands are wetlands of greater than or equal to 400 sq ft that do not border on creeks, rivers, streams, ponds, lakes, or other water bodies. Some isolated depressions which hold standing water for extended periods of time, perhaps continuously, such as certain kettle holes too small to be called ponds or lakes, may be Isolated Vegetated Wetlands if so determined by the Commission.
- b. Isolated Vegetated Wetlands may occur in a depression or closed basin in otherwise flat topography. In these areas, water may pool above the surface at least once a

year or may be contained in the top twenty-four (24) inches of soil. In addition, some Isolated Vegetated Wetlands occur down slope of side hill seeps, depending on the topography, soils and water regime.

- c. In most cases, the vegetative community in Isolated Vegetated Wetlands conforms to the characteristics specified in these Regulations for Bordering Vegetated Wetlands.
- d. The soils are annually saturated hydric soils meeting the characteristics specified in this Ordinance for Bordering Vegetated Wetlands.
- e. The boundary of an Isolated Vegetated Wetland shall be determined by two or more of the following, depending on the availability of information. Where more than one method is possible, that method leading to the largest area shall be used. The boundary of the Isolated Vegetated Wetland shall be:
 1. The line enclosing that area having a vegetative cover consisting of 50% or more of wetland species, or;
 2. The line enclosing the largest observed or recorded area of water confined in said area, or;
 3. The area of hydric soils.

13.2.3 *Presumption*

Where a proposed activity involves removing, filling, dredging, building on, or altering an Isolated Vegetated Wetland, or within 100 feet of the boundaries of the Isolated Vegetated Wetland, the Commission shall presume that such an area is significant to the interests protected by this Ordinance. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

13.2.4 *Performance Standards*

- a. No activity which will result in the building within or upon, removing, filling, dredging or altering of an Isolated Wetland shall be permitted by the Conservation Commission, except for activity which is allowed under a Permit.
- b. A proposed project which may result in alteration of an Isolated Vegetated Wetland shall not result in the following:
 1. Loss of flood storage capacity due to filling which causes lateral displacement of water that would otherwise be confined within said area.
 2. An adverse effect on public and private water supply or ground water supply.
 3. An adverse effect on the capacity of said area to prevent pollution of the ground water.
 4. An impairment of its capacity to provide wildlife habitat.

5. An adverse effect on erosion or sedimentation control.
- c. The Commission may issue a permit allowing work which results in the loss of up to a total 5,000 square feet of BVWs and IVWs combined when it is replicated in accordance with the following general conditions and any additional, specific conditions the Commission deems necessary to ensure that the replication area will function in a manner similar to the area that will be lost:
 1. All requirements are listed in the Wetlands Protection Act 310 CMR 10.60(3).
 2. Best practices described in the latest edition of the Massachusetts Inland Wetland Replacement Guidelines. Including at a minimum:
 - i. Replacement of all impacted jurisdictional areas at a 2:1 replacement.
 - ii. Demonstration of replicated wetland hydrology, hydric soils, establishment of wetland vegetation, and associated monitoring reports.
 - iii. Consideration of Wetland Replication Translocation Methodology.
- d. No project may be permitted which will have any adverse effect on habitat sites of rare vertebrate, invertebrate, or plant species as identified on the most current Massachusetts Natural Heritage and Endangered Species Priority and Estimated Habitat Maps on file with the Commission and as identified by procedures established under 310 CMR 10.59.

13.3 Riverfront Area

13.3.1 Preamble

The Preamble in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.58(1).

13.3.2 Presumption

Where a proposed activity involves work within the Riverfront Area, the Commission shall presume that such an area is significant to the interests protected by this Ordinance. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds. Where the applicant provides information that the Riverfront Area at the site of the activity does not play a role in the protection of an interest, the issuing authority may determine that the presumption for that interest has been rebutted and the presumption of significance is partially overcome.

All streams that meet the definition criteria of 310 CMR 10.58(2) and all streams which appear on the City Stream Map (Appendix A) are to be presumed perennial and the performance standards associated with the 200 ft Riverfront Area included in the Wetlands Protection Act and these Regulations shall apply. The City Stream Map shall be

reviewed and updated every 10 years by the Commission. This presumption may be overcome by an applicant if sufficient evidence is provided to the Commission. Sufficient evidence is defined by the following:

- a. A documented field observation made by a competent source; and,
- b. Shall be based upon an observation made at least once per day, over four days in any consecutive 12-month period; and,
- c. During a non-drought period; and,
- d. On a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions; and,
- e. Field observations shall be documented by field notes and by dated photographs or video; and,
- f. All field observations shall be submitted to the Commission with a statement signed under the penalties of perjury attesting to the authenticity and veracity of the field notes, photographs or video and other credible evidence; and,
- g. MassDEP staff, Conservation Commissioners, and Conservation Commission staff are competent sources; and,
- h. The Conservation Commission may consider evidence from other sources that are determined to be competent.

13.3.3 *Definition, Critical Characteristics, and Boundary*

The Definition, Critical Characteristics, and Boundary in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.58(2).

13.3.4 *Performance Standards*

Where the presumption is not overcome, the applicant shall adhere to the Performance Standards as required in the Wetlands Protection Act Regulations 310 CMR 10.58(4)

13.4 Land Subject to Flooding (Bordering and Isolated)

13.4.1 *Preamble*

The Preamble in these Regulations shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.57(1) for both Bordering and Isolated Land Subject to Flooding. The intention with the Ordinance is to use data that reflects current conditions, to avoid reliance on outdated maps/statistics, and in doing so, lessen the risk of future dwellings constructed in future floodplain.

13.4.2 *Presumption*

Where a project involves removing, filling, dredging or altering of Land Subject to Flooding (both Bordering and Isolated Areas) the Commission shall presume that such an area is significant to the interests protected by this Ordinance. This presumption is

rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

13.4.3 *Definition, Critical Characteristics, and Boundaries*

- a. The Definition, Critical Characteristic in these Regulations shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.57(2). Except:
310 CMR 10.57(2)(b)(1). Vernal Pools and Isolated Vegetated Wetlands that hold any volume of water are by default also considered to be Land Subject to Flooding.
- b. The boundary of Land Subject to Flooding is to be set as the most recent 500-year floodplain as mapped by FEMA on the most recent flood insurance rate map or the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm. The boundary of Land Subject to Flooding shall be determined by engineering calculations which shall be based upon State Climate Projections, found on ResilientMass Climate Hub, for 100 year Storm, for the anticipated lifespan of the proposed projects.
- c. For isolated depression(s) or closed basin(s) without an inlet or an outlet, the boundary of Land Subject to Flooding shall be the same in 310 CMR 10.57 (2) (a) with the exception that the precipitation calculations must use the State Climate Projections, found on ResilientMass Climate Hub, for 100-year Storm, for the anticipated lifespan of the proposed projects.

13.4 *Performance Standards*

All Performance Standards in 310 CMR 10.57(4) for either Isolated or Bordering Land Subject to Flooding shall apply to all Land Subject to Flooding.

- a. Notwithstanding the above provisions, no project may be permitted that might have adverse effect on habitat sites of rare vertebrate or invertebrate species as identified on the Natural Heritage and Endangered Species Estimated Habitat Maps on file with the Commission and identified under "Estimated Habitats of Rare Wildlife." See 310 CMR 10.59.
- b. Any activity that results in the loss of flood storage shall provide compensatory flood storage for all flood storage volume that will be lost at each elevation. Compensatory flood storage shall be at a 1:1 ratio, minimum, for each unit volume of flood storage lost at each elevation. Compensatory flood storage shall mean a volume not previously used for flood storage, shall have an unrestricted hydraulic connection to the same waterway or water body, and, with respect to waterways, shall be provided within the same reach of the river, stream, or creek. Work within Bordering Land Subject to Flooding, including that work required to provide the above specified compensatory storage, shall not restrict flows that cause an increase

in flood stage or velocity. No new parking areas or garages shall be used as compensatory flood storage.

13.5 Land Under Water Bodies

13.5.1 Preamble

The Preamble in these Regulations shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.56(1) for Land Under Water Bodies.

13.5.2 Presumption

Where a project involves removing, filling, dredging or altering of Land Under Water Bodies the Commission shall presume that such an area is significant to the interests protected by this Ordinance. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

13.5.3 Definition, Critical Characteristics, and Boundaries

The Definition, Critical Characteristics, and Boundary in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.56(2).

13.5.4 Performance Standards

The Performance Standards in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.56(4).

13.6 Bank

13.6.1 Preamble

The Preamble in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.54(1) for Bank.

13.6.2 Presumption

Where a project involves removing, filling, dredging or altering of Bank, the Commission shall presume that such an area is significant to the interests protected by this Ordinance. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

13.6.3 Definition, Critical Characteristics, and Boundary

The Definition, Critical Characteristics, and Boundary in these Regulations shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.54(2). Except:

- a. A Bank is the portion of the land surface which normally abuts and confines a waterbody. It occurs between a water body and a vegetated bordering wetland and adjacent flood plain, or, in the absence of these, it occurs between a water body and an upland.
- b. The physical characteristics of a Bank, as well as its location, as described in 2.1a. and 2.1b. are critical to the protection of the interests protected by this Ordinance.
- c. Upgradient Intermittent Streams as defined in the Ordinance that are not jurisdictional under the Wetlands Protection Act, but are jurisdictional under the Ordinance have Bank.

13.6.4 *Performance Standards*

The Performance Standards in this Ordinance shall be the same as in the Wetlands Protection Act Regulations 310 CMR 10.54(4). Except:

- a. Any activity shall not impair the capacity of the Bank to provide shade and associated water and air temperature control

13.7 Seasonal Wetlands / Vernal Pools

13.7.1 *Preamble*

Seasonal Wetlands (which include Vernal Pools) are usually isolated depressions or closed basins that serve, in most years, as ponded areas for runoff or high groundwater that has risen to the surface. Seasonal Wetlands may be found in floodplains or in saddles at the base of slopes. It should be noted that the above characteristics may be shared with Isolated Wetlands. Seasonal Wetlands are distinguished from Isolated Wetlands in that they frequently serve as temporarily-flooded amphibian breeding habitat, as well as habitat for other wildlife, and, as such, are likely to be significant to the protection of wildlife habitats.

In addition, such areas may be locally significant for flood control, storm damage prevention, and ground water and public and private water supply. Where such areas are underlain by permeable material covered by a mat of organic peat or other organic accumulation, they may be significant to the prevention of pollution.

13.7.2 *Definition, Critical Characteristics, and Boundary*

The term "Seasonal Wetland/Vernal Pool" shall include, in addition to scientific definitions found in the Regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, has no permanent outlet, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other Vernal Pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The

boundary of the resource area for Vernal Pools shall be 100 feet outward from the mean annual high-water line defining the depression. The presumption shall be that pools meeting all criteria except documented functioning as breeding and rearing habitat shall be presumed to be Vernal Pools unless an applicant can provide sufficient data showing the pool is not functioning as such.

13.7.3 *Presumption*

Where a proposed activity involves the removing, filling, dredging, building in, or altering of a Seasonal Wetland, the Conservation Commission shall presume that such an area, as well as the area within 100 feet of the boundaries of said Seasonal Wetland, is significant to the interests protected by this Ordinance. This presumption is rebuttable by clear and convincing evidence that the Seasonal Wetland does not play a role in the protection of wildlife habitat. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

13.7.4 *Performance Standards*

A proposed project in a Seasonal Wetland shall not result in the following:

- a. Any alteration that impairs the capacity of the Seasonal Wetland, as well as the area within 100 feet of the mean annual high water line of said Seasonal Wetland, to provide wildlife habitat. Alterations may be permitted, at the discretion of the Commission, for minor activities or temporary wetland dependent uses.
- b. Notwithstanding the provisions of 310 CMR 10.55(4)(a),(b) and (c), no project may be permitted which will have any adverse effect on habitat sites of rare vertebrate, invertebrate, or plant species as identified on the most current Massachusetts Natural Heritage and Endangered Species Priority and Estimated Habitat Maps on file with the Commission and as identified by procedures established under 310 CMR 10.59.
- c. Loss of flood storage capacity due to filling which causes lateral displacement of water that would otherwise be confined within the mean annual high water line of the Seasonal Wetland.
- d. An adverse effect on public and private water supply or ground water supply.
- e. An adverse effect on the capacity of said area to prevent pollution of the ground water.
- f. An increase in erosion and sedimentation rates.

Section 14. Standards for Buffer Zones

14.1 Buffer to All Resource Areas (Except Riverfront Area and Land Subject to Flooding)

14.1.1 *Preamble*

The one hundred (100) Foot Buffer Zone adjacent to an Area Subject to Protection (“a resource area”), except Riverfront Area and Land Subject to Flooding, further protects such areas by providing shade and moisture; by filtering stormwater runoff; by moderating temperature; by providing wildlife habitat; by recharging groundwater; by controlling sediment and erosion; by providing flood control; by preventing storm damage; and by preventing slow intrusion of development and alteration to the wetlands.

14.1.2 *Definition, Critical Characteristics, and Boundary*

- a. The 100-foot Buffer Zone is an area of land extending 100 feet horizontally outward from the boundary of all Areas Subject to Protection (except Riverfront Areas) as described in the associated sections for each resource area of this Ordinance.
- b. For the purposes of additional protection, the 100-foot Buffer Zone is divided into two distinct zones known as the Inner 50-foot Buffer Zone and the Outer 50-foot Buffer Zone.
 1. Inner 50-foot Buffer Zone is the area within 50 feet of a resource area.
 2. Outer 50-foot Buffer Zone is the area within 50 to 100 feet of a resource area.

14.1.3 *Presumption*

Where a project involves removing, filling, dredging or altering of the 100 foot Buffer Zone, the Commission shall presume that such an area is significant to the Interests protected by this Ordinance. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

14.1.4 *Performance Standards*

- a. Inner 50-foot Buffer Zone. A minimum of a fifty feet of undisturbed area shall be established adjacent to any other identified resource area (except Riverfront Area and Land Subject to Flooding), or the top of any slope steeper than 3 units horizontal run to 1 unit vertical rise when the base of the slope is within 10 feet of such resource area. No work, structure, vegetation removal, grading or other alterations shall be allowed within the inner 50- foot Buffer Zone area.
- b. Outer 50-foot Buffer Zone. No impervious surfaces including, but not limited to, driveways, walkways, parking lots, buildings, or structures, may be constructed or placed within the area which is 50 to 100 feet from the edge of any other resource area except when:
 1. There is no direct runoff from the impervious surfaces into the inner 50-foot buffer zone for a storm of any size; and

2. Stormwater flows for the entire site for storms up to a 2-year event are managed entirely through infiltration; and
 3. Impervious cover in the Outer Buffer Zone does not exceed 20% of the total area of the Outer 50-foot Buffer Zone on the site.
- c. Components of stormwater management systems, landscaping, grading, and erosion control shall be allowed in the 50 to 100 foot Buffer Zone area regardless if 14.1.4 (b) is met.
- d. Buffer Zone lawns shall not utilize any fertilizer or sprinklers on turf grass, except in the original establishment of vegetation. All lawns maintained within a resource area including Buffer Zone are recommended to be planted with drought tolerant turf mixes.
- e. If 14.1.4 (b) is not met, de minimus alterations to the Outer Buffer Zone may be approved without relief if the proposed addition of impervious is below 30 square feet.

14.1.5 *Relief from Performance Standards.*

An applicant may make a request in writing for relief from particular elements of this Section; such request must include, at a minimum, the following information:

- a. The impact of proposed project on the Inner 50-foot Buffer Zone and Outer 50-foot Buffer Zone;
- b. Alternative project designs that show the proposed design is the least impactful to Resource Areas;
- c. Limitations of the particular lot that necessitates relief; and
- d. Proposed mitigation and/or restoration on site or within the watershed (e.g. exceed the required ratio of replication; provide perpetually protected areas of open space; invasive species removal; native species planting; use of Low Impact Development (LID) techniques, etc.).

The Commission will consider the relief request after impact to the other resource areas, size of the impact, the proximity to the resource area and reviewing proposed mitigation measures.

Section 15. Evaluation of Wildlife Habitat Effects

15.1 Wildlife Habitat Evaluations

15.1.1 *Preamble*

In 1986 the Massachusetts legislature recognized that wetlands can provide wildlife habitat and added “Wildlife Habitat” to the list of interests protected under the Wetlands Protection Act. The following year, MassDEP revised the Regulations to incorporate protection of wildlife habitat as a wetlands interest and adopted standards and procedures to protect important wildlife habitat functions in wetland resource areas. In 1996, the Rivers Protection Act was adopted, providing additional requirements for habitat protection under the Wetlands Regulations. All inland resource areas are presumed significant for protection of wildlife habitat. Field studies demonstrate that some unique landscape features have wildlife habitat values substantially greater than their extent would suggest and so the Commission has the authority to require wildlife habitat assessments at its discretion for any alteration to any type of resource area for any project. For example, the particular characteristics of a 20-foot section of bank may be the only section with the combination of vertical relief and sandy soils that allows kingfisher nesting. Therefore, applicants are encouraged to avoid and minimize alterations to the maximum extent possible. The Commission welcomes and encourages future applicants to include a wildlife habitat assessment with their initial filing.

15.1.2 *Presumption*

Where the proposed activity involves the removing, filling, building upon, dredging or altering of any area jurisdictional to the Conservation Commission as outlined in the following sections, the Commission shall presume that such an area is significant to the interests protected by this Ordinance. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in said interests. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds. The Commission shall presume that there is no impact to wildlife habitat if the activity is below the regulatory thresholds listed in the Wetlands Protection Act (Bank 310 CMR 10.54(4)(a)5, BVW 10.55(4)(b), LUW 10.56(4)(a)4, BLSF 10.57(1)(a)3, (2)(a)5&6, (4)(a)3, ILSF 10.57(1)(b)1&4, (2)(b)4&5, (4)(b)4, Riverfront Area 10.58(4)(b), (4)(d)1.c, (4)(d)2.c, (4)(d)3.b. and 10.60.) unless unique features are identified to likely exist on site as determined by the Commission, its Agent, or based on any credible evidence submitted and confirmed by the Commission as such. At the discretion of the Commission, a wildlife habitat assessment can be required for any project.

15.1.3 *Measuring Adverse Effects on Wildlife Habitat*

- a. No alterations shall be allowed that will have an adverse effect on any unique habitat features.
- b. To the extent that a proposed project on inland Banks, Land under Water, Riverfront Area, or Land Subject to Flooding will alter Vernal Pool Habitat or will alter other wildlife habitat beyond the thresholds permitted under 310 CMR 10.54(4)(a)5., 10.56(4)(a)4., 10.57(4)(a)3. and 10.58(4)(d)1., such alterations may be permitted only if they will have no adverse effects on wildlife habitat. Adverse effects on

wildlife habitat means the alteration of any habitat characteristic listed in 310 CMR 10.60(2), insofar as such alteration will, following two growing seasons of project completion and thereafter, substantially reduce its capacity to provide the important wildlife habitat functions listed in 310 CMR 10.60(2). Such performance standards, however, shall not apply to the habitat of rare species, which are covered by the performance standards established under 310 CMR 10.59.

- c. An evaluation by the applicant of whether a proposed project will have an adverse effect on wildlife habitat beyond permissible thresholds shall be performed by an individual with at least a Masters degree in Wildlife Biology or Ecological Science from an accredited college or university, or other competent professional with at least two years of experience in wildlife habitat evaluation.
- d. Any wildlife habitat management practices conducted by the Division of Fisheries and Wildlife, and any wildlife management practices of any individual or organization if reviewed and approved in writing by said Division, shall be presumed to have no adverse effect on wildlife habitat. Such presumption is rebuttable, and may be overcome by a clear showing to the contrary.
- e. The Commission has the discretion to require additional information be provided for the wildlife habitat assessment if it is determined to have been conducted during seasonal conditions/a time of year which is incompatible with acquiring sufficient data needed for the assessment. Applicants should plan for potential extended hearing proceedings if additional information is determined to be required.

15.1.4 *Wildlife Habitat Characteristics of Inland Resource Areas*

- a. Banks. The topography, soil structure, and plant community composition and structure of Banks can provide the following important wildlife habitat functions:
 - 1. Food, shelter and migratory and breeding areas for wildlife
 - 2. Overwintering areas for mammals and reptiles.
- b. Land under Water Bodies or Waterways. The plant community and soil composition and structure, hydrologic regime, topography and water quality of Land Under Water bodies or waterways can provide the following important wildlife habitat functions:
 - 1. Food, shelter and breeding areas for wildlife;
 - 2. Overwintering areas for mammals, reptiles and amphibians.
- c. Vernal Pool Habitat. The topography, soil structure, plant community composition and structure, and hydrologic regime of Vernal Pool Habitat can provide the following important wildlife habitat functions:
 - 1. Food, shelter, migratory and breeding areas, and overwintering areas for amphibians;
 - 2. Food for other wildlife.

- d. Lower Floodplains. The hydrologic regime, plant community and soil composition and structure, topography, and proximity to water bodies and waterways of lower floodplains can provide the following important wildlife habitat functions:
 - 1. Food, shelter, migratory and overwintering areas for wildlife;
 - 2. Breeding areas for birds, mammals and reptiles.
- e. Riverfront Area. The topography, soil structure, plant community composition and structure, and hydrologic regime can provide the following important wildlife habitat functions:
 - 1. Food, shelter, overwintering and breeding areas for wildlife, including turtle nesting areas, nesting sites for birds which typically reuse specific nesting sites, cavity trees, and isolated depressions that function as Vernal Pools.
 - 2. Migratory areas along the riparian corridor including the movement of wildlife unimpeded by barriers within the Riverfront Area.

15.1.5 *Restoration and Replication of Altered Habitat*

Alterations of wildlife habitat characteristics beyond permissible thresholds may be restored onsite or replicated offsite in accordance with the following general conditions, and any additional conditions the Commission deems necessary to ensure that the standard in 310 CMR 10.60(1)(a) is satisfied:

- a. The surface of the replacement area to be created ("the replacement area") shall be equal to that of the area that will be lost ("the lost area");
- b. The elevation of groundwater relative to the surface of the replacement area shall be approximately equal to that of the lost area;
- c. The replacement area shall be located within the same general area as the lost area. In the case of Banks and Land Under Water, the replacement area shall be located on the same water body or waterway if the latter has not been rechanneled or otherwise relocated. In the case of Bordering Land Subject to Flooding, the replacement area shall be located approximately the same distance from the water body or waterway as the lost area. In the case of Vernal Pool Habitat, the replacement area shall be located in close proximity to the lost area;
- d. Interspersion and diversity of vegetation, water and other wildlife habitat characteristics of the replacement area, as well as its location relative to neighboring wildlife habitats, shall be similar to that of the lost areas, insofar as necessary to maintain the wildlife habitat functions of the lost area;
- e. The project shall not alter ten or more acres of Land Subject to Flooding or Land Under Water found to be significant to the protection of wildlife habitat, or 2,000 feet or more of Bank found to be significant to the protection of wildlife habitat (in the case of a bank of a stream or river, this shall be measured on each side of said stream or river).

- f. If the replacement area is located in an area subject to M.G.L. c. 131, § 40, there shall be no adverse effect on the existing important wildlife habitat functions of said area as measured by the standards of 310 CMR 10.60;
- g. The "thresholds" established in 310 CMR 10.54(4)(a)5., 10.56(4)(a)4., 10.57(4)(a)3. and 10.58(4)(d)1.c. (below which alterations of resource areas are not deemed to impair capacity to provide important wildlife habitat functions) shall not apply to any replacement area; and
- h. The replacement area shall be provided in a manner which is consistent with all other General Performance Standards for each resource area in 310 CMR 10.51 through 10.60.

Section 16. An Evaluation of Ecological Climate Impacts

16.1 Preamble

Wetlands are critical to building a community's resilience to the impacts of climate change due to their ability to provide for flood control, storm damage prevention, localized cooling, carbon sequestration, and other Resource Area Interests. Climate Change will also change characteristics of many of our Resource Areas, as these Areas respond to increased precipitation, increased heat waves and drought, and extreme precipitation events. Resource Areas are essential for Ecological Climate Resilience and must be protected. Applications shall include a narrative that addresses the following measures to mitigate climate change impacts and adapt to changed climate conditions. The following Project Design considerations and other climate change adaptive or mitigative strategies and features will be considered subject to approval by the Commission.

16.2 Presumption

Where the proposed activity involves the removing, filling, building upon, dredging or altering of any area jurisdictional to the Conservation Commission as outlined in the previous sections, the Commission shall presume that such an area is significant to the interest of Ecological Climate Resilience. This presumption is rebuttable and may be overcome by clear and convincing evidence that said land does not play a role in climate change resilience. In the event that the presumption is deemed to have been overcome, the Commission shall make a written determination to this effect, setting forth its grounds.

16.3 Measures to Mitigate Climate Change Impacts and Adapt to Changed Climate Conditions

16.3.1 Prevention of Storm and Flood Damage

- a. The applicant shall describe project design considerations and measures to limit storm and flood damage during extended periods of disruption and flooding as might be expected in extreme weather events, using State Climate Projections.

- b. Project design considerations may include but are not limited to stormwater mitigation measures sized for increased precipitation expected due to climate change, additional compensatory flood storage replacement, and 2:1 or higher tree replacement/plantings.

16.3.2 Resilient Plantings

- a. The applicant shall describe project vegetation/planting plans and Operations and Maintenance plans to improve the likelihood of the successful establishment and long-term survival of a native plant community.
- b. Project design considerations may include but are not limited to diversity and abundance of replacement plantings, consideration of drought tolerance, salt tolerance, maintenance requirements, species subject to blight and infestation, and plantings whose native range extends south of Massachusetts and are hearty in zone 6a.

16.3.3 Localized Heating and Cooling

- a. The applicant shall describe project considerations and measures to avoid, minimize, and mitigate for extreme heat effects and their impacts on overall air and water temperature.
- b. Project design considerations may include but are not limited to reducing impervious surfaces, increasing or maintaining naturally vegetated surfaces, increasing long-term tree canopy, consideration of shading of structures.

16.3.4 Carbon Sequestration and Storage

- a. The applicant shall describe project considerations to support long term carbon sequestration on site.
- b. Project considerations may include but are not limited to increased plantings, and expansion of successful wetland replication areas beyond the required replacement amounts.

Section 17. Amendments and Effective Date

- 17.1 This Ordinance shall become effective upon passage by the City Council, and the provisions shall apply to all permits submitted after that date.



EASTHAMPTON

M A S S A C H U S E T T S

May 11, 2026

IMMEDIATE RELEASE

Contact: Evan LeBeau, Assistant to the Mayor
Contact Email: elebeau@easthamptonma.gov

GoDigital Easthampton Announces Laptops for Long-Term Lending

Easthampton, MA - The City of Easthampton is pleased to announce that the GoDigital Easthampton partnership has been awarded a grant from the Massachusetts Broadband Institute (MBI), a division of the Massachusetts Technology Collaborative (MassTech), through the [Connected & Online Program](#), which provided brand new laptops, Chromebooks, tablets, desktop computers, and related equipment to be used for public use in order to expand access to education, workforce training, and telehealth.

"This grant is a meaningful step toward making sure every Easthampton resident can participate fully in today's digital world. Whether someone needs a device to access telehealth, pursue job training, or simply stay connected, GoDigital Easthampton is here to help, and now we have even more tools to make that happen," Mayor Derby stated.

For Easthampton's grant, most of the devices will be laptops and Chromebooks available for long-term loan through either the Easthampton Public Library or the Easthampton Veterans Services Department. Additional devices will be available as shared public computers at the library, City Hall, and the Easthampton Council on Aging – all at no cost to the City.

The equipment will be available starting in late May. Borrowers will need to fill out a brief survey about their needs and sign up for an available pick-up session. Tech help sessions will also be available for anyone who needs support.

About GoDigital Easthampton

[GoDigital Easthampton](#) was developed by the City of Easthampton in a partnership with [E-Media](#) -- along with the [Easthampton Public Library](#), [Chamber of Greater Easthampton](#), and key City departments ([Council on Aging](#), [Information Technology](#), and [Veterans Services](#)) – with a focus on access to reliable and affordable internet, classes to learn a variety of technology topics, and internet-ready devices. This effort builds on the [2024 Easthampton Digital Equity Plan](#) and was made possible by a one-year Municipal Digital Equity Plan Implementation Grant from the Massachusetts Broadband Institute.

[GoDigital Easthampton](#) (godigitaleasthampton.net/) offers [digital literacy classes](#) and services on a range of topics, [device lending](#), and [individual tech help sessions](#).

About the Massachusetts Broadband Institute at MassTech

A division of the Massachusetts Technology Collaborative, the Massachusetts Broadband Institute (MBI) is working to extend high-speed internet access and availability across the state. To achieve this, MBI uses state and federal funding to launch infrastructure expansion programs that target areas of the state that lack high-speed internet access as well as digital equity programs that tackle barriers to internet adoption and increase availability, addressing critical issues around affordability, enhanced public Wi-Fi, the need for internet-enabled devices, and digital literacy training.

Learn more at broadband.masstech.org.



**CITY OF EASTHAMPTON
OFFICE OF THE CITY COUNCIL**

Easthampton Municipal Building
50 Payson Ave., Ste. 100
Easthampton, Massachusetts 01027-2260
Telephone #: (413) 529-1400, ext. 460
Fax #: (413) 529-1417

CITY COUNCIL ACTION REQUEST FORM

Date Submitted: May 13, 2026

Title of proposal: Review MGL Chapter 59, Section 5, Clause 41A

Councilor Sponsor(s): Councilor Denham

Request is hereby made for consideration of the following:

- General Ordinance Amendment
- Traffic Rules & Orders Amendment
- Zoning Ordinance Amendment (for referral to committee to discuss; will need to come back to council with recommendation and subsequent referral to Planning Board)
- Council Rules Amendment
- Home Rule Charter Amendment
- City Council Resolution

Is your item a request for immediate consideration? Yes No

Chapter and Section number to be amended (for ordinance or council rules amendment):

Short summary of the proposal (A short - two to three sentence- description of what you are requesting. Please attach any additional information – resolution, etc.):

Review of MGL Chapter 59, Section 5, Clause 41A to allow qualifying senior citizens (age 65+) to delay payment of all or part of their property taxes.

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: _____ Date of Advertising: _____
Number present & voting: _____ Appropriation approved: \$ _____
Appropriation Disapproved: \$ _____

Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

Pursuant to Section 3-7 of the Easthampton Home Rule Charter, I, Salem Derby, Mayor of the City of Easthampton, hereby approve the foregoing City Council action.

Salem Derby, Mayor

Date of Approval

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: _____ Date of Advertising: _____
Number present & voting: _____ Appropriation approved: \$ _____
Appropriation Disapproved: \$ _____

Mayoral Approval

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Amount approved \$ _____
Department transferred to: _____

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Salem Derby, Mayor

Date of Approval

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: _____ Date of Advertising: _____
Number present & voting: _____ Appropriation approved: \$ _____
Appropriation Disapproved: \$ _____

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Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

Pursuant to Section 3-7 of the Easthampton Home Rule Charter, I, Salem Derby, Mayor of the City of Easthampton, hereby approve the foregoing City Council action.

Salem Derby, Mayor

Date of Approval

Supplemental Appropriation FY 2026

Date: May 19, 2026

Request is hereby made for approval of the following appropriation:

- | | | | |
|----|--------------------------------|----------------------------|--|
| 1. | <u>Amount requested:</u> | \$ 582,500.00 | <u><i>Hetal G. Patel</i></u>
(Auditor's Approval) |
| 2. | <u>To be transferred from:</u> | FREE CASH
001.0001.3590 | \$582,500.00 |
| 3. | <u>To be transferred to:</u> | SNOW | |
| | # 001.4230.5130 | SNOW OVERTIME | \$ 65,636.00 |
| | # 001.4230.5274 | SNOW EQUIP. RENTAL | \$ 153,465.00 |
| | # 001.4230.5319 | SNOW MISC. PROF. SERV. | \$ 6,600.00 |
| | # 001.4230.5485 | SNOW REPAIR & MAINT. | \$ 14,000.00 |
| | # 001.4230.5536 | SNOW CHEMICAL | \$ 37,250.00 |
| | # 001.4230.5544 | SALT | \$ 241,375.00 |
| | # 001.4230.5600 | SCHOOL PLOWING | \$ 64,174.00 |

4. The amount requested will be used for the following purpose:

The Department of Public Works has experienced a shortfall of \$582,500.00 in the Snow and Ice Removal budget for FY2026. We are requesting funds be transferred from Free Cash to cover this deficiency.

Salem Derby

Salem Derby, Mayor



Department Head Signature

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: June 3, 2026 Date of Advertising: May 23, 2026
Number present & voting: _____ Appropriation approved: \$ _____
Appropriation Disapproved: \$ _____

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Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

Pursuant to Section 3-7 of the Easthampton Home Rule Charter, I, Salem Derby, Mayor of the City of Easthampton, hereby approve the foregoing City Council action.

Salem Derby, Mayor

Date of Approval

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: _____ Date of Advertising: _____
Number present & voting: _____ Appropriation approved: \$ _____
Appropriation Disapproved: \$ _____

Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

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Salem Derby, Mayor

Date of Approval

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: _____ Date of Advertising: _____
Number present & voting: _____ Appropriation approved: \$ _____
Appropriation Disapproved: \$ _____

Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

Pursuant to Section 3-7 of the Easthampton Home Rule Charter, I, Salem Derby, Mayor of the City of Easthampton, hereby approve the foregoing City Council action.

Salem Derby, Mayor

Date of Approval

City Council Action

Date of City Council meeting: May 20, 2026
Date referred to Committee: May 20, 2026
Public hearing date: _____ Date of Advertising: _____
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Appropriation Disapproved: \$ _____

Mayoral Approval

Date of City Council approval _____
Amount approved \$ _____
Department transferred to: _____

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Salem Derby, Mayor

Date of Approval